Tax Considerations for Australian Athletes Joining Professional Teams in the United States

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In recent years, outstanding Australian athletes have come to the United States to become members of American professional sports teams. In anticipation of coming to the United States, these individuals, as well as those who will come in the future, should be familiar with United States and Australian tax law provisions applicable to professional athletes. Each taxpayer’s situation is unique, and it is important for these taxpayers to consult with a tax professional who can provide assistance to individual taxpayers in connection with their move to the United States.

Many tax considerations for Australian athletes coming to the United States are a direct consequence of the tax treaty that exists between the two countries. The Income Tax Treaty Between Australia and The United States (Treaty) defines which persons will be treated as residents of each country. Since there are different tax consequences for resident aliens and nonresident aliens in the United States, it is important to understand the significance of the

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1. Some of the best known of these athletes are Luc Longley, Phoenix Suns; Graeme Lloyd, Toronto Blue Jays; Dave Nilsson, Milwaukee Brewers; Michelle Timms, Phoenix Mercury (WNBA); Darren Bennett, San Diego Chargers; and Shane Heal, formerly of the Minnesota Timberwolves. There also are a number of Australian baseball players playing on minor league teams.


3. See id. at art. 4.
two classifications. Accordingly, this Article will address the various tax consequences that Australian athletes would face depending on their residency status.

**TAXATION OF CITIZENS AND RESIDENT ALIENS BY THE UNITED STATES**

Income of United States citizens and residents derived from sources throughout the world is subject to the graduated income tax rates of the United States. In arriving at taxable income for citizens and residents, the law allows deductions attributable to the production of the income. Accordingly, if an Australian athlete becomes a resident of the United States, that person will be taxed by the United States on his or her worldwide income in the same way that a United States citizen would be taxed on the same income. If an individual is classified as a nonresident alien, however, he must be mindful of particular tax considerations relating to that classification.

**TAXATION OF NONRESIDENT ALIENS BY THE UNITED STATES**

United States law provides that income generated by nonresidents that is effectively connected with the conduct of a trade or business in the United States is taxed at the same graduated income tax rates applicable to United States citizens and residents. Being a member of a United States professional sports team constitutes a trade or business, and thus the salary paid to an Australian player will be taxable at the same graduated rates as a citizen or resident of the United States. Moreover, the Treaty contains provisions under which income generated in the United States by Australian entertainers will be taxed by the United States. Section seventeen of the Treaty specifically provides that Australian athletes who receive income from their personal activities in the United States will be taxed in the United States, except where their gross receipts do not exceed $10,000 for the tax year in question. Accordingly, regardless of whether or not Australian athletes are considered to be non-

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6. See id.
7. See Treaty, supra note 2, at art. 17. This treaty became effective December 1, 1983. Article 17 overrides Articles 14 and 15. The provisions of these three articles are as follows:

**ARTICLE 14—Independent Personal Services**

Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independ-
residents of the United States, they, nevertheless, will be taxed on income from their personal activities as athletes in the United States.  

Generally, income generated from sources outside of the United States is not treated as being effectively connected with a

ent capacity shall be taxable only in that State unless such services are performed in the other Contracting State and:

(a) the individual is present in that other State for a period or periods aggregating more than 183 days in the taxable year or year of income of that other State; or

(b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, in which case so much of the income as is attributable to that fixed base may be taxed in such other State.

Article 15—Dependent Personal Services

(1) Subject to the provisions of Articles 18 (Pensions, Annuities, Alimony and Child Support) and 19 (Governmental Remuneration), salaries, wages and other similar remuneration derived by an individual who is a resident of one of the Contracting States in respect of an employment or in respect of services performed as a director of a company shall be taxable only in that State unless the employment is exercised or the services are performed in the other Contracting State. If the employment is so exercised or the services so performed, such remuneration as is derived from that exercise or performance may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by an individual who is a resident of one of the Contracting States in respect of an employment exercised in the other Contracting State or in respect of services performed in the other Contracting State as a director of a company shall be taxable only in the first-mentioned State if:

(a) the recipient is present in that other State for a period or periods not exceeding in the aggregate 183 days in the taxable year or year of income of that other State;

(b) the remuneration is paid by, or on behalf of, an employer or company who is not a resident of that other State; and

(c) the remuneration is not deductible in determining taxable profits of a permanent establishment, a fixed base or a trade or business which the employer or company has in that other State.

