



# 2018 Exempt organization business income tax return checklist

## Form 990-T

Client name and number \_\_\_\_\_

Prepared by \_\_\_\_\_ Date \_\_\_\_\_ Reviewed by \_\_\_\_\_ Date \_\_\_\_\_

<b>100) General</b>	Yes/ Done	No/ N/A
---------------------	--------------	------------

▶ 101) Determine if the organization is required to file a business income tax return.

1. Consider whether the organization has greater than \$1,000 of gross unrelated business income (UBI).
2. Consider whether the organization is subject to proxy tax on lobbying/political expenditures under Sec. 6033(e).
3. Consider filing a zero Form 990-T return to start the running of the statute of limitations.
4. Consider filing Form 990-T to claim the small business health care tax credit.
5. Consider filing Form 990-T to report foreign filing requirements (Forms 926, 5471, 8621, etc.).

▶ 102) If the organization has income that is not substantially related to its exempt purpose (including activities from a single member LLC or pass-through entity):

1. Determine if the income is from a trade or business and that the trade or business is regularly carried on.
2. Determine whether any statutory exclusions (Sec. 200) apply.
3. Determine whether the activity is carried on with a profit motive (Regs. Sec. 1.183-2(b)).

▶ 103) Review the special rules for:

1. Debt-financed property (and exceptions for real property acquisitions/improvements by qualified organizations (Sec. 514(c)(9)(C))
2. Foreign organizations
3. Social clubs (Sec. 501(c)(7))

Yes/ No/  
Done N/A

- 4. Voluntary employee benefits organizations (Sec. 501(c)(9))
- 5. Supplemental unemployment compensation trusts
- 6. Organizations whose exclusive function is to form part of a qualified group legal services plan
- 7. Veterans' organizations (Sec. 501(c)(19))
- 8. Qualified corporate sponsorship
- 9. Affinity programs with royalty payments
- 10. Income from an S corporation (generally all UBI)
- 11. Sec. 501(e) hospital cooperatives (no UBI is permitted since it will jeopardize tax exemption)

▶ 104) Review prior years' returns and workpapers for the extent and amount of UBI and the potential impact on exempt status or carryovers (e.g., credits or net operating losses (NOLs)).

▶ 105) Consider Sec. 512(a)(6) which requires an organization with income subject to UBI with more than one unrelated trade or business to calculate unrelated business taxable income (UBTI) separately with respect to each trade or business.

▶ 106) Obtain copies of prior years' IRS audit reports.

Comments/explanations

## 200) Exclusions

Yes/ No/  
Done N/A

▶ 201) Exclude income from a trade or business:

1. Where substantially all the work in carrying on such trade or business is performed for the organization without compensation (i.e., the "volunteer exception").
2. Which is carried on, in the case of an organization described in Sec. 501(c)(3) or in the case of a college or university described in Sec. 511(a)(2)(B), by the organization primarily for the convenience of its members, students, patients, officers or employees (i.e., the "convenience exception").
3. Where substantially all of the merchandise sold has been received by the organization as gifts or contributions (i.e., the "donated goods exception").

▶ 202) If the organization is described in Sec. 501(c)(3), (4) or (5), exclude income from a qualified public entertainment activity (see Sec. 513(d)).

▶ 203) If the organization is described in Sec. 501(c)(3), (4), (5) or (6), exclude income from a qualified convention or trade show activity (see Sec. 513(d)).

▶ 204) For a hospital described in Sec. 170(b)(1)(A)(iii), exclude income attributable to furnishing one or more of the services described in Sec. 501(e)(1)(A) to one or more hospitals described in Sec. 170(b)(1)(A)(iii) if such services (see Sec. 513(e)):

1. Are furnished solely to hospitals which have facilities to serve not more than 100 inpatients,
2. If performed on its own behalf by the recipient hospital would constitute activities in exercising or performing the purpose/function constituting the basis for its exemption, and
3. Are provided at a fee or cost which does not exceed the actual cost of providing such services, such cost including straight-line depreciation and a reasonable amount for return on capital goods used to provide such services.

