Q. THE MARKETING OF GOODS AND SERVICES BY INSTITUTIONS OF HIGHER LEARNING -- UBIT IMPLICATIONS

1. Introduction

a. General

Colleges and universities have traditionally engaged in activities intended to provide services to their faculty and students, such as the operation of bookstores, dormitories, and cafeterias. In recent years, many colleges and universities, primarily to cope with increasing costs, have widely expanded such activities and now provide a wide range of goods and services to their faculty and students, and often to the general public. Many of these activities generate unrelated business income under IRC 512 and 514. This discussion will review the published precedents relating to these activities and other issues that are being considered by the National Office.

This is a grey area with many unresolved questions and few clear answers. This topic is designed to illuminate the area and to make EO personnel aware of the UBIT issues.

The basic rules of UBIT, IRC 511-514, were discussed in detail in the 1979 EOATRI, at pages 487-496, and will not be repeated here. IRC 514 and UBIT Developments in general are discussed elsewhere in this EOATRI textbook.

Also Rev. Ruls. 79-360 and 79-361, which deal with YMCA-type organizations, are discussed in the Current Developments section.

Two basic issues commonly arise in this area: (1) whether the activity is substantially related to the college or university's exempt purpose under IRC 513(a); and (2) if the activity is not substantially related, does it fall within the convenience exception of IRC 513(a)(2). For purposes of this discussion, we will assume that the activities are regularly carried on and are not excepted from the term unrelated trade or business by reason of the donated labor or donated goods exceptions under IRC 513(a)(1) and (a)(3).

b. Public and Private Colleges and Universities Compared

Both public and exempt private colleges and universities are subject to the unrelated business income tax, but some special rules apply to state colleges and universities. IRC 511(a)(2)(B) provides that the UBI tax shall apply to any college or university which is an agency or instrumentality of any government or any political subdivision thereof, or which is owned or operated by a government or any political subdivision thereof, or by any agency or instrumentality of one or more governments or political subdivisions. The tax also applies to any corporation wholly owned by one or more such colleges or universities.

The EOHB, IRM 7751, at (35)40 explains:

> When originally imposed by the Revenue Act of 1950, the tax on unrelated business income did not apply to State and municipally owned institutions of higher learning. However, the Revenue Act of 1951 remedied this omission and subjected these schools to the... (tax)... The following excerpt from the Senate Finance Committee Report states the reason (S. Rep. No. 781, 82d Cong., 1st Sess. 29 (1951), 1951-2 C.B. 458, 478):
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> "***It has been called to the attention of your committee that some State schools are engaging in unrelated activities and "lease-backs" which would be taxable if they were not a State or its instrumentality. It is clear that the same opportunities for unfair competitive advantage exist in connection with these activities of State universities as with respect to similar activities of other educational institutions. Therefore, section 338 of your Committee's bill extends the present tax to the unrelated business income of universities and colleges of States and of other governmental units***"

The National Office is now considering whether the doctrine of intergovernmental tax immunity might apply to IRC 511, and whether IRC 115(1) could exclude income from utility services from tax under IRC 511.

The term "government," as used in IRC 511(a)(2)(B), includes both foreign and domestic governments. Thus, if a college of a foreign government operates and derives unrelated business income from U.S. sources, it may be subject to tax

under IRC 511. Secondary schools operated by such governments are not subject to the tax on unrelated business income. See Reg. 1.511-2(a)(2).

Generally, IRC 513(a) provides that an activity is "related" only where it is substantially related (aside from the need of an organization for income or funds, or the use it makes of the profits derived) to the exercise or performance by an organization of its exempt purposes. A broader rule applies to public colleges and universities. For these, IRC 513(a) states that an activity is "related" if it is substantially related to the exercise or performance of any purpose or function described in IRC 501(c)(3). In practice, this distinction may be of relatively minor importance because of the wide range of exempt activities engaged in by many colleges and universities.

Finally, the convenience exception of IRC 513(a)(2) applies equally to public and private colleges and universities.

2. Specific Activities Considered

We will now discuss a potpourri of issues illustrated by revenue rulings, regulations examples, and recent private letter rulings relating to UBIT of colleges and universities.

The issues will be segregated into seven general categories:

a. Athletic Facilities and Related Services;

b. Broadcasting Collegiate Athletic Events;

c. Scientific Research;

d. Cultural and Publishing Activities;

e. Sale of Products of Exempt Functions;

f. Services to Students and Faculty; and

g. Miscellaneous.

These categories have been selected arbitrarily. There is overlap between the areas.

a. Athletic Facilities and Related Services

Traditionally, colleges and universities have provided athletic facilities to their students and faculty. In recent years, many have opened their facilities to the general public for a fee. Usually, this will result in UBIT. This is best illustrated in Rev. Rul. 78-98, 1978-1 C.B. 167, extracted below:

Unrelated income; school operating ski facility. An exempt school operates a ski facility for use in its physical education program and also for use, to a substantial degree, for recreational purposes by students attending the school and members of the public who are required to pay slope and ski lift fees comparable to nearby commercial facilities. The recreational use of the facility by students is substantially related to the school's exempt purposes and the income derived from the student's use of the facility is not from unrelated trade or business under section 513 of the Code. However, income from use of the facility by the public is from unrelated trade or business.

Rev. Rul. 78-98

Advice has been requested whether, under the circumstances described below, income derived from ski slope and ski lift fees by a school, exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, is income from unrelated trade or business within the meaning of section 513.

The school operates a ski facility that is about a 30-minute drive from campus. In addition to being used in the school's physical education program, the facility is also used, to a substantial degree, for recreational purposes by students attending the school and by members of the general public. The operation of the facility, except with respect to the physical education program, is substantially similar to that of commercial ski facilities. Persons using the facility for recreational purposes are required to pay slope and ski lift fees that are comparable to fees charged by nearby commercial ski facilities.

Section 513(a) of the Code defines the term "unrelated trade or business" as any trade or business the conduct of which is not substantially related (aside from the need of an organization for income or funds or the use it makes of the profits derived) to the

exercise or performance by an organization of its exempt purposes or functions.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that a trade or business is "substantially related" only if the production or distribution of the goods or the performance of the service from which the gross income is derived contributes importantly to the accomplishment of the purposes for which exemption was granted.

