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Rev. Proc. 2019-18: Safe harbor for professional sports team, valuation of certain player contracts

The IRS today released an advance version of Rev. Proc. 2019-18 to provide a safe harbor for a professional sports team to treat certain personnel contracts and rights to draft players as having a zero value for determining gain or loss to be recognized for federal income tax purposes on the trade of a personnel contract or a draft pick that is within the scope of the revenue procedure.

[Rev. Proc. 2019-18](#) [PDF 34 KB] states that the safe harbor is being made available “to avoid highly subjective, complex, lengthy, and expensive disputes” between professional sports teams and the IRS regarding the value of personnel contracts and draft picks for the purpose of determining the proper amount of gain or loss to be recognized for federal income tax purposes on the trade of one or more personnel contracts or draft picks. The safe harbor permits teams to treat the value of traded personnel contracts and draft picks as zero if certain conditions are satisfied.

As noted in a related IRS release—[IR-2019-70](#)—it has been difficult for professional sports teams to assign a monetary value to contracts or draft picks due to the fluctuating nature of the performance of players and staff members and market conditions. Rev. Proc. 2019-18 allows professional sports teams to avoid having to value their player contracts, staff-member contracts, and draft picks to determine the amount of any gain or loss to be recognized. A team using the safe harbor recognizes gain only if cash is received in the trade.

Safe harbor in Rev. Proc. 2019-18

Rev. Proc. 2019-18 applies to trades of personnel contracts and draft picks by professional sports teams (trades) that meet all of the following requirements:

- All parties to the trade must use the safe harbor. **In other words, the safe harbor requires each party to a trade to use the safe harbor, or none of the parties can use it.**

- It applies only to personnel contracts, draft picks, and cash. Each team that is a party to the trade must transfer and receive a personnel contract or draft pick. In the trade, no team may transfer property other than a personnel contract, draft pick, or cash.
- There can be no amortizable section 197 intangibles in the trade (including the personnel contract or draft pick).
- The financial statements of teams that are parties to the trade must not reflect assets or liabilities resulting from the trade other than cash.

The safe harbor applies for determining the amount of gain or loss to be recognized on a trade by a professional sports team of personnel contracts or draft picks. For a team making a trade of a personnel contract or draft pick, the value of the personnel contract or draft pick is treated as zero for purposes of this provision. Under the safe harbor:

- There will generally be no gain or loss recognized on a trade.
- The contract value of each personnel contract or draft pick is treated as zero, and a team that does not receive cash in a trade has an amount realized of zero. However, the team receiving cash in the trade includes the amount of cash received in its amount realized.
- Because the contract value of each personnel contract or draft pick is treated as zero, a team that provides no cash in the trade has a zero basis in the personnel contract or draft pick received in the trade. The team that pays cash to another team in the trade, however, has a basis in the personnel contract or draft pick received in the trade equal to the amount of cash paid.
- A team providing cash to another team in a trade for two or more personnel contracts or draft picks must allocate its basis to each personnel contract or draft pick received from such team in the trade by dividing the basis by the number of personnel contracts or draft picks received from the team.
- Under section 1001 and Reg. section 1.167(a)-8, a team making a trade of a personnel contract or draft pick recognizes gain to the extent of the excess of the amount realized over the unrecovered basis (if any) of the personnel contract or draft pick traded, subject to the rules of sections 1231 and 1245. Under sections 1001, 165, and Reg. section 1.167(a)-8, a team making a trade of a personnel contract or draft pick recognizes a loss to the extent of the excess of the unrecovered basis of the personnel contract or draft pick traded, over the amount realized, subject to the rules of section 1231. A team's unrecovered basis in a personnel contract or draft pick is the team's basis in such contract or draft pick as determined under section 167(c).

Rev. Proc. 2019-18 has limited applicability and applies only to trades of personnel contracts or draft picks among teams in professional sports leagues, and does not apply to trades of a team for another team or a sale of a team.

Also, today's revenue procedure states that it does not preclude the examination and adjustment, if appropriate, of amounts reported in income in connection with trades of personnel contracts or draft picks, and that teams making trades and using the safe harbor must retain books and records to substantiate that all requirements have been met.

Rev. Proc. 2019-18 includes examples to illustrate application of the safe harbor.

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