



Online CLE

Moonlighting Nonprofits: Navigating Unrelated Business Income

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Stages, Cycles, and Changes*, presented on November 9, 2022**

Chapter 3

Moonlighting Nonprofits: Navigating Unrelated Business Income

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What is unrelated business income?

- ◆ **The Acronyms:** Unrelated Business Income(UBI), Unrelated Business Taxable Income (UBTI), Unrelated Business Income Tax (UBIT)
- ◆ **The Statutes:** IRC §§511, 512, 513, 514, 515
 - ◆ IRC §512(a)(1): *Except as otherwise provided in this subsection, the term “unrelated business taxable income” means the gross income derived by any organization from any unrelated trade or business (as defined in section 513) regularly carried on by it, less the deductions allowed by this chapter which are directly connected with the carrying on of such trade or business, both computed with the modifications provided in subsection (b).*
- ◆ **The Taxpayers:** Organizations described in §§ 401(a), 501(c), and state colleges and universities, IRC § 511(2).

Context and public policy: unfair competition

- ◆ The purpose of the UBI tax is to prevent unfair competition between tax-exempt organizations and taxable for-profit organizations. If exempt organizations are not held accountable for compliance with taxable UBI, then it is unfair to those business taxpayers that do report and pay their tax.
- ◆ In Fiscal Year 2019, the IRS’s gross collections included approximately \$1.2 billion from UBI taxes

Three Elements

Trade or Business

Regularly carried
on

Not Substantially
related to further
the exempt
purpose of the
organization

- ◆ Any activity that is carried on for the production of income from the sale of goods or the performance of services. IRC §§513(c)

What's a trade
or business?

Pursued in a manner
similar to comparable
commercial activities

What is “regularly carried on?”

- ◆ Related to the achievement of an exempt purpose as stated in the original 1023 application and by the organization’s Articles and Bylaws, including any board resolutions on the subject.
- ◆ For a trade or business to be substantially related, it must bear a “causal relationship” to the accomplishment of the organization’s exempt purpose and “contribute importantly” to that purpose. Treas. Reg. 1.513-1(d)(2).

What does “not substantially related to exempt activities” mean?

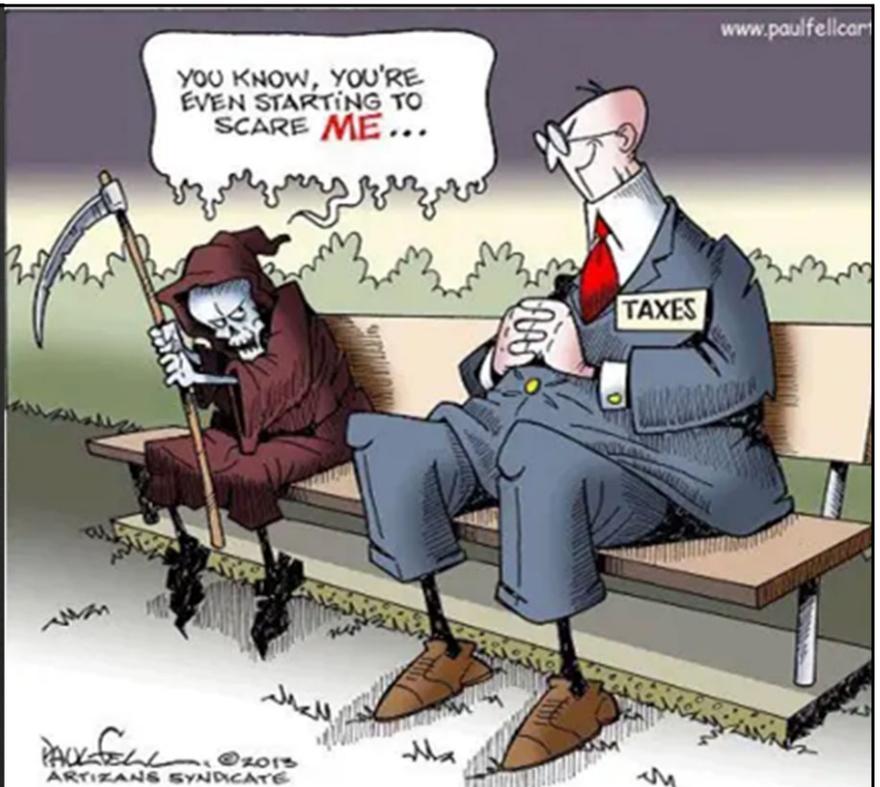
Hypothetical: A Tale of Two Food Trucks



Queued for food, the customers failed to grasp expected average waiting time

What are the exceptions?

- ◆ There are many, many exceptions to UBIT
- ◆ Volunteer labor
- ◆ Thrift store exception
- ◆ Convenience of members
- ◆ Low-cost items
- ◆ Investment income
- ◆ Rental income IF not debt-financed property



Hypothetical: Sponsorships

We're honored to announce that Belmont is now a sponsor of [redacted] [redacted] Belmont is a modern breakroom service based in Portland, Oregon. Belmont develops, markets, and distributes products and brands it loves, while servicing hundreds of breakrooms in companies, firms, agencies, and manufacturers in the Pacific Northwest. As an organization that values the creativity of Portlanders, we're thrilled to partner with a business that feels that same way. If your office could use an upgrade in its breakroom service, get in touch with our friends at Belmont!



Taxable
or
QSP?

Payments from Sponsors: UBI or QSP?

Potentially Taxable Income

- ❖ Examples of actions that may trigger UBI:
 - ❖ Charity endorses the business
 - ❖ Charity offers coupons, discounts, or other inducements to patronize the business
 - ❖ Charity makes qualitative/comparative statements about the business
 - ❖ Links on charity's webpage that lead directly to where sponsor's products are sold
 - ❖ Sponsorship is contingent upon number of attendees at charity's event

Qualified Sponsorship Payments

- ❖ Charity may display logo and publicly acknowledge the sponsor, BUT
 - ❖ No substantial benefits to sponsor
 - ❖ No qualitative or comparative language
 - ❖ No endorsements
 - ❖ No inducements to patronize
 - ❖ No contingencies
 - ❖ Non-exclusive

Hypothetical: Rents

- ◆ Is your organization renting out your facility to help pay the mortgage?



- ◆ One of the most common forms of unrelated business income
- ◆ Excluded from UBI *unless* derived from debt-financed property

Rental Revenue

TCJA Complications

- ◆ Changes to reporting and taxation for organizations with more than one source of UBI
- ◆ UBI revenue streams assigned to “silos” based on first two digits of NAICS code
- ◆ Taxation of transportation fringe benefits was enacted, then repealed; some organization are still struggling with amendments and refunds



How do you report UBI?

- ◆ On IRS Form 990-T
- ◆ If your gross UBI is >\$1,000
- ◆ With the help of a professional if you can

How much UBI is too much?

- ◆ No bright line regarding the percentage of allowable UBI
- ◆ An organization risks the loss of its exempt status if it derives a "substantial" percent of its income from unrelated activities.
- ◆ More than 50% is probably too much
- ◆ For-profit subsidiaries may protect your tax exemption



Resources

- ◆ IRS Pub 598 Tax on Unrelated Business Income of Exempt Organizations
<https://www.irs.gov/pub/irs-pdf/p598.pdf>
- ◆ National Council of Nonprofits: sponsorships
<https://www.councilofnonprofits.org/thought-leadership/advertising-or-qualified-sponsorship-payments>
- ◆ Nonprofit Law Blog: siloing
<https://nonprofitlawblog.com/ubit-silos-final-regulations/>
- ◆ General note: due to recent tax law changes concerning UBI, focus on publications within the last **two years**

Questions?





Department of the Treasury
Internal Revenue Service

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Tax on Unrelated Business Income of Exempt Organizations

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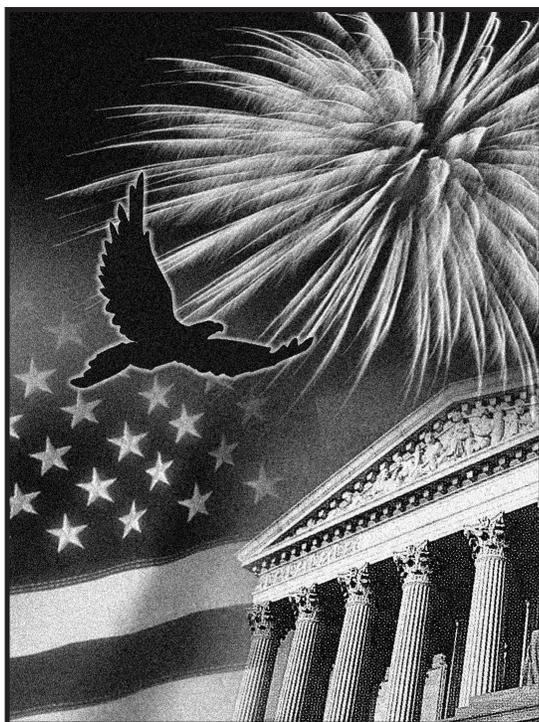
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Future Developments

The IRS has created a page on IRS.gov for information about Pub. 598, at [IRS.gov/Pub598](https://www.irs.gov/pub598). Information about any future developments affecting Pub. 598 (such as legislation enacted after we release it) will be posted on that page.

What's New

- Mandatory electronic filing. Section 3101 of the Taxpayer First Act, (P.L. 116-25) requires tax-exempt organizations to electronically file information returns and related forms. This law affects tax-exempt organizations in tax years beginning after July 1, 2019. In 2020, the IRS continued to accept paper Forms 990-T pending conversion into electronic format. In 2021, the Form 990-T is being updated and e-filing is required for tax year 2020 filings. The IRS expects e-filing to be available beginning in February 2021. The IRS will announce the specific dates when the programming comes online. See the Instructions for Form 990-T, *When, Where, and How To File*, for more information.
- Final regulations issued. Section 512(a)(6) requires a tax-exempt organization with more than one unrelated trade or business to compute unrelated business taxable income (UBTI), including any NOL deduction, separately for each trade or business. Final regulations were published in the Federal Register on December 2, 2020, that provide guidance on how an exempt organization determines if it has more than one unrelated trade or business, and, if so, how the exempt organization calculates unrelated business taxable income. T.D. 9933, 85 Fed. Reg. 77952 (Dec. 2, 2020). The final regulations are applicable to tax years beginning on or after December 2, 2020. In addition, an exempt organization may choose to apply the final regulations under section 512(a)(6) to tax years beginning on or after January 1, 2018, and before December 2, 2020. Alternatively, an exempt



Get forms and other information faster and easier at:

- [IRS.gov](https://www.irs.gov) (English)
- [IRS.gov/Korean](https://www.irs.gov/korean) (한국어)
- [IRS.gov/Spanish](https://www.irs.gov/spanish) (Español)
- [IRS.gov/Russian](https://www.irs.gov/russian) (Русский)
- [IRS.gov/Chinese](https://www.irs.gov/chinese) (中文)
- [IRS.gov/Vietnamese](https://www.irs.gov/vietnamese) (Tiếng Việt)

organization may rely on a reasonable, good-faith interpretation of section 512(a)(6) for such tax years. For this purpose, a reasonable good faith interpretation includes the methods of aggregating or identifying separate trades or businesses provided in Notice 2018-67 or the proposed regulations published April 24, 2020 (85 Fed. Reg. 23172). See T.D. 9933 for more details.

- Form 990-T has been redesigned for tax year 2020. Schedule M (Form 990-T) has been replaced with Schedule A. Each unrelated trade or business of an organization is reported on a separate Schedule A. At the organization's discretion, each separate trade or business may be classified by a 2-digit North American Industrial Classification System (NAICS) code. See Regulations section 1.512(a)-6(b)(1). The Instructions for Form 990-T provide 6-digit Business Activity Codes for investment and other activities not represented in NAICS.
- Organizations with more than one unrelated trade or business must compute unrelated business taxable income (UBTI), including for the purpose of determining any net operating loss deduction, separately with respect to each such trade or business. See Regulations section 1.512(a)-6 for more information.
- Retroactive repeal of section 512(a)(7). P.L. 116-94 retroactively repealed the section 512(a)(7), which required exempt organizations to increase their unrelated business taxable income for expenses incurred to provide certain benefits, including qualified transportation fringes. If your organization reported and paid tax on such amounts included in unrelated business taxable income for tax years 2017 or 2018 and you want to claim a refund, file an amended Form 990-T.
- Net operating loss (NOL) carryback. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) amended section 172 provides for carryback of any net operating loss arising in a tax year beginning after 2017 and before 2021 to each of the 5 tax years preceding the tax year of the NOL. Taxpayers may elect to waive the carryback period for NOLs arising in those years. To elect to waive the carryback period for an NOL arising in a tax year beginning in 2018 or 2019, attach a statement electing the carryback waiver to your return for the first tax year ending after March 27, 2020. For more information, see Rev. Proc. 2020-24. If you incurred an NOL in a tax year beginning in 2018 or 2019, you can file an amended return, Form 990-T, to carryback the NOL. See Pub. 536 for more information.
- The maximum cost of a low-cost article, for organizations eligible to receive charitable contributions, was increased to \$11.20 for 2020. See [Distribution of low-cost articles](#), later.
- The annual limit on associate member dues received by an agricultural or horticultural organization not treated as gross income was increased to \$171 for 2020. See [Exception](#) under *Dues of*

Agricultural Organizations and Business Leagues, later.

Introduction

An exempt organization isn't taxed on its income from an activity substantially related to the charitable, educational, or other purpose that is the basis for the organization's exemption. Such income is exempt even if the activity is a trade or business.

However, if an exempt organization regularly carries on one or more trades or businesses not substantially related to the organization's exempt purpose, except that conducting the trade or business provides funds to carry out the exempt purpose, the organization is subject to tax on its income from the unrelated trade(s) or business(es).

This publication covers the rules for the tax on unrelated business income of exempt organizations. It explains:

1. Which organizations are subject to the tax (chapter 1),
2. What the requirements are for filing a tax return (chapter 2),
3. What an unrelated trade or business is (chapter 3), and
4. How to figure unrelated business taxable income (chapter 4).

All section references in this publication are to the Internal Revenue Code.

Useful Items

You may want to see:

Publication

- **557** Tax-Exempt Status for Your Organization

Form (and Instructions)

- **990-T** Exempt Organization Business Income Tax Return
- **Schedule A (990-T)** Unrelated Business Taxable Income From an Unrelated Trade or Business

Visit [IRS.gov/FormsPubs](https://www.irs.gov/FormsPubs) to download forms and publications. Otherwise, you can go to [IRS.gov/OrderForms](https://www.irs.gov/OrderForms) to order current and prior-year forms and instructions. Your order should arrive within 10 business days.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can send us comments through [IRS.gov/FormComments](https://www.irs.gov/FormComments). Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments as we revise our tax products.

Tax questions. If you have tax questions not answered by the publication, check [IRS.gov](https://www.irs.gov)

and [How To Get Tax Help](#) at the end of this publication.

1.

Organizations Subject to the Tax

The tax on unrelated business income applies to most organizations exempt from tax under section 501(a). These organizations include charitable, religious, scientific, and other organizations described in section 501(c), as well as employees' trusts forming part of pension, profit-sharing, and stock bonus plans described in section 401(a).

In addition, the following are subject to the tax on unrelated business income.

- Individual retirement arrangements (IRAs), including traditional IRAs, Roth IRAs, simplified employee pensions (SEP-IRAs), and savings incentive match plans for employees (SIMPLE IRAs).
- State and municipal colleges and universities.
- Qualified state tuition programs described in section 529.
- Qualified ABLE programs described in section 529A.
- Medical savings accounts (MSAs) described in section 220(d).
- Coverdell savings accounts described in section 530.

U.S. instrumentalities. A corporation that is a U.S. instrumentality described in section 501(c)(1) isn't subject to the tax on unrelated business income if the corporation is organized under an Act of Congress and, under the Act, is exempt from federal income taxes.

Colleges and universities. Colleges and universities that are agencies or instrumentalities of any government or any political subdivision of a government, or that are owned or operated by a government or political subdivision of a government, are subject to the tax on unrelated business income. As used here, the word "government" includes any foreign government (to the extent not contrary to a treaty) and all domestic governments (the United States and any of its possessions, any state, and the District of Columbia).

The tax is on the unrelated business income of both the universities and colleges themselves and on their wholly owned or controlled tax-exempt subsidiary organizations. It is immaterial whether the business is conducted by the university or by a separately incorporated wholly owned or controlled subsidiary. If the business activity is unrelated, the income in both instances will be subject to the tax. If the primary

purpose of a wholly owned or controlled subsidiary is to operate or conduct any unrelated trade or business (other than holding title to property and collecting income from it), the subsidiary isn't an exempt organization, and this rule doesn't apply.

Title-holding corporations. When an exempt title-holding corporation, described in section 501(c)(2), pays any of its net income to an organization that itself is exempt from tax under section 501(a) (or would pay such an amount except that the expenses of collecting its income exceed the amount collected) and files a consolidated return with that organization, the title-holding corporation is treated, for unrelated business income tax purposes, as organized and operated for the same purposes as the exempt payee organization.

Thus, a title-holding corporation whose source of income is related to the exempt purposes of the payee organization isn't subject to the unrelated business income tax if the holding corporation and the payee organization file a consolidated return. However, if the source of the income isn't so related, the title-holding corporation is subject to unrelated business income tax.

Example. X, a title-holding corporation, is required to distribute its net income to A, an exempt organization. During the tax year, X realizes net income of \$900,000 from source M, which is related to A's exempt function. X also receives \$100,000 from source N, which isn't related to A's exempt function. X and A file a consolidated return for the tax year. X has unrelated business income of \$100,000.

trades or businesses can't be less than zero. The tax computed on the total UBTI can be reduced by any applicable tax credits, including the general business credits (such as the investment credit) and the foreign tax credit.

Returns and Filing Requirements

Mandatory electronic filing of Form 990-T started in February 2021. Limited exceptions apply. See the Instructions for Form 990-T for more information. The obligation to file Form 990-T is in addition to the obligation to file any other required return or notice.

Form 990-T is required if the sum of the organization's gross income from all unrelated businesses is \$1,000 or more. An exempt organization files a single Form 990-T. The organization reports the income and expenses for each of its unrelated businesses on a separate Schedule A (Form 990-T) attached to the Form 990-T. See Regulations section 1.512(a)-6 for information about how to identify separate unrelated trades or businesses.

Each organization must file a separate Form 990-T, except section 501(c)(2) title-holding corporations and organizations receiving their earnings that file a consolidated return under section 1501.

The various provisions of tax law relating to accounting periods, accounting methods, at-risk limits (described in section 465), assessments, and collection penalties that apply to tax returns also generally apply to Form 990-T.

When to file. The Form 990-T of an employees' trust described in section 401(a), an IRA (including a traditional, SEP, SIMPLE, Roth, or Coverdell IRA), or an MSA must be filed by the 15th day of the 4th month after the end of its tax year. The Form 990-T of any other exempt organization must be filed by the 15th day of the 5th month after the end of its tax year. If the due date falls on a Saturday, Sunday, or legal holiday, the return is due by the next business day.

Extension of time to file. Use Form 8868, Application for Automatic Extension of Time To File an Exempt Organization Return, to request an automatic 6-month extension of time to file Form 990-T.

Public Inspection Requirements of Section 501(c)(3) Organizations. Under section 6104(d), a section 501(c)(3) organization that has gross income from an unrelated trade or business of \$1,000 or more must make its Form 990-T return (including amended returns) available for public inspection. See the Instructions for Form 990-T for information about attachments and related forms that are disclosable as part of the return.



A section 501(c)(3) organization filing the Form 990-T only to request a credit for certain federal excise taxes paid doesn't have to make the Form 990-T available for public inspection.

Payment of Tax

Estimated tax. A tax-exempt organization must make estimated tax payments if it anticipates its tax (unrelated business income tax after certain adjustments) to be \$500 or more. Estimated tax payments are generally due by the 15th day of the 4th, 6th, 9th, and 12th months of the tax year. If any due date falls on a Saturday, Sunday, or legal holiday, the payment is due on the next business day.

Any organization that fails to pay the proper estimated tax when due may be charged an underpayment penalty for the period of underpayment. Generally, to avoid the estimated tax penalty, the organization must make estimated tax payments that total 100% of the organization's current tax year liability. However, an organization with taxable income less than \$1 million for each of the 3 preceding tax years can base its required estimated tax payments on 100% of the tax shown on its return for the preceding year (unless no tax is shown). If an organization's taxable income for any of those years was \$1 million or more, it can base only its first required installment payment on its prior year's tax.

All tax-exempt organizations should use Form 990-W (Worksheet), to figure their estimated tax.

Tax due with Form 990-T. Any tax due with Form 990-T must be paid in full when the return is filed, but no later than the date the return is due (determined without extensions).

Federal Tax Deposits Must be Made by Electronic Funds Transfer

Electronic Deposit Requirement. The organization must deposit all depository taxes (such as employment tax, excise tax, and corporate income tax) electronically. Generally, electronic fund transfers are made using the Electronic Federal Tax Payment System (EFTPS). For more information about EFTPS or to enroll in EFTPS, visit the EFTPS website at EFTPS.gov, or call 1-800-555-4477, 1-800-733-4829 (TDD), or 1-800-244-4829 (Spanish). You can also get Pub. 966, Electronic Federal Tax Payment System: A Guide to Getting Started.

Depositing on time. For EFTPS deposits to be made timely, the organization must initiate the deposit by 8 p.m. Eastern time the day before the deposit is due.

Same-day wire payment option. If you fail to initiate a deposit transaction on EFTPS by 8 p.m. Eastern time the day before the date a deposit is due, you can still make your deposit on time by using the Federal Tax Application (FTA), a same-day federal tax payment system that works in conjunction with EFTPS. Make arrangements with your financial institution ahead of time, noting the institution's availability, deadlines, and costs, if you believe you would ever need the same-day wire payment option. To learn more, visit IRS.gov/SameDayWire and

2.

The Tax and Filing Requirements

All organizations subject to the tax on unrelated business income, except the exempt trusts described in section 511(b)(2), are taxable at corporate rates on that income. All exempt trusts subject to the tax on unrelated business income that, if not exempt, would be taxable as trusts are taxable at trust rates on that income. However, an exempt trust may not claim the deduction for a personal exemption that is normally allowed to a trust.

The tax is imposed on the organization's unrelated business taxable income (UBTI) (described in [chapter 4](#)). Under section 512(a)(6), an organization that conducts more than one unrelated trade or business calculates its UBTI as the sum of the UBTI calculated separately for each unrelated trade or business, and when calculating this sum, the UBTI from any of the separate

also download the Same-Day Payment Worksheet.

Timeliness of deposits. The IRS uses business days to determine the timeliness of deposits. Business days are any day that isn't a Saturday, Sunday, or legal holiday in the District of Columbia. See Pub. 583, Starting a Business and Keeping Records.



If the organization owes tax and is filing a paper Form 990-T, don't include the payment with the tax return. Instead, use EFTPS.

3.

Unrelated Trade or Business

Unrelated business income is the income from a trade or business regularly conducted by an exempt organization and not substantially related to the performance by the organization of its exempt purpose or function. Use by the organization, of the profits derived from this activity, does not, alone, make the activity substantially related to the performance by the organization of its exempt purpose or function.

Certain trade or business activities aren't treated as an unrelated trade or business. See [Excluded Trade or Business Activities](#), later.

Trade or business. The term "trade or business" generally includes any activity conducted for the production of income from selling goods or performing services. An activity must be conducted with intent to make a profit to constitute a trade or business. An activity doesn't lose its identity as a trade or business merely because it is conducted within a larger group of similar activities that may or may not be related to the exempt purposes of the organization.

For example, the regular sale of pharmaceutical supplies to the general public by a hospital pharmacy doesn't lose its identity as a trade or business, even though the pharmacy also furnishes supplies to the hospital and patients of the hospital in accordance with its exempt purpose. Similarly, soliciting, selling, and publishing commercial advertising is a trade or business even though the advertising is published in an exempt organization's periodical that contains editorial matter related to the organization's exempt purpose.

Regularly conducted. Business activities of an exempt organization ordinarily are considered regularly conducted if they show a frequency and continuity, and are pursued in a manner similar to comparable commercial activities of nonexempt organizations.

For example, a hospital auxiliary's operation of a sandwich stand for 2 weeks at a state fair would not be the regular conduct of a trade or

business. The stand would not compete with similar facilities that a nonexempt organization would ordinarily operate year-round. However, operating a commercial parking lot every Saturday, year-round, would be the regular conduct of a trade or business.

Not substantially related. A business activity isn't substantially related to an organization's exempt purpose if it doesn't contribute importantly to accomplishing that purpose (other than through the production of funds). Whether an activity contributes importantly depends in each case on the facts involved.

In determining whether activities contribute importantly to the accomplishment of an exempt purpose, the size and extent of the activities involved must be considered in relation to the nature and extent of the exempt function that they intend to serve. For example, to the extent an activity is conducted on a scale larger than is reasonably necessary to perform an exempt purpose, it doesn't contribute importantly to the accomplishment of the exempt purpose. The part of the activity that is more than needed to accomplish the exempt purpose is an unrelated trade or business.

Also in determining whether activities contribute importantly to the accomplishment of an exempt purpose, the following principles apply.

Selling of products of exempt functions. Ordinarily, selling products that result from the performance of exempt functions isn't an unrelated trade or business if the product is sold in substantially the same state it is in when the exempt functions are completed. Thus, for an exempt organization engaged in rehabilitating handicapped persons (its exempt function), selling articles made by these persons as part of their rehabilitation training is not an unrelated trade or business.

However, if a completed product resulting from an exempt function is used or exploited in further business activity beyond what is reasonably appropriate or necessary to dispose of it as is, the activity is an unrelated trade or business. For example, if an exempt organization maintains an experimental dairy herd for scientific purposes, the sale of milk and cream produced in the ordinary course of operation of the project isn't an unrelated trade or business. But if the organization uses the milk and cream in the further manufacture of food items such as ice cream, pastries, etc., the sale of these products is an unrelated trade or business unless the manufacturing activities themselves contribute importantly to the accomplishment of an exempt purpose of the organization.

Dual use of assets or facilities. If an asset or facility necessary to the conduct of exempt functions is also used in commercial activities, its use for exempt functions doesn't, by itself, make the commercial activities a related trade or business. The test, as discussed earlier, is whether the activities contribute importantly to the accomplishment of exempt purposes.

For example, a museum has a theater auditorium designed for showing educational films in connection with its program of public education in the arts and sciences. The theater is a principal feature of the museum and operates continuously while the museum is open to the

public. If the organization also operates the theater as a motion picture theater for the public when the museum is closed, the activity is an unrelated trade or business.

For information on allocating expenses for the dual use of assets or facilities, see [Deductions](#) in chapter 4.

Exploitation of exempt functions. Exempt activities sometimes create goodwill or other intangibles that can be exploited in a commercial way. When an organization exploits such an intangible in commercial activities, the fact that the income depends in part upon an exempt function of the organization doesn't make the commercial activities a related trade or business. Unless the commercial exploitation contributes importantly to the accomplishment of the exempt purpose, the commercial activities are an unrelated trade or business.

For the treatment of expenses attributable to the exploitation of exempt activities, see [Deductions](#) in chapter 4.

Examples

The following are examples of activities that were determined to be (or not to be) unrelated trades or businesses using the definitions and principles just discussed.

Artists' facilities. An organization whose exempt purpose is to stimulate and foster public interest in the fine arts by promoting art exhibits, sponsoring cultural events, and furnishing information about fine arts leases studio apartments to artist tenants and operates a dining hall primarily for these tenants. These two activities don't contribute importantly to accomplishing the organization's exempt purpose. Therefore, they are unrelated trades or businesses.

Broadcasting rights. An exempt collegiate athletic conference conducts an annual competitive athletic game between its conference champion and another collegiate team. Income is derived from admission charges and the sale of exclusive broadcasting rights to a national radio and television network. An athletic program is considered an integral part of the educational process of a university.

The educational purposes served by intercollegiate athletics are identical whether conducted directly by individual universities or by their regional athletic conference. Also, the educational purposes served by exhibiting a game before an audience that is physically present and exhibiting the game on television or radio before a much larger audience are substantially similar. Therefore, the sale of the broadcasting rights contributes importantly to the accomplishment of the organization's exempt purpose and isn't an unrelated trade or business.

In a similar situation, an exempt organization was created as a national governing body for amateur athletes to foster interest in amateur sports and to encourage widespread public participation. The organization receives income each year from the sale of exclusive broadcasting rights to an independent producer, who contracts with a commercial network to broadcast many of the athletic events sponsored, supervised, and regulated by the organization.

The broadcasting of these events promotes the various amateur sports, fosters widespread public interest in the benefits of the organization's nationwide amateur program, and encourages public participation. The sale of the rights and the broadcasting of the events contribute importantly to the organization's exempt purpose. Therefore, the sale of the exclusive broadcasting rights isn't an unrelated trade or business.

Business league's parking and bus services. The exempt purpose of a business league is to retain and stimulate trade in a downtown area that has inadequate parking facilities. The organization operates, as an insubstantial part of its activities, a park-and-shop plan.

The park-and-shop plan allows customers of particular merchants to park free at certain parking lots in the area. Merchants participating in this plan buy parking stamps, which they distribute to their customers to use to pay for parking.

The park-and-shop plan encourages customers to use a limited number of participating member merchants in order to obtain free parking. This provides a particular service to individual members of the organization and doesn't further its exempt purpose. Therefore, operating the park-and-shop plan is an unrelated trade or business.

Halfway house workshop. A halfway house organized to provide room, board, therapy, and counseling for persons discharged from alcoholic treatment centers also operates a furniture shop to provide full-time employment for its residents. The profits are applied to the operating costs of the halfway house. The income from this venture isn't unrelated trade or business income because the furniture shop contributes importantly to the organization's purpose of aiding its residents' transition from treatment to a normal and productive life.

Health club program. An exempt charitable organization's purpose is to provide for the welfare of young people. The organization conducts charitable activities and maintains facilities that will contribute to the physical, social, mental, and spiritual health of young people at minimum or no cost to them. Nominal annual dues are charged for membership in the organization and use of the facilities.

In addition, the organization organized a health club program that its members could join for an annual fee in addition to the annual dues. The annual fee is comparable to fees charged by similar local commercial health clubs and is sufficiently high to restrict participation in the program to a limited number of members of the community.

The health club program is in addition to the general physical fitness program of the organization. Operating this program does not contribute importantly to the organization's accomplishing its exempt purpose and, therefore, is an unrelated trade or business if there is an intent to make a profit.

Hospital facilities. An exempt hospital leases its adjacent office building and furnishes certain office services to a hospital-based medical group for a fee. The group provides all diagnos-

tic and therapeutic procedures to the hospital's patients and operates the hospital's emergency room on a 24-hour basis. The leasing activity is substantially related to the hospital's exempt purpose and isn't an unrelated trade or business.

The hospital also operates a gift shop patronized by patients, visitors making purchases for patients, and employees; a cafeteria and coffee shop primarily for employees and medical staff; and a parking lot for patients and visitors only. These activities are substantially related to the hospital's exempt purpose and don't constitute unrelated trades or businesses.

Insurance programs. An organization that acts as a group insurance policyholder for its members and collects a fee for performing administrative services is normally carrying on an unrelated trade or business.

Exceptions. Administrative services provided by an organization whose exempt activities may include the provision of insurance benefits, such as fraternal beneficiary societies, voluntary employees beneficiary associations, and labor organizations, are generally not an unrelated trade or business.

Magazine publishing. An association of credit unions with tax-exempt status as a business league publishes a consumer-oriented magazine four times a year and makes it available to member credit unions for purchase.

By selling a magazine to its members as a promotional device, the organization furnishes its members with a regular commercial service they can use in their own operations. This service doesn't promote the improvement of business conditions of one or more lines of business, which is the exempt purpose of a business league.

Since the activity doesn't contribute importantly to the organization's exempt function, it is an unrelated trade or business.

Membership list sales. An exempt educational organization regularly sells membership mailing lists to business firms. This activity doesn't contribute importantly to the accomplishment of the organization's exempt purpose and therefore is an unrelated trade or business. Also see *Exchange or rental of member lists* under *Excluded Trade or Business Activities*, later.

Miniature golf course. An exempt youth welfare organization operates a miniature golf course that is open to the general public. The course, which is managed by salaried employees, is substantially similar to commercial courses. The admission fees charged are comparable to fees of commercial facilities and are designed to return a profit.

The operation of the miniature golf course in a commercial manner doesn't contribute importantly to the accomplishment of the organization's exempt purpose and, therefore, is an unrelated trade or business.

Museum eating facilities. An exempt art museum operates a dining room, a cafeteria, and a snack bar for use by the museum staff, employees, and visitors. Eating facilities in the museum help to attract visitors and allow them to spend

more time viewing the museum's exhibits without having to seek outside restaurants at mealtime. The eating facilities also allow the museum staff and employees to remain in the museum throughout the day. Thus, the museum's operation of the eating facilities contributes importantly to the accomplishment of its exempt purposes and isn't an unrelated trade or business.

Museum greeting card sales. An art museum that exhibits modern art sells greeting cards that display printed reproductions of selected works from other art collections. Each card is imprinted with the name of the artist, the title or subject matter of the work, the date or period of its creation, if known, and the museum's name. The cards contain appropriate greetings and are personalized on request.

The organization sells the cards in the shop it operates in the museum and sells them at quantity discounts to retail stores. The museum also sells greeting cards by mail order through a catalog that is advertised in magazines and other publications throughout the year. As a result, a large number of cards are sold at a significant profit.

The museum is exempt as an educational organization on the basis of its ownership, maintenance, and exhibition for public viewing of works of art. The sale of greeting cards with printed reproductions of artworks contributes importantly to the achievement of the museum's exempt educational purposes by enhancing public awareness, interest, and appreciation of art. The cards may encourage more people to visit the museum itself to share in its educational programs. The fact that the cards are promoted and sold in a commercial manner at a profit and in competition with commercial greeting card publishers doesn't alter the fact that the activity is related to the museum's exempt purpose. Therefore, these sales activities aren't an unrelated trade or business.

Museum shop. An art museum maintained and operated for the exhibition of American folk art operates a shop in the museum that sells:

1. Reproductions of works in the museum's own collection and reproductions of artistic works from the collections of other art museums (prints suitable for framing, postcards, greeting cards, and slides);
2. Metal, wood, and ceramic copies of American folk art objects from its own collection and similar copies of art objects from other collections of artworks;
3. Instructional literature and scientific books and souvenir items concerning the history and development of art and, in particular, of American folk art; and
4. Scientific books and souvenir items of the city in which the museum is located.

The shop also rents originals or reproductions of paintings contained in its collection. All of its reproductions are imprinted with the name of the artist, the title or subject matter of the work from which it is reproduced, and the museum's name.

Each line of merchandise must be considered separately to determine if sales are related to the exempt purpose.

The sale and rental of reproductions and copies of works from the museum's own collection and reproductions of artistic works not owned by the museum contribute importantly to the achievement of the museum's exempt educational purpose by making works of art familiar to a broader segment of the public, thereby enhancing the public's understanding and appreciation of art. The same is true for the sale of literature relating to art. Therefore, these sales activities aren't an unrelated trade or business.

On the other hand, the sale (if they intend to make a profit) of scientific books and souvenir items of the city where the museum is located has no causal relationship to art or to artistic endeavor and, therefore, doesn't contribute importantly to the accomplishment of the museum's exempt educational purposes. Even though selling some of these items could, in a different context, be related to the exempt educational purpose of a different exempt educational organization doesn't change this conclusion. Additionally, the sale of these items doesn't lose its character as an unrelated trade or business merely because the museum also sells articles that contribute importantly to the accomplishment of its exempt function. Therefore, these sales by the museum in this example are an unrelated trade or business.

Nonpatient laboratory testing. Nonpatient laboratory testing performed by a tax-exempt teaching hospital on specimens needed for the conduct of its teaching activities isn't an unrelated trade or business. However, laboratory testing performed by a tax-exempt non-teaching hospital on referred specimens from private office patients of staff physicians is an unrelated trade or business if these services are otherwise available in the community.

Pet boarding and grooming services. An exempt organization, organized and operated for the prevention of cruelty to animals, receives unrelated business income from providing pet boarding and grooming services for the general public. These activities don't contribute importantly to its purpose of preventing cruelty to animals.

Publishing legal notices. A bar association publishes a legal journal containing opinions of the county court, articles of professional interest to lawyers, advertisements for products and services used by the legal profession, and legal notices. The legal notices are published to satisfy state laws requiring publication of notices in connection with legal proceedings, such as the administration of estates and actions to quiet title to real property. The state designated the bar association's journal as the place to publish the required notices.

The publication of ordinary commercial advertising doesn't advance the exempt purposes of the association even when published in a periodical that contains material related to exempt purposes. Although the advertising is directed specifically to members of the legal profession, it is still commercial in nature and doesn't contribute importantly to the exempt purposes of

the association. Therefore, the advertising income is unrelated trade or business income.

On the other hand, the publication of legal notices is distinguishable from ordinary commercial advertising in that its purpose is to inform the general public of significant legal events rather than to stimulate demand for the products or services of an advertiser. This promotes the common interests of the legal profession and contributes importantly to the association's exempt purposes. Therefore, the publishing of legal notices doesn't constitute an unrelated trade or business.

Directory of members. A business league publishes an annual directory that contains a list of all its members, their addresses, and their area of expertise. Each member has the same amount of space in the directory, and its format doesn't emphasize the relative importance or reputation of any member. The directory contains no commercial advertisement and is sold only to the organization's members.

The directory facilitates communication among the members and encourages the exchange of ideas and expertise. Because the directory lists the members in a similar noncommercial format without advertising and isn't distributed to the public, its sale doesn't confer private commercial benefits on the members. The sale of the directory does contribute importantly to the organization's exempt purpose and isn't an unrelated trade or business. This directory differs from the publication discussed next because of its noncommercial characteristics.

Sales of advertising space. A national association of law enforcement officials publishes a monthly journal that contains articles and other editorial material of professional interest to its members. The journal is distributed without charge, mainly to the organization's members.

The organization sells advertising space in the journal either for conventional advertising or to merely identify the purchaser without a commercial message. Some of the noncommercial advertising identifies the purchaser in a separate space, and some consists of listings of 60 or more purchasers per page. A business firm identified in a separate space is further identified in an Index of Advertisers.

The organization solicits advertising by personal contacts. Advertising from large firms is solicited by contacting their chief executive officer or community relations officer rather than their advertising manager. The organization also solicits advertising in form letters appealing for corporate and personal contributions.