Section 513(c) of the Code provides that an activity does not lose identity as trade or business merely because it is carried on within a larger complex of other endeavors which may not be related to the exempt purposes of the organization.

The use of the school's ski facility by its students for recreational purposes contributes importantly to the accomplishment of the school's exempt purposes and, thus, is substantially related to the exercise or performance of its educational purposes. Accordingly, income derived from the school's students for such use of the ski facility is not income from unrelated trade or business.

On the other hand, charging the general public commercially comparable slope and ski lift fees is unrelated trade or business within the meaning of section 513 of the Code. Providing recreational facilities to the general public, in the manner described above, is not substantially related to the exercise or performance of the school's exempt purposes. Accordingly, income derived from the general public from slope and ski lift fees is income from unrelated trade or business within the meaning of section 513 of the Code.

The rationale of Rev. Rul. 78-98 can be applied to a large range of facilities: tennis courts, basketball courts, swimming pools, etc.

If such activities are classified as unrelated trade or business, two other questions arise: 1) whether the income from the unrelated trade or business falls under the rental exception of IRC 512(b)(3), and 2) whether the income derives from dual use of facilities or from exploitation of exempt activities.

IRC 512(b)(3) excludes rents from real property from unrelated business taxable income. Reg. 1.512(b)-1(c)(5) provides that rents from real property, for

purposes of the exclusion from unrelated business taxable income, do not include payments for the use or occupancy of rooms or other space where services are also rendered to the occupant, such as for the use or occupancy of rooms in hotels, boarding houses, or apartment houses furnishing hotel services, or for the use or occupancy of space in parking lots or warehouses. Generally, services are considered rendered to the occupant if they are for his or her convenience and are not those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The regulation further provides that supplying maid service constitutes such service, whereas the furnishing of heat and light, the cleaning of public entrances, exits, stairways, and lobbies, and the collection of trash, are not considered services rendered to the occupant.

The following two hypothetical situations illustrate how this issue may arise:

SITUATION 1. -- TENNIS CLUB RUN BY A SCHOOL'S EMPLOYEES

A school is exempt from federal income tax under IRC 501(c)(3) and is classified as an educational organization described in IRC 170(b)(1)(A)(ii). The school's purposes are limited to those involving the advancement of education. The school's facilities include tennis courts and dressing rooms, which are employed during the regular academic year in the school's educational programs. For ten weeks during the summer the school operates a tennis club. For a fee, the general public is invited to join the club and use the school's tennis courts and dressing rooms during designated periods. Two employees of the school's athletic department conduct the affairs of the club, including collecting membership fees and scheduling court time. The net income of the club is used for the exempt purposes of the school.

SITUATION 2. -- TENNIS CLUB RUN BY A PROFESSIONAL USING SCHOOL FACILITIES

This Situation is the same as Situation 1, except that the school merely makes the facilities available to an individual for ten weeks at a flat fee. The individual forms a tennis club and hires his own employees to administer the affairs of the club. Under a contract with the school, the individual must repair any damage to the facilities beyond normal wear and tear at the end of the ten weeks.

In both situations, the activity is an unrelated trade or business because furnishing tennis facilities in the manners described does not further the educational purposes of a school. Also, in Situation 1, the school furnishes more

than just its facilities. It operates the tennis club through its own employees, who perform substantial services for the participants in the tennis club. Accordingly, income from the school's furnishing of its tennis facilities through the operation of a tennis club in the manner described would not be excluded from unrelated business taxable income as rent from real property under IRC 512(b)(3) and Reg. 1.512(b)-1(c)(5).

On the other hand, in Situation 2, the school furnishes its tennis facilities without services and for a flat fee. Unlike Situation 1, where the school itself through its employees provided services, the club operator hires his own employees to administer the affairs of the club. Accordingly, income from the school's furnishing of its tennis facilities through an individual operator would be excluded from unrelated business taxable income as rent from real property under IRC 512(b)(3) and Reg. 1.512(b)-1(c)(5).

The second issue, whether income derives from dual use of facilities or from exploitation of exempt activities, raises an allocation question. Rev. Rul. 76-402, 1976-2 C.B. 177, extracted below, considers the problem in a fact pattern similar to Situation 1 above.

Unrelated income; summer tennis camp conducted on school campus. An exempt school annually contracts with an individual who conducts a 10-week summer tennis camp with the school furnishing the tennis courts, housing, and dining facilities and the individual hiring the instructors, recruiting campers, and providing supervision. The amounts received are from dual use of facilities and personnel; therefore, an allocable portion of expenses attributable to such facilities and personnel may be deducted in computing unrelated business taxable income under section 512 of the Code.

Rev. Rul. 76-402

Advice has been requested whether, under the circumstances described below, the unrelated business income of a school that is exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 derives from dual use of facilities and personnel within the meaning of section 1.512(a)-1(c) of the Income Tax Regulations or from exploitation of exempt activities within the meaning of section 1.512(a-)1(d). The question is relevant in determining the method of computing unrelated business taxable income under section 512 of the Code.

The school regularly carries on "unrelated trade or business" as that term is defined in section 513 of the Code by annually contracting with an individual who conducts a ten-week summer tennis camp. For a fee, the school provides tennis courts, furnished dormitory rooms, linens, maid service, meals, and dining facilities for use by the individual in conducting the camp. These same facilities and personnel are employed during the regular academic year in the school's educational program. Under the contract, the individual is responsible for hiring tennis instructors, recruiting campers, conducting the tennis camp program, and supervising the conduct of the instructors and tennis patrons. Although the summer tennis camp is not part of the school's curriculum, the school's name is mentioned in the promotional advertising for the camp.

The term "unrelated business taxable income" is defined in section 512 of the Code as the gross income, with certain modifications, derived by an organization from any unrelated trade or business regularly carried on by it, less allowable deductions which are directly connected with the carrying on of such trade or business.

Section 1.512(a)-1(c) of the regulations provides that where facilities or personnel are used both to carry on exempt activities and to conduct unrelated trade or business activities, the expenses, depreciation, and similar items attributable to such facilities or personnel are allocated between the two uses on a reasonable basis. The portion allocable to the unrelated trade or business activity may be deducted in computing unrelated business taxable income.

