

Understanding University Tax Liabilities:

Tax Exempt Status & Sales Tax

Unrelated Business Income Tax

Handling Sponsorship Activities

University of Colorado
Office of University Controller
CPE for CPAs, Fall 2019



University of Colorado

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Course Purpose

- The purpose of the course is to provide participants with an overview of the University as a tax exempt state institution and an understanding of applicable and/or potential tax liabilities.



Course Objectives

- Determine when the University can use its tax-exempt status and when sales tax liability may apply to the Organizational Unit's activities
- Learn of new sales tax requirements
- Define Unrelated Business Income (Tax)
- Identify activities that may incur UBIT for your Organizational Unit
- Define a Qualified Sponsorship Payment
- Identify the procedures for accepting and acknowledging sponsorship payments to the University



Tax-Exempt Status

- The University of Colorado, as a public institution of higher education of the State of Colorado is exempt by law, from federal income and excise taxes and from all Colorado State income and local government sales and use taxes under the Constitution of the State of Colorado when purchasing goods and/or services in the conduct of official University business
- The University has dual tax-exempt status:
 - (1) Under Section 115 of the Internal Revenue Code (e.g., govt org. – city or county, exempt through intergovernmental tax immunity)
 - (2) 501 (c)(3) organization from the Internal Revenue Service
- The University's tax-exempt status applies only to purchases made for the exclusive use of the University of Colorado; i.e., education, professional training, public service, research, and patient care.
- Procurement Service Center, Tax Exempt webpage: www.cu.edu/psc/tax-exempt-status-0



Sales Tax Exemption Certificate

Multi-Jurisdiction

DR 0563 (08/30/13)
COLORADO DEPARTMENT OF REVENUE
Denver CO 80261-0013

130563 19999

Sales Tax Exemption Certificate Multi - Jurisdiction

See page 2 for instructions

Last Name or Business Name		First Name		Middle Initial
Address				
City		State	ZIP	
I Certify That				
Name of Firm (Buyer) The Regents of University of Colorado				
Address 1800 Grant Street, Suite 600				
City Denver		State CO	ZIP 80203	
Qualifies As (Check each applicable item)				
<input type="checkbox"/> Wholesaler <input type="checkbox"/> Retailer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Charitable or Religious <input checked="" type="checkbox"/> Political Subdivision or Governmental Agency <input type="checkbox"/> Other (Specify)				
If Other, specify here				
1) and is registered with the below listed states and cities within which your firm would deliver purchases to us				
which are for resale or lease by us in the normal course of our business which is <u>Institution of Higher Education</u> or				
2) that such purchases are exempt from payment of sales or use tax in such states and cities because our buyer is:				
<input checked="" type="checkbox"/> Political Subdivision or Governmental Agency <input type="checkbox"/> Charitable or Religious <input type="checkbox"/> Otherwise Exempt By Statute (Specify)				
If Otherwise Exempt By Statute, specify here				
City or State City of Aurora	State Registration or ID Number 98-00799-0000	City or State Colorado (Boulder campus)	State Registration or ID Number 98-02915-0000	
City or State Colorado	State Registration or ID Number 98-02565-0000	City or State Texas	State Registration or ID Number 32002730391	
City or State	State Registration or ID Number	City or State	State Registration or ID Number	
If the list of states and cities is more than six(6), attach a list to this certificate. I further certify that if any property so purchased tax free is used or consumed by the firm as to make it subject to a Sale or Use Tax we will pay the tax due direct to proper taxing authority when state law so provides or inform the seller for added tax billing. This certificate shall be part of each order which we may hereafter give to you, unless otherwise specified, and shall be called until canceled by us in writing or revoked by the city or state.				
General Description of products to be purchased from seller				
Under penalties of perjury, I swear or affirm that the information on this form is true and correct as to every material matter.				
Authorized Signature (owner, Partner or Corporate Officer) <i>Kent C. Kuehn</i>		Title Associate Vice President/University Controller	Date (MM/DD/YYYY) 7/4/18	



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Tax-Exempt Status & Sales Tax Liabilities

- Retail sales / merchandise sales are subject to sales tax and are remitted to your campus sales tax specialist
- Silent or live auctions are subject to sales tax calculated based on the Fair Market Value of the item, or the purchase price if lower



Tax Exempt Status & Sales Tax Liabilities (cont.)