An exempt organization's sale of advertising placed for the purchaser's commercial benefit is a commercial activity. Goodwill derived by the purchaser from being identified as a patron of the organization is usually considered a form of commercial benefit. Therefore, advertising in an exempt organization's publication is generally presumed to be placed for the purchaser's commercial benefit, even if it has no commercial message. However, this presumption isn't conclusive if the purchaser's patronage would be difficult to justify commercially in view of the facts and circumstances. In that case, other factors should also be considered in determining whether a commercial benefit can be expected. Those other factors include:

1. The normal manner in which the publication is circulated;
2. The territorial scope of the circulation;
3. The extent to which its readers, promoters, or the like could reasonably be expected to further, either directly or indirectly, the commercial interest of the advertisers;
4. The eligibility of the publishing organization to receive tax-deductible contributions; and
5. The commercial or noncommercial methods used to solicit the advertisers.

In this situation, the purchaser of a separate advertising space without a commercial message can nevertheless expect a commercial benefit from the goodwill derived from being identified in that manner as a patron of the organization. However, the purchaser of a listing can't expect more than an inconsequential benefit. Therefore, the sale of separate spaces, but not the listings, is an unrelated trade or business.

Sales of cattle for commissions. An agricultural organization, whose exempt purposes are to promote better conditions for cattle breeders and to improve the breed generally, engages in an unrelated trade or business when it regularly sells cattle for its members on a commission basis.

Sales of hearing aids. A tax-exempt hospital, whose primary activity is rehabilitation, sells hearing aids to patients. This activity is an essential part of the hospital's program to test and evaluate patients with hearing deficiencies and contributes importantly to its exempt purpose. The hearing aid sales aren't an unrelated trade or business.

School facilities. An exempt school has tennis courts and dressing rooms that it uses during the regular school year in its educational program. During the summer, the school operates a tennis club open to the general public. Employees of the school run the club, including collecting membership fees and scheduling court time.

Another exempt school leases the same type of facilities to an unrelated individual who runs a tennis club for the summer. The lease is for a fixed fee that doesn't depend on the income or profits derived from the leased property.

In both situations, the organization's exempt purpose is the advancement of education. Furnishing tennis facilities in the manner described doesn't further that exempt purpose. These activities are unrelated trades or businesses. However, in the second situation the income derived from the leasing of the property may be excluded from UBTI as rent from real property. See [Rents](#) under *Exclusions* in chapter 4.

School handicraft shop. An exempt vocational school operates a handicraft shop that sells articles made by students in their regular courses of instruction. The students are paid a percentage of the sales price. In addition, the shop sells products made by local residents who make articles at home according to the

shop's specifications. The shop manager periodically inspects the articles during their manufacture to ensure that they meet desired standards of style and quality. Although many local participants are former students of the school, any qualified person may participate in the program. The sale of articles made by students doesn't constitute an unrelated trade or business, but the sale of products made by local residents is an unrelated trade or business and is subject to unrelated business income tax.

Selling endorsements. An exempt scientific organization enjoys an excellent reputation in the field of biological research. It exploits this reputation regularly by selling endorsements of laboratory equipment to manufacturers. Endorsing laboratory equipment doesn't contribute importantly to the accomplishment of any purpose for which exemption is granted to the organization. Accordingly, the sale of endorsements is an unrelated trade or business.

Services provided with lease. An exempt university leases its football stadium during several months of the year to a professional football team for a fixed fee. Under the lease agreement, the university furnishes heat, light, and water and is responsible for all ground maintenance. It also provides dressing room, linen, and stadium security services for the professional team.

Leasing of the stadium is an unrelated trade or business. In addition, the substantial services furnished for the convenience of the lessee go beyond those usually provided with the rental of space for occupancy only. Therefore, the income from this lease is rent from real property and unrelated business taxable income.

Sponsoring entertainment events. An exempt university has a regular faculty and a regularly enrolled student body. During the school year, the university sponsors the appearance of professional theater companies and symphony orchestras that present drama and musical performances for the students and faculty members. Members of the general public also are admitted. The university advertises these performances and supervises advance ticket sales at various places, including such university facilities as the cafeteria and the university bookstore. Although the presentation of the performances makes use of an intangible generated by the university's exempt educational functions—the presence of the student body and faculty—such drama and music events contribute importantly to the overall educational and cultural functions of the university. Therefore, the activity isn't an unrelated trade or business.

Travel tour programs. Travel tour activities that are a trade or business are an unrelated trade or business if the activities aren't substantially related to the purpose for which tax exemption was granted to the organization.

Example 1. A tax-exempt university alumni association provides a travel tour program for its members and their families. The organization works with various travel agencies and schedules approximately ten tours a year to various places around the world. It mails out promotional material and accepts reservations for fees

paid by the travel agencies on a per-person basis.

The organization provides an employee for each tour as a tour leader. There is no formal educational program conducted with these tours, and they don't differ from regular commercially operated tours (if there is a intent to make a profit).

By providing travel tours to its members, the organization is engaging in a regularly conducted trade or business. Even if the tours it offers support the university, financially and otherwise, and encourage alumni to do the same, the travel tours don't contribute importantly to the organization's exempt purpose of promoting education. Therefore, the sale of the travel tours is an unrelated trade or business.

Example 2. A tax-exempt organization formed for the purpose of educating individuals about the geography and the culture of the United States provides study tours to national parks and other locations within the United States. These tours are conducted by teachers and others certified by the state board of education. The tours are primarily designed for students enrolled in degree programs at state educational institutions but are open to all who agree to participate in the required study program associated with the tour taken. A tour's study program consists of instruction on subjects related to the location being visited on the tour. Each tour group brings along a library of material related to the subjects being studied on the tour. During the tour, 5 or 6 hours per day are devoted to organized study, preparation of reports, lectures, instruction, and recitation by the students. Examinations are given at the end of each tour. The state board of education awards academic credit for tour participation. Because these tours are substantially related to the organization's exempt purpose, they aren't an unrelated trade or business.

Yearbook advertising. An exempt organization receives income from the sale of advertising in its annual yearbook. The organization hires an independent commercial firm, under a contract covering a full calendar year, to conduct an intensive advertising solicitation campaign in the organization's name. This firm is paid a percentage of the gross advertising receipts for selling the advertising, collecting from advertisers, and printing the yearbook. This advertising activity is an unrelated trade or business.

Youth residence. An exempt organization, whose purpose is to provide for the welfare of young people, rents rooms primarily to people under age 25. The residence units are operated on, and as a part of, the premises in which the organization carries on the social, recreational, and guidance programs for which it was recognized as exempt. The facilities are under the management and supervision of trained career professionals who provide residents with personal counseling, physical education programs, and group recreational activities. The rentals aren't an unrelated trade or business because renting the rooms is substantially related to the organization's exempt purpose.

Excluded Trade or Business Activities

The following activities are specifically excluded from the definition of unrelated trade or business.

Gaming. In general, games of chance do not further an exempt purpose. An exempt organization that generates revenue from the conduct of activities will be operating an unrelated trade or business, unless an exception applies. The exceptions to the general rule (that gaming does not usually further an exempt purpose) include organizations whose exempt purposes include social or recreational activities. For these organizations, gaming itself may further an exempt purpose.

More information about gaming activities by exempt organizations can be found in Publication 3079, Tax-Exempt Organizations and Gaming.

Bingo games. Bingo games may qualify for a specific exclusion from the definition of unrelated trade or business. To qualify for this exclusion, the bingo game must meet the following requirements.

1. It meets the legal definition of bingo.
2. It is legal where it is played.
3. It is played in a jurisdiction where bingo games aren't regularly conducted by for-profit organizations.

Gambling activities other than bingo. Games of chance conducted by an exempt organization may avoid being treated as an unrelated trade or business if they are:

- Conducted with substantially all volunteer labor,
- Qualified public entertainment activities, and
- Games of chance conducted in North Dakota.

Legal definition. For a game to meet the legal definition of bingo, wagers must be placed, winners must be determined, and prizes or other property must be distributed in the presence of all persons placing wagers in that game.

A wagering game that doesn't meet the legal definition of bingo doesn't qualify for the exclusion, regardless of its name. For example, "instant bingo," in which a player buys a prepackaged bingo card with pull-tabs that the player removes to determine if he or she is a winner, doesn't qualify.

Legal where played. This exclusion applies only if bingo is legal under the laws of the jurisdiction where it is conducted. The fact that a jurisdiction's law that prohibits bingo is rarely enforced or is widely disregarded doesn't make the conduct of bingo legal for the exception and is therefore an unrelated trade or business.

No for-profit games where played. This exclusion applies only if for-profit organizations can't regularly conduct bingo games in any part of the same jurisdiction. Jurisdiction is normally

the entire state; however, in certain situations, local jurisdiction will control.

Example. Tax-exempt organizations X and Y are organized under the laws of state N, which has a law that permits exempt organizations to conduct bingo games. In addition, for-profit organizations are permitted to conduct bingo games in city S, a resort community located in county R. Several for-profit organizations conduct nightly games. Y conducts weekly bingo games in city S, while X conducts weekly games in county R. Since state law confines the for-profit organizations to city S, local jurisdiction controls. Y's bingo games conducted in city S are an unrelated trade or business. However, X's bingo games conducted in county R outside of city S aren't an unrelated trade or business.

See Pub. 3079, for more detailed information.

Convenience of members. A trade or business conducted by a 501(c)(3) organization or by a state college or university primarily for the convenience of its members, students, patients, officers, or employees isn't an unrelated trade or business. For example, a laundry operated by a college for the purpose of laundering dormitory linens and students' clothing isn't an unrelated trade or business.

Convention or trade show activity. An unrelated trade or business doesn't include qualified convention or trade show activities conducted at a convention, annual meeting, or trade show.

A qualified convention or trade show activity is any activity of a kind traditionally conducted by a qualifying organization in conjunction with an international, national, state, regional, or local convention, annual meeting, or show if:

1. One of the purposes of the organization in sponsoring the activity is promoting and stimulating interest in, and demand for, the products and services of that industry or educating the persons in attendance regarding new products and services or new rules and regulations affecting the industry; and
2. The show is designed to achieve its purpose through the character of the exhibits and the extent of the industry products that are displayed.

For these purposes, a qualifying organization is one described in section 501(c)(3), 501(c)(4), 501(c)(5), or 501(c)(6). The organization must regularly conduct, as one of its substantial exempt purposes, a qualified convention or trade show activity.

The rental of display space to exhibitors (including exhibitors who are suppliers) at a qualified convention or trade show isn't an unrelated trade or business even if the exhibitors who rent the space are permitted to sell or solicit orders. For this purpose, a supplier's exhibit is one in which the exhibitor displays goods or services that are supplied to, rather than by, members of the qualifying organization in the conduct of these members' own trades or businesses.

Certain Internet activities conducted by a trade association described in section 501(c)(6) will be considered qualified convention and trade show activity if conducted on a special

supplementary section of the association's website in conjunction with a trade show conducted by the association. The trade show itself must be a qualified convention and trade show activity. The supplementary section of the website must be ancillary to, and serve to augment and enhance, the trade show, as when it makes available the same information available at the trade show and is available only during a time period that coincides with the time period that the trade show is in operation. Conversely, Internet activities that aren't conducted in conjunction with a qualified convention and trade show activity and that don't augment and enhance the trade show can't themselves be qualified convention and trade show activity.

Distribution of low-cost articles. The term "unrelated trade or business" doesn't include activities relating to the distribution of low-cost articles incidental to soliciting charitable contributions. This applies to organizations described in section 501 that are eligible to receive charitable income tax deductible contributions.

A distribution is considered incidental to the solicitation of a charitable contribution if:

1. The recipient didn't request the distribution,
2. The distribution is made without the express consent of the recipient, and
3. The article is accompanied by a request for a charitable contribution to the organization and a statement that the recipient may keep the low-cost article regardless of whether a contribution is made.

An article is considered low cost if the cost of an item (or the aggregate costs if more than one item) distributed to a single recipient in a tax year isn't more than \$11.20 (in 2020), indexed annually for inflation. The cost of an article is the cost to the organization that distributes the item or on whose behalf it is distributed.

Employee association sales. The sale of certain items by a local association of employees described in section 501(c)(4), organized before May 17, 1969, isn't an unrelated trade or business if the items are sold for the convenience of the association's members at their usual place of employment. This exclusion applies only to the sale of work-related clothes and equipment and items normally sold through vending machines, food dispensing facilities, or by snack bars.

Exchange or rental of member lists. The exchange or rental of member or donor lists between organizations described in section 501 that are eligible to receive charitable contributions isn't included in the term unrelated trade or business.

Hospital services. The providing of certain services at or below cost by an exempt hospital to other exempt hospitals that have facilities for 100 or fewer inpatients isn't an unrelated trade or business. This exclusion applies only to services described in section 501(e)(1)(A).

Pole rentals. The term unrelated trade or business doesn't include qualified pole rentals by a

mutual or cooperative telephone or electric company described in section 501(c)(12). A qualified pole rental is the rental of a pole (or other structure used to support wires) if the pole (or other structure) is used:

1. By the telephone or electric company to support one or more wires that the company uses in providing telephone or electric services to its members, and
2. According to the rental, to support one or more wires (in addition to the wires described in 1) for use in connection with the transmission by wire of electricity or of telephone or other communications.

For this purpose, the term rental includes any sale of the right to use the pole (or other structure).

Public entertainment activity. An unrelated trade or business doesn't include a qualified public entertainment activity. A public entertainment activity is one traditionally conducted at a fair or exposition promoting agriculture and education, including any activity whose purpose is designed to attract the public to fairs or expositions or to promote the breeding of animals or the development of products or equipment.

A qualified public entertainment activity is one conducted by a qualifying organization:

1. In conjunction with an international, national, state, regional, or local fair or exposition;
2. In accordance with state law that permits the activity to be operated or conducted solely by such an organization or by an agency, instrumentality, or political subdivision of the state; or
3. In accordance with state law that permits an organization to be granted a license to conduct an activity for not more than 20 days on paying the state a lower percentage of the revenue from the activity than the state charges nonqualifying organizations that hold similar activities.

For these purposes, a qualifying organization is an organization described in section 501(c)(3), 501(c)(4), or 501(c)(5) that regularly conducts an agricultural and educational fair or exposition as one of its substantial exempt purposes. Its conducting qualified public entertainment activities will not affect determination of its exempt status.

Qualified sponsorship activities. Receiving qualified sponsorship payments isn't an unrelated trade or business, and the payments aren't subject to unrelated business income tax.

Qualified sponsorship payment. This is any payment made by a person engaged in a trade or business for which the person will receive no substantial benefit other than the use or acknowledgment of the business name, logo, or product lines in connection with the organization's activities. "Use or acknowledgment" doesn't include advertising the sponsor's products or services. The organization's activities include all its activities, whether or not related to its exempt purposes.

For example, if, in return for receiving a sponsorship payment, an organization

promises to use the sponsor's name or logo in acknowledging the sponsor's support for an educational or fundraising event, the payment is a qualified sponsorship payment and isn't subject to the unrelated business income tax.

Providing facilities, services, or other privileges (for example, complimentary tickets, pro-am playing spots in golf tournaments, or receptions for major donors) to a sponsor or the sponsor's designees in connection with a sponsorship payment does not affect whether the payment is a qualified sponsorship payment. Instead, providing these goods or services is treated as a separate transaction in determining whether the organization has unrelated business income from the event. Generally, if the services or facilities aren't a substantial benefit or if providing them is a related business activity, the payments will not be subject to the unrelated business income tax.

Similarly, the sponsor's receipt of a license to use an intangible asset (for example, a trademark, logo, or designation) of the organization is treated as separate from the qualified sponsorship transaction in determining whether the organization has UBTI.

If part of a payment would be a qualified sponsorship payment if paid separately, that part is treated as a separate payment. For example, if a sponsorship payment entitles the sponsor to both product advertising and the use or acknowledgment of the sponsor's name or logo by the organization, then the unrelated business income tax doesn't apply to the part of the payment that is more than the fair market value of the product advertising.

Advertising. A payment isn't a qualified sponsorship payment if, in return, the organization advertises the sponsor's products or services. For information on the treatment of payments for advertising, see [Exploitation of Exempt Activity—Advertising Sales](#) in chapter 4.

Advertising includes:

1. Messages containing qualitative or comparative language, price information, or other indications of savings or value;
2. Endorsements; and
3. Inducements to purchase, sell, or use the products or services.

The use of promotional logos or slogans that are an established part of the sponsor's identity isn't, by itself, advertising. In addition, mere distribution or display of a sponsor's product by the organization to the public at a sponsored event, whether for free or for remuneration, is considered use or acknowledgment of the product rather than advertising.

Exception for contingent payments. A payment isn't a qualified sponsorship payment if its amount is contingent, by contract or otherwise, upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events. However, the fact that a sponsorship payment is contingent upon an event actually taking place or being broadcast doesn't, by itself, affect whether a payment qualifies.

Exception for conventions and trade shows. A payment isn't a qualified sponsorship payment if it is made in connection with any qualified convention or trade show activity. The exclusion of qualified convention or trade show activities from the definition of unrelated trade or business is explained earlier under [Convention or trade show activity](#).

Exception for periodicals. A payment isn't a qualified sponsorship payment if it entitles the payer to the use or acknowledgment of the business name, logo, or product lines in the organization's periodical. For this purpose, a periodical is any regularly scheduled and printed material (for example, a monthly journal) published by or on behalf of the organization. It doesn't include material that is related to and primarily distributed in connection with a specific event conducted by the organization (for example, a program or brochure distributed at a sponsored event).

The treatment of payments that entitle the payer to the depiction of the payer's name, logo, or product lines in an organization's periodical is determined under the rules that apply to advertising activities. See [Sales of advertising space](#) under *Examples*, earlier in this chapter. Also see [Exploitation of Exempt Activity—Advertising Sales](#) in chapter 4.

Selling donated merchandise. A trade or business that consists of selling merchandise, substantially all of which the organization received as gifts or contributions, isn't an unrelated trade or business. For example, a thrift shop operated by a tax-exempt organization that sells donated clothes and books to the general public, with the proceeds going to the exempt organization, isn't an unrelated trade or business.

Volunteer workforce. Any trade or business in which substantially all the work is performed for the organization without compensation isn't an unrelated trade or business.

Example 1. A retail store operated by an exempt orphanage where unpaid volunteers perform substantially all the work in carrying on the business isn't an unrelated trade or business.

Example 2. A volunteer fire company conducts weekly public dances. Holding public dances and charging admission on a regular basis may, given the facts and circumstances of a particular case, be considered an unrelated trade or business. However, because the work at the dances is performed by unpaid volunteers, the activity isn't an unrelated trade or business.

4.

Unrelated Business Taxable Income

The term "unrelated business taxable income" (UBTI) generally means the gross income derived from any unrelated trade or business regularly conducted by the exempt organization, less the deductions directly connected with carrying on the trade or business. Section 512(a)(6) requires an organization that regularly carries on two or more unrelated business activities to calculate its unrelated business taxable income, including for purposes of determining any net operating loss deduction, separately with respect to each such trade or business. The UBTI of the organization is the sum of the UBTI computed from each separate unrelated trade or business. For the purpose of this sum, the UBTI from any of the unrelated trades or businesses can't be less than zero. See Regulations section 1.512(a)-6 for more information.

In computing UBTI, gross income and deductions are subject to the modifications and special rules explained in this chapter. Whether a particular item of income or expense falls within any of these modifications or special rules must be determined by all the facts and circumstances in each specific case. For example, if the organization received a payment termed rent that is in fact a return of profits by a person operating the property for the benefit of the organization, or that is a share of the profits retained by the organization as a partner or joint venturer, the payment isn't within the income exclusion for rents, discussed later under [Exclusions](#).

Income

Generally, unrelated business income is taxable, but there are exclusions and special rules that must be considered when figuring the income.

Exclusions

The following types of income (and deductions directly connected with the income) are generally excluded when figuring UBTI.

Dividends, interest, annuities, and other investment income. All dividends, interest, annuities, payments with respect to securities loans, income from notional principal contracts, and other income from an exempt organization's ordinary and routine investments that the IRS determines are substantially similar to these types of income are excluded in computing UBTI.

Exception for insurance activity income of a controlled foreign corporation. This

exclusion doesn't apply to income from certain insurance activities of an exempt organization's controlled foreign corporation. The income isn't excludable dividend income, but instead is UBTI to the extent it would be so treated if the exempt organization had earned it directly. Certain exceptions to this rule apply. For more information, see section 512(b)(17).

Other exceptions. This exclusion doesn't apply to unrelated debt-financed income (discussed under [Income From Debt-Financed Property](#), later), or to certain rents, royalties, interest or annuities received from a controlled corporation (discussed under [Income From Controlled Organizations](#), later).

Income from lending securities. Payments received with respect to a security loan are excluded in computing UBTI only if the loan is made under an agreement that:

1. Provides for the return to the exempt organization of securities identical to the securities loaned,
2. Requires payments to the organization of amounts equivalent to all interest, dividends, and other distributions that the owner of the securities is entitled to receive during the period of the loan,
3. Doesn't reduce the organization's risk of loss or opportunity for gain on the securities,
4. Contains reasonable procedures to implement the obligation of the borrower to furnish collateral to the organization with a fair market value each business day during the period of the loan in an amount not less than the fair market value of the securities at the close of the preceding business day, and
5. Permits the organization to terminate the loan upon notice of not more than 5 business days.

Payments with respect to securities loans include:

1. Amounts in respect of dividends, interest, and other distributions,
2. Fees based on the period of time the loan is in effect and the fair market value of the security during that period,
3. Income from collateral security for the loan, and
4. Income from the investment of collateral security.

The payments are considered to be from the securities loaned and not from collateral security or the investment of collateral security from the loans. Any deductions that are directly connected with collateral security for the loan, or with the investment of collateral security, are considered deductions that are directly connected with the securities loaned.

Royalties. Royalties, including overriding royalties, are excluded in computing UBTI.

To be considered a royalty, a payment must relate to the use of a valuable right. Payments for trademarks, trade names, or copyrights are ordinarily considered royalties. Similarly,

payments for the use of a professional athlete's name, photograph, likeness, or facsimile signature are ordinarily considered royalties. However, royalties don't include payments for personal services. Therefore, payments for personal appearances and interviews aren't excluded as royalties and must be included in figuring UBTI.

Unrelated business taxable income doesn't include royalty income received from licensees by an exempt organization that is the legal and beneficial owner of patents assigned to it by inventors for specified percentages of future royalties.

Mineral royalties are excluded whether measured by production or by gross or taxable income from the mineral property. However, the exclusion doesn't apply to royalties that stem from an arrangement whereby the organization owns a working interest in a mineral property and is liable for its share of the development and operating costs under the terms of its agreement with the operator of the property. To the extent they aren't treated as loans under section 636 (relating to income tax treatment of mineral production payments), payments for mineral production are treated in the same manner as royalty payments for the purpose of computing UBTI. To the extent they are treated as loans, any payments for production that are the equivalent of interest are treated as interest and are excluded.

Exceptions. This exclusion doesn't apply to debt-financed income (discussed under [Income From Debt-Financed Property](#), later) or to royalties received from a controlled corporation (discussed under [Income From Controlled Organizations](#), later).

Rents. Rents from real property, including elevators and escalators, are excluded in computing UBTI. Rents from personal property aren't excluded. However, special rules apply to "mixed leases" of both real and personal property.

Mixed leases. In a mixed lease, all of the rents are excluded if the rents attributable to the personal property aren't more than 10% of the total rents under the lease, as determined when the personal property is first placed in service by the lessee. If the rents attributable to personal property are more than 10% but not more than 50% of the total rents, only the rents attributable to the real property are excluded. If the rents attributable to the personal property are more than 50% of the total rents, none of the rents are excludable.

Property is placed in service when the lessee first may use it under the terms of a lease. For example, property subject to a lease entered into on November 1, for a term starting on January 1 of the next year, is considered placed in service on January 1, regardless of when the lessee first actually uses it.

If separate leases are entered into for real and personal property and the properties have an integrated use (for example, one or more leases for real property and another lease or leases for personal property to be used on the real property), all the leases will be considered as one lease.

The rent attributable to the personal property must be recomputed, and the treatment of the rents must be redetermined, if:

1. The rent attributable to all the leased personal property increases by 100% or more because additional or substitute personal property is placed in service, or
2. The lease is modified to change the rent charged (whether or not the amount of rented personal property changes).

Any change in the treatment of rents resulting from the recomputation is effective only for the period beginning with the event that caused the recomputation.

Exception for rents based on net profit.

The exclusion for rents doesn't apply if the amount of the rent depends on the income or profits derived by any person from the leased property, other than an amount based on a fixed percentage of the gross receipts or sales.

Exception for income from personal services.

Payment for occupying space when personal services are also rendered to the occupant doesn't constitute rent from real property. Therefore, the exclusion doesn't apply to transactions such as renting hotel rooms, rooms in boarding houses or tourist homes, and space in parking lots or warehouses.

Other exceptions. This exclusion doesn't apply to unrelated debt-financed income (discussed under [Income From Debt-Financed Property](#), later), or to interest, annuities, royalties and rents received from a controlled corporation (discussed under [Income From Controlled Organizations](#), later), or investment income (dividends, interest, rents, etc.) received by organizations described in sections 501(c)(7), 501(c)(9), and 501(c)(17). See [Special Rules for Social Clubs, VEBAs, and SUBs](#), discussed later, for more information.

Income from research. A tax-exempt organization may exclude income from research grants or contracts from UBTI. However, the extent of the exclusion depends on the nature of the organization and the type of research.

Income from research for the United States, any of its agencies or instrumentalities, or a state or any of its political subdivisions is excluded when computing UBTI.

For a college, university, or hospital, all income from research, whether fundamental or applied, is excluded in computing UBTI.

When an organization is operated primarily to conduct fundamental research (as distinguished from applied research) and the results are freely available to the general public, all income from research performed for any person is excluded in computing UBTI.

The term research, for this purpose, doesn't include activities of a type normally conducted as an incident to commercial or industrial operations, such as testing or inspecting materials or products, or designing or constructing equipment, buildings, etc. In addition, the term fundamental research doesn't include research conducted for the primary purpose of commercial or industrial application.

Gains and losses from disposition of property. Also excluded from UBTI are gains or losses from the sale, exchange, or other disposition of property other than:

1. Stock in trade or other property of a kind that would properly be includible in inventory if on hand at the close of the tax year,
2. Property held primarily for sale to customers in the ordinary course of a trade or business, or
3. Cutting of timber that an organization has elected to consider as a sale or exchange of the timber.

It should be noted that the last exception relates only to cut timber. The sale, exchange, or other disposition of standing timber is excluded from the computation of unrelated business income, unless it constitutes property held for sale to customers in the ordinary course of business.

Lapse or termination of options. Any gain from the lapse or termination of options to buy or sell securities is excluded from UBTI. The exclusion applies only if the option is written in connection with the exempt organization's investment activities. Therefore, this exclusion isn't available if the organization is engaged in the trade or business of writing options or the options are held by the organization as inventory or for sale to customers in the ordinary course of a trade or business.

Exception. This exclusion doesn't apply to unrelated debt-financed income, discussed later under [Income From Debt-Financed Property](#).

Gain or loss on disposition of certain brownfield property. Gain or loss from the qualifying sale, exchange, or other disposition of a qualifying brownfield property (as defined in section 512(b)(19)(C)), which was acquired by the organization after December 31, 2005 and before January 1, 2011, is excluded from UBTI and is excepted from the debt-financed rules. See sections 512(b)(19) and 514(b)(1)(E).

Income from services provided under federal license. There is a further exclusion from UBTI of income from a trade or business conducted by a religious order or by an educational organization maintained by the order.

This exclusion applies only if the following requirements are met.

1. The trade or business must have been operated by the order or by the institution before May 27, 1959.
2. The trade or business must provide services under a license issued by a federal regulatory agency.
3. More than 90% of the net income from the business for the tax year must be devoted to religious, charitable, or educational purposes that constitute the basis for the religious order's exemption.
4. The rates or other charges for these services must be fully competitive with the rates or other charges of similar taxable businesses. Rates or other charges for these services will be considered as fully

competitive if they are neither materially higher nor materially lower than the rates charged by similar businesses operating in the same general area.

Exception. This exclusion doesn't apply to unrelated debt-financed income (discussed under [Income From Debt-Financed Property](#), later).

Member income of mutual or cooperative electric companies. Income of a mutual or cooperative electric company described in section 501(c)(12) that is treated as member income under subparagraph (H) of that section is excluded from UBTI.

Dues of Agricultural Organizations and Business Leagues

Dues received from associate members by organizations exempt under section 501(c)(5) or section 501(c)(6) may be treated as gross income from an unrelated trade or business if the associate member category exists for the principal purpose of producing unrelated business income. For example, if an organization creates an associate member category solely to allow associate members to purchase insurance through the organization, the associate member dues may be unrelated business income.

Exception. Associate member dues received by an agricultural or horticultural organization aren't treated as gross income from an unrelated trade or business, regardless of their purpose, provided the associate member dues do not exceed an annual limit, which is indexed for inflation. The limit on dues paid by an associate member is \$171 in 2020.

If the required annual dues are more than the limit, the entire amount is treated as income from an unrelated business unless the associate member category was formed or availed of for the principal purpose of furthering the organization's exempt purposes.

Deductions

To qualify as allowable deductions in computing UBTI, the expenses, depreciation, and similar items must generally be allowable income tax deductions that are directly connected with carrying on the unrelated trade or business to which they relate. They can't be directly connected with excluded income.

For an exception to the "directly connected" requirement, see [Charitable contributions deduction](#), under *Modifications*, later.

Directly Connected

To be directly connected with the conduct of an unrelated trade or business, deductions must have a proximate and primary relationship to carrying on that trade or business. For an exception, see [Expenses attributable to exploitation of exempt activities](#), later.

Expenses attributable solely to unrelated business. Expenses, depreciation, and simi-

lar items attributable solely to the conduct of an unrelated business are proximately and primarily related to that business and qualify for deduction to the extent that they are otherwise allowable income tax deductions.

For example, salaries of personnel employed full-time to conduct the unrelated business and depreciation of a building used entirely in the conduct of that business are deductible to the extent otherwise allowable.

Expenses attributable to dual use of facilities or personnel. When facilities or personnel are used both to conduct exempt functions and to conduct an unrelated trade or business, expenses, depreciation, and similar items attributable to the facilities or personnel must be allocated between the two uses on a reasonable basis. The part of an item allocated to the unrelated trade or business is proximately and primarily related to that business and is allowable as a deduction in computing UBTI if the expense is otherwise an allowable income tax deduction.

An exempt organization with more than one unrelated trade or business likewise allocates deductions between separate unrelated trades or businesses using the reasonable basis standard.

Example 1. A school recognized as a tax-exempt organization contracts with an individual to conduct a summer tennis camp. The school provides the individual with tennis courts, housing, and dining facilities, and personnel to maintain and operate them. The contracted individual hires the instructors, recruits campers, and provides supervision of the tennis camp. The income the school receives from the individual under the contract from this activity for the use of its facilities and personnel is from a dual use of the facilities and personnel, not from conducting an educational activity. The school, in computing its UBTI, may deduct an allocable part of the expenses attributable to the facilities and personnel it makes available under the contract.

Example 2. An exempt organization with gross income from an unrelated trade or business pays its president \$90,000 a year. The president devotes approximately 10% of his time to the unrelated business. To figure the organization's UBTI, a deduction of \$9,000 (\$90,000 × 10%) is allowed for the salary paid to its president.

Expenses attributable to exploitation of exempt activities. Generally, expenses, depreciation, and similar items attributable to the conduct of an exempt activity aren't deductible in computing UBTI from an unrelated trade or business that exploits the exempt activity. (See [Exploitation of exempt functions](#) under *Not substantially related* in chapter 3.) This is because they don't have a proximate and primary relationship to the unrelated trade or business, and therefore, they don't qualify as directly connected with that business.

Exception. Expenses, depreciation, and similar items may be treated as directly connected with the conduct of the unrelated business if all the following conditions are met.

1. The unrelated business exploits the exempt activity.
2. The unrelated business is a type normally conducted for profit by taxable organizations.
3. The exempt activity is a type normally conducted by taxable organizations in carrying on that type of business.

The amount treated as directly connected is the smaller of:

1. The excess of these expenses, depreciation, and similar items over the income from, or attributable to, the exempt activity; or
2. The gross unrelated business income reduced by all other expenses, depreciation, and other items that are actually directly connected.

The application of these rules to an advertising activity that exploits an exempt publishing activity is explained next.

Exploitation of Exempt Activity—Advertising Sales

The sale of advertising in a periodical of an exempt organization that contains editorial material related to the accomplishment of the organization's exempt purpose is an unrelated business that exploits an exempt activity, the circulation, and readership of the periodical. Therefore, in addition to direct advertising costs, exempt activity costs (expenses, depreciation, and similar expenses attributable to the production and distribution of the editorial or readership content) can be treated as directly connected with the conduct of the advertising activity. (See *Expenses attributable to exploitation of exempt activities* under *Directly Connected*, earlier.)

Figuring UBTI. The UBTI of an advertising activity is the amount shown in the following chart.

IF gross advertising income is . . .	THEN UBTI is . . .
more than direct advertising costs	the excess advertising income, reduced (but not below zero) by the excess, if any, of readership costs over circulation income.
equal to or less than direct advertising costs	zero. Circulation income and readership costs aren't taken into account.

The terms used in the chart are explained in the following discussions.

Periodical Income

Gross advertising income. This is all the income from the unrelated advertising activities of an exempt organization periodical.

Circulation income. This is all the income from the production, distribution, or circulation of an exempt organization's periodical (other

than gross advertising income). It includes all amounts from the sale or distribution of the readership content of the periodical, such as income from subscriptions. It also includes allocable membership receipts if the right to receive the periodical is associated with a membership or similar status in the organization.

Allocable membership receipts. This is the part of membership receipts (dues, fees, or other charges associated with membership) equal to the amount that would have been charged and paid for the periodical if:

1. The periodical was published by a taxable organization,
2. The periodical was published for profit, and
3. The member was an unrelated party dealing with the taxable organization at arm's length.

The amount used to allocate membership receipts is the amount shown in the following chart.

For this purpose, the total periodical costs are the sum of the direct advertising costs and the readership costs, explained under *Periodical Costs*, later. The cost of other exempt activities means the total expenses incurred by the organization in connection with its other exempt activities, not offset by any income earned by the organization from those activities.

IF . . .	THEN the amount used to allocate membership receipts is . . .
20% or more of the total circulation consists of sales to nonmembers	the subscription price charged nonmembers.
the above condition doesn't apply, and 20% or more of the members pay reduced dues because they do not receive the periodical	the reduction in dues for a member not receiving the periodical.
neither of the above conditions applies	the membership receipts multiplied by this fraction: $\frac{\text{Total periodical costs}}{\text{Total periodical costs} + \text{Cost of other exempt activities}}$

Example 1. U is an exempt scientific organization with 10,000 members who pay annual dues of \$15. One of U's activities is publishing a monthly periodical distributed to all of its members. U also distributes 5,000 additional copies of its periodical to nonmembers, who subscribe for \$10 a year. Since the nonmember circulation of U's periodical represents one-third (more than 20%) of its total circulation, the subscription price charged to nonmembers is used to determine the part of U's membership receipts allocable to the periodical. Thus, U's allocable membership receipts are \$100,000 (\$10 times 10,000 members), and U's total circulation income for the periodical is \$150,000 (\$100,000 from members plus \$50,000 from sales to nonmembers).

Example 2. Assume the same facts except that U sells only 500 copies of its periodical to nonmembers, at a price of \$10 a year. Assume also that U's members may elect not to receive the periodical, in which case their dues are reduced from \$15 a year to \$6 a year, and that only 3,000 members elect to receive the periodical and pay the full dues of \$15 a year. U's stated subscription price of \$9 to members consistently results in an excess of total income (including gross advertising income) attributable to the periodical over total costs of the periodical. Since the 500 copies of the periodical distributed to nonmembers represent only 14% of the 3,500 copies distributed, the \$10 subscription price charged to nonmembers isn't used to determine the part of membership receipts allocable to the periodical. Instead, since 70% of the members elect not to receive the periodical and pay \$9 less per year in dues, the \$9 price is used to determine the subscription price charged to members. Thus, the allocable membership receipts will be \$9 per member, or \$27,000 (\$9 times 3,000 copies). U's total circulation income is \$32,000 (\$27,000 plus the \$5,000 from nonmember subscriptions).

Periodical Costs

Direct advertising costs. These are expenses, depreciation, and similar items of deduction directly connected with selling and publishing advertising in the periodical.

Examples of allowable deductions under this classification include agency commissions and other direct selling costs, such as transportation and travel expenses, office salaries, promotion and research expenses, and office overhead directly connected with the sale of advertising lineage in the periodical. Also included are other deductions commonly classified as advertising costs under standard account classifications, such as artwork and copy preparation, telephone, telegraph, postage, and similar costs directly connected with advertising.

In addition, direct advertising costs include the part of mechanical and distribution costs attributable to advertising lineage. For this purpose, the general account classifications of items includible in mechanical and distribution costs ordinarily employed in business-paper and consumer-publication accounting provide a guide for the computation. Accordingly, the mechanical and distribution costs include the part of the costs and other expenses of composition, press work, binding, mailing (including paper and wrappers used for mailing), and bulk postage attributable to the advertising lineage of the publication.

In the absence of specific and detailed records, the part of mechanical and distribution costs attributable to the periodical's advertising lineage can be based on the ratio of advertising lineage to total lineage in the periodical, if this allocation is reasonable.

Readership costs. These are all expenses, depreciation, and similar items directly connected with the production and distribution of the readership content of the periodical.

Costs partly attributable to other activities.

Deductions properly attributable to exempt activities other than publishing the periodical may not be allocated to the periodical. When expenses are attributable both to the periodical and to the organization's other activities, an allocation must be made on a reasonable basis. The method of allocation will vary with the nature of the item, but once adopted, it should be used consistently. Allocations based on dollar receipts from various exempt activities generally aren't reasonable since receipts usually don't accurately reflect the costs associated with specific activities that an exempt organization conducts.

Consolidated Periodicals

If an exempt organization publishes more than one periodical to produce income, it may treat all of them (but not less than all) as one in determining UBTI from selling advertising. The gross income from all the periodicals, and the deductions directly connected with them is figured on a consolidated basis. Consolidated treatment, once adopted, must be followed consistently and is binding. This treatment can be changed only with the consent of the IRS.

An exempt organization's periodical is published to produce income if:

1. The periodical generates gross advertising income to the organization equal to at least 25% of its readership costs, and
2. Publishing the periodical is an activity engaged in for profit.

Whether the publication of a periodical is an activity engaged in for profit can be determined only by all the facts and circumstances in each case. The facts and circumstances must show that the organization carries on the activity for economic profit, although there may not be a profit in a particular year. For example, if an organization begins publishing a new periodical whose total costs exceed total income in the start-up years because of lack of advertising sales, that doesn't mean that the organization didn't have as its objective an economic profit. The organization may establish that it had this objective by showing it can reasonably expect advertising sales to increase, so that total income will exceed costs within a reasonable time.

