Introduction

An exempt organization is not 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 a trade or business not substantially related to its exempt purpose, except that it provides funds to carry out that purpose, the organization is subject to tax on its income from that unrelated trade or business.
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), and
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
fi 557 Tax-Exempt Status for Your Organization

Form (and Instructions)
fi 990-T Exempt Organization Business Income Tax Return
See chapter 5 for information about getting these publications and forms.

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, Coverdell 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.
• Medical savings accounts (MSAs) described in section 220(d).
• Coverdell savings accounts described in section 530.

501(c)(1) is not 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 states, the District of Columbia, 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 tax exempt subsidiary organizations. It is inapplicable whether the business is conducted by the university or by a separately incorporated wholly owned 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 subsidiary is to operate or carry on any unrelated trade or business (other than holding title to property and collecting income from it), the subsidiary is not an exempt organization, and this rule does not 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 is subject to the unrelated business income tax if the title-holding corporation and the payee organization file a consolidated return. However, if the source of the income is not 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 is not 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.

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 income (chapter 4). The tax is reduced by any applicable tax credits, including the general business credits (such as the investment credit and the alcohol fuel credit) and the foreign tax credit.

Alternative minimum tax. Organizations liable for tax on unrelated business income may be liable for alternative minimum tax on certain adjustments and tax preference items.

Returns and Filing Requirements

An exempt organization subject to the tax on unrelated business income must file Form 990-T and attach any required supporting schedules and forms. The obligation to file Form 990-T is in addition to the obligation to file any other required returns.

Form 990-T is required if the organization’s gross income from unrelated businesses is $1,000 or more. An exempt organization must report income from all its unrelated businesses on a single Form 990-T. 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 generally also apply to Form 990-T.

When to file. The Form 990-T of an employee’s trust described in section 401(a), an IRA (including a traditional, SEP, SIMPLE, Roth, or Coverdell IRA), or a MSA must be filed by the 15th day of the 4th 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. A Form 990-T filer may request an automatic 3-month (6 months
The type and rule above prints on all proofs including departmental reproduction proofs. MUST be removed before printing.

Payment of Tax

Estimated tax. A tax-exempt organization must make estimated tax payments if it expects 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 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 its taxable income for each of the 3 preceding tax years was less than $1 million. 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 last year’s tax.

All tax-exempt organizations should use Form 990-W (Worksheet), Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations, 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).

Tax Deposit Methods

An exempt organization must deposit its unrelated business income tax (including estimated tax) using one of the following methods.

Electronic deposits. The organization must make electronic deposits of all depository taxes (such as employment tax, excise tax, and unrelated business income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2010 if:

- The total deposits of such taxes in 2008 were more than $200,000 or
- The organization was required to use EFTPS in 2009.

If the organization is required to use EFTPS and fails to do so, it may be subject to a 10% penalty. To enroll, the organization must participate voluntarily. To enroll or get more information about EFTPS, call 1-800-555-4477 or 1-800-945-8490. To enroll online, visit www.eftps.gov.

Deposit on time. For EFTPS deposits to be made timely, the organization must initiate the transaction at least 1 business day before the date the deposit is due.

Deposits with Form 8109. If the organization is not required to (or does not voluntarily) make electronic deposits, it must make its deposits with Form 8109, Federal Tax Deposit Coupon. The completed Form 8109 with the payment must be mailed or delivered to an authorized depositary (financial institution) for federal taxes, as instructed on the coupon.

Deposits should not be sent directly to the IRS. A penalty may be imposed if the deposits are sent to an IRS office rather than to an authorized depositary.

Unrelated Trade or Business

Unrelated business income. Unrelated business income is the income from a trade or business regularly carried on by an exempt organization and not substantially related to the performance of exempt functions. Certain trade or business activities are not treated as unrelated trade or business. See Excluded Trade or Business Activities, later.

Trade or business. The term “trade or business” generally includes any activity carried on for the production of income from selling goods or performing services. An activity does not lose its identity as a trade or business merely because it is carried on within a larger group of similar activities that may 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 does not lose its identity as 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 carried on. Business activities of an exempt organization ordinarily are considered regularly carried on 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 is not substantially related to an organization’s exempt purpose if it does not contribute importantly to accomplishing that purpose (other than the unrelated trade or business income tax). For example, if an activity contributes importantly 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 functions of the organization 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 does not 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 is not an unrelated trade or business if the product is sold in substantially the same state it is in when the exempt functions are completed. However, if 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 it is, the activity is an unrelated trade or business. For example, a Minneapolis organization that manufactures ice cream does not lose its identity as an exempt 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.

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 does not, by itself, make the commercial activities a related trade or business.
business. The test, as discussed earlier, is whether the activities contribute importantly to the accomplishment of exempt purpose.

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 Dedications 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 does not make the commercial activity an unrelated trade or business. However, to the extent that the property is not used primarily for a 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.

**Sales 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 on a commission basis.

**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 do not contribute importantly to accomplishing the organization's exempt purpose. Therefore, they are unrelated trades or businesses.

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

**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 is not an unrelated trade or business. The hospital also operates a gift shop patronized by patients, visitors purchasing makeovers for patients, and employees; a cafeteria and the shop primarily for employees and medical staff; and a parking lot for patients and visitors only. These activities are also substantially related to the hospital's exempt purpose and do not constitute unrelated trades or businesses.

**Book publishing.** An exempt organization engages primarily in activities that further its exempt purposes. It also owns the publication rights to a book that does not relate to any of its exempt purposes. The organization exploits the book in a commercial manner by arranging for printing, distribution, publicity, and advertising in connection with the sale of the book. These activities constitute a trade or business regularly carried on. Because exploiting the book is unrelated to the organization's exempt purposes (except for the use of the book's profits), the income is unrelated business income.

**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 the 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 does not 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.