- University events (conferences, OFs, fundraising events) that are charging an admission fee and serving a meal/beverage to attendees, are required to pay sales tax on their food/beverage/catering services. Please inform your vendor & the PSC (officialfunctions@cu.edu), that sales tax will apply for your event.
- In paying a registration fee that includes a meal/beverage, the attendee has “reimbursed” the University for these items, and is in effect the actual purchaser of the meal
- Taxing jurisdictions view this as “re-selling” the meal; we are getting reimbursed for the meal and we cannot “pass on” our tax-exempt status to the attendee



Sample Affidavit of Exempt Event



Affidavit of Exempt Event

This form is used by Denver exempt organizations to claim exemption from Denver sales, use or lodger's tax for an event held at a Denver hotel, motel or other event venue. The vendor (hotel, motel or restaurant) is required to maintain a completed form for each tax-exempt sale pertaining to the stated event.

Furnish this form to the seller. Retain this completed form for your records.
DO NOT RETURN TO THE DENVER TREASURY DIVISION UNLESS REQUESTED.

Organization/Agency Information			
Legal Name of Organization or Agency _____		Website _____	
Authorized Representative _____		Phone _____	
Address _____ City _____		State _____	Zip _____
Event Information			
Name of Event _____		Date of Event _____	
Description of Event _____			
Exemption Information			
The exemption does not apply to food, beverage or lodging where the recipient of the food, beverage or lodging reimburses the organization in any way, such as by the purchase of a ticket, payment of a fee, or making an involuntary contribution.			
Basis of Exemption <input type="checkbox"/> Charitable <input type="checkbox"/> Governmental			
ALL OF THE STATEMENTS BELOW MUST BE TRUE FOR THE PURCHASE TO QUALIFY FOR TAX EXEMPTION			
Indicate if all of the following statements are true for this event:			
<input type="checkbox"/> Yes <input type="checkbox"/> No	The purchase is included under, and is part of, the regular charitable functions and activities of the organization, or is purchased in a governmental capacity.		
<input type="checkbox"/> Yes <input type="checkbox"/> No	The transaction is billed directly to the organization and payment is made directly from organization funds. (Purchases of food or lodging by individuals do not qualify for the exemption even though the individual will be reimbursed by the organization or government.)		
<input type="checkbox"/> Yes <input type="checkbox"/> No	The participants at the event have not and will not reimburse the organization in any way for the event such as by purchase of a ticket, payment of a registration fee, or by making an involuntary contribution.		
Purchaser Information			
Under penalty of perjury, I swear or affirm that the information on this form is true and correct as to every material matter. I affirm that the items purchased tax-exempt will be used for official business of the above-named organization or agency. I accept that I remain directly liable for the taxes and any applicable penalty or interest if my purchase is found to not qualify for the exemption or if the information asserted in this form is deemed fraudulent.			
Purchaser's Signature _____		Date _____	
Print Name _____	Driver's License # _____	State _____	

For Use by Hotel/Motel/Restaurant or Other Vendor to Verify Exemption

This form should be completed in its entirety and retained, together with a completed "Standard Municipal Home Rule Affidavit of Exempt Sale" form and customer's letter of Denver exemption (issued to charitable organizations) for a minimum of four years to assist in



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Tax-Exempt Status & Out-of-State Activities

- Generally, if you are attending a conference out-of-state, you should pay related sales/lodging taxes.
- If you are selling books at an out-of-state event, you should charge sales tax to the purchase.
- South Dakota v. Wayfair, Inc. (Supreme Ct., June 2018)
- If you are shipping items out-of-state, you may be subject to applying sales tax.



Group Activity

- Sales tax liability scenarios, True or False



Unrelated Business Income Tax

- Background / History
 - Revenue Act of 1950
 - Destination of Income Test
 - Feeder Organizations
 - Unfair Competition



Unrelated Business Income (Tax) Definition

The term “unrelated business taxable income” means the gross income derived by any organization from any unrelated trade or business (as defined by IRC § section 513) regularly carried on by it, less the deductions.