Example. Y, an exempt trade association, publishes three periodicals that it distributes to its members: a weekly newsletter, a monthly magazine, and a quarterly journal. Both the monthly magazine and the quarterly journal contain advertising that accounts for gross advertising income equal to more than 25% of their respective readership costs. Similarly, the total income attributable to each periodical has exceeded the total deductions attributable to each periodical for substantially all the years they have been published. The newsletter carries no advertising and its annual subscription price isn't intended to cover the cost of publication. The newsletter is a service that Y distributes to all of its members in an effort to keep them informed of changes occurring in the business world. It is not engaged in for profit.

Under these circumstances, Y may consolidate the income and deductions from the monthly and quarterly journals in computing its UBTI. It may not consolidate the income and deductions from the newsletter with the income and deductions of its other periodicals, since the newsletter isn't published for the production of income.

Modifications

Net operating loss (NOL). An NOL arises when allowable deductions exceed gross unrelated trade or business income. Subject to modifications described in section 172, the NOL is allowed as a deduction against unrelated business taxable income for a tax year to which the NOL can be carried, as described below. The NOL for any tax year, the carryovers of NOLs, and the NOL deduction are determined without taking into account any amount of income or deduction that is specifically excluded in computing UBTI. For example, a loss from an unrelated trade or business isn't diminished because the organization received dividend income.

In line with this concept, an NOL can arise only in a tax year for which the organization is subject to tax on unrelated business income.

The Tax Cuts and Jobs Act (P.L. 115-97) and the CARES Act (P.L. 116-136) substantially modified the NOL provisions under section 172. Further, section 512(a)(6) (added by the Tax Cuts and Jobs Act) changed the way exempt organizations report and figure the tax on income from unrelated trade or business activity.

NOLs arising before 2018. Prior to the addition of section 512(b)(6), an exempt organization would compute its NOL (if any) for each tax year on an aggregate basis, regardless of the number of separate unrelated trades or business conducted by the organization. NOLs arising before 2018 (pre-2018 NOLs) can be carried forward for up to 20 years. Pre-2018 NOLs can be applied (subject to modifications) as a deduction to reduce unrelated business taxable income without regard to the unrelated trade or business activity that generated the income.

Even though an NOL can arise only in a tax year for which the organization is subject to tax on unrelated business income, the pre-2018 NOLs expire after 20 consecutive tax years. For example, if an organization was subject to the tax for 2014 and had an NOL for that year, the last tax year to which any part of that NOL may be carried over is 2034, regardless of whether the organization was subject to the unrelated business income tax in any of the intervening years.

NOLs arising in tax years after 2017. Section 512(a)(6) requires an organization with more than one unrelated trade or business to calculate UBTI in any tax year beginning after 2017, including for purposes of determining any NOL (post-2017 NOL) or applying any post-2017 NOL deduction, separately with respect to each such trade or business.

The Tax Cuts and Jobs Act (P.L. 115-97, section 13302) amended section 172(b) to

eliminate both the expiration of NOL carryforwards and the ability to carryback NOLs to earlier tax years. Certain farming and insurance company losses are exceptions and can be carried back as described in section 172(b). See Publication 225, Farmer's Tax Guide; Publication 536, Net Operating Losses; or Publication 542, Corporations; for additional information. However, the CARES Act added section 172(b)(1)(D), which provides for carryback of NOLs arising in 2018, 2019, and 2020 to each of the 5 years preceding the tax year in which the NOL arose. An organization that wishes to carry these NOLs forward must waive the carryback. See the Instructions for Form 990-T for more information.

In addition to largely eliminating NOL carrybacks (except for the CARES Act modification), the Tax Cuts and Jobs Act, as modified by the CARES Act, provides that the allowable NOL deduction for tax years beginning in 2021 cannot exceed 80% of taxable income.

An organization that had an NOL in a tax year beginning in 2018 or 2019 can file amended returns Form 990-T to carryback the NOL. See Pub. 536 for more information.

For more details on the NOL deduction, including property eligible for an extended carryback period, see section 172 and Pub. 536.

Charitable contributions deduction. An exempt organization is allowed to deduct its charitable contributions in computing its UBTI even if the contributions are not directly connected with any unrelated business.

To be deductible, the contribution must be paid to another qualified organization. For example, an exempt university that operates an unrelated business may deduct a contribution made to another university for educational work, but may not claim a deduction for contributions of amounts spent for carrying out its own educational program.

For purposes of the deduction, a distribution by a trust made under the trust instrument to a beneficiary, which itself is a qualified organization, is treated the same as a contribution.

Deduction limits. An exempt organization that is subject to the unrelated business income tax at corporate rates is allowed a deduction for charitable contributions up to 10% of its UBTI computed without regard to the deduction for contributions. See the Instructions for Form 990-T for more information.

An exempt trust that is subject to the unrelated business income tax at trust rates is generally allowed a deduction for charitable contributions in the same amounts as allowed for individuals. However, the limit on the deduction is determined in relation to the trust's UBTI computed without regard to the deduction, rather than in relation to adjusted gross income.

Contributions in excess of the limits just described may be carried over to the next 5 tax years. A contribution carryover isn't allowed, however, to the extent that it increases an NOL carryover.

Specific deduction. In computing UBTI, a specific deduction of \$1,000 is allowed. However, the specific deduction isn't allowed in computing an NOL or the NOL deduction.

Generally, the deduction is limited to \$1,000 regardless of the number of unrelated businesses in which the organization is engaged.

Exception. An exception is provided in the case of a diocese, province of a religious order, or a convention or association of churches that may claim a specific deduction for each parish, individual church, district, or other local unit. In these cases, the specific deduction for each local unit is limited to the lower of:

- \$1,000, or
- Gross income derived from an unrelated trade or business regularly conducted by the local unit.

This exception applies only to parishes, districts, or other local units that aren't separate legal entities, but are components of a larger entity (diocese, province, convention, or association) filing Form 990-T. The parent organization must file a return reporting the unrelated business gross income and related deductions of all units that aren't separate legal entities. The local units can't file separate returns. However, each local unit that is separately incorporated must file its own return and can't include, or be included with, any other entity. See [Title-holding corporations](#) in chapter 1 for a discussion of the only situation in which more than one legal entity may be included on the same Form 990-T.

Example. X is an association of churches and is divided into local units A, B, C, and D. Last year, A, B, C, and D derived gross income of, respectively, \$1,200, \$800, \$1,500, and \$700 from unrelated businesses that they regularly conduct. X may claim a specific deduction of \$1,000 with respect to A, \$800 with respect to B, \$1,000 with respect to C, and \$700 with respect to D.

Partnership Income or Loss

An organization may have unrelated business income or loss as a member of an entity classified as a partnership for federal tax purposes (see section 7701 and corresponding regulations), rather than through direct business dealings with the public. If so, it must treat its share of the partnership income or loss as if it had conducted the business activity in its own capacity as a corporation or trust. No distinction is made between limited and general partners or managing or non-managing members of a limited liability company. The organization is required to notify the partnership of its tax-exempt status. See Regulations section 1.512(a)-6 for information and transition rules under section 512(a)(6) for aggregating income from partnerships and debt-financed income from partnerships.

Thus, if an organization is a member of a partnership regularly engaged in a trade or business that is an unrelated trade or business with respect to the organization, the organization must include in its UBTI its share of the partnership's gross income from the unrelated trade or business (whether or not distributed), and the deductions attributable to it. The

partnership income and deductions to be included in the organization's UBTI are figured the same way as any income and deductions from an unrelated trade or business conducted directly by the organization. The partnership is required to provide the organization this information on Schedule K-1.

Example. An exempt educational organization is a partner in a partnership that operates a factory. The partnership also holds stock in a corporation. The exempt organization must include its share of the gross income from operating the factory in its UBTI but may exclude its share of any dividends the partnership received from the corporation.

Different tax years. If the exempt organization and the partnership of which it is a member have different tax years, the partnership items that enter into the computation of the organization's UBTI must be based on the income and deductions of the partnership for the partnership's tax year that ends within the organization's tax year.

S Corporation Income or Loss

An organization that owns S corporation stock must take into account its share of the S corporation's income, deductions, and losses in figuring UBTI, regardless of the actual source or nature of the income, deductions, and losses. For example, the organization's share of the S corporation's interest and dividend income will be taxable, even though interest and dividends are normally excluded from UBTI. The organization must also take into account its gain or loss on the sale or other disposition of the S corporation stock in figuring UBTI.

Special Rules for Foreign Organizations

The UBTI of a foreign organization exempt from tax under section 501(a) consists of the organization's:

1. Unrelated business taxable income derived from sources within the United States but not effectively connected with the conduct of a trade or business within the United States; and
2. Unrelated business taxable income effectively connected with the conduct of a trade or business within the United States, whether or not this income is derived from sources within the United States.

To determine whether income realized by a foreign organization is derived from sources within the United States or is effectively connected with the conduct of a trade or business within the United States, see sections 861 through 865 and the related regulations.

Special Rules for Social Clubs, VEBAs, and SUBs

The following discussion applies to:

- **Social clubs** described in section 501(c)(7),
- **Voluntary employees' beneficiary associations (VEBAs)** described in section 501(c)(9), and
- **Supplemental unemployment compensation benefit trusts (SUBs)** described in section 501(c)(17).

In general, these organizations are subject to the tax on income from unrelated trade or business activities and must apply the rules under section 512(a)(6). See Regulations section 1.512(a)-6 for more information. However, they must also must figure UBTI under special rules. Unlike other exempt organizations, they can't exclude their investment income (dividends, interest, rents, etc.). (See [Exclusions](#) under *Income*, earlier.) Therefore, they are generally subject to unrelated business income tax on this income.

The UBTI of these organizations includes all gross income, less deductions directly connected with the production of that income, except that gross income for this purpose doesn't include exempt function income. The deduction for dividends received by a corporation isn't allowed in computing UBTI because it isn't an expense incurred in the production of income.

Losses from nonexempt activities. Losses from nonexempt activities of these organizations can't be used to offset investment income.

Modifications. The UBTI is modified by any NOL or charitable contributions deduction and by the specific deduction (described earlier under [Deductions](#)).

Exempt function income. This is gross income from dues, fees, charges, or similar items paid by members for goods, facilities, or services to the members or their dependents or guests, to further the organization's exempt purposes. Exempt function income also includes income set aside for qualified purposes.

Income that is set aside. This is income set aside to be used for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals. In addition, for a VEBA or SUB it is income set aside to provide for the payment of life, sick, accident, or other benefits.

However, any amounts set aside by a VEBA or SUB that exceed the organization's qualified asset account limit (determined under section 419A) are unrelated business income. Special rules apply to the treatment of existing reserves for post-retirement medical or life insurance benefits. These rules are explained in section 512(a)(3)(E)(ii).

Income derived from an unrelated trade or business may not be set aside and therefore can't be exempt function income. In addition, any income set aside and later spent for other purposes must be included in UBTI.

Set-aside income is generally excluded from gross income only if it is set aside in the tax year in which it is otherwise includible in gross income. However, income set aside on or before the date for filing Form 990-T, including extensions of time, may, at the election of the organization, be treated as having been set aside in the tax year for which the return was filed. The income set aside must have been includible in gross income for that earlier year.

Nonrecognition of gain. If the organization sells property used directly in performing an exempt function and purchases other property used directly in performing an exempt function, any gain on the sale is recognized only to the extent that the sales price of the old property exceeds the cost of the new property. The purchase of the new property must be made within 1 year before the date of sale of the old property or within 3 years after the date of sale.

This rule also applies to gain from an involuntary conversion of the property resulting from its destruction in whole or in part, theft, seizure, requisition, or condemnation.

Special Rules for Veterans' Organizations

Unrelated business taxable income of a veterans' organization that is exempt under section 501(c)(19) doesn't include the net income from insurance business that is properly set aside. The organization may set aside income from payments received for life, sick, accident, or health insurance for the organization's members or their dependents for the payment of insurance benefits or reasonable costs of insurance administration, or for use exclusively for religious, charitable, scientific, literary, or educational purposes, or the prevention of cruelty to children or animals. For details, see section 512(a)(4) and the regulations under that section.

Income From Controlled Organizations

The exclusions for interest, annuities, royalties, and rents, explained earlier in this chapter under *Income*, may not apply to a payment of these items received by a controlling organization from its controlled organization. The payment is included in the controlling organization's UBTI to the extent it reduced the net unrelated income (or increased the net unrelated loss) of the controlled organization. All deductions of the controlling organization directly connected with the amount included in its UBTI are allowed.

Excess qualifying specified payments. Excess qualifying specified payments received or accrued from a controlled entity are included in a controlling exempt organization's UBTI only to the extent of the amount that exceeds that would have been paid or accrued if the payments had been determined under section 482. Qualifying specified payments means any payments of interest, annuities, royalties, or rents

received or accrued from the controlled organization pursuant to a binding written contract in effect on August 17, 2006, or to a contract which is a renewal, under substantially similar terms of a binding written contract in effect on August 17, 2006, and the payments are received or accrued after December 31, 2014.

If a controlled participant isn't required to file a U.S. income tax return, the participant must ensure that the copy or copies of the Regulations section 1.482-7 Cost Sharing Arrangement Statement and any updates are attached to Schedule M of any Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations, any Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business, or any Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, filed for that participant.

Addition to tax for valuation misstatements. Under section 512(b)(13)(E)(ii), the tax imposed on a controlling organization will be increased by 20% of the excess qualifying specified payments that are determined with or without any amendments or supplements to a return of tax, whichever is larger. See section 512(b)(13)(E)(ii) for more information.

Net unrelated income. This is:

- For an exempt organization, its UBTI, or
- For a nonexempt organization, the part of its taxable income that would be UBTI if it were exempt and had the same exempt purposes as the controlling organization.

Net unrelated loss. This is:

- For an exempt organization, its NOL, or
- For a nonexempt organization, the part of its NOL that would be its NOL if it were exempt and had the same exempt purposes as the controlling organization.

Control. An organization is controlled if:

- For a corporation, the controlling organization owns (by vote or value) more than 50% of the stock,
- For a partnership, the controlling organization owns more than 50% of the profits or capital interests, or
- For any other organization, the controlling organization owns more than 50% of the beneficial interest.

For this purpose, constructive ownership of stock (determined under section 318) or other interests is taken into account.

As a result, an exempt parent organization is treated as controlling any subsidiary in which it holds more than 50% of the voting power or value, whether directly (as in the case of a first-tier subsidiary) or indirectly (as in the case of a second-tier subsidiary).

Income From Property Financed With Qualified 501(c)(3) Bonds

If any part of a 501(c)(3) organization's property financed with qualified 501(c)(3) bonds is used in a trade or business of any person other than

a section 501(c)(3) organization or a governmental unit, and such use isn't consistent with the requirements for qualified 501(c)(3) bonds under section 145, the section 501(c)(3) organization is considered to have received unrelated business income in the amount of the greater of the actual rental income or the fair rental value of the property for the period it is used. No deduction is allowed for interest on the private activity bond. See sections 150(b)(3) and (c) for more information.

Disposition of Property Received From Taxable Subsidiary and Used in Unrelated Business

A taxable 80%-owned subsidiary corporation of one or more tax-exempt entities is generally subject to tax on a distribution in liquidation of its assets to its exempt parent (or parents). The assets are treated as if sold at fair market value.

Tax-exempt entities include organizations described in sections 501(a), 529, and 115, charitable remainder trusts, U.S. and foreign governments, Indian tribal governments, international organizations, and similar non-taxable organizations.

A taxable corporation that transfers substantially all of its assets to a tax-exempt entity in a transaction that otherwise qualifies for nonrecognition treatment must recognize gain on the transaction as if it sold the assets at fair market value. However, such a transfer isn't taxable if it qualifies as a like-kind exchange under section 1031 or an involuntary conversion under section 1033. In such a case, the built-in appreciation is preserved in the replacement property received in the transaction.

A corporation that changes status from taxable to tax-exempt is treated generally as if it transferred all of its assets to a tax-exempt entity immediately before the change in status (thus subjecting it to the tax on a deemed sale for fair market value). This rule doesn't apply where the taxable corporation becomes exempt within 3 years of formation, or had previously been exempt and within several years (generally a period of 3 years) regains exemption, unless the principal purpose of the transactions is to avoid the tax on the change in status.

In the transactions described above, the taxable event is deferred for property that the tax-exempt entity immediately uses in an unrelated business. If the parent later disposes of the property, then any gain (not in excess of the amount not recognized) is included in the parent's UBTI. If there is partial use of the assets in unrelated business, then there is partial recognition of gain or loss. Property is treated as disposed if the tax-exempt entity no longer uses it in an unrelated business.

Losses on the transfer of assets to a tax-exempt entity are disallowed if part of a plan with a principal purpose of recognizing losses.

Income From Debt-Financed Property

Investment income that would otherwise be excluded from an exempt organization's UBTI (see *Exclusions* under *Income*, earlier) must be included to the extent it is derived from debt-financed property. The amount of income included is proportionate to the debt on the property.

Debt-Financed Property

In general, the term "debt-financed property" means any property held to produce income (including gain from its disposition) for which there is an acquisition indebtedness at any time during the tax year (or during the 12-month period before the date of the property's disposal, if it was disposed of during the tax year). However, the tax on unrelated debt-financed income under section 514 does not apply to property used for an exempt purpose. See *Exceptions to Debt-Financed Property*, later. Sources of unrelated debt-financed income include rental real estate, tangible personal property, and corporate stock.

Acquisition Indebtedness

For any debt-financed property, acquisition indebtedness is the unpaid amount of debt incurred by an organization:

1. When acquiring or improving the property,
2. Before acquiring or improving the property if the debt would not have been incurred except for the acquisition or improvement, and
3. After acquiring or improving the property if:
 - a. The debt would not have been incurred except for the acquisition or improvement, and
 - b. Incurring the debt was reasonably foreseeable when the property was acquired or improved.

The facts and circumstances of each situation determine whether incurring a debt was reasonably foreseeable. That an organization may not have foreseen the need to incur a debt before acquiring or improving the property doesn't necessarily mean that incurring the debt later wasn't reasonably foreseeable.

Example 1. Y, an exempt scientific organization, mortgages its laboratory to replace working capital used in remodeling an office building that Y rents to an insurance company for nonexempt purposes. The debt is acquisition indebtedness since the debt, though incurred after the improvement of the office building, would not have been incurred without the improvement, and the debt was reasonably foreseeable when, to make the improvement, Y reduced its working capital below the amount necessary to continue current operations.

Example 2. X, an exempt organization, forms a partnership with A and B. The

partnership agreement provides that all three partners will share equally in the profits of the partnership, each will invest \$3 million, and X will be a limited partner. X invests \$1 million of its own funds in the partnership and \$2 million of borrowed funds.

The partnership buys as its sole asset an office building that it leases to the public for non-exempt purposes. The office building costs the partnership \$24 million, of which \$15 million is borrowed from Y bank. The loan is secured by a mortgage on the entire office building. By agreement with Y bank, X isn't personally liable for payment of the mortgage.

X has acquisition indebtedness of \$7 million. This amount is the \$2 million debt X incurred in acquiring the partnership interest, plus the \$5 million that is X's allocable part of the partnership's debt incurred to buy the office building (one-third of \$15 million).

Example 3. A labor union advanced funds, from existing resources and without any borrowing, to its tax-exempt subsidiary title-holding company. The subsidiary used the funds to pay a debt owed to a third party that was previously incurred in acquiring two income-producing office buildings. Neither the union nor the subsidiary has incurred any further debt in acquiring or improving the property. The union has no outstanding debt on the property. The subsidiary's debt to the union is represented by a demand note on which the subsidiary makes payments whenever it has the available cash. The books of the union and the subsidiary list the outstanding debt as inter-organizational indebtedness.

Although the subsidiary's books show a debt to the union, it isn't the type subject to the debt-financed property rules. In this situation, the very nature of the title-holding company and the parent-subsidiary relationship shows this debt to be merely a matter of accounting between the two organizations. Accordingly, the debt isn't acquisition indebtedness.

Change in use of property. If an organization converts property that isn't debt-financed property to a use that results in its treatment as debt-financed property, the outstanding principal debt on the property is thereafter treated as acquisition indebtedness.

Example. Four years ago a university borrowed funds to acquire an apartment building as housing for married students. Last year, the university rented the apartment building to the public for nonexempt purposes. The outstanding principal debt becomes acquisition indebtedness as of the time the building was first rented to the public.

Continued debt. If an organization sells property and, without paying off debt that would be acquisition indebtedness if the property were debt-financed property, buys property that is otherwise debt-financed property, the unpaid debt is acquisition indebtedness for the new property. This is true even if the original property wasn't debt-financed property.

Example. To house its administration offices, an exempt organization bought a building using \$600,000 of its own funds and \$400,000 of borrowed funds secured by a pledge of its

securities. The office building wasn't debt-financed property. The organization later sold the building for \$1 million without repaying the \$400,000 loan. It used the sale proceeds to buy an apartment building it rents to the general public. The unpaid debt of \$400,000 is acquisition indebtedness with respect to the apartment building.

Property acquired subject to mortgage or lien. If property (other than certain gifts, bequests, and devises) is acquired subject to a mortgage, the outstanding principal debt secured by that mortgage is treated as acquisition indebtedness even if the organization didn't assume or agree to pay the debt.

Example. An exempt organization paid \$50,000 for real property valued at \$150,000 and subject to a \$100,000 mortgage. The \$100,000 of outstanding principal debt is acquisition indebtedness, as though the organization had borrowed \$100,000 to buy the property.

Liens similar to a mortgage. In determining acquisition indebtedness, a lien similar to a mortgage is treated as a mortgage. A lien is similar to a mortgage if title to property is encumbered by the lien for a creditor's benefit. However, when state law provides that a lien for taxes or assessments attaches to property before the taxes or assessments become due and payable, the lien isn't treated as a mortgage until after the taxes or assessments have become due and payable and the organization has had an opportunity to eliminate the lien by paying the amount it secured in accordance with state law. Liens similar to mortgages include (but aren't limited to):

1. Deeds of trust,
2. Conditional sales contracts,
3. Chattel mortgages,
4. Security interests under the Uniform Commercial Code,
5. Pledges,
6. Agreements to hold title in escrow, and
7. Liens for taxes or assessments (other than those discussed earlier in this paragraph).

Exception for property acquired by gift, bequest, or devise. If property subject to a mortgage is acquired by gift, bequest, or devise, the outstanding principal debt secured by the mortgage isn't treated as acquisition indebtedness during the 10-year period following the date the organization receives the property. However, this applies to a gift of property only if:

1. The mortgage was placed on the property more than 5 years before the date the organization received it, and
2. The donor held the property for more than 5 years before the date the organization received it.

This exception doesn't apply if an organization assumes and agrees to pay all or part of the debt secured by the mortgage or makes any payment for the equity in the property owned by the donor or decedent (other than a payment under an annuity obligation excluded from the

definition of acquisition indebtedness, discussed under [Debt That Isn't Acquisition Indebtedness](#), later).

Whether an organization has assumed and agreed to pay all or part of a debt in order to acquire the property is determined by the facts and circumstances of each situation.

Modifying existing debt. Extending, renewing, or refinancing an existing debt is considered a continuation of that debt to the extent its outstanding principal doesn't increase. When the principal of the modified debt is more than the outstanding principal of the old debt, the excess is treated as a separate debt.

Extension or renewal. In general, any modification or substitution of the terms of a debt by an organization is considered an extension or renewal of the original debt, rather than the start of a new one, to the extent that the outstanding principal of the debt doesn't increase.

The following are examples of acts resulting in the extension or renewal of a debt:

1. Substituting liens to secure the debt,
2. Substituting obligees whether or not with the organization's consent,
3. Renewing, extending, or accelerating the payment terms of the debt, and
4. Adding, deleting, or substituting sureties or other primary or secondary obligors.

Debt increase. If the outstanding principal of a modified debt is more than that of the unmodified debt, and only part of the refinanced debt is acquisition indebtedness, the payments on the refinanced debt must be allocated between the old debt and the excess.

Example. An organization has an outstanding principal debt of \$500,000 that is treated as acquisition indebtedness. The organization borrows another \$100,000, which isn't acquisition indebtedness, from the same lender, resulting in a \$600,000 note for the total obligation. A payment of \$60,000 on the total obligation would reduce the acquisition indebtedness by \$50,000 ($\$60,000 \times \$500,000/\$600,000$) and the excess debt by \$10,000.

Debt That Isn't Acquisition Indebtedness

Certain debt and obligations aren't acquisition indebtedness. These include the following.

- Debts incurred in performing an exempt purpose.
- Annuity obligations.
- Securities loans.
- Real property debts of qualified organizations.
- Certain Federal financing.

Debt incurred in performing exempt purpose. A debt incurred in performing an exempt purpose isn't acquisition indebtedness. For example, acquisition indebtedness doesn't include the debt an exempt credit union incurs in accepting deposits from its members or the debt an exempt organization incurs in accepting payments from its members to provide them with insurance, retirement, or other benefits.

Annuity obligation. The organization's obligation to pay an annuity isn't acquisition indebtedness if the annuity meets all the following requirements.

1. It must be the sole consideration (other than a mortgage on property acquired by gift, bequest, or devise that meets the exception discussed under [Property acquired subject to mortgage or lien](#), earlier in this chapter) issued in exchange for the property received.
2. Its present value, at the time of exchange, must be less than 90% of the value of the prior owner's equity in the property received.
3. It must be payable over the lives of either one or two individuals living when issued.
4. It must be payable under a contract that:
 - a. Doesn't guarantee a minimum nor specify a maximum number of payments, and
 - b. Doesn't provide for any adjustment of the amount of the annuity payments based on the income received from the transferred property or any other property.

Example. X, an exempt organization, receives property valued at \$100,000 from donor A, a male age 60. In return X promises to pay A \$6,000 a year for the rest of A's life, with neither a minimum nor maximum number of payments specified. The amounts paid under the annuity aren't dependent on the income derived from the property transferred to X. The present value of this annuity is \$81,156, determined from IRS valuation tables. Since the value of the annuity is less than 90 percent of A's \$100,000 equity in the property transferred and the annuity meets all the other requirements just discussed, the obligation to make annuity payments isn't acquisition indebtedness.

Securities loans. Acquisition indebtedness doesn't include an obligation of the exempt organization to return collateral security provided by the borrower of the exempt organization's securities under a securities loan agreement (discussed under [Exclusions](#), earlier in this chapter). This transaction isn't treated as the borrowing by the exempt organization of the collateral furnished by the borrower (usually a broker) of the securities.

However, if the exempt organization incurred debt to buy the loaned securities, any income from the securities (including income from lending the securities) would be debt-financed income. For this purpose, any payments because of the securities are considered to be from the securities loaned and not from collateral security or the investment of collateral security from the loans. Any deductions that are directly connected with collateral security for the loan, or with the investment of collateral security, are considered deductions that are directly connected with the securities loaned.

Short sales. Acquisition indebtedness doesn't include the "borrowing" of stock from a broker to sell the stock short. Although a short sale creates an obligation, it doesn't create debt.

Real property debts of qualified organizations. In general, acquisition indebtedness doesn't include debt incurred by a qualified organization in acquiring or improving any real property. A qualified organization is:

1. A qualified retirement plan under section 401(a),
2. An educational organization described in section 170(b)(1)(A)(ii) and certain of its affiliated support organizations,
3. A title-holding company described in section 501(c)(25), or
4. A retirement income account described in section 403(b)(9) in acquiring or improving real property in tax years beginning on or after August 17, 2006.

This exception from acquisition indebtedness doesn't apply in the following six situations.

1. The acquisition price isn't a fixed amount determined as of the date of the acquisition or the completion of the improvement. However, the terms of a sales contract may provide for price adjustments due to customary closing adjustments such as prorating property taxes. The contract also may provide for a price adjustment if it is for a fixed amount dependent upon subsequent resolution of limited, external contingencies such as zoning approvals, title clearances, and the removal of easements. These conditions in the contract will not cause the price to be treated as an undetermined amount. However, see [Note 1](#) at the end of this list.
2. Any debt or other amount payable for the debt, or the time for making any payment, depends, in whole or in part, upon any revenue, income, or profits derived from the real property. However, see [Note 1](#) at the end of this list.
3. The real property is leased back to the seller of the property or to a person related to the seller as described in section 267(b) or section 707(b). However, see [Note 2](#) at the end of this list.
4. The real property is acquired by a qualified retirement plan from, or after its acquisition is leased by a qualified retirement plan to, a related person. However, see [Note 2](#) at the end of this list. For this purpose, a related person is:
 - a. An employer who has employees covered by the plan,
 - b. An owner with at least a 50% interest in an employer described in (a),
 - c. A member of the family of any individual described in (a) or (b),
 - d. A corporation, partnership, trust, or estate in which a person described in (a), (b), or (c) has at least a 50% interest, or
 - e. An officer, director, 10% or more shareholder, or highly compensated employee of a person described in (a), (b), or (d).

5. The seller, a person related to the seller (under section 267(b) or section 707(b)), or a person related to a qualified retirement plan (as described in (4)) provides financing for the transaction on other than commercially reasonable terms.
6. The real property is held by a partnership in which an exempt organization is a partner (along with taxable entities), and the principal purpose of any allocation to an exempt organization is to avoid tax. This generally applies to property placed in service after 1986. For more information, see section 514(c)(9)(B)(vi) and section 514(c)(9)(E).

Note 1. Qualifying sales by financial institutions of foreclosure property or certain conservatorship or receivership property aren't included in (1) or (2) and, therefore, don't give rise to acquisition indebtedness. For more information, see section 514(c)(9)(H).

Note 2. For purposes of (3) and (4), small leases are disregarded. A small lease is one that covers no more than 25% of the leasable floor space in the property and has commercially reasonable terms.

Certain federal financing. Acquisition indebtedness doesn't include an obligation, to the extent it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low or moderate income people.

In addition, acquisition indebtedness doesn't include indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 after October 22, 2004, if such indebtedness is evidenced by a debenture issued by such company and held or guaranteed by the Small Business Administration. However, this provision doesn't apply to any small business investment company during any period that any organization which is exempt from tax (other than a governmental unit) owns more than 25% of the capital or profits interest in such company, or organizations which are exempt from tax (including governmental agencies other than any agency or instrumentality of the United States) own, in the aggregate, 50% or more of the capital or profits interest in such company.

Exceptions to Debt-Financed Property

Certain property is excepted from treatment as debt-financed property.

Property related to exempt purposes. If substantially all (85% or more) of the use of any property is substantially related to an organization's exempt purposes, the property isn't treated as debt-financed property. Related use doesn't include a use related solely to the organization's need for income, or its use of the profits. The extent to which property is used for a particular purpose is determined on the basis of all the facts. They may include:

1. A comparison of the time the property is used for exempt purposes with the total time the property is used,
2. A comparison of the part of the property that is used for exempt purposes with the part used for all purposes, or
3. Both of these comparisons.

If less than 85% of the use of any property is devoted to an organization's exempt purposes, only that part of the property used to further the organization's exempt purposes isn't treated as debt-financed property.

Property used in an unrelated trade or business. To the extent that the gross income from any property is treated as income from the conduct of an unrelated trade or business, the property isn't treated as debt-financed property. However, any gain on the disposition of the property not included in income from an unrelated trade or business is includible as gross income derived from, or on account of, debt-financed property.

The rules for debt-financed property don't apply to rents from personal property, certain passive income from controlled organizations, and other amounts that are required by other rules to be included in computing UBTI.

Property used in research activities. Property isn't treated as debt-financed property when it produces gross income derived from research activities otherwise excluded from the unrelated trade or business tax. See [Income from research](#) under *Exclusions*, earlier in this chapter.

Property used in certain excluded activities. Debt-financed property doesn't include property used in a trade or business that is excluded from the definition of "unrelated trade or business" because:

1. It has a volunteer workforce,
2. It is conducted for the convenience of its members, or
3. It consists of selling donated merchandise.

See [Excluded Trade or Business Activities](#) in chapter 3.

Related exempt uses. Property owned by an exempt organization and used by a related exempt organization, or by an exempt organization related to that related exempt organization, isn't treated as debt-financed property when the property is used by either organization to further its exempt purpose. Furthermore, property isn't treated as debt-financed property when a related exempt organization uses it for research activities or certain excluded activities, as described above.

Related organizations. An exempt organization is related to another exempt organization only if:

1. One organization is an exempt holding company and the other receives profits derived by the exempt holding company,
2. One organization controls the other as discussed under [Income From Controlled Organizations](#) earlier in this chapter,

3. More than 50% of the members of one organization are members of the other, or
4. Each organization is a local organization directly affiliated with a common state, national, or international organization that also is exempt.

Medical clinics. Real property isn't debt-financed property if it is leased to a medical clinic and the lease is entered into primarily for purposes related to the lessor's exercise or performance of its exempt purpose.

Example. An exempt hospital leases all of its clinic space to an unincorporated association of physicians and surgeons. They, under the lease, agree to provide all of the hospital's outpatient medical and surgical services and to train all of the hospital's residents and interns. In this case the rents received aren't unrelated debt-financed income.

Life income contract. If an individual transfers property to a trust or a fund with the income payable to that individual or other individuals for a period not to exceed the life of the individual or individuals, and with the remainder payable to an exempt charitable organization, the property isn't treated as debt-financed property. This exception applies only where the payments to the individual aren't the proceeds of a sale or exchange of the property transferred.

Neighborhood land rule. If an organization acquires real property with the intention of using the land for exempt purposes within 10 years, it will not be treated as debt-financed property if it is in the neighborhood of other property that the organization uses for exempt purposes. This rule applies only if the intent to demolish any existing structures and use the land for exempt purposes within 10 years isn't abandoned.

Property is considered in the neighborhood of property that an organization owns and uses for its exempt purposes if it is contiguous with the exempt purpose property or would be contiguous except for an intervening road, street, railroad, stream, or similar property. If it isn't contiguous with the exempt purpose property, it still may be in the same neighborhood if it is within 1 mile of the exempt purpose property and if the facts and circumstances make it unreasonable to acquire the contiguous property.

Some issues to consider in determining whether acquiring contiguous property is unreasonable include the availability of land and the intended future use of the land.

Example. A university tries to buy land contiguous to its present campus, but can't do so because the owners either refuse to sell or ask unreasonable prices. The nearest land of sufficient size and utility is a block away from the campus. The university buys this land. Under these circumstances, the contiguity requirement is unreasonable and not applicable. The land bought would be considered neighborhood land.

Exceptions. For all organizations other than churches and conventions or associations of churches, discussed later under [Churches](#), the neighborhood land rule doesn't apply to property after the 10 years following its

acquisition. Further, the rule applies after the first 5 years only if the organization satisfies the IRS that use of the land for exempt purposes is reasonably certain before the 10-year period expires. The organization need not show binding contracts to satisfy this requirement; but it must have a definite plan detailing a specific improvement and a completion date, and it must show some affirmative action toward the fulfillment of the plan. This information should be forwarded to the IRS for a ruling at least 90 days before the end of the 5th year after acquisition of the land. Send information to:

Internal Revenue Service
Attn: CC:PA:LPD:DRU
P.O. Box 120, Ben Franklin Station
Washington, DC 20044

If a private delivery service is used, the address is:

Internal Revenue Service
Attn: CC:PA:LPD:DRU, Room 5336
1111 Constitution Ave. NW
Washington, DC 20224

The IRS may grant a reasonable extension of time for requesting the ruling if the organization can show good cause. For more information, contact the IRS.



For any updates to these addresses go to [IRS.gov/Pub598](https://www.irs.gov/pub598).

Actual use. If the neighborhood land rule doesn't apply because the acquired land isn't in the neighborhood of other land used for an organization's exempt purposes, or because the organization fails to establish after the first 5 years of the 10-year period that the property will be used for exempt purposes, but the land is used eventually by the organization for its exempt purposes within the 10-year period, the property isn't treated as debt-financed property for any period before the conversion.

Limits. The neighborhood land rule or actual use rule applies to any structure on the land when acquired, or to the land occupied by the structure, only so long as the intended future use of the land in furtherance of the organization's exempt purpose requires that the structure be demolished or removed in order to use the land in this manner. Thus, during the first 5 years after acquisition (and for later years if there is a favorable ruling), improved property isn't debt-financed so long as the organization doesn't abandon its intent to demolish the existing structures and use the land in furtherance of its exempt purpose. If an actual demolition of these structures occurs, the use made of the land need not be the one originally intended as long as its use furthers the organization's exempt purpose.

In addition to this limit, the neighborhood land rule and the actual use rule don't apply to structures erected on land after its acquisition. They don't apply to property subject to a business lease (as defined in section 1.514(f)-1 of the regulations) whether an organization acquired the property subject to the lease, or whether it executed the lease after acquisition. A business lease is any lease, with certain

exceptions, of real property for a term of more than 5 years by an exempt organization if at the close of the lessor's tax year there is a business lease (acquisition) indebtedness on that property.

Refund of taxes. When the neighborhood land rule doesn't initially apply, but the land is eventually used for exempt purposes, a refund or credit of any overpaid taxes will be allowed for a prior tax year as a result of the satisfaction of the actual use rule. A claim must be filed within 1 year after the close of the tax year in which the actual use rule is satisfied. Interest rates on any overpayment are governed by the regulations.

Example. In January 2009, Y, a calendar year exempt organization, acquired real property contiguous to other property that Y uses in furtherance of its exempt purpose. Assume that without the neighborhood land rule, the property would be debt-financed property. Y didn't satisfy the IRS by January 2014 that the existing structure would be demolished and the land would be used in furtherance of its exempt purpose. From 2014 until the property is converted to an exempt use, the income from the property is subject to the tax on unrelated business income. During July 2018, Y will demolish the existing structure on the land and begin using the land in furtherance of its exempt purpose. At that time, Y can file claims for refund for the open years 2015 through 2017.

Further, Y also can file a claim for refund for 2014, even though a claim for that tax year may be barred by the statute of limitations, provided the claim is filed before the close of 2019.

Churches. The neighborhood land rule as described here also applies to churches, or a convention or association of churches, but with two differences:

1. The period during which the organization must demonstrate the intent to use acquired property for exempt purposes is increased from 10 to 15 years, and
2. Acquired property doesn't have to be in the neighborhood of other property used by the organization for exempt purposes.

Thus, if a church or association or convention of churches acquires real property for the primary purpose of using the land in the exercise or performance of its exempt purpose, within 15 years after the time of acquisition, the property isn't treated as debt-financed property as long as the organization doesn't abandon its intent to use the land in this manner within the 15-year period.

This exception for a church or association or convention of churches doesn't apply to any property after the 15-year period expires. Further, this rule will apply after the first 5 years of the 15-year period only if the church or association or convention of churches establishes to the satisfaction of the IRS that use of the acquired land in furtherance of the organization's exempt purpose is reasonably certain before the 15-year period expires.

If a church or association or convention of churches can't establish after the first 5 years of the 15-year period that use of acquired land for its exempt purpose is reasonably certain within

the 15-year period, but the land is in fact converted to an exempt use within the 15-year period, the land isn't treated as debt-financed property for any period before the conversion.

