TRUE

TRUE Capital NIL Guide

This year the NCAA ruled that college athletes are now allowed to benefit from their name, image and likeness. With this new ruling it is important for student athletes to understand some key points to ensure they protect the integrity of their eligibility as well as any income earned as a result of these opportunities. TRUE Capital has a created a quick guide to help students better understand the new NIL landscape, however we encourage student athletes to review the NCAA website directly for more detailed information and to consult professionals when evaluating NIL opportunities.

THE “NO” LIST

- Students cannot be compensated based on enrollment at a particular institution
- Students cannot be compensated for simply participating in athletic activities or their athletic achievements
- Students cannot be compensated when no work has been performed

FINANCIAL ADVISORS

Guide clients to reach pre-determined financial goals through investing and financial management

- As of today student-athletes are permitted to sign with professional service providers (including but not limited to financial advisors).
- Student athletes have not previously needed financial advisors, however now with the ability to earn income via NIL opportunities, it’s important to have professional assistance in protecting their finances to set themselves up appropriately for the future.
- Not all financial advisors are created equal. It’s important for student athletes and their families to understand advisors fee structures, credentials, experience, and investment strategies.

TAXES

- All earned income is taxable.
- NIL income typically will be characterized as self-employment income, subject to self-employment taxes.
- Some athletes may not have had to file their own tax return, and simply were included on their parents' returns. Now, with their own earned income (assuming filing thresholds are met), athletes must navigate tracking expenses against their income, and remitting taxes.
- In addition to federal taxes, athletes also will face state income taxes depending on their state of residency. State personal income tax rates vary from 0% (Florida, Nevada, Texas, Washington, e.g) to over 13% (California).
  - A taxpayer's resident state will tax him/her on 100% of their taxable income. Thus, establishing residency in a state with little to no income tax could achieve large tax savings on an athlete's endorsement income.
- The majority of endorsement contracts will include a clause classifying the athlete as an independent contractor. This means that the athlete is not an employee, and thus can work for others (dependent on the exclusivity language in their contract).
- On the tax side, the company paying the athlete is not required to withhold taxes, and will issue a tax statement reporting the gross income paid. Thus, when a company agrees to pay an athlete $10,000 for sending out specified messages on social media, the athlete will receive a check for $10,000. He/she is then required to report this income, and pay taxes. The athlete can first deduct business expenses, such as agent commissions, from this income and pays tax on the net income.

ENTITIES

- Athletes may hear that they need to form a business entity such as an LLC or an S corporation for their endorsement income.
  - A single member LLC provides limited liability, but offers no other tax advantage than reporting it simply as a sole proprietor, as such entities are deemed "disregarded" for tax purposes.
  - An S corporation, because it is a separate entity for both legal and tax purposes, does offer tax savings as the income is no longer considered self-employment income, as the income is reported in the name of the corporation.