▶ 205) Determine if income from qualified bingo games meets the requirements for an exclusion (see Sec. 513(f)).

▶ 206) For an organization to which contributions are deductible under Sec. 170(c)(2) or (3), exclude income from (see Sec. 513(h)):

1. The distribution of low-cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions
2. Any trade or business which consists of:
  - a. Exchanging with another such organization names and addresses of donors
  - b. Renting names or addresses to another such organization

▶ 207) Exclude income from research for the U.S. or its agencies or instrumentalities, or any state or political subdivision (see Sec. 512(b)(7)).

▶ 208) For a college, university or hospital, exclude income from research performed for any person (see Sec. 512(b)(8)).

▶ 209) For an organization operated primarily for purposes of carrying on fundamental research, exclude income if the results are freely available to the general public (see Sec. 512(b)(9)).

▶ 210) For a religious order, or educational organization maintained by the religious order, possibly exclude income for services provided under a federal license (see Sec. 512(b)(15)).

▶ 211) Exclude qualified sponsorship payments per Regs. Sec. 1.513-4 (also see Sec. 513(i)).

▶ 212) Consider the Sec. 512 exclusions available for certain organizations that exclude interest, dividend, annuities, rents, royalties and capital gains from UBI. See Sec. 512(b)(1)–(5); note the special rules for debt-financed income of Sec. 512(b)(4).

Yes/ No/  
Done N/A

- 
- ▶ 213) Consider that income from a regularly carried on unrelated activity that consistently generates losses may not be regarded as being conducted with the motive to make a profit (not a trade or business), and that such losses may therefore not be used to offset other income.
- 

Comments/explanations

---

---

---

**300) Income**

Yes/ No/  
Done N/A

- 
- ▶ 301) Determine the amounts of gross receipts from the unrelated sale of goods or performance of services.

1. Determine that advance payments are reported per Regs. Sec. 1.451-5.
  2. Consider whether the limited exceptions to utilizing the installment sales method might be met.
  3. For accrual taxpayers, determine that service revenue deemed uncollectible is not accrued. Also, determine if revenue accrued in prior years should be written off as uncollectible.
- 

- ▶ 302) Determine the amounts and nature of cost of goods sold related to income reported under question 301.

1. If the organization maintains inventory, determine if Sec. 263A rules apply.
  2. Consider whether allowable inventory valuation methods are utilized by the filing organization.
  3. Consider whether a change in method may be appropriate.
- 

- ▶ 303) Report the appropriate amount of gain or loss from the sale, exchange or other disposition of unrelated debt-financed property (see Sec. 514).

1. Report income from the sale of stock in trade or other property which would properly be includible in inventory if it was on hand at the close of the taxable year. No UBI occurs from securities traded if not debt financed.
  2. Report income from the sale of property held primarily for sale to customers in the ordinary course of the trade or business. Note the exception in Sec. 512 (b)(16)(A) (also see Sec. 512(b)(5)).
- 

- ▶ 304) If the organization is a member of an entity taxed as a partnership that carries on an unrelated trade or business:

1. Determine that its allocable share of gross income and deductions have been included in UBTI. Note the Sec. 512(b) modifications and see Sec. 512(c).
2. Determine if the at-risk basis limitation or passive activity rules apply.
3. Consider state tax implications (such as the necessity to file other state tax returns or the need for state apportionment information).

4. Consider any applicable foreign filing requirement. Many foreign information reporting forms are required to be attached to Form 990-T (Forms 926, 8865, etc.). Note that these filings are required even if the organization does not generate UBI.

▶ 305) If the organization is a member of an entity taxed as an S corporation (see Sec. 512(e)):

1. Determine that its allocable share of gross income and deductions have been included in UBTI.
2. Determine if the at-risk basis limitation or passive activity rules apply.