The same rule for demolition or removal of structures, as discussed earlier in this chapter under **Limits**, applies to a church or an association or a convention of churches.

Computation of Debt-Financed Income

For each debt-financed property, the unrelated debt-financed income is a percentage (not over 100%) of the total gross income derived during a tax year from the property. This percentage is the same percentage as the average acquisition indebtedness with respect to the property for the tax year of the property's average adjusted basis for the year (the debt/basis percentage). Thus, the formula for deriving unrelated debt-financed income is:

$$\frac{\text{average acquisition indebtedness}}{\text{average adjusted basis}} \times \text{gross income from debt-financed property}$$

Example. X, an exempt trade association, owns an office building that is debt-financed property. The building produced \$10,000 of gross rental income last year. The average adjusted basis of the building during that year was \$100,000, and the average acquisition indebtedness with respect to the building was \$50,000. Accordingly, the debt/basis percentage was 50% (the ratio of \$50,000 to \$100,000). Therefore, the unrelated debt-financed income with respect to the building was \$5,000 (50% of \$10,000).

Gain or loss from sale or other disposition of property. If an organization sells or otherwise disposes of debt-financed property, it must include, in computing UBTI, a percentage (not over 100%) of any gain or loss. The percentage is that of the highest acquisition indebtedness with respect to the property during the 12-month period preceding the date of disposition, in relation to the property's average adjusted basis.

The tax on this percentage of gain or loss is determined according to the usual rules for capital gains and losses.

Debt-financed property exchanged for subsidiary's stock. A transfer of debt-financed property by a tax-exempt organization to its wholly owned taxable subsidiary, in exchange for additional stock in the subsidiary, isn't considered a gain subject to the tax on unrelated business income.

Example. A tax-exempt hospital wants to build a new hospital complex to replace its present old and obsolete facility. The most desirable location for the new hospital complex is a site occupied by an apartment complex. Several years ago the hospital bought the land and apartment complex, taking title subject to a first mortgage already on the premises.

For valid business reasons, the hospital proposed to exchange the land and apartment

complex, subject to the mortgage on the property, for additional stock in its wholly owned subsidiary. The exchange satisfied all the requirements of section 351(a).

The transfer of appreciated debt-financed property from the tax-exempt hospital to its wholly owned subsidiary in exchange for stock didn't result in a gain subject to the tax on unrelated business income.

Gain or loss on disposition of certain brownfield property. Gain or loss from the qualifying sale, exchange, or other disposition of a qualifying brownfield property (as defined in section 512(b)(19)(C)), which was acquired by the organization after December 31, 2004, is excluded from UBTI and is excepted from the debt-financed rules for such property. See sections 512(b)(19) and 514(b)(1)(E).

Average acquisition indebtedness. This is the average amount of outstanding principal debt during the part of the tax year that the organization holds the property.

Average acquisition indebtedness is computed by determining how much principal debt is outstanding on the first day in each calendar month during the tax year that the organization holds the property, adding these amounts, and dividing the sum by the number of months during the year that the organization held the property. Part of a month is treated as a full month in computing average acquisition indebtedness.

Indeterminate price. If an organization acquires or improves property for an indeterminate price (that is, neither the price nor the debt is certain), the unadjusted basis and the initial acquisition indebtedness are determined as follows, unless the organization obtains the IRS's consent to use another method:

- The unadjusted basis is the fair market value of the property or improvement on the date of acquisition or completion of the improvement.
- The initial acquisition indebtedness is the fair market value of the property or improvement on the date of acquisition or completion of the improvement, less any down payment or other initial payment applied to the principal debt.

Average adjusted basis. The average adjusted basis of debt-financed property is the average of the adjusted basis of the property as of the first day and as of the last day that the organization holds the property during the tax year.

Determining the average adjusted basis of the debt-financed property isn't affected if the organization was exempt from tax for prior tax years. The basis of the property must be adjusted properly for the entire period after the property was acquired. As an example, adjustment must be made for depreciation during all prior tax years whether or not the organization was tax-exempt. If only part of the depreciation allowance may be taken into account in computing the percentage of deductions allowable for each debt-financed property, that doesn't affect the amount of the depreciation adjustment to use in determining average adjusted basis.

Basis for debt-financed property acquired in corporate liquidation. If an exempt

organization acquires debt-financed property in a complete or partial liquidation of a corporation in exchange for its stock, the organization's basis in the property is the same as it would be in the hands of the transferor corporation. This basis is increased by the gain recognized to the transferor corporation upon the distribution and by the amount of any gain that, because of the distribution, is includible in the organization's gross income as unrelated debt-financed income.

Computation of debt/basis percentage. The following example shows how to compute the debt/basis percentage by first determining the average acquisition indebtedness and average adjusted basis.

Example. On July 7, an exempt organization buys an office building for \$510,000 using \$300,000 of borrowed funds. The organization files its return on a calendar year basis. During the year the only adjustment to basis is \$20,000 for depreciation. Starting July 28, the organization pays \$20,000 each month on the mortgage principal plus interest. The debt/basis percentage for the year is calculated as follows:

Month	Debt on first day of each month property is held
July	\$ 300,000
August	280,000
September	260,000
October	240,000
November	220,000
December	200,000
Total	\$1,500,000
Average acquisition indebtedness: \$1,500,000 ÷ 6 months	
	\$ 250,000
Basis	
As of July 7	\$ 510,000
As of December 31	490,000
Total	\$1,000,000
Average adjusted basis: \$1,000,000 ÷ 2	
	\$ 500,000
Debt/basis percentage	
\$250,000 ÷ \$500,000	= 50%

Deductions for Debt-Financed Property

The deductions allowed for each debt-financed property are determined by applying the debt/basis percentage to the sum of allowable deductions.

The allowable deductions are those directly connected with the debt-financed property or with the income from it (including the dividends-received deduction), except that:

1. The allowable deductions are subject to the modifications for computation of the UBTI (discussed earlier in this chapter); and
2. The depreciation deduction, if allowable, is computed only by use of the straight-line method.

To be directly connected with debt-financed property or with the income from it, a deductible item must have proximate and primary relationship to the property or income. Expenses, depreciation, and similar items attributable solely to the property qualify for deduction, to the extent they meet the requirements of an allowable deduction.

For example, if the straight-line depreciation allowance for an office building is \$10,000 a year, an organization can deduct depreciation of \$10,000 if the entire building is debt-financed property. However, if only half of the building is debt-financed property, the depreciation allowed as a deduction is \$5,000.

Capital losses. If a sale or exchange of debt-financed property results in a capital loss, the loss taken into account in the tax year in which the loss arises is computed as provided earlier. See *Gain or loss from sale or other disposition of property* under *Computation of Debt-Financed Income*, earlier.

If any part of the allowable capital loss isn't taken into account in the current tax year, it may be carried back or carried over to another tax year as provided in section 1212, without application of the debt/basis percentage for that year.

Example. X, an exempt educational organization, owned debt-financed securities that were capital assets. Last year, X sold the securities at a loss of \$20,000. The debt/basis percentage for computing the loss from the sale of the securities is 40%. Thus, X sustained a capital loss of \$8,000 (40% of \$20,000) on the sale of the securities. Last year and the preceding 3 tax years, X had no other capital transactions. Under these circumstances, the \$8,000 of capital loss may be carried over to succeeding years (subject to limitations under section 1212) without further application of the debt/basis percentage.

NOL. If, after applying the debt/basis percentage to the income from debt-financed property and the deductions directly connected with this income, the deductions exceed the income, an organization has an NOL for the tax year. This amount may be carried over to other tax years in the same manner as any other NOL of an organization with UBTI. (For a discussion of the NOL deduction, see *Modifications* under *Deductions*, earlier in this chapter.) However, the debt/basis percentage is not applied in those other tax years to determine the deductions that may be taken in those years.

Example. Last year, Y, an exempt organization, received \$20,000 of rent from a debt-financed building that it owns. Y had no other UBTI for the year. The deductions directly connected with this building were property taxes of \$5,000, interest of \$5,000 on the acquisition indebtedness, and salary of \$15,000 to the building manager. The debt/basis percentage with respect to the building was 50%. Under these circumstances, Y must take into account, in computing its UBTI, \$10,000 (50% of \$20,000) of income and \$12,500 (50% of \$25,000) of the deductions directly connected with that income.

Thus, Y sustained an NOL of \$2,500 (\$10,000 of income less \$12,500 of deductions), which may be carried back or carried over to other tax years (as provided in section 172) without further application of the debt/basis percentage.

Allocation Rules

When only part of the property is debt-financed property, proper allocation of the basis, debt, income, and deductions with respect to the property must be made to determine how much income or gain derived from the property to treat as unrelated debt-financed income.

Example. X, an exempt college, owns a four-story office building that it bought with borrowed funds (assumed to be acquisition indebtedness). During the year, the lower two stories of the building were used to house computers that X uses for administrative purposes. The two upper stories were rented to the public and used for nonexempt purposes.

The gross income X derived from the building was \$6,000, all of which was attributable to the rents paid by tenants. The expenses were \$2,000 and were equally allocable to each use of the building. The average adjusted basis of the building for the year was \$100,000 and the average acquisition indebtedness for the year was \$60,000.

Since the two lower stories were used for exempt purposes, only the upper half of the building is debt-financed property. Consequently, only the rental income and the deductions directly connected with this income are taken into account in computing UBTI. The part

taken into account is determined by multiplying the \$6,000 of rental income and \$1,000 of deductions directly connected with the rental income by the debt/basis percentage.

The debt/basis percentage is the ratio of the allocable part of the average acquisition indebtedness to the allocable part of the property's average adjusted basis: that is, in this case, the ratio of \$30,000 (one-half of \$60,000) to \$50,000 (one-half of \$100,000). Thus, the debt/basis percentage for the year is 60% (the ratio of \$30,000 to \$50,000).

Under these circumstances, X must include net rental income of \$3,000 in its UBTI for the year, computed as follows:

Rental income treated as gross income from an unrelated trade or business (60% of \$6,000)	\$3,600
Less the allowable portion of deductions directly connected with that income (60% of \$1,000)	600
Net rental income included by X in computing its UBTI from debt-financed property.	<u>\$3,000</u>

5.

How To Get Tax Help

Photographs of Missing Children. The IRS is a proud partner with the National Center for

Missing and Exploited Children. Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Phone Help. If you have questions and/or need help completing this form, please call 877-829-5500. This toll-free telephone service is available Monday through Friday.

Internet. You can access the IRS website 24 hours a day, 7 days a week, at IRS.gov to:

- Download forms and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- Use the online Internal Revenue Code (IRC), Regulations, or other official guidance.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Sign up to receive local and national tax news by email. To subscribe, visit IRS.gov/Charities.

Ordering Forms and Publications. Visit IRS.gov/FormsPubs to download forms and publications. Otherwise, you can go to IRS.gov/OrderForms to order current and prior-year forms and instructions. Your order should arrive within 10 business days.

Index



To help us develop a more useful index, please let us know if you have ideas for index entries. See “Comments and Suggestions” in the “Introduction” for the ways you can reach us.

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Form **990-T**

**Exempt Organization Business Income Tax Return
(and proxy tax under section 6033(e))**

OMB No. 1545-0047

2021

Department of the Treasury
Internal Revenue Service

For calendar year 2021 or other tax year beginning _____, 2021, and ending _____, 20_____

▶ Go to www.irs.gov/Form990T for instructions and the latest information.
▶ Do not enter SSN numbers on this form as it may be made public if your organization is a 501(c)(3).

Open to Public Inspection
for 501(c)(3)
Organizations Only

A <input type="checkbox"/> Check box if address changed. B Exempt under section <input type="checkbox"/> 501() () <input type="checkbox"/> 408(e) <input type="checkbox"/> 220(e) <input type="checkbox"/> 408A <input type="checkbox"/> 530(a) <input type="checkbox"/> 529(a) <input type="checkbox"/> 529A	Print or Type	Name of organization (<input type="checkbox"/> Check box if name changed and see instructions.)	D Employer identification number
		Number, street, and room or suite no. If a P.O. box, see instructions.	E Group exemption number (see instructions)
		City or town, state or province, country, and ZIP or foreign postal code	F <input type="checkbox"/> Check box if an amended return.
C Book value of all assets at end of year ▶			

G Check organization type ▶ 501(c) corporation 501(c) trust 401(a) trust Other trust

H Check if filing only to ▶ Claim credit from Form 8941 Claim a refund shown on Form 2439

I Check if a 501(c)(3) organization filing a consolidated return with a 501(c)(2) titleholding corporation ▶

J Enter the number of attached Schedules A (Form 990-T) ▶

K During the tax year, was the corporation a subsidiary in an affiliated group or a parent-subsidiary controlled group? ▶ Yes No
If "Yes," enter the name and identifying number of the parent corporation ▶

L The books are in care of ▶ Telephone number ▶

Part I Total Unrelated Business Taxable Income

1 Total of unrelated business taxable income computed from all unrelated trades or businesses (see instructions)	1	
2 Reserved	2	
3 Add lines 1 and 2	3	
4 Charitable contributions (see instructions for limitation rules)	4	
5 Total unrelated business taxable income before net operating losses. Subtract line 4 from line 3	5	
6 Deduction for net operating loss. See instructions	6	
7 Total of unrelated business taxable income before specific deduction and section 199A deduction. Subtract line 6 from line 5	7	
8 Specific deduction (generally \$1,000, but see instructions for exceptions)	8	
9 Trusts. Section 199A deduction. See instructions	9	
10 Total deductions. Add lines 8 and 9	10	
11 Unrelated business taxable income. Subtract line 10 from line 7. If line 10 is greater than line 7, enter zero	11	

Part II Tax Computation

1 Organizations taxable as corporations. Multiply Part I, line 11 by 21% (0.21) ▶	1	
2 Trusts taxable at trust rates. See instructions for tax computation. Income tax on the amount on Part I, line 11 from: <input type="checkbox"/> Tax rate schedule or <input type="checkbox"/> Schedule D (Form 1041) ▶	2	
3 Proxy tax. See instructions ▶	3	
4 Other tax amounts. See instructions	4	
5 Alternative minimum tax (trusts only)	5	
6 Tax on noncompliant facility income. See instructions	6	
7 Total. Add lines 3 through 6 to line 1 or 2, whichever applies	7	

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 11291J

Form **990-T** (2021)

Chapter 3—Moonlighting Nonprofits: Navigating Unrelated Business Income

Part III Tax and Payments

1a	Foreign tax credit (corporations attach Form 1118; trusts attach Form 1116)	1a		
1b	Other credits (see instructions)	1b		
1c	General business credit. Attach Form 3800 (see instructions)	1c		
1d	Credit for prior year minimum tax (attach Form 8801 or 8827)	1d		
1e	Total credits. Add lines 1a through 1d	1e		
2	Subtract line 1e from Part II, line 7	2		
3	Other amounts due. Check if from: <input type="checkbox"/> Form 4255 <input type="checkbox"/> Form 8611 <input type="checkbox"/> Form 8697 <input type="checkbox"/> Form 8866 <input type="checkbox"/> Other (attach statement)	3		
4	Total tax. Add lines 2 and 3 (see instructions). <input type="checkbox"/> Check if includes tax previously deferred under section 1294. Enter tax amount here	4		
5	Current net 965 tax liability paid from Form 965-A, Part II, column (k)	5		
6a	Payments: A 2020 overpayment credited to 2021	6a		
6b	2021 estimated tax payments. Check if section 643(g) election applies <input type="checkbox"/>	6b		
6c	Tax deposited with Form 8868	6c		
6d	Foreign organizations: Tax paid or withheld at source (see instructions)	6d		
6e	Backup withholding (see instructions)	6e		
6f	Credit for small employer health insurance premiums (attach Form 8941)	6f		
6g	Other credits, adjustments, and payments: <input type="checkbox"/> Form 2439 <input type="checkbox"/> Form 4136 <input type="checkbox"/> Other Total	6g		
7	Total payments. Add lines 6a through 6g	7		
8	Estimated tax penalty (see instructions). Check if Form 2220 is attached <input type="checkbox"/>	8		
9	Tax due. If line 7 is smaller than the total of lines 4, 5, and 8, enter amount owed	9		
10	Overpayment. If line 7 is larger than the total of lines 4, 5, and 8, enter amount overpaid	10		
11	Enter the amount of line 10 you want: Credited to 2022 estimated tax Refunded	11		

Part IV Statements Regarding Certain Activities and Other Information (see instructions)

	Yes	No
1 At any time during the 2021 calendar year, did the organization have an interest in or a signature or other authority over a financial account (bank, securities, or other) in a foreign country? If "Yes," the organization may have to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts. If "Yes," enter the name of the foreign country here		
2 During the tax year, did the organization receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If "Yes," see instructions for other forms the organization may have to file.		
3 Enter the amount of tax-exempt interest received or accrued during the tax year \$		
4 Enter available pre-2018 NOL carryovers here \$. Do not include any post-2017 NOL carryover shown on Schedule A (Form 990-T). Don't reduce the NOL carryover shown here by any deduction reported on Part I, line 6.		
5 Post-2017 NOL carryovers. Enter available Business Activity Code and post-2017 NOL carryovers. Don't reduce the amounts shown below by any NOL claimed on any Schedule A, Part II, line 17 for the tax year. See instructions.		
Business Activity Code	Available post-2017 NOL carryover	
	\$	
	\$	
	\$	
	\$	
6a Did the organization change its method of accounting? (see instructions)		
b If 6a is "Yes," has the organization described the change on Form 990, 990-EZ, 990-PF, or Form 1122? If "No," explain in Part V.		

Part V Supplemental Information

Provide the explanation required by Part IV, line 6b. Also, provide any other additional information. See instructions.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer _____		Date _____	Title _____	May the IRS discuss this return with the preparer shown below (see instructions)? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Print/Type preparer's name _____		Preparer's signature _____	Date _____	
Paid Preparer Use Only	Firm's name _____		Firm's EIN _____		
	Firm's address _____		Phone no. _____		

Chapter 3—Moonlighting Nonprofits: Navigating Unrelated Business Income

**SCHEDULE A
(Form 990-T)**

Department of the Treasury
Internal Revenue Service

**Unrelated Business Taxable Income
From an Unrelated Trade or Business**

▶ Go to www.irs.gov/Form990T for instructions and the latest information.
▶ Do not enter SSN numbers on this form as it may be made public if your organization is a 501(c)(3).

OMB No. 1545-0047

2021

Open to Public Inspection for
501(c)(3) Organizations Only

A Name of the organization	B Employer identification number
C Unrelated business activity code (see instructions) ▶	D Sequence: _____ of _____

E Describe the unrelated trade or business ▶

Part I Unrelated Trade or Business Income	(A) Income	(B) Expenses	(C) Net
1a Gross receipts or sales			
b Less returns and allowances _____ c Balance ▶	1c		
2 Cost of goods sold (Part III, line 8)	2		
3 Gross profit. Subtract line 2 from line 1c	3		
4a Capital gain net income (attach Sch D (Form 1041 or Form 1120)). See instructions	4a		
b Net gain (loss) (Form 4797) (attach Form 4797). See instructions	4b		
c Capital loss deduction for trusts	4c		
5 Income (loss) from a partnership or an S corporation (attach statement)	5		
6 Rent income (Part IV)	6		
7 Unrelated debt-financed income (Part V)	7		
8 Interest, annuities, royalties, and rents from a controlled organization (Part VI)	8		
9 Investment income of section 501(c)(7), (9), or (17) organizations (Part VII)	9		
10 Exploited exempt activity income (Part VIII)	10		
11 Advertising income (Part IX)	11		
12 Other income (see instructions; attach statement)	12		
13 Total. Combine lines 3 through 12	13		

Part II Deductions Not Taken Elsewhere	See instructions for limitations on deductions. Deductions must be directly connected with the unrelated business income		
1 Compensation of officers, directors, and trustees (Part X)			1
2 Salaries and wages			2
3 Repairs and maintenance			3
4 Bad debts			4
5 Interest (attach statement). See instructions			5
6 Taxes and licenses			6
7 Depreciation (attach Form 4562). See instructions	7		
8 Less depreciation claimed in Part III and elsewhere on return	8a		8b
9 Depletion			9
10 Contributions to deferred compensation plans			10
11 Employee benefit programs			11
12 Excess exempt expenses (Part VIII)			12
13 Excess readership costs (Part IX)			13
14 Other deductions (attach statement)			14
15 Total deductions. Add lines 1 through 14			15
16 Unrelated business income before net operating loss deduction. Subtract line 15 from Part I, line 13, column (C)			16
17 Deduction for net operating loss. See instructions			17
18 Unrelated business taxable income. Subtract line 17 from line 16			18

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 740360

Schedule A (Form 990-T) 2021

Chapter 3—Moonlighting Nonprofits: Navigating Unrelated Business Income

Part III Cost of Goods Sold	Enter method of inventory valuation ►	
1 Inventory at beginning of year		1
2 Purchases		2
3 Cost of labor		3
4 Additional section 263A costs (attach statement)		4
5 Other costs (attach statement)		5
6 Total. Add lines 1 through 5		6
7 Inventory at end of year		7
8 Cost of goods sold. Subtract line 7 from line 6. Enter here and in Part I, line 2		8
9 Do the rules of section 263A (with respect to property produced or acquired for resale) apply to the organization? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Part IV Rent Income (From Real Property and Personal Property Leased with Real Property)				
1 Description of property (property street address, city, state, ZIP code). Check if a dual-use. See instructions. A <input type="checkbox"/> _____ B <input type="checkbox"/> _____ C <input type="checkbox"/> _____ D <input type="checkbox"/> _____				
2 Rent received or accrued	A	B	C	D
a From personal property (if the percentage of rent for personal property is more than 10% but not more than 50%)				
b From real and personal property (if the percentage of rent for personal property exceeds 50% or if the rent is based on profit or income)				
c Total rents received or accrued by property. Add lines 2a and 2b, columns A through D				
3 Total rents received or accrued. Add line 2c columns A through D. Enter here and on Part I, line 6, column (A) ► _____				
4 Deductions directly connected with the income in lines 2(a) and 2(b) (attach statement)				
5 Total deductions. Add line 4 columns A through D. Enter here and on Part I, line 6, column (B) . . . ► _____				

Part V Unrelated Debt-Financed Income (see instructions)				
1 Description of debt-financed property (street address, city, state, ZIP code). Check if a dual-use. See instructions. A <input type="checkbox"/> _____ B <input type="checkbox"/> _____ C <input type="checkbox"/> _____ D <input type="checkbox"/> _____				
2 Gross income from or allocable to debt-financed property	A	B	C	D
3 Deductions directly connected with or allocable to debt-financed property				
a Straight line depreciation (attach statement)				
b Other deductions (attach statement)				
c Total deductions (add lines 3a and 3b, columns A through D)				
4 Amount of average acquisition debt on or allocable to debt-financed property (attach statement)				
5 Average adjusted basis of or allocable to debt-financed property (attach statement)				
6 Divide line 4 by line 5	%	%	%	%
7 Gross income reportable. Multiply line 2 by line 6				
8 Total gross income (add line 7, columns A through D). Enter here and on Part I, line 7, column (A) . . . ► _____				
9 Allocable deductions. Multiply line 3c by line 6				
10 Total allocable deductions. Add line 9, columns A through D. Enter here and on Part I, line 7, column (B) ► _____				
11 Total dividends - received deductions included in line 10 ► _____				

Chapter 3—Moonlighting Nonprofits: Navigating Unrelated Business Income

Part VI Interest, Annuities, Royalties, and Rents from Controlled Organizations (see instructions)

1. Name of controlled organization	2. Employer identification number	Exempt Controlled Organizations			
		3. Net unrelated income (loss) (see instructions)	4. Total of specified payments made	5. Part of column 4 that is included in the controlling organization's gross income	6. Deductions directly connected with income in column 5
(1)					
(2)					
(3)					
(4)					

Nonexempt Controlled Organizations				
7. Taxable income	8. Net unrelated income (loss) (see instructions)	9. Total of specified payments made	10. Part of column 9 that is included in the controlling organization's gross income	11. Deductions directly connected with income in column 10
(1)				
(2)				
(3)				
(4)				

	Add columns 5 and 10. Enter here and on Part I, line 8, column (A)	Add columns 6 and 11. Enter here and on Part I, line 8, column (B)
--	--	--

Part VII Investment Income of a Section 501(c)(7), (9), or (17) Organization (see instructions)

1. Description of income	2. Amount of income	3. Deductions directly connected (attach statement)	4. Set-asides (attach statement)	5. Total deductions and set-asides (add columns 3 and 4)
(1)				
(2)				
(3)				
(4)				
Totals ▶				Add amounts in column 5. Enter here and on Part I, line 9, column (B)

Part VIII Exploited Exempt Activity Income, Other Than Advertising Income (see instructions)

1 Description of exploited activity: _____		
2 Gross unrelated business income from trade or business. Enter here and on Part I, line 10, column (A)	2	
3 Expenses directly connected with production of unrelated business income. Enter here and on Part I, line 10, column (B)	3	
4 Net income (loss) from unrelated trade or business. Subtract line 3 from line 2. If a gain, complete lines 5 through 7	4	
5 Gross income from activity that is not unrelated business income	5	
6 Expenses attributable to income entered on line 5	6	
7 Excess exempt expenses. Subtract line 5 from line 6, but do not enter more than the amount on line 4. Enter here and on Part II, line 12	7	

Chapter 3—Moonlighting Nonprofits: Navigating Unrelated Business Income

Part IX Advertising Income

1 Name(s) of periodical(s). Check box if reporting two or more periodicals on a consolidated basis.

- A**
- B**
- C**
- D**

Enter amounts for each periodical listed above in the corresponding column.

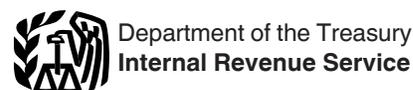
	A	B	C	D
2 Gross advertising income				
a Add columns A through D. Enter here and on Part I, line 11, column (A)	▶			
3 Direct advertising costs by periodical				
a Add columns A through D. Enter here and on Part I, line 11, column (B)	▶			
4 Advertising gain (loss). Subtract line 3 from line 2. For any column in line 4 showing a gain, complete lines 5 through 8. For any column in line 4 showing a loss or zero, do not complete lines 5 through 7, and enter zero on line 8				
5 Readership costs				
6 Circulation income				
7 Excess readership costs. If line 6 is less than line 5, subtract line 6 from line 5. If line 5 is less than line 6, enter zero				
8 Excess readership costs allowed as a deduction. For each column showing a gain on line 4, enter the lesser of line 4 or line 7				
a Add line 8, columns A through D. Enter the greater of the line 8a, columns total or zero here and on Part II, line 13	▶			

Part X Compensation of Officers, Directors, and Trustees (see instructions)

1. Name	2. Title	3. Percentage of time devoted to business	4. Compensation attributable to unrelated business
(1)		%	
(2)		%	
(3)		%	
(4)		%	
Total. Enter here and on Part II, line 1			▶

Part XI Supplemental Information (see instructions)

2021



Instructions for Form 990-T

Exempt Organization Business Income Tax Return (and Proxy Tax Under Section 6033(e))

Section references are to the Internal Revenue Code unless otherwise noted.

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Future Developments

For the latest information about developments related to Form 990-T and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form990T](https://www.irs.gov/Form990T).

What's New

Credit for qualified sick and family leave wages. The American Rescue Plan Act of 2021 (ARP) provided credits for qualified sick and family leave wages similar to the credits that were previously enacted under the Families First Coronavirus Response Act (FFCRA) and amended and extended by the COVID-related Tax Relief Act of 2020. See the Instructions for Form 941 for more information.

COVID-19 related employee retention credit. The employee retention credit enacted by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and amended by the ARP and other recent legislation, is limited to qualified wages paid before October 1, 2021 (or in the case of wages paid by an eligible employer which is a recovery startup business, before January 1, 2022). See the Instructions for Form 941 for more information.

Reminders

Temporary allowance of 100% for business meals. An organization is allowed a 100% deduction for certain business meal expenses paid or incurred in 2021 and 2022. See *Travel, meals, and entertainment*, later.

Required electronic filing. If you are filing a 2021 Form 990-T, you are required to file electronically. See *When, Where, and How To File*, later, for more information.

Separate UBTI calculation for each trade or business. Organizations with more than one unrelated trade or business must compute unrelated business taxable income (UBTI), including for purposes of determining any net operating loss deduction, separately with respect to each trade or business. See Schedule A (Form 990-T). The UBTI with respect to any such trade or business shall not be less than zero when computing total UBTI.

Qualified opportunity investment. If you deferred a capital gain into a qualified opportunity fund (QOF), attach Schedule D, Form 8949, and Form 8997, Initial and Annual Statement of Qualified Opportunity Fund (QOF) Investments, to your return. You will need to file Form 990-T with Form 8997 attached annually until you dispose of the investment. See the Instructions for Form 8997.

Qualified business income deduction. If you are a trust filing Form 990-T and have unrelated business income, you may have Qualified Business Income (QBI) and may be allowed a QBI deduction under section 199A. See Part I, line 9, later, for more information.

Adjustments to tax attributable to partner's audit liability. If your organization received Form 8986, Partner's Share of Adjustment(s) to Partnership-Related Item(s), from one or more partnerships that have elected to push out adjustments to partnership-related items to their partners, see the instructions for Part II, line 4 and Part III, line 1b.

Omit SSN information. Don't include social security numbers on publicly disclosed forms. Because the IRS is required to publicly disclose a 501(c)(3) organization's Form 990-T returns, social security numbers should not be included on this form.

Documents subject to disclosure include schedules. See *Public Inspection Requirements of Section 501(c)(3) Organizations*, later.

General Instructions

Purpose of Form

Use Form 990-T and Schedule A (as applicable) to:

- Report unrelated business income;
- Figure and report unrelated business income tax liability;
- Report proxy tax liability;
- Claim a refund of income tax paid by a regulated investment company (RIC) or a real estate investment trust (REIT), on undistributed long-term capital gain; and
- Request a credit for certain federal excise taxes paid or for small employer health insurance premiums paid.

Who Must File

Organizations with Current UBTI

- Any disregarded entity, domestic, or foreign organization exempt under section 501(a), section 529(a), or section 529A(a), if it has gross income of \$1,000 or more from a regularly conducted unrelated trade or business (see Regulations section 1.6012-2(e)). Gross income is gross receipts minus the cost of goods sold (see Regulations section 1.61-3). For a discussion of cost of goods sold see *Schedule A (Form 990-T), Part III, Cost of Goods Sold*, later.

 *The gross receipts from a gaming business include all amounts wagered in games, not just the net proceeds after payment of prizes and other expenses. Cash prizes aren't included in cost of goods sold but are reported on Schedule A, Part II, Line 14 as other deductions.*

 *A disregarded entity, as described in Regulations sections 301.7701-1 through 301.7701-3, is treated as a branch or division of its parent organization for federal tax purposes. Therefore, financial information applicable to a disregarded entity must be reported as the parent organization's financial information.*

- Colleges and universities of states and other governmental units, and subsidiary corporations wholly owned by such colleges and universities. However, a section 501(c)(1) corporation that is an instrumentality of the United States and both organized and exempt from tax by an Act of Congress doesn't have to file.
- Qualified tuition programs described under section 529 that have \$1,000 or more of unrelated trade or business gross income.
- Qualified ABLE programs described under section 529A that have \$1,000 or more of unrelated trade or business gross income.
- Trustees for the following trusts that have \$1,000 or more of unrelated trade or business gross income:
 1. Individual retirement accounts (IRAs), including traditional IRAs described under section 408(a),
 2. Simplified employee pension IRAs (SEP IRAs) described under section 408(k),
 3. Savings incentive match plan for employees of small employers IRAs (SIMPLE IRAs) described under section 408(p),
 4. Roth IRAs described under section 408A,
 5. Coverdell education savings accounts (ESAs) described under section 530,
 6. Archer medical savings accounts (Archer MSAs) described under section 220, and
 7. Health savings accounts (HSAs) described under section 223.

 *Each account of a type listed above is treated as a separate trust for unrelated business income tax purposes (even if there is a single owner or beneficiary for multiple accounts and must have its own EIN if it will file Form 990-T to report gross unrelated business taxable income of \$1,000 or more). A custodian is treated as a trustee. See section 408(h). Individual retirement annuities, unlike individual retirement accounts, aren't subject to unrelated business income tax.*

 *IRAs and other tax-exempt shareholders in a RIC or REIT filing Form 990-T only to obtain a refund of income tax paid on undistributed long-term capital gains should complete Form 990-T as explained in IRAs and other tax-exempt shareholders in a RIC or REIT, later.*

Organizations With or Without Current UBTI

Proxy tax. Organizations liable for the proxy tax on lobbying and political expenditures. See *Part II, line 3, Proxy Tax*, later, for a discussion of the proxy tax. If your organization is only required to file because of the proxy tax, see *Proxy Tax Only* under *Which Parts To Complete*, later.

Other taxes or amounts. Organizations that are liable for other taxes (such as tax deferred under section 1291 (Form 990-T, Part II, line 4) or section 1294 (Part III, line 4)), or organizations liable for other amounts due (or entitled to a refund of, or credit for other amounts such as recapture of tax credits or interest adjustments (such as recapture of a credit or interest due under a look-back rule (Form 990-T, Part III, line 3)). See a discussion of these items later. If your organization is required to file Form 990-T only because of these taxes or other amounts, see *Other Taxes* under *Which Parts To Complete*, later.

Qualified opportunity investment (annual report). Organizations that deferred a capital gain into a qualified opportunity fund (QOF) must file Form 990-T with Schedule D, Form 8949, and Form 8997 attached. Each such organization must file Form 990-T with Form 8997 attached annually until the organization disposes of the investment. See the Instructions for Form 8997.

 *If you are filing Form 990-T only because of the proxy tax, other taxes, or only to claim a refund, go directly to Proxy Tax Only, Other Taxes, or Claim for Refund, later. If you are filing Form 990-T only to claim the credit for small employer health insurance premiums, see the instructions for Part III, line 6f, later.*

Which Parts to Complete

Organizations with unrelated business taxable income. Organizations with unrelated business taxable income must complete Form 990-T, and also a separate Schedule A (Form 990-T) for each separate unrelated trade or business. See Regulations section 1.512(a)-6. Complete all Schedules A (Form 990-T) first. See *Instructions for Schedule A*, later.

Consolidated returns. The consolidated return provisions of section 1501 don't apply to exempt organizations, except for organizations having title holding companies. If a title holding corporation described in section 501(c)(2) pays any amount of its net income for a tax year to an organization exempt from tax under section 501(a) (or would, except that the expenses of collecting its income exceeded that income), and the corporation and organization file a consolidated return as described below, then treat the title holding corporation as being organized and operated for the same purposes as the other exempt organization (in addition to the purposes described in section 501(c)(2)).

Two organizations exempt from tax under section 501(a), one a title holding company and the other earning income from the

first, will be includible corporations for purposes of section 1504(a). If the organizations meet the definition of an affiliated group and the other relevant provisions of chapter 6, then these organizations may file a consolidated return. The parent organization must attach Form 851, Affiliations Schedule, to the consolidated return. For the first year a consolidated return is filed, the title holding company must attach Form 1122, Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return. See Regulations section 1.1502-100.

Organizations with no unrelated business taxable income.

An organization with no unrelated business taxable income that needs to file Form 990-T should complete and file Form 990-T only. Such an organization does not complete or attach Schedule A (Form 990-T) to its return.

Proxy tax only. Organizations that are required to file Form 990-T only because they are liable for the proxy tax on lobbying and political expenditures must complete the following.

- The heading (above Part I) except items J and K;
- Part II, lines 3 and 7;
- Part III;
- Signature area; and
- Attach a statement showing the proxy tax computation.

Other taxes. Organizations that are required to file Form 990-T only because they are liable for tax previously deferred (such as under section 1291 or section 1294), recapture taxes, the tax on a hospital organization's non-compliant facility income, or other items listed in the instructions for Part III, line 4, must complete the following.

- The heading above Part I except items J and K;
- The applicable lines of Parts II and III;
- Signature area; and
- Attach all appropriate forms and/or schedules showing the computation of the applicable tax or taxes.

Other amounts due. Organizations that are required to file Form 990-T only because they are liable for amounts due because of the recapture of a tax credit, or other items listed in the instructions for Part III, line 3, must complete the following.

- The heading above Part I except items J and K;
- The applicable lines of Parts II and III that require an entry;
- Signature area; and
- Attach all appropriate forms and/or schedules showing the computation of the applicable tax or taxes.

Claim for refund (including special instructions for IRA trustees).

If your only reason for filing a Form 990-T is to claim a refund, complete the following:

- The heading above Part I except items J and K;
- Enter -0- on Part I, lines 1 and 11, and Part III, line 4;
- Enter the credit or payment on Part III, lines 6a through 6g, as appropriate;
- Part III, lines 7, 10, and 11; and
- Signature area.

For claims described below, follow the additional instructions for that claim.

IRAs and other tax-exempt shareholders in a RIC or REIT.

If you are an IRA or other tax-exempt shareholder that is invested in a RIC or a REIT and file Form 990-T only to obtain a refund of income tax paid on undistributed long-term capital gains, follow steps above under *Claim for Refund (including special instructions for IRA trustees)*; check the applicable box in item H at the top of Form 990-T; and attach Copy B of Form 2439, Notice to Shareholder of Undistributed Long-Term Capital Gains.

Composite Form 990-T. If you are a trustee of more than one IRA invested in a RIC, you may be able to file a composite Form 990-T to claim a refund of tax under section 852(b) instead of filing a separate Form 990-T for each IRA. See Notice 90-18, 1990-1 C.B. 327, for information on who can file a composite

return. Complete steps above under *Claim For Refund (including special instructions for IRA trustees)* and follow the additional requirements in the notice.

Backup withholding. If your only reason for filing Form 990-T is to claim a refund of backup withholding, complete steps above under *Claim for Refund (including special instructions for IRA trustees)* and attach a copy of the Form 1099 showing the withholding.

When, Where, and How to File

When to file

15th day of 4th month or 15th day of 5th month. An employees' trust defined in section 401(a), an IRA (including SEPs and SIMPLEs), a Roth IRA, a Coverdell ESA, or an Archer MSA must file Form 990-T by the 15th day of the 4th month after the end of its tax year. All other organizations must file Form 990-T by the 15th day of the 5th month after the end of their tax years. If the regular due date falls on a Saturday, Sunday, or legal holiday, file no later than the next business day. If the return is filed late, see *Interest and Penalties*, later.

Extensions. Filers may request an automatic extension of time to file Form 990-T by using Form 8868, Application for Automatic Extension of Time To File an Exempt Organization Return.

Amended return. To correct errors or change a previously filed return, check box F, "Check box if an amended return," at the top of the return. Also, in Part V, "Supplemental Information," include a statement that indicates the line numbers on the original return that were changed and give the reason for each change.

Generally, the amended return must be filed within 3 years after the date the original return was due or 3 years after the date the organization filed it, whichever is later.

