

	<b>GA-511</b>
	<b>Unrelated Business Income Tax</b>
	Prepared By: Associate Controller, Disbursements & Taxation
	Approved By: Brian Laffey
	Effective Date: 01/01/2011

**Purpose**

Illinois Institute of Technology (IIT) is a non-profit entity that is given tax-exempt status by the Internal Revenue Service. As a result, most revenue generating activities are tax-exempt because they are within the educational mission of providing direct and substantial benefits to students or the research mission of advancing the current state of knowledge. However, IIT may have some revenue-generating activities that are subject to taxation because the revenue is derived from "unrelated business income" (UBI) as opposed to "related function income."

IIT must annually file Form 990-T, Exempt Organization Business Income Tax Return, if it has gross income from an unrelated trade or business during the fiscal year of \$1,000 or more.

This policy helps departments identify those activities that may generate unrelated business income and to report them to the Controller's office.

**Policy**

To ensure adherence to all federal and state regulations for income taxation, IIT will evaluate all business activities to determine if it is subject to unrelated business income tax (UBIT) regulations. IIT will report annually in its tax return, unrelated business activities with gross income in excess of \$1,000.

The Controller's Office is responsible for the timely filing of an accurate and complete Form 990-T tax return in accordance with Federal tax law. The Form 990-T must be filed regardless of whether or not the overall activities result in a tax liability to IIT.

**Definitions**

Gross income - Gross receipts less cost of goods sold or reserves provided.

Unrelated business income (UBI) - Income from a regularly carried on activity that is not substantially related to the exempt purpose of IIT (e.g. not educationally or research based) is classified as unrelated. Note: The fact that the income from the activity will be used to support the exempt purpose of IIT does not make the activity related; it is the activity itself that must be mission related.

Unrelated business income tax (UBIT) - In order for an activity to be subject to UBIT, it must meet all of the following criteria: (1) it must be a trade or business for the production of income from selling goods or performing service, (2) the trade or business must be regularly carried on, and (3) it must not be substantially related to the carrying out of the organization's exempt purpose. An activity is not taxable if one or more of these conditions is absent. When an activity meets all three criteria, several exceptions found in the Internal Revenue Code must be reviewed to determine whether the activity may be excluded from the 990-T.

#### **Procedures**

1. Each department will identify and report to the Controller's Office, all revenue-generating activities with a potential for generating UBI. Use this policy and the ***attached activity questionnaire (Appendix A)*** to make this assessment. The questionnaire should be filled out no less than annually. An e-mail notification will be sent on a quarterly basis to each department by the Controller's Office as a reminder to fill out this questionnaire in the event that a revenue generating activity is anticipated or has occurred.
2. The Controller's Office in conjunction with the department will work together to identify those activities that may produce UBI. For those activities that have the potential of being classified as UBI, the Controller's Office will keep an accounting of the income associated with it.
3. The Controller's Office will determine all direct and indirect expenses associated with an activity that may produce UBI. This will include an allocation of certain general and administrative expenses to the activity where applicable.
4. The Controller's Office will keep a summary statement of UBI activity and will periodically review this summary with the external auditors to determine if the activity is reportable on the 990-T tax return.
5. Using the ***attached checklist (Appendix B)***, periodic reviews of the other revenue account in the general ledger will be performed by the Controller's Office to detect the existence of potential unrelated business income.

#### **Guidelines**

The following are guidelines to help determine the existence of UBI:

- The use of revenue generated from the activity for the purpose of improving the quality of instruction or activity that is in line with the educational mission makes no difference on reporting requirements. It is the source of income that determines the UBI status.
- The Controller's Office will exclude the following activities from reporting as unrelated business income. Any activity that:

- a. Exists primarily for the convenience of IIT students, faculty or staff.
- b. Is infrequent, i.e., the activity is not regularly scheduled and infrequently carried on.
- c. Is “substantially related to IIT’s exempt purpose” provided the activity is not carried on to an extent greater than necessary.
- d. Is not a “trade or business.”
- e. Has 85% or more of the income from the activity generated from the sale of donated goods.
- f. Is derived from labor which is at least 85% volunteer.

