# 2004 UNRELATED BUSINESS TAXABLE INCOME (UBTI)

Effective: December 1986
Revised: November 2005
Last Reviewed: April 2016
Responsible Office: Associate Comptroller
Approval: Comptroller

## PURPOSE

To ensure proper reporting of Unrelated Business Taxable Income (UBTI).

This policy must be followed in conjunction with Policy #3003 External Activities Business Plan Review.

## DEFINITION

All tax exempt organizations and nonexempt charitable trusts, including independent colleges, universities and hospitals exempt under section 501(c)(3) of the Internal Revenue Code (IRC) are required to file IRS Form 990-T, "Exempt Organizations Business Income Tax Return" if they have gross income from an unrelated trade or business of $1,000 or more. If an activity generates UBTI, federal income tax must be paid on the amount generated by such activity.

## POLICY

1) In order to determine whether a particular activity that the University engages in will generate UBTI, the following three elements must be present:
    a) Trade or Business
    b) Regularly Carried On
    c) Substantially Unrelated to the Exempt Purpose of the University
2) UBTI means the gross income derived from any unrelated trade or business regularly carried on by Penn, less the deductions "directly connected" with carrying on the trade or business (subject to certain modifications).
3) To be directly connected with the conduct of an unrelated business, deductions must have a proximate and primary relationship to carrying on that business.
4) For purposes of computing UBTI, expenses attributable solely to the operation of an unrelated business may be deducted in full.
5) Expenses incurred in connection with both an exempt purpose and the conduct of an unrelated trade or business (e.g., facilities or personnel) must be allocated between the two purposes using a reasonable basis of allocation.

6) If a particular cost has been allocated, the department, school or center must specify the basis of allocation.

7) Federal income tax must be paid on the amount of UBTI generated by an activity.

8) Those schools/departments whose activities generate UBTI will be charged their proportionate share of the tax expense which will be allocated at the time of the IRS payment and reporting.

## EXAMPLES OF UBTI

1) Sale of advertising space in bi-monthly alumni magazine to local and national companies interested in contacting the market demographics represented by Penn Alumni.

2) Retail sales of computer hardware, software, peripherals and accessories to the University community (students, alumni, local customers) for personal use.

3) Daily parking fees collected in specific Penn parking lots from visitors, guests, patients, vendors, contractors, general public, and special events (i.e. theatre, sports, hotels and retail stores).

4) Routine laboratory, radiology or diagnostic testing services to non-hospital patients.

5) The portion of revenue generated from athletic facilities, such as the Levy Tennis Pavilion, for use to the general public.

## RESPONSIBILITY

1) The Corporate Tax Office, in consultation with the Office of General Counsel, is responsible for ensuring that the schools and centers comply with federal tax law and regulations regarding the reporting and taxation of UBTI. This includes the timely preparation and submission of the Exempt Organization Business Income Tax Return (IRS Form 990-T).

2) Each school or center has the primary responsibility for monitoring and reporting any external revenue generating activity to ensure that such activity is properly reported for possible inclusion on IRS form 990-T. This includes, but is not limited to, implementation of monitoring procedures, on a quarterly basis, in the school/center which
   a) Ensure timely notification and consultation with the Corporate Tax Office prior to the commencement of such activity for guidance and potential mitigation of tax exposure.
   b) Ensure such activity is consistent with policy #3003; External Activities Business Plan Review
   c) Ensure allocation methods associated with the costs of each activity are reasonable and consistent.

3) Annually each department, school or center is required to complete an Unrelated Business Income questionnaire for **each** activity generating UBTI.
   a) The questionnaire includes a worksheet to be used for reporting of the revenue and expenses associated with the Unrelated Business Income.

b) The questionnaire along with the worksheet must be submitted by the end of each November for activity related to the prior fiscal year. (i.e. November 30, 2005 for fiscal year June 30, 2005 activity)
c) Part One of the questionnaire must be completed for all activities with a potential for generating unrelated business income.
d) Part Two must also be completed by any hospital or healthcare related entity.
e) The completed questionnaire will be used to determine if the activity should be included in Penn's Exempt Organization Business Income Tax Return (Form 990-T) submitted to the IRS.

4) Annually each Senior Business Administrator will be requested to certify to the accuracy of the activity being reported to the Corporate Tax Office from their respective departments and that it encompasses all business activities that must be reported as UBTI.