Factors Indicating the Presence of Unrelated Business Income (UBI)

### Part I—Initial Determination

1. Consider whether the organization has revenue from a trade or business activity. For example, does the organization:
   - a. Sell a product at a carnival, fair, or trade show?  
   - b. Charge for use of its parking lot during special events?  
   - c. Sell advertising in its publication, newsletter, program, website, or other media?  
   - d. Operate a gift shop, bookstore, or restaurant?  
   - e. License use of its name, logo, or mailing list?  
   - f. Conduct a golf tournament with entrance fees?  
   - g. Rent property (e.g., office space) to others?  
   - h. Operate a used merchandise store?  
   - i. Conduct games of chance?  
   - j. Receive income from commercial sponsors for a particular activity?  
   - k. Receive income from the subdivision of real estate?  
   - l. Provide debt management plan services?  
   - m. Derive income from travel tours?  
   - n. Provide management or administrative services for a fee?  
   - o. Receive income from associate member dues [Section 501(c)(5) and (c)(6) organizations]?  
   - p. Operate another activity that involves selling goods or performing services? (If so, specify activity: __________________________.)

2. Does the organization:
   - a. Own stock in an S corporation?  
   - b. Own an interest in a partnership (limited or general)?  
   - c. Receive any income (other than dividends) from a corporation ("controlled corporation") in which it has more than 50% ownership interest (whether direct or indirect)?  
   - d. Receive rent income from property financed with qualified 501(c)(3) bonds?
3. If item 1 contains a “Yes” response, is the activity in question regularly carried on?

Ordinarily an activity is regularly carried on only if it demonstrates a frequency and continuity and is pursued in a way comparable to similar commercial activities of nonexempt entities. Thus, operating a fundraising car wash one weekend a year may be a trade or business activity, but it is not regularly carried on. However, an activity operated consistently throughout the year may be regularly carried on even if operated for just a few hours each time (e.g., a hunger relief agency charging symphony patrons for use of its parking lot almost every Saturday night). If an activity is seasonal by nature, it may also be regularly carried on even if operated for only a few months each year (e.g., the local soccer association operating a snow cone stand during the summer).

4. If items 1 and 3 contain a “Yes” response, are any of the regularly carried on revenue producing activities unrelated (i.e., not substantially related) to the exempt purpose of the organization?

To be substantially related to an organization’s exempt purpose, an activity must “contribute importantly” to the accomplishment of that purpose. (For a public college or university, an activity is substantially related if it contributes importantly to any charitable purpose, even if unrelated to the school’s own exempt purpose.)

An activity is not substantially related solely because its income is needed or used to fund the conduct of an exempt function of the organization. However, an activity that derives its income from charges for the performance of an exempt function is considered a substantially related activity. For example, selling greeting cards depicting artwork reproductions in a museum gift shop helps promote the public’s interest in and appreciation of art. Thus, even though the greeting card sales are a regularly carried on trade or business, there is no UBI because the activity is related to the museum’s exempt purpose.

Notes:

a Special rules apply to social clubs, voluntary employees’ beneficiary associations, and supplemental unemployment benefit trusts. For these entities, UBI is generally all income (other than exempt function income) less deductions directly related to that income.

b If item 1 of Part I contains at least one “Yes” response and items 3 and 4 are also answered “Yes,” complete Part II of this checklist. Otherwise, the remainder of this checklist need not be completed.

c Such income is UBI unless the organization is a credit counseling organization exempt under IRC Sec. 501(q).

d Income received as the result of stock ownership in an S corporation is UBI regardless of the answers to other questions on this checklist, unless the recipient is an ESOP.

e Income received as the result of owning an interest in a partnership retains the same character in the exempt organization’s hands as it had in the partnership’s hands. Such income must be tested under items 3 and 4.

f Payments are UBI to the extent they either reduce the net unrelated income or increase the net unrelated loss of the controlled corporation, regardless of the answers to other questions on this checklist.

g Income is UBI in the amount of the greater of (1) the actual rental income or (2) the fair rental value of the property for the period any part of the property is used in a trade or business of any person other than a Section 501(c)(3) organization or a governmental unit and the use is not consistent with the requirement for qualified Section 501(c)(3) bonds under IRC Sec. 145.
### Part II—Exempt Activities

The questions in this section apply to any regularly conducted, income-producing activity that is unrelated to the organization’s exempt purpose. A “Yes” response to at least one of these questions indicates the activity is probably exempt from the definition of an unrelated business activity; thus, the related income is not considered UBI. If each question is answered “No” for a particular activity, complete Part III of this checklist.

**Note:** Special rules apply if an organization receives income from debt-financed property—see Part IV of this checklist.

