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PERSPECTIVE

Challenge to NFL's tax status is misguided

By Michael Page

Is the Washington "Redskins" name offensive? To many, yes. Should the Washington football franchise change its name? Probably, yes. Is Sen. Maria Cantwell's plan to introduce legislation that would remove the NFL's tax-exempt status the proper means for effectuating this change? No.

Tax-exempt, you ask? Yes, the NFL is exempt from taxes. You heard me right, the NFL, with revenues of approximately \$10 billion per year, does not pay taxes to the Internal Revenue Service. How can this be fair? Well, for a number of reasons, but mainly because the NFL is organized as a trade association and is not organized for profit. In addition, most NFL revenues are already taxed because the 32 NFL teams are subject to taxation.

The NFL itself, however, is a trade association that is exempt from taxation under Internal Revenue Code Section 501(c)(6). Section 501(c) lists organization types that may be exempted from taxation, including trade associations under Section 501(c)(6). This exemption applies to an organization established to promote the common business interests of its members, rather than conduct business of its own. The general purpose of this exemption is to facilitate the improvement of business conditions, which must be demonstrated by the organization.

More specifically, Section 501(c)(6) provides a tax exemption for all "[b]usiness leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual." A closer reading of this exemption may be helpful to explain why Cantwell's



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From left, Sen. Maria Cantwell, President of National Congress of American Indians and Chairman of the Swinomish Tribe Brian Cladoosby, and Amy Sarck Dobmeier of the Qisunamit Tribe of Alaska join other Native Americans and lawmakers during a news conference Sept. 16 on Capitol Hill in Washington D.C.

proposed legislation is not the best method for accomplishing the desired change.

One glaring point that is clear from Section 501(c)(6) is the specific inclusion of "professional football leagues." Congress was abundantly clear in providing professional football leagues, including the NFL, with tax-exempt status. As a result, it is difficult to argue that the NFL is sneaking through some sort of tax loophole that was not intended for its benefit.

The second relevant clause from Section 501(c)(6) is the requirement that the organization is "not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual." Like many tax-exempt organizations, the NFL is not organized to make a profit and does not operate in order to benefit any private shareholder or individual. From the NFL's perspective, as a trade association, its role is to represent and support the interests of its members, in this case the 32 NFL teams.

Well, you may ask, how can that be fair if the NFL has billions of dollars of revenues per year? It is fair because those revenues are already distributed to the 32 NFL teams, which are subject to taxation. On a team-by-team basis, revenues from

ticket sales, concessions and merchandise are reported by the teams and generally subject to the normal standards of taxation applicable to businesses. In addition, NFL-wide sources of revenues, such as revenues from television contracts, are shared among the teams and subjected to taxation at the team-level. Like any taxpayer, NFL teams report these revenues, deduct allowable expenses, and pay taxes on the resulting income. Because most NFL revenues are already subject to taxation in this manner, it seems unlikely that Cantwell's proposed legislation can have much impact, even if enacted. Even if the NFL were to be taxed in its own right, and assuming it generated profits, the NFL would be permitted to offset any such revenues with allowable expenses, which would further minimize the impact of a change to its tax-exempt status.

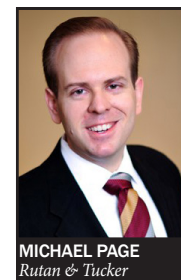
Then why propose this legislation? It seems that the proposed legislation is geared more towards generating public sentiment against a currently weakened NFL, than actually taxing the NFL. As an NFL fan, I cannot help but notice that my morning "SportsCenter" has turned more into "TMZ." The NFL is big business and has many interested parties, so it is no wonder that the NFL gets as much coverage as it does.

From concussion-related lawsuits, to Ray Rice, to Adrian Peterson, and to the "Redskins" nickname, the NFL is currently embroiled in a number of controversies. As a fan of the NFL, I recognize that the NFL is uniquely positioned to take the lead on these issues, to educate, and to provide resolution that is acceptable to its fans. Currently, the NFL has the opportunity to take a stand on issues of workplace safety, domestic violence, child abuse and use of racial slurs. Unfortunately, I do not see Cantwell's plan as anything

more than a ploy to generate public sentiment against the NFL.

As it seems that the proposed legislation will have little, if any, impact on increasing tax revenues generated by the federal government, the proposed legislation is likely misguided. While Cantwell has taken up an admirable cause, her headline grabbing plan may be misleading to many and may generate the wrong sentiment. While the NFL is currently tax-exempt, NFL teams are not. NFL teams pay taxes just like most businesses. With regards to an actual impact, if anything, the proposed legislation will only generate negative sentiment by the misguided and erroneous implication that NFL teams and NFL revenues are not taxed. Again, if anything, this will only cast a shadow over the fairness of our current system of taxation.

As for the "Redskins" nickname, it is likely only a matter of time before the nickname is changed. Recently, the U.S. Patent and Trademark Office cancelled six federal trademark registrations for the Washington football franchise on grounds that the nickname is disparaging to Native Americans. Additionally, Native American tribes and other interested parties have begun boycotting NFL sponsors like FedEx, holder of naming rights on the Washington football stadium. In theory, these types of societal pressures will eventually lead to a detrimental financial impact on NFL teams that cannot be ignored and that will lead to the necessary change.

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