Where and How to File

Required electronic filing. If you are filing a 2021 Form 990-T you are required to file electronically. For additional information on the electronic filing, visit [IRS.gov/E-file](https://www.irs.gov/e-file).

Estimated Tax Payments

Generally, an organization filing Form 990-T must make installment payments of estimated tax if its estimated tax (tax minus allowable credits) is expected to be \$500 or more. Both corporate and trust organizations use Form 990-W, Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations, to figure their estimated tax liability. Don't include the proxy tax when computing your estimated tax liability for 2021.

To figure estimated tax, only trusts must take the alternative minimum tax (if applicable) into account. See Form 990-W for more information.

Depository Method of Tax Payment

The organization must pay any tax due in full by the due date of the return without extension.

Electronic Deposit Requirement

The organization must deposit all depository taxes (such as employment tax, excise tax, and corporate income tax) electronically. Generally, electronic fund transfers are made using the Electronic Federal Tax Payment System (EFTPS). For more information about EFTPS or to enroll in EFTPS, visit the EFTPS website at [EFPTS.gov](https://efpts.gov), or call 1-800-555-4477 (TTY/TDD 1-800-733-4829). You can also get Pub. 966, Electronic Federal Tax Payment System: A Guide to Getting Started.

Depositing on time. For EFTPS deposits to be made timely, the organization must submit the deposit by 8 p.m. Eastern time the day before the deposit is due.

Same-day wire payment option. If you fail to submit a deposit transaction on EFTPS by 8 p.m. eastern time the day before the date a deposit is due, you can still make your deposit on time by using the Federal Tax Application (FTA), a same-day federal tax payment system that works in conjunction with EFTPS. Make arrangements with your financial institution ahead of time, noting the institution's availability, deadlines, and costs, if you believe you would ever need the same-day wire payment option. To learn more, visit [IRS.gov/SameDayWire](https://www.irs.gov/SameDayWire).

Timeliness of deposits. The IRS will use business days to determine the timeliness of deposits. Business days are any day that isn't a Saturday, Sunday, or legal holiday in the District of Columbia.

Interest and Penalties

Your organization may be subject to interest and penalty charges if it files a late return or fails to pay tax when due. Generally, the organization isn't required to include interest and penalty charges on Form 990-T because the IRS can figure the amount and bill the organization for it.

Interest. Interest is charged on taxes not paid by the original due date for the return even if the organization uses Form 8868 to request an automatic extension of time to file. Interest is also charged on penalties imposed for failure to file, negligence, fraud, substantial valuation misstatements, and substantial understatements of tax from the due date (including extension) to the date of payment. The interest charge is figured at the underpayment rate determined under section 6621.

Late filing of return. An organization that fails to file its return when due (including extension of time for filing) is subject to a penalty of 5% of the unpaid tax for each month or part of a month the return is late, up to a maximum of 25% of the unpaid tax. The minimum penalty for a return that is more than 60 days late is the smaller of the tax due or \$435. The penalty won't be imposed if the organization can show that the failure to file on time was due to reasonable cause. If you receive a notice about a penalty after you file this return, reply to the notice with an explanation and we will determine if you meet reasonable-cause criteria. Don't include an explanation when you file your return.

Late payment of tax. The penalty for late payment of taxes is usually 1/2 of 1% of the unpaid tax for each month or part of a month the tax is unpaid. The penalty can't exceed 25% of the unpaid tax. If you receive a notice about a penalty after you file this return, reply to the notice with an explanation and we will determine if you meet reasonable-cause criteria. Don't include an explanation when you file your return.

Estimated tax penalty. An organization that doesn't make estimated tax payments when due may be subject to an underpayment penalty for the period of underpayment. Generally, an organization is subject to this penalty if its tax liability for the tax year is \$500 or more and it didn't make estimated tax payments of at least the smaller of its tax liability for the tax year or 100% of the prior year's tax. See section 6655 for details and exceptions.

Trust fund recovery penalty. This penalty may apply if certain excise, income, social security, and Medicare taxes that must be collected or withheld aren't paid to the United States Treasury. These taxes are generally reported on:

- Form 720, Quarterly Federal Excise Tax Return;
- Form 941, Employer's Quarterly Federal Tax Return;
- Form 943, Employer's Annual Federal Tax Return for Agricultural Employees; or
- Form 945, Annual Return of Withheld Federal Income Tax.

The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to have been responsible for collecting, accounting for, and paying over these taxes, and who acted willfully in not doing so. The penalty is equal to the unpaid trust fund tax. See the Instructions for Form 720; Pub. 15 (Circular E), Employer's Tax Guide; or Pub. 51 (Circular A), Agricultural Employer's Tax Guide, for details, including the definition of responsible persons.

Other penalties. There are also penalties that can be imposed for negligence, substantial understatement of tax, reportable transaction understatements, and fraud. See sections 6662, 6662A, and 6663.

Other Forms That May Be Required

Forms W-2 and W-3. File Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements, to report wages, tips, other compensation, withheld income taxes, and withheld social security/Medicare taxes for employees.

Form 461. Noncorporate taxpayers may need to file Form 461, Limitation on Business Losses. See Form 461 and its instructions.

Form 720. File Form 720, Quarterly Federal Excise Tax Return, to report environmental excise taxes, communications and air transportation taxes, fuel taxes, manufacturer's taxes, ship passenger tax, and certain other excise taxes. See *Trust fund recovery penalty*, earlier.

Form 926. File Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation, if the organization is required to report certain transfers to foreign corporations under section 6038B.

Form 940. File Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, if the organization is liable for FUTA tax.

Form 941 and Form 943. File Form 941, Employer's QUARTERLY Federal Tax Return, or Form 943, Employer's Annual Federal Tax Return for Agricultural Employees, to report income tax withheld, and employer and employee social security and Medicare taxes. Also, see *Trust fund recovery penalty*, earlier.

Form 945. File Form 945, Annual Return of Withheld Federal Income Tax, to report income tax withheld from nonpayroll distributions or payments, including pensions, annuities, IRAs, gambling winnings, and backup withholding.

Form 965-A and Form 965-B. See Form 965-A, Individual Report of Net 965 Tax Liability; and Form 965-B, Corporate and Real Estate Investment Trust (REIT) Report of Net 965 Tax Liability and Electing REIT Report of 965 Amounts; and their respective instructions, for more information.

Form 1098. File Form 1098, Mortgage Interest Statement, to report the receipt from any individual of \$600 or more of mortgage interest (including points) in the course of the organization's trade or business and reimbursements of overpaid interest.

Forms 1099-A, B, DIV, INT, LTC, MISC, NEC, OID, R, S, and SA. Organizations engaged in an unrelated trade or business may be required to:

- File an information return on Forms 1099-A, B, DIV, INT, LTC, MISC, NEC, OID, R, S, and SA;
- Report acquisitions or abandonments of secured property through foreclosure;
- Report proceeds from broker and barter exchange transactions;
- Report certain dividends and distributions;

- Report interest income;
- Report certain payments made on a per diem basis under a long-term care insurance contract, and certain accelerated death benefits;
- Report miscellaneous income (such as payments to providers of health and medical services, and miscellaneous income payments);
- Report nonemployee compensation;
- Report original issue discount;
- Report distributions from retirement or profit-sharing plans, IRAs, SEPs, SIMPLEs, insurance contracts;
- Report proceeds from real estate transactions; and
- Report distributions from an HSA, Archer MSA, or Medicare Advantage MSA.



When filing the above listed Form 1099 series information returns, the organization must also file Form 1096, Annual Summary and Transmittal of U.S. Information Returns.

Form 4466. File Form 4466, Corporation Application for Quick Refund of Overpayment of Estimated Tax, to apply for a quick refund if the organization overpaid its estimated tax for the year by at least 10% of its expected income tax liability and at least \$500.

Form 5498. File Form 5498, IRA Contribution Information, to report contributions (including rollover contributions) to any IRA, including a SEP, SIMPLE, Roth IRA, and to report Roth IRA conversions, IRA recharacterizations, and the fair market value (FMV) of the account.

Form 5498-ESA. File Form 5498-ESA, Coverdell ESA Contribution Information, to report contributions (including rollover contributions) to a Coverdell education savings account (ESA).

Form 5498-SA. File Form 5498-SA, HSA, Archer MSA, or Medicare Advantage MSA Information, to report contributions to an HSA or Archer MSA and the fair market value of an HSA, Archer MSA, or Medicare Advantage MSA. See the Instructions for Forms 1099-SA and 5498-SA.

Form 5713. File Form 5713, International Boycott Report, if the organization had operations in, or related to, certain “boycotting” countries.

Form 5884-C. File Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans, to claim the work opportunity credit for qualified first-year wages paid to qualified veterans who begin working for the organization on or after November 22, 2011, and before January 1, 2026.

Form 5884-D. File Form 5884-D, Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters, to claim the employee retention credit against certain payroll taxes if activities of the organization became inoperable because of damage from a qualified disaster. See the instructions for Form 5884-D for more information.

Form 6198. File Form 6198, At-Risk Limitations, if the organization has a loss from an at-risk activity conducted as a trade or business or for the production of income.

Form 8275 and 8275-R. Taxpayers and income tax return preparers file Form 8275, Disclosure Statement, and Form 8275-R, Regulation Disclosure Statement, to disclose items or positions taken on a tax return or that are contrary to Treasury regulations (to avoid parts of the accuracy-related penalty or certain preparer penalties).

Form 8300. File Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, if the organization received more than \$10,000 in cash or foreign currency in one

transaction or in a series of related transactions. See Form 8300 and Regulations section 1.60501-1(c).

Form 8582. File Form 8582, Passive Activity Loss Limitations, for trusts that have losses (including prior year unallowed losses) from passive activities.

Form 8697. File Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts, to figure the interest due or to be refunded under the look-back method of section 460(b)(2). The look-back method applies to certain long-term contracts that are accounted for under either the percentage method or the completion-capitalized cost method.

Form 8810. File Form 8810, Corporate Passive Activity Loss and Credit Limitations, for closely held corporations that have losses or credits (including prior year unallowed losses and credits) from passive activities.

Form 8865. File Form 8865, Return of U.S. Persons With Respect To Certain Foreign Partnerships, if the organization:

1. Controlled a foreign partnership (that is, owned more than a 50% direct or indirect interest in the partnership).
2. Owned at least a 10% direct or indirect interest in a foreign partnership while U.S. persons controlled that partnership.
3. Had an acquisition, disposition, or change in proportional interest in a foreign partnership that:
 - a. Increased its direct interest to at least 10% or reduced its direct interest of at least 10% to less than 10%.
 - b. Changed its direct interest by at least a 10% interest.
4. Contributed property to a foreign partnership in exchange for a partnership interest if:
 - a. Immediately after the contribution, the organization directly or indirectly owned at least a 10% interest in the foreign partnership; or
 - b. The FMV of the property the organization contributed to the foreign partnership in exchange for a partnership interest, when added to other contributions of property made to the foreign partnership by the organization or a related person during the preceding 12-month period, exceeds \$100,000.

Also, the organization may have to file Form 8865 to report certain dispositions by a foreign partnership of property it previously contributed to that foreign partnership if it was a partner at the time of the disposition. See Form 8865 and its separate instructions.

Form 8886. File Form 8886, Reportable Transaction Disclosure Statement, to disclose information for each reportable transaction in which the organization participated. Form 8886 must be filed for each tax year that the federal income tax liability of the organization is affected by its participation in the transaction. The organization may have to pay a penalty if it is required to file Form 8886 but doesn't do so. The following are reportable transactions.

- Any listed transaction that is the same as, or substantially similar to tax avoidance transactions identified by the IRS.
- Any transaction offered under conditions of confidentiality for which the organization paid an advisor a fee of at least \$250,000.
- Certain transactions for which the organization has contractual protection against disallowance of the tax benefits.
- Any transaction resulting in a loss of at least \$10 million in any single year or \$20 million in any combination of years.
- Certain transactions identified by the IRS in published guidance as a “transaction of interest” (a transaction that the IRS believes has a potential for tax avoidance or evasion, but hasn't yet been identified as a listed transaction).

Form 8886-T. File Form 8886-T, Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction, to disclose information with respect to each prohibited tax shelter transaction to which the organization is a party.

Penalties. The organization may have to pay a penalty if it is required to disclose a reportable transaction under section 6011 and fails to properly complete and file Form 8886. The penalty is \$50,000 (\$200,000 if the reportable transaction is a listed transaction) for each failure to file Form 8886 with its return or for failure to provide a copy of Form 8886 to the Office of Tax Shelter Analysis (OTSA). Other penalties, such as an accuracy-related penalty under section 6662A, may also apply. See the Instructions for Form 8886 for details.

Form 8899. File Form 8899, Notice of Income From Donated Intellectual Property, to report income from qualified intellectual property.

Form 8925. File Form 8925, Report of Employer-Owned Life Insurance Contracts, which must be filed by every applicable policyholder owning one or more employer-owned life insurance contracts issued after August 17, 2006.

Form 8975. Certain United States persons that are the ultimate parent entity of a United States multinational enterprise group with annual revenue for the preceding reporting period of \$850 million or more are required to file Form 8975. Form 8975 and its Schedules A (Form 8975) must be filed with the income tax return of the ultimate parent entity of a U.S. multinational enterprise group for the tax year in or within which the reporting period covered by Form 8975 ends. For more information, see Form 8975, Schedule A (Form 8975), and the Instructions for Form 8975 and Schedule A (Form 8975).

Form 8978. File Form 8978, Partner's Additional Reporting Year Tax, to report adjustments shown on Form 8986, Partner's Share of Adjustment(s) to Partnership-Related Items, received from a partnership that has elected to push out adjustments to partnership-related items to their partners.

Form 8990. File Form 8990, Limitation on Business Interest Expense Under Section IRC 163(j), to claim a deduction for business interest unless the taxpayer meets certain specified exceptions. Also, Form 8990 must be filed by any taxpayer that owns an interest in a partnership with current year or prior year carryover excess business interest expense allocated from the partnership.

Form 8991. File Form 8991, Tax on Base Erosion Payments of Taxpayers With Substantial Gross Receipts, for any corporation, other than a regulated investment company, a real estate investment trust, or an S corporation, that has average annual gross receipts for the 3-tax-year period ending with the preceding tax year of at least \$500 million.

Form 8993. File Form 8993, Section 250 Deduction for Foreign-Derived Intangible Income (FDII) and Global Intangible Low-Taxed Income (GILTI), for the allowance of a deduction for the eligible percentage of FDII. The deduction is allowed only to domestic corporations (not including real estate investment trusts (REITs), regulated investment companies (RICs), and S corporations).

Form 8994. File Form 8994, Employer Credit for Paid Family and Medical Leave, to figure the employer credit for paid leave.

Form 8995. Refer to Form 8995, Qualified Business Income Deduction Simplified Computation, if you are a trust filing Form 990-T and have unrelated business income, to determine if you have Qualified Business Income (QBI) and may be allowed a QBI deduction under section 199A. See instructions for line Part I, line 9.

Form 8995-A. Refer to Form 8995, Qualified Business Income Deduction Simplified Computation, if you are a trust filing Form 990-T and have unrelated business income, to determine if you have Qualified Business Income (QBI) and may be allowed a QBI deduction under section 199A. See instructions for Part I, line 9.

Form 8997. File Form 8997, Initial and Annual Statement of Opportunity Fund Investments, annually to report investments held in a qualified opportunity fund at any time during the year. See the Instructions for Form 8997.

Accounting Methods

An accounting method, for federal income tax purposes, is a practice a taxpayer follows to determine the year in which to report revenue and expenses for federal income tax purposes. An accounting method includes not only the overall plan of accounting for gross income or deductions (for example, an accrual method or the cash receipts and disbursement method), but also the treatment of an item used in such overall plan. However, a practice that does not affect the timing for reporting an item of income or deduction for purposes of determining taxable income is not an accounting method. A taxpayer, including a tax-exempt entity, adopts any permissible accounting method in the first year in which it uses the method in determining its taxable income. See Rev. Proc. 2015-13, 2015-5 I.R.B. 419.



An exempt organization may adopt an accounting method not only for purposes of calculating taxable income, but also for purposes of determining whether taxable income will be subject to federal income tax. For example, a tax-exempt entity may adopt an accounting method for an item of income from an unrelated trade or business activity even if the gross income from the activity is less than \$1,000 and is therefore not taxed for federal income tax purposes pursuant to Regulations section 1.6012-2(e).

An accounting method for an item of income or deduction generally may be adopted separately for each of the taxpayer's trades or businesses. However, in order to be permissible, an accounting method must clearly reflect the taxpayer's income. Unless instructed otherwise, the organization generally should use the same accounting method on the Form 990-T and all schedules to report revenue and expenses that it regularly uses to keep its books and records.

Accounting method change. Once a taxpayer, including a tax-exempt entity, adopts an accounting method for federal income tax purposes, the taxpayer generally must request the IRS's consent before it can change its accounting method (even if the year in which the taxpayer seeks to make the change is a year in which it generates only tax-exempt income or is otherwise not taxed on its taxable income). In most cases a taxpayer requests consent to change an accounting method by filing Form 3115, Application for Change in Accounting Method. See Rev. Proc. 2015-13, or any successor, for general procedures for obtaining consent to change an accounting method. See the Instructions for Form 3115 and Pub. 538 for more information and exceptions. See Rev. Proc. 2021-34 for additional procedures that may apply for obtaining automatic consent to change methods of accounting for revenue recognition and certain other methods of accounting that may affect the accounting for revenue recognition. Also see Rev. Proc. 2022-09 for additional procedures that may apply for obtaining automatic consent to change certain methods of accounting related to small businesses.

Depending on the specific accounting method change being requested, the taxpayer may be able to request automatic consent. This means that as long as the taxpayer follows the applicable procedures, the taxpayer does not have to wait for

formal approval by the IRS before applying the new accounting method. See Rev. Proc. 2019-43, 2019-48 I.R.B. 1107, or its successor, for a list of accounting method changes that may qualify for automatic consent.

For example, a tax-exempt entity that has adopted an accounting method for an item of income from an unrelated trade or business generally must request consent before it can change its method of accounting for that item in any subsequent year. This is true regardless of whether gross income from the unrelated trade or business is \$1,000 or more in such subsequent year.

Alternatively, if a taxpayer, including a tax-exempt entity, has not yet adopted an accounting method for an item of income or deduction, a change in how the entity reports the item is not a change in accounting method. In this case, the procedures applicable to requests for accounting method changes (the requirement to file Form 3115) are not applicable. See Rev. Proc. 2015-13 for the definition of what constitutes an accounting method change.

Thus, a tax-exempt entity that has never taken into account an item of income or deduction in determining taxable income does not have to request consent to change its method of reporting that item on its Form 990-T. Additionally, a tax-exempt entity that has never been subject to federal income tax on an item of income or deduction, but that is required to file a Form 990-T solely due to owing a section 6033(e)(2) proxy tax, does not have to request consent to change its method for reporting the item.

Adjustments required when changing an accounting method. A taxpayer, including a tax-exempt entity, that changes its accounting method generally must calculate and report an adjustment to ensure that no portion of the item being changed is permanently omitted or duplicated (see section 481(a)). However, depending on the specific method change, the IRS may provide that an adjustment is not required or permitted.



Generally, a taxpayer, including a tax-exempt entity, will recognize a positive section 481(a) adjustment (that is, an increase to income) ratably over four tax years and will recognize a negative section 481(a) adjustment in full in the year of change. See Rev. Proc. 2015-13, or its successor.

An organization may elect a 1-year adjustment period for positive section 481(a) adjustment that is less than \$50,000. See the Instructions for Form 3115 for more information and requirements to make this election.

Include any positive section 481(a) adjustment on Schedule A (Form 990-T), Part I, line 12 (Other income). If the section 481(a) adjustment is negative, report it as a deduction on Schedule A (Form 990-T), Part II, line 14 (Other deductions). The section 481(a) adjustment should not be reported on Form 990-T as a negative number.

However, as discussed above, if a tax-exempt entity has not yet adopted an accounting method for an item, a change in how the entity reports the item for purposes of filing the Form 990-T is not a change in accounting method. In this case, an adjustment under section 481(a) is not required or permitted.

Accounting Period

The return must be filed using the organization's established annual accounting period. If the organization has no established accounting period, file the return on the calendar-year basis.

To change an accounting period, some organizations may make a notation on a timely filed Form 990, 990-EZ, 990-PF, or 990-T. Others may be required to file Form 1128, Application To Adopt, Change, or Retain a Tax Year. For details on which

procedure applies to your organization, see Rev. Proc. 85-58, 1985-2 C.B. 740, and the Instructions for Form 1128.

For the short period return, figure the tax by placing the organization's taxable income on an annual basis. If the organization changes its accounting period, file Form 990-T for the short period that begins with the first day after the end of the old tax year and ends on the day before the first day of the new tax year. For details, see section 443.

Reporting 990-T Information on Other Returns

Your organization may be required to file an annual information return on:

- Form 990, Return of Organization Exempt From Income Tax;
- Form 990-EZ, Short Form Return of Organization Exempt From Income Tax;
- Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation; or
- Form 5500, Annual Return/Report of Employee Benefit Plan.

If so, include on that information return the unrelated business gross income and expenses (but not including the specific deduction claimed on Part I, line 8, or any expense carryovers from prior years) reported on Form 990-T for the same tax year.

Rounding Off to Whole Dollars

You may round off cents to whole dollars on the organization's return and schedules. If you do round to whole dollars, you must round all amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example \$1.39 become \$1 and \$2.50 becomes \$3. If you have to add two or more amounts to figure the amount to enter on a line, include cents when adding the amounts and round off only the total. If you are entering amounts that include cents, make sure to include the decimal point. There is no cents column on the form.

Public Inspection Requirements of Section 501(c)(3) Organizations

Under section 6104(d), a section 501(c)(3) organization that files Form 990-T must make its entire annual exempt organization business income tax return (including amended returns) available for public inspection. See *Appendix C. Public Inspection of Form 990-T Returns Filed by Section 501(c)(3) Organization*, later.

Specific Instructions

Period Covered

File the 2021 form for calendar year 2021 or a fiscal year beginning in 2021 and ending in 2022. For a fiscal year, fill in the tax year information at the top of the form.

The 2021 Form 990-T may also be used if:

- The organization has a tax year of less than 12 months that begins and ends in 2022, and
- The 2022 Form 990-T isn't available at the time the organization is required to file its return. The organization must show its 2022 tax year on the 2021 Form 990-T and take into account any tax law changes that are effective for tax years beginning after 2021.

Name and Address

The name and address on Form 990-T should be the same as the name and address shown on other Forms 990.

Include the suite, room, or other unit number after the street address. If the Post Office doesn't deliver mail to the street address and the organization has a P.O. box, show the box number instead of the street address.

If the organization receives its mail in care of a third party (such as an accountant or an attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box.

 **Change of name.** If the organization has changed its name, it must check the box next to "Name of organization" and also provide the following when filing this return, if it is:

- A corporation, is incorporated with the state or limited liability company treated as a corporation for tax purposes (that is, not a disregarded entity)—an amendment to the articles of incorporation or articles of organization along with proof of filing with the state.
- A trust—an amendment to the trust agreement with the trustee(s) signature.
- An association, or an unincorporated association—an amendment to the articles of association, constitution, by-laws, or other organizing document with signatures of at least two officers/members.

Items A through L

Item A. If the organization has changed its address since it last filed a return, check Item A.

 If a change in address occurs after the return is filed, use Form 8822-B, Change of Address or Responsible Party - Business, to notify the IRS of the new address.

Item B. Check the box under which the organization receives its tax exemption.

Qualified pension, profit-sharing, and stock bonus plans should check the 501 box and enter "a" between the first set of parentheses. Do not make an entry in the space between the second parentheses.

For other organizations exempt under section 501, check the box for 501 and enter the section that describes their tax exempt status, for example, 501(c)(3).

For tax exempt organizations that don't receive their exemption under section 501, use the following guide.

IF you are a	THEN check this box
IRA, SEP, or SIMPLE	408(e)
Roth IRA	408A
Archer MSA	220(e)
Coverdell ESA	530(a)
Qualified State Tuition Program	529(a)
Qualified ABLE Program	529A

A public college or university that has not obtained recognition of exemption under section 501(c)(3) should not check any box in Item B.

Item C. Enter the total of the end-of-year assets from the organization's books of account.

Item D. An employees' trust described in section 401(a) and exempt under section 501(a) should enter its own trust identification number in this block.

An IRA trust enters its own EIN in this block. An IRA trust never enters a social security number or the trustee's EIN.

An EIN may be applied for:

- Online—Click on the *Employer ID Numbers (EINs)* link at [IRS.gov/EIN](https://www.irs.gov/EIN). The EIN is issued immediately once the application information is validated.
- By mailing or faxing Form SS-4, Application for Employer Identification Number.

Note. Only organizations located in the United States or U.S. possessions can use the online application. Foreign organizations must use one of the other methods to apply for an EIN.

Item E. If the organization is covered by a group exemption, enter the group exemption number.

Item F. Check this box if the organization previously filed a Form 990-T return with the IRS for a tax year and is now filing another return for the same tax year to amend the previously filed return. Also, see *Amended return*, earlier, for information you must include in an amended return.

Item G. Check the box that describes your organization.

A public college or university subject to tax on its unrelated business taxable income under section 511(a)(2)(B) should check the box for "501(c) corporation."

"Other trust" includes IRAs, SEPs, SIMPLEs, Roth IRAs, Coverdell IRAs, and Archer MSAs.

Section 529 organizations check the 501(c) corporation or 501(c) trust box depending on whether the organization is a corporation or a trust. Also, the box for 529(a) in Item B must be checked.

 Compute your tax in Part II on the appropriate line. If you check (501(c)) corporation, you must compute your tax on Part II, line 1, and leave line 2 blank. If you check (501(c) trust), (401(a) trust), or (Other trust), you must compute your tax on Part II, line 2, and leave line 1 blank.

Item H. Check if filing Form 990-T only to claim a credit from Form 8941 or to claim a refund shown on Form 2439.

Item I. Check if you are a 501(c)(3) organization filing a consolidated return with a 501(c)(2) title holding corporation. See *Consolidated returns*, earlier, for additional information.

Item J. Enter the total number of Schedules A attached to Form 990-T. An organization with one or more unrelated trades or businesses will complete a separate Schedule A for each unrelated trade or business.

 Complete all needed Schedules A before completing Parts I through V of Form 990-T.

Item K. Check the "Yes," box if your organization is a corporation and either 1 or 2 below applies:

1. The corporation is a subsidiary in an affiliated group (defined in section 1504) but isn't filing a consolidated return for the tax year with that group.
2. The corporation is a subsidiary in a parent-subsidary controlled group (defined in section 1563).

Excluded member. If the corporation is an "excluded member" of a controlled group (see section 1563(b)(2)), it is still considered a member of a controlled group for purposes of Item K.

Item L. Enter the name and address of the person who has the organization's books and records and the telephone number at which he or she can be reached.

Part I. Total Unrelated Business Taxable Income

Line 1. Total of Unrelated Business Taxable Income Computed From all Unrelated Trades or Businesses

Enter the sum of the positive amounts from all Schedules A (Form 990-T), Part II, line 18. Do not include any amount from Schedule A (Form 990-T), Part II, line 18 that is less than zero in the computation of total unrelated trade or business income reported on Part I, line 1.

Line 2. Reserved

Do not enter any amount on this line.

Line 4. Charitable Contributions

Enter contributions or gifts actually paid within the tax year to or for the use of charitable and governmental organizations described in section 170(c). Also, enter any unused contributions carried over from earlier years. The deduction for contributions will be allowed whether or not directly connected with the conduct of a trade or business. See *Appendix B, Charitable Contribution Deduction*, later.

Line 6. Deduction for Net Operating Loss Arising in Tax Years Beginning Before 2018

Enter the smaller of (a) the amount of net operating losses arising in tax years beginning before January 1, 2018, or (b) the amount shown on Part I, line 1.

Line 8. Specific Deduction

A specific deduction of \$1,000 is allowed except for computing the net operating loss and the net operating loss deduction under section 172.

Only one specific deduction may be taken, regardless of the number of unrelated businesses conducted. However, a diocese, province of a religious order, or convention or association of churches is allowed one specific deduction for each parish, individual church, district, or other local unit that regularly conducts an unrelated trade or business. This applies only to those parishes, districts, or other local units that aren't separate legal entities, but are components of a larger entity (diocese, province, convention, or association). Each specific deduction will be the smaller of \$1,000 or the gross income from any unrelated trade or business the local unit conducts. If you claim a total specific deduction larger than \$1,000, attach a statement showing how you figured the amount. The attached statement should include the name of each local unit, its gross unrelated business income, and its allowable specific deduction (which cannot exceed the smaller of \$1,000 or the local unit's gross unrelated business income).

The diocese, province of a religious order, or convention or association of churches must file a return reporting the gross income and deductions of all its units that aren't separate legal entities. These local units can't file separate returns because they aren't separately incorporated. Local units that are separately incorporated must file their own returns and can't be included with any other entity except for a title holding company. See *Consolidated Returns*, earlier.

For details on the specific deduction, see section 512(b)(12) and the related regulations.

Line 9. Section 199A Deduction

For Trust filers only. If you are a trust filing Form 990-T and have unrelated business income, you may have Qualified

Business Income (QBI) and may be allowed a QBI deduction under section 199A.

Refer to the Instructions for Form 8995, Qualified Business Income Deduction Simplified Computation, or Form 8995-A, Qualified Business Income Deduction, (as applicable) to determine whether you meet the requirements for the QBI deduction and how to complete the applicable form.

For purposes of calculating the QBI deduction, the taxable income before the QBI deduction is the amount reported on Part I, line 7 minus the amount reported on Part I, line 8.

Note. For tax years beginning after 2017, the organization determines the unrelated business income separately for each unrelated trade or business, and the income for an unrelated trade or business cannot be less than zero. Since a loss from an unrelated trade or business is not included in the unrelated business taxable income for the tax year due to application of section 512(a)(6), when calculating QBI, omit items of income, gain, deduction, and loss from any unrelated trade or business that operated at a loss. A loss from an unrelated trade or business will be carried forward to future years when the trust has income (or gain that is subject to unrelated business income tax) from the same unrelated trade or business and will be used in those years in calculating the QBI. Additionally, W-2 wages and unadjusted basis immediately after the acquisition (UBIA) of qualified property from an unrelated trade or business that operated at a loss for the current tax year are not used in calculating the limitation on QBI for taxpayers over the threshold.

Part II. Tax Computation

Line 1. Organizations Taxable as Corporations

Multiply Part I, line 11 by 21% (0.21).

Line 2. Trusts

Trusts exempt under section 501(a), which otherwise would be subject to subchapter J (estates, trusts, etc.), are taxed at trust rates. This rule also applies to employees' trusts that qualify under section 401(a). Most trusts figure the tax on the unrelated business taxable income amount on Part I, Line 11 using the Tax Rate Schedule for Trusts, below. If the tax rate schedule is used, enter the tax on Part II, line 2 and check the "Tax rate schedule" box. If the trust is eligible for the rates on net capital gains and qualified dividends, complete Schedule D (Form 1041) and enter on Part II, line 2 the tax from Schedule D (Form 1041). Check the "Schedule D" box on line 2 and attach Schedule D (Form 1041) to Form 990-T.



A trust with more than one unrelated trade or business that computes its tax on Schedule D (Form 1041) may need to adjust the amount entered on Schedule D (Form 1041), Part V, line 22, to include only the net gain from Schedule D (Form 1041), line 18a (column 2) or line 19 (column 2) that is included in income on Part I of Form 990-T.

Tax Rate Schedule for Trusts

If the amount on Part II, line 2, is:

Over—	But not over—	Tax is:	Of the amount over—
\$0	\$2,650	10%	\$0
2,650	9,550	\$265 + 24%	2,650
9,550	13,050	1,921 + 35%	9,550
13,050	-----	3,146 + 37%	13,050

Line 3. Proxy Tax

To pay the section 6033(e)(2) proxy tax on nondeductible lobbying and political expenditures, enter the proxy tax on Part II, line 3 and attach a statement showing the computation.

Exempt organizations, except section 501(c)(3) and certain other organizations, must include certain information regarding lobbying expenditures on Form 990. In addition, organizations may have to provide notices to members regarding their share of dues to which the expenditures are allocable. See the Instructions for Form 990 and Rev. Proc. 98-19, 1998-1 C.B. 547, for exceptions.

If the organization elects not to provide the notices described earlier, it must pay the proxy tax described in section 6033(e)(2). If the organization doesn't include the entire amount of allocable dues in the notices, it may have to pay the proxy tax. This tax isn't applicable to section 501(c)(3) organizations. Figure the proxy tax by multiplying the aggregate amount not included in the notices described earlier by 21%. No deductions are allowed.

Line 4. Other Tax Amounts

Part II, line 4 is intended to capture any positive tax amount that does not have a specific line. An MeF (Internet filing) dependency (attachment) captures the detail. Use line 4 to report tax amounts not reported on a specific line in Part II (excluding tax deferred under section 1294, which is included in Part III, line 4).

- Use this line to report the base erosion minimum tax under section 59A. Section 59A applies to base erosion payments paid or accrued in tax years beginning after 2017. See the Instructions for Form 8991 to determine if the organization qualifies as an applicable taxpayer under section 59A(e), in which case the base erosion minimum tax will need to be computed and entered on Part II, line 4.
- Use this line to report the tax and interest on a nonqualified withdrawal from a capital construction fund (section 7518).
- Use this line to report the deferred tax amount (defined in section 1291(c)(1)) that is the aggregate increase in taxes (described in section 1291(c)(2)) on an excess distribution from a passive foreign investment company (PFIC) that is taxable as unrelated business taxable income. See the Instructions for Form 8621, Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.
- Use this line to report the increase in tax attributable to partner's audit liability. If your organization received Form 8986 from one or more partnerships that have elected to push out adjustments to partnership-related items to their partners, complete and attach Form 8978. See the Instructions for Form 8978. Include any increase in taxes due from Form 8978, line 14; in Part II, line 4. If Form 8978 shows a decrease in tax, do not report that here. Instead, a negative adjustment should be reported in Part III on line 1b.

Unless otherwise indicated, when reporting deferred tax on line 4, don't include interest on the tax amount. Instead, report such interest as an "other amount due" in Part III, on line 3. For example, interest on tax deferred under section 1291(c)(1), determined under section 1291(c)(3) is reported in Part III, line 3.

How to report. Attach a statement to Part II, line 4 showing (a) a brief description of the type of tax, and (b) the amount. For example, if the organization is reporting \$100 of tax due from an increase in tax attributable to a partner's audit liability (Form 8978), the attachment would show "Form 8978" and "\$100."

Line 5. Alternative Minimum Tax (Trusts Only)

Only trusts liable for tax on unrelated business taxable income may be liable for alternative minimum tax on certain adjustments and tax preference items.

Trusts attach Schedule I (Form 1041), Alternative Minimum Tax—Estates and Trusts, and enter any tax from Schedule I on this line.

Line 6. Tax on Noncompliant Facility Income

There is a tax on a hospital organization's non-compliant facility income. See Regulations section 1.501(r)-2 for more information. This tax is an income tax and is separate from the excise tax on a failure to meet the community health needs assessment requirements of section 501(r)(3) that is reported on Form 4720.

Line 7. Total

Add Part II, lines 3, 4, 5, and 6 to Part II, line 1 or 2, whichever applies.

Part III. Tax and Payments

Line 1a. Foreign Tax Credit

- **Corporations.** See Form 1118, Foreign Tax Credit—Corporations, for an explanation of when a corporation can claim this credit for payment of income tax to a foreign country or U.S. possession.
- **Trusts.** See Form 1116, Foreign Tax Credit (Individual, Estate, or Trust), for rules on how the trust computes the foreign tax credit.

Complete the form that applies to the organization and attach the form to its Form 990-T. Enter the credit on this line.

Line 1b. Other Credits

Use line 1b to enter nonrefundable credits not identified elsewhere in Part III, line 1. Attach a statement that lists the applicable form and the amount of the credit. Such credits may include:

- Any qualified electric vehicle passive activity credits from prior years allowed for the current tax year from Form 8834, Qualified Electric Vehicle Credit, line 7. Attach Form 8834.
- The allowable credits from Form 8912, Credit to Holders of Tax Credit Bonds, line 12.
- If your organization received Form 8986 from one or more partnerships that have elected to push out adjustments to partnership-related items to their partners, complete and attach Form 8978. See the Instructions for Form 8978. Enter the amount of any decrease in taxes due from Form 8978, line 14.

Line 1c. General Business Credit

Enter the organization's total general business credit (excluding the work opportunity credit, employee retention credit, the empowerment zone employment credit, the Indian employment credit, and the credit for employer differential wage payments). Additionally, in some cases, certain general business credits should not be claimed if the seller of the property discloses to the organization that the seller intends to claim the credit and discloses the tentative amount of the credit. These include the qualified electric vehicle credit, the alternative motor vehicle credit, the alternative fuel vehicle refueling property credit, and the qualified plug-in electric drive motor vehicle credit.

The organization is required to file Form 3800, General Business Credit, to claim any business credit. For a list of credits, see Form 3800. Include the allowable credit from Form 3800, Part II, line 38, on Form 990-T, Part III, line 1c.



CAUTION An organization described in section 501(c) which is exempt from tax under section 501(a) should not use Form 3800 to claim the refundable small employer tax credit for certain health insurance premiums paid on behalf of its employees. See the instructions for Part III, line 6f.

Line 1d. Credit for Prior Year Minimum Tax

Use Form 8801 to figure the minimum tax credit and any carryforwards of that credit for trusts. For corporations, use Form 8827.

Line 1e. Total Credits

Add lines 1a through 1d.

Line 3. Other Amounts Due

Recapture of investment credit. If property is disposed of or ceases to be qualified property before the end of the recapture period or the useful life applicable to the property, there may be a recapture of the credit. See Form 4255, Recapture of Investment Credit.

Recapture of low-income housing credit. If the organization disposed of property (or there was a reduction in the qualified basis of the property) for which it took the low-income housing credit, it may owe a tax. See Form 8611, Recapture of Low-Income Housing Credit, and section 42(j) for details.

Interest due under the look-back method. If the organization used the look-back method for certain long-term contracts, see Form 8697 for information on figuring the interest the organization may have to include. The organization may also have to include interest due under the look-back method for property depreciated under the income forecast method. See Form 8866, Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method.

Other. Additional amounts due may be included in the total entered on Part III, line 3. Check the box for “Other” if the organization includes any of items discussed. See *How to report*, below, for details on reporting these amounts on an attached statement.

- Interest on deferred tax attributable to installment sales of certain time-shares and residential lots (section 453(l)(3)) and certain nondealer installment obligations (section 453A(c)).
- Interest due on deferred gain (section 1260(b)).
- If the organization makes the election to be taxed on its income from qualifying shipping activities, complete and attach Form 8902 to Form 990-T. See *Income from qualifying shipping activities*, later.