Article 17—Entertainers

Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services), income derived by entertainers (such as theatrical, motion picture, radio or television artists, musicians and athletes) from their personal activities as such may be taxed in the Contracting State in which these activities are exercised, except where the amount of the gross receipts derived by any such entertainer, including expenses reimbursed to him or borne on his behalf, from such activities does not exceed ten thousand United States dollars ($10,000) or its equivalent in Australian dollars for the taxable year or year of income concerned. ...
trade or business in the United States.\textsuperscript{9} Under certain circumstances, however, specific types of income from sources outside of the United States can be treated as effectively connected with a trade or business in the United States.\textsuperscript{10}

Income generated from sources within the United States that is not effectively connected with the carrying on of a trade or business, like investment income for example, is taxed at a flat 30% rate, in the absence of a treaty provision.\textsuperscript{11} However, Treaty provisions reduce the tax rate to not more than 15% on dividends paid by United States obligors, and not more than 10% on interest paid from a United States source.\textsuperscript{12} Furthermore, United States invest-

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\textsuperscript{9} See id. § 864(c)(4).
\textsuperscript{10} See id. § 864(c)(4)(B). This section provides as follows:

(4) INCOME FROM SOURCES WITHOUT UNITED STATES—

(A) Except as provided in subparagraphs (B) and (C), no income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business with the United States.

(B) Income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States by a nonresident alien individual or a foreign corporation if such person has an office or other fixed place of business within the United States to which such income, gain, or loss is attributable and such income, gain, or loss—

(i) consists of rents or royalties for the use of or for the privilege of using intangible property described in section 862(a)(4) derived in the active conduct of such trade or business,

(ii) consists of dividends or interest, and either is derived in the active conduct of banking financing, or similar business within the United States or is received by a corporation the principal business of which is trading in stock or securities for its own account; or

(iii) is derived from the sale or exchange (outside the United States) through such office or other fixed place of business of personal property described in section 1221(1), except that this clause shall not apply if the property is sold or exchanged for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer in a foreign country participated materially in such sale. . . ."

Id.

\textsuperscript{11} See id. § 871(a).

\textsuperscript{12} See Treaty, supra note 2, at art. 10(2), 11(2). Article 10(2) states that as to dividend income, a tax may be applied by the country where the company paying the dividend is resident, but it shall not exceed 15% of the gross amount of the dividends. Article 11(2) of the Treaty provides that interest paid from sources in one of the treaty countries may be taxed by the source country, but the tax shall not exceed 10% of the gross amount of the interest.
ment income of nonresidents is subject to income tax withholding.\footnote{See I.R.C. § 1441(a).}

Investment income from foreign sources is exempt from taxation for nonresidents.\footnote{See id. § 872(a).} As indicated above, generally, a 30% tax will apply to nonresident aliens on income received from United States sources that is not effectively connected with the conduct of a trade or business within the United States.\footnote{See id. § 873(a).} United States law permits certain types of income to be excluded from gross income such as certain types of annuity income,\footnote{See id.} certain types of portfolio interest,\footnote{See id. § 871(j).} interest on deposits not effectively connected with a trade or business in the United States,\footnote{See id. § 871(i).} and the proceeds from certain types of gambling.\footnote{See id. § 871(d).}

**CAPITAL GAINS AND LOSSES**

The excess of capital gains over capital losses derived from United States sources that are not effectively connected with a trade or business in the United States is taxed to nonresidents at the 30% rate. This rate only applies if the nonresident is present in the United States for 183 days or more during the taxable year.\footnote{See id. § 871(f).} Conversely, if a nonresident has a net capital gain that is effectively connected with United States trade or business, he will be taxed in the same way that United States citizens or residents would be taxed on similar income.

A nonresident alien who receives income from real property in the United States, which is held for the production of income, may elect to treat such income for the taxable year as effectively connected with the conduct of a trade or business in the United States.\footnote{See id. § 871(h).} This election can be used by taxpayers who lease real property to others and who want to avoid the 30% tax on gross rental income. The election will enable the taxpayer to deduct expenses related to the rental income. Accordingly, the only real ef-
fect of the election provision is to avoid the 30% tax on gross rental income. In addition, after the enactment of section 897 in 1980, a nonresident's gains on the sale of real property located in the United States are treated as being effectively connected with a trade or business whether or not they are actually effectively connected with a trade or business. Thus, in effect, section 897 applies the same capital gains rules to nonresidents regarding property that are applicable to United States residents.