**School facilities.** An exempt school has tennis courts and dressing rooms that it uses during the regular school year in its educational program. The school leases 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 does not depend on the income or profits derived from the leased property.

In both situations, the exempt purpose is the advancement of education. Furnishing tennis facilities in the manner described does not 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 is excluded from unrelated business taxable income as rent from real property. See Rents under Exclusions in chapter 4.

**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 lessees 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.

**Broadcasting rights.** An exempt collegiate conference enters into an agreement to print a 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 typically a representative and exhibiting the game on television or radio before a much larger audience are substantially similar. Therefore, the sale of exclusive broadcasting rights contributes importantly to the accomplishment of the organization's exempt purpose and is not 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 publication, participation.

The organization receives income each year from the sale of exclusive broadcast 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 is not an unrelated trade or business.

**Yearbook advertising.** An exempt organization incurs expenses in 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 advertisements to potential advertisers, and printing the yearbook. This advertising activity is an unrelated trade or business.

**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 services are not substantially related to its exempt purpose of preventing cruelty to animals.

**Museum eating facilities.** An exempt art museum operates a dining room, a cafeteria, and a
snack bar for use by the museum staff, employ-
eses, and visitors. Eating facilities in the museum help to attract visitors and allow them to spend more time viewing the museum’s exhibits with- out having to seek outside restaurants at meal-
times and their families. The organization staff and employees to remain in the museum throughout the day. Thus, the museum’s opera-
tion of the eating facilities contributes impor-
tantly to the accomplishment of its exempt purposes and is not unrelated trade or business.

Halfway house workshop. A halfway house organized to provide room, board, therapy, and counseling for persons discharged from substance abuse treatment centers also operates a furniture store to provide full-time employment for its res-
idents. The profits are applied to the operating costs of the halfway house. The income from this venture is not unrelated trade or business income because the furniture store contributes importantly to the organization’s purpose of aid-
ing its residents’ transition from treatment to a normal and productive life.

Travel tour programs. Travel tour activities that are a trade or business are an unrelated trade or business if the activities are not sub-
stantially related to the purpose for which tax exemption was granted to the organization.

Example 1. A tax-exempt university association provides a travel tour program for its members and their families. The organization works with various travel agencies and sched-
ules 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 do not differ from regular com-
mercially operated tours.

By providing travel tours to its members, the organization is engaging in a regularly carried on business. Half of the tour profits are used to support the university, financially and otherwise, and encourage alumni to do the same, they do not contribute importantly to the organization’s exempt purpose of promoting education. There-
fore, 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 educa-
tion. The tours are primarily designed for stu-
dents enrolled in degree programs at state educational institutions, but are open to all who agree to participate in the required study pro-
gram associated with the tour taken. A tour’s study program or group of instruction on sub-
jects 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 re-
ports, lectures, instruction, and recreation 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 or-
ganization’s exempt purpose, they are not an unrelated trade or business.

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

Exceptions. Organizations whose exempt activities may include the provision of insurance benefits, such as fraternal beneficiary societies, voluntary employees beneficiary associations, and labor organizations, are generally excep-
tions to this rule.

Magazine publishing. An association of credit unions with tax-exempt status as a busi-
ness league publishes a consumer-oriented magazine four times a year and makes it avail-
able to member credit unions for purchase. By selling a magazine to its members as a promotional device, the organization furnishes a promotional format without advertising and is not considered in determining the organization’s exempt purpose of promoting education. The pur-
chaser of the magazine is not a patron of the organization either for conventional advertising or for corporate and personal contributions.

A 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 com-
mercial benefit, even if it has no commercial message. However, this presumption is not con-
clusive if the purchaser’s patronage would be difficult to justify commercially in view of the facts and circumstances. In that case, other fac-
tors 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 forward, 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 meth-
ods used to solicit the advertisers.

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

Publishing legal notices. A bar association publishes a legal journal containing opinions of the county court, articles of professional interest on trade or business. Even if the tours it offers are of a regular commercial service they can use in their own operations. This serv-

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publishing of legal notices does not constitute 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. It also sells them 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 does not alter the fact that the activity is related to the museum’s exempt purpose. Therefore, these sales activities are not 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 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 museum’s 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 are not unrelated trade or business. On the other hand, the sale 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, does not contribute, important to the accomplishment of the museum’s exempt educational purposes. The fact that selling some of these items could, under different circumstances, be held related to the exempt educational purpose of some other exempt educational organization should not affect this conclusion. In conclusion, the sale of these items does not lose its identity as a trade or business merely because the museum also sells articles which do contribute importantly to the accomplishment of its exempt function. Therefore, these sales are an unrelated trade or business.

Business league’s parking and bus services. A business league, whose purpose is to retain and stimulate trade in a downtown area that has inadequate parking facilities, operates a fringe parking lot and shuttle bus service. It also operates, as an insubstantial part of its activities, a park and shop plan.

The fringe parking lot and shuttle bus service operate in a manner that does not favor any individual or group of downtown merchants. The merchants cannot offer free or discount parking or bus fares to their customers.

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 for parking.

Operating the fringe parking lot and shuttle bus service provides easy and convenient access to the downtown area and, therefore, stimulates and improves business conditions in the downtown area generally. That activity contributes importantly to the organization’s accomplishing its exempt purpose and is not an unrelated trade or business.

The park and shop plan encourages customers to use a limited number of participating merchant members in order to obtain free parking. This provides a particular service to individual members of the organization and does not further its exempt purpose. Therefore, operating the park and shop plan 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 residence to personal counseling, physical education programs, and group recreational activities. The rentals are not an unrelated trade or business because renting the rooms is substantially related to the organization’s exempt purpose.

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 on a per capita basis 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 accomplishment of its exempt purpose and, therefore, is an unrelated trade or business.

