

Unrelated Business Income Tax (UBIT)

The University is subject to an income tax on its unrelated business income (UBI). This tax is referred to as the unrelated business income tax (UBIT). To generate UBI, a revenue-producing activity must:

- be conducted as a trade or business
- be regularly carried on, and
- not be substantially related to the University's tax-exempt purpose.

Trade or Business

The term "trade or business" generally includes any activity carried on for the production of income from selling goods or services. An activity does not lose its identity as a trade or business merely because it is carried on within a larger group of similar activities that may be related to the exempt purposes of the University. In determining whether an activity is subject to UBIT, one consideration is whether the University engaged in the activity with the intent to make a profit.

Regularly Carried On

Business activities are considered regularly carried on if they show a frequency and continuity and are conducted in a manner similar to comparable commercial activities of nonexempt organizations.

Not Substantially Related

A University conducted activity is not substantially related if it does not contribute importantly to the accomplishment of the educational or other similar purpose or function. An activity cannot qualify as substantially related solely because its income is needed or used to fund the conduct of the University's exempt function.

Some Common Activities That Raise UBIT Concerns For Universities

- Dormitory Rentals to the General Public
- Advertising Income
- Corporate Sponsorships
- Operation of Parking Lots
- Professional Entertainment Events
- Use of Recreational Facilities by the General Public
- Summer Sports Camps
- Conferences, Events and Training Programs
- Athletic Events/Television and Broadcast Rights

Some Exceptions to UBIT

Convenience Exception – An activity carried on for the convenience of students, faculty, and staff is excluded from UBIT. This exception generally covers items like vending machines on campus, personal care bookstore items to students, and clothing and novelty items embossed with the University's logo.

Dividends, Interest and Royalties – These sources of income are considered passive and are generally excluded.

Research – Income from conducting research is excluded from UBIT. Certain situations may require further analysis to determine if they meet the definition of “research.”

Rental Income – Rents from real property are excluded from UBIT. However, the exclusion may be lost if personal services to the lessee other than services normally provided by a landlord (heat and light, trash pickup, etc.) are included.

Qualified Sponsorship Payments – A qualified sponsorship payment is any payment made by a “sponsor” engaged in a trade or business with respect to which there is no arrangement or expectation by the sponsor to receive any “substantial return benefit” from the University. A substantial return benefit is any benefit received by the sponsor other than (1) the University’s “use or acknowledgement” of the name, logo or product lines of the sponsor’s trade or business, or (2) any goods or services that have a minimal value, and therefore qualify as “disregarded benefits.” Generally if a substantial return benefit exists, there is potential UBI. If the sponsorship is deemed to be a qualified sponsorship payment, the payment is not subject to UBIT.

This document is intended as a general information reference tool to assist departments in complying with UBIT tax law. It does not address all of the tax matters relevant or potentially relevant to the University. The information included is subject to change and may not reflect changes in tax law that may have been adopted since this document was last updated.

Please contact the University’s Financial Reporting Office (MSC 5715) for clarification or discussion about any UBI issues raised in this document.

Please note University Policy #4501 (<http://www.jmu.edu/JMUpolicy/4501.shtml>) which applies to all JMU departments engaged in business activities that result in generating revenue for the university.