Exemptions and Deductions

Nonresidents, ordinarily, may claim exemptions only for themselves. Additional exemptions, however, may be claimed if the nonresident is a resident of certain countries (Australia is not included in these countries). Nonresidents may not claim the standard deduction, and they may claim itemized deductions only with respect to income that is effectively connected with a trade or business.

A nonresident may be able to benefit from the deduction available for travel expenses away from home. That benefit may occur where the athlete's contract with the United States team is for a short term (one year or less), and his principal place of business is in Australia. In the usual case where an athlete is hired for an indefinite period or for more than one year, however, he would not be able to show that he was "temporarily" away from home even if he could show that Australia was his principal place of business, thus precluding any deduction. The team headquarters, ordinarily, will be considered the tax home of the athlete, and only temporary business trips away from that place would qualify for this deduction. Although trips with the team to other locations for games would qualify as travel away from home, as a practical matter, no deduction will be available because these traveling expenses will be reimbursed by the team.

The Status of Aliens in the United States

An alien is an individual who is not a citizen of the United States. In order for aliens to be considered residents with respect to any calendar year, they must satisfy one of three requirements: a) the green card test, b) the substantial presence test or c) the first-year election.

22. See id. § 897.
The green card test is met when the alien receives an alien registration card from the Immigration and Naturalization Service. Receipt of this card makes the recipient a lawful permanent resident of the United States.25

The substantial presence test is satisfied if the alien is physically present in the United States for at least thirty-one days in the current year and 183 days, or more, over a three year period which includes the current year and the two preceding years.26 The calculation of the 183 days is made by including all of the days present in the current year, 1/3 of the days present in the year immediately prior to the current year, and 1/6 of the days present in the second year prior to the current year. Ordinarily, any part of a day when one is physically present in the United States enters into the calculation, with some exceptions.27 Even though an alien satisfies the substantial presence test, he will not be treated as meeting the test

25. See id. § 7701(b)(1)(A)(i); Treas. Reg. § 301.7701(b)-1(b) (as amended 1992).
26. See id. § 7701(b)(3); Treas. Reg. § 301.7701(b)-1(c) (as amended 1992).
27. See Treas. Reg. § 301.7701(b)-3(a) (as amended 1992). This section provides as follows:

Days of presence in the United States that are excluded for purposes of section 7701(b)-(a). In GENERAL. In computing days of presence in the United States, an alien is considered to be present if the individual is physically present in the United States at any time during the day (see § 301.7701(b)-1(c)(2)(i)). However, for purposes of section 7701(b) and the regulations under that section, the following days shall be excluded and will not count as days of presence in the United States—

(1) Any day that an individual is present in the United States as an exempt individual;
(2) Any day that an individual is prevented from leaving the United States because of a medical condition that arose while the individual was present in the United States;
(3) Any day that an individual is in transit between two points outside the United States; and
(4) Any day on which a regular commuter residing in Canada or Mexico commutes to and from employment in the United States.

Id.

Under Regulation Section 301.7701(b)-3(b), the term "exempt individual" refers to anyone in one of the following four classifications:

1. One who is temporarily in the U.S. as a foreign-government related individual.
2. One who is temporarily in the U.S. as a teacher or trainee under a "J" or "Q" visa, who complies substantially with the requirements of the visa.
3. One who is a student temporarily in the U.S. under an "F", "J", "M", or "Q" visa, who complies substantially with the requirements of the visa.
4. One who is a professional athlete temporarily in the U.S. to compete in a charitable sports event.

Id. § 301.7701(b)-3(b).
for any current year if he is present in the United States for less than 183 days during the current year and it can be shown that for the current year, the individual has a tax home in a foreign country and has a closer connection to that foreign country than to the United States.28 All facts and circumstances will be significant in making this determination, and the analysis will focus on whether the individual has more significant contacts with the foreign country than with the United States.