Some Basic Exclusions and Exemptions from Unrelated Business Income include:-

- **Convenience:** Income from an unrelated trade or business that is carried on primarily for the convenience of students, faculty or staff is not taxable. For example, where IIT operates a laundry service for the purpose of laundering dormitory linens and students’ clothing, the revenue from the laundry service is not taxable as unrelated business income because the activity is for the convenience of the students.
- **Investment Income:** Dividends, interest, capital gains and other income received from the holding of IIT’s investments are generally not taxable.
- **Royalties:** A royalty is passive income received from entities external to IIT for the use of IIT property or rights. Royalty income is not taxable.
- **Real Property Rents:** Rents from real property (buildings, apartments, commercial space) are not taxable. However, if the rent includes compensation for services rendered to the tenant the income may be taxable.
- **Personal Property Rents:** Although rents from personal property (furniture, household appliances) are generally taxable, such rents may be non-taxable if they are an incidental amount (less than 10%) of the total rents received under a lease for real property.
- **Research Funding:** The funding for any research conducted in any school, department or center within IIT (including research conducted for the United States, its instrumentalities or agencies, or any state or political subdivision) is not taxable.

#### References

None

**Responsibilities**

Departments- Using this policy and the unrelated business activity checklist as a guide, report potential UBI activities to the Controller's Office.

Associate Controller, Disbursements & Taxation- Help departments make an assessment as to whether certain revenue generating activities constitute UBI. Performs periodic reviews and analyses of IIT's miscellaneous and other revenue general ledger account activity to determine existence of potential UBI activities.

**Required Forms**

Unrelated Business Activity Questionnaire.(Appendix A)  
UBIT checklist.(Appendix B)

**Illinois Institute of Technology**

**Appendix A:**

**Activity Questionnaire for Unrelated Business Taxable Income Determination**

**Description of the Activity** *(please provide a detailed description)*

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**Is the Activity a "Trade or Business"?**

1. Does the activity generate gross income from the sale of goods or services?  
\_\_ Yes \_\_ No *(If NO, skip to question 2)*

a. Sales are made or services are provided ...  
*(select one)*

- (1) \_\_ Only to IIT students, faculty, or staff.
- (2) \_\_ To IIT students, faculty and staff and the general public or private industry.
- (3) \_\_ Only to the general public or private industry.
- (4) \_\_ Other (describe) \_\_\_\_\_

b. Expressed as a percentage of total sales, what is the estimated volume of sales to: *(total should equal 100%)*

- (1) \_\_\_% IIT students, faculty, staff or patients
- (2) \_\_\_% The general public (or private practice patients)
- (3) \_\_\_% Private industry
- (4) \_\_\_% Government
- (5) \_\_\_% Other (describe) \_\_\_\_\_

c. Is the activity profitable? \_\_ Yes \_\_ No

2. The activity can be characterized as:

*(select one)*

- a. \_\_ Traditionally performed by similar exempt organizations.
- b. \_\_ Conducted in a competitive or commercial manner.
- c. \_\_ Other (describe) \_\_\_\_\_

3. Is there a contract to provide goods or services? \_\_ Yes \_\_ No

*(If YES, please provide a copy of the contract)*

4. Is there any research-related activity associated with providing the goods or services? \_\_ Yes \_\_ No

a. If yes, please explain

### **Is the Activity “Regularly Carried On”?**

5. If the activity is also performed by for-profit companies, the activity is carried on by IIT...  
(select one)
- a.  With the same frequency as it is by for-profit companies.
  - b.  With greater frequency than by for-profit companies.
  - c.  With less frequency than by for-profit companies.

### **Is the Activity “Substantially Unrelated” to IIT’s Exempt Purpose?**

IIT’s exempt purpose is equivalent to its mission: To provide distinctive and relevant education in an environment of scientific, technological, and professional knowledge creation and innovation.

6. The activity ...  
(select one)
- a.  Has as its principal purpose to accomplish IIT’s exempt purpose.
  - b.  Is related to the exempt purpose only because it generates income that can be used to further IIT’s exempt purpose.
  - c.  Is equivalent to the same activity performed commercially by a for-profit company.