How to report. If the organization checked the “Other” box, attach a statement showing the computation of each item included in the total for Part III, line 3. In addition, identify (a) the applicable Code section or form number, (b) the type of tax or interest, and (c) the amount of tax or interest. For example, if the organization is reporting \$100 of tax due from the recapture of the QEV credit, enter “Section 30-QEV recapture tax—\$100” on the attached statement.

Line 4. Total Tax

Include any deferred tax on the termination of a section 1294 election applicable to shareholders in a qualified electing fund in the amount entered on Part III, line 4. See Form 8621, Part VI, and *How to report*, later.

Subtract from the total entered on Part III, line 4 any deferred tax on the corporation’s share of undistributed earnings of a qualified electing fund (see Form 8621, Part III).

How to report Attach a statement showing the computation of each item included in, or subtracted from, the total on Part III, line 4. Specify (a) the applicable Code section, (b) the type of tax, and (c) the amount of tax.

Line 5. Section 965

Corporations. For tax years 2021 and later, a corporation will not have any section 965(a) inclusions to report. If the organization elected to pay its section 965 net tax liability in

installments, the organization should attach Form 965-B to Form 990-T. However, the current year installment should be paid with a separate voucher (which will be mailed to the organization in advance of the payment due date). Do not include the current year installment in the Tax and Payments computation in Part III.

Trust. A trust that has “net 965 tax liability” for the current tax year (as described in the Instructions for Form 965-A) should enter on line 5, the amount from the current year line on Form 965-A, Part II, column (k). If the trust has no net 965 tax liability for the current tax year, but has elected to pay its section 965 net tax liability in installments, the trust should attach Form 965-A to Form 990-T, but should not include the current year installment in the Tax and Payments computation in Part III (as described above for corporations).

Line 6b. Estimated Tax Payments

Enter the total estimated tax payments made for the tax year.

If an organization is the beneficiary of a trust, and the trust makes a section 643(g) election to credit its estimated tax payments to its beneficiaries, include the organization’s share of the estimated tax payment in the total amount entered here. Attach a statement showing the amount of the section 643(g) credit amount.

Line 6d. Foreign Organizations

Enter the tax withheld on unrelated business taxable income from U.S. sources that isn’t effectively connected with the conduct of a trade or business within the United States. Attach Form 1042-S, Foreign Person’s U.S. Source Income Subject to Withholding, or another form which verifies the withheld tax reported on Part III, line 6d.

Line 6e. Backup Withholding

Recipients of dividend or interest payments must generally certify their correct tax identification number to the bank or other payer on Form W-9. If the payer doesn’t get this information, it must withhold part of the payments as “backup withholding.” If your organization was subject to erroneous backup withholding because the payer didn’t realize you were an exempt organization and not subject to this withholding, you can claim credit for the amount withheld by including it on Part III, line 6e. See *Backup withholding* under *Which Parts To Complete*, earlier.

Line 6f. Credit for Small Employer Health Insurance Premiums

An organization described in section 501(c) which is exempt from tax under section 501(a) may be eligible to claim the refundable small employer tax credit for a percentage of certain health insurance premiums paid on behalf of its employees.

A tax-exempt eligible small employer can request the refundable credit by attaching Form 8941, Credit for Small Employer Health Insurance Premiums, showing the calculation for the amount of the refundable credit claimed. A tax-exempt organization is eligible for the refundable credit if it is an organization that is described in section 501(c) which is exempt from tax under section 501(a). The organization must keep records to substantiate the amount of the credit claimed.



TIP If a tax-exempt eligible small employer is filing Form 990-T only to request a credit for small employer health insurance premiums paid, complete the following steps.

1. Fill in the heading (the area above Part I) except items J and K. Check the box for “Claim credit from Form 8941” in Item H.

2. Enter -0- on Part I, line 11, and Part III, line 4.

3. Enter the credit from Form 8941, line 20, on Part III, line 6f.
4. Complete Part III, lines 7, 10, 11, and the signature area.

Line 6g. Other Credits and Payments

Check the appropriate box(es) and enter:

- From Form 2439, Notice to Shareholder of Undistributed Long-Term Capital Gains, the credit from a regulated investment company (RIC) or a real estate investment trust (REIT). Also, attach Form 2439. If you are filing a composite Form 990-T, see *Composite Form 990-T under Which Parts To Complete*, earlier.
- From Form 4136, the credit for federal tax paid on fuels. Also, attach Form 4136, Credit for Federal Tax Paid on Fuels, if the organization qualifies to claim this credit.
- The credit for ozone-depleting chemicals. Include any credit the organization is claiming under section 4682(g) for taxes paid on chemicals used as propellants in metered-dose inhalers.
- The amount of current year net section 965 tax liability. For a trust, this amount will be from Form 965-A, Part I, column (d), line 4.

After entering these amounts in the appropriate spaces, add them all together and enter the total on Part III, line 6g.

TIP Form 8849, *Claim for Refund of Excise Taxes*, may be used to claim a periodic refund of excise taxes instead of waiting to claim a credit on Form 4136. See the *Instructions for Form 8849 and Pub. 510, Excise Taxes (Including Fuel Tax Credits and Refunds)*.

Line 8. Estimated Tax Penalty

Use Form 2220, Underpayment of Estimated Tax by Corporations, to see if the organization owes a penalty and its amount. Generally, the organization isn't required to file this form because the IRS can figure the amount of any penalty and notify the organization. However, even if the organization doesn't owe the penalty, you must complete and attach Form 2220 if either of the following applies.

- The annualized income or adjusted seasonal installment method is used.
- The organization is a "large organization" computing its first required installment based on the prior year's tax.

If you attach Form 2220, check the box on Form 990-T, Part III, line 8, and enter the amount of any penalty on this line.

Line 9. Tax Due

You must pay the tax in full when the return is filed. You may pay by EFTPS. For more information about EFTPS, see *Electronic Deposit Requirement*, earlier. Also, you may pay by credit or debit card.

To pay by credit or debit card. For information on paying your taxes electronically, including by credit or debit card, go to IRS.gov/E-pay.

Part IV. Statements Regarding Certain Activities and Other Information

Complete all lines in Part IV

Line 1

Check "Yes," if either item 1 or 2 below applies.

1. At any time during the year the organization had an interest in or signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account); and
 - a. The combined value of the accounts was more than \$10,000 at any time during the year; and

- b. The accounts were not with a U.S. military banking facility operated by a U.S. financial institution.

2. The organization owns more than 50% of the stock in any corporation that would answer "Yes" to item 1, earlier.

If the "Yes" box is checked, write the name of the foreign country or countries. If the list of foreign country names will not fit in the available space, continue the list in Part V, Supplemental Information.

Get FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), to see if the organization is considered to have an interest in or signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account). If the organization is required to file this form, file FinCEN Form 114 electronically with the Department of the Treasury using FinCEN's BSA E-Filing System. Because FinCEN Form 114 isn't a tax form, don't file it with Form 990-T.

See www.fincen.gov for more information.

Line 2

The organization may be required to file Form 3520, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts, if:

- It directly or indirectly transferred money or property to a foreign trust. For this purpose, any U.S. person who created a foreign trust is considered a transferor; or
- It is treated as the owner of any part of the assets of a foreign trust under the grantor trust rules.

See the Instructions for Form 3520.



CAUTION An owner of a foreign trust must ensure that the trust files an annual information return on Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner. For details, see the Instructions for Form 3520-A.

Line 3

Report any tax-exempt interest received or accrued in the space provided. Include any exempt-interest dividends received as a shareholder in a mutual fund or other regulated investment company.

Line 4

Use line 4 to show the amount of the NOL carryover to the tax year from tax years prior to 2018 ("pre-2018 NOL"), even if some of the loss is used to offset income on this return. The amount to enter is the total of all pre-2018 NOLs generated in any year prior to 2018, and not used to offset income (either as a carryback or carryover) to a tax year prior to 2021. Do not reduce the amount by any NOL deduction reported on Part I, line 6.



CAUTION The electronic (Modernized e-File) version of Form 990-T refers to a deduction taken on Part I, line 4. The reference should be to Part I, line 6.

Line 5

Use the table in line 5 to show the amount of each NOL carryover from tax years after 2017 that is attributable to each separate trade or business conducted at any time after 2017 ("silenced post-2017 NOL") to the tax year. Include the NOL for each separate trade or business conducted after 2017, even if a Schedule A for any one or more specific trades or businesses is not included with this return for this tax year. Report the full amount of the available NOL for each separate trade or business, even if some of the loss is used to offset income

reported on a Schedule A filed for that separate trade or business on this return.

In the first column under line 5, identify the business activity code to which each NOL relates. In the second column, enter the total amount of each siloed post-2017 NOL generated in any prior year after 2017 and not used to offset income (either as a carryback or carryover) to a tax year prior to 2021. Do not reduce the amount by any NOL deduction reported on Schedule A, Part II, line 17. See *Separate Trades or Businesses*, later, for information about changing the business activity code associated with a particular trade or business, and the effect of such a change on NOLs.

Line 6

Generally, the organization must file Form 3115, Application for Change in Accounting Method, to change its accounting method. An exception applies where a section 501(c) organization changes its accounting method to comply with the Financial Accounting Standards Board (FASB) Accounting Standards Codification 958, Not-for-Profit Entities (ASC 958). See Notice 96-30, 1996-1 C.B. 378.

Part V. Supplemental Information

Use Part V to provide the IRS with narrative information required for responses to specific questions on Form 990-T, and to explain the organization's operations or responses to various questions.

Signature

Corporations. The return must be signed and dated by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or by any other corporate officer (such as a tax officer) authorized to sign. Receivers, trustees, or assignees must also sign and date any return filed on behalf of the organization.

Trusts. The return must be signed and dated by the individual fiduciary, or by the authorized officer of the trust receiving or having custody or control and management of the income of the trust. If two or more individuals act jointly as fiduciaries, any one of them may sign.

Special rule for IRA trusts. A trustee of IRA trusts may use a facsimile signature if all of the following conditions are met.

- Each group of returns sent to the IRS must be accompanied by a letter signed by the person authorized to sign the returns declaring, under penalties of perjury, that the facsimile signature appearing on the returns is the signature adopted by that person to sign the returns filed and that the signature was affixed to the returns by that person or at that person's direction.
- The letter must also list each return by the name and EIN of the IRA trust.
- After the facsimile signature is affixed, no entries on the return may be altered other than to correct discernible arithmetic errors.
- A manually signed copy (of the letter submitted to the IRS with the returns and a record of any arithmetic errors corrected) must be retained on behalf of the IRA trusts listed in the letter and it must be available for inspection by the IRS.

Paid preparer. If an officer of the organization filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but doesn't charge the organization should not sign the return. Certain others who prepare the return should not sign. For example, a regular, full-time employee of the organization, such as a clerk, secretary, etc. should not sign.

Generally, anyone who is paid to prepare the organization's tax return must sign it and fill in the *Paid Preparer Use Only* area.

The paid preparer must complete the required preparer information.

- Sign the return in the space provided for the preparer's signature.
- Give a copy of the return to the organization.

Note. A paid preparer may sign original returns, amended returns, or requests for filing extension by rubber stamp, mechanical device, or computer software program. Also, facsimile signatures are authorized.

Paid preparer authorization. If the organization wants to allow the IRS to discuss this tax return with the paid preparer who signed it, check the "Yes" box in the signature area of the return. This authorization applies only to the individual whose signature appears in the *Paid Preparer Use Only* section of its return. It doesn't apply to the firm, if any, shown in that section.

If the "Yes," box is checked, the organization is authorizing the IRS to call the paid preparer to:

- Give the IRS any information that is missing from its return,
- Call the IRS for information about the processing of its return or the status of its refund or payment(s), and
- Respond to certain IRS notices that the organization has shared with the preparer about a math error, offsets, and return preparation. The notices won't be sent to the preparer.

The organization isn't authorizing the paid preparer to receive any refund check, bind the organization to anything (including any additional tax liability), or otherwise represent the organization before the IRS. If the organization wants to expand the paid preparer's authorization, see Pub. 947, Practice Before the IRS and Power of Attorney.

The authorization can't be revoked. However, the authorization will automatically end no later than the due date (excluding extension) for filing next year's Form 990-T.



Enter the paid preparer's PTIN, not his or her social security number (SSN), in the "PTIN" box in the paid preparer's block. Because Form 990-T is publicly disclosable when filed by a 501(c)(3) organization, any information entered in this block will be publicly disclosed. For more information about PTIN's, visit the IRS website at [IRS.gov/Taxpros](https://www.irs.gov/Taxpros).

General Instructions – Schedule A (Form 990-T)

Purpose of the Schedule

Complete a separate Schedule A to report income and allowable deduction for each separate unrelated trade or business.

Separate Trades or Businesses

An exempt organization may engage in more than one unrelated trade or business. Prior to the enactment of section 512(a)(6), an exempt organization deriving gross income from the regular conduct of two or more unrelated trades or businesses calculated UBTI by determining its aggregate gross income from all such unrelated trades or businesses and reducing that amount by the aggregate deductions allowed with respect to all such unrelated trades or businesses. However, section 512(a)(6) changed this calculation for exempt organizations with more than one unrelated trade or business so that, in the case of any exempt organization with more than one unrelated trade or business:

- UBTI, including for purposes of determining any NOL deduction, shall be computed separately with respect to each trade or business and without regard to section 512(b)(12) (allowing a specific deduction of \$1,000),

- The UBTI of such exempt organization shall be the sum of the UBTI so computed with respect to each trade or business, less a specific deduction under section 512(b)(12); and
- For purposes of section 512(a)(6)(B), UBTI with respect to any such trade or business shall not be less than zero.

Thus, under section 512(a)(6), an exempt organization is no longer permitted to aggregate income and deductions from all unrelated trades or businesses when calculating UBTI.

An organization determines whether it regularly carries on one or more unrelated trades or businesses by applying sections 511 through 514. Identify each separate trade or business using the first two digits of the North American Industry Classification System code (NAICS 2-digit code) that most accurately describes the unrelated trade or business based on the more specific NAICS code, such as at the 6-digit level. Identify activities in the nature of investments, which are not described in NAICS, using the appropriate business activity code described in Non-NAICS Business Activity Codes, later.

An organization will use each NAICS 2-digit code only once. For example, a hospital organization that operates several hospital facilities that include pharmacies that sell goods to the general public, would include all the pharmacies under the NAICS 2-digit code for retail trade, regardless of whether the hospital organization keeps separate books and records for each pharmacy.

Once a 2-digit NAICS code or business activity code is used for an unrelated trade or business, you should continue to use that same code in subsequent tax years. If it is necessary to change the 2-digit NAICS code or business activity code previously used for an unrelated trade or business, you must report the change in a statement attached to the Schedule A on which the activities are reported. The statement should include (1) the 2-digit NAICS code or business activity code used in the previous tax year, (2) the 2-digit NAICS code or business activity code used this year and, if filing more than one Schedule A, the sequence numbers from Item D of the applicable Schedule A, and (3) a narrative explanation describing the reason for the change.



See regulations section 1.512(a)-6(h)(4) regarding the potential effects on net operating loss carryforwards upon a change of the 2-digit NAICS code for an unrelated trade or business.



Regulations section 1.512(a)-6(c)(9) describes a transition rule for certain partnership interests. The transition period ended on the first day of the first tax year beginning after December 2, 2020.

Dual-use property

Section 512(a)(1) permits an exempt organization with an unrelated trade or business to reduce the income from that trade or business by the deductions allowed by chapter 1 that are directly connected with the carrying on of such trade or business. To be “directly connected” with a trade or business, an item of deduction must have a proximate and primary relationship to the carrying on of the unrelated trade or business generating the gross income. See Regulations section 1.512(a)-1(a). Expenses, depreciation, and similar items attributable solely to the conduct of an unrelated trade or business are proximately and primarily related to that trade or business and qualify to reduce income from such trade or business under section 512(a)(1) to the extent such items meet the requirements of sections 162 (trade or business expenses), 167 (depreciation), and other relevant provisions. To the extent

that an exempt organization may have items of deduction that are shared between an exempt activity and an unrelated trade or business, Regulations section 1.512(a)-1(c) provides special rules for allocating such expenses. For example, if facilities are used both to carry on exempt activities and to conduct unrelated trade or business activities, then expenses, depreciation, and similar items attributable to such facilities must be allocated between the two uses on a reasonable basis. See Regulations section 1.512(a)-1(c). The allocation issues under section 512(a)(1) are also relevant under section 512(a)(6) because an exempt organization with more than one unrelated trade or business must not only allocate indirect expenses among exempt and taxable activities as described in Regulations section 1.512(a)-1(c) but also among separate unrelated trades or businesses.

The allocation of expenses, depreciation, and similar items using an unadjusted gross-to-gross method is not reasonable if the cost of providing the good or service is substantially the same but the price charged differs between related and unrelated activities.

Which Parts to Complete

Complete a separate Schedule A, Parts I and II, for each unrelated trade or business. Complete only the lines relevant to the unrelated trade or business being reported on that Schedule A.

Is Gross Income More Than \$10,000?

If the sum of the amounts in all Schedules A (Form 990-T), Part I, line 13, column (A), is more than \$10,000, you must complete all Parts of each Schedule A that apply to the unrelated trade or business reported on that Schedule A.

Is Gross Income \$10,000 or Less?

If the sum of the amounts in all Schedules A (Form 990-T), Part I, line 13, column (A), is \$10,000 or less, complete Schedule A (Form 990-T) and Form 990-T as follows.

Schedule A (Form 990-T)

a. Complete the heading on each Schedule A.

b. **Part I.** Complete only the lines that apply.

1. Enter information directly in column (A) on lines 1, 3 through 5, 12, and 13.
2. Entries for lines 2, and 6 through 11, must be made on the Part referenced in the text for the line in Part I. For example, enter the amount for Part I, line 2 on Part III, line 8. For Part I, line 6, columns (A) and (B), enter the amounts on Part IV, line 3 and line 5 respectively.
3. Make entries as necessary to complete the applicable lines in column (C).

c. **Part II.** Complete lines 15-18, and if necessary, the attachment to line 17 (net operating loss deduction).

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- a. Complete all applicable lines in the heading area.
- b. Complete all applicable lines as needed to determine the appropriate tax, applicable credits, and balance due or refund amount.
- c. Complete the signature area.



If an entry for a line on Part I or Part II must be made on a different Part of Schedule A, complete only the lines in the Part that reference a specific line on Part I or Part II. Leave all other lines in the applicable Part blank.

Filers with gross income of \$10,000 or less as described above, don't have to complete Schedule A, Parts III through X (except as described above because certain entries must be made in those sections to populate lines in Part I and II). However, refer to applicable Parts of Schedule A when completing Schedule A, Part I, column (A) and in determining the deductible expenses to include on Schedule A, Part I, line 13, column (B).

Exceptions and special rules

Member income of mutual or cooperative electric companies. Income of a mutual or cooperative electric company described in section 501(c)(12) which is treated as member income under subparagraph (H) of that section is excluded from unrelated business taxable income.

Income from qualifying shipping activities. The organization's gross income doesn't include income from qualifying shipping activities (as defined in section 1356) if the organization makes an election under section 1354 on a timely filed return (including extensions) to be taxed on its notional shipping income (as defined in section 1353) at the highest corporate rate. If the election is made, the organization generally may not claim any loss, deduction, or credit with respect to qualifying shipping activities. An organization making this election also may elect to defer gain on the disposition of a qualifying vessel under section 1359. Use Form 8902, Alternative Tax on Qualifying Shipping Activities, to figure the tax. Include the alternative tax on Form 990-T, Part III, line 3.

Passive loss and at-risk limitations. Under section 469, certain taxpayers, including certain tax-exempt organizations, may not deduct a passive activity loss (PAL). Such tax-exempt organizations ("affected tax-exempt organizations") include a trust (such as a trust described in section 501(c), a trust described in section 401(a), or an IRA), and a corporation if at any time during the last half of its tax year more than 50% in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for not more than five organizations that are private foundations under section 509(a) or are described in sections 401(a) or 501(c)(17) (for example, a stock corporation described in section 501(c)(2) with a 401(a) parent or private foundation parent).

A PAL occurs when total losses (including prior year unallowed losses) from all the organization's passive activities exceed the total income from all its passive activities. Generally, passive activities include: (1) trade or business activities in which the organization didn't materially participate for the tax year; and (2) rental activities, regardless of your participation. If the organization has income or loss from a passive activity, several lines on Form 990-T and Schedule A (Form 990-T) may be affected by these rules.

PALs can't be used to offset income from nonpassive activities. Passive activity income doesn't include portfolio income. Portfolio income (see Temporary Regulations section 1.469-2T(c)(3)) is income from a nonpassive activity. Portfolio income includes all gross income, other than income derived in the ordinary course of a trade or business, that is attributable to interest, dividends, annuities, and royalties (by contrast, a bank's receipt of interest is in the ordinary course of a trade or business, as is a securities dealer's receipt of dividends). Portfolio income also includes gain or loss from the disposition of property that produces portfolio income or is held for investment (see section 163(d)(5)). The rule treating portfolio income as not from a

passive activity doesn't apply to the extent that income, of a type generally regarded as portfolio income, is derived in the ordinary course of a trade or business. For example, the business income of a bank typically is largely interest. Similarly, a securities broker/dealer may earn a substantial portion of the income from the business in the form of dividends and gains on sales of dividend-bearing instruments. Interest income may also arise in the ordinary course of a trade or business with respect to installment sales and interest charges on accounts receivable. This means that portfolio income may not be reduced by PALs or passive activity credits. For example, any portfolio income earned by a trust described in section 501(a) that is unrelated business taxable income (such as unrelated debt-financed income) may not be offset by PALs from an unrelated trade or business.

Section 469(k) provides that the passive activity limitations must be applied separately to items from each publicly traded partnership (PTP). A PTP is a partnership whose interests are traded on an established securities market or are readily tradable on a secondary market (or its substantial equivalent). PALs from a PTP generally may be used only to offset income or gain from passive activities of the same PTP. This means that a partner in a PTP may not use PALs and passive activity credits from a PTP to offset income from other sources, including passive activity income from another PTP. Such PALs and passive activity credits aren't allowed for the tax year.

Generally, PALs are subject to other limitations (for example, basis and at-risk limitations) before they are subject to the PAL limitations. For example, the at-risk rules under section 465 generally prohibit trusts and corporations that are affected tax-exempt organizations from claiming losses from activities in excess of the taxpayer's amount at risk in the activity.

An affected tax-exempt organization may need to attach Form 6198, At-Risk Limitations, and either Form 8582, Passive Activity Loss Limitations, or Form 8810, Corporate Passive Activity Loss and Credit Limitations. For more information on these rules, see Pub. 925, Passive Activity and At-Risk Rules.

TIP **How to report income received from a payment card and third party network transactions.** An organization that receives a Form 1099-K reporting a "gross amount" received from payment card and third party network transactions in the tax year should report these amounts in the same manner as if the payments weren't reported on a Form 1099-K. There isn't any one specific line on which to report an amount from Form 1099-K; the correct line should be determined based on the nature of the payments. Some payments received may constitute unrelated business income; see the instructions below to determine the appropriate line. For instance, if some of the payments are sales income from an unrelated business, then those payments would be reported on Part I, line 1a. Retain Forms 1099-K with your other records.

Specific Instructions – Schedule A (Form 990-T)

Items A through E

Item A. Enter the same name as entered in the heading area of Form 990-T.

Item B. Enter the same EIN as entered in Item D of Form 990-T.

Item C. On each Schedule A, enter the business activity code that best describes the organization's unrelated trade or business reported on that Schedule A. Modernized e-File requires a 6-digit numerical entry for Item C. Unless you are using a 6-digit non-NAICS business activity code, you should enter the 2 digits of the NAICS code in the first two positions and then enter four zeros to complete the entry. For example, if the

2-digit business activity code 45 (for retail trade) best describes your unrelated trade or business, enter “450000” in Item C. See *Business Activity Codes*, later for more information about business activity codes.

Part I. Unrelated Trade or Business Income

Line 1a. Gross Receipts or Sales

Enter the gross receipts from an unrelated trade or business regularly conducted that involves the sale of goods or performance of services.

TIP *A section 501(c)(7) social club would report its restaurant and bar receipts from nonmembers on Schedule A, Part I, line 1, but would report its investment income on Schedule A, Part I, line 9 and in Schedule A, Part VII.*

Advance payments. In general, advance payments are reported in the year of receipt. To report income from long-term contracts, see section 460. For rules that allow a limited deferral of advance payments beyond the current tax year, see section 451(c). Also, see Regulations section 1.451-8(c), (d), and (e). For applicability dates, see Regulations section 1.451-8(h). For information on adopting or changing to a permissible method for reporting advance payments for services and certain goods by an accrual method corporation, see the Instructions for Form 3115. Also, see Rev. Proc. 2021-34.

Installment sales. Generally, the installment method cannot be used for dealer dispositions of property. A “dealer disposition” is (a) any disposition of personal property by a person who regularly sells or otherwise disposes of personal property of the same type on the installment plan or (b) any disposition of real property held for sale to customers in the ordinary course of the taxpayer’s trade or business.

These restrictions on using the installment method don’t apply to dispositions of property used or produced in a farming business or sales of time-shares and residential lots for which the organization elects to pay interest under section 453(l)(3).

For sales of time-shares and residential lots reported under the installment method, the organization’s income tax is increased by the interest payable under section 453(l)(3).

Enter on Schedule A, Part I, line 1a and line 3, the gross profit on collections from installment sales for any of the following.

- Dealer dispositions of property before March 1, 1986.
- Dispositions of property used or produced in the trade or business of farming.
- Certain dispositions of time-shares and residential lots reported under the installment method.

Attach Form 6252 to show information about each installment sale.

Nonaccrual experience method. Accrual method organizations aren’t required to accrue certain amounts to be received from the performance of services that, on the basis of their experience, won’t be collected, if:

- The services are in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting; or
- The organization’s average annual gross receipts for the 3 prior tax years doesn’t exceed \$5 million.

This provision doesn’t apply to any amount if interest is required to be paid on the amount or if there is any penalty for failure to timely pay the amount. See Regulations section 1.448-2. Organizations that qualify to use the nonaccrual experience method should attach a statement showing total gross receipts, amounts not accrued as a result of the

application of section 448(d)(5), and the net amount accrued. Enter the net amount on Schedule A, Part I, line 1a.

Gain or loss on disposition of certain brownfield property.

Gain or loss from the qualifying sale, exchange, or other disposition of a qualifying brownfield property (as defined in section 512(b)(19)(C)), which was acquired by the organization after 2004, is excluded from unrelated business taxable income and is excepted from the debt-financed rules for such property. See section 512(b)(19) and 514(b)(1)(E).

Line 4a. Capital Gain Net Income

Generally, organizations required to file Form 990-T (except organizations described in sections 501(c)(7), (9), and (17)) aren’t taxed on the net gains from the sale, exchange, or other disposition of property. However, net capital gains on debt-financed property, capital gains on cutting timber, and ordinary gains on sections 1245, 1250, 1252, 1254, and 1255 property are taxed. See Form 4797, *Sales of Business Property*, and its instructions for additional information.

Also, any capital gain or loss passed through from an S corporation or any gain or loss on the disposition of S corporation stock by a qualified tax exempt organization (see *S Corporations*, later) is taxed as a capital gain or loss, and reported on Part I, line 4.

Capital gains and losses should be reported by a trust on Schedule D (Form 1041), *Capital Gains and Losses*, and by a corporation on Schedule D (Form 1120), *Capital Gains and Losses* (and Form 8949, *Sale and Other Dispositions of Capital Assets*). Schedule D of Form 1041 or Form 1120 (and Form 8949 if applicable) must be attached to Form 990-T.

If you deferred a capital gain into a QOF, you must attach Schedule D, Form 8949, and Form 8997 to your Form 990-T. You will need to annually file Form 8997 until you dispose of the investment. See the Instructions for Form 8997.

An organization that transfers securities it owns for the contractual obligation of the borrower to return identical securities recognizes no gain or loss. To qualify for this treatment, the organization must lend the securities under an agreement that requires:

1. The return of identical securities;
2. The payment of amounts equivalent to the interest, dividends, and other distributions that the owner of the securities would normally receive; and
3. The risk of loss or opportunity for gain not be lessened.

See section 512(a)(5) for details.

Debt-financed property disposition. The amount of gain or loss to be reported on the sale, exchange, or other disposition of debt-financed property is the same percentage as the highest acquisition indebtedness for the property for the 12-month period before the date of disposition is to the average adjusted basis of the property. The percentage may not be more than 100%. See the instructions for Schedule A, Part V, line 5 to determine adjusted basis and average adjusted basis.

If debt-financed property is depreciable or depletable property, the provisions of sections 1245, 1250, 1252, 1254, and 1255 must be considered first.

Example. On January 1, 2020, an exempt educational corporation, using \$288,000 of borrowed funds, purchased an office building for \$608,000. The only adjustment to basis was \$29,902 for depreciation (straight-line method under MACRS over the 39-year recovery period for nonresidential real property). The corporation (section 501(c)(3) organization) sold the building on December 31, 2021 for \$640,000. At the date of sale, the adjusted basis of the building was \$578,098 (\$608,000 - \$29,902) and the indebtedness remained at

\$288,000. The adjusted basis of the property on the first day of the year of disposition was \$593,037. The average adjusted basis is \$585,568 $(\$593,037 + \$578,098) \div 2$. The debt/basis percentage is 49% $(\$288,000 \div \$585,568)$.

The taxable gain is \$30,332 $(49\% \times (\$640,000 - \$578,098))$. This is a long-term capital gain. A corporation should enter the gain on Schedule D (Form 1120) Part II, line 8. A trust should enter the gain on Schedule D (Form 1041) Part II, line 8, if applicable. In either scenario (a corporation or a trust), the educational organization must attach a statement on Form 990-T, in addition to the Schedule D, showing how the gain was figured along the lines described in this example, if the details weren't provided with the Schedule D.

Disposition of property received from taxable subsidiary and used in unrelated business. A taxable 80%-owned subsidiary corporation of one or more tax-exempt entities is generally subject to tax on a distribution in liquidation of its assets to its exempt parent (or parents). See section 337. The assets are treated as if sold at FMV.

"Tax-exempt entities" for this purpose include organizations described in sections 501(a), 529, 529A, and 115; charitable remainder trusts; U.S. and foreign governments; Indian tribal governments; international organizations; and similar non-taxable organizations.

A taxable corporation that transfers substantially all of its assets to a tax-exempt entity in a transaction that otherwise qualifies for nonrecognition treatment must recognize gain on the transaction as if it sold the assets at FMV. However, such a transfer isn't taxable if it qualifies as a like-kind exchange under section 1031 or an involuntary conversion under section 1033. In such a case the built-in appreciation is preserved in the replacement property received in the transaction. A "taxable corporation" is any corporation that isn't a tax-exempt entity as defined above, including an S corporation.

A corporation that changes status from taxable to tax-exempt is treated generally as if it transferred all of its assets to a tax-exempt entity immediately before the change in status (thus subjecting it to the tax on a deemed sale for fair FMV). This rule doesn't apply where the taxable corporation becomes exempt within 3 years of formation, or had previously been exempt and within several years (generally a period of 3 years) regains exemption, unless the principal purpose of the transactions is to avoid the tax on the change in status.

In the transactions described above, the taxable event is deferred for property that the tax-exempt entity immediately uses in an unrelated business. If the parent later disposes of the property, then any gain (not in excess of the amount not recognized) is included in the parent's unrelated business taxable income. If there is partial use of the assets in unrelated business, then there is partial recognition of gain or loss with respect to the assets not so used. Property is treated as disposed if the tax-exempt entity no longer uses it in an unrelated business.

Losses on the transfer of assets to a tax-exempt entity are disallowed if part of a plan having a principal purpose of recognizing losses.

Line 4b. Net Gain or (Loss)

Show gains and losses on other than capital assets on Form 4797. Enter on this line the net gain or (loss) from Form 4797, Part II, line 17.

An exempt organization using Form 4797 to report ordinary gain on sections 1245, 1250, 1252, 1254, and 1255 property will include only depreciation, amortization, or depletion allowed or allowable in figuring unrelated business taxable income or taxable income of the organization (or a predecessor organization) for a period when it wasn't exempt.

Line 4c. Capital Loss Deduction for Trusts

If a trust has a net capital loss, it is subject to the limitations of Schedule D (Form 1041). Enter on this line the loss figured on Schedule D (Form 1041).

Line 5. Income or (Loss) From a Partnership or an S Corporation

See Regulations section 1.512(a)-6 for rules permitting the aggregation of income (and directly connected deductions) of certain partnership interests.

Also, for trusts and certain corporations, there are limitations on income and losses (including from a partnership or an S corporation) under section 469 (the passive activity loss and credit limitation rules) and section 465 (at-risk limitations). For more information on these rules, see the discussion of the application of the passive loss and at-risk limitations to affected tax-exempt organizations in the introductory instructions to *Part I. Unrelated Trade or Business Income*, earlier.

Partnerships

If the organization is a partner in a partnership conducting an unrelated trade or business, enter the organization's share (whether or not distributed) of the partnership's income or loss from the unrelated trade or business. The organization is required to notify the partnership of its tax-exempt status.

Figure the gross income and deductions of the partnership in the same way you figure unrelated trade or business income the organization earns directly.

Attach a statement to this return showing the organization's share of the partnership's gross income from the unrelated trade or business, and its share of the partnership deductions directly connected with the unrelated gross income.

S Corporations

Qualified tax-exempt organizations can be shareholders in an S corporation without the S corporation losing its status as an S corporation. Qualified tax-exempt organizations that hold stock in an S corporation treat their stock interest as an interest in an unrelated trade or business. All items of income, loss, or deduction that the organization receives as a shareholder of the S corporation are taken into account in Schedule A, Part I, line 5 in figuring unrelated business taxable income and not reported on another line of Schedule A (Form 990-T) that otherwise would apply, except capital gains and losses, which are reported on Part I, line 4. Report on Part I, line 4 any gain or loss on the disposition of S corporation stock.

Qualified tax-exempts. A qualified tax-exempt is an organization that is described in section 401(a) (qualified stock bonus, pension, and profit-sharing plans) or 501(c)(3) and exempt from tax under section 501(a).

Exception. Employee stock ownership plans (ESOPs) don't follow these S corporation rules if the S corporation stock is an employer security as defined in section 409(l).

Attach a statement to this return showing the qualified tax-exempt's share of all items of income, loss, or deduction. Combine the income, loss, and deductions (except for the capital gains and losses) on the statement. If you hold stock in more than one S corporation, total the combined amounts. Show capital gains and losses separately and include them on Schedule A, Part I, line 4a.

Line 6. Rent Income

Enter the amount computed at Part IV, line 3 on Part I, line 6, column (A). Enter the amount computed at Part IV, line 5 on Part I, line 6, column (B).

Line 7. Unrelated Debt-Financed Income

Enter the amount computed at Part V, line 8 on Part I, line 7, column (A). Enter the amount computed at Part V, line 10 on Part I, line 7, column (B).

Line 8. Interest, Annuities, Royalties, and Rents From a Controlled Organization

Enter the sum of columns 5 and 10 from Part VI on Part I, line 8, column (A). Enter the sum of columns 6 and 11 from Part VI on Part I, line 8, column (B).

Line 9. Investment Income of a Section 501(c)(7), (9), or (17) Organization

Enter the sum of amounts in Part VII, column 2 on Part I, line 9, column (A). Enter the sum of amounts in Part VII, column 5 on Part I, line 9, column (B).

Line 10. Exploited Exempt Activity Income, Other Than Advertising Income

Enter the amount computed at Part VIII, line 2 on Part I, line 10, column (A). Enter the amount computed at Part VIII, line 3 on Part I, line 10, column (B).

Line 11. Advertising Income

Enter the amount computed at Part IX, line 2 on Part I, line 11, column (A). Enter the amount computed at Part IX, line 3 on Part I, line 11, column (B).

Line 12. Other Income

Enter on Part I, line 12 any item of unrelated business income from a particular trade or business that isn't reportable elsewhere on the return. Attach a statement describing the sources of the other income and their amounts. Such amounts may include:

- Recoveries of bad debts deducted in earlier years under the specific charge-off method;
- The amount from Form 6478, Alcohol and Cellulosic Biofuel Fuels Credit (if applicable);
- The amount from Form 8864, Biodiesel and Renewable Diesel Fuels Credit (if applicable); and
- Proceeds received from employer-owned life insurance contracts issued after August 17, 2006 (complete and attach Form 8925).
- The amount of payroll tax credit taken by an employer on its employment tax returns (Forms 941, 943, and 944) for qualified paid sick and qualified paid family leave under FFCRA and ARP (both the nonrefundable and refundable portions). These amounts must be included in gross income for the tax year that includes the last day of the calendar quarter in which the credit is allowed.

Organizations described in section 501(c)(19). Enter the net income from an insurance business that was not properly set aside. These organizations may set aside income from payments received for life, sickness, accident, or health insurance for members of the organization or their dependents.

1. To provide for the payment of insurance benefits.
2. For a purpose specified in section 170(c)(4) (religious, charitable, scientific, literary, educational, etc.).
3. For administrative costs directly connected with benefits described in 1 and 2 above.

Amounts set aside and used for purposes other than those in 1, 2, or 3 above must be included in unrelated business taxable income for the tax year if they were previously excluded from taxable income.

Any amount spent for a purpose described in section 170(c)(4) is first considered paid from funds earned by the organization from insurance activities if the income isn't used for the insurance activities.

Expenditures for lobbying aren't considered section 170(c)(4) expenses.

Income from property financed with qualified 501(c)(3) bonds. If any part of the property is used in a trade or business of any person other than a section 501(c)(3) organization or a governmental unit, and such use isn't consistent with the requirement for qualified 501(c)(3) bonds under section 145, the section 501(c)(3) organization is considered to have received unrelated business income in the amount of the greater of the actual rental income or the fair rental value of the property for the period it is used. No deduction is allowed for interest on the private activity bond. Report the greater of the actual rent or the fair rental value on Schedule A, Part I, line 12. Report allowable deductions in Schedule A, Part II. See sections 150(b)(3) and (c).

Passive foreign investment company (PFIC) shareholders. If the organization is a direct or indirect shareholder of a PFIC within the meaning of section 1297, it may have income tax consequences under section 1291 upon the disposition of the PFIC stock or on the receipt of an excess distribution from the PFIC, described in section 1291(a). The organization may have current income under section 1293 if the PFIC is a qualified electing fund (QEF) with respect to the organization. The organization may also have current income under section 1296 if it makes a section 1296 mark-to-market election with respect to the PFIC stock.

Include on Schedule A, Part I, line 12 the portion of an excess distribution (or gain treated as an excess distribution) section 1293 inclusion or section 1296 inclusion that is taxable as unrelated business taxable income. See Form 8621, Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.

See the instructions for Form 990-T, Part II, line 4, for reporting the deferred tax amount that may be owed by the organization with respect to an excess distribution (or gain treated as an excess distribution).

