


Unrelated Business Income Tax(UBIT) For Colleges

ED E. RAMOS, CPA,
SHAREHOLDER





Overview

[IRC Sec. 513\(a\)](#) defines an unrelated trade or business of an exempt organization as "any trade or business, the conduct of which is not substantially related. . . to the exercise or performance. . . of its exempt purpose."




Tax-exempt organizations that operate unrelated trade or businesses, must also file an income tax return, Form 990-T

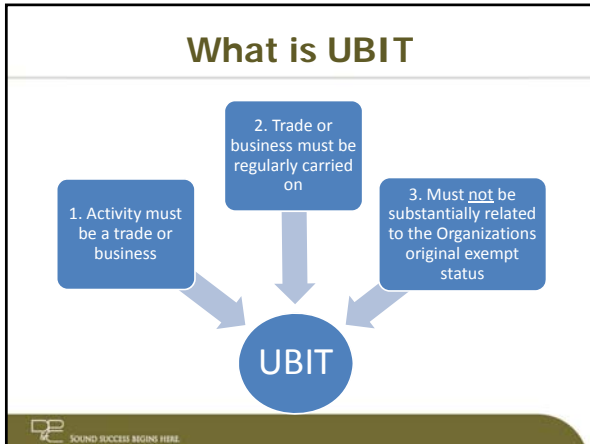
Management is responsible for the calculation of current and deferred taxes, the underlying support for the amounts, and the related disclosures.

Unrelated Business Income Tax (UBIT) Issues

Liability of UBIT is becoming more common as College and Universities continue to search for alternative income sources

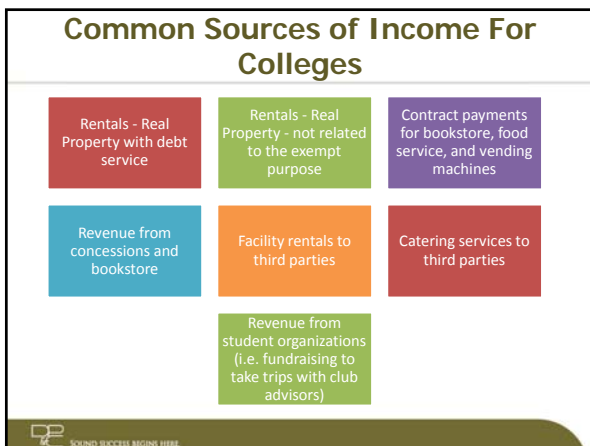


What is UBIT

IRS Section 511(a)(1)(2)(B) - State colleges and universities. The tax imposed by shall apply in the case of any college or university which is an agency or instrumentality of any government or any political subdivision thereof.....

State colleges and universities that rely solely on section 115 to relieve them of liability for income tax are nonetheless subject to UBIT under section 511(a)(1)(2)(B).

MP SOUND SUCCESS BEGINS HERE



Common Sources of Income For Colleges

Revenue from providing training and continuing education to businesses	Commission charged to departments for online payments (5%)	Surplus sales
Rebates from credit cards usage /purchasing rebates from vendors	Advertising for outside vendors in school newspapers	Revenue from outside parties such as dental hygiene clinics, auto body shops, culinary, etc.

SOUND SUCCESS BEGINS HERE.

Common Examples

- Catering – If catering is part of the catering program to train those students, then it could be exempt
- Concessions – If concessions are for the convenience of the students and faculty it would be excluded from UBIT, if for the general public, it would be subject to UBIT.

SOUND SUCCESS BEGINS HERE.

Debt Financed Property Exclusion

Debt-financed property does not include any property 85% or more of which is used in relation to an exempt function. If the entire property is not relieved from classification as debt-financed property under the 85 test, property may still escape debt-financed classification if its use is substantially related to the organizations exempt function.

SOUND SUCCESS BEGINS HERE.

UBIT Exclusions

- Interest, dividends, and similar income
- Royalties
- Rental income
- Gains and losses from the disposition of property
- Research income

UBIT Exclusions

- Income derived by an exempt organization for the occasional use of its meeting hall constitutes rents from real property within the meaning of section 512(b)(3) of the Code and is excluded in determining unrelated business taxable income.
- However, rental of space for general purposes(birthday parties, weddings, etc.) could be subject to UBIT.

