




Tax planning for Non-Profits – Understanding UBIT and the new laws

Gregg S. Bossen CPA



A photograph of two young women with blonde hair, one in profile and one with her back to the camera, engaged in conversation outdoors. The background is a blurred green, suggesting foliage. The text is overlaid on the right side of the image.

Share with your
neighbor – how many
non-profits do you
currently serve?

#QBConnect | WiFi: QBConnect

CPE Process

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- Be sure to sign in or scan your badge for this session
- You must stay in the session for the duration of the training
- This session is eligible for **1 hour of CPE**
- CPE certificates are emailed directly to you within 4 weeks of the conference date to the same email address you used to register

Today's speaker



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About today's speaker



Certified Advanced QuickBooks ProAdvisor®

Specializes in Industry Specific Training

Author of QuickBooks® Made Easy™

National Trainer – seminars around the country

Agenda

The Origins of UBIT

What gets Taxed: The Basics – 3 Prong Test

Get out of Jail Free Card: The 20 Exclusions

Calculating The Tax

NEW LAW: Parking Tax Freak Out

Let's Play a Game!



**Lack of knowledge creates fear.
Seeking knowledge creates courage.**

Candice Swanepoel



Unrelated Business Income Tax (UBIT)

Huge factor in deciding earned income activities

Clients rely on us

Need at least the basics



Mad at UBIT ? – Blame pasta



DONATED TO NYU 1947



Mad at UBIT ? – Blame pasta



MUELLER WON!:
CAN SELL ANYTHING TAX FREE!

Mad at UBIT ? – Blame pasta



LOBBIED CONGRESS



UBIT WAS BORN



**BOUNCING BABY
UBIT**

**GIMME YOUR
MONEY!!!!**

1950 : New UBIT Law (Pub. 598)

Tax activities unrelated to organization's tax-exempt purpose

Using funds raised is not enough to avoid tax

The acronyms – UBTI vs. UBIT

UBTI: Unrelated Business Taxable Income

UBIT: Unrelated Business Income Tax

$$\begin{aligned} &UBTI \text{ (the income)} \\ &\quad \times 21\% \\ &= UBIT \text{ (the tax)} \end{aligned}$$



When does UBIT apply? All 3 must be true

Trade or business

Regularly conducted

Not substantially related



1.) Trade Or Business

Selling a Product/Service

Intent to make a Profit

Note: Activities looked at separately

Trade or business quiz:

A nonprofit school puts on a fair with lots of rides. They also decide to sell designer T-Shirts at the event from local designers. They sell the shirts at cost.

Is this a trade or business subject to UBIT?

NOPE – not engaged in for profit



2) Regularly Conducted

Frequency and Continuity that is similar to comparable commercial activities of for-profits



Regularly conducted quiz:

A nonprofit arts organization sells hotdogs at the state fair for 3 weeks every year.

Is this subject to UBIT?

NOPE – not conducted regularly

Regularly conducted quiz:

The same nonprofit arts organization starts selling hotdogs at other fairs and festivals throughout the year?

Is this subject to UBIT?

YUP— they are directly competing with for-profit food truck businesses



3) NOT Substantially Related

To tax exempt purpose

Doesn't contribute "importantly"

Facts and circumstances test



NOT Substantially Related (Pub. 598)

Keep the following in mind

Consider relative “size and scope”

How important is it?

NOT Substantially Related

Keep the following in mind

Activities considered in i

- A

IRRELEVANT! ACTIVITY MAY STILL BE UNRELATED

- Activity part of

IRRELEVANT! ACTIVITY MAY STILL BE UNRELATED

NOT Substantially Related quiz:

A charity in Atlanta that promotes public interest in arts rents apartments to artists in a building they own?

Is this substantially related?

NO – housing artists does not stimulate public interest in art – may be subject to UBIT

NOT Substantially Related quiz:

A charity in Atlanta that trains artists via a residency program rents apartments to artists in a building they own

Is this substantially related?



– housing artists is an important part of the program –
UBIT exempt

NOT Substantially Related quiz:

A museum runs a café and restaurant inside the museum for employees and museum patrons. It's not open to the general public.

Is this substantially related ?

YEP – allows the patrons to spend more time there – UBIT exempt

NOT Substantially Related quiz:

A museum runs a café and restaurant inside the museum for employees and museum patrons and the general public. There is external entrance doors for the diners who are not going to the museum. There is museum art on the walls.