Miniature golf course. An exempt 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 must be substantially related importantly to the accomplishment of the organization’s exempt purpose and, therefore, is an unrelated trade or business.

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 contribute importantly to its exempt purpose. It is not 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 is not an unrelated trade or business. However, laboratory testing performed by a tax-exempt non-teaching hospital that provides a particular service to individual members of the organization and does not further its exempt purpose, is an unrelated trade or business.

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 does not 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.

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 book store. 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 is not an unrelated trade or business.

**Excluded Trade or Business Activities**

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

- **Volunteer workforce.** Any trade or business in which substantially all the work is performed for the organization without compensation is not an unrelated trade or business.

  **Example 1.** A retail store operated by an exempt organization where volunteers perform substantially all the work in carrying on the business is not an unrelated trade or business.

  **Example 2.** A volunteer fire company conducts 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 is not an unrelated trade or business.

- **Convenience of members.** A trade or business carried on by a governmental college or university primarily for the convenience of its members, students, patients, officers, or employees is not an unrelated trade or business. For example, a laundry operated by a college for the purpose of laundering dormitory linens and students’ clothing is not an unrelated trade or business.

- **Qualified sponsorship activities.** Soliciting and receiving qualified sponsorship payments is not an unrelated trade or business, and the payments are not 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” does not 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 advertising the sponsor’s support for an educational or fundraising event, the payment is a qualified sponsorship payment and is not 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 are not a substantial benefit or if providing them is a related business activity, the payments will not be subject to the unrelated business income tax.

- **Example 1.** A retail store operated by an exempt organization where volunteers perform substantially all the work in carrying on the business is not an unrelated trade or business.

  **Example 2.** A volunteer fire company conducts 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 is not an unrelated trade or business.

- **Exempt Activity—Advertising Sales**

  Advertising. A payment is not 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 does not apply to the part of the payment that is more than the fair market value of the product advertising.

  **Advertisting.** A payment is not 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 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 is not, 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 is not a qualified sponsorship payment if it 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 does not, by itself, affect whether a payment qualifies.

- **Exception for periodicals.** A payment is not a qualified sponsorship payment if it entitles the payer to the use or acknowledgment of the sponsor’s name, logo, or product lines in connection with an 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 does not 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 Exemption of Exempt Activity—Advertising Sales in chapter 4.

- **Exception for conventions and trade shows.** A payment is not 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 later under Convention or trade show activity.

- **Selling donated merchandise.** A trade or business that consists of selling merchandise, substantially all of which the organization receives as gifts or contributions, is not an unrelated trade or business. For example, a thrift shop operated by a tax-exempt organization that sells donated clothing to the general public, with the proceeds going to the exempt organization, is not an unrelated trade or business.

- **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, is not 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.

- **Bingo games.** Certain bingo games are not included in the term “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 are not regularly carried on by for-profit organizations.

- **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 the game. A wagering game that does not meet the legal definition of bingo does not qualify for the exclusion, regardless of its name. For example, “instant bingo,” in which a player buys a pre-packaged bingo card with pull-labs that the player removes to determine if he or she is a winner, does not 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 does not make the conduct of bingo legal for this purpose.

- **No for-profit games where played.** This exclusion applies only if for-profit organizations...
cannot regularly carry on 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 are not an unrelated trade or business. 

Gambling activities other than bingo. Any game of chance not specifically described in this section will be considered a gambling activity. 

Pole rentals. The term unrelated trade or business does not 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. By the telephone or electric company 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). 

Distribution of low cost articles. The term unrelated trade or business does not include activities relating to the distribution of low cost articles incidental to soliciting charitable contributions. This applies to organizations described in section 501(c)(4) that are eligible to receive charitable contributions. 

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

1. The recipient did not 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 item regardless of whether a contribution is made. 

An article is considered low cost if the cost of the item (or aggregate costs if more than one item) distributed to a single recipient in a tax year is not more than $5, indexed annually for inflation. The maximum cost of a low cost article is $9.50 for 2009. The cost of an article is the cost to the organization that distributes the item or on whose behalf it is distributed. 

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 is not 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 is not an unrelated trade or business. This exclusion applies only to services described in section 501(e)(3)(A). 

Public entertainment activity. An unrelated trade or business does not 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. 

Convention or trade show activity. An unrelated trade or business does not 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 carried on by the exempt organization, less the deductions directly connected with carrying on the trade or business. If an organization regularly carries on two or more unrelated trade or business activities, its unrelated business taxable income is the total of gross income from all such activities less the total allowable deductions attributable to all the activities. 

In computing unrelated business taxable income, gross income and deductible expenses 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

4. Unrelated Business Taxable Income 

The term “unrelated business taxable income” generally means the gross income derived from any unrelated trade or business regularly carried on by the exempt organization, less the deductions directly connected with carrying on the trade or business. If an organization regularly carries on two or more unrelated trade or business activities, its unrelated business taxable income is the total of gross income from all such activities less the total allowable deductions attributable to all the activities.
received a payment termed rent that is in fact a return of profits by a person operating the prop- erty for the benefit of the organization, or that is a share of the profits retained by the organiza- tion as a partner or joint venturer, the payment is not within the income exclusion for rents, dis- cussed later under Exclusions.

**Income**

Generally, unrelated business income is tax- able but there are exclusions and special rules that must be considered when figuring the in- come.

**Exclusions**

The following types of income (and deductions directly connected with the income) are gener- ally excluded when figuring unrelated business taxable income.

**Dividends, interest, annuities and other in- vestment income.** All dividends, interest, an- nuities, 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 un- related business taxable income.