▶ 306) Determine if the organization has included its share of rents from (see Sec. 512(b)(3)):

1. Personal property leased with real property, if the rents from the personal property are more than 10% of the total rents received or accrued, or
2. Real and personal property if:
  - a. More than 50% of the rents are for the personal property, or
  - b. The amount of rent depends on the net income or profits derived by any person from the property leased.
3. Occupancy of space in parking garages, warehouses and parking lots (usually UBI). If the parking service is performed by others and the exempt organization receives only payments for the use of space, such payments are exempt from UBI. Note that garage space rental is not unrelated debt-financed income, even if the space is in a debt-financed building.
4. For Sec. 501(c)(2) title holding companies, consider the limits of non-rental income. Under Regs. Sec. 1.501(c)(2)-1(a), a title-holding corporation cannot qualify under Sec. 501(c)(2) if it carries on any activity other than holding title to property and collecting income from it. A Sec. 501(c)(2) may receive up to 10% of "other" income as long as that income is incidentally derived from the holding of real property. Examples include garage space rental, soda machine income, laundry facilities and cable TV.

▶ 307) Determine that income from occupying space when personal services are provided (e.g., hotel) is reported as UBI unless it meets another exemption.

▶ 308) Determine that the organization has included income (e.g., dividends, interest, annuities, royalties and rents) attributable to property held to produce income and with respect to which there is an acquisition indebtedness, except for (see Sec. 514(b)):

1. Income from property where substantially all the use of which contributes importantly (aside from the need for funds) to the organization's performance of its exempt functions,
2. Income which has already been subject to tax under the unrelated business tax,
3. Income from property which is used as part of a research activity which is exempted,
4. Income from real property that is to be used by the exempt organization within 10 years and is within the "neighborhood" (see special rule for churches), or
5. Income from real property investments of educational institutions (as described in Sec. 170(b)(1)(A)(ii)), qualified Sec. 401 trusts and Sec. 501(c)(25) title holding companies.

---

▶ 309) If the organization received income (e.g., interest, annuities, royalties, and rents) from a more-than-50% controlled organization (direct or indirect control) (note the exception for dividends) (see Sec. 512(b)(13)):

1. Include 100% of the payments from a taxable subsidiary.
2. Determine the inclusion ratio for payments from an exempt subsidiary.
3. Determine the effect of the look-through rule for interest, annuities, royalties and rents received from taxable subsidiaries and second-tier subsidiaries.

---

▶ 310) Determine if the organization received UBI from services provided by the organization in connection with the commercial exploitation of its name, goodwill or other intangible assets created by its exempt activities.

---

▶ 311) Determine if the organization has included income from the sale of advertising in a periodical.

---

▶ 312) Consider other forms of UBI.

1. Identify the sources of income and related deductions from internet activities.
2. Review special rules for internet activities including advertising and acknowledgement of contributions.
3. Consider an election to be taxed on income from qualifying shipping activities using an alternative tax method (Form 8902).
4. Determine if income is received from laundry services to non-related organizations.
5. Determine if management fees are received from related for-profit organizations and non-related not-for-profit organizations (considered UBI).
6. Determine if income is received from bingo games (defined in Sec. 513(f)) and if the game meets the requirements to be excluded from UBI.

---

▶ 313) Determine if income is received from games of chance. Consider state licensing requirements related to gaming.

---

▶ 314) Determine if the organization paid or incurred amounts after Dec. 31, 2017 for any qualified transportation fringe (Sec. 132(f)) or any parking facility used in connection with qualified parking (Sec. 132(f)(5)(C)). Note that as of the reviewed date of this checklist, specific guidance has not been issued by the IRS/Treasury.

