



# Taxing Higher Education

Presented at FEB UI Tax Education and Research Center Launching  
Depok, November 28 2018



# Are Universities and Colleges Exempt from Federal Income Taxation?



The vast majority of public and private universities and colleges are tax-exempt entities



## Why?


“corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or *educational* purposes...” (IRC Section 501(c)(3))



Educational purposes—  
purposes that the federal government recognized as  
fundamental to fostering the productive and civic  
capacity of its citizens.



# Which Income is Tax Exempt?



Income from activities that are substantially related to the purpose of an institution's tax exemption.



Charitable contributions received



Investment income



## How about Other Types of Income?

Facility  
Rental ?

Sports  
Events ?

Ads on  
Campus  
Properti  
es ?

Income generating  
activities that is NOT  
related to the educational  
mission of the institution?

Unrelated  
Business  
Income Tax  
(UBIT)

TAXABLE !



# UBIT ?

## UBI Questionnaire (provide dept. comments, if desired):

Describe the business activity:

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	Yes	No	N/A		Dept. Comments
1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you selling goods or providing services that generate revenue?	
				If yes, who are the purchasers of the goods or services? Please be specific.	
2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does your sales price or service fee vary depending on the customer?	
3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the activity conducted on a "regular" basis? (i.e., year-round, seasonal, etc.)	
4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the activity conducted with a profit motive?	
5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the activity substantially related (a causal relationship exists) to accomplishing the mission of the University?	
6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you receive federal or state funding to support the activity?	
7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you receive funding from research grants to support the activity?	
8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are UF students participating in the activity as part of their educational experience?	
9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If yes to #8, are the UF students receiving course credit?	
10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do UF faculty or staff participate in the activity, assisting in the overall accomplishment of the exempt purposes of the University?	
11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does the activity involve selling donated goods?	
12	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you have volunteers (students or non-students) who participate in the activity?	

17	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>personal property?</b>	
18	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does the activity generate revenue from the sale of commercial advertisements (or underwriting) in a University publication?	
	Yes	No			
19	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Based on the UBI Guidelines and this Questionnaire, are you classifying the business activity described above as <u>unrelated</u> and reporting it on the UBI Certification?	

# UBIT ?

## UBIT Related and Unrelated Determination Matrix

Purpose	Description of Use	Related Income	Unrelated Income
Educational 1	Educational conferences and seminars conducted by University, academic or administrative departments, or officially recognized student, faculty, alumni or staff organizations	X	
	Educational conferences and seminars conducted by non-University groups but sponsored by the University, academic or administrative departments, or officially recognized student, faculty, alumni or staff organization	X	
	Community & Economic Development	Non-University athletic events (e.g. national swimming championships, racing, Colts, Pacers)	*X
		Conferences or seminars held by non-affiliated commercial business or association or military groups	*X
	Other	Personal or recreational use by members of the general public (including alumni and spouses and children of students or University employees)	X
		Non-University social events if regularly conducted (e.g., wedding receptions, anniversary parties, banquets by outside groups)	X
		Sale of memberships in, or entry to, recreational facilities to members of the general public or alumni	X



A blurred background image showing graduates in blue caps and gowns at a ceremony.

## Taxation for UBIT

- Income from UBIT is Taxable
- UBIT expenses is deductible:
  - if it is allowable as a business deduction under the tax code – i.e., all the “ordinary and necessary” business expenses
  - If it is directly connected with the carrying on of the unrelated trade or business (sometimes allocation is needed)

# Other Tax Liabilities

- Endowment?



A blurred background image showing graduates in blue caps and gowns during a ceremony.