**Exceptions.** This exclusion does not apply to unrelated debt-financed income (dis- cussed under Income From Debt-Financed Property, later), to 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 unrelated business taxable income only if the loan is made under an agreement that:

1. Provides for the return to the exempt or- ganization of securities identical to the se- curities loaned,
2. Requires payments to the organization of amounts equivalent to all interest, divi- dends, and other distributions that the owner of the securities is entitled to re- ceive during the period of the loan,
3. Does not reduce the organization’s risk of loss or opportunity for gain on the securi- ties,
4. Contains reasonable procedures to imple- ment the obligation of the borrower to fur- nish 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 se- curities at the close of the preceding busi- ness day, and
5. Permits the organization to terminate the loan upon notice of not more than 5 busi- ness 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 during that period.

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 con- nected with collateral security for the loan, or with the investment of collateral security, are considered deductions that are directly con- nected with the securities loaned.

**Royalties.** Royalties, including overriding roy- alties, are excluded in computing unrelated busi- ness taxable income.

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, pay- ments for the use of a professional athlete’s name, photograph, likeness, or facsimile signa- ture are ordinarily considered royalties. How- ever, royalties do not include payments for per- sonal services and are not excluded as royalties and must be included in figuring unrelated business taxable income.

Unrelated business taxable income does not 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 roy- alties.

**Mineral royalties.** Mineral royalties are excluded whether mea- sured by production or by gross or taxable in- come from the mineral property. However, the exclusion does not 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 are not treated as losses under section 636 (relating to income tax treatment of mineral pro- duction payments), payments for mineral pro- duction are treated in the same manner as royalty payments for the purpose of computing unrelated business taxable income. To the ex- tent they are treated as losses, any payments for production that are the equivalent of interest are treated as interest and are excluded.

**Exceptions.** This exclusion does not apply to unrelated debt-financed income (disc-ussed under Income From Debt-Financed Property, later), or to interest, annuities, royalty- ties and rents received from a controlled corporation (discussed under Income From Controlled Or- ganizations, later).

**Rents.** Rents from real property, including ele- vators and escalators, are excluded in comput- ing unrelated business taxable income. Rents from personal property are not excluded. How- ever, 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 attributable to the personal property are not 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 expiring into November 1, to a term starting on Janu- ary 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 (e.g., lease of real property and another lease or 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 per- sonal 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 does not 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 serv- ices.** Payment for occupying space when per- sonal services are also rendered to the occupant does not constitute rent from real property. Therefore, the exclusion does not ap- ply 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 does not apply to unrelated debt-financed income (dis- cussed under Income From Debt-Financed Property, later), or to interest, annuities, royal- ties and rents received from a controlled corpo- ration (discussed under Income From Controlled Organizations, later), investment in- come (dividends, interest, rents, etc.) received by organizations described in sections 501(c)(7), 501(c)(9), 501(c)(17), and 501(c)(20). See Special Rules for Social Clubs, VEBAs, and the like.
Unrelated Business Taxable Income

Income from research. A tax-exempt organization may exclude income from research grants or contracts from unrelated business taxable income. 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 from unrelated business taxable income.

For a college, university, or hospital, all income from securities is excluded from unrelated business taxable income. An exempt 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 from computing unrelated business taxable income.

The term research, for this purpose, does not include activities of a type normally carried on 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 does not include research carried on for the primary purpose of commercial or industrial application.

Gains and losses from disposition of property. Also excluded from unrelated business taxable income 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 includable 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 business.
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 at a fixed price is unrelated business taxable income. The exclusion applies only if the option is written in connection with the exempt organization’s investment activities. Therefore, this exclusion is not available if the organization is engaged in the trade or business of writing options or the options are held for the organization as inventory or for sale to customers in the ordinary course of a trade or business.

Exception. This exclusion does not 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) is treated as member income under subparagraph (H) of that section is excluded from unrelated business taxable income.

Example. A school recognized as a tax-exempt organization contracts with an individual to provide tennis courts, housing, and dining facilities. The contracted individual hires personnel in writing options or the options are held by the individual through the organization, the associate member organization is engaged in the trade or business of writing options, and the option is written in connection with the principal purpose of producing unrelated business taxable income. Therefore, this exclusion is not available if the option is written in connection with the principal purpose of producing unrelated business taxable income.

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 are not treated as gross income from an unrelated trade or business, regardless of their purpose, if they are not more than the annual limit. The limit on dues paid by an associate member is $145 for 2009.

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 unrelated business taxable income, the expenses, depreciation, and similar items generally must be allowable income tax deductions that are directly connected with carrying on an unrelated trade or business. They cannot 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 business, deductions must have a proximate and primary relationship to carrying on that business. For an exception, see Exclusions from the conduct of an unrelated trade or business.

Expenses attributable solely to unrelated business. Expenses, depreciation, and similar 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 part-time to carry on the unrelated business taxable income of an unrelated trade or business are allowable income tax deductions. However, the extent of the exclusion depends on the nature of the organization and the type of research.

Example 1. A school recognized as a tax-exempt organization contracts with an individual to conduct a summer tennis camp. The school provides the tennis courts, housing, and dining facilities. The contracted individual hires the instructors, recruits campers, and provides supervision. The income the school receives from this activity is a dual use of the facilities and personnel. The school, in computing its unrelated business taxable income, may deduct an allocable part of the expenses attributable to the facilities and personnel.

Example 2. An exempt organization with gross income from an unrelated trade or business pays its president $60,000 a year. The president devotes approximately 10% of his time to the unrelated business. To figure the
The UBTI of an advertising activity is $32,000 ($27,000 plus the $5,000 from non-membership receipts). U’s total circulation income is $150,000 ($100,000 from subscriptions and $50,000 from sales to non-members).

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 Exploitation of exempt activities under Directly Connected, earlier.)

Exploitation of Exempt Activities

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 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 pro rata share 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.

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 portion 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 is not used to determindate the share 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 a 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).

The type and rule above prints on all proofs including departmental reproduction proofs. MUST be removed before printing.
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 linkage in the periodical. Also included are other deductions commonly classified as advertising costs under standard account classifications, such as artwork and copy preparation, telephone, telephone, postage, and similar costs directly connected with advertising.

