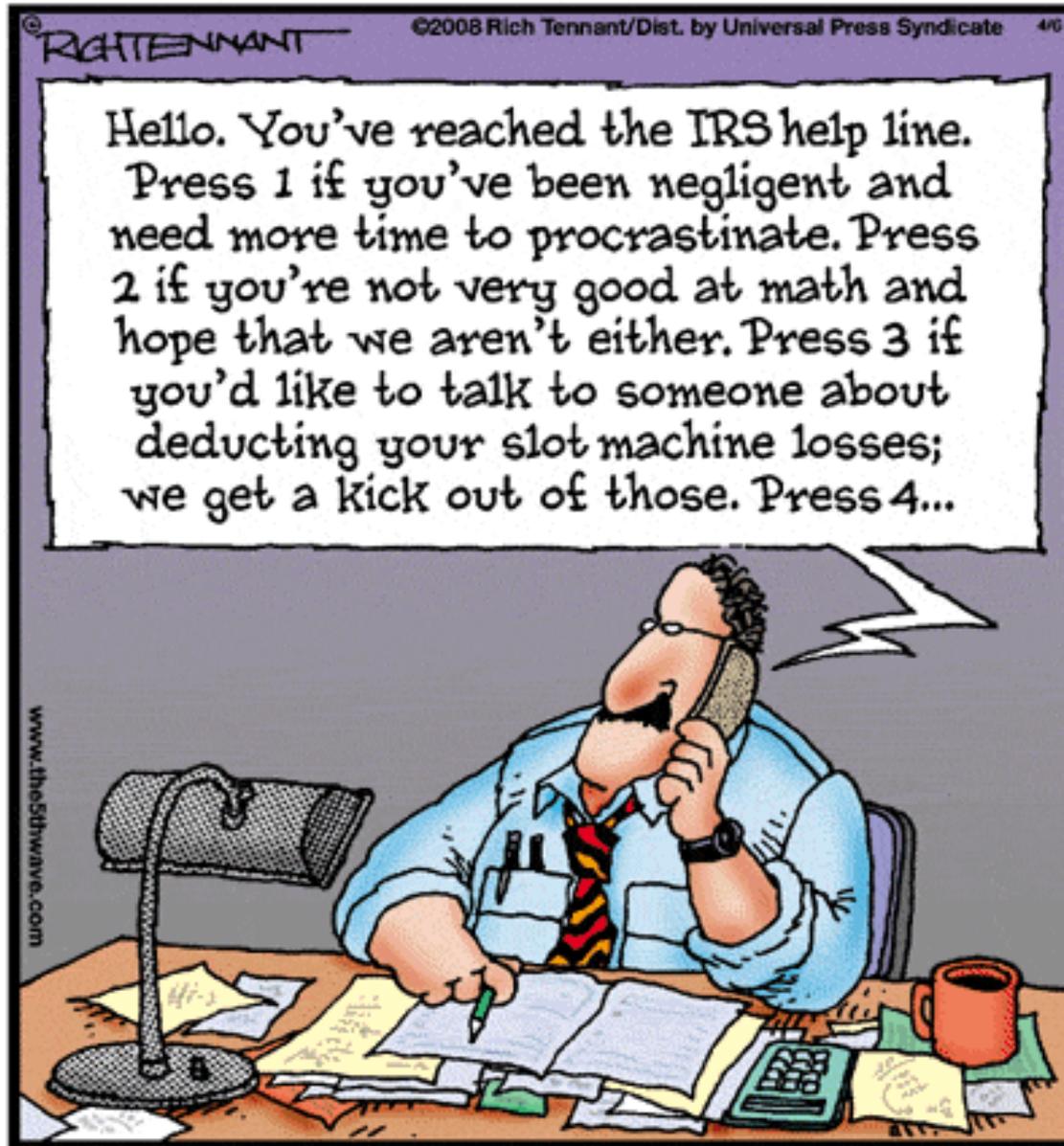
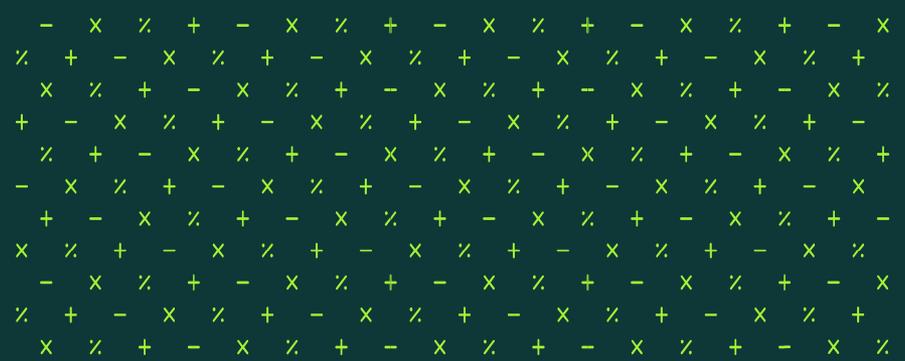