Line 13. Total Unrelated Trade or Business Income

Use the amount from Schedule A, Part I, line 13, column (C) in the computation of unrelated business taxable income in Part II.

Part II. Deductions Not Taken Elsewhere

If the aggregate sum of the amounts on all Schedules A (Form 990-T), Part I, line 13, column (A) is \$10,000 or less, you don't have to complete Schedule A, Part II, lines 1 through 14. However, you must complete the remainder of Schedule A, Part II and include the larger of each total from Schedule A, Part II, line 18 or zero, in the computation of the amount reported on Part I, line 1 of Form 990-T.

Note. Only expenses directly connected with the unrelated trade or business income reported on the Schedule A for that particular unrelated trade or business may be deducted on that Schedule A (see *Directly connected expenses*, in Appendix A). Don't separately include in Schedule A, Part II any expenses that are reported in Schedule A, Parts III through IX, other than excess exempt expenses entered on Schedule A, Part II, line 12 and excess readership costs entered on Schedule A, Part II, line 13. For example, officers' compensation allocable to advertising income is reported on Schedule A, Part IX only, and

shouldn't be included on Schedule A, Part X or Schedule A, Part II, line 1.

Limitations on Deductions

The following items discuss certain areas in which the deduction may be limited.

Activities Lacking a Profit Motive

In some instances it is necessary to report income whether or not it comes from a trade or business (including interest, annuities, royalties, and rents from controlled organizations, and income of a section 501(c)(7), (9), or (17) organization other than exempt function income). If income is attributable to an activity lacking a profit motive, then a net loss from the activity can't be claimed on Form 990-T. Therefore, in Part I, column (B) and Part II, the total of deductions for expenses directly connected with income from an activity lacking a profit motive is limited to the amount of that income. Generally, an activity lacking a profit motive is one that isn't conducted for the purpose of producing a profit or one that has consistently produced losses when both direct and indirect expenses are taken into account.

Deductions Related to Property Leased to Tax-Exempt Entities

For property leased to a governmental or other tax-exempt entity, or in the case of property acquired after March 12, 2004, that is treated as tax-exempt use property other than by reason of a lease, the organization may not claim deductions related to the property when they exceed the organization's income from the lease payments. Amounts disallowed may be carried over to the next year and treated as a deduction concerning the property. See section 470.

Transactions Between Related Taxpayers

Generally, an accrual basis taxpayer may deduct business expenses and interest owed to a related party only in the year the payment is included in the income of the related party. See sections 163(e)(3) and 267 for limitations on deductions for unpaid interest and expenses.

Preference Items

Corporations may be required to adjust deductions for depletion of iron ore and coal, intangible drilling and exploration and development costs, and the amortizable basis of pollution control facilities. See section 291 to determine the amount of the adjustment.

Section 263A Uniform Capitalization Rules

These rules require organizations to capitalize or include as inventory cost certain costs incurred in connection with:

- The production of real property and tangible personal property held in inventory or held for sale in the ordinary course of business.
- Real property or personal property held in inventory (tangible and intangible) acquired for resale.
- The production of real property and tangible personal property produced by the organization for use in its trade or business or in an activity engaged in for profit.

Tangible personal property produced by an organization includes a film, sound recording, videotape, book, or similar property.

Indirect expenses. Organizations subject to the section 263A uniform capitalization rules are required to capitalize direct costs

and an allocable part of most indirect costs (including taxes) that benefit the assets produced or acquired for resale or are incurred by reason of the performance of production or resale activities.

For inventory, some of the indirect expenses that must be capitalized are:

- Administration expenses;
- Taxes;
- Depreciation;
- Insurance;
- Compensation paid to officers attributable to services;
- Rework labor; and
- Contributions to pension, stock bonus, and certain profit-sharing, annuity, or deferred compensation plans.

Regulations section 1.263A-1(e)(3) specifies other indirect costs that relate to production or resale activities that must be capitalized and those that may be currently deductible.

Interest expense. Interest expense paid or incurred during the production period of designated property must be capitalized and is governed by special rules. See Regulations section 1.263A-8 through 1.263A-15.

When are section 263A capitalized costs deductible? The costs required to be capitalized under section 263A aren't deductible until the property (to which the costs relate) is sold, used, or otherwise disposed of by the organization.

Exceptions. Section 263A doesn't apply to:

- Personal property acquired for resale if the organization's average annual gross receipts for the 3 prior tax years were \$10 million or less;
- Timber;
- Most property produced under long-term contract;
- Certain property produced in a farming business;
- Research and experimental costs under section 174;
- Geological and geophysical costs amortized under section 167(h);
- Intangible drilling costs for oil, gas, and geothermal property;
- Mining exploration and development costs; and
- Inventory of an organization that accounts for inventories in the same manner as materials and supplies that aren't incidental. See Schedule A, Part III, Cost of Goods Sold, later.

See Regulations sections 1.263A-1 through 1.263A-3.

Travel, Meals, and Entertainment

Subject to limitations and restrictions discussed below, an organization can deduct ordinary and necessary travel, meals, and non-entertainment expenses paid or incurred in its trade or business. Generally, entertainment expenses, membership dues, and facilities used in connection with these activities cannot be deducted. In addition, no deduction is generally allowed for qualified transportation fringe benefits. Special rules apply to deductions for gifts, luxury water travel, and convention expenses. See section 274 and Pub. 463, Travel, Gift, and Car Expenses.

Qualified transportation fringes (QTFs). Generally, no deduction is allowed under section 274(a)(4) for QTF's provided by employers to their employees. QTFs are defined in section 132(f)(1) and include:

- Transportation in a commuter highway vehicle between the employee's residence and place of employment,
- Any transit pass, and
- Qualified parking.

See section 274, Pub 15-B, and Pub. 535 for details.

Travel. The organization can't deduct travel expenses of any individual accompanying an organization's officer or employee, including a spouse or dependent of the officer or employee, unless:

- That individual is an employee of the organization, and
- His or her travel is for a bona fide business purpose and would otherwise be deductible by that individual.

Meals. Generally, the organization can deduct only 50% of the amount otherwise allowable for non-entertainment related meal expenses paid or incurred in an unrelated trade or business. The Taxpayer Certainty and Disaster Relief Act of 2020 amended section 274(n)(2) to provide an exception from the general rule. For business meal expenses paid or incurred after December 31, 2020 and before January 1, 2023, the organization is allowed a deduction of 100% of business meal expenses for food and beverages provided by a restaurant. Meals not separately stated from entertainment are generally not deductible. In addition (subject to exceptions under section 274(k)(2)):

- Meals mustn't be lavish or extravagant; and
- An employee of the organization must be present at the meal.

Membership dues. The organization can deduct amounts paid or incurred for membership dues in civic or public service organizations, professional organizations (such as bar and medical associations), business leagues, trade associations, chambers of commerce, boards of trade, and real estate boards. However, no deduction is allowed if a principal purpose of the organization is to entertain or provide entertainment facilities for members or their guests. In addition, organizations cannot deduct membership dues in any club organized for business, pleasure, recreation, or other social purpose. This includes country clubs, golf and athletic clubs, airline and hotel clubs, and clubs operated to provide meals under conditions favorable to business discussion.

Entertainment facilities. The organization can't deduct an expense paid or incurred for use of a facility (such as a yacht or hunting lodge) for an activity usually considered entertainment, amusement, or recreation.

Amounts treated as compensation. The organization generally may be able to deduct otherwise nondeductible travel, meals, and entertainment expenses if the amounts are treated as compensation and reported on Form W-2 for an employee or Form 1099-NEC for an independent contractor and if the total amount of such compensation isn't unreasonable.

Reducing Certain Expenses For Which Credits Are Allowable

If the organization claims certain credits, it may need to reduce the otherwise allowable deductions for expenses used to figure the credit. This applies to credits such as the following.

- Disabled access credit.
- Employer credit for social security and Medicare taxes paid on certain employee tips.
- Credit for employer-provided childcare facilities and services.
- Orphan drug credit.
- Credit for small employer pension plan start-up costs.
- Mine rescue team training credit.
- Employer credit for paid family and medical leave.

If the organization has any of these credits, figure each current year credit before figuring the deduction for expenses on which the credit is based.

Business Start-up and Organizational Costs

For business start-up and organizational costs paid or incurred after September 8, 2008, an organization can deduct up to \$5,000 of such costs in the year it begins business (unless the organization elects to capitalize the full amount of such costs). The \$5,000 deduction is reduced (but not below zero) by the amount the total costs exceed \$50,000. If the total costs are \$55,000 or more, the deduction is reduced to zero. Any costs not deducted must be amortized as explained below.

Note. For start-up and organizational costs paid or incurred after September 8, 2008, the organization isn't required to attach a statement or specifically identify the amount deducted for the election under sections 195(b) and 248(a) to be effective. It is a deemed election. Whether an organization deducts a portion of its start-up and organizational costs under Regulations sections 1.195-1 and 1.248-1 or elects to amortize the full amount of such costs, its election is irrevocable. For start-up and organizational costs paid or incurred after October 22, 2004, and before September 9, 2008, an organization generally must attach the statement required by Regulation sections 1.195-1(b) and 1.248-1(c) to make the election to deduct a portion of such costs (as explained above). This election is irrevocable. However, an organization can apply the provisions of these regulations to costs paid or incurred after October 22, 2004.

Amortization. Any costs not deducted under the above rules must be amortized ratably over the 180-month period, beginning with the month the organization begins business. See the Instructions for Form 4562, Depreciation and Amortization, for details. If the association elected to amortize business start-up and organizational costs paid or incurred before October 23, 2004, over a period of 60 months or more, it must continue to amortize those costs over the elected amortization period. Report the deductible amount of these costs and any amortization on Schedule A, Part II, line 14. For amortization that began during the tax year, complete and attach Form 4562.

Line 3. Repairs and Maintenance

Enter the cost of incidental repairs and maintenance not claimed elsewhere on the return, such as labor and supplies, that don't add to the value or appreciably prolong the life of the property.

Line 4. Bad Debts

Enter the total receivables from an unrelated trade or business that were previously included in taxable income and that became worthless in whole or in part during the tax year.

Line 5. Interest

Attach a separate statement listing the interest being claimed on this line.

Interest allocation. If the proceeds of a loan were used for more than one purpose (for example, to purchase a portfolio investment and to acquire an interest in a passive activity), an interest allocation must be made. See Temp. Reg. section 1.163-8T for the interest allocation rules.

Tax-exempt interest. Don't include interest on indebtedness incurred or continued to purchase or carry obligations on which the interest income is totally exempt from income tax. For exceptions, see section 265(b).

Prepaid interest. Generally, a cash basis taxpayer cannot deduct prepaid interest allocable to years following the current tax year. For example, during the tax year a cash basis taxpayer prepaid interest on a loan. The taxpayer can deduct only that part of the prepaid interest that was for the use of the loaned funds during the tax year, not for the use of the loaned funds during the subsequent years.

Straddle interest. Generally, the interest and carrying charges on straddles cannot be deducted and must be capitalized. See section 263(g).

Original issue discount. See section 163(e)(5) for special rules for the disqualified portion of original issue discount on a high yield discount obligation.

Interest on certain underpayments of tax. Don't deduct interest paid or incurred on any portion of an underpayment of tax that is attributable to an understatement arising from an

undisclosed listed transaction or an undisclosed reportable avoidance transaction (other than a listed transaction) entered into in tax years beginning after October 22, 2004.

Interest allocable to the production of designated property.

Don't deduct interest on debt allocable to the production of designated property. Interest that is allocable to such property produced by an organization for its own use or for sale must be capitalized. An organization must also capitalize any interest on debt allocable to an asset used to produce the earlier property. See section 263A(f) and Regulations sections 1.263A-8 through 1.263A-15.

Interest on below-market loans. See section 7872 for special rules regarding the deductibility of foregone interest on certain below-market-rate loans.

Limitation on deduction of business interest. Business interest expense is limited to the sum of business interest income, 30% of the adjusted taxable income and floor plan financing interest. Business interest expense includes any interest paid or accrued on indebtedness properly allocable to an unrelated trade or business. A taxpayer, other than a tax shelter, that meets the gross receipts test is not required to limit business interest expense under section 163(j). A taxpayer meets the gross receipts test if the taxpayer has average annual gross receipts that are taken into account in determining its unrelated business taxable income of \$26 million or less for the three prior tax years. Gross receipts include the aggregate gross receipts from all persons treated as a single employer such as a controlled group of corporations, commonly controlled partnerships or proprietorships, and affiliated service groups. If the taxpayer fails to meet the gross receipts test, Form 8990 is generally required.

Line 6. Taxes and Licenses

Enter taxes and license fees paid or accrued during the year, but don't include the following taxes.

- Federal income taxes.
- Foreign or U.S. possession income taxes if a foreign tax credit is claimed.
- Taxes not imposed on your organization.
- Taxes, including state or local sales taxes, paid or incurred in connection with an acquisition or disposition of property. These taxes must be treated as part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition.
- Taxes assessed against local benefits that increase the value of the property assessed (such as for paving, etc.).
- Taxes deducted elsewhere on the return, such as those reflected in cost of goods sold.

See section 164(d) for apportionment of taxes on real property between the buyer and seller.

Line 7. Depreciation

Besides depreciation, include on line 7 the part of the cost, under section 179, that the organization elected to expense for certain tangible property placed in service during the tax year or carried over from the prior tax year. See Form 4562 and its instructions.

Line 9. Depletion

See sections 613 and 613A for percentage depletion rates for natural deposits. Attach Form T, Forest Activities Schedules, if a deduction is taken for depletion of timber.

Line 10. Contributions to Deferred Compensation Plans

Employers who maintain pension, profit-sharing, or other funded deferred compensation plans are generally required to file Form

5500. This requirement applies whether or not the plan is qualified under the Code and whether or not a deduction is claimed for the current tax year. Section 6652(e) imposes a penalty for late filing of these forms. In addition, there is a penalty for overstating the pension plan deduction. See section 6662(f).

Line 11. Employee Benefit Programs

Enter the amount of contributions to employee benefit programs (such as insurance, health, and welfare programs) that aren't an incidental part of a deferred compensation plan included on Schedule A, Part II, line 10.

Line 12. Excess Exempt Expenses

Enter the amount computed at Part VIII, line 7 (if applicable) on Part II, line 12.

Line 13. Excess Readership Costs

Enter the amount computed at Part IX, line 8a (if applicable) on Part II, line 13.

Line 14. Other Deductions

Enter on this line the deduction taken for amortization (see Form 4562) as well as other authorized deductions for which no space is provided on the return. Attach a statement listing the deductions claimed on this line. On each Schedule A, deduct only items directly connected with the unrelated trade or business for which income is reported on that Schedule A.

Extraterritorial income exclusion. Complete Form 8873 and include the deduction from line 53 in other deductions reported on Part II, line 14.

Don't deduct fines or penalties paid to a government for violating any law. The exclusion was repealed generally for transactions after 2004, with some exceptions. See Form 8873 and its instructions.

Line 17. Net Operating Loss (NOL) Deduction Arising in Tax Years Beginning On or After January 1, 2018

The NOL deduction is the net operating loss carryover and carrybacks that can be deducted in the tax year with regard to each separate trade or business. To be deductible, an NOL must have been incurred in an unrelated trade or business activity. See section 172(a).

Tax Cuts & Jobs Act amendments to section 172. Section 13302 of the Tax Cuts & Jobs Act amended section 172 for tax years ending after 2017 to eliminate NOL carrybacks except for certain farming losses and NOLs of insurance companies other than life insurance companies. See section 172(b) as amended by the Tax Cuts & Jobs Act. Also see Publication 225, Farmer's Tax Guide, Publication 536, Net Operating Losses for Individuals, Estates, and Trusts, and Publication 542, Corporations, for additional information. The Tax Cuts & Jobs Act also amended section 172(a)(2) to limit the allowable NOL deduction to 80% of taxable income (calculated as described in section 172(a)(2)).

CARES Act modifications. The CARES Act temporarily modified or suspended certain amendments to section 172 under the Tax Cuts and Jobs Act.

Suspension of 80% limitation. The excess business loss limitation under section 172(a)(2) has been suspended for tax year 2020.

NOL carryback. Elimination of most NOL carrybacks was changed to provide that losses arising in tax years beginning after December 31, 2017; and before January 1, 2021 (CARES Act NOLs) must be carried back to the five tax years preceding

the tax year of such loss, which includes tax years prior to the enactment of section 512(a)(6).

The organization may waive the CARES Act NOL carryback by attaching a statement to Form 990-T as described in Rev. Proc. 2020-24.

An organization eligible to carry an NOL back to a prior year must file an amended Form 990-T for that year. Form 1045 or Form 1139 can't be used for this purpose; however, Form 1045 or Form 1139 may be attached to the amended Form 990-T to show the NOL computation. See Pub. 536.

Instructions for Line 17. Enter on Schedule A, Part II, line 17, the NOL carryover from other tax years attributable to that trade or business, but don't enter more than the amount shown on Schedule A, Part II, line 16. An organization that claims the deduction with respect to any NOL carried through tax years for which the organization was not required to file Form 990-T must show the amount of the deduction and how it was computed, but the organization need not file a Form 990-T in order to preserve an NOL carryover. The amount of an NOL carryback or carryover is determined under section 172. See Regulations section 1.512(b)-1(e) and, for organizations with more than one unrelated trade or business, section 1.512(a)-6(h). Attach a statement showing the computation of the NOL deduction.

Line 18. Unrelated Business Taxable Income

Use the greater of the amount computed on line 18 or zero in the computation of unrelated business taxable income on Part I, line 1 of Form 990-T. A net loss calculated on any Schedule A, Part II, line 18 cannot be used to offset gain on any other Schedule A. Accordingly, a net loss on a Schedule A should be treated as a zero to calculate the amount reported on Part I, line 1 of Form 990-T.

Part III. Cost of Goods Sold

Generally, inventories are required at the beginning and end of each tax year if the production, purchase, or sale of merchandise is an income-producing factor. See Regulations section 1.471-1.

However, if the organization is a qualifying taxpayer or a qualifying small business taxpayer, it may adopt or change its accounting method to account for inventoriable items in the same manner as materials and supplies that aren't incidental (unless its business is a tax shelter (as defined in section 448(d)(3))).

A qualifying taxpayer is a taxpayer that, for each prior tax year ending after December 16, 1998, has average annual gross receipts of \$1 million or less for the 3-tax-year period ending with that prior tax year.

A qualifying small business taxpayer is a taxpayer (a) that has average annual gross receipts of \$26 million or less for the 3-tax-year period ending with that prior tax year, and (b) whose principal business activity isn't an ineligible activity

Under this accounting method, inventory cost for raw materials purchased for use in producing finished goods and merchandise purchased for resale are deductible in the year the finished goods or merchandise are sold (but not before the year the organization paid for the raw materials or merchandise, if it is also using the cash method). For additional guidance on this method of accounting for inventoriable items, see Pub. 538 and the Instructions for Form 3115.

Enter amounts paid for all raw materials and merchandise during the tax year on line 2. The amount the organization can deduct for the tax year is figured on Schedule A, Part III, line 8.

All filers not using the cash method of accounting should see *Section 263A Uniform Capitalization Rules*, earlier in the

instructions for *Limitations on Deductions* before completing Schedule A. The instructions for lines 1, 4, 5, and 7 later apply to Schedule A, Part III.

Inventory valuation methods. Inventories can be valued at:

1. Cost as described in Regulations section 1.471-3,
2. Lower of cost or market as described in Regulations section 1.471-4, or
3. Any other method approved by the IRS that conforms to the requirements of the applicable regulations cited below.

However, if the organization is using the cash method of accounting, it is required to use cost.

A small producer is one whose average annual gross receipts are \$1 million or less. Small producers that account for inventories in the same manner as materials and supplies that aren't incidental may currently deduct expenditures for direct labor and all indirect costs that would otherwise be included in inventory costs.

The average cost (rolling average) method of valuing inventories generally doesn't conform to the requirement of the regulations. See Rev. Rul. 71-234, 1971-1 C.B. 148.

Organizations that use erroneous valuation methods must change to a method permitted for federal income tax purposes. File Form 3115 to make this change.

Inventory may be valued below cost when the merchandise is unsalable at normal prices or unusable in the normal way because the goods are subnormal because of damage, imperfections, shop wear, etc., within the meaning of Regulations section 1.471-2(c). The goods may be valued at the bona fide selling price, minus direct cost of disposition (but not less than scrap value). Bona fide selling price means actual offering of goods during a period ending not later than 30 days after inventory date.

If this is the first year the Last-in First-out (LIFO) inventory method was either adopted or extended to inventory goods not previously valued under the LIFO method provided in section 472, attach Form 970, Application To Use LIFO Inventory Method, or a statement with the information required by Form 970.

If the organization changed or extended its inventory method to LIFO and had to write up the opening inventory to cost in the year of election, report the effect of this write-up as other income (Part I, line 12) proportionately over a 3-year period that begins in the tax year the LIFO election was made (section 472(d)).

Line 1

If the organization is changing its method of accounting to no longer account for inventories, it must refigure last year's closing inventory using the new method of accounting and enter the result on line 1. If there is a difference between last year's closing inventory and the refigured amount, attach an explanation and take it into account when figuring the organization's section 481(a) adjustment (explained earlier).

Line 4

An entry is required on this line only for organizations that have elected a simplified method of accounting.

For organizations that have elected the simplified production method, additional section 263A costs are generally those costs, other than interest, that are now required to be capitalized under section 263A but that weren't capitalized under the organization's method of accounting immediately prior to the effective date of section 263A. For details, see Regulations section 1.263A-2(b).

For organizations that have elected the simplified resale method, additional section 263A costs are generally those costs incurred with respect to the following categories:

- Off-site storage or warehousing;
- Purchasing;
- Handling, such as processing, assembling, repackaging, and transporting; and
- General and administrative costs (mixed service costs).

For details, see Regulations section 1.263A-3(d).

Enter on Schedule A, Part III, line 4 the balance of section 263A costs paid or incurred during the tax year not included on Schedule A, Part III, lines 2 and 3.

Line 5

Enter on Schedule A, Part III, line 5 any costs paid or incurred during the tax year not entered on Schedule A, Part III, lines 2 through 4. Attach a statement describing the other costs.

Line 7

See Regulations sections 1.263A-1 through 1.263A-3 for details on figuring the amount of additional section 263A costs to be included in ending inventory.

If the organization accounts for inventories in the same manner as materials and supplies that aren't incidental, enter on Schedule A, Part III, line 7 the portion of its raw materials and merchandise purchased for resale that are included on Schedule A, Part III, line 6 and weren't sold during the year.

Part IV. Rent Income

Section 501(c)(7), (9), and (17) organizations, enter gross rents in Schedule A, Part I, line 6, and applicable expenses in Schedule A, Part II, lines 1 through 14. All rents except those that are exempt function income must be included.

All organizations that have applicable rent income, other than section 501(c)(7), (9), and (17) organizations, should complete Schedule A, Part IV. For organizations other than section 501(c)(7), (9), and (17) organizations, only the following rents are taxable in Schedule A, Part I, line 6.

1. Rents from personal property leased with real property, if the rents from the personal property are more than 10% of the total rents received or accrued under the lease, determined at the time the personal property is placed in service.

2. Rents from real and personal property if:

- a. More than 50% of the total rents received or accrued under the lease are for personal property, or
- b. The amount of the rent depends on the income or profits derived by any person from the property leased (except an amount based on a fixed percentage of receipts or sales).

A redetermination of the percentage of rent for personal property is required when either:

1. There is an increase of 100% or more by the placing of additional or substitute personal property in service, or
2. There is a modification of the lease that changes the rent charged. Rents from both real and personal property not taxable in Schedule A, Part I, line 6, may be taxable on Schedule A, Part I, line 8 if the income is from a controlled organization or on Schedule A, Part I, line 7 if the property is debt-financed. Taxability of the rents must be considered in the following order.
 - Rents not taxed on Schedule A, Part I, line 6 may be taxed on Schedule A, Part I, line 8.
 - Rents not taxed on Schedule A, Part I, line 6 or line 8 may be taxed on Schedule A, Part I, line 7.

Rents from personal property not leased with real property should be reported on Schedule A, Part I, line 12.

See Form 8582 (for trusts) or Form 8810 (for corporations) and section 469 for limitations on losses from rental activities.

Line 1. Description of Property

Check the box next to the property description if the property is used both to carry on exempt activities and to conduct unrelated trade or business activities.

Line 4

For each property, attach a statement describing the directly connected deductions and their amounts.

Part V. Unrelated Debt-Financed Income

Use Schedule A, Part V to compute unrelated debt-financed income described in sections 512(b)(4) and 514 from debt-financed property only to the extent that the income doesn't constitute income from the conduct of an unrelated trade or business and isn't specifically taxable under other provisions of the Code, such as taxable rents from personal property leased with real property reportable on Schedule A, Part IV (and Schedule A, Part I, line 6), or taxable interest, annuities, royalties, and rents from a controlled entity reportable on Schedule A, Part VI (and Schedule A, Part I, line 8). See Regulations section 1.514(b)-1(b)(2). Refer to Regulations section 1.512(a)-6 when reporting income from one or more debt-financed properties and also for rules permitting the aggregation of unrelated debt-financed income with other UBTI in certain circumstances. Gain or loss from the sale or disposition of debt-financed property is reported on Schedule A, Part I, line 4.

Section 501(c)(7), (9), and (17) organizations should report income from debt-financed property on Schedule A, Part VII (and Schedule A, Part I, line 9).

When a debt-financed property is held for exempt purposes and other purposes, the organization must allocate the basis, debt, income, and deductions among the purposes for which the property is held. Don't include in Schedule A, Part V amounts allocated to exempt purposes.



For section 514 purposes, don't treat an interest in a qualified state tuition program (QSTP) as debt. However, a QSTP's investment income is treated as debt-financed income if the QSTP incurs indebtedness when acquiring or improving income-producing property.

A property held to produce income is debt-financed property if at any time during the tax year there was acquisition indebtedness outstanding for the property. When a property held for the production of income by an organization is disposed of at a gain during the tax year, and there was acquisition indebtedness outstanding for that property at any time during the 12-month period before the date of disposition, the property is debt-financed property. Securities purchased on margin are considered debt-financed property if the liability incurred in purchasing them remains outstanding.

Acquisition indebtedness is the outstanding amount of principal debt incurred by the organization to acquire or improve the property. Acquisition indebtedness also includes indebtedness incurred:

1. Before the property was acquired or improved, if the indebtedness would not have been incurred but for such acquisition or improvement of the property; or
2. After the property was acquired or improved, if the indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such

acquisition or improvement. See Regulations section 1.514(c)-1(a).

With certain exceptions, acquisition indebtedness doesn't include debt incurred by:

1. A qualified (section 401) trust in acquiring or improving real property. See section 514(c)(9).
2. A tax-exempt school (section 170(b)(1)(A)(ii)) and its affiliated support organizations (section 509(a)(3)) for indebtedness incurred after July 18, 1984.
3. An organization described in section 501(c)(25) in tax years beginning after December 31, 1986.
4. An obligation, to the extent that it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low and moderate income persons, or indebtedness incurred by a small business investment company licensed after October 22, 2004, under the Small Business Investment Act of 1958 if such indebtedness is evidenced by a debenture issued by such company under section 303(a) of that Act, and held or guaranteed by the Small Business Administration (see section 514(c)(6)(B) for limitations).
5. A retirement income account described in section 403(b)(9) in acquiring or improving real property in tax years beginning on or after August 17, 2006.

See Pub. 598 for additional exceptions to the rules for debt-financed property.

Example 1. An exempt organization owns a four-story building. Two floors are used for an exempt purpose and two floors are rented (as an unrelated trade or business) for \$10,000. Expenses are \$1,000 for depreciation and \$5,000 for other expenses that relate to the entire building. The average acquisition indebtedness is \$6,000, and the average adjusted basis is \$10,000. Both apply to the entire building.

To complete Schedule A, Part V for this example, describe the property in Schedule A, Part V, line 1. Enter \$10,000 in Schedule A, Part V, line 2 (since the entire amount is for debt-financed property); \$500 and \$2,500 in Schedule A, Part V, line 3(a) and 3(b), respectively (since only one-half of the expenses are for the debt-financed property); \$3,000 and \$5,000 in Schedule A, Part V, lines 4 and 5, respectively (since only one-half of the acquisition indebtedness and the average adjusted basis are for debt-financed property); 60% in Schedule A, Part V, line 6; \$6,000 in Schedule A, Part V, line 7; and \$1,800 in Schedule A, Part V, line 9.

Example 2. Assume the same facts as in Example 1, except the entire building is rented out as an unrelated trade or business for \$20,000. To complete Schedule A, Part V for this example, enter \$20,000 in Schedule A, Part V, line 2; \$1,000 and \$5,000 in Schedule A, Part V, lines 3(a) and 3(b), respectively (since the entire amount is for debt-financed property); \$6,000 and \$10,000 in Schedule A, Part V, lines 4 and 5 (since the entire amount is for debt-financed property); 60% in Schedule A, Part V, line 6; \$12,000 in Schedule A, Part V, line 7; and \$3,600 in Schedule A, Part V, line 9.

Line 1

Enter the address of the debt-financed property. If the debt-financed property is not real property, enter the address where the property is located and describe the property in Part XI, Supplemental Information.

Check the box next to the property description if the property is used both to carry on exempt activities and to conduct unrelated trade or business activities.

Line 2

Enter the gross income from debt financed property, excluding income otherwise included in unrelated business taxable income. For example, don't include rents from personal property shown in Schedule A, Part IV, or rents and interest from controlled organizations shown in Schedule A, Part VI.

Line 3

For amounts shown on line 3a, attach a statement showing, for each property,

1. The cost or salvage value,
2. The year acquired,
3. The property's useful life (rounded to a whole number if necessary),
4. The years remaining (rounded to a whole number if necessary),
5. The annual depreciation expense amount, and
6. The allowable depreciation expense amount.

Line 4

Average acquisition indebtedness for any tax year is the average amount of the outstanding principal debt during the part of the tax year the property is held by the organization. To figure the average amount of acquisition debt, determine the amount of the outstanding principal debt on the first day of each calendar month during that part of the tax year that the organization holds the property. Add these amounts together, and divide the result by the total number of months during the tax year that the organization held the property. See section 514(a) and the related regulations for property acquired for an indeterminate price.

Attach a statement showing, for each property,

1. The average amount of acquisition debt,
2. The percent allocable to debt-financed income, and
3. The product of (1) multiplied by (2).

Line 5

The average adjusted basis for debt-financed property is the average of the adjusted basis of the property on the first and last days during the tax year that the organization holds the property. Determine the adjusted basis of property under section 1011. Adjust the basis of the property by the depreciation for all earlier tax years, whether or not the organization was exempt from tax for any of these years. Similarly, for tax years during which the organization is subject to tax on unrelated business taxable income, adjust the basis of the property by the entire amount of allowable depreciation, even though only a part of the deduction for depreciation is taken into account in figuring unrelated business taxable income.

Attach a statement showing, for each property,

1. A brief description of the property,
2. The adjusted basis,
3. The percent allocable to debt-financed income, and
4. The product of (3) multiplied by (4).

If no adjustments to the basis of property under section 1011 apply, the basis of the property is cost.

See section 514(d) and the related regulations for the basis of debt-financed property acquired in a complete or partial liquidation of a corporation in exchange for its stock.

Line 6

Divide each property's average acquisition indebtedness for the tax year by that property's average adjusted basis during the

period it is held in the tax year. This percentage cannot be more than 100%.

Line 7

The amount of income from debt-financed property included in unrelated trade or business income is figured by multiplying the property's gross income by the percentage computed on line 6.

Line 8

Enter on line 8 the sum of amounts computed for each property on line 7. Also enter this amount on Part I, line 7, column (A).

Line 9

For each debt-financed property, multiply the total deductions directly connected to the income (including the dividends-received deductions allowed by sections 243, 244, and 245) by the percentage computed on line 6. However, if the debt-financed property is depreciable property, figure the depreciation deduction by the straight-line method only and enter the amount in Schedule A, Part V, line 3(a).

For each debt-financed property, attach statements showing separately a computation of the depreciation deduction (if any) reported in Schedule A, Part V, line 3(a) (as described earlier) and a breakdown of the expenses included in Schedule A, Part V, line 3(b). Corporations owning stock that is unrelated debt-financed property should see Schedule C (Dividends and Special Deductions) of Form 1120, U.S. Corporation Income Tax Return, to determine the dividends-received deductions to include in Schedule A, Part V, line 3(b).

When a capital loss for the tax year may be carried back or carried over to another tax year, the amount to carry over or back is figured by using the percentage determined above. However, in the year to which the amounts are carried, don't apply the debt-basis percentage to determine the deduction for that year.

Line 10

On line 10 enter the sum of amounts computed for each property on line 9. Also enter this amount on Part I, line 7, column (B).

Line 11

Enter the total dividends-received deductions (after reduction, when applicable, by the debt-basis percentage(s)) included in Schedule A, Part V, line 9.

Part VI. Interest, Annuities, Royalties, and Rents From Controlled Organizations

Under section 512(b)(13), interest, annuities, royalties, and rents received or accrued (directly or indirectly) by a controlling organization from a controlled organization are subject to tax, whether or not the activity conducted by the controlling organization to earn these amounts is a trade or business or is regularly conducted. However, see Regulations section 1.512(b)-1(l)(5) regarding amounts taxable under other provisions of the Code.

Controlled organization. An entity is a "controlled organization" if the controlling organization owns:

- By vote or value more than 50% of a corporation's stock (for an organization that is a corporation);
- More than 50% of a partnership's profits or capital interests (for an organization that is a partnership); or
- More than 50% of the beneficial interests in an organization (for an organization other than a corporation or partnership).

To determine the ownership of stock in a corporation, apply the principles of section 318 (constructive ownership of stock). Apply similar principles to determine the ownership of interests in a partnership or any other organization.

Column 3. Enter the net unrelated income (or net unrelated loss) of each controlled entity listed that is exempt from tax under section 501(a).

Column 7. Enter the taxable income of each nonexempt controlled organization.

Column 8. Enter the net unrelated income (or net unrelated loss) of each controlled entity listed that isn't exempt from tax under section 501(a). Net unrelated income is that portion of the controlled entity's taxable income that would be unrelated business taxable income if the entity were exempt under section 501(a) and had the same exempt purposes as the controlling organization. Net unrelated loss is the controlled organization's net operating loss adjusted under rules similar to those used to determine net unrelated income.

Column 4 or 9. For each controlled organization, enter the total of specified payments received from each controlled organization. If the organization received both specified payments and qualifying specified payments from a controlled organization, enter specified payments on one line and qualifying specified payments on another so that there are dual entries for that controlled organization.

Column 5 or 10. For specified payments, enter the portion of columns 4 or 9 to the extent that the payment reduced the net unrelated income (or increased the net unrelated loss) of the controlled entity.

Column 6 or 11. Enter only those deductions directly connected with the income entered in columns 5 or 10.

With respect to qualifying specified payments, enter only that portion of expenses directly connected to the amounts included in columns 5 or 10, that is, the excess of the payment over the fair market value amount as determined in accordance with section 482. Don't enter any expenses relating to the portion of such payment that isn't includible in income under this special rule.

 For valuation misstatements regarding qualifying specified payments, there is a 20% addition to tax. See section 512(b)(13)(E)(ii).

Excess qualifying specified payments. Excess qualifying specified payments received or accrued from a controlled entity (that is, the amount of qualifying specified payments in excess of what would have been paid or accrued if the payments had been determined under section 482) are included in a controlling exempt organization's unrelated business taxable income.

Part VII. Investment Income of a Section 501(c)(7), (9), or (17) Organization

Generally, for section 501(c)(7), (9), or (17) organizations, unrelated trade or business income includes all gross income from nonmembers with certain modifications. See section 512(a)(3)(A). Report on Schedule A, Part VII all income from investments in securities and other similar investment income from nonmembers, including 100% of income and directly connected expenses from debt-financed property. Don't report nonmember income from debt-financed property on Schedule A, Part V.

All section 501(c)(7), (9), and (17) organizations figure their investment income using Schedule A, Part VII. Don't include interest on state and local governmental obligations described in section 103(a).

Investment income includes all income from debt-financed property.

If a section 501(c)(7), (9), or (17) organization (or a title holding corporation described earlier) sells property that was used for the exempt function of the section 501(c)(7), (9), or (17) organization and buys other property used for the organization's exempt function within a period beginning 1 year before the date of the sale, and ending 3 years after the date of the sale, the gain from the sale will be recognized only to the extent that the sales price of the old property is more than the cost of the other property. The other property need not be similar in type or use to the old property. The organization must notify the IRS of the sale by a statement attached to the return, or other written notice.

To compute the gain on the sale of depreciable property, see the instructions for Part V, line 5, to determine the adjusted basis of the property.

Column 3. Deduct only those expenses that are directly connected to the net investment income. Allocate deductions between exempt activities and other activities where necessary. The organization may not take the dividends-received deductions in figuring net investment income because they aren't treated as directly connected with the production of gross income.

Column 4. Section 501(c)(7), (9), and (17) organizations may set aside income that would otherwise be taxable under section 512(a)(3). However, income derived from an unrelated trade or business may not be set aside and thus can't be exempt function income. In addition, any income set aside and later used for other purposes must be included in income.

Section 501(c)(7), (9), and (17) organizations won't be taxed on income set aside for:

1. Religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals (and reasonable administration costs directly connected to such purposes); or
2. The payment of life, sickness, accident, or other benefits (and reasonable administration costs directly connected to such benefits) by a section 501(c)(9) or (17) organization. The amount allowed as a set aside may not exceed a limit determined using section 512(a)(3)(E). See sections 512(a)(3)(E) and 419A for details.

Report income set aside in Schedule A, Part VII, column 4. Attach a statement listing,

1. The amount set aside for charitable purposes,
2. The amount set aside for reasonable administration costs directly connected with such amount,
3. The amount set aside for payment of life, sickness, accident or other benefits, and
4. The amount set aside for reasonable administration costs directly connected with the payment of such benefits.

Amounts set aside aren't deductible under section 170 or any other section of the Code.

The organization may elect to treat income set aside by the date for filing the return, including any extension of time, as income set aside in the tax year for which the return is filed. The income set aside must have been includible in gross income for that earlier tax year.

Although set aside income may be accumulated, any accumulation that is unreasonable will be evidence that the set aside wasn't for the purposes previously mentioned.

Net investment income set aside must be specifically earmarked as such, or placed in a separate account or fund (except for a section 501(c)(9) or (17) organization which, by the terms of its governing instrument, must use its net investment

income for the payment of life, sickness, accident, or other benefits, and reasonable administration costs).

These rules apply to a corporation described in section 501(c)(2) (title holding corporation) whose income is payable to an organization described in section 501(c)(7), (9), or (17) if it files a consolidated return with the section 501(c)(7), (9), or (17) organization.