<https://www.cu.edu/controller/tax-code-changes-2018/unrelated-business-income-tax-ubit> (video)

- Is the activity a trade or business?
- Is the activity regularly carried on?
- Is the trade or business not substantially related to the exempt purpose of the organization? i.e., mission-related – education, research, public service and patient care.



Unrelated Business Income Tax (cont.)

- Corporate Income Tax (21% - Federal, 4.63 % - CO)
- Fragmentation Rule
- Expense Allocation
 - National Association of College and University Business Officers (NACUBO) Unrelated Business Income Expense Allocation Project



Unrelated Business Income Tax (cont.)

- Dual Use Facilities
 - Reasonable Allocation Method - Treas. Reg. §1.513-1(d)(4)(iii)
- Net Operating Losses (NOLS)
 - New rules for NOLS
 - FY 19 – FY 20 status
 - FY 21, New University business process to commence before October 2020
 - Transportation - EcoPass
- “Bucketing” Activities Across Campuses
- NAICS codes
- Quarterly Estimate of Taxes
 - UBIT account codes
 - March 15th, June 15th, October 15th, December 15th



Unrelated Business Income Tax (cont.)

- Modifications – IRC § 512(b)
 - Dividends
 - Interest
 - Royalties
 - Real Property Rental
 - Personal Property
 - 10%
 - >10% - 50%
 - >50%
 - Debt-Financed Property



Unrelated Business Income Tax (cont.)

- Modifications – IRC § 512(b) (cont.)
 - Gains or losses from the sale, exchange, or other disposition of property
 - Research
 - Not incident to commercial or industrial operations
- Special Exceptions
 - Volunteer Exception
 - Convenience Exception



Potential UBIT Activities

- Fitness and Recreation Centers
- Sports Camps
- Facility Rentals
- Arena Rentals
- Golf Courses
- Advertising
- Parking Facilities
- Travel Tours
- Sponsorships



Qualified Sponsorship Payments

- IRS Definition

The term *qualified sponsorship payment* means any payment by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the business name, logo, trademarked slogan, or product lines in connection with the organization's activities.



Qualified Sponsorship Payments (cont.)

- In determining whether a payment is a qualified sponsorship payment, it is irrelevant whether the sponsored activity is related or unrelated to the recipient organization's exempt purpose
- It is also irrelevant whether the sponsored activity is temporary or permanent
- For purposes of this section, payment means the payment of money, transfer of property, or performance of services
- Substantial return benefit = Any benefit received by the sponsor other than:
Use or acknowledgement; or goods/services of insubstantial value, i.e., FMV is < 2% of the amount received.



Qualified Sponsorship Payments (cont.)

Examples of Substantial Benefits that may incur UBIT:

- Advertising
Any message containing qualitative or comparative language, price information or other indications of savings or value, an endorsement or an inducement to purchase, sell, or use the products or services
- Exclusive provider agreements



Qualified Sponsorship Payments (cont.)

Examples of Substantial Benefits that may incur UBIT:

- Goods, facilities, services or other privileges
- Exclusive or nonexclusive rights to use an intangible asset (e.g., trademark, patent, logo, or designation) of the exempt organization – the University's branding on other websites/publications



Qualified Sponsorship Payments (cont.)

- Allocation of Payment
- Valuation of Payment
- Qualified sponsorship payment – Periodical vs Event Program.
 - **Periodicals** – use or acknowledgement of name, logo, trademarked slogan or product line in an organization's periodical (regularly printed) is NOT a qualified sponsorship payment.
 - **Event Program** - use or acknowledgement of name, logo, trademarked slogan or product line is acceptable if material related to or distributed in connection with the specific event conducted by the organization.
- Exclusion under other UBIT provisions



Accepting and Acknowledging Sponsorship Payments

How do I acknowledge a sponsor's payment?

- Acceptable to use/acknowledge a sponsor's name, logo, trademarked slogan or display of product line in connection with University's activity
- Acceptable to have a link to a sponsor's website/homepage
- Acceptable to have the sponsor's phone # displayed
- Acceptable to acknowledge sponsor by name at the event, on event publicity, event programs and event webpage



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Accepting and Acknowledging Sponsorship Payments (cont.)