The 5th Wave

By Rich Tennant





Tax Issues with Q&A

Tracy Paglia, Partner

Moss Adams LLP

September 2017

Agenda

- Spouse/family travel and other benefits
- Awards, prizes and employee recognition
- Student payments
- Independent contractor vs. employee
- International employee and student payments
- Unrelated business income (UBI)
- Q&A





Spouse/Family Travel & Other Benefits

Everything provided to an employee is taxable unless there's an exception, such as.....

Bona fide business purpose; working condition fringe	<ul style="list-style-type: none">• Spouse travel expenses when business purposes is supportable• Employee use of tickets to events when accompanied by a donor or business partner• Working lunches with employees or contractors
No additional cost service	<ul style="list-style-type: none">• Tickets not sold for an event and provided at the last minute for employees, spouses & dependents
De minimis fringe – infrequent and administratively impractical to track	<ul style="list-style-type: none">• Employee picnics, holiday parties• Occasional group meals or celebrations• Employee meals at an eating facility operated by the University located on campus if the revenue at least covers cost





Spouse/Family Travel & Other Benefits

Examples of benefits that are generally taxable are:

- Spouse or dependent travel (e.g. airfare, meals) where a business purpose for the spouse or dependent isn't substantiated to IRS standards.
- Tickets provided far in advance of the event on a regular basis.
- Employee meals provided more than infrequently where no business is conducted, and the employee meal does not meet the "convenience of the employer" exception.
- Travel advances where documentation is not timely provided or excess funds are not timely returned
- Travel where the personal portion outweighs the business portion.
- Personal use of employer provided vehicles where mileage records of business use are not adequately maintained.





Awards, Prizes and Employee Recognition

Everything provided to an employee is taxable unless there's an exception

Scholarship or fellowship

- W-2 required for services to UI
- No W-2 or 1099 is required if UI is receiving no services

Prize or award

- Generally taxable and reportable on 1099
- Tax exempt if designated for qualified tuition, fees, books, supplies; not reported on Form 1099 = scholarship

Employee recognition

- Generally taxable on W-2
- Nontaxable if it meets the length of service or safety achievement award rules
- Nontaxable if it qualifies as a de minimis benefit



Student Payments

Perception vs. Reality

Perception

Student Accounts:

- Administratively cumbersome
- Dept. of Ed rules are complex
- Financial Aid / Accounting functions lack synergy

Payroll = “Bad”:

- Could cost departments money for taxes.
- Taxes may not be covered by grants
- May subject student to withholding

Accounts Payable:

- Administratively easy
- Student gets full amount of their payment
- Doesn't cost the University anything



Perception vs. Reality

Reality

Student Accounts:

- Most payments are intended to help students with educational costs
- 1098-T does not trigger an income match for IRS

Payroll:

- If students are providing services for the benefit of the University, then this is the appropriate payment vehicle to use

Accounts Payable = Risk:

- May result in audits for the University and students
- 1099 results in students paying self employment tax; no withholding to pre-pay income tax

Which Payment Vehicle to Use?