Section 1.512(a)-1(d)(1) of the regulations provides, subject to an exception set forth in section 1.512(a)-1(d)(2), that, where gross income is derived from unrelated trade or business activity which exploits an exempt activity, the expenses, depreciation, and similar items attributable to the conduct of the exempt activities are not deductible in computing unrelated business taxable income.

Section 1.513-1(d)(4)(iii) of the regulations is applicable to situations in which an asset or facility used in the conduct of an exempt function is also used in a commercial endeavor. Gross income from the commercial endeavor is classified as gross income from the conduct of unrelated trade or business where such income is produced from an activity that does not contribute importantly to the accomplishment of an exempt purpose. To

illustrate, the regulation provides an example of a museum that, during regular museum hours, shows educational films related to its exempt function in its theater. During the evening hours, it shows ordinary commercial pictures for an admission fee. The gross income produced during the evening hours is from unrelated trade or business and is derived from dual use of assets or facilities.

Section 1.513-1(d)(4)(iv) of the regulations is applicable to situations in which an organization has generated goodwill and other intangibles in the performance of its exempt activity that are exploited in a commercial endeavor that does not contribute importantly to the accomplishment of the organization's exempt purpose. The regulation illustrates this kind of income with an example of a scientific organization that has an excellent reputation in biological research and that regularly sells endorsements of various items of laboratory equipment. The selling of such endorsements does not contribute importantly to any of the organization's exempt purposes and the resulting income is classified as unrelated trade or business gross income derived from the exploitation of an exempt function.

In the instant case, the tennis camp's patrons are attracted to the school primarily for its capacity to provide suitable tennis facilities and personnel. Its reputation as an educational institution is of secondary importance, if a factor at all, in attracting the patrons. Thus, the school is not exploiting goodwill or other intangibles generated from the performance of its exempt function. The school is, however, using its educational facilities and personnel both for the accomplishment of its exempt purposes and for income-producing purposes that are unrelated to its exempt purposes.

Accordingly, the school's income from the summer tennis camp activity derives from dual use of facilities and personnel within the meaning of section 1.512(a)-1(c) of the regulations. Since dual use of facilities and personnel is involved, the allocable portion of expenses, depreciation, and similar items attributable to such facilities and personnel may be deducted in computing unrelated business taxable income under section 512 of the Code.

In most cases involving the use of athletic facilities by the general public, such as in Rev. Rul. 78-98, the use will constitute dual use of facilities under Reg.

1.512(a)-1(c), allowing for a reasonable allocation of expenses between the related and unrelated uses.

Another permutation in the use of college and university athletic facilities by the general public arises when the school does more than merely open up the facilities but, for instance, provides lessons as well. Consider the following hypothetical:

> In 1979, a college conducted two two-week sessions of hockey instruction for youths between the ages of 8 and 14. The children were required to remain on the campus during the two week session. This approach was designed to enhance the overall educational experience for the children by teaching them to live, work and play with their peers.

Generally, the operation of a summer sports camp provides instruction to individuals in a sports skill. As indicated in Rev. Rul. 77-365, 1977-2 C.B. 192, the instruction of individuals, of any age, in a sport develops that person's capabilities and is therefore educational. Although the summer sports camps are not part of the regular school-year sports instructions offered to enrolled college students, they still provide instruction and are educational. Although a college usually provides educational instruction to individuals somewhere between the ages of 17 and 23 that leads to an undergraduate degree, this is not an ironclad rule. There is nothing that prevents a college from accepting older or younger persons as students, or offering adult education classes in the evening, or offering classes on a part time basis to nonmatriculated students. Since the operation of a summer sports camp in this situation is an educational activity, it is substantially related to the college's educational purpose.

Another interesting issue is leasing unused school athletic facilities, such as auditoriums and stadiums, for use by other organizations. This will often occur at nights or during the summer months when the school's facilities may be underutilized. The inquiry here, of course, is whether the rental exception of IRC 512(b)(3), discussed above, is applicable.

Consider the following example:

> A university, for a fixed fee, permits a professional football team to use its stadium for practice during several months of the year.

> Under a lease agreement, in addition to providing heat, light, and water, the university must maintain the playing surface and grounds, and provide dressing room linen and stadium security services for the professional team. Security services include crowd and traffic control, guarding the building, and maintaining the privacy of practice sessions.

The rental does not seem to be related to the university's exempt activities. Under the stadium lease, the university provides extensive grounds and playing field maintenance, dressing room linen, and stadium security services along with the use of the stadium and dressing rooms. These seem to be substantial services for the convenience of the lessee that go beyond those usually rendered in connection with the rental of space for occupancy only. It should follow that the income received is not excludible from unrelated business taxable income as rents from real property under IRC 512(b)(3) and would constitute unrelated business income under IRC 512.

Compare this, however, to a situation where a university rents football fields, gymnasium rooms and dormitory rooms to a professional football team for a summer training camp. A private firm supplies food, linen and maid service to the team. It would appear that in this situation the college has limited its role to that of a lessor, and has left the provision of convenience services to private commercial businesses in the area. Thus, the rental exclusion of IRC 512(b)(3) should apply.

Even where the rental exclusion might be applicable, the rental income could be taxed as unrelated business income if debt-financed property is involved. IRC 512(b)(4). See also EOATRI topic on IRC 514. Thus, in the last example, if the football fields, gymnasium and dormitory were debt-financed property, the rental income would be taxed.

Consider also the following hypothetical example:

> A college owns and operates a hockey rink that is subject to an acquisition indebtedness within the meaning of IRC 514(c) and that is used in its own sports program. In addition, the rink is rented to the local public high school and to private schools located in the community for use in their sports programs. The college follows a policy of engaging in activities that are intended to maintain a close relationship with the community in

> which it is located. For example, residents of the community are admitted without charge to such functions as concerts and plays which are sponsored by the college. Community civic groups and church groups frequently use the college's educational and recreational facilities, and various community activities are held on the college's campus.

In this situation, not taking into account "relatedness", the rental income would not ordinarily be subject to tax, because of IRC 512(b)(3). Here, however, the property is debt-financed so the rental income will be taxed unless the activity is substantially related to the school's exempt purposes.

