

**University of New Mexico**

**UNM Taxation Issues**

<http://www.unm.edu/~taxweb/>

**Unrelated Business Income Tax  
(UBIT) Activities and Responsibilities**

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# UNM Revenue May be Subject to Two Types of Taxes

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- # NM Governmental Gross Receipts Tax (GGRT) is a state tax (5%-five percent) on gross receipts from specific types of sales. See <http://www.unm.edu/~taxweb/taxggrt.html> for more info. Please contact [tax@unm.edu](mailto:tax@unm.edu) if you have any GGRT questions.
- # Unrelated Business Income Tax (UBIT) is a federal tax (15-35%) on net income from specific types of activities, as defined and determined by the IRS. <http://www.unm.edu/~taxweb/taxubit.html>

# What Activities May Create UBIT?

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- # One of the determining factors is the nature of the activity itself.
- # Activities substantially unrelated to UNM's exempt purposes may be subject to UBIT.
- # It is irrelevant that the proceeds from an activity go to fund education or research.
- # What is related activities - UBPP 1000, 3. Mission of UNM at <http://www.unm.edu/~ubppm/ubppmanual/1000.htm>

# UBPP 1000, 3. Mission of UNM

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The mission of The University of New Mexico is to serve the educational needs of the citizens of the state, and those of the nation and world. This mission involves four (4) interrelated dimensions:

(1) The University develops and offers comprehensive educational programs at the associate, baccalaureate, master, and doctoral levels in a wide range of academic, professional, and occupational fields.

(2) The University, a designated Carnegie I research university, conducts research and engages in scholarly and other creative activities to support undergraduate, graduate, and professional educational programs, and to create, interpret, apply, and accumulate knowledge.

# UBPP 1000, 3. Mission of UNM (continued)

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(3) The University contributes to the quality of life in New Mexico by providing selected services to the public that are part of, contribute to, or originate from the University's teaching and scholarly activity programs.

(4) The University Health Sciences Center is a valuable resource to New Mexico. Added value is provided to health care through leadership in providing innovative, collaborative education; advancing the frontiers of science through research critical to the future of health care; delivering health care services that are at the forefront of science; and facilitating partnerships with public and private biomedical and health enterprises.

# Unrelated Activities

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- # UNM Taxation staff will assist you in determining whether your department activity is unrelated or not.
- # ...and if these activities are taxable. Not all unrelated activities are subject to UBIT.

# Unrelated Business Income (UBI) Must Be All Three

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1. **Trade or Business:** any activity carried on for the production of income
2. **Regularly Carried On:** Business activity that exhibit frequency and continuity. Once a year is considered regularly carried on.
3. **Not Substantially Related:** A business activity is not substantially related to an organization's exempt purpose if it does not contribute importantly to accomplishing that purpose

# Some Exceptions to UBI

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- # Revenue from an activity conducted for the convenience of students or staff.
- # Passive Income from interest, royalties, or rental of real estate (without services).
- # Revenue generated from an activity where substantially all the work is performed by volunteers (example: Daily Lobo).
- # Income derived from qualified sponsorship payments (passive).

# Problem Areas for Colleges and Universities

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- # Agreements that allow the sale of merchandise to the general public
- # Travel tours
- # Links from UNM Web Pages – Recent releases from the IRS demonstrate a focus on where the link leads. For example, if the link leads to the main web page of a sponsor or advertiser, the IRS may be less likely to view this as revenue subject to UBIT.

# Problem Areas for Colleges and Universities (continued)

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- # Sponsorships vs Advertising – for a payment to constitute a qualified sponsorship (no UBIT), there must be no call to action, coupons for discounts or free items, or qualitative language. This includes any revenue received from advertising a discount with presentation of ticket stubs or Lobo ID cards.
  
- # Rental Income:
  - Space rentals with substantial services provided
  - Equipment rentals

# Some Specific UBIT Issues

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- # **The sale of advertising**, non-sponsorship, in UNM's Journals as well as the Internet. (Internal Revenue Code 513 (c), IRS Revenue Ruling 76-93, United States v. American College of Physicians, US Supreme Court, 475 US 834 1986)
- # **Pharmacy Sales to members of the general public.** (IRS Revenue Ruling 68-374)
- # Joint ventures with “for profit entities” where the University lacks “effective control” of the entire decision process. (IRS Revenue Ruling 2004-51, Revenue Ruling 98-15)
- # Joint ventures conducted in tax-exempt bond financed facilities

# Tax Reporting Responsibility

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- # The Questionnaire should be returned to UA Main, MSC01 1260 by September 1<sup>st</sup>.
- # If it appears to you a department may be conducting an activity that is subject to UBIT, please contact Unrestricted Accounting – Main, 277-0875 or email [tax@unm.edu](mailto:tax@unm.edu)
- # **Copies of the Questionnaire can be found at <http://www.unm.edu/~taxweb/taxubit.html>**