Student Accounts

Paid thru
Financial Aid

Lowest risk to
University and
student

Most favorable
tax outcome

1098-T

Payroll

For student
employment

Low risk to
University and
student

Payroll &
income taxes
withheld

W-2

Accounts Payable

Hardly ever
appropriate

High risk to
University and
Student

Student pays all
payroll &
income taxes

1099

What is a Scholarship?

IRS definition - Any amount paid for the benefit of an individual to assist in the pursuit of study or research.

Does NOT apply to any portion of the payment which is for teaching, research, or other services required as a condition of receiving the scholarship

Reporting:

- Offset qualified expenses = Form 1098-T
- Offset nonqualified expenses = no reporting required *

Vehicle: no services required = process through Financial Aid / Student Accounts

What is a Scholarship?

Example:

Student is awarded an internship for an educational stipend of \$5,000. Student is to work 200 hours over the summer as a condition of the internship under the supervision of a University employee. A reasonable rate per hour for the duties to be performed is \$15 per hour.

Total grant	\$5,000	
Less: payment for services	<u>(3,000)</u>	W-2 for 200 hr x \$15
Potential scholarship	<u>2,000</u>	1) Credit to Student Account = no reporting 2) Process through A/P = 1099



Payments Processed through Payroll

All compensatory payments:

- Internships with an hour requirement for services to UI
- Internships where the grantor is expecting UI to fulfill the withholding and reporting requirements
- Research performed where the primary beneficiary is UI

This should be considered as part of grant agreements and internship arrangements.

Reporting = Form W-2

- Payroll taxes are paid by the University and withheld from the student
- Income taxes are withheld from the student



Payments Processed through Accounts Payable

All other payments:

