

Unrelated Business Income – Corporate Sponsorships

August 4, 2014

Purpose and Introduction

The purpose of this TMOG is to provide an overview of the tax law relating to corporate sponsorship payments made to the University of Minnesota (University). University departments selling corporate sponsorships should work with the Office of General Counsel to make sure a Sponsorship Agreement is being used in all such arrangements. The Tax Management Office should be contacted so appropriate analysis and planning can be done with regards to any potential tax and reporting requirements.

A corporate sponsorship payment represents a payment made by a business to the University in return for which the company receives some mention or acknowledgement of its product or services. A corporate sponsorship payment can be either qualified or nonqualified. A *qualified sponsorship payment* does not create unrelated business income. A *nonqualified sponsorship payment* must be further evaluated to determine whether it creates unrelated business income.

Qualified Sponsorship Payments

A qualified sponsorship payment is one that is made to the University where the business making the payment receives no “*substantial return benefit*” other than:

1. The *use or acknowledgement* of the business’s name or logo in connection with the University’s activities, or
2. Certain goods or services that have an “*insubstantial value*” under existing IRS guidelines.

Use or acknowledgement of the name, logo or product lines of the sponsor is not a substantial return benefit.

Permissible use or acknowledgement includes:

- Logos and slogans that do not contain qualitative or comparative descriptions (unless it is an established part of the sponsor’s identity)
- Providing information about the sponsor’s locations, telephone numbers or internet address
- Value-neutral descriptions, including displays and visual depictions, of the sponsor’s product line or services
- The sponsor’s brand or trade names and product or service listings. The sponsors products may be displayed or distributed by the sponsor and not be considered to be an inducement to purchase or sell.

AUGUST 4, 2014

Insubstantial value exists when the aggregate fair market value of all the benefits provided to the sponsor is not more than 2% of the sponsor's payment. Examples may include complimentary tickets, pro-am playing spots, receptions for donors, or other low cost items such as key chains and posters.

Nonqualified Sponsorship Payments

A *nonqualified sponsorship payment* is one that is made to the University where the business making the payment receives *substantial return benefits* including:

- Advertising: any message or material which promotes or markets any trade or business, service, facility or product. It includes comparative descriptions of the sponsor's products or services, price information, endorsements, or any inducement to purchase, sell or use a product, service or facility. For more information on Advertising, see TMOG #3.
- When a single message contains both an acknowledgement and advertising, the entire message will be treated as advertising.
- Payments contingent on levels of attendance at an event, broadcast ratings, or other factors linked to the degree of public exposure. (Though a payment may be contingent on the event taking place.)
- Certain exclusivity arrangements. (see below)
- Licenses to use intangible assets (e.g., trademark, patent, logo or designation) of the University.
- Goods, facilities, services or other privileges provided

Exclusivity arrangements

These arrangements are divided into two different categories: exclusive sponsor arrangements and exclusive provider arrangements.

An *exclusive sponsor arrangement* is one in which a company sponsors an event and the University agrees that the company will be the exclusive sponsor. The IRS says that this type of exclusive arrangement, in and of itself, will not be regarded as a substantial return benefit.

An *exclusive provider arrangement* includes an arrangement that limits the sale, distribution, availability or use of competing products, services or facilities in connection with the University's activity. These types of arrangements will generally be regarded as a substantial return benefit.

University Analysis - Unrelated Business Income

The University first has the burden of determining the fair market value of any return benefits provided to the sponsor. Only the portion, if any, of the payment that exceeds the fair market value of the substantial return benefit will be deemed a qualified sponsorship payment. The remaining amount is deemed a nonqualified sponsorship payment and must be further analyzed by the Tax Management Office to determine if it results in unrelated business income.