Is this substantially related?



– They are competing directly with other restaurants on the same block – may be subject to UBIT

NOT Substantially Related

Regarding selling products

Result of exempt function

That are not altered afterwards

Then NOT subject to UBIT

NOT Substantially Related

A charity helping the mentally disabled population sells coffee tables and bookshelves that are made by their clients during their day program.

Is this subject to UBIT?

NOPE

– The manufacturing of the products is essential to the day program

WHEN DOES UBIT APPLY?

ALL 3 MUST BE TRUE

- 1) Trade or Business
- 2) Regularly Conducted
- 3) Not Substantially Related

20 Activities are specifically excluded

The Big 5

Interest, Dividends (non-debt financed)

Rental Income (non-debt financed)

Sale of Donated Items – silent auctions

Sponsorship Income

Convenience of Members, Patients, Students ...

Sponsorship income

Excluded if

Only acknowledging sponsor

No advertising

- Complimentary language “They are great”
- Pricing or wording about a sale
- Endorsements
- Call to Action “go to their website”

Sponsorship Income Quiz – Excluded from UBIT?



YUP!!!!



Sponsorship Income Quiz – Excluded from UBIT?



NOPE!!!!



Sponsorship Income Quiz – Excluded from UBIT?



YUP!!!!



ESTABLISHED LOGOS/SLOGANS ARE OK!!!

Excluded for convenience of members.....

This one is a biggie

501(C)(3)'s or schools only

Members, students, patients, officers, employees

- Selling food
- Laundry services
- Drinks
- etc.....

The other 15 exclusions.....

Convention, Trade Shows, Annual Meetings	Voluntary Workforce
Gains On Sales Of Assets	Royalties
Distribution Of Low-cost Items	Research Grants/Contracts
Employee Association Sales (501-c-4)	Services Provided Under Federal License
Exchange Of Rental/Member Lists	Emc Memberships
Exempt Hospital Services	Games Of Chance In North Dakota
Utility Pole Rentals	Bingo
Public Entertainment At Agri/Educ Fares	

You can deduct costs from UBIT revenue

You can deduct costs

Direct costs

Indirect shared costs (PRORATED)

- Payroll
- Facility costs
- Readership costs in a periodical with Ads

CALCULATING THE TAX for each activity

GROSS REVENUE
— < COSTS >

=NET UNRELATED INCOME
— < NOL >

=NET UNRELATED INCOME after NOL

Do this for each activity

CALCULATING THE TAX – Add the activities together

Losses from one DO NOT off gains in another

Activity A = \$12,000

Activity B = <\$ ~~2,000~~>

Activity C = \$ 3,000

*Total is \$15,000
–< CHARITABLE GIFTS >*

*–< \$1,000 > *just one of these
= UNRELATED TAXABLE INCOME
x21%
= THE TAX*

THE TAX : Don't forget your state!!!!

Most States also tax UBIT

Using similar rules

In Ga. = 6% + 21% = 27%





PARKING (and transportation) TAX FREAK-OUT



The new law about tax on employee benefits

**TAXING
EXPENSES!?!?!?**



Using logic to arrive at an illogical conclusion



The flaw in the logic

**FOR –PROFIT
CORPORATIONS**

**LOWER TAX
RATES**



**REMOVED
WRITE-OFFS**



**NONPROFIT
CORPORATIONS**

NEW TAXES



The Rules

Applies to

Transportation

- Van pools
- Transit passes
- Ride shares (Uber/Lyft)

Parking

IF EMPLOYER PAID

**IF EMPLOYER
PROVIDED**

The Rules – Parking

Applies to

Parking paid by employer to 3rd party

Parking provided by employer (free)

- Employer Owned Office Space and Parking Lot
- Employer Leased Office Space and Lot – even if parking is free of charge

The Rules – Parking

The tax is part of UBIT : 21% + State%

Part III Total Unrelated Business Taxable Income		
33	Total of unrelated business taxable income computed from all unrelated trades or businesses (see instructions)	33
34	Amounts paid for disallowed fringes	34
35	Deduction for net operating loss arising in tax years beginning before January 1, 2018 (see instructions)	35
36	Total of unrelated business taxable income before specific deduction. Subtract line 35 from the sum of lines 33 and 34	36
37	Specific deduction (Generally \$1,000, but see line 37 instructions for exceptions)	37
38	Unrelated business taxable income. Subtract line 37 from line 36. If line 37 is greater than line 36, enter the smaller of zero or line 36	38