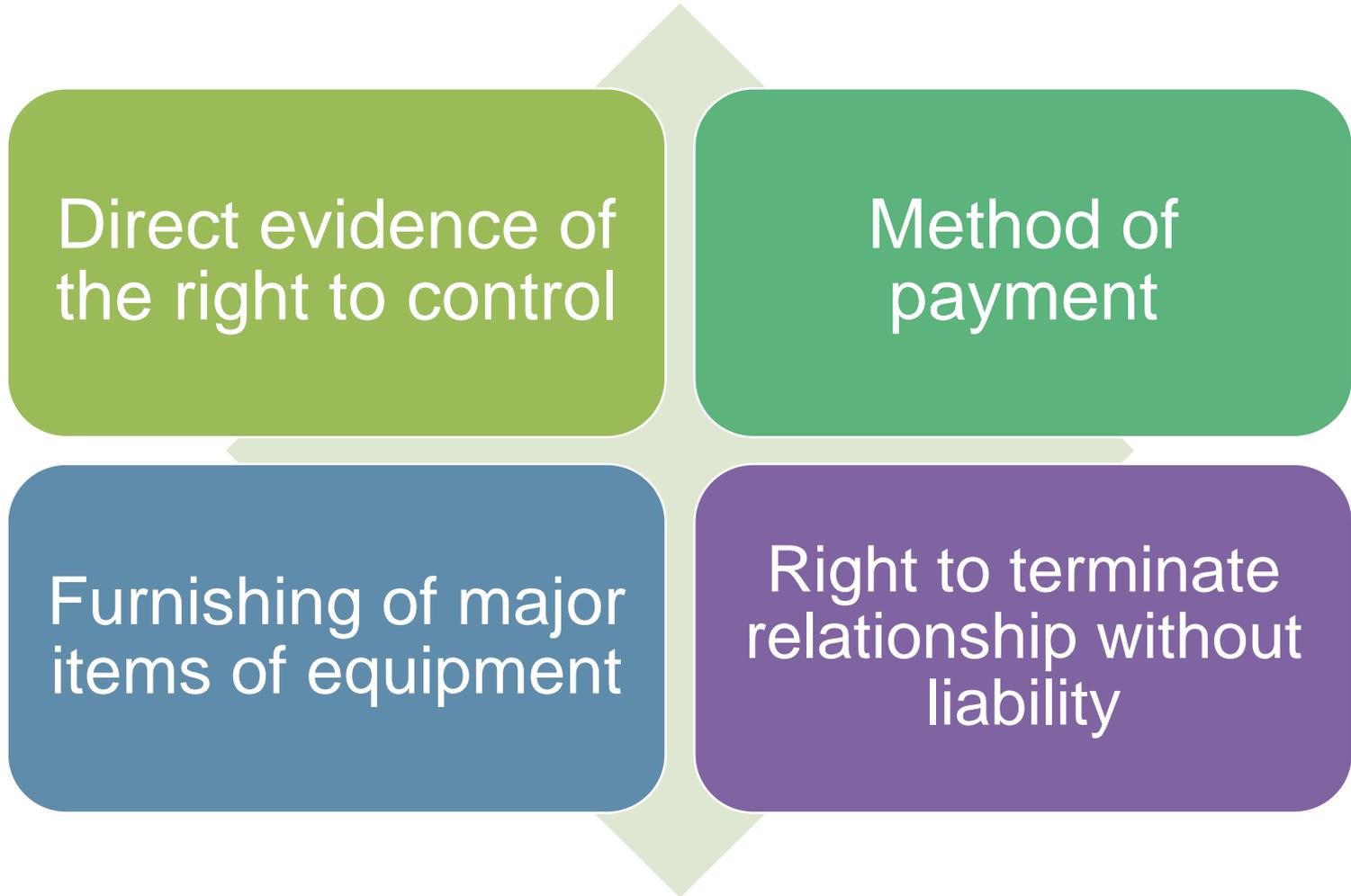
- Payments to independent contractors for services
- Prize or awards for competitions that are not qualified scholarships, no future services are required

Reasons NOT to process student payments through A/P:

- Students are generally not vendors
- Most A/P payments = 1099 reporting
 - No withholding for the student to pre-pay the income tax
 - Student is subject to all of the payroll taxes, due with their return
- Suppressing 1099 reporting is easy to miss and increases administrative burden for A/P