Under section 7701 of the Code, an alien may be deemed to be a resident for a year in which he makes an election under the following circumstances: a) where he was not a resident in the preceding year; b) is a resident in the calendar year immediately following the election year under the substantial presence test; (c) is present in the United States in the election year for at least thirty-one consecutive days; and d) is present beginning with the first day in the thirty-one day period and ending with the last day of the election year for a number of days equal to seventy-five percent of the days in the "testing period."29

STARTING DATE FOR RESIDENCY

Since residents and nonresidents are taxed differently on income that is not effectively connected with a trade or business, the date on which one is treated as becoming a resident is extremely important. If a taxpayer bases residency on being issued a green card, residency begins on the first day of the calendar year on which he was present in the United States while a lawful permanent resident of the United States.30 If an individual bases residency on the substantial presence test, the starting date will be the first day during the calendar year when the substantial presence test is met.31 For purposes of the substantial presence test, an individual will not be treated as present in the United States during any period for which the individual can show that he has a closer connection to a foreign country than to the United States.32 This rule, however, will not apply to more than ten days on which the individual is present in the United States.33

30. See id. § 7701(b)(2)(A)(ii).
31. See id. § 7701(b)(2)(iii).
32. See id. § 7701(b)(2)(B)(ii).
33. See id. § 7701(b)(2)(C)(ii).
As indicated above, section 7701(b)(4) of the Code provides for a nonresident alien to be deemed a resident alien if he makes an election to be treated as a resident with respect to the election year and if the election is made after the individual has met the substantial presence test for the calendar year immediately following the election year.\textsuperscript{34} If a married couple arriving in the United States makes this first year election, they will then qualify as United States residents and be able to elect to file a joint return, even though they do not then qualify as residents under either the green card or substantial presence test. Moreover, consideration should be given to the determination of the taxable year for residency purposes.\textsuperscript{35}

As previously indicated, an alien who ordinarily would have dual status for the year of arrival can be treated as a resident for the entire year if he or she is married to a United States citizen or resident and the two spouses elect to file a joint return. A similar election can be made by a nonresident alien married couple if they satisfy the first-year election rule set forth above. Once a joint return election is made, the couple will be taxed on their worldwide income for the entire year.

**Tax Returns**

United States residents (including resident aliens) file Form 1040 Individual Income Tax Return with the Internal Revenue Service Center for the district where they reside. Nonresident aliens file Form 1040NR with the Internal Revenue Service Center in Philadelphia, Pennsylvania 19255.

In the year of arrival in the United States or the year of departure from the United States, the individual typically would have dual status, thus being a resident part of the year and a nonresident for part of the year. The individual’s status on the last day of the

\textsuperscript{34} See id. § 7701(b)(4). This section provides that the taxpayer cannot have been a resident under either the green card test or the substantial presence test for the election year, the taxpayer cannot have been a resident for the year immediately prior to the election year, the taxpayer meets the substantial presence test for residency in the year immediately following the election year, the taxpayer is present in the U.S. during the election year for at least 31 consecutive days and the taxpayer is present in the U.S. during the period beginning with the first day of the 31 day period and ending with the last day of the election year for a number of days equal to or exceeding 75% of the days in the testing period.

\textsuperscript{35} Residency will be determined on a calendar year basis, although foreign taxpayers will be permitted to compute their tax on a fiscal year basis, if they have been doing so previously. In Australia, the tax year runs from July 1 to June 30 of the year, with tax returns being due by October 31, for the tax year ending prior to that date.
tax year would determine which form to file. The return should show the words “Dual-Status Return” across the top of the return, and it should be filed with the Internal Revenue Service Center in Philadelphia, Pennsylvania 19255.

A joint income tax return ordinarily cannot be filed if either spouse is a nonresident alien. However, if one spouse is a United States citizen or resident alien and the other is a nonresident alien (Australian athlete), an election can be made by both parties to file a joint return. This election has the effect of treating the nonresident alien as a resident alien for the entire year making the worldwide income of both spouses subject to United States taxation. Filing a joint return ordinarily will result in lower tax rates, but the return probably will result in greater tax liability because of the inclusion of both parties' worldwide income. If the nonresident has a large amount of income as a nonresident or anticipates the receipt of large amounts of income, it might be a good idea to delay making the joint return election until the year after that income is received. Where the election to file a joint return is made, the tax liability shown on the return may be offset by use of the foreign tax credit if Australian tax is paid with respect to income earned in Australia that year, before the athlete moved to the United States. Because this election remains in effect for the year of election and for all subsequent years until terminated, it is important to consider the long term effect of making the election.

