

Tax Issues for Business Officers

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Overview

- Sales and Use Tax
- Unrelated Business Income Tax
- Nonresident Alien Taxation
- Employee Fringe Benefits

UC Tax Policies and Procedures

- Accounting Manual, Sales and Use Tax Manual, Business and Finance Bulletins, and
- Campus Tax Contacts

<http://www.ucop.edu/ucophome/cao/paycoord/>

Case Study Sales & Use Tax

The UCLA Intercollegiate Athletics Department purchased for resale, 10,000 **Beat Cal** and **Bash the Bears** football pennants for the Big Game in Berkeley. No tax was paid or accrued on the pennants, which were sold/used as follows:

- 9,500 are sold to Bruins fans at the game
- 400 are given away to UCLA staff and friends
- 100 are sold/shipped to retired Bruins backers in Hackensack, New Jersey

Sales and Use Tax

General Rule:

All purchases or sales of **tangible personal property** are subject to California Sales or Use Tax **unless** a specific exception applies.

California Sales vs. Use Tax

- **Sales Tax** - imposed on retail sales of tangible personal property in California
 - Seller responsible for remitting sales tax
- **Use Tax** - imposed on persons who store, use, or consume (in California) tangible personal property purchased from an out-of-state vendor
 - Purchaser responsible for remitting use tax

Major Exceptions

Items for Resale

- Items that are **purchased without tax** and later resold at retail
- Examples:
 - Books sold to another university, which intends to **resell** them to students and collect tax
 - Books purchased by UC, which intends to **resell** them to UC students and collect tax

Major Exceptions

Items for Resale

- Seller must obtain valid **Resale Certificate** from purchaser including **six (6)** items:
 - Name and address of purchaser
 - Purchaser's California Seller's Permit Number
 - Description of the property to be purchased
 - Statement that property is being "purchased for resale"
 - Signature of purchaser
 - Date

Seller's Permit Number alone will **not** exempt sale

Major Exceptions

Out-of-State Sales

- Items sold to **out-of-state** purchasers
- Requires documentation (e.g., bill of lading) to support that items were **delivered** to an out-of-state purchaser

Major Exceptions

Items Specifically Exempted

- **Services**
- **Medicines**
- Property purchased for **federal** contracts must have title clause that property is owned by federal government at time of purchase – source of funding alone is not sufficient.

Case Study

Unrelated Business Income Tax

The Berkeley Intercollegiate Athletics Department sold scoreboard ads in preparation for the Big Game. The Department also received **income from ads** displayed on its web site, including an ad sponsored by Golden Bear Yugo, which implied that the Bruins are second-rate **little wusses**.

Unrelated Business Income Tax

General Rule:

Income from an unrelated business activity is taxable **unless** it meets one of several specific **exemptions**.

Definitions

Unrelated Business Activity

- Trade or Business
 - Regularly Carried On
 - Not Substantially Related to Exempt Purpose
 - UC's exempt purpose: instruction, research, patient care
 - Use of funds is not relevant
- These rules also apply to Internet activities

Activities Exempt From Tax

- Volunteer Labor
- Donated Merchandise
- Convenience of Members - Faculty, staff, students and patients
- Passive Income - Royalties, interest, dividends
- Research - Excludes testing
- Real Estate Rents - Except if services are provided to occupant

Activities Reported on UC's Consolidated Tax Return

Sales to general public, alumni, non-UC organizations

- Commercial Advertising
- Equipment Rentals
- Lab Testing
- Parking
- Recreational Memberships
- Travel Tours

→ Information collected on **UC Nonfinancial Questionnaire**

Case Study Nonresident Alien Taxation

Prior to the Big Game, Cal recruited a world renowned sports psychologist from **Lower Slobbovia**, a former Soviet republic, to psych up the players for the Big Game. The sports psychologist entered the U.S. on a B-1 visa and was reimbursed for her actual **travel** expenses. She also received a \$15,000 **honorarium** for working with the team for 5 days prior to the Big Game.

Payments to Nonresident Aliens

General Rule:

All payments to nonresident aliens are subject to income tax withholding **unless** a specific **exception** or **tax treaty** provision applies.

Payments to Nonresident Aliens

Major Exceptions:

- **Travel** Expense Reimbursements
- Payments Excluded from Income by a **Tax Treaty**
- Qualified **Scholarship** Payments

Payments to Nonresident Aliens

Honoraria

- Visa Type
 - **UC Statement of Academic Activity** required for visitors with B-1, B-2, WB, or WT visa/status
 - Services subject to **9-day** rule
- Must have **SSN or ITIN**
 - To make payment
 - To be eligible for Tax Treaty benefits
 - UC Acceptance Agents
- Withhold at **30%** unless Tax Treaty applies

Payments to Nonresident Aliens

Travel Reimbursements

- **UC Statement of Academic Activity** required for visitors with B-1, B-2, WB, or WT visa/status
- SSN or ITIN **not** required
- Withholding **not** required if expenses are substantiated in accordance with UC policy

Case Study

Employee Fringe Benefits

After losing the Big Game by a score of 103 to 3, Cal fired its head football coach and recruited for a replacement. The new coach received the following **fringe benefits** as part of his contract for taking over the beleaguered Bears:

- Free **parking** valued at \$90 per month
- A **leased car** for his wife provided by Golden Bear Yugo
- A low-interest **loan** for the purchase of a new home
- Reimbursement of \$1,000 to complete a **graduate course** in coaching effectiveness and problem solving

Employee Fringe Benefits

General Rule:

The **fair market value** of a fringe benefit must be included in an employee's income **unless** excluded under a specific **exception**.

Employee Fringe Benefits

- Automobiles - **Personal use** of a University-provided automobile is taxable
- Parking - Up to **\$205/mo** is tax-free in 2006
- Housing - Taxable unless employee is **required** to live on or near campus
- Travel – Tax-free except for travel **over one year**
- Moving - Moving of household items and travel to new location not taxable (**meals are taxable**)

Employee Fringe Benefits

- Loans - Forgone interest is taxable unless **relocation** loan
- Discounts - Up to **20%** on services, including tickets, is tax-free
- Club Dues - **Personal use** of a club is taxable--social, business, athletic, luncheon, sporting, hotel, and airport
- Cell Phones – **Non-incidenta**l personal use is taxable
- Educational Assistance - Taxable unless:
 - **Job-Related**
 - **Undergraduate Course**
 - Graduate Course - if **RA or TA**
 - Graduate Course – for staff, up to **\$5,250** per year

10 (Loser) Arguments to Justify the Failure to Treat A Fringe Benefit as Wages

- There is no cost to the employer
- The benefit was not provided by the employer
- The employer did not know about the benefit
- The employer made the employee take the benefit
- The benefit is worthless

10 (Loser) Arguments Continued

- Nobody reports this benefit
- The law is too confusing
- The law is too hard to implement
- The purpose of the benefit is that the employee needs it
- The benefit was approved in the employee's offer letter

WARNING

The cases presented in this program were prepared by the speakers and do not **necessarily** reflect UC policy or NCAA regulations.