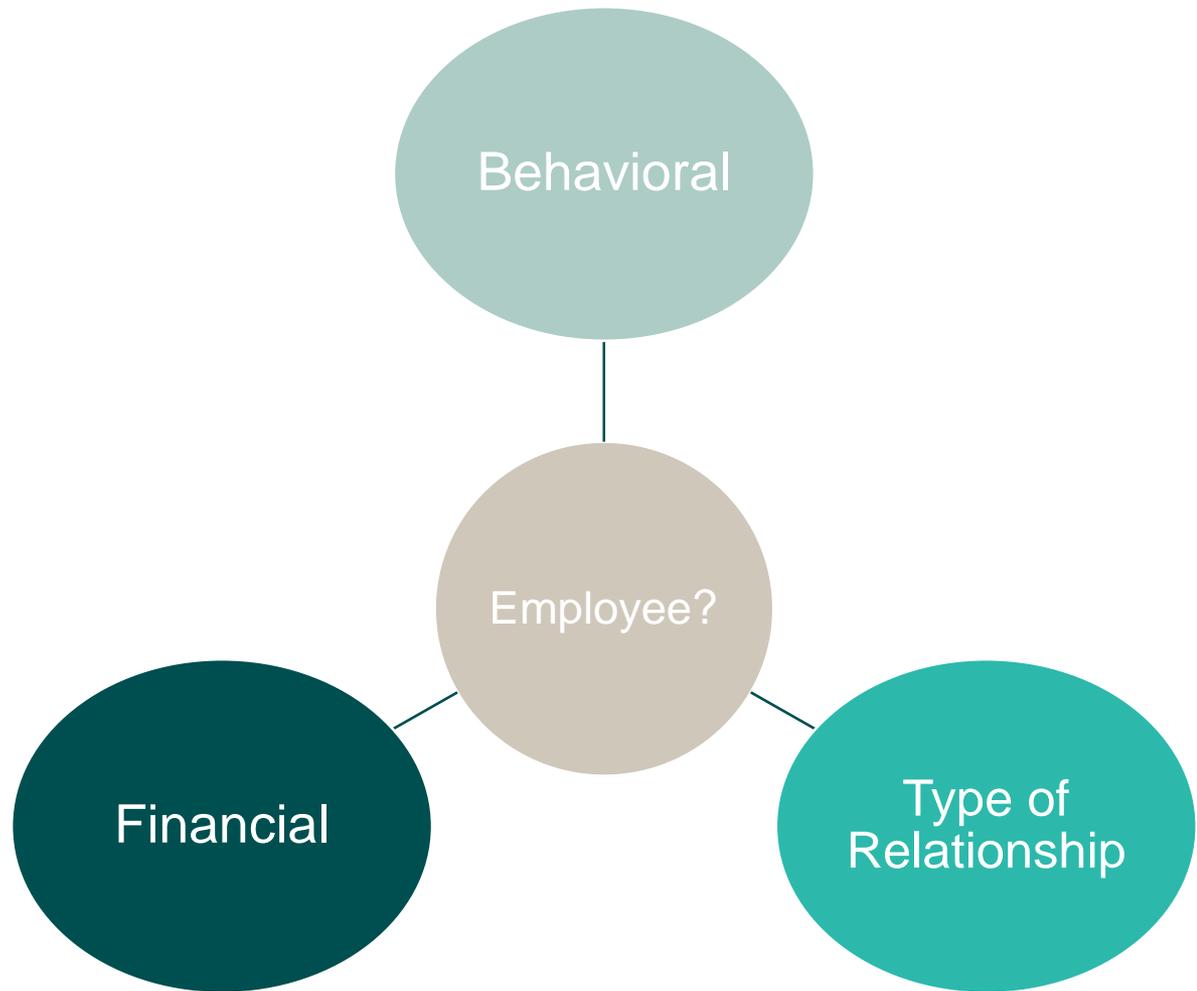


Independent Contractor vs. Employee





Independent Contractor vs. Employee



International Issues

U.S. citizen or U.S. national	Individuals born in the U.S., parent is a U.S. citizen, or is a naturalized citizen
Resident alien	1) A green card holder or 2) Meets the substantial presence test Treated as a U.S. citizen for tax withholding and reporting purposes
Nonresident alien	Generally here on a F, J, M or Q visa and does not meet the substantial presence test. Special reporting and withholding rules apply
Undocumented / illegal alien	Treated as a nonresident alien





International Employee & Student Payments

Forget everything we just talked about....nonresident aliens are different:

1. Wages are generally reported on Form 1042-S, NOT Form W-2.
2. Everything other than a qualified scholarship is reported on Form 1042-S
3. Wages and payments other than qualified scholarships are subject to special withholding rules based on the type of payment and treaty benefits:
 1. **DEFAULT WITHHOLDING RATE IS 30%**
 2. **14% RATE FOR TAXABLE SCHOLARSHIPS AND PAYMENTS RELATING TO TRAVEL OR ROOM AND BOARD**
4. Forms needed to qualify for reduced withholding or treaty benefits are W-8BEN or Form 8233. UI requires students to complete online immigration information (FNIS), in lieu of completing the above forms. The required forms are generated by the software based on answers provided by the student.
5. Nonresident students not studying in the US are not subject to withholding or reporting; foreign-sourced scholarships are not subject to US withholding or reporting



