

400.6 Rental Income

The rules covering rents received vary depending on whether they are derived from real or personal property or from a mixed lease of both real and personal property.

Real Property

Rents from real property are excluded from taxable income, if

- the property is not debt financed;
- additional services are not rendered; and
- payments are not dependent on a percentage of profits.

Amounts received by the University do not qualify as excludable rents if the University provides services for the convenience of the renter. Services are considered rendered to the renter if they are primarily for his or her convenience and are other than those usually rendered in connection with the rental of rooms or other space for occupancy only. Services usually rendered include cleaning of public spaces, providing utilities, and maintenance services.

Rents dependent on profits or income derived by the University from real property do not qualify for the exclusion unless they are based on a fixed percentage of gross receipts or sales. Rents based on a percentage of net profits are taxable.

Rents received from students for on-campus housing are excluded as related to the exempt purpose of the University, if the housing is provided primarily for the convenience of students. However, if residence hall space is rented to third parties for the conduct of camps or conferences, this revenue may be considered UBTI. The greater the participation of the university in such camps (i.e., university used its own personnel to conduct the camp) and the stronger the link to the educational mission of the university, the less likely the revenue will be considered unrelated. Providing services in addition to the rental may also cause taxable treatment.

Personal Property

Rents from personal property are excluded only if there is a mixed lease and the rents attributable to the personal property are an “incidental” part of the total rents received under the lease. The following rules apply to personal property rents:

- 10% or less is considered incidental and not subject to tax;
- 11-50% is considered taxable in proportion to the percent of personal property rents to the total rents; and
- 51% or more is considered 100% taxable

Example: The University rents a campus meeting space to an outside entity and charges \$800 rent for the day. The room rental agreement includes the use of a projection system, which normally rents for \$300/day. The portion of the rental attributable to personal property (37.5%) is not excluded from UBTI.