

The background of the slide is a photograph of a large, classical-style building with a prominent central dome and arched windows. The entire image is overlaid with a semi-transparent red filter. The text is positioned on the left side of the image.

Unrelated Business Income Tax and Private Business Use Discussion

Carnegie Mellon University

Finance Division

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Agenda

- Introduction
- Learning Objectives
- Unrelated Business Income Tax
- Private Business Use
- Annual Survey Q&A

Learning Objectives

- To gain a general understanding of Unrelated Business Income (UBI) and Private Business Use (PBU)
- To be able to identify potential activities that could generate UBI, and/or be considered PBU
- To understand and be able to accurately complete the annual survey
- To know what actions to take when potential activities are identified

CMU's Vision and Mission Statement

Vision

Carnegie Mellon University will have a transformative impact on society through continual innovation in education, research, creativity, and entrepreneurship.

Mission

To create a transformative educational experience for students focused on deep disciplinary knowledge; problem solving; leadership, communication, and interpersonal skills; and personal health and well-being.

To cultivate a transformative university community committed to (a) attracting and retaining diverse, world-class talent; (b) creating a collaborative environment open to the free exchange of ideas, where research, creativity, innovation, and entrepreneurship can flourish; and (c) ensuring individuals can achieve their full potential.

To impact society in a transformative way — regionally, nationally, and globally — by engaging with partners outside the traditional borders of the university campus.

Unrelated Business Income Tax

Agenda

- What is Unrelated Business Income (UBI)?
- Exclusions from UBI
- Deductions
- UBI Examples

What is UBI?

Income from a trade or business regularly conducted by an exempt organization and not substantially related to the performance by the organization of its exempt purpose or function.

- ✓ Trade or Business
- ✓ Regularly Conducted
- ✓ Not Substantially Related

What is UBI?



Trade or Business

- Any activity conducted for the production of income from selling goods or performing services.
- Must exhibit intent to profit from the activity.
- If fees charged are substantially below the cost of its goods or services, the activity is not a trade or business. If the business is conducted in a competitive manner, then this demonstrates a profit motive.



Regularly Conducted

- Must show a frequency and continuity and is pursued in a manner similar to comparable commercial activities of nonexempt organizations.
- Activity should not be considered regularly conducted if it is on a very infrequent basis, or for a short period of time.



Not Substantially Related

- Activity must contribute importantly to accomplish the university's exempt purpose. Whether an activity contributes importantly depends in each case on the facts involved.
- In determining whether activities contribute importantly, consider the size and extent of the activity.
- To the extent an activity is conducted on a scale larger than is necessary to perform an exempt purpose, then that activity does not contribute importantly to the accomplishment of the exempt purpose.

Exclusions from UBI Activities

- Volunteer Workforce
- Convenience of Members
- Selling Donated Merchandise
- Qualified Sponsorships

Exclusions: Qualified Sponsorships

- No substantial benefit received through sponsorship
 - Use or acknowledgment of the business name
 - Use of logo
- Cannot provide advertising

Deductions

To qualify as allowable deductions in computing UBI, the expenses, depreciation, and similar items must be allowable income tax deductions.

