

UNRELATED BUSINESS INCOME (UBI)

Client Name(s): _____
(Hereinafter referred to as "Client")

Tax Practitioner: Monica Haven, E.A.
(Hereinafter referred to as "EA")

When funds within a taxpayer's qualified retirement account are invested in a limited partnership, the partnership reports the account's allocable share of the partnership's income and expense activity on a partnership return (Form 1065) and Schedule K-1. **NOTE:** The term "retirement account" herein includes traditional IRAs, SEP-IRAs, SIMPLE IRAs, and Roth IRAs.

It has come to EA's attention that Client has a retirement account that is invested in one or more such partnerships. Income from this investment is not reportable on Client's individual income tax return (Form 1040) because the income was generated within a retirement account. Nevertheless, such income may be considered under the Internal Revenue Code to be unrelated business income (UBI), which is in fact taxable.

When cumulative UBI in a tax year exceeds \$1,000 for a particular retirement plan, a business tax return for an exempt organization (Form 990-T) must be filed to report the UBI and calculate the tax. Even if UBI nets to a loss, Form 990-T should be filed to ensure that any allowable loss can be carried back to earlier or forward to future tax years.

Tax rates for UBI are the same as those applied to trusts; graduated tax rates may be as high at 39.6% (in 2017) or 37% (in 2018). Any resulting tax must be paid directly from the retirement account. Failure to pay the tax with retirement account assets may result in a prohibited transaction, which in turn may cause the retirement account to be disqualified. At worst, the entire balance of the retirement account may be deemed to have been distributed in a lump-sum which is fully taxable.

Retirement account trustees are required to prepare Form 990-T. However, if the trustee does not fulfill his obligation, the tax form must be prepared by someone else to ensure that the retirement account is not disqualified. To avoid complications, EA strongly urges Client to immediately contact the trustee to discuss the Form 990-T filing requirement. If the trustee of Client's retirement account does not prepare the requisite form and provide Client with a copy, EA suggests that Client seek legal counsel to protect the qualified account. **NOTE:** Since EA is not the IRA trustee, EA will not prepare Form 990-T on Client's behalf.

Client's signature [below] confirms receipt of this notice and understanding that it is the Client's responsibility to ensure that all requisite filings are timely submitted.

Client Signature: _____	Date: _____
Print Client's Name: _____	
Spouse Signature: _____	Date: _____
Print Spouse's Name: _____	

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