



ANNUAL MEETING

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EXPLORE. EMPOWER. ENRICH.

FORM 990-T: CHALLENGES & OPPORTUNITIES

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Unrelated Business Income Basics	Auxiliary Activities	Facilities Usage & Events	Other UBI Revenue Sources	Alternative Investments	Odds and Ends
\$100	\$100	\$100	\$100	\$100	\$100
\$200	\$200	\$200	\$200	\$200	\$200
\$300	\$300	\$300	\$300	\$300	\$300
\$400	\$400	\$400	\$400	\$400	\$400
\$500	\$500	\$500	\$500	\$500	\$500





UNRELATED BUSINESS INCOME BASICS



UNRELATED BUSINESS INCOME BASICS

Institutions that are not required to file a federal Form 990 would never have to address unrelated business income and the filing of a Form 990-T

FALSE

- Why?
 - Regardless of whether a Form 990 is required to be filed, all exempt organizations, including religious and governmental institutions, must evaluate unrelated business income.





UNRELATED BUSINESS INCOME BASICS

A College must only worry about unrelated business income when the net taxable income is \$1,000 or more.

FALSE

- Why?
 - The determination of whether a Form 990-T must be filed is based on gross income from unrelated business income activities.





UNRELATED BUSINESS INCOME BASICS

Should a University report income as unrelated when generating revenue from advertising contained within an alumni or other institutional publication?

YES

- Why?
 - Advertising is typically classified as unrelated business income. The fact that the advertising is contained within an exempt activity does not change the characterization of the income.





UNRELATED BUSINESS INCOME BASICS

An Institution that continually reports losses from an unrelated business income activity may use these losses to offset other profitable unrelated business income activities.

TRUE

- Why?
 - While this is allowed, continuous unrelated business losses may indicate a lack of a profit motive, a key element when determining whether the activity is unrelated.
 - If audited by the IRS or state regulators, a challenge may be made as to whether a profit motive exists and the activity not being unrelated.





UNRELATED BUSINESS INCOME BASICS

A College's related alumni association may have up to 25% of its total income from unrelated business income activities before having to be concerned about potential loss of tax-exempt status.

FALSE

- Why?
 - Exemption may be at risk when unrelated activities become substantial compared to the exempt activities. This determination is not a bright line test. The facts and circumstances of the activity must be carefully analyzed.





AUXILIARY ACTIVITIES



AUXILIARY SERVICES

Unrelated business income is not generated from the operation of a food service program owned and operated directly by an institution.

FALSE

- Why?
 - A food service program serving students, faculty, and staff is related to the institution's mission. If the program is catering events to outside groups, this portion of the activity may be unrelated.





AUXILIARY SERVICES

The rental of dormitory space to other organizations or individuals typically generates unrelated business income.

TRUE

- Why?
 - Providing dormitory space to outside groups does not further the institution's mission. However, rentals for institutionally-sponsored activities may be related.





AUXILIARY SERVICES

The College/University provides housing to many of its faculty. Is the provision of housing unrelated business income?

IT DEPENDS

- Why?
 - If the rental is a real property rental with no services being provided, the income would not be taxable. However, many arrangements provide for custodial and cleaning services, and this may be unrelated income. Other considerations outside of UBI relate to potential compensatory implications to the faculty member.





AUXILIARY SERVICES

Summer camps operated directly by the University are not an unrelated business income activity.

TRUE

- Why?
 - When the University operates a summer camp as an extension of its educational programming, the activity will typically not be unrelated.





AUXILIARY SERVICES

A College operating a hotel or restaurant near campus for housing families of students, prospective students, or visiting groups is an unrelated business activity.

TRUE

- Why?
 - Absent a hotel or restaurant management program where the activity is integral to a student's educational curriculum, the activity is typically unrelated.





FACILITIES USAGE & EVENTS



FACILITIES USAGE & EVENTS

Real property rentals are not subject to unrelated business income tax.

TRUE

- Why?
 - Real property rentals are not subject to UBIT as long as debt financing does not exist. Certain debt incurred by educational institutions is not treated as acquisition indebtedness. (IRC Section 514(c)(9)) For this reason, institutions are seldom taxed on real property rentals.





FACILITIES USAGE & EVENTS

A College operating a golf course within its educational programming does not generate unrelated business income when receiving revenue from students, faculty, alumni, and the public.

FALSE

- Why?
 - The operation of the golf course within an educational program generating revenue from students and faculty is related. The public usage (including alumni) would generate unrelated business income. (Exploited Exempt Activity)





FACILITIES USAGE & EVENTS

A local nonprofit organization holds youth and adult meetings on campus bi-weekly. Because the rental is to another nonprofit, the income is not unrelated business income.

TRUE

- Why?
 - Income from providing space to local youth and other community nonprofit organizations may not be unrelated if it is an extension of mission or not deemed to be a trade or business.





FACILITIES USAGE & EVENTS

The music department holds an annual holiday concert that is free to the public. Individuals may livestream the concert for a nominal fee, with CDs being sold online and in the bookstore. Is this activity unrelated?

NO

- Why?
 - The activity does not appear to be regularly carried on. To be classified as UBI, the three-prong test must be met:
 - Trade or business
 - Regularly carried on
 - Not related to mission
 - (IRC Section 512)





FACILITIES USAGE & EVENTS

The football coach's rental of the athletic facilities for his or her summer camp is not UBI as long as the name of the camp includes the institution's name.

FALSE

- Why?
 - If the use of the facility is benefiting the individual's personal business and is not an extension of the institution's programming, the income is unrelated.