In addition, direct advertising costs include the part of mechanical and distribution costs attributable to advertising linkage. For this purpose, the general account classifications of items includable in 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 linkage of the publication.

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

Readership costs. These are all expenses, depreciation, and similar items that are directly connected with the production and distribution of the newspaper in 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, should be used consistently. Allocations based on dollar receipts from the publication of the newspaper generally are not reasonable since receipts usually do not 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 unrelated business taxable income from selling advertising. It treats the gross income from all the periodicals, and the deductions directly connected with them, 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 Internal Revenue Service.

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 year because of lack of advertising sales, that does not mean that the organization did not 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 is not 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 unrelated business taxable income. It may not consolidate the income and deductions from the newsletter with the income and deductions from its other periodicals, since the newsletter is not published for the production of income.

Modifications

Net operating loss deduction. The net operating loss (NOL) deduction (as provided in section 172) is allowed in computing unrelated business taxable income. However, the NOL for any tax year, the carrybacks and carryovers of NOLs, and the NOL deduction are determined without taking into account any amount of income or deduction that has been specifically excluded in computing unrelated business taxable income. For example, a loss from an unrelated trade or business is not diminished because dividend income was received.

If these were not done, organizations would, in effect, be taxed on their exempt income, since unrelated business losses then would be offset by dividends, interest, and other excluded income. This would reduce the loss that could be applied against unrelated business income of prior or future tax years. Therefore, to preserve the immunity of exempt income, all NOL computations are limited to those items of income and deductions that affect the unrelated business taxable income.

In line with this concept, an NOL carryback or carryover is allowed only from a tax year for which the organization is subject to tax on unrelated business income.

For example, if an organization just became subject to the tax last year, its NOL for that year is not a carryback to a prior year when it had no unrelated business taxable income, nor is its NOL carryover to succeeding years reduced by the related income of those prior years.

However, in determining the span of years for which an NOL may be carried back or forward, the tax years for which the organization is not subject to the tax on unrelated business income are counted. For example, if an organization was subject to the tax for 2007 and had an NOL for that year, the last tax year to which any part of that loss may be carried over is 2007, regardless of whether the organization was subject to the unrelated business income tax in any of the intervening years. The following qualify for a 5-year carryback period.

• A qualified disaster loss occurring in a disaster area and attributable to a federally declared disaster occurring before January 1, 2010. For details, see sections 172(b)(1)(i) and 172(j).

• A qualified Gulf Opportunity Zone (GO Zone) loss. For more information on qualified GO Zone loss, see section 1400Q(n) and the Instructions for Form 1139.

• A qualified recovery assistance loss attributable to losses paid or incurred after May 3, 2007 and before January 1, 2010 as a result of the Kansas storms and tornados in the Kansas disaster area. For more information on qualified recovery assistance loss, see Publication 4492-A.

• A qualified disaster recovery assistance loss attributable to losses paid or incurred on or after the applicable disaster date and before January 1, 2011, in the Midwestern disaster areas. For more information on qualified disaster recovery assistance loss, see Publication 4492-B.

In addition, an organization may elect to treat any GO Zone public utility loss as a specified liability loss to which the 10-year carryback period applies. See section 1400Q(n).

For more details on the NOL deduction, see section 172.

Charitable contributions deduction. An exemption organization is allowed to deduct its charitable contributions in computing its unrelated business taxable income whether or not the contributions are directly connected with the unrelated business.

To be deductible, the contribution must be paid to another qualified organization. For example, an exempt university that operates an unrelated business taxable income from selling and gaging unrelated business losses then would be offset by dividends, interest, and other excluded income. This would reduce the loss that could be applied against unrelated business income of prior or future tax years. Therefore, to preserve the immunity of exempt income, all NOL computations are limited to those items of income and deductions that affect the unrelated business taxable income.

In line with this concept, an NOL carryback or carryover is allowed only from a tax year for which the organization is subject to tax on unrelated business income.

For example, if an organization just became subject to the tax last year, its NOL for that year is not a carryback to a prior year when it had no unrelated business taxable income, nor is its NOL carryover to succeeding years reduced by the related income of those prior years.

However, in determining the span of years for which an NOL may be carried back or forward, the tax years for which the organization is not subject to the tax on unrelated business income are counted. For example, if an organization was subject to the tax for 2007 and had an NOL for that year, the last tax year to which any part of that loss may be carried over is 2007, regardless of whether the organization was subject to the unrelated business income tax in any of the intervening years. The following qualify for a 5-year carryback period.

• A qualified disaster loss occurring in a disaster area and attributable to a federally declared disaster occurring before January 1, 2010. For details, see sections 172(b)(1)(i) and 172(j).

• A qualified Gulf Opportunity Zone (GO Zone) loss. For more information on qualified GO Zone loss, see section 1400Q(n) and the Instructions for Form 1139.

• A qualified recovery assistance loss attributable to losses paid or incurred after May 3, 2007 and before January 1, 2010 as a result of the Kansas storms and tornados in the Kansas disaster area. For more information on qualified recovery assistance loss, see Publication 4492-A.

• A qualified disaster recovery assistance loss attributable to losses paid or incurred on or after the applicable disaster date and before January 1, 2011, in the Midwestern disaster areas. For more information on qualified disaster recovery assistance loss, see Publication 4492-B.

In addition, an organization may elect to treat any GO Zone public utility loss as a specified liability loss to which the 10-year carryback period applies. See section 1400Q(n).

For more details on the NOL deduction, see section 172.

Charitable contributions deduction. An exemption organization is allowed to deduct its charitable contributions in computing its unrelated business taxable income whether or not the contributions are directly connected with the 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 unrelated business taxable income, 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 generally is 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 unrelated business taxable income 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 is not allowed, however, to the extent that it increases an NOL carryover.