The Rules – Parking

How to avoid/minimize (Notice 2018-99)

3rd Party paid: Amounts > \$265 per month/per person excluded (but added to wages)

Owned or Leased with office: Parking is excluded if:

- ✓ No reserved space
- ✓ Lot used by others
- ✓ Less 50% employee used

The Rules – Parking

Things to keep in mind

Leased with office space

- Use reasonable method for deciding parking portion of rent

Owned lot

- Include expenses (repairs, util., ins. etc...)
- Not depreciation

The Rules – Parking

Things to keep in mind

For more info go to:

IRS Notice 2018-99



Bills currently in play to remove this tax

[HR 1223](#) sponsored by House Majority Whip Clyburn (D-SC)

[HR 513](#) sponsored by Representative Conaway (R-TX)

[HR 1545](#) sponsored by Representatives Walker (R-NC) and Suozzi (D-NY)

[S.632](#) sponsored by Senators Lankford (R-OK) and Coons (D-DE) introduced the LIFT for Charities Act

[S.1282](#) sponsored by Senators Cruz (R-TX) and Shaheen (D-NH) introduced the Preserve Charities and Houses of Worship Act , each of which would repeal the tax on nonprofit transportation benefits.



If you can't understand what someone is explaining to you, consider the possibility that they don't actually understand it themselves.

Gregg S. Bossen ;)



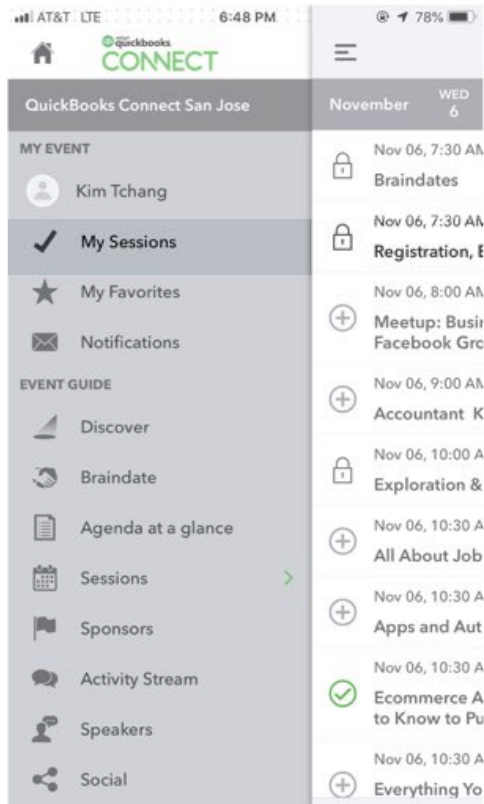


Questions?