How do I accept Sponsorship payments for Conferences and Official Functions?

Deposits to the University:

- Sponsorship payments may be deposited to your operating event SpeedType (e.g., fund 20 or 29)
- Sponsors are receiving promotional value in exchange for their financial support of your event
- Monies are not handled as gift monies; being used to offset event expenses in an operational ST.



Accepting and Acknowledging Sponsorship Payments (cont.)

Deposits to the CU Foundation (CUF):

- Sponsorship payments may also be accepted as gift monies & deposited to a CUF fund
- Org Units will need to ensure that the sponsorship payment is deposited to a CUF fund that is linked to a gift fund 34 ST that can be used for the event expenses
- The CUF requires the Org Unit to provide complete donor information, including the Fair Market Value of any goods/services provided to your sponsor. Your campus Advancement contact will be able to assist with this information request.



Accepting and Acknowledging Sponsorship Payments (cont.)

How do I handle Sponsorship payments for Fundraising Events?

- All sponsorship payments are handled as gift monies for Fundraising Events. Event revenues are either deposited to the event fund 34 ST or to a CUF fund # (for events using the Cvent registration tool).
- Sponsors are receiving promotional value in exchange for their financial support, however, in many cases, sponsorships also receive benefits that have a Fair Market Value and require the University to acknowledge and inform the sponsor of such (e.g., table for 10/dinner, foursome of golf)
- Sponsors will receive a gift tax receipt that will show the total amount of their contribution/payment, less any goods and/or services received



Handling Sponsorship Payments

Denver and Anschutz Medical Campus sponsorship payments:

- The Office of Regulatory Compliance, Anschutz Medical Campus, has very restrictive sponsorship acceptance policies for **pharma and medical device companies**

Please contact: Christine Ahearn, JD, Christine.Ahearn@cuanschutz.edu, 303-724-0245, or
Conflict of Interest Office, Office of Regulatory Compliance, coi@ucdenver.edu

- For Continuing Medical Education activities and sponsorships, please contact Pam Welker, pamela.welker@ucdenver.edu, 303-724-3551



Handling Sponsorship Payments (cont.)

CU Boulder campus:

- The Research & Innovation Office (RIO) works closely with industry partners and can support additional sponsorship inquiries for your events.
- Additionally, there are compliance procedures for accepting sponsorship / industry payments.
- Please contact: rio@colorado.edu, 303-492-7401



Handling Sponsorship Payments (cont.)

Group Activity / Unrelated Business Income & Sponsorship Activities Quiz

- Highlight sponsorship benefits that may incur UBIT for the University organizational unit
- Discuss why this would incur UBIT



Resources

- Bob Loosley, Director of Tax, Office of University Controller, 303-837-2116, bob.loosley@cu.edu
- Karen Ichiba, Fundraising Events & Gift Compliance, Tax, Office of University Controller, 303-837-2125, karen.ichiba@cu.edu
- Christine Ahearn, JD, Christine.Ahearn@cuanschutz.edu, 303-724-0245, or Conflict of Interest Office, Office of Regulatory Compliance, coi@ucdenver.edu
- Research & Innovation Office, CU Boulder Campus, 303-492-3024, rio@colorado.edu



Resources (cont.)

- Campus Sales Tax Specialists:

UCB, Maggie Young, Campus Controller's Office, maggie.young@colorado.edu

UCCS, Mary Lile, Accounting Office, mlile@uccs.edu

UCD I Anschutz Campus, Ellen McGrath, Finance Office,
ellen.mcgrath@cuanschutz.edu

- Campus UBIT Specialists:

UCB, Campus Controller's Office, accounting@colorado.edu

UCCS, Mary Lile, Accounting Office, mlile@uccs.edu

UCD, Ryan Yu, Finance Office, ryan.yu@ucdenver.edu



Resources (cont.)

- Campus UBIT Info./Questionnaire

Boulder - <https://www.colorado.edu/controller/unrelated-business-income-tax-policy-and-procedure>

Denver and Anschutz Medical Campus -

<http://www.ucdenver.edu/about/departments/finance/Pages/Forms.aspx>

- Sponsorship Chapter, OUC Accounting Handbook,
<http://www.cu.edu/controller/sponsorships>

