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## SPORTS

# IRS Nixes Tax Edge for College-Sports Booster Groups Paying Athletes

Getting cash to college athletes isn't a charitable purpose, the IRS says. Audits could follow.

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Texas A&M football's team runs on the field with a '12th Man' flag. PHOTO: BOB LEVEY/GETTY IMAGES

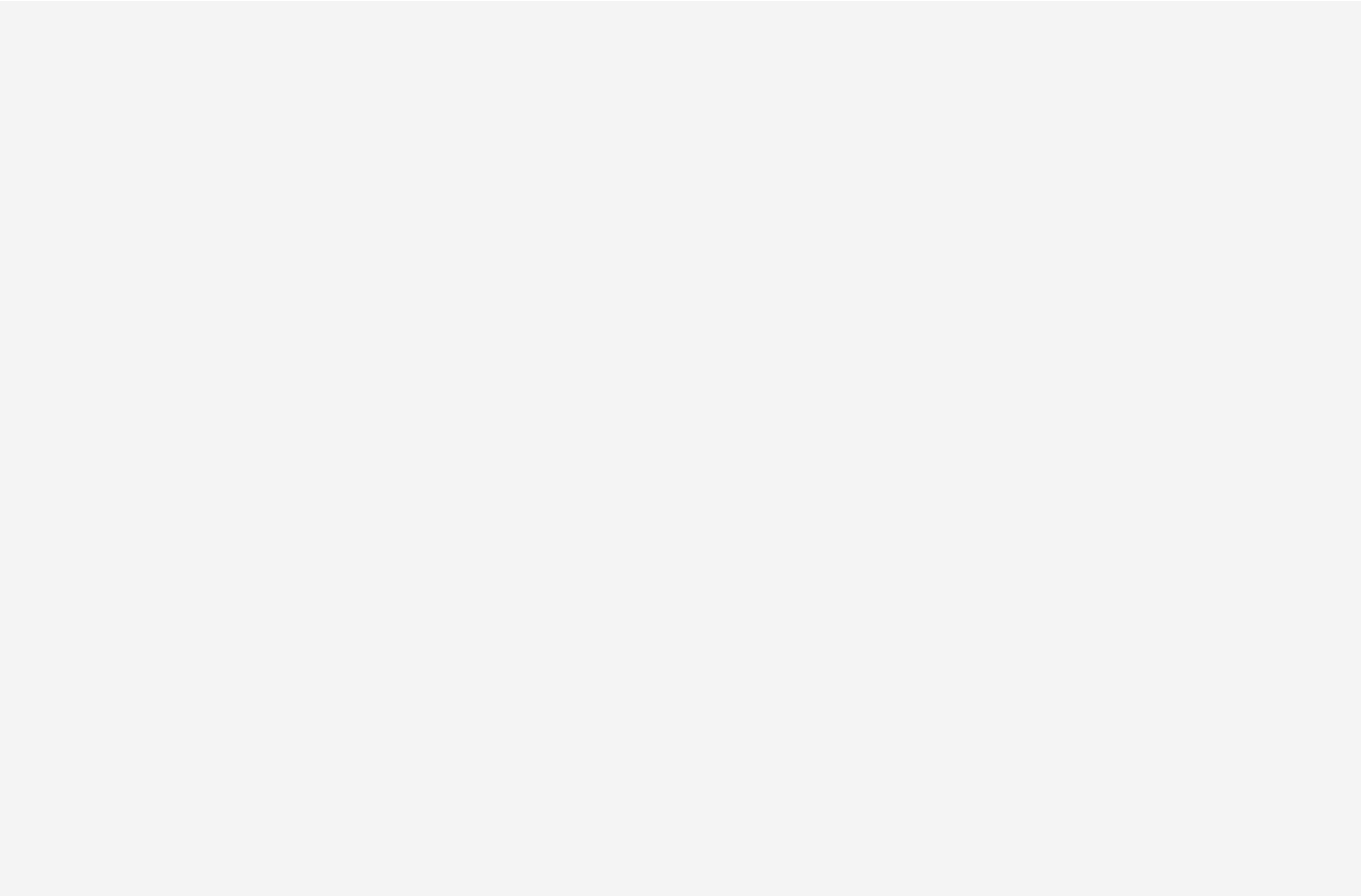
The Internal Revenue Service began blocking an increasingly popular method for funneling wealthy boosters' money to college athletes, declaring that so-called “name, image and likeness” collectives generally can't be structured as charities.

