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| **James Madison University Foundation****Policies and Procedures Manual** | **Section****30000** |

# 30200 Sponsorship Policy

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| Policy Approved By:  |  Board of Trustees |
| Governance Oversight By: | Development Committee |
| Issuing Date: | 05-19-2017 |
| Revised Date: |  |
| Responsible Officers: | JMUF Chief Executive Officer |
| Related Topics:  |  |

**PURPOSE**

The purpose of this policy is to define sponsorships as they relate to the Foundation and to describe certain limitations and procedures that apply to the solicitation of sponsorships. The policy also establishes processes and provides guidance to University schools, colleges, departments and other University organizations that engage in sponsorship opportunities. When the Foundation and/or University school, college, or department acknowledges a sponsor, it invariably creates an association in the minds of the public between the sponsor and the Foundation/University. Thus, when the Foundation or University entity is considering entering into a sponsorship relationship, it should consider the compatibility between its mission and image and that of the sponsor. There is no obligation for the Foundation to accept sponsorship support from persons/businesses/corporate entities whose mission or image is deemed incompatible with the mission or image of the Foundation or University.

**POLICY**

The James Madison University Foundation (JMUF) recognizes that many activities provide potential sources of revenue or other non-financial benefits through legitimate and worthwhile opportunities for sponsorships and other promotional activities. The Internal Revenue Service defines sponsorships as Qualified Sponsorships and Non-Qualified Sponsorships. The Foundation **only** accepts those sponsorships that are in accordance with the Internal Revenue Service definition of a **Qualified Sponsorship**. The Foundation **does not** accept sponsorships that are a combination of both **Qualified** and **Non-Qualified** **Sponsorships**. James Madison University (University) is responsible for all Non-Qualified Sponsorships as defined by the Internal Revenue Service.

**DEFINITIONS**

* **Advertising** means any message or other programming material which is broadcast or otherwise transmitted, published, displayed or distributed and which promotes or markets any trade or business, or any service, facility or product. Advertising the sponsor’s product or services is subject to the substantial return benefits test. Advertising includes:
	+ Messages containing qualitative or comparative language (unless such language is an established part of the sponsor’s identity)
	+ Price information or other indications of savings or value
	+ An endorsement (any statement or depictions which can be reasonably construed to contain or imply preference by the Foundation or University or by any of its departments or employees speaking or acting as representatives of the Foundation or University)
	+ An inducement to purchase, sell or use any company, service, facility or product

**A single message that contains both advertising and an acknowledgment is advertising.** The provisions do not apply to activities conducted by a sponsor on its own. For example, if a sponsor purchases broadcasting time from a television station to advertise its product during commercial breaks in a sponsored program, the exempt organization’s activities are not thereby converted to advertising.