As to the relatedness issue, teaching its students a sport or assisting its students in the organized participation in a sport is an educational activity that is normally carried on by a college. Here, the educational activities and purposes of the college appear to transcend the boundaries of its campus and extend into the educational life of the surrounding community. Thus, the renting of the hockey rink to public and private schools located in the community, for use by their students in connection with their organized sports programs, appears to contribute importantly and thus be substantially related to the accomplishment of the college's educational purposes. Because the rental is substantially related to the college's exempt function, within the meaning of IRC 513(a), the IRC 514 debt-financed rental problem does not come into play.

It is less clear whether the rental of facilities by a college to other IRC 501(c)(3) organizations would be substantially related if the rental, and subsequent use of the facility, did not have a nexus to community involvement by the college. On the other hand, arguments could be made that the rental of a school facility to another IRC 501(c)(3) organization, especially another school, would be substantially related since education is being promoted.

The National Office is presently studying this issue.

b. Broadcasting Collegiate Athletic Events

Another expanding area is broadcasting intercollegiate athletic events on radio and television. The Service has traditionally taken the position that income from paid admissions to college and university athletic events, regardless of the number of persons in attendance or the amount of paid admissions, is not taxable

as income from unrelated trade or business because the events themselves are related to the educational purposes of the colleges and universities. This position is consistent with the following language contained in the Committee Reports on the Revenue Act of 1950, in which the predecessor to section 513 of the Code was enacted:

> Athletic activities of schools are substantially related to their educational functions. For example, a university would not be taxable on income derived from a basketball tournament sponsored by it, even where the teams were composed of students from other schools. (H.R. Rep. No. 2319, 81st Cong., 2d Sess. 37, 109 (1950), 1950-2 C.B. 380, 458.)
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> Of course, income of an educational organization from charges for admissions to football games would not be deemed to be income from an unrelated business, since its athletic activities are substantially related to its athletic program. (S. Rep. No. 2375, 81st Cong., 2d Sess. 29, 107 (1950), 1950-2 C.B. 483, 505.)

Exhibiting a game is an educational activity regardless of whether the audience sees the game at a stadium, sees it on television, or hears it on radio. Therefore, a sale of the broadcasting rights and the resultant broadcasting of a game appears to contribute importantly to the accomplishment of a college's or university's exempt purposes and is thus substantially related to those purposes. See Private Letter Ruling 7930043 for an illustration of this issue.

For a further discussion of athletic activities see the EOATRI topic on Amateur Athletic Organizations.

c. Scientific Research

Colleges and universities often become involved in paid research projects. This area is covered by IRC 512(b)(8), which provides that in the case of a college, university, or hospital, there shall be excluded from unrelated business income all income derived from research performed for any person and all deductions directly connected with such income. This is illustrated in Rev. Rul. 54-73, 1954-1 C.B. 160.

One issue that may arise in this area is whether a particular project constitutes "research." Research does not include activities of a type ordinarily carried on as an incident to commercial or industrial operations, for example, the ordinary testing or inspection of materials or products or the designing or construction of equipment, buildings, etc. Reg. 1.512(b)-1(f)(4). See, for example, Rev. Rul. 68-373, 1968-2 C.B. 206, which holds that the testing of drugs for commercial pharmaceutical companies does not constitute scientific research. However, it is possible that such drug testing might be substantially related to a college's or university's exempt functions if it is done for the purpose of educating students in testing methods and techniques, or where it is done as an integral part of the curriculum of a medical school.

d. Cultural and Publishing Activities

A college or university may often conduct money-making activities as an integral part of its curriculum, or as an attempt to provide educational experiences for its students and the general public. A number of examples are given in the regulations. For example, Reg. 1.513-1(d)(4)(i) Ex. (1) provides that:

> M, an organization described in section 501(c)(3), operates a school for training children in the performing arts, such as acting, singing, and dancing. It presents performances by its students and derives gross income from admission charges for the performances. The students' participation in performances before audiences is an essential part of their training. Since the income realized from the performances derives from activities which contribute importantly to the accomplishment of M's exempt purposes, it does not constitute gross income from unrelated trade or business

Similarly, Reg. 1.513-1(d)(4)(iv) Ex. (2) provides that:

> V, an exempt university, has a regular faculty and a regularly enrolled student body. During the school year, V sponsors the appearance of professional theater companies and symphony orchestras which present drama and musical performances for the students and faculty members. Members of the general public are also admitted. V advertises these performances and supervises

> advance ticket sales at various places, including such university facilities as the cafeteria and the university bookstore. V derives gross income from the conduct of the performances. However, while the presentation of the performances makes use of an intangible generated by V's exempt educational functions--the presence of the student body and faculty--the presentation of such drama and music events contributes importantly to the overall educational and cultural function of the university. Therefore, the income which V receives does not constitute gross income from the conduct of unrelated trade or business.

A related issue is whether the radio or TV broadcasting of such performances is a substantially related activity. Arguably broadcasting such cultural events could also be related to a college's activities, because the broadcasting merely expands the audience. This argument is similar to those described in our earlier discussion of the relatedness of broadcasting college athletic games. The National Office is presently considering this issue.

Publishing activities are also often substantially related to the educational purposes of a college or university. Reg. 1.513-2(a)(4) provides that a university radio station or press is considered a related trade or business if operated primarily as an integral part of the educational program of the university, but is considered an unrelated trade business if operated in substantially the same manner as a commercial radio station or publishing house. For example, Reg. 1.513-1(d)(4)(iv) Ex. (5) provides that:

> Y, an exempt university, provides facilities, instruction and faculty supervision for a campus newspaper operated by its students. In addition to news items and editorial commentary, the newspaper publishes paid advertising. The solicitation, sale, and publication of the advertising are conducted by students, under the supervision and instruction of the university. Although the services rendered to advertisers are of a commercial character, the advertising business contributes importantly to the university's educational program through the training of the students involved. Hence, none of the income derived from publication of the

> newspaper constitutes gross income from unrelated trade or business. The same result would follow even though the newspaper is published by a separately incorporated section 501(c)(3) organization, qualified under the university rules for recognition of student activities, and even though such organization utilizes its own facilities and is independent of faculty supervision, but carries out its educational purposes by means of student instruction of other students in the editorial and advertising activities and student participation in those activities.

