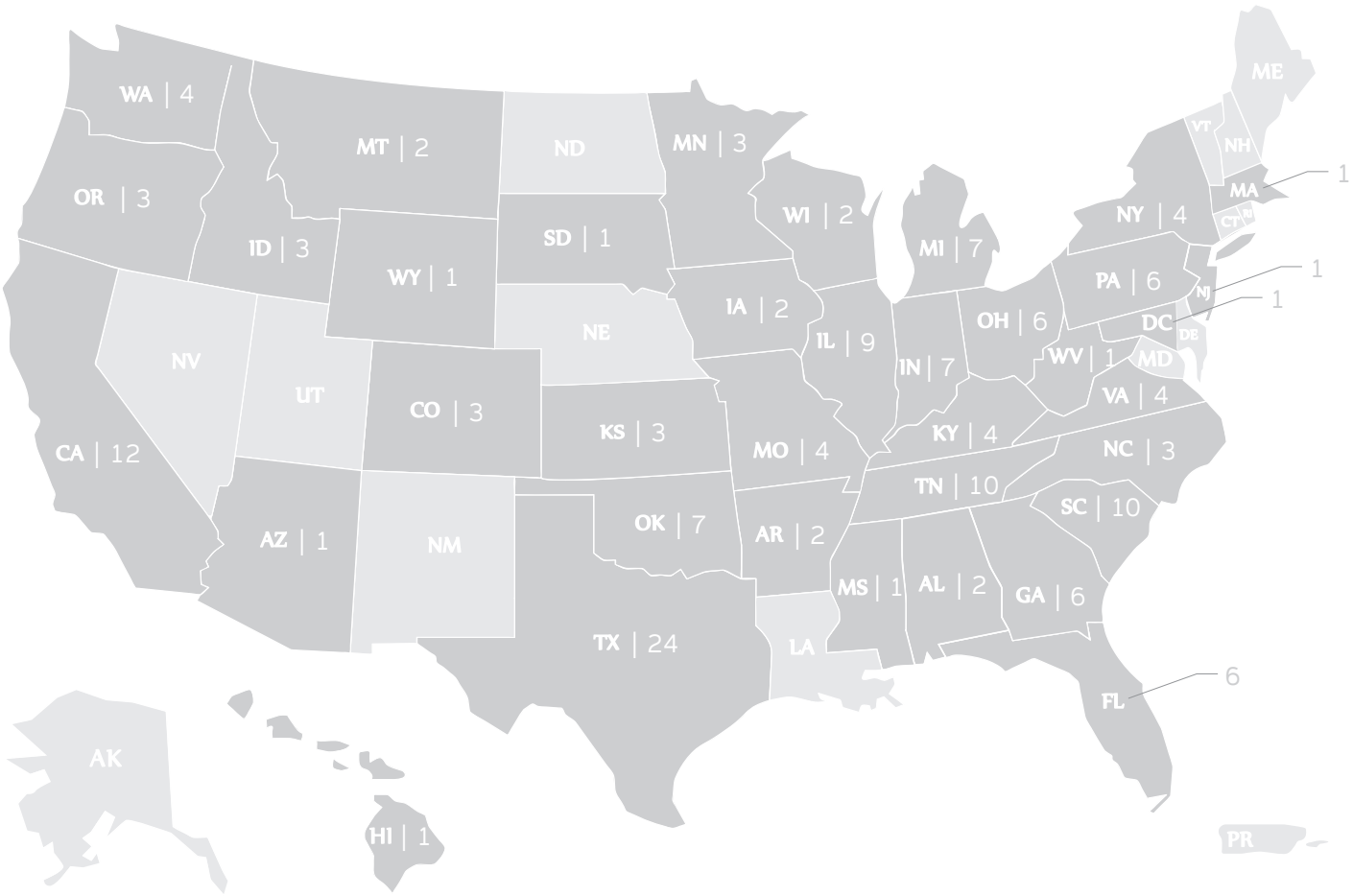
2018 Higher Education

Tax Reporting Trends Project

CAPINCROUSE LLP



We are very pleased to present the 2018 edition of CapinCrouse LLP's annual *Higher Education Tax Reporting Trends Project.*

We would like to start by sincerely thanking the 167 colleges and universities that participated in the study. We separated the respondents into three categories, based on enrollment size:

	Category A	Category B	Category C
Enrollment	1,700+	500 – 1,700	Under 500
Respondents	54	48	65

Cover image courtesy of Southeastern University, Lakeland, Florida.

