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UNRELATED BUSINESS INCOME TAX

Policy Summary

NewU must identify and report unrelated business income on its annual tax return, and remit any tax due in compliance with federal, state, and local tax laws and regulations. This policy helps identify activities that may generate unrelated business income and encourages them to contact the CFO or his/her designee for guidance.

Related Regulations

NewU is exempt from tax on income related to its core mission or “exempt purpose” (e.g. tuition revenue). Income from operating a trade or business not related to NewU’s core mission is considered “unrelated business income” by the Internal Revenue Service and is subject to annual reporting and imposition of income tax.

Scope

The Policy on Unrelated Business Income Tax applies to all NewU Faculty and Staff.

Policy

NewU is responsible for classifying income in two categories: Related (non-taxable) versus unrelated (taxable). To be non-taxable, an activity must be substantially related to the purpose for which NewU has its exempt status. In general, NewU’s exempt status is based on its educational activities.

Any income that does not directly further NewU's tax exempt purpose, i.e. education, has the potential to become unrelated business income. Income from an activity is subject to unrelated business income tax if the following three criteria are present:

1. The conduct of the activity is “not substantially related” to the performance of NewU’s exempt function;
2. The activity constitutes a “trade or business”; and
3. The activity is “regularly carried on” by NewU.

Definitions

Substantially Related: Any activity that provides an important contribution toward the accomplishment of NewU’s tax-exempt purposes. Determining whether an activity is “substantially related” requires an examination of the relationship between the activity and NewU’s primary exempt purpose. An activity is related to an exempt purpose only when the

conduct of the activity has a causal relationship to the achievement of exempt purposes. The causal relationship must be substantial.

Trade or Business: Any activity carried on for the production of income from the sale of goods or performance of services. The activity must be conducted in a manner similar to the style under which a for-profit business would operate.

Regularly Carried On: Identifies the frequency and continuity with which the activities are conducted and the manner in which they are pursued. If the activity is of a kind normally conducted by nonexempt commercial organizations on a year-round basis, the conduct of such an activity by a NewU over a period of only a few weeks does not constitute the regular carrying on of trade or business.

[End]