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Unrelated Business Income Taxation

Tax-exempt organizations generally operate for charitable or other beneficial purposes and therefore most income that they receive is exempt from tax under the Internal Revenue Code. However, income-producing activities considered "unrelated to their exempt purposes" *may result in taxable income*.

When tax-exempt charitable nonprofits earn income through an activity that is *unrelated to their exempt purposes* (such as activity that is commercial in nature, like sales of goods) and the activity is "*regularly carried on*," the revenue from the activity may be taxable income under IRS rules for "unrelated business income taxation," often referred to as "UBIT."

How do you know whether income is taxable as unrelated business income? First, familiarize yourself with IRS guidance about the [tax on unrelated business income](#) ("UBIT").

Recent changes

The 2017 federal tax law imposed two new taxes on tax-exempt organizations by expanding UBIT. The second of these provisions was later repealed.

- [Tax on "Separate" "Trade or Business"](#) (Silo-ing): The 2017 tax law requires nonprofits to calculate their taxes on each "trade or business" separately and

not aggregate profits and losses of all entities. (The Nonprofit Relief Act of 2019 ([H.R. 3323](#)) failed, but would have repealed this provision.)

- **Tax on Nonprofit Transportation Benefits:** The 2017 tax law imposed a 21% UBIT on the expenses nonprofits incur in providing their employees with transportation benefits, such as transit passes and parking. This provision was later repealed, thanks to strong nonprofit advocacy.
- The IRS has increased review and enforcement of this tax liability area. Changes to reporting requirements were included in the 2017 tax bill.

Practice Pointers

- The potential tax liability for unrelated business income requires every charitable nonprofit to know where its income is coming from and determine whether any of its income is taxable under the UBIT regulations.
- Charitable nonprofits filing the [IRS Form 990-T](#), the “Exempt Organization Business Income Tax Return,” must make that form [available for public inspection](#) when requested. (See [instructions to IRS Form 990-T](#)).
- Income from advertising and corporate sponsorships is prone to being considered “unrelated.” We recommend caution if your nonprofit is engaged in these activities.
- Using income for a mission-related purpose does not shield the income from tax liability. The activity that generated the income/loss is what triggers the tax.

Related Insights & Analysis

- [Advertising or qualified sponsorship payments?](#)
- Read more about the [tax treatment of income received from corporate sponsorships](#).

Additional Resources

- [Unrelated business income defined](#) (IRS) and [IRS Publication 598](#)
- [Exclusion of rent from UBIT](#) (IRS)
- [Tax concerns when your nonprofit earns income](#) (Nolo Press)
- [Public inspection and disclosure](#) of IRS Form 990-T (IRS)

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