## Tax on Endowment?

- Universities maintain endowments to directly support their activities as institutions of higher education
- Generally, endowment fund earnings are exempt from federal income tax

#News

Final GOP Deal W

# The University Endowment Income Tax: Who Will Pay it

THE CHRONICLE OF HIGHER EDUCATION

NEWS OPINION ADVICE STORE JO

SECTIONS

FEATURED: Stories of Student Hunger and Homelessness Strategies for Gen-Ed Reform Fix the Fund-Raising Crunch

GOVERNMENT

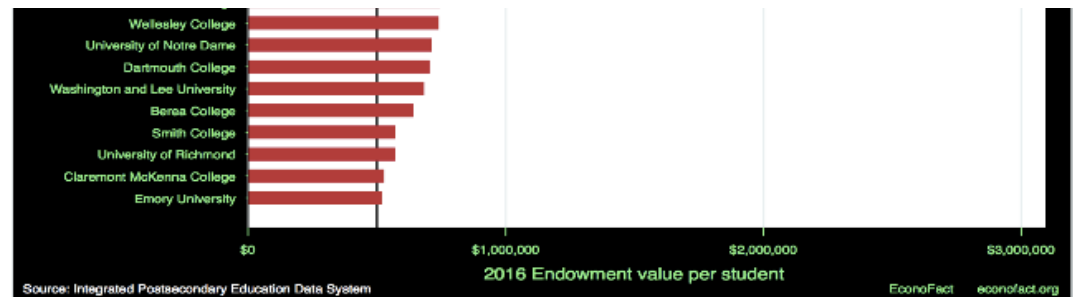


## A Tax on Endowments Became Law. But Congressmen and Colleges Are Still Fighting It.

By Adam Harris | MARCH 08, 2018



ISTOCK



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## Endowment Tax

- The 2017 tax revision imposes a new 1.4% excise tax on the net investment earnings of certain college and university endowments.



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## Other Tax Liabilities

- Sales Tax?

For example, in Indiana, sales of tangible personal property as part of a **proprietary activity** by public university are subject to sales tax.

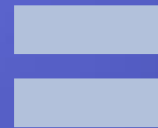


# Proprietary Activities

Associated  
with a  
private  
business



Outside the  
scope of  
activities



Proprietary  
Activities

**Governmental  
= Exempt**

**Proprietary =  
Taxable**

Education

Research

Public Service

Outside the scope of  
activities of governmental  
and educational functions

Associated with the  
conduct of a private  
business

Picture taken from Indiana  
University FMS

# Sales Tax for Purchases?

The governmental function of the University (education, research and public service) is EXEMPT.

TEXAS  
Form 11-209 (Back)  
(Rev. 4-13-81)

## Texas Sales and Use Tax Exemption Certification

This certificate does not require a number to be valid.

Name of purchaser, firm or agency	Phone (Area and Number)
Address (Street and Number, P.O. Box or Route number)	City, State, ZIP code

I, the purchaser named above, claim an exemption from payment of sales and use taxes on the items described below or on the attached order or invoice from:

Seller: **SAN PATRICIO ELECTRIC COOPERATIVE INC.**  
Street address: **402 E. SINTON STREET** City, State, ZIP code  
Description of items to be purchased or on the attached order or invoice:  
**Electric Service for account numbers and service add**

Purchaser claims this exemption for the following reason:

Please list each account and reasons below  
Example: "Residential account for personal use"

I understand that I will be liable for payment of all state and local sales or use taxes on the items purchased unless the provisions of the Tax Code and/or all applicable law.

I understand that it is a criminal offense to give an exemption certificate to the seller for taxable items to be used in a manner other than that expressed in this certificate, and depending on the amount of the tax, such offense may be a Class C misdemeanor to a felony of the second degree.

sign here

NOTE: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle. This certificate does not require a number to be valid. Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist.

This certificate should be furnished to the supplier.  
Do not send the completed certificate to the Comptroller of Public Accounts.



Utah State Tax Commission • 210 N 1950 W • Salt Lake City, UT 84119  
**Exemption Certificate**

Print Form  
Clearform

TC-7  
Rev. 7-81

☐ **COMMERCIALS, FILMS, AUDIO AND VIDEO TAPES**  
Sales Tax License No. \_\_\_\_\_  
I certify that purchases of commercials, films, prerecorded video tapes, prerecorded audio program tapes or records are for sale or distribution to motion picture exhibitors, or commercial television or radio broadcasters. If I subsequently resell items to any other customer, or use or consume any of these items, I will report any tax liability directly to the Tax Commission.

☐ **FILM, TELEVISION, VIDEO**  
I certify that purchases, leases or rentals of machinery or equipment will be used by a motion picture or video production company for the production of media for commercial distribution.

