Accounting Issues Committee – Unrelated Business Income Tax (UBIT)

Issue Summary	Unrelated business income must be reported annually to the IRS on Form 990-T and estimated taxes paid quarterly
Background	Unrelated business income must be reported annually to the IRS on Form 990-T and estimated taxes paid quarterly. Rather than determining after the fact if unrelated business income taxes are due, USG institutions should: • Determine in advance what revenues might constitute unrelated income; • Make your best case for the relatedness of an item; and finally, • Document (as you would any business or personal tax deduction) the good faith reasons for making such determination.
Risks	1. Not reporting UBIT could expose an institution to fees and penalties by the IRS
Possible Solution(s)	1. Provide institutions additional direction on UBIT taxes via the Business Procedures Manual (BPM). 2. Provide training at year end workshop 3. Do nothing.
Escalating Sub-team and Lead	Fiscal Affairs – Vikki Williamson
Recommended Action	Option 1 adequately addresses the issue. Doing nothing will continue to make responses to requests for information both time-consuming and cumbersome.
Accounting Issues Committee Comments	The accounting issues committee recognizes USG member institutions require additional direction on UBIT taxes. The Office of Fiscal Affairs agreed to work with ITS to supplement the Business Policy Manual (BPM) and provide a section dedicated to filing UBIT taxes. Possible BPM UBIT topics are listed on the following pages. Once the BPM documentation has been revised, Fiscal Affairs will assess the possibility of addressing the topic at the year end workshop. Change request 10109 was created to initiate the revisions to the BPM.

Possible BPM UBIT topics

1. What criteria must activities meet to be considered unrelated business income?

An activity may be considered an unrelated trade or business if its operations meet ALL the criteria listed below:

Trade or Business

The term "trade or business" generally includes any activity carried on for the production of income from selling goods or performing services. A trade or business activity is one in which a profit is expected to be made. However, when an activity that is carried on for a profit incurs a loss, no part of the trade or business is excluded from the for profit classification merely because its current operations does not result in a profit in a particular year. In addition, an activity does not lose its identity as a trade or business when it is carried on within a larger complex of other endeavors which may be related to the exempt purposes of the institution.

Regularly Carried On

The trade or business must also be considered "regularly carried on". This test considers the frequency, continuity of operations and the manner in which the activities are conducted. Comparisons of the activity must be made with similar commercial activities to arrive at a determination whether the activity may be taxable.

Not Substantially Related to Exempt Purposes

A regularly conducted trade or business is subject to tax if it is also not substantially related to the exercise or performance of the exempt functions of the institution. The institution's need for the income from the activity to further its exempt activities does not change the taxable nature of the income produced from the unrelated activity.

2.What types of activities are generally INCLUDED in unrelated business income taxes?

Unrelated business income can be generated from a large variety of activities. As a general rule, providing goods or services to the public (alumni is included in this category) is considered a taxable activity. Other examples of activities that would most likely generate UBIT are:

- Most forms of advertising that generate revenue for the institution
- Rental or sales of mailing lists
- Routine analytical or testing services to non-university users
- Travel tours for alumni or tour purpose is not authentic educational activity
- Renting equipment to non-university personnel
- Excess computer time sold to an outside company
- Online stores linked to institution web sites
- Printing or audio visual sales and services to non-university users
- Parking revenues generated from general public attendance at a non-university sponsored event

In addition to the activity itself, consideration must be given to where the activity is conducted. If any portion of a property, whose construction was financed with tax-exempt bonds, is used to conduct unrelated business activities, the bond financing could lose its tax exempt status. The percentage of unrelated activity taking place on the property must be monitored to insure the overall use of the facility by exempt activities is sufficient to prevent challenges to the tax-exempt status of the property's financing.

3. What types of activities are generally EXCLUDED from UBIT?

There are specific activities identified in the federal tax law which are exempted from unrelated business income tax even though they may otherwise have the characteristics of an unrelated trade or business:

- **Real Property Rents** - Rent collected from outside entities is considered passive and not subject to UBIT. However, the exclusion may be lost if personal services or use of equipment are included in the rental agreement.
- **Income from Research Activities** - In general, revenue received from research activities is excluded from unrelated business income taxes. There are certain situations that may require further analysis to determine if they fit the research exception. For example, ordinary testing and inspection of products or materials is normally not exempt from UBIT.
- **Member Convenience Activities** - An unrelated activity conducted by the institution for the benefit of its members (students, faculty, and staff) is not subject to tax unless the income is generated from sales to non-members. In this case only the non-member generated income is taxable.
- **Dividends, Interest, Annuities, and Royalties** - These sources of income are considered passive and are generally excluded from UBIT. However, consideration must be given to the investment generating the income before a determination to exclude from UBIT.

4. How are the institution's unrelated business income taxes reported to the IRS?

Once a year, the CBO distributes a survey to all auxiliary funds budget managers requesting information about the previous fiscal year's revenues. This survey requires managers to categorize their revenues by the following sources: students, faculty/staff, university departments, foundations, state government, general public, and other. Accordingly, it is important that these departments have a means of classifying and documenting these sources of sales revenue properly.

The CBO will review each survey to determine whether any potentially unrelated revenues were earned during the previous fiscal year. Departments that are found to have the potential for unrelated business revenue will receive follow-up contact from the CBO to further assess the details related to any unrelated business revenue.

5. Who should I contact with other questions about UBIT?

USG Fiscal Affairs and your campus business office are available to help you with other, specific questions you may have regarding unrelated business income taxes.