Similarly, see Rev. Rul. 63-235, 1963-2 C.B. 210, which considers an organization formed as an adjunct to a university law school whose primary activity is the publication of a law review journal. The Rev. Rul. holds that the organization is exempt under IRC 501(c)(3) as an educational organization. While the issue is not considered in the Rev. Rul., it appears that the publication of the law review would be a related activity under IRC 513(a).

A university may publish items for other organizations. See, for example, the Wall Street Journal, 9-12-77, "Budget Crises Spur University Presses To Go Commercial." Consider the following illustrative example:

> Pursuant to a contract with, and for a fee from, an unrelated organization, a university publishes and distributes a scholarly journal the content of which is selected and authored by the unrelated organization. The journal is comprised of scholarly articles that advance and disseminate knowledge in a particular field of study. The articles are authored by experts in the field of study, and are based upon research conducted in a manner accepted as scholarly. Both the university and the organization are exempt from federal income tax under IRC 501(c)(3) and as part of their exempt functions, engage in research and disseminate knowledge pertaining to the specialized field of study that is the subject of the journal. The journal is distributed to the relatively limited number of persons who have an academic or professional interest in its subject matter.

Rev. Rul. 67-4, 1967-1 C.B. 121, indicates that publishing may qualify as an exempt function under IRC 501(c)(3) if (1) the content of the publication is educational, (2) the preparation of the material follows methods generally accepted as "educational" in character, (3) the distribution of the materials is necessary or

valuable in achieving the organization's educational purposes, and (4) the manner in which the distribution is accomplished is distinguishable from ordinary commercial publishing practices. In the example, although an unrelated organization selects and authors the journal's content, the university's publication and distribution of the journal appears to be within the guidelines of Rev. Rul. 67-4: (1) The journal's content is educational because it advances and disseminates academic knowledge to the public; (2) The preparation of the journal follows methods generally accepted in its field as "educational" in character; (3) Aside from being a source of income, the university's publication and distribution of the journal contributes importantly to the furtherance of the university's educational purpose of disseminating knowledge in the particular field that is the subject of the journal; (4) The manner in which the distribution of the journal is accomplished is distinguishable from ordinary commercial publishing practices because the journal is directed at educating the limited number of persons who have an academic or professional interest in its particular subject matter rather than to presenting subject matter that would derive profits from the mass market of the general public. Thus, it appears that the publication is substantially related to the university's exempt functions under IRC 513(a).

On the other hand, if publishing activities were conducted in a commercial manner, not within the guidelines of Rev. Rul. 67-4, the income from the publishing could constitute unrelated business income.

In a similar vein, Rev. Rul. 55-676, 1955-2 C.B. 266, considers the operation of a radio station that was acquired by a university as a source of income to the school, to serve as a laboratory for training students in radio, as a medium for advertising the university, and as a medium for adult education. It is affiliated with a network, is assigned a regular frequency, and operates on a day and night basis. Although the station is used in part in carrying out the educational program of the university, the greatest portion of its time is devoted to activities conducted by regularly constituted commercial radio stations.

The Rev. Rul. concludes that:

> A trade or business not otherwise related does not become substantially related to an organization's exempt purpose merely because incidental use is made of the trade or business in order to further the exempt purpose. A trade or business is considered related if operated primarily as an integral part of the educational program

> of the university, but is considered unrelated if operated in substantially the same manner as a commercial operation.

The Rev. Rul. holds that the radio station constitutes an unrelated business as defined in IRC 513.

Similarly, see Iowa State University of Science and Technology v. United States, 500 F. 2d 508, 74-2 U.S.T.C. 9590 (1974), which holds that a television station operated by a university in a commercial manner is an unrelated trade or business.

e. Sale of Products of Exempt Functions

Another way a college or university might generate income is the sale of products which result from the performance of an exempt function. Reg. 1.513-1(d)(4)(ii) states that:

> Ordinarily, gross income from the sale of products which result from the performance of exempt functions does not constitute gross income from the conduct of unrelated trade or business if the product is sold in substantially the same state it is in on completion of the exempt functions. Thus, in the case of an organization described in section 501(c)(3) and engaged in a program of rehabilitation of handicapped persons, income from sale of articles made by such persons as a part of their rehabilitation training would not be gross income from conduct of unrelated trade or business. The income in such case would be from sale of products, the production of which contributed importantly to the accomplishment of purposes for which exemption is granted the organization--namely, rehabilitation of the handicapped. On the other hand, if a product resulting from an exempt function is utilized or exploited in further business endeavor beyond that reasonably appropriate or necessary for disposition in the state it is in upon completion of exempt functions, the gross income derived therefrom would be from conduct of unrelated trade or business.

As an example, Reg. 1.513-2(a)(4) states that the operation of a wheat farm is substantially related to the exempt activity of an agricultural college, if the wheat farm is operated as a part of the educational program of the college, and is not operated on a scale disproportionately large when compared to the educational program of the college. The sale of wheat produced by such a farm would fall within Reg. 1.513-1(d)(4)(ii). On the other hand, if the college transformed the wheat into bread and sold the bread, such a sale would result in UBIT.

The provision is illustrated in Rev. Rul. 68-581, 1968-2 C.B. 250, and Rev. Rul. 76-37, 1976-1 C.B. 148, extracted below. Although these Rev. Ruls. do not deal directly with colleges, the principle espoused would likely be applicable to similar programs run by colleges.

Sale by an exempt vocational school of articles made by its students is a related trade or business within the meaning of section 513 of the Code, but sale of articles made by non-students is unrelated trade or business.

26 CFR 1.513-1: Definition of unrelated trade or business.

Rev. Rul. 68-581

The Internal Revenue Service has been asked whether under the circumstances described below the sale of handicraft articles is unrelated trade or business within the meaning of section 513 of the Internal Revenue Code of 1954.

An organization exempt from Federal income tax under section 501(c)(3) of the Code operates a handicraft school, largely devoted to teaching skills in weaving. It also operates a handicraft shop, where articles made by the students as part of their regular courses of instruction are sold. The students are paid a percentage of the sales price.

In addition, the shop sells woven products made by local residents, many of whom are former students of the school. The local residents make articles at home according to the shop's specifications. The shop manager periodically inspects the articles during their manufacture to ensure that desired standards of style and quality are met. Any qualified weaver may participate in this program. The completed articles are purchased by the organization and sold in its shop.

