

Policy #4501
University & Affiliated Business

Date of Current Revision: September, 2008
Responsible Officer: Assistant Vice President for Finance

1. PURPOSE

This policy outlines the criteria for the university to ensure that its business activities are conducted in conformity with federal income tax legislation.

2. AUTHORITY

Legally mandated conformity to federal income tax legislation requires the Assistant Vice President for Finance to enforce this policy.

3. DEFINITIONS

University Business Activity:

A commercial enterprise – profit or nonprofit -- involving the sale of goods or services.

Unrelated Business Activity:

A trade or business regularly carried on by an exempt organization that is not substantially related to its exempt mission.

Business Activity Synopsis:

A written description of the university business activity that includes the following:

- Information that clearly describes how the business activity meets the three criteria outlined below in “5. Policy.”
- The type or types of goods and services that will be provided and whether the activity will include the sale of merchandise that substantially all of which was received as gifts or contributions.
- Information describing how the activity will be conducted, including whether the activity will be supported by uncompensated volunteer workers or involve students as part of a training or learning experience.
- A statement covering planned pricing policies, describing the clientele that will be served and the methods of customer solicitation to be used.
- A break-even cost analysis of the business activity.
- A list of primary alternative internal and external sources capable of providing comparable goods and services
- A statement indicating whether the activity will be conducted primarily for the convenience of JMU students and/or faculty and/or staff members, and will provide technically advanced equipment, facilities or services that are unique or not readily available in the geographical area routinely served by the university.
- Any other factors pertinent to the activity, including whether the activity will be repeated on a regular basis or on a sporadic/infrequent basis.

4. APPLICABILITY

This policy applies to all JMU departments engaged in business activities that result in generating revenue for the university.

5. **POLICY**

James Madison University is exempt from federal income and state sales and income taxes for all activities conducted in relation to the university's mission. However, activities that cannot be associated with the university's mission are subject to federal income tax.

In the process of disseminating knowledge, it is often desirable for the university to charge fees for providing goods and services that will enhance, promote or support its instructional, research and public service, as well as all other educational and support functions that will meet the needs of JMU students and faculty and staff members, and members of the general public who participate in university events. Therefore, it is the policy of the university to engage primarily in those business activities that meet all of the following criteria:

- The activity is important in the fulfillment of the university's instructional, research, public service and campus support functions, and other educational and support activities, without regard to profit (e.g. the JMU Bookstore, student housing and vending services)
- The activity is needed to provide an important good or service at a reasonable price, on reasonable terms, and at a convenient location and time.
- The activity is conducted for the primary benefit of the campus community but with sensitivity to the total surrounding community.

6. **PROCEDURES**

University departments and activities shall prepare and submit a Business Activity Synopsis to the assistant vice president for finance for each university business activity upon each of the following occurrences:

- Upon receipt of this policy if a Business Activity Synopsis is not already on file in the office of the assistant vice president for finance
- When proposing a new business activity
- When there has been a significant change to a previously approved activity

University departments and activities shall provide the following information for each business activity that the assistant vice president for finance has determined is an unrelated business activity:

- An updated break-even cost analysis to include expenses for direct tax liability and the costs to accumulate information for the income tax return.
- Revenue and direct and indirect expense information for each fiscal year and each unrelated business activity.

7. **RESPONSIBILITIES**

The Assistant Vice president for Finance shall review and evaluate the Business Activity Synopsis for all university business activities in accordance with this policy, recommend to the vice president for administration and finance whether the enterprise should be authorized or continued as a university business activity and determine if the business activity is an unrelated business activity and is required to be included in the Exempt Organization Business Income Tax Return 990-T. The Assistant Vice President for Finance shall also prepare the Exempt Organization Business Income Tax Return 990-T. The Assistant Vice President for Finance shall also prepare the Exempt Organization Business Income Tax Return 990-T.

The Senior Vice President for Administration and Finance shall review recommendations

from the Assistant Vice President for Finance. The decision whether or not to authorize new activities or continue existing activities shall be communicated to the originating department or activity.

8. **SANCTIONS**

Employees who violate this policy are subject to discipline commensurate with the severity and/or frequency of the offense and may include termination of employment.

The business activity will be terminated by the Senior Vice President of Administration and Finance if the department does not comply with the requirements of this policy.

9. **EXCLUSIONS**

None.

10. **INTERPRETATION**

Authority to interpret this policy rests with the president and is generally delegated to the assistant vice president for finance.

Previous Version: January, 2007

Approved by the President: April, 2002

Index Terms

Business activity