Suspension of deduction limits for farmers and ranchers. The limitations discussed above are temporarily suspended for certain qualified conservation contributions of property used in agriculture or livestock production. See the Instructions for Form 990-T for details.

Specific deduction. In computing unrelated business taxable income, a specific deduction of $1,000 is allowed. However, the specific deduction is not 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 carried on by the local unit.

This exception applies only to parishes, districts, or other local units that are not 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 are not separate legal entities. The local units cannot file separate returns. However, each local unit that is separately incorporated must file its own return and cannot include, or be included with, any other entity. See Title I for this discussion.

GLSOs and ranchers.

For example, a private golf and country club is a member of a group of nonexempt organizations, they cannot 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.

Special Rules for Foreign Organizations

The unrelated business taxable income 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, SUBs, and GLSOs

The following discussion applies to:

- Social clubs described in section 501(c)(7),
- Voluntary employees’ beneficiary associations (VEBAs) described in section 501(c)(9),
- Supplemental unemployment compensation benefit trusts (SUBs) described in section 501(c)(7), and
- Group legal services organizations (GLSOs) described in section 501(c)(20).

These organizations must figure unrelated business taxable income under special rules. Unlike other exempt organizations, they cannot 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 unrelated business taxable income of these organizations includes all gross income, less deductions directly connected with the production of that income, except that gross income for this purpose does not include exempt function income. The dividends received by a corporation are not allowed in computing unrelated business taxable income because it is not an expense incurred in the production of income.

Losses from non exempt activities. Losses from non exempt activities of these organizations cannot be used to offset investment income unless the activities were undertaken with the intent to make a profit.

Example. A private golf and country club that is a qualified tax-exempt social club has non exempt function income from interest and

$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 a partnership, 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. The organization is required to notify the partnership of its tax-exempt status.

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 unrelated business taxable income 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 unrelated business taxable income are figured in 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 unrelated business taxable income 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 unrelated business taxable income must be based on the income and deductions of the partnership for the partnership’s tax year that ends within or with 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, or losses in figuring unrelated business taxable income, regardless of the actual source or nature of the income, deductions, and losses. For example, the organization’s share of the corporation’s interest and dividend income will be taxable, even though interest and dividends are normally excluded from unrelated business taxable income. The organization must also take into account its gain or loss on the sale or other disposition of the S corporation stock in figuring unrelated business taxable income.

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from the sale of food and beverages to nonmembers. The club sells food and beverages as a service to members and their guests rather than for the purpose of making a profit. Therefore, any loss resulting from sales to nonmembers cannot be used to offset the club’s interest income.

**Modifications.** The unrelated business taxable income 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, a VEB, SUB, or GLS, it is income set aside to provide for the payment of life, sick, accident, or other benefits.

However, any amounts set aside by a VEB 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 cannot be exempt function income. In addition, any income set aside and later spent for other purposes must be included in unrelated business taxable income.

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.

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**Special Rules for Veterans’ Organizations**

Unrelated business taxable income of a veterans’ organization that is exempt under section 512(c)(19) does not 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.

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**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 unrelated business taxable income to the extent it reduces 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 unrelated business taxable income are allowed.

**Excess qualifying specified payments.** Excess qualifying specified payments received or accrued from a controlled entity are included in a controlling organization’s unrelated business taxable income only on the amount that exceeds what 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, 2007, 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 before January 1, 2010.

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

**Net unrelated income.** This is:

- For an exempt organization, its unrelated business taxable income, or
- For a nonexempt organization, the part of its taxable income that would be unrelated business taxable income 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.

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**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).

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**Income From Debt-Financed Property**

Investment income that would otherwise be excluded from an exempt organization’s unrelated business taxable income (see Exclusions under Income) 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.

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**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). It includes rental real estate, tangible personal property, and corporate stock.

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**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 does not necessarily mean that incurring the debt later was not 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 office building costs $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 is not 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 2. A labor union advanced funds, to its tax-exempt subsidiary title-holding company. The subsidiary used the funds to pay to the union, it is not 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 is not acquisition indebtedness.

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

Example. A university has an acquisition indebtedness of $7 million. The university sold the building for $10 million to a private investor. The outstanding principal debt on the property is considered to be acquisition indebtedness.

5. Pledges, Agreements to hold title in escrow, and 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 is not 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 does not 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 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 Is Not 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 does not 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.

Example. X, an exempt organization, mortgages its laboratory to replace working capital used in remodeling an office building that it leases to the public for nonexempt purposes. The office building costs $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 is not personally liable for payment of the mortgage.

The organization’s consent, and those discussed under definition of acquisition indebtedness, must be removed before printing.

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reduce the acquisition indebtedness by $50,000 ($60,000 x $500,000/$600,000) and the excess debt by $10,000.

Debt That Is Not Acquisition Indebtedness

Certain debt and obligations are not acquisition indebtedness. These include the following:

- Debts incurred in performing an exempt purpose.
- Anniversary 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 is not acquisition indebtedness. For example, acquisition indebtedness does not 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.

Anniversary obligation. The organization’s obligation to pay an anniversary is not acquisition indebtedness if the anniversary 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 percent of the value of the annuity 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. Does not guarantee a minimum nor specify a maximum number of payments;
   b. Does not 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 are not 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 is not acquisition indebtedness.

Securities loans. Acquisition indebtedness does not 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 is not 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 repayment of the loan (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 does not include the “borrowing” of stock from a broker to sell the stock short. Although a short sale creates an obligation, it does not create debt.

Real property debts of qualified organizations. In general, acquisition indebtedness does not 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 life-holding company described in section 424(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 does not apply in the following six situations.

1. The acquisition price is not 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. (But 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. (But 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). (But 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. (But 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)(vii) and section 514(c)(9)(E).

