

Unrelated Business Income Tax (UBIT)

General Guidelines

General Guidance

George Mason University is exempt from taxation under Section 115 of the Internal Revenue Code. 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. It is important that all unrelated business activities of the university be reported on the Federal tax return. The Internal Revenue Service can assess costly penalties and interest for underpayment of taxes.

Each College, Department, Center, and Institute must also segregate their accounting for corporate sponsorship agreements. Please keep in mind that there may be both gift and taxable corporate sponsorship components of this income, depending on the terms of the contract.

Criteria

The following three elements must be considered when determining if an activity may be subject to unrelated business income tax (UBIT).

The activity must:

1. Be conducted as a trade or business, AND
2. Be regularly carried on by the University, AND
3. Not be substantially related to the University's tax-exempt purpose.

Trade or Business: Includes any activity carried on for the production of income from selling goods or performing services. Generally, a trade or business has a profit motive.

Regularly Carried On: UBIT applies only to a business activity that is regularly carried on, as opposed to transactions that are only sporadic or infrequent. An activity is considered regularly carried on if it is conducted with a frequency and manner comparable to a similar activity conducted by a for-profit (taxed) business.

Not Substantially Related: The activity must not be substantially related to the exempt mission of the university. To decide if an activity is related or unrelated, determine the nature of the activity and how essential it is for accomplishing the mission of the university including education, research and public service.

The following activity examples **are not generally related** to the mission of the university and are, therefore, subject to unrelated business income tax:

- Computer time sold to an outside company
- Income from advertising placed by a company in an athletic or performing arts program
- Income from advertising on the Internet
- Sale of mailing lists or other data to commercial entities
- Software sales to private industry
- Sale of CDs, DVDs, & other gift items by the bookstore
- Gift shop sales (evaluated on an item-by-item basis)
- Sale of advertising space in a GMU journal or regularly scheduled periodical
- On-line stores (i.e. charity malls) or auctions linked to the Mason web site

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- A hyperlink from the Mason web site to a sponsor's web site where an endorsement appears by Mason for the sponsor's product
- Commercially-sponsored scientific research and drug testing, if the results are not made available to the public or directed toward benefiting the public
- Rental of apartments to the general public where the building is financed by tax exempt bonds
- Rental of sports facilities such as stadiums, soccer fields, etc. where personal services are being provided
- Travel tour programs operated by a college/department or the alumni association that are not authentic educational activities (i.e. sightseeing, recreational, social, cruise, etc.)
- Rental payments for the lease of space on antenna towers and transmission facilities
- University radio station conducting activities similar to a commercial undertaking
- Summer sports camps that are not part of educational programs offered by the university
- Corporate sponsorship payments where the sponsor receives a substantial return benefit that has a fair market value of more than 2% of the entire payment
- Pharmacy sales to the general public
- Sale of merchandise (evaluated on an item-by-item basis)
- Pet boarding and grooming services for the general public
- Commercial activities exploiting the university's educational purpose
- Joint ventures with for-profit organizations such as technology transfers forming partnerships with individuals, corporations, or limited liability companies that do not serve the university's charitable purposes but do benefit the for-profit partner and/or insiders
- Professional entertainment events operated in a commercial manner and are not part of an educational program
- Exclusive provider arrangements where the university performs substantial services
- Direct operation of parking lots (depending on the customers/purpose)
- Hotel stays sold to the general public and/or alumni
- Advertising in the telephone directory or yearbook
- Dual use of assets or facilities for public events, including use during evening (non-work) hours
- Intellectual property where substantial services are provided in connection with the activity (facts and circumstances must be evaluated)
- A fitness center selling memberships to the general public
- Book publishing where the University owns the rights to a book which does not relate to the educational purposes of the University (i.e. exploits the book in a commercial manner)

The following are examples of activities that **are generally related** to the mission of the University:

- ✓ Computer time sold to university departments
- ✓ Income from advertising placed in the university newspaper, when the newspaper is run by the students as part of an educational program
- ✓ Sale of books and class materials by the bookstore
- ✓ Meetings, conferences and seminars where education or training is provided by Mason. However, rental of tangible personal property as part of the meeting package could be unrelated (i.e. audio/visual equipment, tables, chairs)

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- ✓ Non-patient diagnostic laboratory testing performed by a teaching hospital on specimens needed for the conduct of its teaching activities
- ✓ Sales of art objects at exhibits
- ✓ The sale of broadcasting rights for athletic events
- ✓ Sponsoring entertainment events for the appearance of professional theater companies and symphony orchestras that present drama and musical performances for students, faculty, and the general public
- ✓ Intellectual property royalties as a result of licensing to a third party

Exclusions

Certain exclusions exist to the criteria set forth above. An activity that would ordinarily be considered unrelated and subject to income tax may be exempt from UBIT if any of the following conditions exist:

Member Convenience: An unrelated activity conducted by the university for the benefit of its members (students, faculty, and staff) is not subject to UBIT unless the income is generated from sales to non-members (note: alumni, visitors and contractors are non-members). In this case, only the non-members sales are taxed. Examples of activities that are not subject to UBIT under the convenience exception include:

1. Laundry facility for the students
2. Hair cutting salon for students and university employees

Volunteer Work: UBIT does not apply to income from an activity in which substantially all (85% or more) of the work is performed without compensation.

Donated Property: Income from the sale of merchandise, substantially all of which has been donated by a gift or contribution is excluded.

Government Research: Income from research conducted for the U.S., its instrumentalities or agencies, or any State or political subdivision is excluded.

Rental of Real Property: In general, the rental of real property is not subject to unrelated business income tax, unless personal services are rendered that are not customary or usual to the rental of space.

Dividends, Interest, Annuities, and Royalties: In general, passive income(s) is excluded from UBIT.

For additional assistance with the UBI Guidelines, Questionnaire or Certification please contact the International Tax Office at inttax@gmu.edu. Additional information is available online at