Survey

	"Yes" Responses			
	Total Survey	Category A Institutions	Category B Institutions	Category C Institutions
Does your school have "on-premises" gym, workout, or athletic facilities (including those in a student activities center) that are used by faculty and/or staff?	69.5%	88.9%	81.3%	44.6%
Does your institution have an agreement with a soft drink company to be the only provider of those products to your campus?	55.1%	83.3%	68.8%	21.5%
Has your school historically offered "athletic boosters" the opportunity to make charitable contributions that allow them to obtain "premium seats" for your athletic events?	16.2%	35.2%	10.4%	4.6%
In the past three years, have you taken advantage of the exception for giving "token items" (items of insubstantial value such as pens, coffee mugs, books with your logo on them) to donors without having to provide them the value of those items on their donor receipts?	73.5%	87.0%	75.0%	60.0%
In the past year, has your school held/hosted a raffle (whether or not associated with a fundraising event)?	21.6%	25.9%	22.9%	16.9%
In the past three years, has your institution filed with the federal government to get a "refund" for fuel credits?	7.2%	5.6%	8.3%	7.7%
Does your school have any paintings, sculptures, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, photography, film, video, installation and multimedia arts, rare books and manuscripts, historical memorabilia, and/or other similar objects on campus?	81.4%	98.1%	85.4%	64.6%
Are any of your athletic coaches provided (by your institution or a vendor) with apparel (such as shirts, pullovers, etc.) with your school name and/or logo, or an account to acquire this apparel?	51.5%	74.1%	64.6%	21.5%
Do you file Schedule A (Form 990), Part II in order to qualify for the "Special rule" on Schedule B (Form 990) – List of Contributors?	42.0%	63.0%	45.8%	18.5%

Introduction

Welcome to the ninth edition of CapinCrouse's annual *Higher Education Tax Reporting Trends Project.* This unique statistical review includes financial, tax, and demographic data compiled from our annual Tax Trends eSurvey. This year, we had 167 respondents from 36 states and Washington, D.C.

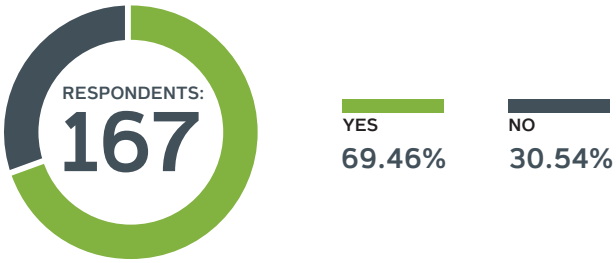
Our goal is for this report to be a useful reference guide and information tool (and to look good on your desk!). While we recognize that no two higher education institutions are exactly alike, the editorial and statistical information contained here should assist your accounting team in gaining a better understanding of potential tax reporting issues that you and your peer institutions face.

We would love your feedback on this year's report as compared to previous editions. To let us know what you think, please email us at collegetax@capincrouse.com.

Enjoy!

Colleges, Seminaries, and Universities – eSurvey 2018

Does your school have "on-premises" gym, workout, or athletic facilities (including those in a student activities center) that are used by faculty and/or staff?



Section 13703 of the Tax Cuts and Jobs Act (TCJA) contains a provision whereby the market value of providing exercise facilities (and specific other fringe benefits) to staff and faculty would be considered unrelated business income and required to be reported on Form 990-T.

Excerpts from this section of the new law state:

> Unrelated business taxable income of an organization shall be increased by any amount for which a deduction is not allowable under this chapter by reason of section 274 and which is paid or incurred by such organization for any qualified transportation fringe (as defined in section 132(f)), any parking facility used in connection with qualified parking (as defined in section 132(f)(5)(C)), or any on-premises athletic facility (as defined in section 132(j)(4)(B)).

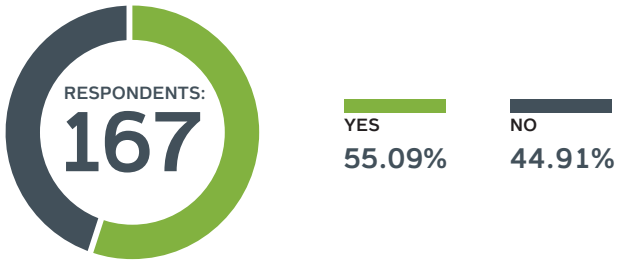
And:

> The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance providing for the appropriate allocation of depreciation and other costs with respect to facilities used for parking or for on-premises athletic facilities.

Ouch. That sounds like a whole lot of new unrelated business income tax (UBIT) reporting for colleges. However, higher education institutions may have an out on this because current IRC section 132(j)(4) defines on-premises athletic facilities as gyms or other athletic facilities located on the employer's premises, operated by the employer, and substantially all the use of which is by employees of the employer, their spouses, and their dependent children.