Note 1. Qualifying sales by financial institutions of foreclosure property or certain conservatorship or receivership property are not included in (1) or (2) and, therefore, do not 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 lesseeable floor space in the property and has commercially reasonable terms.

Certain federal financing. Acquisition indebtedness does not 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 does not 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 does not
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 is not treated as debt-financed property. Related use does not include a use related solely to the organization’s need for income, or its exempt purposes. 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 of the property 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 is not 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 is not 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 do not 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 unrelated business taxable income.

Property used in research activities. Property is not 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 does not include property used in certain excluded activities. The primary purpose of the property must be long-term use from the definition of “unrelated trade or business” because:

1. It has a volunteer workforce,
2. It is carried on 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 exempt organization, is not treated as debt-financed property when the property is used by either organization to further its exempt purpose. Furthermore, property is not 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 is not 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 are not unrelated debt-financed income.

Income life 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 is not treated as debt-financed property. This exception applies only where the payments to the property do not exceed 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 is not 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 is not 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 size and utility of the land and the intended future use of the land.

Example. A university tries to buy land contiguous to its present campus, but cannot do so because the owners either refuse to sell or ask unreasonable prices. The university needs a large area of land because the intended use of the land is as an extension of the campus. The university buys land within 1000 feet of the present campus. Under these circumstances, the university’s need for income, or its use of the land for exempt purposes, weighs heavily against a finding that the purchase is unreasonable.

Examples. For more information, contact the IRS.

Actual use. If the neighborhood land rule does not apply because the acquired land is not 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, the land is not 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 other words, 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 is not treated as debt-financed so long as the organization does not abandon its intent to demolish the existing structures and use the land in accordance with its exempt purposes. If an actual demolition of these structures occurs, the use made of the land need not be the one originally intended as long
Debt-financed property exchanged for Indeterminate price. is subject to the tax on unrelated business in-outstanding on the first day in each calendar year exempt organization, acquired real prop- come and is excepted from the debt-financedtax year of the property's average adjusted ba-

Debt-Financed Income

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 ba-sis for the year (the debt/basis percentage). Thus, the formula for deriving unrelated debt-financed income is:

\[
\text{Unrelated Debt-Financed Income} = \left( \frac{\text{Average Acquisition Indebtedness}}{\text{Total Gross Income}} \right) \times \text{Gross Income from Debt-Financed Property}
\]

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 ad-justed 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 percent- age is 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 in-clude, in computing unrelated business taxable income, a percentage (not over 100%) of any gain or loss. The percentage is that of the high-est acquisition indebtedness with respect to the property during the 12-month period preceding the date of disposition, in relation to the prop-erty’s average adjusted basis.

The tax on this percentage of gain or loss is determined according to the usual rules for capi-tal gains and losses. These amounts may be subject to the alternative minimum tax. (See Alternative minimum tax at the beginning of chapter 2.)

Debt-financed property exchanged for subsidiary's stock. A transfer of debt-financed property by a tax-exempt organi-zation to its wholly owned taxable subsidiary, in exchange for additional stock in the subsidiary, is not 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 pres-ent 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 pro-
posed to exchange the land and apartment com-
plex, 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 did not 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 unrelated business taxable in-

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 com-puted by determining how much principal debt is outstanding on the property as its use furthers the organization's exempt pur-pose. If only part of the depreciation
allowance may be taken into account in comput-
ing the percentage of deductions allowable for each debt-financed property, that does not af-
fect 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 organi-
zation acquires debt-financed property in a com-
plete or partial liquidation of a corporation in ex-
change for its stock, the organization's basis in the property is the same as if it would be in the hands of the transferee corporation. This basis is increased by the gain recognized to the trans-
feror corporation upon the distribution and by the amount of any gain that, because of the distribution, is includable in the organization’s gross income as unrelated debt-financed in-
come.

**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 organiza-
tion 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 percent-
age for the year is calculated as follows:

<table>
<thead>
<tr>
<th>Month</th>
<th>Debt on first day of each month property is held</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>$300,000</td>
</tr>
<tr>
<td>August</td>
<td>$280,000</td>
</tr>
<tr>
<td>September</td>
<td>$260,000</td>
</tr>
<tr>
<td>October</td>
<td>$240,000</td>
</tr>
<tr>
<td>November</td>
<td>$220,000</td>
</tr>
<tr>
<td>December</td>
<td>$200,000</td>
</tr>
<tr>
<td>Total</td>
<td>$1,500,000</td>
</tr>
</tbody>
</table>

Average acquisition indebtedness: $1,500,000 = 6 months

Average adjusted basis: $1,500,000

Basis:

- As of July 7: $300,000
- As of December 31: $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 deduc-

tions.

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

1. The allowable deductions are subject to the modifications for computation of the unrelated business taxable income (dis-
cussed 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 relation-
ship to the property or income. Expenses, de-
preciation, and similar items attributable solely to the property qualify for deduction, to the ex-
tent 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 al-
lowed 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 is not taken into account in the current tax year, it may be carried back or carried over to another tax year without application of the debt/basis per-
centage for that year.

**Example.** X, an exempt educational organi-
zation, owned debt-financed securities that were capital assets. Last year, X sold the securi-
ties at a loss of $20,000. The debt/basis percent-
age for computing the loss from the sale of the securities is 60%. Thus, X sustained a capital loss of $8,000 (40% of $20,000) on the sale of the securities. Last year and the preceding 2 tax years, X had no other capital transactions. Under these circumstances, the $8,000 of capi-
tal loss may be carried over to succeeding years without further application of the debt/basis per-
centage for that year.

**Example.** Last year, Y, an exempt organi-
ization, received $20,000 of rent from a debt-financed building that it owns. Y had no other unrelated business taxable income for the year. The deductions directly connected with this building were property taxes of $5,000, in-
terest of $5,000 on the acquisition indebted-
ness, and salary of $10,000 to the building manager. The debt/basis percentage with re-
spect to the building was 50%. Under these circumstances, Y must take into account, in computing its unrelated business taxable in-
come, $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 without further application of the debt/basis percentage.