Section 513 of the Code defines "unrelated trade or business" as any trade or business whose conduct is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that a trade or business is "substantially related" to exempt purposes when the business activity has a substantial causal relationship to the achievement of the exempt purpose. Moreover, the conduct of trade or business from which the income is derived must contribute importantly to the accomplishment of the organization's exempt purpose. Section 1.513-1(d)(4)(ii) of the regulations provides that income from the sale of products which result from the performance of exempt functions does not constitute income from the conduct of unrelated trade or business, if the product is sold in substantially the same state it is in on completion of the exempt functions.

In this case, income from the sale of those articles made by students clearly falls within the scope of section 1.513-1(d)(4)(ii) of the regulations. Thus, the sale of these articles does not constitute unrelated trade or business under section 513 of the Code.

The sale of articles made by local residents, however, is an activity having no causal relationship to the performance of the organization's exempt purpose; it does not contribute importantly to the accomplishment of that purpose. The articles are made independently of the performance of any instructional or other exempt function. The guidance by the shop supervisor is not education, but ordinary industrial supervision. Neither are the sales conducted in furtherance of any program to provide markets for needy individuals who are not otherwise able to support themselves, as in Revenue Ruling 68-167, C.B. 1968-1, 255. Accordingly, the sale of these products is unrelated trade or business under section 513 of the Code.

Construction trades training center; sale of homes. A nonprofit organization that purchases building lots, furnishes funds to a public vocational training center for use in its on-the-job home construction training program, sells the completed homes to the

general public at fair market value, and uses the income from home sales to finance new projects and obtain vocational training equipment for the public school system, qualifies for exemption under section 501(c)(3) of the Code. The income from the sale of the homes is not unrelated business income.

Rev. Rul. 76-37

Advice has been requested whether the nonprofit organization described below, which otherwise qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, is operated exclusively for charitable purposes.

The organization was formed by persons in the construction industry to assist a public vocational training center in providing on-the-job training for construction trade students attending the center, to assist public school graduates in securing employment in the construction trades, and to obtain equipment for the public school system for use in vocational training. The organization is governed by a board of directors comprised of the director of the vocational training center, one of its instructors, persons in the construction industry, and other interested business and professional people.

The on-the-job training consists of various construction projects, primarily residential homes. The organization purchases building lots and provides funds to the vocational training center enabling it to purchase the necessary equipment and supplies for construction of the homes.

The training program is conducted by a staff of instructors from the center. The training program supplements the ordinary high school curriculum, and covers a two-year period devoted primarily to practical, on-the-job experience. Approximately 70 percent of the construction work on each home is performed by the students. The other 30 percent of the work, which the students are not qualified to perform, is subcontracted out under competitive bidding to business entities unrelated to the organizers of the organization. None of the students or the instructors receive any financial compensation from the organization.

The organization anticipates that two homes will be completed each year. The completed homes are the property of the organization and are sold to the general public at fair market value.

The organization finances its activities from the sale of the construction projects. The income resulting from the excess of receipts from the sale of the homes over costs is used solely to finance new projects and to provide the public school system with additional equipment and supplies.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term "charitable" includes the advancement of education.

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term "educational" as including the instruction or training of the individual for the purpose of improving or developing his capabilities.

Section 1.513-1(d)(4)(ii) of the regulations provides that, ordinarily, gross income from the sale of products which result from the performance of exempt functions does not constitute gross income from the conduct of unrelated trade or business if the product is sold in substantially the same state as it is in on completion of the exempt function.

By providing building lots and funds for the purchase of construction equipment and supplies, the subject organization is engaging in activities that are essential to the conduct of the on-the-job training program of the vocational center. The activities of the organization are carried on through cooperation between representatives of the public school system and the construction industry and are uniquely designed to meet the needs of the vocational training center. Thus, even though the organization does not itself provide instructors for the program, its activities contribute importantly to the overall program of the vocational center and promote education within the meaning of section 1.501(c)(3)-1(d)(3) of the regulations. Accordingly, the organization is operated exclusively for charitable purposes and qualifies for exemption from Federal income tax under section 501(c)(3) of the Code.

The completed houses that the organization sells are products of the performance of an exempt function and are sold in substantially the same state they are in upon completion of the exempt function. Only as many houses are built as are needed by

the vocational center for its on-the-job training program. Thus, under section 1.513-1(d)(4)(ii) of the regulations, the construction activity is not unrelated trade or business. See Rev. Rul. 68-581, 1968-2 C.B. 250, and Rev. Rul. 73-128, 1973-1 C.B. 222. Therefore, the income derived by the organization from the sale of completed homes is not unrelated business income.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See sections 1.501(a)-1 and 1.508-1(a) of the regulations.

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f. Services to Students and Faculty

Colleges and universities have traditionally provided services to students and faculty such as food, housing, books, and supplies. Many services provided students and faculty will fall within the convenience exception of IRC 513(a)(2). This provides that the term "unrelated trade or business" does not include any trade or business which is carried on, in the case of an organization described in IRC 501(c)(3) or in the case of a college or university described in IRC 511(a)(2)(B), by the organization primarily for the convenience of its members, students, patients, officers, or employees.

For example, Rev. Rul. 55-676, 1955-2 C.B. 266, considers a laundry and dry cleaning plant operated by a university primarily to serve the student body and members of the faculty, although the general public may be served. The Rev. Rul. concludes that "the laundry operated by a tax-exempt university primarily for the convenience of its students, officers, or employees, comes within the exception of IRC 513(a)(2)." Although not stated in Rev. Rul. 55-676, it should be noted that the services to the general public are subject to UBIT. See also Reg. 1.513-1(e)(3), which provides as an example of the convenience exception a laundry operated by a college for the purpose of cleaning dormitory linens and the clothing of students.

Other examples of the convenience exception would be the on-campus operation of food and soft drink vending machines, and the operation of laundromat facilities for students living on campus. Also, Rev. Rul. 58-194, 1958-1 C.B. 240, holds that a corporation organized to conduct a general book and

supply store, dealing in books, magazines, stationery, student supplies, emblems, and sporting goods, and to operate a cafeteria and restaurant on the campus of a State university for the convenience of the student body and faculty qualifies for exemption under IRC 501(c)(3). Similarly, Rev. Rul. 67-217, 1967-2 C.B. 181, holds that a nonprofit organization formed to provide housing and food service exclusively for students and faculty of a university qualifies for exemption under IRC 501(c)(3) because it is advancing education. While the two Rev. Ruls. do not address the UBIT issue, it appears to logically follow that these activities would either be related to exempt purposes or fall within the convenience exception of IRC 513(a)(2). See Reg. 1.512(b)-1(k)(3)(iii).