A joint return also can be filed by a nonresident married couple who make a first-year election to be treated as residents for the year prior to the year when they satisfy the substantial presence test. Once that election is made and they are treated as residents for the year of election, they can file a joint return for the entire year.

**Planning Considerations**

To make the move from Australia to the United States most effective from a tax point of view, the athlete should be mindful of the following: a) the different tax rates in each country and how certain items of income will be taxed depending on the status of

37. See id. § 6013(h).
38. Instead of using the foreign tax credit, the taxpayer has the right to take a deduction for foreign taxes paid. The deduction is claimed as an itemized deduction and is shown on Schedule A of Form 1040. See id. § 164(a).
39. See id. § 6013(g)(3).
40. See id. § 7701(b)(4).

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the taxpayer, b) timing concepts that determine when various items are treated as income and c) how gains will become taxable and the tax law applicable to various types of property.

Residents of Australia become subject to income tax when their income exceeds A$5,400. The rate of tax is 47% on income over A$50,000. In the United States, tax rates for unmarried individuals range from 15% on taxable income not over $22,100 to 39.6% on taxable income over $250,000. An individual's particular tax bracket in each country will determine in which country it is advantageous to have income taxed.

As indicated above, once an individual becomes a resident of the United States, his worldwide income is subjected to United States taxation. Depending on when an athlete arrives from Australia during the calendar year, it might take a year or two before he or she is treated as a resident under the substantial presence test, unless the green card test is satisfied rather shortly after arrival.

The largest item of income of an athlete ordinarily will be his or her salary. Since it will be received in connection with the carrying on of a trade or business in the United States, salary income will be subject to tax, just as if the athlete were a United States citizen or resident. Even if the individual is not yet a resident of the United States when the salary is earned, the salary still will be taxed in the same manner as if the person were a resident.41

**Accrued Salary**

Many Australian athletes will have played for Australian teams before playing professionally in the United States. It may be that they have accrued salary owed to them in Australia. They will want to consider whether to receive those earnings before becoming United States residents. Since this income is from a source outside of the United States and is not effectively connected with a United States trade or business, it is not taxable if the income is received while the individual is a nonresident. Conversely, if the income is received after the individual has become a resident, it would be taxable in the United States even though the income was earned while the person was neither a citizen nor a resident of the United States.42 The highest tax rate in Australia is 47% (on income over A$50,000) and even on income of over A$38,000, the Australian rate of 43% exceeds the highest United States rate. At first blush, it

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41. See Treaty, supra note 2, at art. 17.
42. See Treas. Reg. § 1.871-13(b) (as amended 1980).
might seem advantageous to delay receiving income until United States residency is established. It appears, however, that Australia may be able to tax this same income because it would have been earned in Australia while the taxpayer was a resident. Therefore, although the United States would allow a foreign tax credit for the tax paid in Australia on the same income, the taxpayer would end up paying the tax at the higher Australian rate. In this situation, it would not benefit the taxpayer if this income were received after the taxpayer became a United States resident.

Before coming to the United States, an Australian athlete may have had investments in the United States and/or in Australia. As indicated above, once he becomes a United States resident, the income from those investments will be taxed at the regular, graduated United States rates, and any expenses related to the production of that income will be allowed. As to the investment income in Australia, such as dividends or interest, however, once the athlete is a United States resident, Australia would tax that income at the reduced rates provided in the Treaty. The United States would tax that income under its regular graduated rates as part of the worldwide income of the athlete, but it would allow a foreign tax credit for tax paid to Australia. Australian investment income would be exempt from United States tax for nonresidents. The situation of each taxpayer would have to be examined to determine if it were better for that income to be received as a resident of the United States or as a nonresident.

While athletes are nonresidents, they will be taxed at the flat 30% rate on United States source investment income, and deductions will not be allowed for expenses related to the production of the income. As indicated above, nonresidents who have income from sources in Australia will be exempt from United States tax. No foreign tax credit will be allowed by the United States to a nonresident alien for any tax paid to Australia on this income.