Part VIII. Exploited Exempt Activity Income, Other Than Advertising Income

Exempt organizations that have gross income from an unrelated trade or business activity that exploits an exempt activity (other than periodical advertising income reportable in Schedule A, Part IX) should complete Schedule A, Part VIII. See Regulations section 1.513-1(d)(4)(iv) for a definition of exploited exempt activity. Report income from advertising other than in a periodical in Schedule A, Part VIII.

Line 1. Briefly describe the exempt activity being exploited in an unrelated trade or business activity.

Line 3. An exempt organization may take all deductions directly connected with the gross income from the unrelated trade or business activity.

Line 4. Subtract directly connected deductions from the gross unrelated business income. If unrelated business income exceeds the directly connected deduction, the exempt organization may take into account all deductible items attributable to the exploited exempt activity, with the following limitations.

1. Reduce the deductible items of the exempt activity by the income from the activity;
2. Limit the net amount of deductible items arrived at in item 1, above, for the exempt activity to the net unrelated business income from the exploited exempt activity;
3. Exclude income and expenses of the exempt activity in figuring a loss carryover or carryback from the unrelated trade or business activity exploiting the exempt activity; and
4. Exclude deductible items of the exempt activity in figuring unrelated trade or business income from an activity that isn't exploiting the same exempt activity.

As a result, the net includible exploited exempt activity income is the unrelated business taxable income minus the excess of the exempt activity expenses over the exempt activity income. If the income from the exempt activity exceeds the exempt activity expenses, don't add that profit to the net income from the unrelated business activity. Attach a separate statement showing the computation.

Part IX. Advertising Income

An exempt organization that earned gross income from the sale of advertising in an exempt organization periodical must complete Schedule A, Part IX. The part of the advertising income taken into account is determined as follows.

1. If direct advertising costs (expenses directly connected with advertising income) are more than advertising income (unrelated business income), deduct that excess in figuring unrelated business taxable income from any other unrelated trade or business activity conducted by the organization.

2. If advertising income is more than direct advertising costs, and circulation income (exempt activity income) equals or exceeds readership costs (exempt activity expenses), then unrelated business taxable income is the excess of advertising income over direct advertising costs.

3. If advertising income is more than direct advertising costs, and readership costs are more than circulation income, then unrelated business taxable income is the excess of total income (advertising income and circulation income) over total periodical costs (direct advertising costs and readership costs).

4. If the readership costs are more than the circulation income, and the net readership costs are more than the excess of advertising income over direct advertising costs, no loss is allowable. See Regulations section 1.512(a)-1(f)(2)(ii)(b).

For allocating membership receipts to circulation income, see Rev. Rul. 81-101, 1981-C.B. 352.

Consolidated periodicals. If an organization publishes two or more periodicals, it may elect to treat the gross income for all (but not less than all) periodicals, and deductions directly connected with those periodicals (including excess readership costs) as if the periodicals were one to determine its unrelated business taxable income. This rule only applies to periodicals published for the production of income. A periodical is considered published for the production of income if gross advertising income of the periodical is at least 25% of the readership costs, and the periodical is an activity engaged in for profit.

If periodicals are consolidated, check the box next to the periodical name, and attach a statement showing the name of each periodical in the consolidated group. The attached statement should include the amounts that correspond to information for lines 2 through 4. Attach a separate statement for the consolidated group of publications that includes the amounts corresponding to the information for lines 5 through 8.

Part X. Compensation of Officers, Directors, and Trustees

Complete columns 1 through 4 for those officers, directors, and trustees whose salaries or other compensation are allocable to unrelated business gross income. Don't include in column 4 compensation that is deducted on Schedule A, Part II, lines 2, 14, or any line of Schedule A, Parts III through IX.

Part XI. Supplemental Information

Use Part XI to explain the organization's operations, provide information for lines that don't have an embedded attachment to capture the information to supplement information provided on an embedded attachment, or to provide any other information in support of amounts reported on Schedule A. An organization that associated unrelated trade or business activity with a different NAICS or Business Activity Code in a prior year than

the NAICS or Business Activity Code shown on the Schedule A for the current tax year can enter the explanation for the change here.

For each entry in Part XI, include the Schedule A, Part and line number, a brief description and the amount (if any). If necessary, you may also attach a PDF document to provide supplemental information.

Paperwork Reduction Act Notice We ask for the information on these forms to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

Estimates of Taxpayer Burden. These include Forms in the 990 series and attachments and 1023, 1024, 1028, 5578, 5884-C, 8038, 8038-B, 8038-CP, 8038-G, 8038-GC, 8038-R, 8038-T, 8038-TC, 8328, 8718, 8282, 8453-TE, 8453-X, 8868, 8870, 8871, 8872, 8879-TE, 8886-T, 8899 and their schedules and all the forms tax-exempt organizations attach to their tax returns. Time spent and out-of-pocket costs are presented separately. Time burden includes the time spent preparing to file and to file, with recordkeeping representing the largest component. Out-of-pocket costs include any expenses incurred by taxpayers to prepare and submit their tax returns. Examples include tax return preparation and submission fees, postage and photocopying costs, and tax preparation software costs. Note that these estimates do not include burden associated with post-filing activities. IRS operational data indicate that electronically prepared and filed returns have fewer arithmetic errors, implying lower post-filing burden.

Reported time and cost burdens are national averages and do not necessarily reflect a "typical" case. Most taxpayers experience lower than average burden, with taxpayer burden varying considerably by taxpayer type. For instance, the estimated average time burden for all taxpayers filing Forms 990, 990-EZ, 990-PF, 990-T, and 990-N and related forms is 32.8 hours, with an average cost of \$921 per return. This average includes all associated forms and schedules, across all preparation methods and taxpayer activities.

Fiscal Year 2022 Form 990 Series Tax Compliance Cost Estimates

	Form 990	Form 990-EZ	Form 990-PF	Form 990-T	Form 990-N
Projections of the Number of Returns to be Filed with IRS	330,400	260,200	131,800	263,400	754,300
Estimates Average Total Time (Hours)	85	45	47	40	2
Estimated Average Total Out-of-Pocket Costs	\$2,700	\$600	\$2,100	\$1,500	\$10
Estimated Average Total Monetized Burden	\$8,200	\$1,300	\$4,000	\$4,600	\$30
Estimates Total Time (Hours)	28,000,000	16,760,000	6,140,000	10,660,000	1,660,000
Estimated Total Out-of-Pocket Costs	\$903,100,000	\$147,500,000	\$272,000,000	\$397,200,000	\$7,100,000
Estimated Total Monetized Burden	\$2,719,300,000	\$331,990,000	\$529,800,000	\$1,204,800,000	\$26,100,000
Note: Amounts above are for FY2022. Reported time and cost burdens are national averages and don't necessarily reflect a "typical" case. Most taxpayers experience lower than average burden, with taxpayer burden varying considerably by taxpayer type. Detail may not add due to rounding.					

Comments and suggestions

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from [IRS.gov/FormComments](https://www.irs.gov/FormComments). Or you can write to the

Internal Revenue Service
 Tax Forms and Publications Division
 1111 Constitution Ave. NW, IR-6526
 Washington, DC 20224

Don't send your return to this address. Instead, see *When, Where, and How to File*, earlier.

Photographs of Missing Children

The IRS is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Phone Help

If you have questions and/or need help completing this form, please call 877-829-5500. This toll-free telephone service is available Monday through Friday.

Internet

You can access the IRS website 24 hours a day, 7 days a week, at [IRS.gov](https://www.irs.gov) to do the following.

- Download forms and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- Use the online Internal Revenue Code (IRC), Regulations, or other official guidance.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Sign up to receive local and national tax news by email. To subscribe, visit [IRS.gov/Charities](https://www.irs.gov/Charities).

Ordering Forms and Publications

Visit [IRS.gov/Formspubs](https://www.irs.gov/Formspubs) to download forms and publications. Otherwise, you can go to [IRS.gov/OrderForms](https://www.irs.gov/OrderForms) to order current and prior-year forms and instructions. Your order should arrive within 10 business days.

Chapter 3—Moonlighting Nonprofits: Navigating Unrelated Business Income

Business Activity Codes	Industry Classification System (NAICS) commonly used by tax-exempt organizations. If you don't see a code for the activity you need to categorize in the list below, refer		to full list of NAICS codes on the NAICS website @ https://www.census.gov/naics/ .
<p>The codes listed below that begin with the digits 1 through 8 are a selection from the North American</p>			
<p>Agriculture, Forestry, Hunting and Fishing</p> <p>Code</p> <p>110000 Agriculture, forestry, hunting and fishing</p> <p>111000 Crop production</p>	<p>511120 Periodical publishers (except Internet)</p> <p>511130 Book publishers (except Internet)</p> <p>511140 Directory and mailing list publishers (except Internet)</p> <p>511190 Other publishers (except Internet)</p>	<p>532289 Rental of personal property</p> <p>532420 Office machinery and equipment rental and leasing</p> <p>533110 Lessors of nonfinancial intangible assets (except copyrighted works)</p>	<p>Healthcare and Social Assistance</p> <p>Code</p> <p>621110 Offices of physicians</p> <p>621300 Offices of other health practitioners</p> <p>621400 Outpatient care centers</p> <p>621500 Medical and diagnostic laboratories</p> <p>621610 Home health care services</p> <p>621910 Ambulance services</p> <p>621990 All other ambulatory health care services</p> <p>623000 Nursing and residential care facilities</p> <p>623990 Other residential care facilities</p> <p>624100 Individual and family services</p> <p>624110 Community centers (except rec. only), youth Adoption agencies</p> <p>624200 Community food and housing, and emergency and other relief services</p> <p>624210 Meal delivery programs, Soup kitchens, or Food banks</p> <p>624310 Vocational rehabilitation services</p> <p>624410 Child day care services</p>
<p>Mining</p> <p>Code</p> <p>211110 Oil and gas extraction</p> <p>211120 Crude petroleum extraction</p> <p>211130 Natural gas extraction</p> <p>212000 Mining (except oil and gas)</p>	<p>512000 Motion picture and sound recording industries</p> <p>515100 Radio and television broadcasting (except Internet)</p> <p>517000 Telecommunications (including paging, cellular, satellite, cable, other telecommunications, and Internet service providers)</p> <p>519100 Other information services (including news syndicates and libraries)</p> <p>519130 Internet Publishing and Broadcast</p>	<p>Professional, Scientific, and Technical Services</p> <p>Code</p> <p>541100 Legal services</p> <p>541990 Consumer credit counseling services</p> <p>541200 Accounting, tax preparation, bookkeeping, and payroll services</p> <p>541300 Architectural, engineering, and related services</p> <p>541380 Testing laboratories</p> <p>541511 Custom computer programming services</p> <p>541519 Other computer-related services</p> <p>541610 Management consulting services</p> <p>541700 Scientific research and development services</p> <p>541800 Advertising and related services</p> <p>541860 Direct mail advertising</p> <p>541900 Other professional, scientific, and technical services</p>	<p>622100 Medical and diagnostic laboratories</p> <p>621610 Home health care services</p> <p>621910 Ambulance services</p> <p>621990 All other ambulatory health care services</p> <p>623000 Nursing and residential care facilities</p> <p>623990 Other residential care facilities</p> <p>624100 Individual and family services</p> <p>624110 Community centers (except rec. only), youth Adoption agencies</p> <p>624200 Community food and housing, and emergency and other relief services</p> <p>624210 Meal delivery programs, Soup kitchens, or Food banks</p> <p>624310 Vocational rehabilitation services</p> <p>624410 Child day care services</p>
<p>Utilities</p> <p>Code</p> <p>221000 Utilities</p>	<p>Data Processing Services</p> <p>Code</p> <p>518210 Data Processing, Hosting, and Related Services</p>	<p>Management of Companies and Enterprises</p> <p>Code</p> <p>551111 Offices of bank holding companies</p> <p>551112 Offices of other holding companies</p>	<p>Arts, Entertainment, and Recreation</p> <p>Code</p> <p>711110 Theater companies and dinner theaters</p> <p>711120 Dance companies</p> <p>711130 Musical groups and artists</p> <p>711190 Other performing art companies</p> <p>711210 Spectator sports (including sports clubs and racetracks)</p> <p>711300 Promoters of performing arts, sports and similar events</p> <p>713110 Amusement and theme parks</p> <p>713200 Gambling industries</p> <p>713910 Golf courses and country clubs</p> <p>713940 Fitness and recreational sports centers</p> <p>713990 All other amusement and recreation industries (including skiing facilities, marinas, and bowling centers)</p>
<p>Construction</p> <p>Code</p> <p>230000 Construction</p> <p>236000 Construction of buildings</p>	<p>Finance and Insurance</p> <p>Code</p> <p>522100 Depository credit intermediation (including commercial banking, savings institutions, and credit unions)</p> <p>522200 Nondepository credit intermediation (including credit card issuing and sales financing)</p> <p>522110 Credit card issuing</p> <p>522220 Sales Financing</p> <p>522291 Consumer lending</p> <p>522292 Real estate credit</p> <p>522298 Other nondepository credit intermediation</p> <p>523000 Securities, commodity contracts, and other financial investments and related activities</p> <p>523920 Portfolio management</p> <p>523930 Investment advice</p> <p>524113 Direct life insurance carriers</p> <p>524114 Direct health and medical insurance carriers</p> <p>524126 Direct property and casualty insurance carriers</p> <p>524130 Reinsurance carriers</p> <p>524292 Third-party administration of insurance and pension funds</p> <p>524298 All other insurance-related activities</p> <p>525100 Insurance and employee benefit funds</p> <p>525920 Trusts, estates, and agency accounts</p> <p>525990 Other Financial vehicles (including mortgage REITs)</p>	<p>Administrative and Support Services</p> <p>Code</p> <p>561000 Administrative and support services</p> <p>561300 Employment services</p> <p>561439 Other business service centers</p> <p>561499 All other business support services</p> <p>561500 Travel arrangement and reservation services</p> <p>561520 Tour operators</p> <p>561700 Services to buildings and dwellings</p>	<p>Accommodation and Food Services</p> <p>Code</p> <p>721000 Accommodation</p> <p>721110 Hotels (except casino hotels) and motels</p> <p>721210 RV (recreational vehicle) parks and recreational camps</p> <p>721310 Rooming and boarding houses, dormitories, and workers' camps</p> <p>722320 Caterers</p> <p>722440 Drinking places (alcoholic beverages)</p> <p>722511 Full-service restaurants</p> <p>722513 Limited-service restaurants</p> <p>722514 Cafeterias and buffets</p> <p>722515 Snack and non-alcoholic beverage bars</p>
<p>Manufacturing</p> <p>Code</p> <p>310000 Manufacturing</p> <p>323100 Printing and related support activities</p> <p>339110 Medical equipment and supplies manufacturing</p>	<p>Real Estate and Rental Leasing</p> <p>Code</p> <p>531110 Lessors of residential buildings and dwellings (including equity REITs)</p> <p>531120 Lessors of nonresidential buildings (except Miniwarehouses)(including equity REITs)</p> <p>531190 Lessors of other real estate property (including equity REITs)</p> <p>531310 Real estate property managers</p> <p>531390 Other activities related to real estate</p> <p>532000 Rental and leasing services</p>	<p>Waste Management and Remediation Services</p> <p>Code</p> <p>562000 Waste management and remediation services (sanitary services)</p>	<p>Other Services</p> <p>Code</p> <p>811000 Repair and maintenance</p> <p>812300 Dry cleaning and laundry services</p> <p>812900 Other personal services</p> <p>812930 Parking lots and garages</p>
<p>Wholesale Trade</p> <p>Code</p> <p>423000 Merchant wholesalers, durable goods</p> <p>424000 Merchant wholesalers, nondurable goods</p>	<p>Information</p> <p>Code</p> <p>511110 Newspaper publishers (except Internet)</p>	<p>Educational Services</p> <p>Code</p> <p>611420 Computer training</p> <p>611430 Professional and management development training</p> <p>611600 Other schools and instruction (other than elementary and secondary schools or colleges and universities, which should select a code to describe their unrelated activities)</p> <p>611710 Educational support services</p>	<p>Transportation and Warehousing</p> <p>Code</p> <p>480000 Transportation</p> <p>485000 Transit and ground passenger transportation</p> <p>493000 Warehousing and storage</p>

Additional codes listed below that begin with “9” are not part of the NAICS and are not listed on the NAICS website. The non-NAICS business activity codes are for use on Form 990-T to identify various types of investments, including certain partnership and S corporation interests, reported as separate trades or businesses under section 512(a)(6) without regard to the specific trade or business engaged in by the partnership or S corporation. See Regulations section 1.512(a)-6.

Non-NAICS Business Activity Codes

In the Codes below that include “###” replace “#” with numbers to identify each interest (nonqualified S corporation or passive income activity). For example, if four Schedules A are being filed to report unrelated trade or business income from four separate nonqualifying S corporation interests, the business activity code entered in Item C at the top of the four Schedules A would be 904001, 904002, 904003, and 904004, respectively.

901101. Investment activities, including:

- Debt-financed income (512(b)(4));
- Qualifying partnership interests;
- Qualifying S corporation interests; and
- Certain gross income of organizations subject to section 512(a)(3), (501(c)(7), (9), or (17)).

901301. Insurance income derived from controlled foreign corporations (section 512(b)(17)).

903###. Passive income activities with controlled organizations.

904###. Nonqualifying S corporation interests.

You must report each separate unrelated trade or business using the first two digits of the NAICS code that most accurately describes the unrelated trade or business based on the more specific NAICS code, such as at the 6-digit level. Investment activities reported as separate trades or businesses that are identified with a non-NAICS business activity code should use the 6-digit code from the list above. See Regulation section 1.512(a)-6(b)(1).

Item C at the top of Schedule A requires a 6-digit entry. Enter a 2-digit NAICS Code by entering the first digits followed by four zeros.

Appendix A. Definitions

Section 501(c)(3) organization. Section 501(c)(3) describes certain organizations which are exempt from taxation under section 501(a). A 501(c)(3) organization is an organization

organized and operated exclusively for charitable purposes. See Regulations section 1.501(c)(3)-1(a).

Annual return. An annual return (for purposes of the public inspection rules discussed below) is an exact copy of the Form 990-T that was filed with the IRS, including all schedules and attachments. It also includes any amendments to the original return (amended return).

By annual return (for purposes of the public inspection rules discussed below), we mean any annual return (defined above) that isn't more than 3 years old from the later of:

- The date the return is required to be filed (including extensions), or
- The date that the return is actually filed.

Directly connected expenses. To be deductible in computing unrelated business taxable income, expenses, depreciation, and similar items must qualify as deductions allowed by section 162, 167, or other sections, and must be directly connected with the conduct of unrelated trade or business activity.

To be directly connected with the conduct of an unrelated trade or business activity, expenses, depreciation, and similar items must bear a proximate and primary relationship to the conduct of the activity. For example, where facilities and/or personnel are used both to conduct exempt activities and to conduct an unrelated trade or business, expenses and similar items attributable to such facilities and/or personnel must be allocated between the two uses on a reasonable basis. The portion of any such item allocated to the unrelated trade or business must bear a proximate and primary relationship to that unrelated trade or business.

Not substantially related to. “Not substantially related to” means the activity that produces the income doesn't contribute importantly to the exempt purposes of the organization, other than the need for funds. Whether an activity contributes importantly depends in each case on the facts involved.

For details, see Pub. 598, Tax on Unrelated Business Income of Exempt Organizations.

Trade or business. A trade or business is any activity conducted for the production of income from selling goods or performing services. An activity must be conducted with intent to profit to constitute a trade or business. An activity doesn't lose its identity as a trade or business merely because it is conducted within a larger group of similar activities that may or may not be related to the exempt purpose of the organization. If, however, an activity conducted for profit

is an unrelated trade or business, no part of it can be excluded from this classification merely because it doesn't result in profit.

Separate trade or business. An organization with more than one unrelated trade or business should refer to Regulations section 1.512(a)-6 to determine if two or more trades or businesses are separate trades or businesses for purposes of calculating UBTI.

Unrelated trade or business income. Unrelated trade or business income is the gross income derived from any trade or business (defined above) regularly carried on and not substantially related to (defined above) the organization's exempt purpose or function (aside from the organization's need for income or funds or the use it makes of the profits).

Generally, for section 501(c)(7), (9), or (17) organizations, unrelated trade or business income is derived from nonmembers with certain modifications (see section 512(a)).

For a section 511(a)(2)(B) state college or university, or a corporation wholly owned by such a college or university, unrelated trade or business income is derived from activities not substantially related to exercising or performing any purpose or function described in section 501(c)(3).

An unrelated trade or business doesn't include a trade or business:

1. In which substantially all the work is performed for the organization without compensation; or
2. That is conducted by a section 501(c)(3) or 511(a)(2)(B) organization mainly for the convenience of its members, students, patients, officers, or employees; or
3. That sells items of work-related equipment and clothes, and items normally sold through vending machines, food dispensing facilities or by snack bars, by a local association of employees described in section 501(c)(4), organized before May 27, 1969, if the sales are for the convenience of its members at their usual place of employment; or
4. That sells merchandise substantially all of which was received by the organization as gifts or contributions; or
5. That consists of qualified public entertainment activities regularly conducted by a section 501(c)(3), (4), or (5) organization as one of its substantial exempt purposes (see section 513(d)(2) for the meaning of qualified public entertainment activities); or
6. That consists of qualified convention or trade show activities

regularly conducted by a section 501(c)(3), (4), (5), or (6) organization as one of its substantial exempt purposes (see section 513(d)(3) for the meaning of qualified convention and trade show activities); or

7. That furnishes one or more services described in section 501(e)(1)(A) by a hospital to one or more hospitals subject to conditions in section 513(e); or

8. That consists of qualified pole rentals, as defined in section 501(c)(12)(D), by a mutual or cooperative telephone or electric company; or

9. That includes activities relating to the distribution of low-cost articles, each costing \$11.30 (per Rev. Proc. 2020-45 section 3.34(1)) or less, by an organization described in section 501 and contributions to which are deductible under section 170(c)(2) or (3) if the distribution is incidental to the solicitation of charitable contributions; or

10. That includes the exchange or rental of donor or membership lists between organizations described in section 501 and contributions to which are deductible under section 170(c)(2) or (3); or

11. That consists of bingo games as defined in section 513(f). Generally, a bingo game isn't included in any unrelated trade or business if:

- a. Wagers are placed, winners are determined, and prizes are distributed in the presence of all persons wagering in that game, and
- b. The game doesn't compete with bingo games conducted by for-profit businesses in the same jurisdiction, and
- c. The game doesn't violate state or local law; or

12. That consists of conducting any game of chance by a nonprofit organization in the state of North Dakota and the conducting of the game doesn't violate any state or local law; or

13. That consists of soliciting and receiving qualified sponsorship payments that are solicited or received after December 31, 1997. Generally, qualified sponsorship payment means any payment to a tax-exempt organization by a person engaged in a trade or business in which there is no arrangement or expectation of any substantial return benefit by that person other than the use or acknowledgment of that person's name, logo, or product lines in connection with the activities of the tax-exempt organization. See section 513(i).

Appendix B. Charitable Contribution Deduction

Charitable contributions. Filers should use the following information regarding the charitable contribution deduction to complete Form 990-T, Part I, line 4.

Corporations. The total amount claimed normally can't be more than 10% of unrelated business taxable income figured without regard to the following.

- Any deduction for contributions.
- Any capital loss carryback to the tax year under section 1212(a)(1).

Corporations on the accrual basis can elect to deduct contributions paid by the 15th day of the 4th month after the end of the tax year if the contributions are authorized by the board of directors during the tax year. Attach a declaration statement to the return stating that the resolution authorizing the contributions was adopted by the board of directors during the tax year. The declaration statement must also include the date the resolution was adopted. See Regulations section 1.170A-11.

Charitable contributions over the 10% limitation can't be deducted for the tax year, but may be carried over to the next 5 tax years.

In figuring the charitable contributions deduction, if the corporation has an NOL carryover to the tax year, the 10% limit is applied using the taxable income after taking into account any deduction for the NOL.

To figure the amount of any remaining NOL carryover to later years, taxable income must be modified. See section 172(b). To the extent charitable contributions are used to reduce taxable income for this purpose and increase a net operating loss carryover, a contributions carryover isn't allowed. See section 170(d)(2)(B).

Trusts. In general.

1. For contributions to organizations described in section 170(b)(1)(A), the amount claimed may not be more than 50% of the unrelated business taxable income figured without this deduction; and

2. For contributions to other organizations, the amount claimed may not be more than the smaller of:

- a. 30% of unrelated business taxable income figured without this deduction; or
- b. The amount by which 50% of the unrelated business taxable income is more than the contributions allowed in 1 above.

An increased limitation may be available for cash contributions under section 170(b)(1)(G).

Trusts that make qualified cash contributions in calendar years 2020 or 2021 may be eligible to deduct these contributions without regard to the normal taxable income limits for trusts. For more information, see section 2205 of the CARES Act and section 213 of the Taxpayer Certainty and Disaster Relief Act of 2020.



Contributions not allowable in whole or in part because of the limitations may not be deducted as a business expense but may be carried over to the next 5 tax years.

Substantiation requirements.

Generally, no deduction is allowed for any contribution of \$250 or more, unless the organization gets a written acknowledgment from the donee organization that shows the amount of cash contributed, describes any property contributed, and either gives a description and a good faith estimate of the value of any goods or services provided in return for the contribution or states that no goods or services were provided in return for the contribution. The acknowledgment must be obtained by the due date (including extension) of the organization's return, or, if earlier, the date the return is filed. However, see section 170(f)(8) and the related regulations for exceptions to this rule. Don't attach the acknowledgment to the return but keep it with the organization's records.

Note. For contributions of cash, check, or other monetary gifts (regardless of the amount), the organization must maintain a bank record, or a receipt, letter, or other written communication from the donee organization indicating the name of the organization, the date of the contribution, and the amount of the contribution.

Contributions of property other than cash.

If an organization contributes property other than cash and claims over a \$500 deduction for the property, it must attach a statement to the return describing the kind of property contributed and the method used to determine its fair market value (FMV). All organizations generally must complete and attach Form 8283, Noncash Charitable Contributions, to their returns for contributions of property (other than money) if the total claimed deduction for all property contributed was more than \$5,000. Special rules apply to the contribution of certain property. See the Instructions for Form 8283. A donee organization must use Form 8282, Donee Information Return, to report information

to the IRS and donors about dispositions of certain charitable deduction property made within 3 years after the donor contributed the property. See the Instructions for Form 8282.

Special rules for contributions of certain easements in registered historic districts. The following rules apply to certain contributions of real property interests located in a registered historic district.

- A deduction is allowed for the qualified real property interest, if the exterior of the building (including the front, side, rear, and space above the building) is preserved and no portion of the exterior is changed in a manner that is inconsistent with its historical character. See section 170(h)(4)(B).
- A deduction is allowed on the building only (no deduction is allowed for a structure or land) if located in a registered historic district. However, if listed in the National Register, a deduction is also allowed for structures or land areas. See section 170(h)(4)(C).
- The organization must also include the following information with the tax return.

1. A qualified appraisal (as defined in section 170(f)(11)(E)) of the qualified property interest.

2. Photographs of the entire exterior of the building.

3. A description of all restrictions on the development of the building. See section 170(h)(4)(B)(iii).

- The organization's deduction may be reduced if rehabilitation credits were claimed on the building. See section 170(f)(14).
- A \$500 filing fee may apply to certain deductions over \$10,000. See section 170(f)(13).

Reduced deductions for contributions for certain property. The organization must reduce its deduction for contributions of certain capital gain property and qualified appreciated stock. See sections 170(e)(1) and 170(e)(5).

Special rules for corporation. A larger deduction is allowed for certain contributions of:

- Inventory and other property to certain organizations for use in the care of the ill, needy, or infants (including contributions of apparently wholesome food (see section 170(e)(3)(C))); and
- Scientific equipment used for research to institutions of higher learning or to certain scientific research organizations (see section 170(e)(4)).

See section 170, the related regulations, and Pub. 526, Charitable Contributions.

Appendix C. Public Inspection of Form 990-T Returns Filed by Section 501(c)(3) Organizations

Public inspection requirements of section 501(c)(3) organizations.

Under section 6104(d), a section 501(c)(3) organization that files Form 990-T must make its entire annual exempt organization business income tax return (including amended returns) available for public inspection.

The Form 990-T and related schedules must be made available for public inspection for a period of 3 years from the date the Form 990-T is required to be filed, including any extension.

What schedules and attachments to Form 990-T must be made available for public inspection? Only schedules, attachments (statements), and supporting documents that relate to the imposition of tax on unrelated business income must be made available for public inspection when attached to a section 501(c)(3) organization's Form 990-T filed after August 17, 2006.

The following documents, when attached to a section 501(c)(3) organization's Form 990-T filed after August 17, 2006, aren't required to be made available for public inspections.

- Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation;
- Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations;
- Form 8271, Investor Reporting of Tax Shelter Registration Number;
- Form 8594, Asset Acquisition Statement Under Section 1060;
- Form 8621, Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund;
- Form 8832, Entity Classification Election;
- Form 8858, Information Return of U.S. Persons With Respect to Foreign Disregarded Entities;
- Form 8865, Return of U.S. Person with Respect to Certain Foreign Partnerships;
- Form 8886, Reportable Transaction Disclosure Statement;
- Form 8913, Credit for Federal Telephone Excise Tax Paid;
- Form 8925, Report of Employer-Owned Life Insurance Contracts;
- Form 8941, Credit for Small Employer Health Insurance Premiums; and
- Form 8975, Country-by-Country Report.

How does a 501(c)(3) organization make its annual returns available for public inspection? A 501(c)(3) organization must make its annual returns available in two ways.

- By office visitation, and
- By providing copies or making them widely available.

Public inspection by office visitation.

A 501(c)(3) organization must make its annual returns available for public inspection without charge at its principal, regional, and district offices during regular business hours.

Conditions that may be set for public inspection at the office. A 501(c)(3) organization:

- May have an employee present,
- Must allow the individual conducting the inspection to take notes freely during the inspection, and
- Must allow an individual to make photocopies of documents at no charge but only if the individual brings photocopying equipment to the place of inspection.

Determining if a site is a regional or district office.

A regional or district office is any office of a 501(c)(3) organization, other than its principal office, that has paid employees whose total number of paid hours a week are normally 120 hours or more. Include the hours worked by part-time (as well as full-time) employees in making that determination.

What sites aren't considered a regional or district office. A site isn't considered a regional or district office if:

1. The only services provided at the site further the organization's exempt purposes (for example, day care, health care, or scientific or medical research), and
2. The site doesn't serve as an office for management staff, other than managers who are involved only in managing the exempt function activities at the site.

What if the 501(c)(3) organization doesn't maintain a permanent office?

If the 501(c)(3) organization doesn't maintain a permanent office, it will comply with the public inspection by office visitation requirement by making the annual returns available at a reasonable location of its choice. It must permit public inspection:

- Within a reasonable amount of time after receiving a request for inspection (normally, not more than 2 weeks), and
- At a reasonable time of day.

Optional method of complying. If a 501(c)(3) organization that doesn't have a permanent office wishes not to allow an inspection by office visitation, it may mail

a copy of the requested documents instead of allowing an inspection. However, it must mail the documents within 2 weeks of receiving the request and may charge for copying and postage only if the requester consents to the charge.

501(c)(3) organizations with a permanent office but limited or no hours. Even if a 501(c)(3) organization has a permanent office but no office hours or very limited hours during certain times of the year, it must still meet the office visitation requirement. To meet this requirement during those periods when office hours are limited or not available, follow the rules above under *What if the 501(c)(3) organization doesn't maintain a permanent office?*

Public Inspection—Providing Copies

A 501(c)(3) organization must provide copies of its annual returns to any individual who makes a request for a copy in person or in writing unless it makes these documents widely available.

In-person requests for document copies. A 501(c)(3) organization must provide copies to any individual who makes a request in person at the 501(c)(3) organization's principal, regional, or district offices during regular business hours on the same day that the individual makes the request.

Accepted delay in fulfilling an in-person request. If unusual circumstances exist and fulfilling a request on the same day places an unreasonable burden on the 501(c)(3) organization, it must provide copies by the earlier of:

- The next business day following the day that the unusual circumstances end, or
- The fifth business day after the date of the request.

Examples of unusual circumstances include:

- Receipt of a volume of requests (for document copies) that exceeds the 501(c)(3) organization's daily capacity to make copies,
- Requests received shortly before the end of regular business hours that require an extensive amount of copying, or
- Requests received on a day when the 501(c)(3) organization's managerial staff capable of fulfilling the request is conducting official duties (for example, student registration or attending an off-site meeting or convention) instead of its regular administrative duties.

Use of local agents for providing copies. A 501(c)(3) organization may use a local agent to handle in-person

requests for document copies. If a 501(c)(3) organization uses a local agent, it must immediately provide the local agent's name, address, and telephone number to the requester.

The local agent must:

- Be located within reasonable proximity to the principal, regional, or district office where the individual makes the request, and
- Provide document copies within the same time frames as the 501(c)(3) organization.

Written requests for document copies. If a 501(c)(3) organization receives a written request for a copy of its annual returns (or parts of these documents), it must give a copy to the requester. However, this rule only applies if the request:

- Is addressed to a 501(c)(3) organization's principal, regional, or district office;
- Is delivered to that address by mail, electronic mail (email), facsimile (fax), or a private delivery service approved by the IRS (see *Private Delivery Service*, earlier, for a list), and
- Gives the address to which the document copies should be sent.

How and when a written request is fulfilled.

- Requested document copies must be mailed within 30 days from the date the 501(c)(3) organization receives the request.
- Unless other evidence exists, a request or payment that is mailed is considered to be received by the 501(c)(3) organization 7 days after the postmark date.
- If an advance payment is required, copies must be provided within 30 days from the date payment is received.
- If the 501(c)(3) organization requires payment in advance and it receives a request without payment or with insufficient payment, it must notify the requester of the prepayment policy and the amount due within 7 days from the date it receives the request.
- A request that is transmitted to the 501(c)(3) organization by email or fax is considered received the day the request is transmitted successfully.
- Requested documents can be e-mailed instead of the traditional method of mailing if the requester consents to this method.

A document copy is considered as provided on the,

- Postmark date,
- Private delivery date,
- Registration date for certified or registered mail,
- Postmark date on the sender's receipt for certified or registered mail, or

- Day the email is successfully transmitted (if the requester agreed to this method).

Requests for parts of a document copy. A person can request all or any specific part or schedule of the annual returns and the 501(c)(3) organization must fulfill their request for a copy.

Can an agent be used to provide copies? A 501(c)(3) organization can use an agent to provide document copies for the written requests it receives. However, the agent must provide the document copies under the same conditions that are imposed on the 501(c)(3) organization itself. Also, if an agent fails to provide the documents as required, the 501(c)(3) organization will continue to be subject to penalties.

Example. The ABC Organization retained an agent to provide copies for all written requests for documents. However, ABC Organization received a request for document copies before the agent did.

The deadline for providing a response is referenced by the date that the ABC Organization received the request and not when the agent received it. If the agent received the request first, then a response would be referenced to the date that the agent received it.

Can a fee be charged for providing copies? A 501(c)(3) organization may charge a reasonable fee for providing copies. Also, it can require the fee to be paid before providing a copy of the requested document.

What is a reasonable fee? A fee is reasonable only if it is no more than the per-page copying fee charged by the IRS for providing copies, plus no more than the actual postage costs incurred to provide the copies.

What forms of payment must the 501(c)(3) organization accept? The form of payment depends on whether the request for copies is made in person or in writing.

Cash and money order must be accepted for in-person requests for document copies. The 501(c)(3) organization, if it wishes, may accept additional forms of payment.

Certified check, money order, and either personal check or credit card must be accepted for written requests for document copies. The 501(c)(3) organization, if it wishes, may accept additional forms of payment.

Other fee information. If a 501(c)(3) organization provides a requester with notice of a fee and the requester doesn't pay the fee within 30 days, the 501(c)(3) organization may ignore the request.

If a requester's check doesn't clear on deposit, the 501(c)(3) organization may ignore the request.

If a 501(c)(3) organization doesn't require prepayment and the requester doesn't prepay, the 501(c)(3) organization must receive consent from the requester if the copying and postage charge exceeds \$20.

501(c)(3) organizations subject to a harassment campaign. If the IRS determines that a 501(c)(3) organization is being harassed, it isn't required to comply with any request for copies that it reasonably believes is part of the harassment campaign.

A group of requests for a 501(c)(3) organization's annual return is indicative of a harassment campaign if the requests are part of a single coordinated effort to disrupt the operations of the 501(c)(3) organization rather than to collect information about it.

Requests that may be disregarded without IRS approval. A 501(c)(3) organization may disregard any request for copies of all or part of any document beyond the first two received within any 30-day period or the first four received within any 1-year period from the same individual or the same address.

Making the Annual Returns Widely Available

A 501(c)(3) organization doesn't have to provide copies of its annual returns if it makes these documents widely available. However, it must still allow public inspection by office visitation.

How does a 501(c)(3) organization make its annual returns widely available? A 501(c)(3) organization's annual returns are widely available if it meets all four of the following requirements.

1. The Internet posting requirement is met if:

- The document is posted on an Internet page that the 501(c)(3) organization establishes and maintains, or
- The document is posted as part of a database of like documents of other tax-exempt organizations on an Internet page established and maintained by another entity.

2. An additional posting information requirement is met if:

- The Internet page through which the document is available clearly informs readers that the document is available and provides instructions for downloading the document;
- After it is downloaded and viewed, the web document exactly reproduces the image of the annual return as it was originally filed with the IRS, except for any information permitted by statute to be withheld from public disclosure; and
- Any individual with access to the Internet can access, download, view, and print the document without special computer hardware or software required for that format (except software that is readily available to members of the public without payment of any fee) and without payment of a fee to the 501(c)(3) organization or to another entity maintaining the web page.

3. The reliability and accuracy requirements are met if the entity maintaining the Internet page:

- Has procedures for ensuring the reliability and accuracy of the document that it posts on the page;
- Takes reasonable precautions to prevent alteration, destruction, or accidental loss of the document when posted on its page; and
- Corrects or replaces the document if a posted document is altered, destroyed, or lost.

4. The notice requirement is met if a 501(c)(3) organization notifies any individual requesting a copy of its annual return where the documents are available (including the Internet address). If the request is made in person, the 501(c)(3) organization must notify the individual immediately. If the request is in writing, it must notify the individual within 7 days of receiving the request.

Penalties

A penalty may be imposed on any person who doesn't make the annual returns (including all required attachments) available for public inspection according to the section 6104(d) rules discussed earlier. If more than one person fails to comply, each person is jointly and severally liable for the full amount of the penalty. The penalty amount is \$20 for each day during which a failure occurs. The maximum penalty that may be imposed on all persons for any one annual return is \$10,000.

Any person who willfully fails to comply with the section 6104(d) public inspection requirements is subject to an additional penalty of \$5,000.

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