Unrelated Business Income Tax (UBIT)

What is UBIT?

The University is a nonprofit entity and is generally exempt from income tax under [Section 501(c)(3)](https://www.law.cornell.edu/uscode/text/26/501) of the Internal Revenue Code.  However, the exemption only extends to activities that are substantially related to its nonprofit educational and research missions.  If the University carries on a trade or business activity unrelated to its exempt purposes, under [Section 513 of the Internal Revenue Code](https://www.law.cornell.edu/uscode/text/26/513) the net profit from such activity is considered unrelated business taxable income (UBTI) and subject to unrelated business income tax (UBIT).

An activity will generate UBTI if it meets the following three requirements:

* the activity is a trade or business;
* the activity is regularly carried on; and
* the activity is not substantially related to the University's tax-exempt missions.

Trade or Business:  The term "trade or business" means any activity carried on for the production of income from selling goods or services, with the intent to generate a profit.

* The Internal Revenue Service typically takes a very broad view of the trade or business test, concluding most activities that generate revenue are a trade or business for UBIT purposes. However, the courts generally require the existence of a profit motive before an activity will be considered a trade or business. Activities that consistently produce losses must be removed from the University’s annual income tax filing and cannot be used to offset profits generated by other UBTI activities.

Regularly Carried On:  An activity is considered to be “regularly carried on” if it is conducted with a regular frequency and continuity and is pursued in a manner similar to comparable commercial organizations. Income from an activity that occurs only once or on a highly irregular frequency usually will not be deemed UBTI.

Not Substantially Related to Tax-Exempt Missions: An activity is not “substantially related” to exempt purposes if it fails to contribute significantly to accomplishing the University’s nonprofit educational and research missions. The fact that an activity generates funds used to support the University’s exempt missions is not in and of itself sufficient to establish relatedness. Whether an activity contributes significantly depends in each case on the facts involved.

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Common types of activities in a university environment:

The following is a list of common university activities; however, this list is not all-inclusive:

* Rental Payments:  Rents from real property are generally excluded from unrelated business income. Rents from personal property are not excluded. In the event of a mix of personal and real property, the entire lease is exempt if the portion attributable to personal property is less than 10 percent. If the portion is between 10 and 50 percent personal property, then only the portion attributable to the real property is exempt. If the portion of personal property exceeds 50 percent, the entire lease is subject to tax.  
    
  The rental exclusion does not apply to leases based upon a percentage of the profit earned by the tenant. To be exempt, a lease must be either a fixed amount of rent, a percentage of sales or a combination thereof.
* Research-Related Activities:  Income from sponsored research is exempt from UBIT regardless of whether it qualifies as fundamental research or applied research.  However, the term “research” does not include activities normally carried on primarily for commercial benefit, such as testing or inspecting products or assays, or designing or constructing equipment to be used in commerce.
* Bookstore Sales of “Convenience Items”:  Sales of certain otherwise taxable items are exempt from UBIT under the "convenience" exception if sold to university students, faculty and staff.  The convenience exception applies to the operation of on-campus vending machines, the sale of sundry personal items by the University bookstore, and the laundering of dormitory linens and student clothing. The convenience exception does not apply to items with useful lives of more than one year (e.g., video games and gaming systems, televisions, etc.).
* Sponsorship Payments:  Qualified sponsorship payments (QSP) are exempt from UBIT. A QSP is any payment made by a person engaged in a trade or business for which the person will receive no substantial benefit other than the use or acknowledgement of the business name, logo or product lines in connection with the organization's activities. "Use or acknowledgement" does not include advertising (defined as qualitative or comparative descriptions of the sponsor’s products or an inducement to buy) or other services provided to the sponsor in exchange for the payment. Any income from the provision of advertising or other services, including the right to use University trademarks or logos, is subject to UBIT.
  + Providing facilities, services, complimentary tickets or other privileges to the sponsor in connection with a QSP does not affect whether the payment is a QSP. Instead, the provision of such privileges is treated as a separate transaction in determining whether the university would have unrelated business income from the payment. If such additional privileges are not of substantial benefit, the payment will not be subject to tax.
* Advertising: The sale of advertising generally is taxable if it appears in a University newsletter, magazine, scholarly journal, phonebook, or sports programs.  However, sales of advertising do not generate UBTI if the activity contributes to the University's educational mission through the training of students.
* Travel Tours:  Travel tours hosted by the University are subject to UBIT if the tours are intended primarily for the purpose of leisure or entertainment rather than for educational purposes.  However, tours accompanied by faculty members who provide educational lectures *with a written syllabus* are generally considered related to the University’s educational mission and thus not taxable, even if the tour enrollees are not exclusively students.
* Professional Performances: Professional performances by paid entertainers that do not promote the University’s nonprofit missions are subject to UBIT. For example, professional concerts, NBA/WNBA games, USL games, etc.
* Investments:  Dividends, interest, annuities, payments with respect to securities, and loans are generally considered “passive income” and excluded from UBTI.  However, income derived from debt-financed assets (other than debt-financed real estate owned by colleges and universities) is [taxable](https://www.law.cornell.edu/cfr/text/26/1.514(a)-1).
* Joint Ventures:  The University’s ownership interest in a partnership, LLC or other joint venture may generate UBTI if the entity is [operated for taxable purposes](https://www.law.cornell.edu/cfr/text/26/1.512(c)-1).  Income from an interest in "S" corporation is taxable regardless of the nature of the income.
* Royalties:  Royalties derived from the licensing of trademarks, patents or copyrights are considered passive income and excluded from UBTI.
* Interest, annuities, royalties and rents from a controlled taxable corporation are subject to tax, if those items reduce the tax of the controlled corporation. To be controlled, the exempt organization must own more than 50 percent of the stock in a corporation or more than a 50 percent interest in a partnership.