Activity Questionnaire for Unrelated Business Taxable Income Determination
Overview of Process, Procedures, and Instructions

Overview:

The University of Maryland is generally considered to be tax-exempt under IRS Code Section 115. However, the University must file and pay taxes on any income that is earned by an activity regularly operating as a trade or business that is intended to make a profit and is not related to accomplishing the mission of the University. This tax is referred to as Unrelated Business Income Tax (UBIT).

Process:
The University of Maryland, College Park Campus shall comply with IRS and University System of Maryland Headquarters (USM) requirements to report all unrelated business income less appropriate deductions. The Office of the Controller and the departments shall interact as follows:

1. The Office of the Controller will supply the necessary forms and compile the information for the transfer to USM.

2. Departments will report the revenues, expenses, and facility utilization for all activities that meet the description of unrelated business income.

3. The Office of the Controller will provide guidance in the completion of the forms and aid in interpretation of the applicable IRS Code sections.

4. In the event that there is a disagreement concerning the appropriate tax treatment of an activity, the department and the Office of the Controller will separately prepare a written statement of the facts and circumstances. These documents shall also contain an explanation supporting each position. These documents will be reviewed by the University Legal Office and USM.

5. If the tax status of the activity cannot be determined by the Office of the Controller and the University Legal Office to the department's satisfaction, the department may desire to obtain guidance from a tax consultant or a Private Letter Ruling from the IRS. The department shall pay for all costs of obtaining such a ruling, which may be substantial.

6. It is the department's responsibility to pay all back taxes, penalties, and interest assessed by the IRS.

Procedures:
I. Introduction

The amount of tax is determined by preparing the IRS form 990-T, which begins with the amount of income earned by the unrelated business, and deducting all related expenses. The net income is subject to be taxed at a rate of 21%. The resultant tax on such activities is known as Unrelated Business Income Tax (UBIT). The purpose of this document is to provide guidance in determining which activities should be reported.

Determination of the tax-exempt status of the activities is the starting point in the process. As a general principle, any activity operated as a business on a regular basis that is not substantially related to the accomplishment of the University's tax-exempt mission will be considered subject to Unrelated Business Income Tax unless the revenue is specifically exempted by law.

Please complete the Unrelated Business Income Determination Questionnaire, which presents a series of questions you should consider when analyzing any activity for unrelated business activity. This is only a guide and should be used in conjunction with this document. As with most IRS regulations, there are numerous exceptions and interpretations. Please call the Office of the Controller, if you have any questions.

Understanding the terminology as used by the IRS is critical in determining whether the activity is unrelated and how to correctly prepare the schedules. The IRS usually will take a more restrictive view of terminology than the University does.

There are certain expectations, which make even an unrelated business activity not taxable. Any business, which is conducted for the convenience of the faculty, staff, or students of the University, may be exempt from UBIT. This exemption generally pertains only to unendurable merchandise that will last less than a year. If the merchandise to be sold has been donated or virtually all of the labor has been performed by volunteers, then the activity is tax exempt.

A departmental business officer needs to view the activity both as a whole as well as in segments or fragments. The IRS will examine each business activity in this manner to determine if some fragment qualifies as an unrelated business. This is referred to as the "fragmentation rule". An example is a college bookstore where the sale of small appliances such as radios, fans, etc. would be classified as taxable while the sale of textbooks would be tax exempt.

II. Questionnaire

Complete the questionnaire survey with appropriate approvals which will document the analysis and determination of taxable status on or before **October 7, 2022**.