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Pro Athlete 'Jock Tax' Is Struck Down

Pro athletes can earn a lot, but their taxes are complex and can be a real gotcha. There's the IRS, multiple states, and even foreign governments. And there are city and local taxes too. Take Cleveland, which slapped a tax on athletes that was just struck down by the Ohio Supreme Court. The suit involved retired NFL football players [Hunter Hillenmeyer](#) and [Jeff Saturday](#). They [battled Cleveland in court](#) over claims that the city was subjecting them and other athletes playing for visiting teams to disproportionately high income taxes.

The ex-players admitted they played in Ohio, but not in Cleveland. That made the tax illegal, they said. The court agreed, saying that "Cleveland's power to tax reaches only that portion of a nonresident's compensation that was earned by work performed in Cleveland." The court's rulings overturned decisions by the state Board of Tax Appeals.



[Hillenmeyer's case](#), he was taxed about 5% (one game in Cleveland out of 20 or 21 played) in 2004, 2005 and 2006. The court ordered a refund of \$5,500, plus interest. [In Saturday's case](#), the court found he was illegally required to pay tax on a sick day for a 2008 Colts game in Cleveland when he was injured and did not travel there. The victory for this type of taxpayer was big.

On the other hand, Cleveland's tax was an odd one. Cleveland is the only major-league city taxing visiting players based on the games played in the city divided by the total number of games their team plays in a year. Many cities tax pro athletes based on the number of "duty days" in their season and days spent in the city. In overturning the decisions by the state's tax appeals board, Ohio's Supreme Court ruled that Cleveland's taxing method was illegal. The court [said this in one of the two opinions](#):

Due process requires an allocation that reasonably associates the amount of compensation taxed with work the taxpayer performed within the city. The games-played method results in Cleveland allocating approximately 5 percent of Hillenmeyer's income to itself on the basis of two days spent in Cleveland. By using the duty-days method, however, Cleveland is allocated approximately 1.25 percent based on the same two days. By using the games-played method, Cleveland has reached extraterritorially, beyond its power to tax. Cleveland's power to tax reaches only that portion of a nonresident's compensation that was earned by work performed in Cleveland. The games-played method reaches income for work that was performed outside of Cleveland, and thus Cleveland's income tax violates due process as applied to NFL players such as Hillenmeyer.

Many taxpayers are not sympathetic when pro athletes complain. For example, golfer Phil Mickelson triggered a firestorm over taxes several years ago after California retroactively [raised tax rates to 13.3% from 10.3% for those making more than \\$1 million](#). He said he might move, and even suggested that taxes were one of the reasons he withdrew from the investment group buying San Diego's Padres. Tiger Woods came to his defense, noting that he had also left California for Florida.

Professional athletes and entertainers face a dizzying array of tax laws. Most states and countries tax them when they perform or play in their boundaries. Foreign athletes and entertainers must file U.S. income tax returns and face [special withholding rules](#). What is considered U.S.-source can be debated but includes pay for performances, endorsements, merchandise sales, and royalty or other income closely related to the event.

But when you are a resident—as Mickelson is of California—you get taxed on *everything*. Most PGA Tour players live in no-tax states like Florida or Texas.

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