As the nonprofit community has examined the on-premises athletic facilities rules of the TCJA, it appears that Congress did not alter IRC section 274 in a manner that would make this taxable to exempt organizations. You should be careful, though, if you have the type of facility that is only available to executives or highest-paid employees.

Does your institution have an agreement with a soft drink company to be the only provider of those products to your campus?



The 2016 TE/GE (Charities and Non-Profits) Issue Snapshot entitled "Advertising or Qualified Sponsorship Payments?" still left hanging the situation of a "pouring agreement" whereby a donor/sponsor/partner makes a contribution to a college under an agreement that stipulates the college will only serve ("pour") that donor/sponsor/partner's soft drinks.

It can be argued that this type of payment would not be deemed as "sponsoring" an event. However, the snapshot states:

> The Regulations apply to all forms of corporate sponsorship activities and not just single events. Sponsored activities may include a single event, a series of related events, an activity of extended or indefinite duration, and/or continuing support of an exempt organization's operation. A payment may be a qualified sponsorship payment regardless of whether the sponsored activity is related or unrelated to the organization's exempt purpose(s).

When we saw the 2017 Issue Snapshot entitled "Exclusive Provider Arrangement within Qualified Sponsorship Agreements" (released on June 16, 2017), we initially thought it would put the "pouring agreement" to rest. Well, not really.

The 2017 snapshot begins with this clarification:

> An exclusive provider arrangement limits the sale, distribution, availability, or use of competing products, services, or facilities in connection with an exempt organization's activity. An exclusive provider

> arrangement generally results in a substantial return benefit to the payor. Thus, only the portion of the payment that exceeds the fair market value of the exclusive provider arrangement and any other benefit(s) received is a qualified sponsorship payment that does not constitute receipt of income from an unrelated trade or business.

That makes it sound like the standard soft drink "deal" would be an exclusive provider agreement and thus the fair market value of the arrangement (um, let's talk valuation) would result in unrelated business income.

The snapshot provides this example:

> An example of an exclusive provider arrangement would be when Brand A pays $10,000 to sponsor an organization's event and the organization agrees to restrict all of its soft drink sales to only Brand A. The fair market value of the exclusive provider arrangement is determined to be $1,000. The fair market value of the exclusive provider arrangement exceeds 2% of the payment (2% of $10,000 is $200), and is not a disregarded benefit under Treas. Reg. Section 1.513-4(c)(2)(ii). Therefore, only the portion of the sponsor's payment that exceeds the fair market value of the exclusive provider arrangement ($9,000) is a qualified sponsorship payment, assuming that no other substantial benefit is provided to Brand A (the $9,000 would be reduced by the fair market value of any other substantial benefit provided). If the exempt organization does not establish that the payment exceeds the fair market value of the exclusive provider arrangement and any other substantial return benefit, then no portion of the payment constitutes a qualified sponsorship payment.

Did you catch the key phrase, "…pays $XXX to sponsor an organization's event and the organization agrees to restrict…"? What if the "pouring agreement" (like most) is not related to an "event"?

However, under "Issue Indicators/Audit Tips," the snapshot states that:

> … (a)n exclusive provider arrangement exists if: The arrangement with the sponsor limits the exempt organization's rights for the sale, distribution, availability, or use of any competing products, services, or facilities in connection with conducting the activity.

Also, it should be noted that in the Colleges and Universities Compliance Project it appears the IRS generally only considered payments from these types of agreements UBIT to the extent of services provided by the institution — for example, appearances for the provider by coaches or athletes.

The snapshot concludes with the following:

> A payment that does not meet the criteria as a qualified sponsorship payment is not automatically subject to UBIT. Rather, the unrelated business income tax treatment of such unqualified payment is determined under the existing principles and rules found in IRC Sections 512, 513, and 514. Treas. Reg. Section 1.513-4(d)(1)(i).

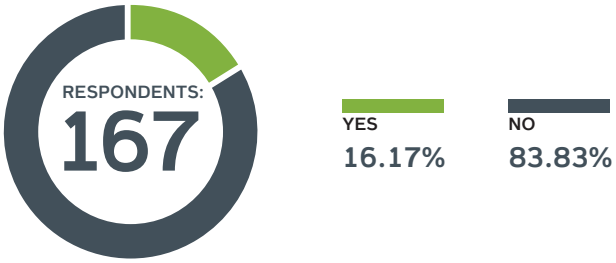
We would suggest that most "pouring agreements" are not "qualified sponsorship payments" because, as referred to above, they are not related to, attached to, or for a specific event. So according to the conclusion above, we must look at each specific pouring agreement and determine whether it is an "exclusive provider agreement" under the full scope of the UBIT rules.