However, not all sales at a college bookstore will necessarily be related or fall within IRC 513(a)(2). One must look at both the clientel served and the items sold. Often bookstores are open for sales to the general public. Sales to the general public would clearly not fall within the convenience exception. Similarly, bookstores may sell items that have no relationship to school functions or no real "convenience" nexus. Such items might include clothing, cameras and photographic equipment, tape recorders, radios, TV sets, record players, etc. The fragmentation rules of IRC 513(c) are applicable, and an item-by-item analysis of a bookstore's sales is appropriate. See the Museum Retailing discussion in 1979 EOATRI text at page 486 for a discussion of a similar approach to museum giftshop sales.

Another factor in determining the scope of the convenience exception for colleges and universities is the location of the school. It appears that where a college is located in a remote area where private stores offering an alternative source to the college bookstore are non-existent or inconvenient to reach, the bookstore will have wider latitude with respect to the type of goods it sells. A college bookstore in an urban location, with many nearby private competitive stores, would have a much narrower spectrum of items that could legitimately fall within the convenience exception.

The National Office is currently considering the publication of guidelines in the bookstore area.

Finally, Reg. 1.513-1(c)(2)(ii) provides that where an organization sells certain types of goods or services to a particular class of persons in pursuance of its exempt functions or "primarily for the convenience" of such persons within the meaning of IRC 513(a)(2) (as, for example, the sale of books by a college bookstore to students or the sale of pharmaceutical supplies by a hospital pharmacy

to patients of the hospital), casual sales in the course of such activity that do not qualify as related to the exempt function involved, or as described in IRC 513(a)(2), will not be treated as regular. On the other hand, where the nonqualifying sales are not merely casual, but are systematically and consistently promoted and carried on by the organization, they meet the IRC 512 requirement of regularity. Thus, so long as a bookstore's sales to the public, or sales of non-convenience items, is merely casual, the sales will not be taxed under IRC 512.

g. Miscellaneous

In addition to the above-discussed categories, many other college and university activities have been considered in the unrelated business context. First, there are blatant commercial endeavors. For example, see Rev. Rul. 55-676, 1966-2 C.B. 266, which describes a cinder block plant that was acquired by a university when it started construction of several buildings and needed concrete blocks. During the period that the buildings were under construction, the greatest portion of the plant's output was used by the university. It is the only cinder block plant in the community and after the construction was operated chiefly for the purpose of supplying cinder blocks to the general public, and not primarily for the college. The Rev. Rul. holds that the cinder block plant is operated in a manner similar to commercial undertakings, that the activity constitutes an unrelated business as defined in IRC 513; and that the income derived therefrom is taxable under IRC 511.

Operating a business merely to provide students with financial assistance in the form of wages would also not be a related activity. See Rev. Rul. 69-177, 1969-1 C.B. 150, which holds that an organization, wholly owned by a tax exempt college, that manufactures and sells wood products primarily to employ students of the college to enable them to continue their education, does not qualify under IRC 501(c)(3).

Another possible unrelated business is the sale of mailing lists. See Rev. Rul. 72-431, 1972-2 C.B. 281, the text of which is extracted below:

The regular sale of membership mailing lists by an exempt educational organization constitutes unrelated trade or business under section 513 of the Code.

Rev. Rul. 72-431

Advice has been requested whether an organization exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 carries on unrelated trade or business within the meaning of section 513 where it conducts a sales activity as described below.

The organization's purpose is to increase and disseminate knowledge pertaining to management philosophy and methods. Its main activities include the publication of journals, the conduct of local, regional, national, and international meetings, and the encouragement and sponsorship of research and publication.

As one of its lesser activities, the organization regularly sells lists of its members' names and mailing addresses to universities and business firms. These organizations mail advertisements for their courses, seminars, and books pertaining to management to the individuals on the lists. Although the organization reviews the material which advertisers propose to mail to assure that the material pertains to the field of management, it does not otherwise control the content of the advertising. The content of the advertising the advertisers to promote the sale of the advertised products and services. is governed by the basic objective of ?????

An organization otherwise exempt from Federal income tax under section 501(c)(3) of the Code is subject to a tax on unrelated business income imposed by section 511 of the Code.

Section 513(a) of the Code defines the term "unrelated trade or business" as any trade or business the conduct of which is not substantially related (aside from need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its exempt functions.

Section 513(c) of the Code provides that for the purpose of this section, the term "trade or business" includes any activity that is carried on for the production of income from the sale of goods or the performance of services.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that a trade or business is "substantially related" to exempt purposes when the business activity has a substantial causal relationship to the achievement of exempt purposes. Thus, the conduct of trade or business from which income is derived

must contribute importantly to the accomplishment of the organization's exempt purposes.

Section 1.513-1(d)(4)(iv) of the regulations recognizes that in certain cases, activities carried on by an organization in the performance of exempt functions may generate good will or other intangibles which may be exploited in commercial endeavors. Where an organization exploits such an intangible in commercial activities, the mere fact that the resultant income depends in part upon an exempt function of the organization does not make it gross income from related trade or business. In such cases, unless the commercial activities themselves contribute importantly to the accomplishment of an exempt purpose, the income which they produce is gross income from the conduct of unrelated trade or business. Example 7 of this section describes advertising by business firms in an exempt organization's journal that promotes only products that are within the general area of interest of the organization's members. The Example indicates that the advertising is not an educational activity of the kind contemplated by the exemption statute and that, therefore, the organization's publication of advertising does not contribute importantly to the accomplishment of its exempt purposes.

The regular sale of membership mailing lists, an activity that is carried on for the production of income from the sale of goods, constitutes trade or business for purposes of section 513 of the Code. In addition, although the continuing education of its members in matters pertaining to the field of management is one of the exempt functions of the organization and the advertising sent to its members is a source of additional information in this field, Example 7 of section 1.513-1(d)(4)(iv) of the regulations indicates that the publication of advertising is not an educational activity contemplated by the exemption statute. Therefore, the sale of mailing lists by the organization to facilitate the mailing of advertising to its members does not contribute importantly to the accomplishment of the organization's exempt purposes.