Under the IRS Restructuring and Reform Act of 1998, for years ending after December 31, 1997, the eighteen month holding period was eliminated as a requirement for long-term capital gains treatment. Under the new law, the long-term holding period is “more than 12 months”, and the highest rate for most net capital

43. See I.R.C. § 901(b)(3) (1994); see also Treaty, supra note 2, at art. 27.
44. See Treaty, supra note 2, at art. 10(2), 11(2).
46. See id. § 5001.
gains is 20%. It also is possible for long-term rates of 25% and 28% to apply in some situations. Because the capital gains rates for residents of the United States are significantly lower than the 30% rate applicable to those nonresidents referred to above, Australian athletes should either dispose of United States source long-term capital gains assets before they have been in the United States for 183 days, or wait until they become United States residents before disposition.

Capital gains, however, became taxable in Australia for sales of property acquired after September 19, 1985. Thus, if an athlete has assets acquired prior to that date that she wants to dispose of, she should do so before obtaining residence in the United States because the gain would not be taxed by either Australia or the United States. Usually, a person’s personal residence or automobile constitutes one of his most substantial capital assets. Gains from the sales of these capital assets are exempt from tax in Australia. Also exempt are gains from personal use assets such as furniture and electrical appliances where the sale proceeds do not exceed A$5,000. Assuming that athletes want to dispose of these assets, they should do so before coming to the United States and obtaining residency.

Under Article 13 of the Treaty between Australia and the United States, gains from the disposition of real property may be taxed where the property is located. For real property acquired in Australia after September 19, 1985 (other than a residence), gains resulting from the disposition of such property could be taxed in Australia, even though the taxpayer has become a United States resident. The United States also could tax such gains, but it would


48. Under United States law in effect prior to enactment of the new legislation, gains from the sale of a personal residence were taxable. There was a “rollover” provision, however, provided by section 1034 of the IRC under which the gain was not taxed if the taxpayer purchased another residence within two years of the sale of the old one and used it as his principal residence, and the purchase price of the new residence exceeded the adjusted sales price of the old residence. There also was an elective provision in section 121 of the Code which permitted taxpayers 55 and older to exclude as much as $125,000 of gain from the sale of a personal residence used as a principal residence for three of the five years preceding the sale. These provisions have been replaced by the Taxpayer Relief Act of 1997 (signed into law by the President on August 5, 1997) for sales after May 6, 1997, which permits the exclusion of $500,000 of net capital gains resulting from the sale of a principal residence where joint returns are filed, and $250,000 where an individual return is filed. This rule applies to sellers of any age who have used the property as their principal residence for two of the five years preceding the sale.
allow the taxpayer a foreign tax credit for tax paid to Australia in connection with the same transaction.

STATE INCOME TAXATION IN THE UNITED STATES

The alien athlete may not have a choice as to where he lives in the United States because the team that has selected him may be based in a particular location, and the athlete, out of necessity, will have to live in that place. Some states do not have a state income tax.\(^{49}\) Thus, an athlete hired by a team based in one of those states would have a state tax advantage over another athlete on a team in a high tax state, like California or New York. When athletes travel with their team to play teams in other states, they will become subject to that state’s income tax on the income allocated to the time spent there.\(^{50}\) It also should be noted that some cities like Philadelphia, New York, Detroit, Cleveland and Minneapolis have a city income tax. Thus, if athletes live in one of those cities or travel to one of those cities with their team for a game, they will be subject to tax on the income earned while present in the city. An income tax return will be required for each of these states and cities.

When Australian athletes come to the United States and play on professional sports teams, they must consider a) proper planning of the timing of becoming United States residents; b) the timing of the disposition of assets; and c) the receipt of different types of income and the choice of a place to live in the United States (assuming that such a choice is realistically available). Thorough planning can result in significant tax savings.


\(^{50}\) Ordinarily, the allocation is based on the “duty days” concept which is applied by the local jurisdiction being visited by comparing the duty days of the visiting player within that locality with the total number of duty days, both within and outside of the locality. The other method of allocating, which no longer is popular, is the “games played” concept under which the visited locality taxes the athlete by comparing the number of games played there with the total number of games played on the schedule.