

UNRELATED BUSINESS INCOME TAX (UBIT)

The provisions relating to UBIT are set forth in sections 511 to 514 of the Internal Revenue Code. Churches are subject to UBIT for income from activity that:

1. Constitutes a trade or business. This generally includes any activity carried on to produce income or profit.
2. Is regularly carried on by the church. This refers to the frequency and continuity with which the activities are conducted and the manner in which they are pursued. Activities that are intermittent and infrequent are generally not considered to be regularly carried on by the church.
3. Is not substantially related to the performance of the church's exempt purpose. Activities that contribute importantly to the accomplishment of the church's exempt purpose are excluded from UBIT. This determination generally needs to be made based on the facts and circumstances of each individual case.

Exceptions

Even if an activity would otherwise be considered unrelated, there are exceptions that exclude from UBIT:

- Activities in which substantially all the work is performed by unpaid volunteers.
- Activities carried on by a church primarily for the conveniences of its members.
- Selling merchandise, substantially all of which has been contributed to the church.

Income Excluded from UBIT

Dividends, interest, annuities, royalties, capital gains, and rents are generally not subject to UBIT, subject to the following two limitations.

1. If a church has a mortgage on its property, the above income will be subject to UBIT on proportionate basis of the debt to the value of the property. However, if substantially all (85% or more) of the church property is used for its exempt purposes, then this income is not subject to UBIT even if a church has a mortgage on its property. There are also neighborhood land rules and demolition rules that may also allow income to be excluded from UBIT on debt-financed property.
2. The above income cannot be excluded from UBIT if it is generated from organizations that are controlled by the church.

Returns

If a church is subject to UBIT, it must file a Form 990-T with IRS by May 15 (assuming the church's tax year ended the previous December 31). A church will not lose its tax-exempt status by engaging in unrelated business activities.