Accordingly, it is held that the sale of the mailing lists by this organization constitutes unrelated trade or business under section 513 of the Code.

Another interesting area is travel tours. See Rev. Rul. 78-43, 1978-1 C.B. 164. This area is discussed in the 1979 EOATRI test, Travel Tours, page 453.

Another area of interest involves the operation of a hotel and restaurant by a university. Consider the following hypotheticals:

SITUATION 1

A college owns and operates a hotel and restaurant located close to the college campus. The hotel and restaurant are open to members of the general public and the prices charged are comparable to those charged by commercial establishments. The hotel and restaurant are separate from the dormitories and cafeterias that accommodate the student body, and are not operated for the purpose of providing on-the-job training to students as part of their course of instruction. The college is located in an area where food and lodging facilities are readily available and adequate to serve visitors at the college. Individuals staying at the hotel include members of the families of students, persons visiting students, prospective students and their families, the college's attorneys and accountants, salesmen, applicants for employment at the college, trustees, invited entertainers, athletes, guest lecturers, participants at school sponsored conferences or events, tourists, and other members of the general public.

SITUATION 2

The facts are the same as Situation 1 except the college is located in a comparatively remote area and there are no other reasonably available food and lodging facilities to serve visitors to the college.

It appears that, in the absence of special circumstances, the operation of a hotel and restaurant by a college does not contribute importantly, in the causal sense, to the accomplishment of the exempt educational purposes of a college. Although the hotel and restaurant facilities may be utilized by certain classes of persons who have a connection with the overall educational functions of the college, this fact does not appear to be sufficient to establish a substantial causal relationship between the hotel and restaurant and the performance of the college's exempt purposes. Generally, the operation of a hotel and restaurant would be considered trade or business coming within the convenience exception of IRC 513(a)(2) when the individuals served by the hotel and restaurant have a demonstrable connection with the students, officers, or employees only where the

college can establish special circumstances such as the comparative geographic isolation of the college and the lack of other reasonably available food and lodging facilities. Notwithstanding the existence of special circumstances, however, the provision of food and lodging facilities to individuals having no demonstrable connection to the students, officers, or employees of the college would not come within the provision of section 513(a)(2).

Thus, in Situation 1, since the college is located in an area having other adequate and reasonably available food and lodging facilities, the operation of the hotel and restaurant appears to be unrelated trade or business that does not come within the convenience exception of IRC 513(a)(2).

On the other hand, in Situation 2, since the college is located in a comparatively remote area lacking other adequate and reasonably available food and lodging facilities, special circumstances may exist bringing the operation of the hotel and restaurant within the convenience exception of IRC 513(a)(2). Members of the families of students, persons visiting students, prospective students and their families, participants in college operations and functions, and persons having business with the college have a demonstrable connection with the students, officers, or employees of the college, so that the provision of food and lodging to these classes of customers appears to be a service to the students, officers, or employees within the meaning of IRC 513(a)(2). However, providing these same services to tourists and other members of the general public having no demonstrable connection to the students, officers, or employees of the college does not appear to come within the convenience exception of IRC 513(a)(2).

In situations like this, or the university bookstore examples discussed earlier, where income from a trade or business is partially related and partially unrelated, IRC 6001 and IRC 6033 require the college to keep records by customer class and type of good sold in order to establish the portion of income subject to UBIT.

Also of interest is Rev. Rul. 70-129, 1970-1 C.B. 128, the text of which is extracted below:

An organization formed to support research in anthropology by manufacturing quality cast reproductions of anthropological specimens which are sold to scholars and educational institutions in a non-commercial manner qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 70-129

Advice has been requested whether a nonprofit organization organized and operated as described below qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The organization was formed for educational and scientific purposes to support research in anthropology by manufacturing high quality cast reproductions of anthropological specimens. In furtherance of its purposes it manufactures and distributes anthropological reproductions that illustrate important developments in human evolution. These reproductions are manufactured under the direction of qualified scientific personnel. Emphasis is placed on quality control to assure accurate reproductions. The reproductions are sold to scholars and educational institutions in a noncommercial manner to recoup costs and expenses. Any operating deficits are defrayed by contributions.

Section 501(c)(3) of the Code provides for exemption from Federal income tax of organizations organized and operated exclusively for charitable, educational, or scientific purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations defines the term "charitable" as used in section 501(c)(3) of the Code as including the advancement of education or science.

Revenue Ruling 66-147, C.B. 1966-1, 137, holds that under certain conditions the publication of abstracts of scientific and medical articles by an organization contributes to the advancement of education and science by providing an effective means for the increased dissemination and application of such knowledge.

Revenue Ruling 67-4, C.B. 1967-1, 121, holds that under certain circumstances the distribution of a journal containing abstracts of current technical literature is carried out in a manner distinguishable from ordinary commercial publishing practices and thus does not preclude exemption under section 501(c)(3) of the Code.

Examination of anthropological specimens is an important step in anthropological education and research. The manufacture and sale of accurate reproductions provide an effective means for making these important research and study aids generally available. Therefore, the distribution of reproductions in this case accomplishes the dissemination of important educational and

> scientific information in the same manner as the scientific abstracts described in Revenue Ruling 66-147. Furthermore, under the facts in this case, the charging of fees for the reproductions does not preclude qualification under section 501(c)(3) of the Code because the manner in which the distribution is accomplished, like that in Revenue Ruling 67-4, is distinguishable from ordinary commercial practices.
>
> Accordingly, it is held that the organization qualifies for exemption from Federal income tax under section 501(c)(3) of the Code.
>
> Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Exemption Application, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.

While not directly considered in the Rev. Rul., it appears that the sale of such scientific reproductions by a college would be substantially related to a college's exempt purpose.

As a final example, see Private Letter Ruling 7902019, which illustrates the complex problems that can arise during an audit of a college or university.

3. Conclusion

In summary, colleges and universities often engage in a wide range of activities, some of which may be unrelated to their exempt purposes. It is often difficult to separate out these activities for UBIT purposes. No doubt many areas pose unresolved questions. The National Office will consider publication when cases warrant.