So is your institution's agreement with a soft drink manufacturer under which you receive "continuing support of an exempt organization's operation" an unrelated business activity? In the words of Dr. Seuss, "Why are they sad and glad and bad? I do not know. Go ask your dad."

TE/GE Issue Snapshots are available at https://www.irs.gov/government-entities/tax-exempt-and-government-entities-issue-snapshots

Courtesy of Judson University, Elgin, Illinois.

Has your school historically offered "athletic boosters" the opportunity to make charitable contributions that allow them to obtain "premium seats" for your athletic events?

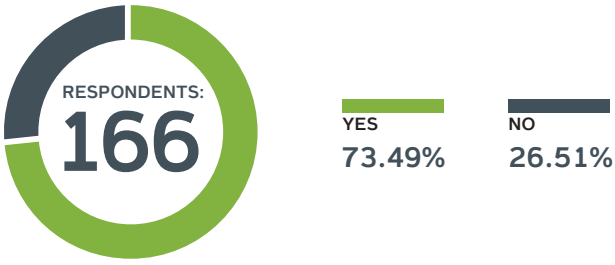


Historically, special rules applied to certain payments to institutions of higher education in exchange for which the donor/payor who met certain criteria received the right to purchase tickets or seating at an athletic event. Specifically, the donor/payor could treat 80% of a payment as a charitable contribution. The TCJA includes a denial of this deduction for periods after December 31, 2017.

The new law states:

> SEC. 13704. REPEAL OF DEDUCTION FOR AMOUNTS PAID IN EXCHANGE FOR COLLEGE ATHLETIC EVENT SEATING RIGHTS.
>
> (a) IN GENERAL.—Section 170(l) is amended—
>
> (1) by striking paragraph (1) and inserting the following:
>
> "(1) IN GENERAL.—No deduction shall be allowed under this section for any amount described in paragraph (2).", and
>
> (2) in paragraph (2)(B), by striking "such amount would be allowable as a deduction under this section but for the fact that".
>
> (b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2017.

In the past three years, have you taken advantage of the exception for giving "token items" (items of insubstantial value such as pens, coffee mugs, books with your logo on them) to donors without having to provide them the value of those items on their donor receipts?



The deductible amount for "insubstantial benefits to donors" for 2018 was increased by an amount that kept pace with increases in past years.

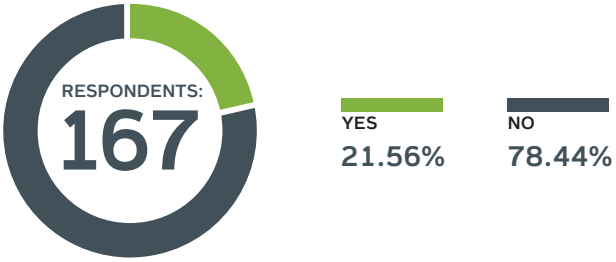
IRS Publication 1771 sets forth the following:

> Token Exception — Insubstantial goods or services a charitable organization provides in exchange for contributions do not have to be described in the acknowledgment.
>
> Goods and services are considered to be insubstantial if the payment occurs in the context of a fund-raising campaign in which a charitable organization informs the donor of the amount of the contribution that is a deductible contribution, and:
>
> 1. The fair market value of the benefits received does not exceed the lesser of 2 percent of the payment or $X,* or
> 2. The payment is at least $Y,* the only items provided bear the organization's name or logo (e.g., calendars, mugs, or posters), and the cost of these items is within the limit for "low-cost articles," which is $Z.*
>
> Free, unordered low-cost articles are also considered to be insubstantial.

The asterisked amounts are $109 (X) for 2018 ($107 for 2017) or the amount contributed to the charity was at least $54.50 (Y) for 2018 ($53.50 for 2017) and the donor receives only "token benefits" (e.g., bookmarks, calendars, mugs, posters, T-shirts, etc.) generally costing no more than $10.90 (Z) for 2018 ($10.70 for 2017). Two things:

1. Note that the token amounts represent the cost to the charity, not fair market value.
2. Token items can generally include books and similar items that are marked or stamped with the charity's logo or name.

In the past year, has your school held/hosted a raffle (whether or not associated with a fundraising event)?