* **Exchange Transaction** means that the Foundation/University and Sponsor each receives something of equal or approximately the same value. It is often difficult to distinguish between a sponsorship and an exchange transaction. Examples of exchange transactions would be:
	+ Exclusive vendor relationships
	+ Advertising
	+ Trades such as hotel rooms and transportation - these are considered services
	+ Donation of athletic uniforms, shoes and equipment via exclusive vendor agreements whereby the university receives the items in exchange for refraining from using competitors’ products
* **Non-Qualified Sponsorship** is a sponsorship where the financial or other support does not meet the IRS guidelines for “qualified sponsorship payments” referenced below. A sponsorship may fall into this category because the Acknowledgment or the Return Benefits go beyond what is permissible to be considered a Qualified Sponsorship. Non-Qualified Sponsorships are subject to unrelated business income tax (UBIT).
* **Qualified Sponsorship** means any payment or other support made by any person, business or corporation engaged in a trade or business with respect to which there is no arrangement or expectation that such a person/corporation will receive any substantial return benefit other than the use or acknowledgement of the name, logo, or product lines of such person/corporation’s trade or business in connection with the activities of the University or Foundation. Qualified Sponsorship payments are exempt from unrelated business income tax (UBIT).
* **Return Benefit** is any good or service provided to a sponsor in return for the sponsor’s support or sponsorship of a Foundation or University activity, event or program. Examples may include, but not be limited to, event tickets, food and beverages, T-shirts, mugs, access to University services, and priority to purchase tickets for athletic events.
* **Sponsorship** means the provision by which an unrelated individual, business or corporation provides money, goods or services to the Foundation or University in support of one or more activities, events or programs and in return receives recognition. The Internal Revenue Service classifies sponsorships as **Qualified Sponsorships** which are not subject to unrelated business income tax (UBIT) and **Non-Qualified Sponsorships** which are subject to UBIT.
* **Unrelated Business Income** **Tax** (UBIT) is generated when a tax exempt organization regularly carries on a trade or business not substantially related to its exempt purpose and is subject to taxation on the income. Generally, sponsorships are not subject to UBIT if the return benefit to a sponsor is limited to an acknowledgment and other benefits of insubstantial value. Providing tangible benefits to a sponsor has the potential to make the entire sponsorship payment subject to tax. The return benefits and acknowledgements must be evaluated to determine if UBIT applies to the sponsorship.
* **Use or Acknowledgment** is the recognition of sponsorship support. A substantial return [benefit](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d182633c42c881f75c8112278d830a5d&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4) does not include the use or acknowledgment of the [name](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9367dd48fec782ca959fb745034a940d&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4) or logo (or product lines) of thesponsor's [trade or business](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=480f1eecec6bda4a659f04cad5ddae9a&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4) in connection with the [activities](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7ca1e9fb0e8810b08b92d40146884b17&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4) of the [exempt organization](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=409daa72290beb8949ec09afc662d5fe&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4). Use or acknowledgment does not include advertising but may include the following: exclusive sponsorship arrangements; logos and slogans that do not contain qualitative or comparative [descriptions](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=82c34dbf383d59863b57475838377d3c&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4) of thesponsor's products, [services](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6ad4e40a0f90c09fe897a79fd096a089&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4), facilities or company; a list of thesponsor's locations, telephone numbers, or internet address; [value](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=bb8c1f064f7d690fee9a693abff4d271&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4)-neutral descriptions, including displays or visual depictions, of thesponsor's product-line or [services](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6ad4e40a0f90c09fe897a79fd096a089&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4); and thesponsor's brand or trade [names](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9367dd48fec782ca959fb745034a940d&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4) and product or service listings. Logos or slogans that are an established part of asponsor's identity are not considered to contain qualitative or comparative descriptions. Mere display or distribution, whether for free or remuneration, of asponsor's product by thesponsor or the [exempt organization](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=409daa72290beb8949ec09afc662d5fe&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4) to the general [public](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3c2d45cdd092f09c89fef14f0de7e3ef&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4) at the sponsored [activity](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9e3143daad533ab17a6d81a78f756ced&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4) is not considered an inducement to [purchase](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=4b1bbba0f5b04668657440f678a619fb&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4), sell or use thesponsor's product and, thus, will not affect the determination of whether a [payment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1ee8b271eb9ee59e360e16676f011b3d&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4) is a [qualified sponsorship payment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=597cbae65b2423d133c46db95b229447&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:3:1.513-4). Acknowledgements are **not** advertising.

**PROCEDURES**

**Recommendation and Acceptance**

Acceptable sponsorship is one where the sponsor offers and does provide support or underwriting for Foundation and/or University events or activities. The Foundation and/or University may also decline an offer of support or sponsorship. There may be other considerations that factor into a decision to accept or decline an offer of sponsorship. The Foundation and University has the right to and will refuse sponsorships from unacceptable sources which is in conflict with Foundation’s policies and procedures or with an unacceptable message.

The Foundation works closely with James Madison University to review the purpose, benefit, acknowledgement and acceptance of sponsorships to ensure proper IRS classification (Qualified or Non-Qualified Sponsorship).

**Determining Sponsorship Classification and Acceptance**

To be considered a Qualified Sponsorship and thus exempt from unrelated business income tax (UBIT), the Internal Revenue Service guidelines require that the return benefit to the sponsor be of insubstantial value. Goods, services or other benefits of **“insubstantial value”** are benefits with an aggregate fair market value of not more than 2% of the amount of the payment.