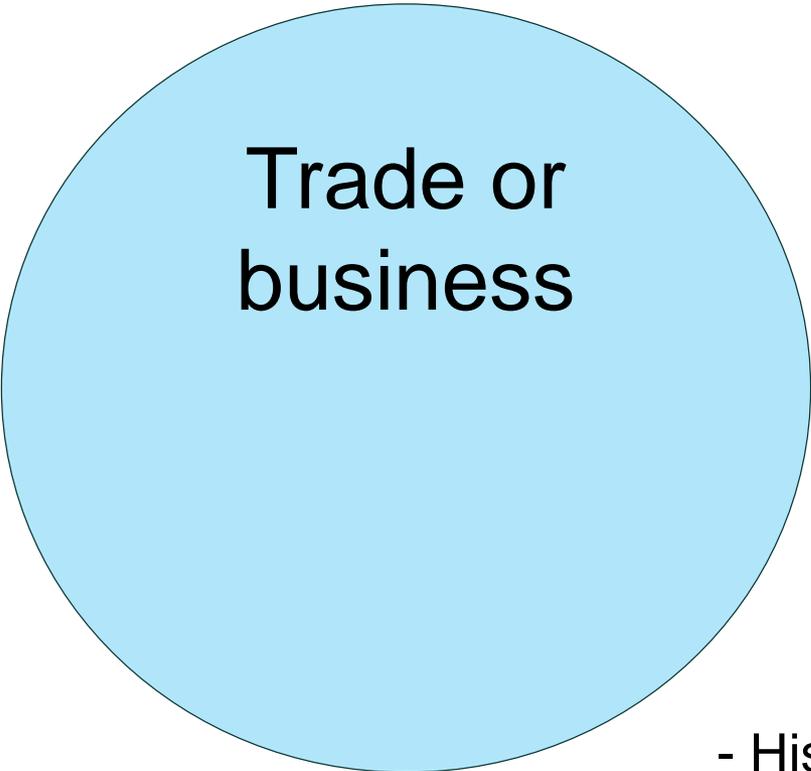
**Trade or
business**

**Regularly
carried on**

UBI

**Unrelated
to exempt
purpose**



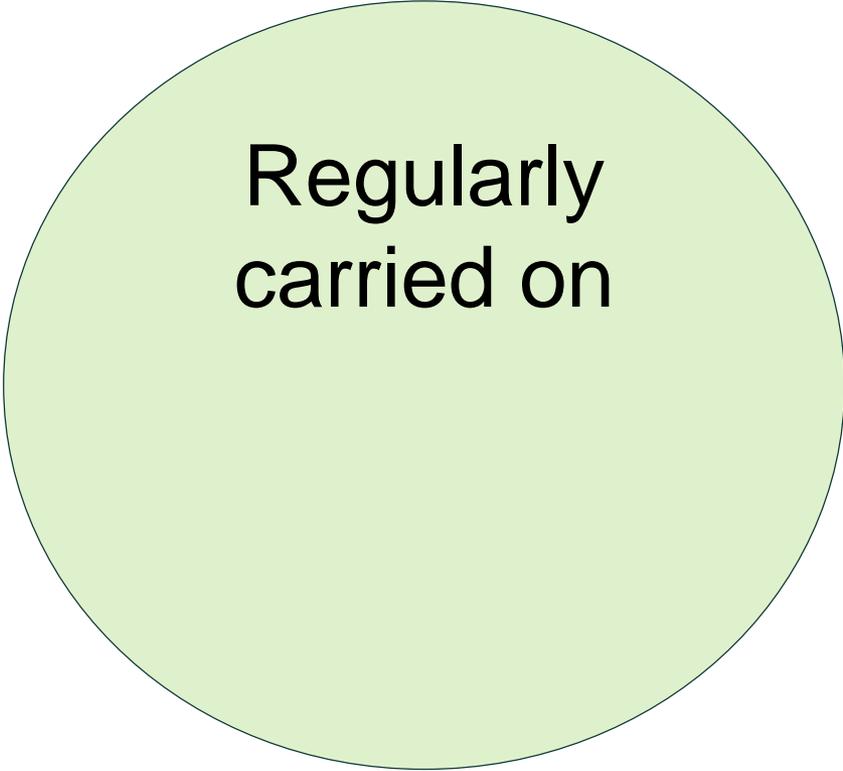


Trade or business

1. Profit motive
2. Loss activity that has evidence of a profit motive

- History of NOLs?
- Changes in manner of conducting the activity?
- Hobby loss rules
- Net position before depreciation & charitable contribution deduction



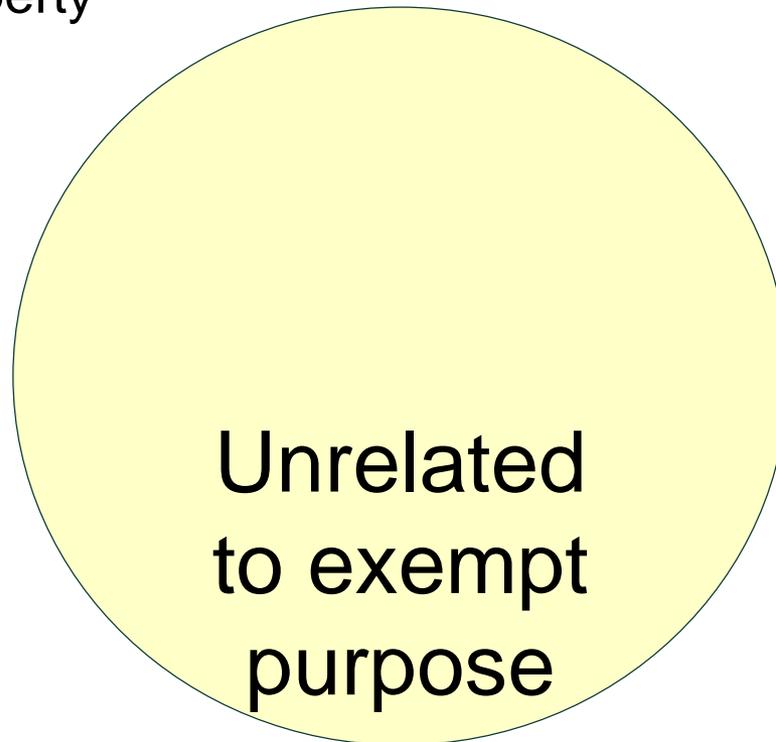


Regularly
carried on



- Frequency & continuity = not sporadic or infrequent
- Similar to commercial enterprises

- Does not contribute importantly to the exempt purpose
- No substantial causal relationship to the achievement of the exempt purpose
- Size and extent of the activities; exploitation of exempt activities
- Dual use property



Trade or
business

Regularly
carried on

UBI

Unrelated
to exempt
purpose





Key Exceptions & Exclusions



Real Property
Personal Property
Services

Interest
Dividends
Royalties
Gain on sales





Key Exceptions & Exclusions



Real Property
Personal Property
Services



Caution if there's
debt involved in the
acquisition or
improvement of the
property