A raffle may look like a unique and exciting way to raise funds. But before engaging in a raffle, an organization should consider the following:

1. The purchase of raffle tickets does not result in a tax-deductible contribution. This is discussed on page 7 of IRS Publication 526, *Charitable Contributions*.
2. When a raffle prize is greater than $600 and more than 300 times the amount of the wager, the organization must report the identity of the winner to the IRS and issue the winner a Form W-2G, *Certain Gambling Winnings*. See page 22 of IRS Publication 3079, *Tax-Exempt Organizations and Gaming*.
3. If the value of the prize is greater than $5,000, the raffle sponsor must withhold 28% of the value of the prize less the cost of the raffle ticket(s) purchased. If the prize is non-cash, the organization must either collect the withholding amount from the winner, or pay an amount equal to 33.33% of the value of the non-cash prize itself. When the sponsor pays the tax withholding amount, the amount of the tax withholding paid is added to the value of the prize on Form W-2G. When withholding is required, the winner must sign Form W-2G attesting to the fact that no other person is entitled to any portion of the payment and that the winnings are subject to regular gambling withholding.
4. Raffles will generally require institutions that are required to file Form 990 to complete Schedule G (Form 990), Part III, "Gaming." Before holding a raffle it would be advisable to review the instructions to Schedule G and the Form 990 glossary with respect to the terms "gaming" and "volunteers."
5. Income from raffle tickets is unrelated business taxable income if raffles are an activity the organization regularly carries on (perhaps more than twice per year or for more than two weeks in duration) or are not substantially staffed by volunteers.
6. Also, there can be state and local implications to raffles that vary widely depending upon the jurisdiction in which your institution is located or where the raffle might be held. Make sure you research any potential regulatory or registration requirements.
7. Finally, there is the potential public relations angle, which each organization should assess for itself.

EXAMPLE:

Bill buys a $10 raffle ticket for the chance to win a $6,000 cash prize. Bill's ticket is drawn. Because Bill's winnings net of the cost of the raffle ticket ($5,990) are greater than $600 and more than 300 times the amount of the wager (the cost of the raffle ticket), the organization sponsoring the raffle must report Bill's winnings to the IRS, issue Bill a Form W-2G, and withhold $1,677 (28% of $5,990). Additionally, Bill must sign the Form W-2G.

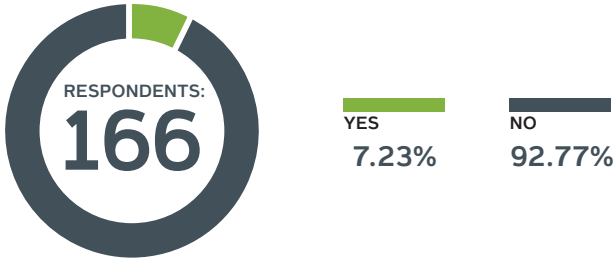
As noted in #4 above, and as several states are looking at Schedule G (Form 990) reporting, your institution needs to consider whether or not your raffle needs to be reported on Schedule G (Form 990), Part III as "gaming."

The 2017 Form 990 instructions provide the following definition of "Gaming":

> Includes (but isn't limited to): bingo, pull tabs/instant bingo (including satellite and progressive or event bingo), Texas Hold-Em Poker, 21, and other card games involving betting, raffles, scratch-offs, charitable gaming tickets, break-opens, hard cards, banded tickets, jar tickets, pickle cards, Lucky Seven cards, Nevada Club tickets, casino nights/Las Vegas nights (other than events not regularly carried on in which participants can play casino-style games but the only prizes or auction items provided to participants are noncash items that were donated to the organization, which events are fundraising events), and coin-operated

gambling devices. Coin-operated gambling devices include slot machines, electronic video slot or line games, video poker, video blackjack, video keno, video bingo, video pull tab games, etc. See Pub. 3079, *Tax-Exempt Organizations and Gaming.*

In the past three years, has your institution filed with the federal government to get a "refund" for fuel credits?



Marathon Bible College (MBC) is a public charity and a school under IRC sections 501(c)(3) and 170(b)(1)(A)(ii). MBC has several vehicles used only on campus, for various school activities, and for transporting students between venues. They wonder if they might be able to get a credit back for any of the excise taxes paid on fuel used in these vehicles. We tell them that this is a great question!

To qualify, an institution must be able to identify the type of use (hint: it is likely type 13), report gallons used (or equivalents), complete Form 4136, file a Form 990-T (with the credit claimed on Part IV, Line 45g), and maintain records that include the person who sold the fuel to you and the dates of the purchases.

According to IRS Publication 510, *Fuel Taxes (Including Fuel Tax Credits and Refunds)*, the various uses that meet the "type of use" criteria include exclusive use by a nonprofit educational organization, use in a school bus, and off-highway business use.

Some institutions choose not to take advantage of these credits as the ultimate benefit may only be a few hundred dollars. Also, some institutions would rather not file Form 990-T simply to "transmit" Form 4136.

