

Subject: Unrelated Business Income Tax	Author: Kim Marley
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Contact Name: Kim Marley	Contact Email: kmmar101@louisville.edu
Approved By: Larry Zink	Page 1 of 2

Background

In 1950, Congress established the “Unrelated Business Income Tax” (UBIT) in order to impose taxes on the activities of exempt organizations when these activities are not related to their exempt purpose. The purpose of this tax was to allow for exempt entities to engage in activities with a profit motive while retaining their exempt status but also to eliminate the unfair competition that this causes between exempt entities and for-profit organizations.

An activity is considered “Unrelated” by the IRS (IRC Section 513) and therefore subject to tax when it meets the following three criteria. [View Internal Revenue Code.](#)

1. The activity is a trade or a business.
2. The activity is regularly carried on.
3. The activity is not substantially related to the exempt purpose of the organization.

If an activity is undertaken with the intent to create a profit through the sale of goods or the performance of a service it is considered a **trade or business**.

An activity is **regularly carried on** unless it is performed infrequent or discontinuously.

An activity **is not substantially related** when it does not contribute to the exempt purpose of the organization.

Exceptions to UBIT

The laws regarding UBIT and its exceptions are complex and too numerous to list. A list of exceptions that most frequently apply is provided below.

- Dividends, interest, capital gains and similar portfolio income
- Royalties
- Research
- Business operated for the convenience of students or employees
- Corporate Sponsorships, if properly structured
- Work performed substantially by volunteers.
- Sale of merchandise which was received by the University as a gift or contribution
- Meetings, conferences and seminars where education or training is provided by the University.
- Entertainment events that include music and drama for students, faculty, and the general public.

Purpose of the Policy

The purpose of the UBIT policy is to provide guidelines for the discovery and reporting of income and expenses to the Controller's Office for "Unrelated Activities" undertaken by University departments. This policy is NOT intended to discourage or eliminate unrelated activities but rather to gather information so that proper reporting to the IRS and other taxing authorities is done timely and accurately.

Policy

The reporting of all unrelated activity income and expenses to the Controller's Office is the responsibility of each department and program administrator. Any taxes due will be charged to the program generating the taxable income.

The Controller's Office will offer guidance in interpreting the laws regarding taxability of an activity and any applicable exceptions and will manage all correspondence between the Internal Revenue Service, various state and local taxing authorities and the University.

The Internal Revenue Service and state and local taxing authorities will ultimately determine the taxability of each activity. All penalties or fines for non-compliance will be the responsibility of each department.

Process

The Controller's Office will distribute annually a questionnaire to each division including a list of current unrelated activities that are being performed by each division. This questionnaire will require the approval and signature of the Division Dean or VP in order to verify that they are aware of the unrelated activities that are being performed within their division, that no new activities have been undertaken during the year for which proper notification was not sent to the Controller's Office and to provide information for activities that may need further investigation by the Controller's Office to determine their taxability. The Controller's Office will perform additional reviews as necessary.

It is the responsibility of each department to notify the Controller's Office during the year of any new activities that may be considered unrelated to the University's exempt purpose.