In instances where there may be a “**substantial return benefit”** in connection with a sponsorship payment, an evaluation of the substantial return benefit must be documented and FMV of the benefit calculated. **Substantial return benefit** is defined as any benefit **other than** (1) goods, services or other benefits of insubstantial value or (2) a **Use or Acknowledgment** as previously defined.

If a substantial return benefit exists, it will be considered Non-Qualified and the Foundation will not accept the sponsorship payment. The Foundation **does not** accept commingled Qualified and Non-Qualified Sponsorships.

To be considered a Qualified Sponsorship, acknowledgement may include:

* sponsor’s logos and slogans that **do not** contain qualitative (product is the best) or comparative (best price) descriptions of the sponsor’s products, services, facilities, or company. Logos or slogans that are an established part of the sponsor’s identity are not considered to contain qualitative or comparative descriptions. Mere display or distribution of a sponsor’s product by the sponsor or the University to the general public at a sponsored activity will not be considered an inducement to purchase, sell or use the sponsor’s product and thus will not affect the determination as to whether a payment constitutes a qualified sponsorship payment.
* a list of the sponsor’s locations (e.g. addresses), telephone numbers, facsimile numbers or internet addresses
* value-neutral descriptions (including displays or visual depictions) of the sponsor’s product line(s) or services
* sponsor brand or trade names and product or service listing
* a single static internet website line that takes the viewer only to the sponsor’s home page – **not** to a page where a product or service is marketed or sold

Acknowledgements may also be included in and on University assets in an unobtrusive and appropriate manner.

**ALL QUALIFIED SPONSORSHIPS AND ASSOCIATED ACKNOWLEDGMENTS MUST BE APPROVED BY THE JAMES MADISON UNIVERSITY FOUNDATION CHIEF FINANCIAL OFFICER OR CHIEF EXECUTIVE OFFICER.**

Sponsorships that meet the IRS provisions for Non-Qualified sponsorships must be reviewed and approved by the University to determine if the the sponsorship will be accepted by the University.

To be considered a Non-Qualified Sponsorship (subject to UBIT), acknowledgement may include:

* providing prices, indications of savings or value, providing endorsements, or inducements to buy a sponsor’s products or services
* providing a link from a sponsor’s name/logo on the University’s website to a page of a sponsor’s website where a product or service is sold or listing the phone number where the product or services can be ordered
* providing a continuous “active placard” or “running banner” with the sponsor’s name or logo on the Foundation or University website
* providing more than token services or other privileges to the sponsor in return for its sponsorship payment, such as tickets to an event that are complimentary and **not otherwise available to the public**, or lavish receptions
* accepting a payment from a corporate sponsor that is contingent upon the level of attendance, broadcast ratings or other factors indicating the degree of public exposure at the nonprofit event
* providing the sponsor with advertising or acknowledgments in regularly scheduled and published materials, such as an eNewsletter
* endorsement or exclusive provider
* any other forms of advertising
* granting the sponsor an exclusive or nonexclusive right to use the Foundation or University intangible asset (e.g. name, logo, trademarks, copyright, patent)

**ALL NON-QUALIFIED SPONSORSHIP MUST GO THROUGH THE APPROPRIATE UNIVERSITY APPROVAL PROCESS.**

**Gift Recording, Receipting and Recognition**

If approved, the Sponsorship will be recorded in either the Foundation or University’s accounting records depending on the type and nature of the Sponsorship. Types of Sponsorships the Foundation and University are involved in include, but are not limited to:

* Special Events
* Conferences
* Competitions
* Sporting/Athletic events
* Sponsored Programs (under University Grants and Contracts)

**Governance**

Internal Revenue Service

* Regulation 26 CFR 1.513-4
* Publication 598 Tax on Unrelated Business Income of Exempt Organizations

**Related Foundation Policies/Guidelines/Procedures**

* Gift Acceptance
* Special Events