

Unrelated Business Income Tax - UBIT

Unrelated Business Income Tax - UBIT

I. Purpose

To define unrelated business income tax (UBIT), provide guidance to all University of Kentucky departments, and discuss a department's responsibility in identifying new or current activities that may be subject to unrelated business income tax (see also BPM E-6-2 Revenue Producing Activities). The inclusion of an activity in this BPM does not indicate that the listed activities are necessarily permitted. Compliance with BPM E-6-2 and all other applicable policies is required.

II. Policy

The University of Kentucky (the University) is excluded from federal income taxes as an organization described in Section 115 of the Internal Revenue Code of 1986. Each of the University's affiliated non-profit organizations has received a determination from the Internal Revenue Service granting exemption from federal income taxation pursuant to the provisions of Internal Revenue Code section 501(c)(3). However, the University is required to pay federal income tax on net income from activities unrelated to the exempt mission of the University: education, research and public service.

An activity is an unrelated business (and subject to unrelated business income tax) if it meets three requirements:

1. It is a trade or business, with the intent of realizing a profit;
2. It is regularly carried on; and
3. It is not substantially related to the tax exempt mission of the University.

It is very important that all unrelated business activities of the University be approved as described in BPM E-6-2 and reported on the federal tax return. The Internal Revenue Service can and will assess costly penalties and interest charges for underpayment of taxes.

Below are examples of income activities currently **exempt** from unrelated business income taxation:

- Admission fee revenue from athletic events.
- Admission fee revenue from performances of students.
- Admission fee revenue from theater performances by professional artists open to students and to the general public.
- Advertising revenue from advertising in the student newspaper when the newspaper, including selling of advertising, is run by students as part of an educational program.
- Annual fund-raising events.
- Businesses provided for the convenience of students, faculty, and staff
- Mailing list rentals to commercial organizations, depending on the University's level of involvement.
- Periodicals – acknowledgment of a sponsor or the sponsor's name or logo or product line, including electronically published material.
- Qualified sponsorship payment – no arrangement or expectation that sponsor will receive any substantial benefit other than the use or acknowledgement of their name or logo.
- Rental income from real property.

Unrelated Business Income Tax - UBIT

- Income derived from research for government, tax-exempt, college or university
- Revenue from the sale of donated merchandise.
- Sale of paintings and art projects by students done in art classes.
- When substantially all the work related to the event or activity is provided on a volunteer basis.
- Summer camps.
- Use of a facility by students for recreational purposes and its physical education program.

Below are examples of income activities that **may be subject** to unrelated business income taxation:

- Advertising revenue received from a company placing an ad in a publication such as an ad in an athletic or performing arts program.
- Advertising revenue received from advertising on the internet.
- Advertising revenue that goes beyond mere acknowledgement of sponsorship.
- Alumni and public use of a recreation center.
- Commission received from long distance carriers.
- Hyperlink to a sponsor's website where an endorsement appears for the sponsor's product.
- Any pharmacy or healthcare supply sales to the general public (non-patients)
- Professional entertainment events operated in a commercial manner and not part of an educational program.
- Rental of campus facility to professional sports teams.
- Rental of laboratory facility to non-university users.
- Rental of recreation equipment to the general public and alumni.
- Rental of sports facilities such as stadiums, soccer fields, etc. where services are provided.
- Rental payments for the lease of space on antenna towers and transmission facilities.
- Sale of advertising space in periodicals, telephone directory, or yearbook.
- Sale of art objects at exhibits.
- Sale of audio-visual services to non-university users.
- Sale of computer or programming services to non-university users.
- Sale of printing services to non-university users.
- Sale of equipment to non-university users.
- Travel tour programs that are not authentic educational activities (i.e. sightseeing, recreational, social, cruise, etc.).

III. Definitions

- *Unrelated business income tax (UBIT):* Tax imposed by the IRS on income from a trade or business (with intent of realizing a profit), that is regularly carried on, and the conduct of the trade or business does not relate to the tax exempt mission of the University.
- *Trade or business:* A trade or business generally includes any activity for the production of income from selling goods or performing services. It is not limited to integrated aggregates of assets, activities, and goodwill that comprise businesses for purposes of certain other provisions of the Internal Revenue Code. Activities of producing or distributing goods or performing services from which gross income is

Unrelated Business Income Tax - UBIT

derived do not lose their identity as trades or businesses merely because they are carried on within a larger framework of other activities that may, or may not, be related to the organization's exempt purpose.

- *Regularly carried on:* Business activities of an exempt organization ordinarily are considered regularly carried on if they show a frequency and continuity, and are pursued in a manner similar to comparable commercial activities of nonexempt organizations.
- *Substantially related:* To determine if a business activity is substantially related requires examining the business activity and the relationship between the activities that generate income and the accomplishment of the organization's exempt purpose. Trade or business is related to exempt purposes, in the statutory sense, only when the conduct of the business activities has causal relationship to achieving exempt purposes (other than through the production of income). The causal relationship must be substantial. The activities that generate the income must contribute importantly to accomplishing the organization's exempt purposes to be substantially related.
- *Tax exempt mission:* The tax exempt mission of the University relates to education, research and public service.

IV. Responsibilities

- A. Department administrator or equivalent unit business officer
 1. Review UBIT policy and understand the importance of identifying all activities subject to UBIT.
 2. Complete Annual UBI Questionnaire as requested on current activities.
 3. Complete Revenue Producing Activities Questionnaire for any new revenue generating activity as explained in BPM E-6-2.
 4. Notify Accounting Financial Reporting Services (AFRS) immediately of all activities that may be subject to UBIT.
- B. AFRS
 1. Review all UBIT activities questionnaires received from the departments.
 2. Provide guidance to departmental personnel on whether an activity is subject to UBIT.
 3. Provide guidance to each department on the accounting required for any activity subject to UBIT.
 4. Report all activities subject to UBIT.

V. Procedures

- A. Department administrator or equivalent unit business office
 1. Obtain the University's Annual UBI Questionnaire.
 2. Complete the questionnaire by September 1 for prior fiscal year and submit to AFRS, 371 Peterson Service Building, 0005.
 3. Complete the Revenue Producing Activities Questionnaire for proposed new activities as they arise, as explained in E-6-2.
 4. Obtain approval before any new activities are conducted.
- B. AFRS
 1. Review activity questionnaire forms as they are received.
 2. Provide guidance to departmental personnel on whether an activity is subject to UBIT.
 3. Provide guidance to each department on the accounting required for any activity subject to UBIT.

Unrelated Business Income Tax - UBIT

4. Complete the Form 990T tax return for the University and report and pay any taxes associated with unrelated business income activities.
 5. Prepare journal voucher to charge departments for their allocated portion of the UBIT based upon its share of the taxable business income.
- C. Questions regarding unrelated business income tax should be directed to AFRS at (859) 257-8638.