Rules

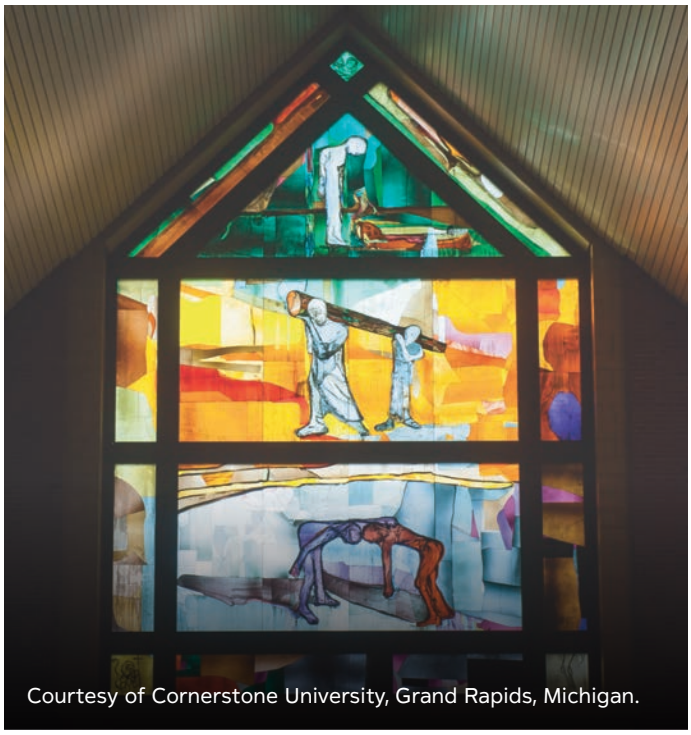
From Form 4136, *Credit for Federal Tax Paid on Fuels* instructions:

> **How To Make a Claim**
>
> Complete all information requested for each claim you make. You must enter the number (when requested) from the Type of Use Table, the number of gallons, or gasoline or diesel gallon equivalents (GGE or DGE)... and the amount of the credit.
>
> **Recordkeeping**
>
> You must keep records to support any credits claimed on the return for at least 3 years from the date the return is due or filed, whichever is later.

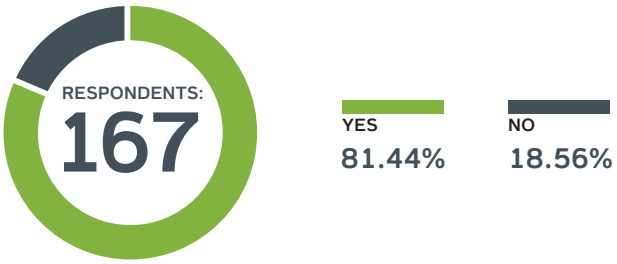
From IRS Publication 510:

> **Exclusive use by a nonprofit educational organization (No. 13).** Exclusive use by a nonprofit educational organization means fuel used by an organization exempt from income tax under section 501(a) that meets both of the following requirements.
>
> - It has a regular faculty and curriculum.
> - It has a regularly enrolled body of students who attend the place where the instruction normally occurs.

A nonprofit educational organization also includes a school operated by a church or other organization described in section 501(c)(3) if the school meets the above requirements.


Courtesy of Cornerstone University, Grand Rapids, Michigan.

Does your school have any paintings, sculptures, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, photography, film, video, installation and multimedia arts, rare books and manuscripts, historical memorabilia, and/or other similar objects on campus?



Marathon Bible College (MBC) is a private college exempt under IRC section 501(c)(3) and section 170(b)(1)(A)(ii). They are required to file Form 990 annually. Three paintings worth approximately $350,000 have been donated to the college. MBC plans to display the paintings, along with several others they have been given, in a newly renovated room in their Administration building.

The CFO calls to ask how they need to report the donation to the IRS. We tell him that they will need to receipt the donor, ensure that they sign a copy of the donor's Form 8283, report the contribution on Schedule M (Form 990), Part I, Line 1, and then they potentially will need to report the art "exhibit" each year on Schedule D (Form 990), Part III.

Rules

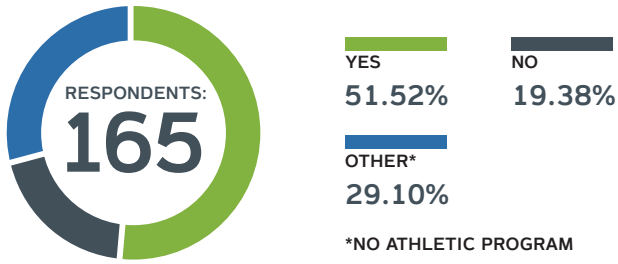
From the Form 990 Glossary:

> **Works of art.** Include paintings, sculptures, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, photography, film, video, installation and multimedia arts, rare books and manuscripts, historical memorabilia, and other similar objects. Art does not include collectibles.

