

810-3-32-.03. Unrelated Business Taxable Income.

(1) Any organization specified in subdivisions (1), (2), (3), (4), (5), (6), (7), (11), and (12) of subparagraph (a) of § 40-18-32 which receives "unrelated business taxable income" (as defined in 26 U.S.C. § 512) is not exempt from taxation on such income. Any organization which receives unrelated business taxable income must comply with the provisions of §§ 40-18-2, and -31, and file the appropriate income tax returns and pay any tax due.

(2) Except for organizations described in § 40-18-32(a)(5), the term "unrelated business taxable income" is defined as follows:

(a) The gross receipts from any "unrelated trade or business" regularly carried on by the organization, reduced by the expenses and deductions directly connected with the unrelated trade or business.

(b) The following amounts are excluded from unrelated business taxable income:

1. All dividends, interest, payments with respect to securities loans (as defined in 26 U.S.C. § 512(a)(5)), and annuities; together with all expenses and deductions directly connected with such income.

2. All royalties (including overriding royalties) whether measured by production or by gross or taxable income from the property; together with all expenses and deductions directly connected with such income.

3. All rents from real property, together with rents from personal property if the rents from such personal property are incidental to the rental of the real property. If more than 50% of the total rents received are attributable to the rental of the personal property or if the amount of rents to be received is dependent in whole or in part upon the income or profits derived by any person from such property (other than a fixed percentage or percentages of sales or receipts); then such rents shall not be excluded from unrelated business taxable income. If any rents are excluded from unrelated business taxable income, then any expenses or deductions directly connected with such income shall also be excluded.

4. In the case of debt-financed property (as defined in 26 U.S.C. § 514), unrelated business taxable income will include the amount ascertained under 26 U.S.C. § 514(a)(1) less the deductions allowed by 26 U.S.C. § 514(a)(2).

5. All gains or losses from the sale, exchange or other disposition of property, other than stock in trade or property held primarily for sale to customers in the ordinary course of the trade or business, together with all expenses and deductions directly connected with such income.

6. The net operating loss deduction allowed by § 40-18-35.1.

7. Income derived from research performed for the United States government, or any of its agencies or instrumentalities, and any state or political subdivision thereof; together with all expenses and deductions directly connected with such income.

8. In the case of a college, university or hospital, all income from research performed for any person, together with all expenses and deductions directly connected with such income.

9. In the case of organizations operated primarily for the purpose of carrying on research, the results of which are freely available to the general public, all income derived from research performed for any person, together with all expenses and deductions directly connected with such income.

10. In the case of any organization subject to tax on its unrelated business taxable income under § 40-18-32, there will be allowed a deduction for charitable contributions as provided in § 40-18-35, but not in excess of 10% of the unrelated business taxable income computed without regard to this subdivision.

11. In the case of a trust described in 26 U.S.C. § 511(b), the deduction allowed for contributions (whether or not directly connected with the carrying on of a trade or business) shall be allowed, and any distribution made to a beneficiary described in 26 U.S.C. § 170 shall be considered to be a contribution. The deduction shall not exceed 10% of the unrelated business taxable income computed without regard to the deduction allowed by this subdivision.

12. Except from the purposes of computing the net operating loss deduction for section 6. above, there shall be allowed a specific deduction of \$1,000.00. In the case of a diocese, province of a religious order, or a convention or association of churches, there shall also be allowed with respect to each parish, individual church, district or other local unit, a specific deduction of \$1,000.00 or the gross income derived from any unrelated trade or business regularly carried on by such local unit, whichever is the lesser.

13. [RESERVED].

14. [RESERVED].

(c) 1. In the case of an organization described in § 40-18-32(a)(5), the term "unrelated business taxable income" means the gross income (excluding any exempt function income) less the deductions and expenses directly

connected with such income and with the deductions specified in sections 6., 10., 11. and 12. of subparagraph (b) above.

2. The term "exempt function income" means the gross income from dues, fees, charges, or similar amounts paid by members of the organization as consideration for providing such members or their dependents or guests goods, facilities, or services in furtherance of the purposes constituting the basis of the exemption of the organization to which such income is paid. Exempt function income also includes all income set aside by the organization for the benefit of an organization described in § 40-18-32(a)(2), if such contribution is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(d) An organization which receives "unrelated business taxable income" from sources within and without Alabama shall determine the amount of such income attributable to Alabama by using the apportionment and allocation rules of Reg. 810-3-31-.02.

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