

§ 8005—Unrelated Business Income

34 Am Jur 2d

1. Regs. § 1.513-1(a)(4).
2. Rev. Rul. 37-313, CB 1957-2, 316.
3. Regs. § 1.513-1(a)(4).
4. Rev. Rul. 55-676, CB 1955-2, 266.
5. Regs. § 1.513-1(a)(4).
6. Rev. Rul. 55-489, CB 1955-2, 599.
7. Rev. Rul. 57-466, CB 1957-2, 311.
8. Rev. Rul. 58-492, CB 1958-2, 273.
9. Rev. Rul. 59-320, CB 1959-2, 133.
10. Rev. Rul. 60-80, CB 1960-1, 491.
11. Rev. Rul. 60-228, CB 1960-1, 200.
12. Rev. Rul. 62-191, CB 1962-2, 146.
13. Rev. Rul. 66-151, IRB 1966-22, 20.
14. Rev. Rul. 66-47, IRB 1966-9, 10.
15. Rev. Rul. 55-676, CB 1955-2, 266.
16. Rev. Rul. 58-482, CB 1958-2, 273.
17. Regs. § 1.513-1(a)(4).
18. Rev. Rul. 58-502, CB 1958-2, 271.
19. Mobile Arts and Sports Ass'n v. U.S., 148 F. Supp. 311.
20. Huron Clinic Foundation v. U.S., 212 F. Supp. rem'd on stip. 324 U.S. 43.

§ 8005. Unrelated business taxable income. Excludes income of trade or business not regularly carried on. The "unrelated business taxable income" of an otherwise exempt organization is comparable to the "taxable income" of a fully taxable organization.¹ Starting with the gross income and deductions of the unrelated trade or business, the computation of unrelated business taxable income is the same as the computation of taxable income subject to the additional exceptions, additions, and limitations hereafter explained. In the case of a foreign exempt organization only income (and related deductions) from U. S. sources is included in the computation.²

One of the principal exceptions is that only the gross income and deductions of an unrelated trade or business regularly carried on by the exempt organization are included in computing its unrelated business taxable income.³ A trade or business activity is regularly carried on if it is conducted with sufficient consistency to indicate a continuing purpose to derive some of the organization's income from that activity even though infrequent or seasonal.⁴ Casual sales of real property were held not to amount to a trade or business regularly carried on.⁵

1. Code Sec. 511.
2. Code Sec. 512(a).
3. Code Sec. 512(a).
4. Regs. § 1.513-1(a)(3).
5. Marian Foundation, T.C. Memo. 1960-18.

§ 8006. Research income excluded from unrelated business taxable income. Income from research activities and directly connected deductions are excluded from unrelated business taxable income in the following cases:

... Income derived by a college, university, or hospital from research performed by any person.¹

... Income derived from research performed for any person by an organization primarily carrying on fundamental research the results of which are freely available to the general pub-

lic.² Fundamental research doesn't include research carried on for the primary purpose of commercial or industrial application.³

... Income derived by any exempt organization from research performed for the U. S. or state or local governments.⁴

The regs state that excludable research doesn't include activities incident to commercial or industrial operations, such as ordinary inspection or testing of materials or products or the designing or construction of buildings, equipment, etc.⁵

1. Code Sec. 512(b)(8).
2. Code Sec. 512(b)(9).
3. Regs. § 1.512(b)-1(f)(4).
4. Code Sec. 512(b)(7).
5. Regs. § 1.512(b)-1(f)(4).

§ 8007. Income for labor or agricultural organization's retirement home or hospital. In the case of an exempt labor, agricultural or horticultural organization all income used to establish, maintain, or operate a retirement home, hospital or similar facility is excluded from unrelated business taxable income provided all of the following requirements are met:

... The facility is for the exclusive use and benefit of the members of the exempt organization.

... The income is derived from agricultural pursuits conducted on grounds contiguous to the facility.

... Such income doesn't provide more than 75% of the cost of maintaining and operating the facility.

... All deductions directly connected with such income must be excluded.¹

1. Code Sec. 512(b)(14).

§ 8008. Other income items excluded from unrelated business taxable income. The following items of income and all deductions directly connected with such income are excluded in computing unrelated business taxable income:

... Dividends, interest, and annuities.¹ This includes ordinary distributions by real estate investment trusts.² Capital gain distributions apparently also would be excluded from unrelated business taxable income under the rule excluding gains and losses from sales or exchanges.

... Royalties (including overriding royalties) whether based on production or on gross or taxable income from the property.³

... Rents from real property (including personal property leased with it) other than business lease rents and deductions.⁴

The Treasury holds that whether an item of income falls within one of the excluded