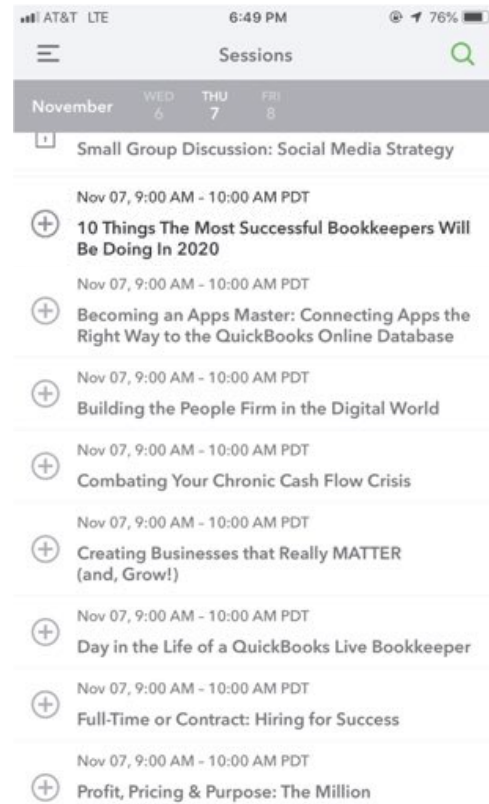
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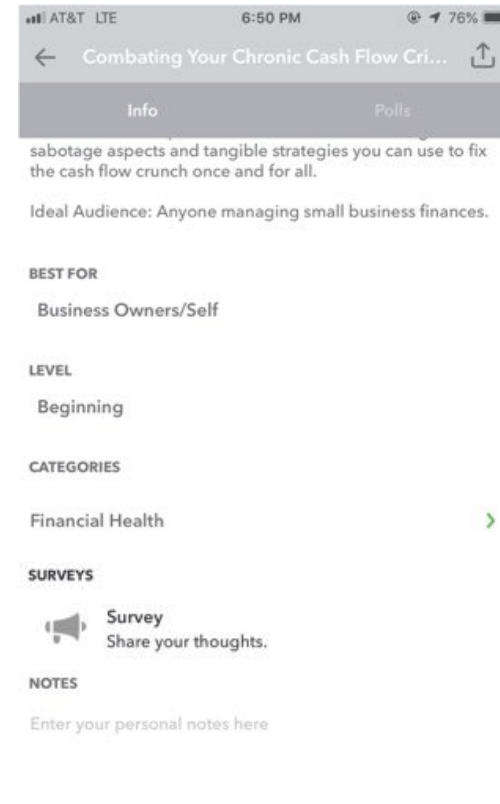
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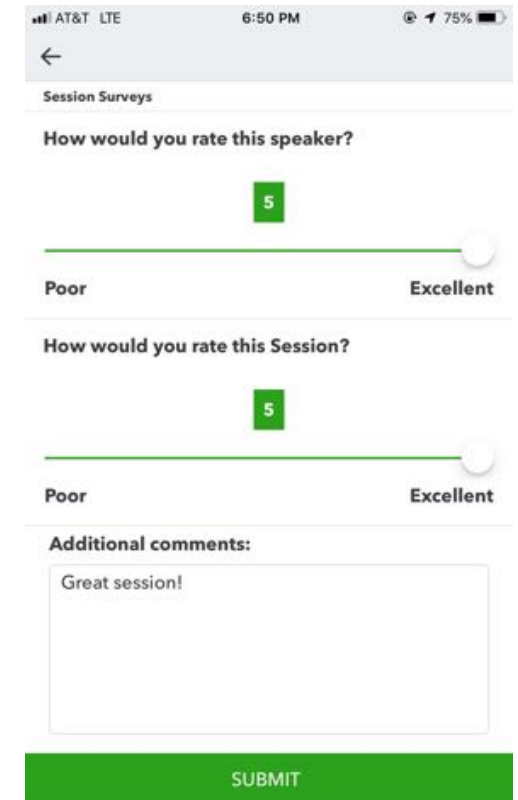
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<https://quickbooksconnect.com/agenda/>

The screenshot shows the QuickBooks Connect agenda page for November 7. The header includes the QuickBooks Connect logo, navigation links (Why Attend, Agenda, Speakers, Pricing, Sponsors, Travel, FAQ), and a 'Register now' button. The date 'November 7' is highlighted, with 'November 6: Accountant Day' and 'November 8' also visible. A 'Print Agenda' link is in the top right. Below the header, a paragraph describes the event: 'Get new insights from experts in business growth, organizational culture, financial health, technology and life skills. Book a Braindate with peers and expert consultant for one-on-one learning. Unwind in the evening with our legendary celebration.' A search bar labeled 'Search for sessions' is present. Below the search bar are filter buttons: 'Business Growth', 'Life & Business Skills', 'Organizational Culture', 'Technology Training', 'Advisory', and 'Financial Health', followed by an 'Expand all +' link. The agenda list shows sessions for November 7. The first session is 'Registration, Breakfast & Exploration' from 7:30-7:00 am. The second is 'Braindates' from 7:30-10:30 am, with a description: 'New this year, you can use Braindates to book time with fellow attendees, expert consultants and the QuickBooks support team. Learn more.' It also notes 'Best for: All Audiences' and 'CPE Hours: not eligible'. The third session is 'Yoga' from 8:00-8:30 am. The fourth is 'Breakout Sessions' from 8:00-8:45 am, which includes several sub-sessions: 'Small Business Meetup: Relationship Marketing and the Power of Human Connection', 'Small Group Discussion: Social Media Strategy', 'Small Group Discussion: Showing up - Why What You Wear Matters', and 'Small Group Discussion: Build Your Dream Bookkeeping firm'. Each session has a '+' icon to its right for more information.



OWN
THE
FUTURE