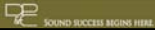
2018 Tax Cuts and Jobs Act

New provision with unrelated trade or business

For an organization with more than one unrelated trade or business, the provision requires that unrelated business taxable income first be computed separately with respect to each trade or business and without regard to the specific deduction generally allowed under section 512(b)(12).....A net operating loss deduction is allowed only with respect to a trade or business from which the loss arose.

2018 Tax Cuts and Jobs Act

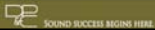
- Added new § 274(a)(4) which says
- “No deduction shall be allowed under this chapter for the expense of any qualified transportation fringe [QTF] (as defined in section 132(f)) provided to an employee of the taxpayer.”
 - Added § 512(a)(7) which says that tax-exempt employers must recognize unrelated business taxable income (UBTI) on QTF
 - Applies to expenses paid or incurred after 12/31/2017



Qualified transportation fringe benefits

- Vanpooling via a commuter highway vehicle equipped to carry at least six passengers in addition to the driver
- Bicycle expenses used for commuting
- Parking facilities on or near the employer's business premises, or on or near a location from which an employee commutes to work (i.e. park and ride)

Monthly limit that is nondeductible:
\$260 in 2018
\$265 in 2019



IRS Guidance

- Notice 2018-99
- Provides guidance on determining what is deductible and non deductible
- Notice 2018-100
- Provides relief for failure to make estimated income tax payments



Notice 2018-99

Employer contracts with third party

- Generally the amount that the employer pays to the third party, if it exceeds \$260 an employee per month.
- For example, if an employers pays \$400 per month for 5 employees, \$15,600 ($\$260 * 5 \text{ employees} * 12 \text{ months}$) is disallowed and subject to UBIT. The remaining \$8,400 ($\$140 * 5 * 12$) remains deductible and not subject to UBIT

CPA SOUND SUCCESS BEGINS HERE

Notice 2018-99

Employer owns or leases the parking lot

CPA SOUND SUCCESS BEGINS HERE

Parking Expenses?

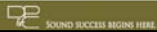
- Parking costs include:
 - Repairs and maint.
 - Utilities
 - Insurance, interest, property taxes
 - Parking lot attendant, Security
 - Rent, lease payment
- Parking costs does not include:
 - Depreciation

CPA SOUND SUCCESS BEGINS HERE

Example #1

	#	%	Total Cost	Nondeductible	Deductible
Reserved for Employees	100	10%	\$1,000	\$1,000	
Open to general public	300	30%	\$3,000		\$3,000
Unreserved Employees	600	60%	\$6,000	\$6,000	
Total	1,000	100%	\$10,000	\$7,000	\$3,000

Total parking costs is \$10,000 and there are 1,000 parking spots available. 100 spots are reserved to employees by a sign or marking on the parking spot. Remaining spots are open to the public, however 60% of employees typically occupy these spots.



Example #2

	#	%	Total Cost	Nondeductible	Deductible
Reserved for Employees	100	10%	\$1,000	\$1,000	
Open to general public	800	80%	\$8,000		\$8,000
Unreserved Employees	100	10%	\$1,000		\$1,000
Total	1,000	100%	\$10,000	\$1,000	\$9,000

If primary use for the unreserved employee spots are less than 50%, the remaining spots are deductible (not subject to UBIT).



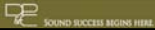
Next Steps?

- Identify all sources of income that could potentially trigger UBIT
- Determine if it is subject to UBIT
- File Form 990 T
 - Allocate all direct and indirect expenses to that specific source of revenue, you could end up at a loss.



Resources

- RSM Whitepaper “Increases to unrelated business taxable income by amount of certain fringe benefit expenses for which deduction is disallowed”
- RSM Tax Alert “IRS releases guidance on qualified transportation benefit deductions”
- CCH Federal Tax Day- Current, I.1 “IRS Provides Guidance on the Determination of the Nondeductible Portion of Parking Fringe Expenses and UBTI”





Ed E. Ramos, CPA
Shareholder

DP&C
(253) 572-9922
1940 East D Street, Suite 200
Tacoma, WA 98421
Email: eramos@dpcpa.com
Web: www.dpcpa.com