The History of Tax Code Alterations as a Financing Mechanism for Sport Venue Construction

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In 2009, the City of New York saw the grand opening of New Yankee Stadium, a $1.5-billion baseball superstructure built directly across the street from the “House that Ruth Built” (i.e., Yankee Stadium). Another $1.6 billion sport project, Metlife Stadium, similarly surfaced in April 2010 to begin football and other event operations in East Rutherford, New Jersey. In Arlington, Texas, Cowboys Stadium also emerged as an additional $1.5-billion sport venue in 2009, full of incredible technology and amazing amenities like those at both Metlife Stadium and the New Yankee Stadium.1 Collectively, these structures hold distinction as the most expensive stadium construction projects produced within the United States and as the apex of a recent era of sport venue growth, which started with the notable emergence of Baltimore’s Camden Yards at Oriole Park.2 Focusing on fan experience and profit maximization, Chad Seifried wrote that the “current and future professional baseball and football facilities demonstrate that their expensive nature will not decrease, as the nine Major League Baseball or National Football League structures scheduled to open between 2009 and 2012 will average over $725 million and cost nearly $7 billion.”3 Factoring in cost inflation, this is roughly the same as the entire “cookie-cutter” era, identified by Seifried and Donna Pastore as occurring between 1953 and 1991.4

In the past, sport organization owners generally looked for simple operational stadium leases that would allow them to play on “any old field,” private venue, or municipal stadium.5 However, current sport ownership groups seek new state-of-the-art stadiums to maximize profits from sports fans and the general public who might be looking to experience awe from the spectacle produced by the buildings and the events they contain. Art Modell famously decided to move the Cleveland Browns franchise to Baltimore, Maryland, in 1996 based on this profit-seeking agenda. Specifically, the Maryland Stadium Authority and Modell came to an agreement to build M&T Bank Stadium (formerly Ravens Stadium at Camden Yards), which included the Ravens paying roughly $3 million per year in stadium operating expenses. In exchange, Modell received the stadium rent free and was rewarded all ticket, concession, parking, and advertising revenue. With the addition of 108 luxury boxes, 7,500 club seats, high-definition technology, and other

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fan-friendly amenities in the facility, the Ravens (i.e., Modell) were projected to make an additional $30 million by moving. Several owners have since negotiated similar deals and possibly forced cities and states to use public funds to create state-of-the-art sport “cathedrals” based on the threat of relocation put into reality by Modell and others over time.6

With the high cost of these profit-maximizing ventures and venues, professional sport franchise ownership groups have regularly looked for public capital and/or revenues from local, state, and federal governments in the United States to help fund their sport facility projects. As an example, Andrew Goodman conservatively estimated $14.7 billion in government subsidies resulted toward the construction of stadiums up through 2002.7 Judith Grant-Long argued these public subsidies may have been undervalued by 40%, or $50 million, per facility constructed between 1990 and 2001 due to the manipulation of land and infrastructure costs, annual public costs associated with the operation of the facility, and relinquished property taxes.8 Between 1999 and 2003, Laurie Frey similarly identified taxpayers as paying an estimated $9 billion of the total $13.5 billion total for all stadium construction.9 Moreover, Frey noted that since 2003, 17 new stadiums have been constructed in all four of the major U.S. professional sport leagues, costing over $9 billion largely funded by public debt.10

As many cities in the United States face economic distress, luxuries provided by the past toward capital investment risks should be reevaluated and particularly when governments face sluggish or in some cases declining tax revenues.11 Many claim that economic gifts to professional sport franchises toward renovation or new construction efforts unjustly divert scarce community resources and personal incomes to private or corporately owned franchises, whereas others assert professional sports teams should be viewed as a public good and the reward of their mere presence bestows benefits that are important enough (e.g., psychic income, jobs, and economic impact) to the community to warrant public support.12 This work advocates that state and local governments can better analyze the priorities of their municipalities within the scope of their operational budgets if they understand how past allowances, actions, and behaviors contributed to the public subsidy of professional sport franchises. This article will address this concern and the inefficiency of government in the following parts.

First, this review will provide a background of popular financing methods used in previous eras of stadium construction within the United States and set the foundation of the current practice through a brief historical review of public debt support. Second, this article will analyze the various activities, supported through legislation, that gradually assisted sport entrepreneurs under provisions of the Internal Revenue Code (IRC) as well as elements outside of the IRC’s regulation. Third, this work will examine current practices related to the public support of sport facility construction and the problems associated with a significant commitment to public subsidy. Finally, alternatives to this problem will be presented. Those options center on amending the Tax Reform Act of 1986 and the IRC, excluding gross interest on state and local bonds, and offering tax incentives for renovations.

We anticipate sport entrepreneurs, professional sport leagues, and community leaders (i.e., political figures and notable businessmen) will honor recent calls that argue the current era of major league sport stadiums should last longer than their predecessors and contribute back to the community that provides so much public