### **Statutory Exemptions**

7. The activity ...  
(select all that apply)
- a.  Is carried out by unpaid volunteers.
  - b.  Is carried on primarily for the convenience of students, faculty, or staff.
  - c.  Consists of selling merchandise substantially all of which has been received as gifts or donations.

### **Rental of Real Property**

8. The activity generates income from the rental of land or buildings (real property)?  Yes  No  
(If the answer to question 8 is NO, skip to question 11)
9. If the activity does generate income from the rental of real property (check all that apply):
- a.  Personal property (equipment) is rented in conjunction with real property. Percentage of total rent attributable to the personal property \_\_\_\_\_%.
  - b.  The rental of the property is related to IIT’s exempt purpose.
  - c.  The rents are determined based in whole or in part on the net income or profits derived from the property under lease.
  - d.  Personal services (i.e., catering, or IIT employees setting up and operating equipment, parking, laundry services, etc.) are offered. If so, list personal services here:

**Royalties**

Royalties are payments associated with a valuable right, such as trademarks, trade names, and copyrights.

10. Does the activity generate income from royalties? \_\_\_ Yes \_\_\_ No

**Sponsorship vs. Advertising**

11. Does the activity generate income from advertising? \_\_\_ Yes \_\_\_ No  
or ...

Is the activity a sponsorship arrangement? \_\_\_ Yes \_\_\_ No

(For sponsorship activities, please provide a copy of the sponsorship contract.)

Completed by:-

Name \_\_\_\_\_

Telephone \_\_\_\_\_

Date \_\_\_\_\_

## Illinois Institute of Technology

### Appendix B:

#### Activity Checklist for Unrelated Business Taxable Income Determination

Consider whether IIT has revenue generated from a trade or business activity. Use the following checklist to help make this determination.

- a. **Charge or use of IIT parking lot during special events.** Income from IIT's owned parking facilities used by faculty, staff, and employees is not UBI. However, income from the public use of a parking lot regularly carried on is unrelated business income. / Done \_\_\_\_\_
- b. **Sell advertising in any IIT publications, newsletter, sports arena, or program.** Commercial advertising sold by IIT in publications and athletic programs, as well as arrangements for corporate sponsorship of IIT programs and activities may be considered UBI. / Done \_\_\_\_\_
- c. **Operate a gift shop, bookstore, or restaurant.** Operation of a gift shop/bookstore and campus restaurants for the convenience of the student body, faculty, and employees is exempt from UBI. When bookstores are open for sales to the general public, these sales do not fall under the "convenience" exception. Each item sold must be considered individually and the purchaser must be identified to determine which sales are includible as UBI. Food service activities not directly accessible from the street and patronage by the general public is not directly or indirectly solicited is not considered UBI. Catering services to non-IIT customers constitute UBI. / Done \_\_\_\_\_
- d. **Provide memberships to IIT's athletic or recreational facilities.** The use of athletic or recreational facilities by the general public constitutes an unrelated business activity. If regularly carried on, it is treated as UBI. / Done \_\_\_\_\_
- e. **License use of IIT's name, logo, or mailing list.** Payments for the rights to use IIT's name, logo, and mailing list under a license agreement should be restructured so that the revenue qualifies as a royalty. / Done \_\_\_\_\_
- f. **Rental of property to others.** Rents from real property (buildings, apartments, commercial space) are not taxable. If real property is rented with services, the income may be taxable. Rents from personal property (furniture, household appliances) are taxable. If the rents for personal property are an incidental amount (less than 10%) of the total rents received under a lease for real property, they are not taxable./ Done \_\_\_\_\_
- g. **Associate member dues** could arise as a UBI issue when IIT, with specific membership benefits attract non-IIT employees who join solely to access the benefits.

(Continued)



- h. ***Other activities that involve selling goods or performing services*** need to be assessed to determine any UBI implications. / Done \_\_\_\_\_

Review performed by: \_\_\_\_\_

Date: \_\_\_\_\_