<table>
<thead>
<tr>
<th>Description</th>
<th>Activity 1</th>
<th>Activity 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the activity lack a profit motive (i.e., did the organization enter into or does it continue the activity for some reason other than because it produces net income)?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>2. Is the activity incidental to the organization’s exempt function or does it involve the distribution of “low-cost items” in return for tax-deductible donations? <em>(Low-cost item is defined as an article costing the organization $10.40 or less if the distribution occurs in 2014 and $10.50 for 2015.)</em></td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>3. If labor (rather than capital) is the material income-producing factor in an activity, is substantially all (85% or more) of the work in the activity conducted by volunteers?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>4. If the organization is either a Section 501(c)(3) entity or a public college or university, is the activity carried on for the convenience of members, students, patients, officers, or employees?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>5. For a Section 501(c)(4) local association of employees organized before May 27, 1969, does the activity involve selling work-related clothes; equipment; items normally sold through vending machines, through food dispensing facilities, or by snack bars, for the convenience of the association’s members at their usual places of employment?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>6. Are substantially all (85% or more) of the items sold in the activity received by the organization as gifts or contributions?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>7. Is the activity a qualified public entertainment activity at a fair or exposition?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>8. Is the activity a qualified convention and trade show activity?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>9. Is the activity a game of chance that qualifies as bingo?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>10. Does the activity involve a mutual or cooperative telephone or electric company renting utility poles?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>11. Does the activity involve the exchange or rental of mailing lists between two entities that are both eligible to receive tax deductible contributions?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>12. Does the activity involve receiving qualified sponsorship payments?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>13. Does the activity involve furnishing administrative type services (e.g., data processing, warehousing, billing, and collection) by one charitable hospital for one or more other charitable hospitals?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
Part III—Excluded Income

This part of the checklist should be completed for each activity listed in Part II for which all 13 questions are answered “No.”

A “Yes” response to one or more of the questions in this part indicates income from the activity should not be UBI even though the activity is an unrelated business activity. (Chapter 12 should be consulted for additional guidance.) If each question in Part III is answered “No” for a particular activity, complete Part IV of this checklist.

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<td>1. Is the income from notional principal contracts (e.g., interest rate or currency swaps) or dividends?</td>
<td>Yes No</td>
<td>Yes No</td>
</tr>
<tr>
<td>2. Is the income from interest, royalties, or annuities paid by an unrelated entity?</td>
<td>Yes No</td>
<td>Yes No</td>
</tr>
<tr>
<td>3. Is the income generated by loaning the organization’s securities (e.g., payments received in lieu of dividends, interest, or other distributions with respect to stocks and bonds kept in the organization’s investment account with a broker and borrowed by the broker to complete another customer’s transaction)?</td>
<td>Yes No</td>
<td>Yes No</td>
</tr>
<tr>
<td>4. Is the income generated by renting real property to an unrelated entity under a lease that neither (a) calculates the lease payments based on a percentage of the lessee’s net income nor (b) obligates the organization to provide services to the lessee as part of the lease agreement?</td>
<td>Yes No</td>
<td>Yes No</td>
</tr>
</tbody>
</table>

**Note:** If personal property (in addition to real property) is included in the lease, this question may still be answered “Yes” provided the rental income related to the personal property is incidental to (generally 10% or less of) the total rents received or accrued over the life of the lease.

5. Does the income represent gain from the sale of property (other than that which would be classified as inventory if on hand at year-end or that is held primarily for sale to the organization’s customers in the ordinary course of a trade or business) that is not subject to the depreciation recapture rules? | Yes No     | Yes No     |

6. Is the income earned by the organization from performing research for the U.S. or a state or political subdivision thereof? | Yes No     | Yes No     |

**Note:** Colleges, universities, hospitals, and entities operated primarily to carry on fundamental research (the results of which are freely available to the general public) may answer this question “Yes” regardless of the person for whom the research is performed.

Part IV—Debt Financed Income

An organization must include certain income from debt-financed property in UBI. Debt-financed property is generally any property held to produce income and with respect to which there was acquisition indebtedness (1) at any time during the tax year, or (2) if the property was disposed of during the tax year, at any time during the 12 months before the disposition.

Adapted from Thomson Reuters Checkpoint™ PPC’s 990 Deskbook
1. Does the organization have debt that was incurred to acquire, improve, or carry income-producing assets? (If “No,” go to Part V.)

2. If the answer to 1 is “Yes,” does one of the following exceptions to the debt-financed property rules apply?
   a. Substantially all (85% or more) of the use of the acquired property is directly related to the performance of the organization’s exempt purpose (or in the case of a college or university, to any exempt purpose).
   b. The property is real property leased to a medical clinic to further the organization’s exempt purposes.
   c. The property is used in an unrelated trade or business and was not sold during the tax year.
   d. The property produces gross income that is excluded from unrelated business income because certain research activities are involved.
   e. The property is used in an activity that is not an unrelated trade or business because of the broad exemptions of IRC Sec. 513(a).
   f. The property is used by a related organization in further of an exempt purpose.
   g. The property is real property that is subject to the “neighborhood land” rule.
   h. An annuity was given in exchange for the property, but the requirements of IRC Sec. 514(c)(5) are satisfied.
   i. The property was acquired by bequest subject to debt, has not been held for more than 10 years since receipt, and the organization has not assumed the debt.
   j. The property was acquired by gift subject to debt that was placed on the property more than 5 years before the gift, the donor held the property more than 5 years before the gift, the organization has not held the property for more than 10 years since its receipt, and the organization has not assumed the debt.
   k. The property is real property, the organization is a qualified organization (e.g., an educational organization), and certain rules in IRC Sec. 514(c)(9) are satisfied.

Part V—Requirement to File Form 990-T

1. If each question in Part III is answered “No” for a particular activity or question 1 in Part IV is answered “Yes” and no exception applies, Form 990-T (Exempt Organization Business Income Tax Return) normally should be filed (or extended) by the 15th day of the fifth month after year-end (e.g., by May 15 for calendar-year entities). If the organization does not intend to file Form 990-T, document the reason.  

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