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UT LAW CLE

TEXAS Law
The University of Texas at Austin
School of Law

PHILANTHROPY IN SPORTS

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Agenda

- The changing landscape of collegiate athletics
- Overview of name, image and likeness (NIL) payments and "collectives"
- Tax and legal considerations for NIL collectives
- Tax and legal considerations for contributors to NIL collectives

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The changing landscape of collegiate athletics

- History of the National Collegiate Athletics Association (NCAA)
- Rise of television money
- Sports conferences
- Student-athlete rights litigation

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NIL payments and collectives

- The NCAA now allows name, image and likeness (NIL) payments to student-athletes.
- Restrictions apply, including quid pro quo limits and when compensation is contingent on enrollment at a particular school or on athletic participation or achievement.
- The NIL rules are under much debate, with numerous proposals on new rules.
- To enable NIL programs, various boosters, alumni and supporters of particular schools have started "NIL collectives" and have applied for Section 501(c)(3) charitable status.

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NIL payments and collectives (cont.)

- Often, collectives are operated for multiple purposes, including:
  - Raising awareness of, supporting and funding the charitable purpose of the NIL collective and other charities in the community
  - Compensating student-athletes for use of their NIL
  - Educating or assisting student-athletes with personal brand development, financial and tax issues, and similar considerations
- The key question: What is the NIL's charitable purpose, and are there any substantial non-exempt purposes?
  - If to fundraise for a charitable program, compensation to student-athletes can be analogized to payments to a professional fundraiser or other fundraising expense. Is this necessary to acquire the assets/services needed for the fundraising and incidental to that overall fundraising purpose?
  - If to educate student-athletes on the nature of NILs and associated entrepreneurship, are the NIL payments made only to the extent necessary to facilitate that education?

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Hooked on CLE: July 2024

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