☐ **ALTERNATIVE ENERGY**  
Sales Tax License No. \_\_\_\_\_  
I certify the tangible personal property meets the requirements of Utah Code §59-12-104 and is leased or purchased by or for an alternative

☐ Durable Medical Equipment primarily used to serve a medical purpose, is not worn in or on the body, and is for home use only. (Sales of spas and saunas are taxable.)  
☐ Mobility Enhancing Equipment primarily used to improve movement, is for use in a home or motor vehicle, and used by persons with normal mobility.  
☐ Prosthetic Device used to replace a missing body part, top or bottom of a limb, or to correct a physical deformity, or support a weak body part is also exempt if purchased by a hospital or medical institution.  
☐ Disposable Home Medical Equipment or Supplies cannot withstand repeated use and purchased by, for, or on behalf of a person other than a health care facility, health care provider or office of a health care provider. The equipment and supplies must be eligible for payment under Title 26, Federal Social Security Act, or the state plan for medical assistance under Title 26, Federal Social Security Act.

REV-122-AS • (5-95)



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF REVENUE  
BUREAU OF BUSINESS TRUST FUND TAXES  
2001 N. 3RD ST.  
HARRISBURG, PA 17130-0001

## PENNSYLVANIA EXEMPTION CERTIFICATE

CHECK ONE:

- ☐ STATE OR LOCAL SALES AND USE TAX
  - ☐ STATE OR LOCAL HOTEL, OCCUPANCY TAX
  - ☐ PUBLIC TRANSPORTATION ASSISTANCE TAXES AND FEES (PTA)
  - ☐ PASSENGER CAR RENTAL TAX (PCRT)
- (Please Print or Type)

This form cannot be used to obtain a Sales Tax License Number, PTA License Number or Exempt Status.

Read Instructions  
On Reverse Carefully

**THIS FORM MAY BE PHOTOCOPIED - VOID UNLESS COMPLETE INFORMATION IS SUPPLIED**

USE FOR ONE TRANSACTION

USE FOR MULTIPLE TRANSACTIONS

State Zip Code

because: (Select the appropriate paragraph from the back of this form.)

Purchaser's operation of:

(If purchaser does not have a PA Sales Tax License Number, required.)

holding Exemption Number \_\_\_\_\_

Public utility service. (Complete Part 5 on Reverse.)

(If purchaser does not have a PA Sales Tax License Number, required.)

Certificate by seller, lessor, buyer, lessee, or their representative is

State Zip Code

For this certificate to be valid, the salesperson shall exercise good faith in accepting this certificate, which includes: (1) the certificate shall be completed properly; (2) the certificate shall be in the salesperson's possession within sixty days from the date of sale/lease; (3) the certificate does not contain information which is knowingly false; and (4) the property or service is consistent with the exemption to which the customer is entitled. For more information, refer to Exemption Certificates, Title 61 PA Code §32.2. An invalid certificate may subject the salesperson to the tax.

## 2. REPRODUCTION OF FORM:

This form may be reproduced but shall contain the same information as appears on this form.

## 3. RETENTION

This seller or lessor must retain this certificate for at least four years from the date of the exempt sale to which the certificate applies. DO NOT RETURN THIS FORM TO THE PA DEPARTMENT OF REVENUE.

## 4. EXEMPT ORGANIZATIONS:

This form may be used in conjunction with form REV-1716, Exempt Organization Declaration of Sales Tax Exemption, when a purchase of \$200 or more is made by an organization which is registered with the PA Department of Revenue as an exempt organization. These organizations are assigned an exemption number, beginning with the two digits 75 (example: 75-00000-0).

A blurred background image showing graduates in blue caps and gowns at a ceremony.

## Other Tax Liabilities

- Universities are subject to withholding taxes, such as Payroll Taxes



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## Other Country Example?

- Malaysia
  - Public university is viewed as a government statutory body whose main activity is in education and whose motive is non profit.
  - In general, universities revenues are non taxable

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## Takeaways ...

- Are public universities expected to support government mission?
- Public universities, however, involve in various revenue-generating activities. Should they all be exempt from taxes?
- The needs for detail documentation and reporting.