Interest
Dividends
Royalties
Gain on sales





Key Exceptions & Exclusions



THRIFT SHOP



Key Exceptions & Exclusions

Sponsorships

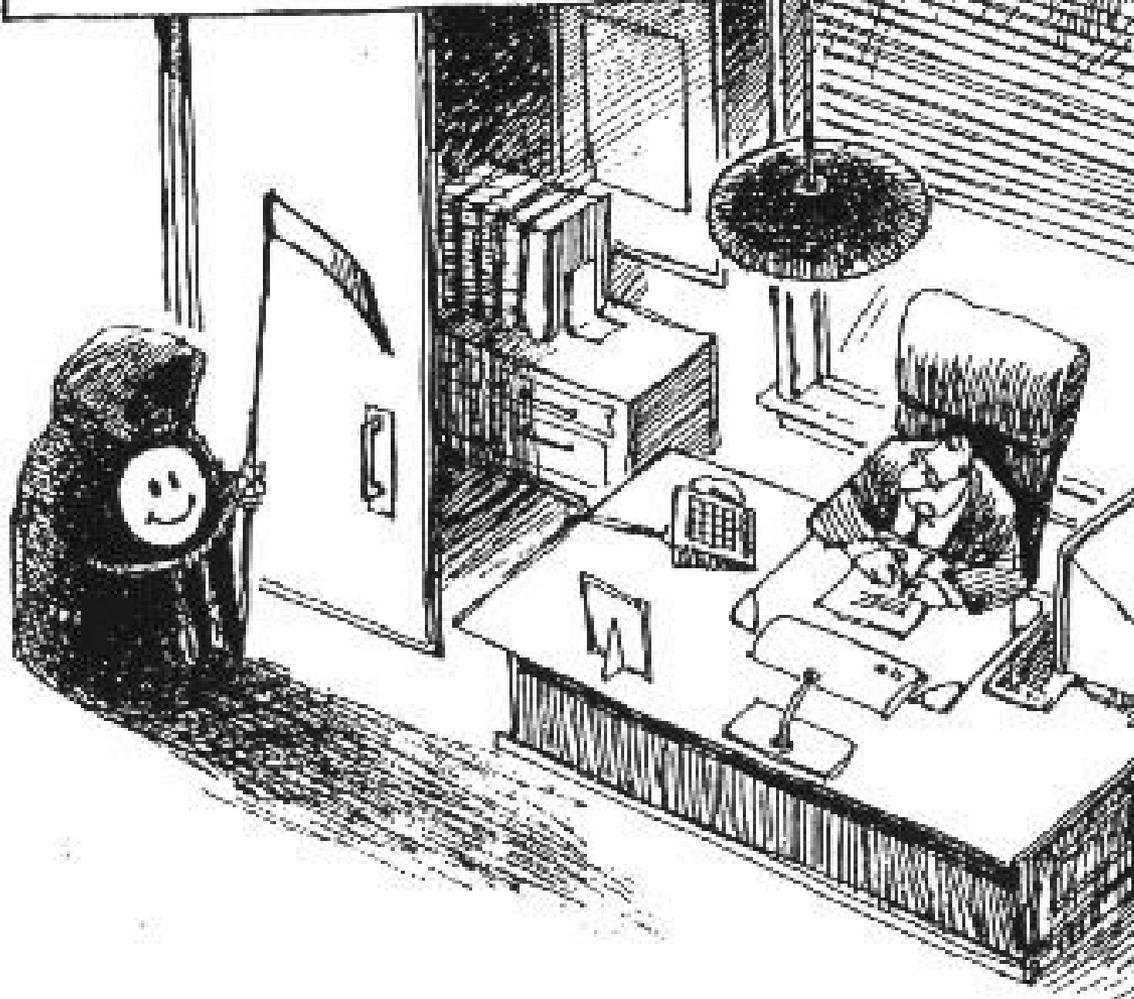


Public entertainment activities
& trade shows



Convenience exception

A GENTLE REMINDER FROM
THE ALL NEW, FRIENDLY I.R.S.



Questions?

UI Contacts

Questions about....

Contact....

- Spouse/family travel and other benefits
- Awards, prizes and employee recognition

- *Accounts Payable*
- *Payroll*
- *Controller*

- Student payments (including international)

- *Student Accounts*

- Independent contractor vs. employee

- *Human Resources*
- *Contracts & Purchasing*

- International employee payments

- *Human Resources*

- Unrelated business income (UBI)

- *General Accounting*

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