**Allocation Rules**

When only part of the property is debt-financed property or, proper allowance of the debt, basis, debt, 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 bor-
rrowed funds (assumed to be acquisition indebted-
ness). During the year, the lower two stories of the building were used to house computers that X uses for nonexempt purposes.

The gross income X derived from the build-
ing 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. Conse-
quently, only the rental income and the deduc-
tions directly connected with this income are taken into account in computing unrelated busi-
ness taxable income. The part taken into ac-
t 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 per-
centage 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 unrelated busi-
ness taxable income 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 unrelated business taxable income from debt-financed property .......... . $3,000
5. How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should. Here are seven things every taxpayer should know about TAS:

- TAS is your voice at the IRS.
- Our service is free, confidential, and tailored to meet your needs.
- You may be eligible for TAS help if you have tried to resolve your tax problem through normal IRS channels and have gotten nowhere, or you believe an IRS procedure just isn’t working as it should.
- TAS helps taxpayers whose problems are causing financial difficulty or significant cost, including the cost of professional representation. This includes businesses as well as individuals.
- TAS employees know the IRS and how to navigate it. We will listen to your problem, help you understand what needs to be done to resolve it, and stay with you every step of the way until your problem is resolved.
- TAS has at least one local taxpayer advocate in every state, the District of Columbia, and Puerto Rico. You can call your local advocate, whose number is in your phone book, in Pub. 1546, Taxpayer Advocate Service—Your Voice at the IRS, and on our website at www.irs.gov/advocate. You can also call our toll-free line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.
- You can learn about your rights and responsibilities as a taxpayer by visiting our online tax toolkit at www.taxtoolkit.irs.gov.

Free tax services. To find out what services are available, get Publication 910, IRS Guide to Free Tax Services. It contains lists of free tax information sources, including publications, services, and free tax education and assistance programs. It also has an index of over 100 TeleTax topics (recorded tax information) you can listen to on your telephone. Accessible versions of IRS published products are available on request in a variety of alternative formats for people with disabilities.

Email Service. The IRS has established a subscription-based email service for exempt organization issues. Subscribers will receive periodic updates from the IRS regarding exempt organization tax law and regulations, available services, and other information. To subscribe, visit www.irs.gov/eo.

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

- E-file your return. Find out about commercial tax preparation and e-file services available free to eligible taxpayers.
- Check the status of your 2009 refund. Click on Where’s My Refund. Wait at least 6 weeks from the date you filed your return (3 weeks if you filed electronically). Have your 2009 tax return available because you will need to know your social security number, your filing status, and the exact whole dollar amount of your refund.
- Download forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Sign up to receive local and national tax news by email.
- Get information on starting and operating a small business.

Phone. Many services are available by phone.

- Ordering forms, instructions, and publications. Call 1-800-829-3676 to order current-year forms, instructions, and publications, and prior-year forms and instructions. You should receive your order within 10 days.
- Asking tax questions. Call the IRS with your tax questions at 1-800-829-1040.
- Solving problems. You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to www.irs.gov/localcontacts or look in the phone book under United States Government, Internal Revenue Service.

TTY/TDD equipment. If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax questions or to order forms and publications.

- TeleTax topics. Call 1-800-829-4477 to listen to pre-recorded messages covering various tax topics.
- Refund information. To check the status of your 2009 refund, call 1-800-829-4477 and press 1 for automated refund information or call 1-800-829-1954. Be sure to wait at least 6 weeks from the date you filed your return (3 weeks if you filed electronically). Have your 2009 tax return available because you will need to know your social security number, your filing status, and the exact whole dollar amount of your refund.

Evaluating the quality of our telephone services. To ensure IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to listen in on or record random telephone calls. Another is to ask some callers to complete a short survey at the end of the call.

Walk-in. Many products and services are available on a walk-in basis.

- Products. You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county government offices, credit unions, and office supply stores have a collection of products available to print from a CD or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.
- Services. You can walk in to your local Taxpayer Assistance Center every business day for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, have questions about how the tax law applies to your individual tax return, or you’re more comfortable talking with someone in person, visit your local Taxpayer Assistance Center where you can spread out your records and talk with an IRS representative face-to-face. No appointment is necessary, but if you prefer, you can call your local Center and leave a message requesting an appointment to resolve a tax account issue. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. To find the number, go to www.irs.gov/localcontacts or look in the phone book under United States Government, Internal Revenue Service.

Mail. You can send your order for forms, instructions, and publications to the address below. You should receive a response within 10 days after your request is received.
The type and rule above prints on all proofs including departmental reproduction proofs. MUST be removed before printing.

Internal Revenue Service
National Distribution Center
1201 N. Mitsubishi Motorway
Bloomington, IL 61704-6613

DVD for tax products. You can order Publication 1796, IRS Tax Products DVD, and obtain:
  • Current-year forms, instructions, and publications.
  • Prior-year forms, instructions, and publications.
  • Tax Map: an electronic research tool and finding aid.
  • Tax law frequently asked questions.
  • Tax Topics from the IRS telephone response system.
  • Internal Revenue Code — Title 26.
  • Fill-in, print, and save features for most tax forms.
  • Internal Revenue Bulletins.
  • Toll-free and email technical support.
  • The DVD which is released twice during the year:
    — The first release will ship the beginning of January 2010.
    — The final release will ship the beginning of March 2010.

Purchae the DVD from National Technical Information Service (NTIS) at www.irs.gov/cdorders for $30 (no handling fee) or call 1-877-233-6767 toll free to buy the DVD for $30 (plus a $6 handling fee).
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See “Comments and Suggestions” in the “Introduction” for the ways you can reach us.