Agenda for Today

- UBIT – General Rule and Definition
- Exclusions
- Calculation
- Reporting
- “What about..?”
UBIT Basics

- **General Rule**: Organization recognized as exempt does not pay income tax on income received by organization.

- **Exception**: If the income received is unrelated business income (UBI or UBTI), subject to taxation. Organization must report and pay tax at corporate rate.
“The term “unrelated trade or business” means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 ..”

Internal Revenue Code Section 513
(1) Trade or Business

- Profit motive – but actual profit doesn’t matter.

- Does the activity resemble those done by taxable commercial entities?
  - C.F. Mueller Co. case – law school-owned pasta manufacturer

- Does exemption provide an unfair competitive advantage in light of activity?
(2) Regularly Carried On

- Compared to frequency with which commercial activity carried on by taxable entities.
- *National Collegiate Athletic Association v. CIR* – advertising for program booklets for tournament over three weekends not frequent enough although advertising sales took place over several months.
- Compare to *Veterans of Foreign Wars, Michigan v. CIR* – selling Christmas cards was unrelated because it was an intermittent business/seasonal business and the seasonal participation was regularly carried on.
(3) Not Substantially Related to Exempt Purpose

- Need for income is not enough.
- Association context – exempt purpose directed toward the improvement of members’ business conditions; activities to benefit members as a whole instead of individual businesses.
- Rev. Rul. 81-138 - Chamber of Commerce’s lease of building at below market rent to industrial tenant to spur economic development found to be substantially related to exempt purpose
Exclusions From UBIT

- Dance staffed by all volunteers
- Goodwill-type sale of donated items
- Stock dividends
- Interest on savings accounts
- Royalties from license of trademark
- Rent of real property
Specific Exclusions – Passive Income

- Stock Dividends
- Interest on Savings Accounts
- Annuities
- Royalties from License of Intellectual Property
Specific Exclusions – Rents from Real Property

- Rental income from association-owned property – not UBIT.
- Exclusion does not apply to debt-financed property.
Specific Exclusions – Qualified Sponsorship Payment

- Qualified Sponsorship Payment
  “any payment made by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo…” 513(i)

- Substantial Return Benefit
  - Anything more than
    (1) use or acknowledgment
    (2) benefits with fair market value of greater than 2% of contribution
    (3) token items

- Mobile Oil Cotton Bowl – TAM 91-47-007
Calculating and Reporting

- **NET UBI = Gross UBI Revenue – Deductions**

**Example**

Earn $1000 in gross revenue selling T-shirts

Cost of printing T-Shirts is $500

\[
\text{Net UBI} = 1000 - 500 = 500
\]

- Report on Form 990T
- Must file 990 T if have $1000 or more in gross revenue
Additional Resources

- www.venable.com/associations/publications

- IRS Publication 598 –

- IRS Form 990T Instructions -
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