

UNRELATED BUSINESS INCOME TAX (UBIT)

As a non-profit educational institution, DePaul University is exempt from Federal and State income taxes under IRS Code Section 501(c)(3). However, the exemption generally only applies to income that furthers the University's exempt purpose. Exempt organizations are still subject to a tax known as Unrelated Business Income ("UBI") which is imposed on income that is not substantially related to the exempt organization's exempt purpose or mission. UBI was originally implemented in order to prevent non-profit organizations from having an unfair advantage over for-profit business in fields unrelated to the exempt organizations' exempt purposes.

Note: the information below represents a brief explanation of the concepts surrounding Unrelated Business Income Taxes. The information is not meant to be exhaustive or as a substitute for a full analysis of a situation that a college, school, or department believes may have potential Unrelated Business Income Tax Issues. Colleges, schools, and departments should contact University Tax Services if they have any concerns about a situation they believe may have Unrelated Business Income Tax issues.

Under IRS rules and regulations, in order to be considered UBI, the activity generating the income must meet the three following criteria:

1. It is a trade or business,
2. It is regularly carried on, and
3. It is not substantially related to furthering the exempt purpose of the organization.

Trade or Business: The IRS defines "trade or business" as any activity that is carried on for the purpose of generating income from either selling goods or performing services. The term "trade or business" is broadly interpreted by the IRS and the University must be careful in making a determination of whether an activity is a trade or business. In deciding whether an activity is a trade or business, one important determinative factor is whether the University *intended* to make a profit. Even if activities fail to realize a profit in a particular year, if there was a profit motive, such activities will still meet the trade or business criteria for UBI purposes.

Example: The sales of books in the bookstore and membership fees for the use of the recreation center are both generally classified as a trade or business per past IRS rulings.

Regularly Carried On: According to the IRS, business activities are considered *regularly carried on* if they show a frequency and continuity, and are pursued in a manner similar to those of a comparable commercial nonexempt organization. In order to determine whether an activity is classified as regularly carried on for UBI purposes, the primary question is whether a typical commercial business would perform a similar activity for a similar amount of time.

Example: Christmas tree sales one month per year would be considered regularly carried on as this type of activity would be consistent with other commercial Christmas tree sales.

Not Substantially Related: A University activity is "not substantially related" if its purpose is not directly linked to the University's exempt purpose or mission (i.e. teaching, research, and public service). This link must be significant, and the fact that money generated will be used for carrying on of a University goal does not sufficiently meet the requirements of being "substantially related".

Example: Income generated from tuition and theatre school events would all generally be deemed related to DePaul's exempt purpose as they are all for the purpose of education. On the other hand, most sales or services to the general public are generally for the purpose of generating income and thus not related to DePaul's mission.

Examples: Below are some examples of income that may be subject to Unrelated Business Income Tax (UBIT):

- Use of University facilities, such as student centers or recreation facilities by the general public for a fee.
- Rental of University facilities, such as classrooms or conference facilities by the general public, where services are provided by the University. As a general guideline, any services beyond utilities and general building maintenance may cause unrelated business income.
- Rental of University personal property, such as computer equipment, to the general public.

- Sale of goods or services to the general public, such as publications and consulting services.
- Sale of advertising in University publications or on University websites.
- Sponsorship agreements that provide for substantial return benefits to the sponsor, including exclusivity provisions (substantial return benefits are any benefits received by the sponsor other than the use or acknowledgment by the University of the sponsor's name or logo)
- Use of University's parking garages by the general public for a fee

Statutory Exceptions: Since the enactment of UBI, the IRS has recognized several exceptions to the definition of UBI. Please consult [University Tax Services](#) for more information regarding the exceptions and how they may apply.

Reporting: The University is responsible for annually reporting to both the IRS and to the state of Illinois, UBI activities and to remit applicable income taxes associated with its UBI activities. As such it is important that DePaul University is in compliance with all applicable rules and regulations regarding UBI. **Departments are strongly encouraged to contact [University Tax Services](#) regarding any activity that generated revenue from the sale of goods or services to anyone other than the University's students, staff and faculty, or with any questions regarding UBI.**