The tax agency's decision, announced in a 12-page legal memo, will disrupt some collectives' plans for paying top-tier athletes for their name, image and likeness (NIL). Since the NCAA changed its rules in July 2021 to let college athletes

sign endorsement deals, scores of collectives sprung up alongside universities, some claiming charitable status so they can solicit tax-deductible donations from rich supporters to pay athletes.

In college sport's never-ending recruiting wars, having the support of a deep-pocketed collective is seen as an advantage and a centralized way to coordinate what boosters can do individually. Two years into the NIL era, nearly every Division I school has at least one such affiliated organization.

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The IRS even granted tax exemptions under Section 501(c)(3) to some collectives, including Clemson's TigerImpact and Purdue's Boilermaker Alliance. The associated tax deduction for donors is a powerful incentive, giving these collectives the same status as the American Heart Association and Habitat for Humanity. A top-tax-bracket donor can give \$100,000 to a charity and save \$37,000 in federal taxes.

But in the memo, dated May 23 and released Friday, the IRS wrote that the collectives often provide too much private benefit to individuals. The memo said that advancing

education is a permissible charitable purpose but that student-athletes aren't a recognized charitable class.

"It just does not fit into the panoply that we call charitable organizations. It just doesn't," said Phil Hackney, a law professor at the University of Pittsburgh who was an IRS attorney.

The memo is a sign that the IRS will deny many collectives' applications for charitable status and will begin revoking some prior rulings through audits. It creates significant uncertainty for athletic departments and the collectives that have sprung up since 2021, when the NCAA changed the rules in the wake of a flurry of states changing their laws to allow for athlete endorsements and the Supreme Court decision in *NCAA v. Alston*. In that case, justices ruled unanimously against the NCAA, finding that the association had engaged in anticompetitive behavior by capping education-related benefits available to college athletes and warning that any steps the NCAA to limit athlete compensation could run afoul of antitrust law.

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Collectives, which function to facilitate endorsement deals for athletes, began popping up not long after. The organizations vary greatly in structure. Some are small operations akin to mom-and-pop marketing firms that help athletes find endorsement deals, like becoming the spokesperson for the campus sandwich joint. Many raise money through donations from fans, with some collectives relying on a monthly subscription model. The largest collectives manage upward of hundreds of thousands of dollars and put it into athletes' pockets by coordinating things like autograph and memorabilia-signing events.

Not all have either sought or been approved for charitable status. Jason Belzer, founder of Student Athlete NIL, a marketing firm that operates more than 30 collectives, said that he believes collectives should operate as revenue-generating businesses. He added that charitable organizations that exist to “get money into the hands of student-athletes as soon as possible” are “completely the antithesis of what the point of a 501(c)(3) organization is.”

“It should be focused on the end goal, which is finding a cure for cancer or helping people in a disadvantaged socioeconomic situation. It’s not finding a reason to go pay a student-athlete X amount of dollars when they’re obviously not worth that much,” Belzer said.

The IRS memo noted collectives’ promises about the percentage of donations paid to athletes, the ability to direct money to specific teams or positions and the financial and legal advice they offer to athletes.

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“It looks more like a private sports agency,” said Darryll Jones, a law professor at Florida A&M University. “This is not going to put the NIL industry out of business. It just means they’re going to have to pay taxes.”

Most collectives operate outside of the purview of university athletic departments in accordance with the NCAA’s interim policy that forbids schools from facilitating endorsement deals for athletes. Several states, including Texas and Oklahoma, have challenged that idea with laws that prohibit the NCAA from penalizing universities that get involved with their respective collectives, thus allowing them to have a much cozier relationship.



Determining the precise nature of the relationship between universities and these fundraising operations can be murky. At Texas A&M, the 12th Man Foundation, a longstanding fundraising arm that operates separately from the university, brought its collective in-house by starting the 12th Man+ Fund specifically to facilitate endorsement deals for Aggies athletes. The 12th Man Foundation is registered as a 501(c)(3) organization that funds scholarships and facility upgrades, among other things.



At Texas A&M, the 12th Man Foundation, a longstanding fundraising arm that operates separately from the university, brought its collective in-house by starting the 12th Man+ Fund specifically to facilitate endorsement deals for Aggies athletes. PHOTO: JEROME MIRON/REUTERS