From Form 8283 Instructions:

> **Art valued at $20,000 or more.** If your total deduction for art is $20,000 or more, you must attach a complete copy of the signed appraisal. For individual objects valued at $20,000 or more, a photograph must be provided upon request. The photograph must be of sufficient quality and size (preferably an 8 x 10-inch color photograph or a color transparency no smaller than 4 x 5 inches) to fully show the object.

Are any of your athletic coaches provided (by your institution or a vendor) with apparel (such as shirts, pullovers, etc.) with your school name and/or logo, or an account to acquire this apparel?



Denali Christian College (DCC) is a public charity and a school under IRC sections 501(c)(3) and 170(b)(1)(A)(ii). The Denali Kodiaks athletic teams represent DCC in several sports, including basketball, volleyball, baseball, softball, tennis, and cross country.

DCC's CFO calls us to ask whether the value of this clothing is taxable to the coaches. We answer that according to the IRS, in most cases it is.

Every head coach and assistant coach has an employment agreement with DCC. The coaches all receive athletic clothing from DCC in school colors and with the DCC or Kodiak logo, or both. These apparel items are generally worn at games, practices, and other venues representing the college.

DCC's CFO calls us to ask whether the value of this clothing is taxable to the coaches. We answer that according to the IRS, in most cases it is.

Rules

From the IRS Fringe Benefits Guide:

> **Work Clothes and Uniform Allowances and Reimbursements**
>
> Clothing or uniforms are excluded from wages of an employee if they are:
>
> - Specifically required as a condition of employment, and
> - Are not worn or adaptable to general usage as ordinary clothing.

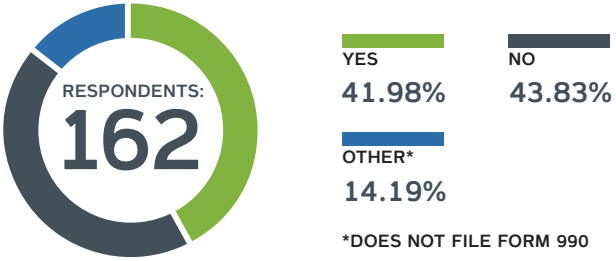
From a recent IRS ruling with a major university:

Conclusion

The value of the fringe benefit is taxable, unless there is a statute or regulation that excludes them. Internal Revenue Code section (IRC) 61 provides that gross income means all income from whatever source derived, including compensation in the form of fringe benefits. There is no exclusion for athletic clothing provided to coaches or assistant coaches (this clothing would be adaptable to personal use).

The clothing provided to the athletic coaches is a direct result of the employment with the University. The clothing allotted to the athletic coaches is suitable for general wear and would not qualify as a section 162 expense. The items are taxable to the employee. An adjustment is warranted per IRC 3101, 3111 and 3402... The clothing is taxable as wages and subject to Social Security, Medicare and Federal Income Tax.

Do you file Schedule A (Form 990), Part II in order to qualify for the "Special rule" on Schedule B (Form 990) – List of Contributors?



Issue

In order to use the "Special Rule" at Schedule B (Form 990), the IRS now requires colleges (and others) to complete Schedule A (Form 990), Part II. This may cause significant extra work for many institutions when completing Form 990.

Situation

Saltwater Christian College (SCC) is a private college exempt under IRC section 501(c)(3) and section 170(b)(1)(A)(ii). SCC's accounting team has a few questions as we begin to work on their June 30, 2016 Form 990. They want to know why we have sent them a copy of Schedule A, Part II *(Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi))* and asked for a conference call to talk about filling out this part of the return.

SCC notes that it is a school under section 170(b)(1)(A)(ii) and has never filled out this "support schedule" before.

We explain that a new stipulation promulgated by the IRS in the Schedule B (Form 990) instructions now requires the completion of Schedule A, Part II; otherwise, entities would be required to complete Schedule B under the "General Rule" and report all donors who gave more than $5,000.

SCC then asks what completing Schedule A, Part II entails. We note that among other items, we need to gather five years' worth of revenue data such as total contributions; amounts given each year by large donors; gross income from interest, dividends, etc.; net income from unrelated business activities; and gross receipts from related activities.

SCC then asks a great question: "Why would we not want to just use the 'General Rule'?"

Three of the reasons are:

1. Reporting all donors who gave more than $5,000 can be cumbersome (perhaps hundreds of donors would need to be listed);
2. Several states are requesting copies of Schedule B, and it may make sense to minimize the number of donors reported for security and donor care reasons; and
3. New rules on Schedule L make "substantial donors" part of your list of "interested persons" — and anyone listed on Schedule B is now a "substantial donor."