UBI Examples



Investment Income from Alternative Investments



Services Provided to Non-CMU Related Parties



Parking



Corporate Sponsorship



Private Business Use

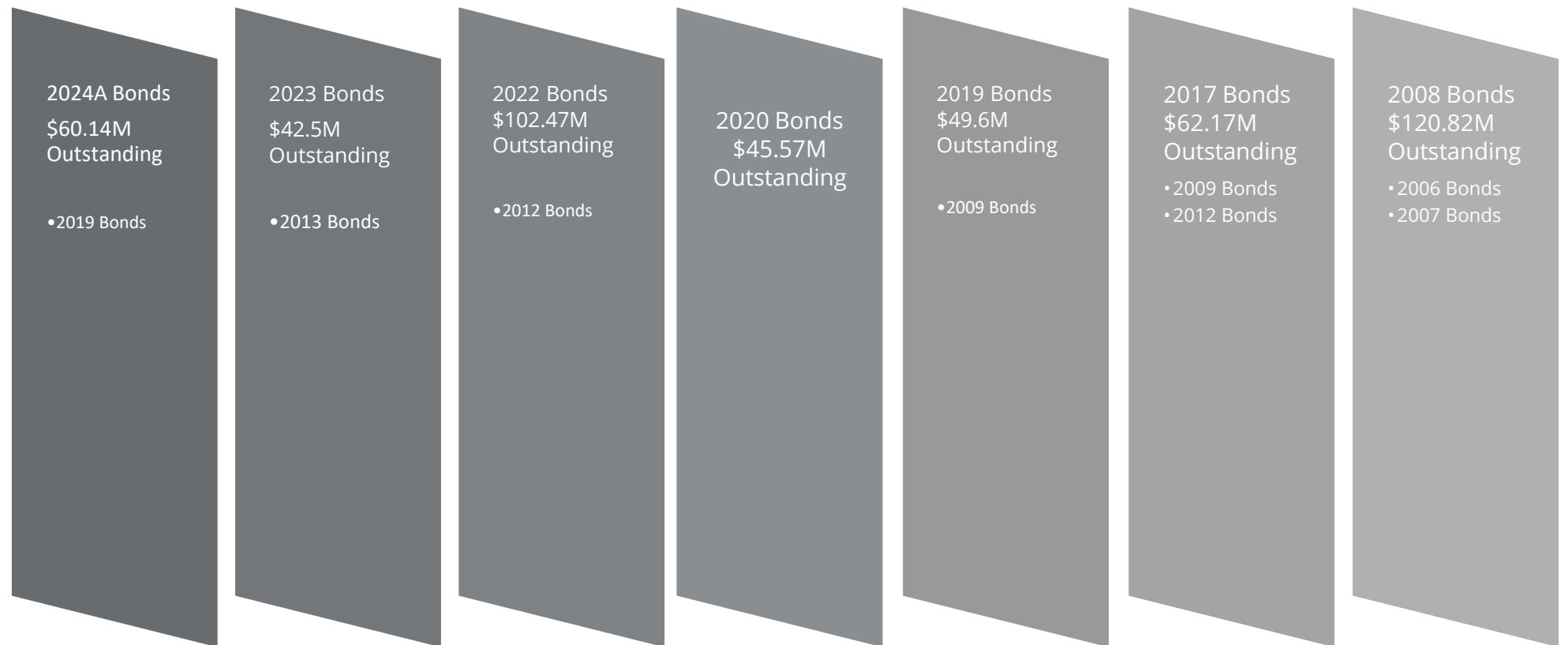
Agenda

- Tax-Exempt Bonds
- What is Private Business Use (PBU)?
- UBI and PBU Relationship
- Required Actions
- Summary

Tax-Exempt Bonds

- As a 501(c)3 organization, CMU is eligible to issue bonds at tax-exempt interest rates.
- These rates are lower than taxable rates and allow the investors to earn interest on which they do not have to pay income tax.
- As the interest is tax-exempt, the IRS mandates certain rules related to how the university spends the money, and subsequently how the university uses and manages the facilities or projects financed by the bonds.
- These rules apply to the bonds for as long as they are outstanding, including any refinancings. The rule is for “the life of the bonds (including any refundings) plus three years.”
- The university’s average debt issuances have about a 30-year life.

Tax-Exempt Bonds: Bond Issuance History



Why is This Important?

- Because the university issues tax-exempt bonds, certain rules apply to how the university spends that money, and what the university does in the space funded by that money.
- Failure to follow the rules jeopardizes the tax-exempt status of the bonds including the following:
 - Immediate payoff of the bonds
 - “Event of default” under all the university’s debt
 - Retroactive declaration by the IRS that the bond interest is “taxable” to the buyers
 - University liable for associated tax and penalties
 - Public disclosures, causing reputational issues
 - Rating agencies could reduce the university’s debt ratings
- Educating campus community helps to protect the bonds’ status and university assets.

What is PBU?

Relates to activities that occur in bond-financed space

- Unrelated activity
- Special legal entitlement* to a third-party
- Result of a non-compliant research agreement or service/management contract

Requirements

- Cannot exceed 3% over the life of the bonds
- Must be reported annually on the university's Form 990 Schedule K

Common Areas

- Research Contracts
- Management Contracts
- Leases

PBU and UBI

- Correlates closely to Unrelated Business Income
- If you have UBI, you have PBU

*Special legal entitlement could be a share of profits (economic benefit) or related to the use of the bond-financed facility.

PBU and Research Contracts

Permitted Research

- “Basic research”
- Any original investigation for the advancement of scientific knowledge not having a specific commercial objective

Private Use Research

- Research that generates UBI
- Research that provides specific benefits to a sponsor:
 - Exclusive Paid License
 - Nonexclusive Royalty
 - Consortia

UBI and PBU Relationship

Unrelated Business is PBU and the focus is on the **activity**:

- ❓ **Where** is this activity occurring? PBU implications can only arise in bond-financed space.
- ❓ **What** is happening in the space? If a CMU group is engaging in an “unrelated business activity” in this bond financed space this is PBU.
- ❓ **Who** else is using the space/performing the activity?

PBU measurement is calculated on a bond by bond-issuance basis by:

- Length of time using the space
- Amount of space used
- Revenue generated off of the space
- A combination thereof

Required Actions

- ✔ Complete the annual questionnaire that is distributed by the Tax Department.
- ✔ Consider new activities and whether they are in-line with the university mission or give an unrelated third party “special legal entitlement” to profits or use of our facilities.
- ✔ Bring the appropriate team in early to the conversation to:
 - Analyze the impact of the activity on the PBU calculations to see if allowable.
 - Assist with negotiating the terms to avoid PBU issues.

ACTIVITY	EXAMPLE	APPROPRIATE DEPARTMENT
Research	Federal or corporate sponsor	Office of Sponsored Programs
Management Contract or Lease	New dining vendor, Leasing space to outside parties	Office of General Counsel
Unrelated Business Activities	Conferences, camps	Office of General Counsel

Summary

- ✔ **PBU relates to activities that occur in bond-financed space and are:**
 - an unrelated activity;
 - and/or give special legal entitlement to a third-party;
 - and/or the result of a non-compliant research agreement or service/management contract.

- ✔ **Completion of the annual questionnaire helps in identifying PBU so it can be monitored and measured appropriately.**

- ✔ **Being able to identify new activities that could potentially be UBI or PBU will allow you to bring in the appropriate teams in early to evaluate the following:**
 - Analyze the impact of the activity on the PBU calculations to see if allowable
 - If appropriate, assist with negotiating the terms to avoid PBU issues
 - Include any potential UBI tax implications into the budget

Annual Survey Q&A