---

Comments/explanations

---



---

**400) Deductions**

Yes/  
Done      No/  
N/A

- ▶ 401) Determine that general and administrative expenses are allocated using a method that shows a direct link between the type of expense and the unrelated activity.
- ▶ 402) Consider the limitations on allocating costs to exploited exempt activity income.
- ▶ 403) Ensure that all cost and expense allocations are documented in the workpapers.
- ▶ 404) Consider the limitation on the deductibility of capital losses.
- ▶ 405) Consider the limitations on the use of NOLs. Note that many states do not allow or may limit NOL carrybacks.
- ▶ 406) Consider an election to forego a carryback on a current year NOL. Also, note that:
  1. For tax years ending after Dec. 31, 2017, carrybacks of NOLs are generally no longer allowed by the Tax Cuts and Job Act (TCJA) of 2017.
  2. For tax years ending after Dec. 31, 2017, carryforwards moved from a 20-year limit to an indefinite number of years.
  3. For NOLs occurring in tax years beginning after Dec. 31, 2017, NOLs may only offset 80% of unrelated net income in most situations.
- ▶ 407) Consider charitable contribution rules and limitations. Note that the charitable contribution need not be from UBI. Consider the following:
  1. Qualified cash contributions related to hurricanes and other disasters
  2. Qualified food inventory contribution
  3. Qualified educational books to a public school providing elementary or secondary education
  4. Whether the organization is organized as a corporation or a trust
  5. If the organization files Form 990, corroborate charitable contributions with Schedules I and/or F (Form 990) in the case of contributions to U.S. organizations.
- ▶ 408) Consider limitations on deductions between related parties. Take into consideration Sec. 482 and regulations regarding qualified specified payments (can use cost) with respect to related-party transactions with for-profit subsidiaries.
- ▶ 409) For expenses claimed for business entertainment, entertainment facilities, gifts and travel:
  1. Inquire if the organization can substantiate the expenses by adequate records.
  2. Limit meals and to the allowable percentage. Note exceptions and the optional per diem method.
  3. Determine the amount of entertainment expenses that are non-deductible under the provisions of the TCJA.
- ▶ 410) Determine that retirement plan and health and welfare plan contributions are within allowable limits and are made timely.

Yes/ No/  
Done N/A

▶ 411) Consider all depreciation requirements and options including:

1. Sec. 179 election
2. Methods and lives and/or bonus depreciation
3. Tangible property regulations
4. Requirements relating to listed property
5. State acceptance of a depreciation method
6. Recapture related to oil and gas activities

Comments/explanations

---

---

---

**500) Tax computations and credits**

Yes/ No/  
Done N/A

▶ 501) Determine the need for controlled group allocations (see Form 1120, Schedule O) such as tax brackets, alternative minimum tax (AMT) and Sec. 179.

▶ 502) Compute AMT. Note that PL 115-97 repealed the corporate AMT for tax years beginning after Dec. 31, 2017.

▶ 503) Consider the application of the proxy tax.

▶ 504) Consider tax credits.

1. Consider credit carryforwards (such as the foreign tax credit, general business credit and minimum tax credit).
2. Consider the small business health care tax credit.

▶ 505) Confirm the current year's estimated tax payments, the prior year's overpayments applied and extension payments.

▶ 506) Determine if electronic deposit of taxes is required.

▶ 507) Consider underpayment penalties.

▶ 508) Determine the need for subsequent period estimated tax payments.



Yes/ No/  
Done N/A

▶ 509) Determine the need to file business income tax returns with state or local authorities.

Comments/explanations

---

**600) Miscellaneous**

Yes/ No/  
Done N/A

▶ 601) Consider the need to establish a taxable subsidiary or otherwise decrease the extent and amount of UBI.

▶ 602) Determine if a tax shelter disclosure statement is required under Sec. 6011, 6111 or 6112 and regulations if the entity participates, directly or indirectly, in a listed transaction.

▶ 603) Review the Unrelated Business Activity Code included in Block E on page one of the return.

▶ 604) Consider requirements for avoiding preparer penalties. See Notice 2008-13 for specific guidance regarding the appropriate application of the "more likely than not" standard versus the "reasonable basis" standard.

▶ 605) If the income is from a partnership and an inconsistent position is taken, consider filing Form 8082, *Notice of Inconsistent Treatment of Administrative Adjustment Request*.

▶ 606) Consider disclosure requirements for written tax advice (see Circular 230).

▶ 607) Ensure that the client is aware of the public inspection requirements that are applicable to Form 990-T of Sec. 501(c)(3) organizations. See the Form 990-T instructions for a list of form attachments that are not open to public inspection.

▶ 608) Consider the requirement to notify a taxpayer of a third-party service provider.

▶ 609) Consider if disaster relief provisions apply with respect to due dates.

Comments/explanations