Thus, although filling out Schedule A, Part II each year can add to your administrative load, it may ultimately lessen your bureaucracy load and also help in other areas.


Courtesy of Charleston Southern University, Charleston, South Carolina.

Rules

From Schedule B (Form 990) Instructions:

> **Special Rules**
>
> **Section 501(c)(3) organizations that file Form 990 or 990-EZ.** For an organization described in section 501(c)(3) that meets the 331/3% support test of the regulations under sections 509(a)(1) and 170(b)(1)(A)(vi), and not just the 10% support test (whether or not the organization is otherwise described in section 170(b)(1)(A)), list in Part I only those contributors whose contribution of $5,000 or more during the tax year is greater than 2% of the amount reported on Form 990, Part VIII, line 1h(A), or Form 990-EZ, line 1. *An organization that claims the benefit of this special rule must either (1) establish on Schedule A (Form 990 or 990-EZ), Part II, that it met the 331/3% support test for the current year or prior year, or (2) check the box on Schedule A (Form 990 or 990-EZ), Part I, line 7 or 8, and the box on Schedule A, Part II, line 13, as a section 170(b)(1)(A) (vi) organization in its first five years.*

From the Schedule L (Form 990) Instructions:

> 3. A substantial contributor. For purposes of Schedule L, Parts II-IV, a substantial contributor is an individual or organization that made **contributions** during the tax year in the aggregate of at least $5,000 and is required to be reported by name in Schedule B (Form 990, 990-EZ, or 990 PF), Schedule of Contributors, for the organization's tax year.

NOTE: One college we talked with has historically reported four contributors on Schedule B using the "Special Rule." If they are required to use the General Rule, they will have to report approximately 125 contributors — a Schedule B that would be more than 25 pages long.

Bottom Line

Filling out Schedule A, Part II will take some information gathering that most schools have not historically been involved in. Make sure you work with a qualified, knowledgeable tax advisor on this. He or she will be able to help your school navigate the various rules, laws, and codicils out there.

Employee Parking and Unrelated Business Income

As we went to press, a looming issue in the nonprofit tax world was the possibility of "imputing" unrelated business income based on the costs of employee parking.

- The Tax Cuts and Jobs Act added Section 512(a)(7), which "imputes" unrelated business income for exempt organizations that provide certain employee fringe benefits.
- Section 512(a)(7) is meant to produce "parity" between nonprofit and for-profit entities in that for-profits can no longer deduct these amounts.
- We are patiently awaiting guidance from the IRS/Treasury on this important tax issue.
- Wise institutions should be analyzing whether estimated tax payments should be made (on Form 990-W) with respect to possible "imputed" UBIT for years ending in 2018.

The concern is based upon new IRC section 512(a)(7), which reads:

> Unrelated business taxable income of an organization shall be increased by any amount for which a deduction is not allowable under this chapter by reason of section 274 and which is paid or incurred by such organization for any qualified transportation fringe (as defined in section 132(f)), any parking facility used in connection with qualified parking (as defined in section 132(f)(5)(C)), or any on-premises athletic facility (as defined in section 132(j)(4)(B)). The preceding sentence shall not apply to the extent the amount paid or incurred is directly connected with an unrelated trade or business which is regularly carried on by the organization. The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance providing for the appropriate allocation of depreciation and other costs with respect to facilities used for parking or for on-premises athletic facilities.

It is our sincere hope that IRS/Treasury guidance does not deem general campus parking for everyone who parks at your institution to be "qualified parking" subject to UBIT under section 512(a)(7). Considering expenditures for all parking to be unrelated business income does not appear to be consistent with the intent of the new law, which is concerned with now non-deductible employee fringes. Also, from an administrative standpoint, imposing rules allocating all campus parking to employee parking would be very, very burdensome.

You can learn more at abhe.org/qualified-parking-as-ubit-part-1/.

We welcome the opportunity to talk with you about these or any other higher education tax issues. Please contact us at collegetax@capincrouse.com.

About CapinCrouse

As a national full-service CPA and consulting firm devoted to serving nonprofit organizations, CapinCrouse provides professional solutions to organizations whose outcomes are measured in lives changed. Since 1972, the firm has served domestic and international outreach organizations, universities and seminaries, foundations, media ministries, rescue missions, relief and development organizations, churches and denominations, and many others by providing support in the key areas of financial integrity and security. With a network of offices across the nation, CapinCrouse has the resources of a large firm and the personal touch of a local firm. CapinCrouse is an independent member of the BDO Alliance USA.

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