OTHER UBI REVENUE SOURCES



OTHER UBI REVENUE SOURCES

Royalties received by a College are typically taxed as unrelated business income.

FALSE

- Why?
 - As long as a royalty arrangement is passive, it would not generate unrelated business income.
 - If substantial services are rendered, the royalty exclusion may not apply and the income would be classified as unrelated business income.





OTHER UBI REVENUE SOURCES

Research activities conducted by a University are not considered unrelated business income.

TRUE

- Why?
 - Research performed for the government and other publicly available research is not UBI. Clinical trials and other testing, as well as proprietary research, are generally taxable.





OTHER UBI REVENUE SOURCES

Qualified sponsorship payments are not unrelated business income.

TRUE

- Why?
 - As long as the only benefit provided to the sponsor is a sponsorship acknowledgment, no UBI is generated. The benefits must be carefully analyzed. (IRC Section 513(i))





OTHER UBI REVENUE SOURCES

Revenue received from naming or pouring rights is always unrelated business income.

FALSE

- Why?
 - Naming rights are typically structured as a sponsorship as long as advertising or other substantial return benefit is not provided. If structured as an exclusive provider arrangement, pouring rights may generate UBI.





OTHER UBI REVENUE SOURCES

Corporate sponsorship regulations provide that exclusive sponsor contracts typically do not constitute a substantial return benefit.

TRUE

- Why?
 - An exclusive sponsor at an event is not, by itself, a substantial return benefit. The sponsorship contract must be reviewed to determine whether the sponsorship receives any substantial return benefits that may be UBI.





ALTERNATIVE INVESTMENTS



ALTERNATIVE INVESTMENTS

When determining whether to hold alternative investments in its portfolio, an institution should consider what types of investments as alternatives?

TRUE

- Why?
 - Alternative investments consist of any investment with a market value that is not readily determined. Typical investments include hedge funds, partnerships, foreign funds, closely held stock, etc.





ALTERNATIVE INVESTMENTS

A University has a partnership interest in its investment portfolio. Because no K-1 has been received, the institution does not need to concern itself about potential UBI reporting on Form 990-T.

FALSE

- Why?
 - When an institution is aware of a partnership or other investments that may generate additional tax complexities, follow-up must be performed. Additional inquiries should occur when the disclosures on the K1 appear to be incorrect or incomplete.





ALTERNATIVE INVESTMENTS

Unrelated business income is seldom generated by partnership investments. A College should have few concerns when investing in these types of alternate investments.

FALSE

- Why?
 - Because a partnership is a flow-through entity, the activities within the partnership and related tax complexities are attributed to the partner.





ALTERNATIVE INVESTMENTS

A donor wants to contribute to a University closely held stock taxed as an S-corp. What are potential tax considerations when accepting this gift?

The University should carefully consider the following:

- All income and loss generated by the S-corp is UBI to the institution.
- Nexus must be addressed, since many state and local jurisdictions tax UBI.
- Upon sale of the S-corp stock, any gain is also UBI. Accurate stock basis computations must be maintained.





ALTERNATIVE INVESTMENTS

Because alternative investments are primarily domiciled in the US, there are no additional foreign filing considerations.

FALSE

- Why?
 - Many alternative investments are domiciled outside of the United States, and institutions must be aware of the locations of the investments, since foreign filings may apply. Failure to meet these requirements may result in a penalty of \$10k/filing. Potential filings include Forms 926, 5471, 5713, 8865, FBAR, etc.





ODDS AND ENDS



ODDS AND ENDS

Ohio is known as what state?

- The Buckeye State, partially because many buckeye trees once covered Ohio's hills and plains. However, the name "buckeye" stems from Native Americans who called the nut "hetuck," meaning buckeye, because the markings on the nut resemble the eye of a deer.





ODDS AND ENDS

What is the name of the first interracial and co-educational college in the United States?

- Oberlin College, located in Oberlin, Ohio, was founded in 1833.





ODDS AND ENDS

What institution is recognized as the first university in the Northwest Territory?

- Ohio University is located in Athens, Ohio, and was founded in 1804.





ODDS AND ENDS

What is the official Ohio state rock song?

- “Hang On, Sloopy” by The McCoys was released in 1965. It’s only fitting, as the Rock and Roll Hall of Fame is located in Cleveland.





ODDS AND ENDS

Ohio had the first professional baseball team. What were they called?

- Although the first official game took place in Hoboken, New Jersey, the Cincinnati Red Stockings became America's first professional baseball club in 1869.





RESOURCES

- TEGE Fiscal Year 2017 Work Plan
 - https://www.irs.gov/pub/irs-tege/tege_fy2017_work_plan.pdf

- IRS Publication 15-B Employer's Tax Guide to Fringe Benefits
 - <https://www.irs.gov/pub/irs-pdf/p15b.pdf>

- Unrelated Business Income Tax
 - <https://www.irs.gov/charities-non-profits/unrelated-business-income-tax>





RESOURCES

- IRS Publication 598 Tax on Unrelated Business Income of Exempt Organizations
 - <https://www.irs.gov/pub/irs-pdf/p598.pdf>
- Exclusive Provider Arrangement within Qualified Sponsorship Agreements
 - <https://www.irs.gov/charities-non-profits/exclusive-provider-arrangement-within-qualified-sponsorship-agreements>
- Advertising or Qualified Sponsorship Payments?
 - <https://www.irs.gov/charities-non-profits/advertising-or-qualified-sponsorship-payment><https://www.irs.gov/pub/irs-pdf/p598.pdf>
- Additional Information on UBI within Higher Ed
 - <http://www.nacubo.org>





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