



Unrelated Business Income & Community Health Centers **Kentucky Primary Care Association**

June 24, 2026

Agenda

1. What is Unrelated Business Income
2. Exclusions
3. UBI Siloing
4. Expense Allocations
5. Net Operating Losses / Charitable Contribution Deductions and Carryforwards
6. Common Sources of Unrelated Business Income
7. Questions



01

What is Unrelated Business Income



Unrelated Business Income & Community Health Centers

What is Unrelated Business Income

Defined

Purpose of unrelated business income tax: Even tax-exempt organizations must pay taxes on income from activities outside their charitable purpose. This policy was introduced to prevent nonprofits from having an unfair competitive advantage over for-profit businesses by engaging in commercial enterprises tax-free.

Unrelated business income is taxed at the corporate tax rate (currently 21%).

Unrelated business income is reported on IRS Form 990-T (Exempt Organization Business Income Tax Return).

Unrelated business income ("UBI") is income from an activity that **meets all three** of the following criteria:

Trade or Business – The activity is conducted for the production of income (selling goods or services in a commercial manner).

(This aligns with the general tax definition of a business activity undertaken for profit.)

Regularly Carried On – The activity is conducted with frequency and continuity similar to comparable activities of for-profit businesses.

(Occasional or seasonal activities might not count as "regularly" carried on – e.g. a one-time annual fundraiser is typically not considered regular, whereas running a year-round café would be.)

Not Substantially Related – The activity is not substantially related to the organization's exempt purpose, other than generating funds. In other words, the activity doesn't contribute importantly to the charitable mission, even if the profits are used to support the mission.

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What is Unrelated Business Income

Defined

How much UBI is too much?

To qualify as a tax-exempt entity described in Section 501(c)(3), an organization must be organized and operated exclusively for exempt purposes.

The Section 501(c)(3) regulations regard an organization as operated exclusively for one or more exempt purposes only if it engages **primarily** in activities that accomplish those purposes.

The regulations state that an organization “will not be so regarded if more than an **insubstantial part** of its activities is not in furtherance of an exempt purpose.”

There is no bright-line, statutory percentage of UBI that is "too much" for an organization, but court rulings suggest that once UBI exceeds 15% to 20% of total revenue, an organization risks losing its tax-exempt status.

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Exclusions



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Exclusions

Types of Income Excluded from UBI

Not all revenue that a nonprofit earns from outside activities is taxable. The tax law provides specific exclusions and exceptions for certain types of income and activities:

- **Passive Investment Income**

- Dividends
- Interest
- Royalties
- Capital Gains
- Rental Income - *Real Property* (Real property rental income is generally excluded if the property is not debt-financed and no substantial services are provided to the renter. More detail on rental income and UBI is presented later.)

- **Volunteer-Driven Activities**

- Any trade or business where substantially all the work is performed by unpaid volunteers is exempt from UBI.
- Example: A fundraising event staffed entirely by volunteers would not produce UBI.

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Exclusions

Types of Income Excluded from UBI

Not all revenue that a nonprofit earns from outside activities is taxable. The tax law provides specific exclusions and exceptions for certain types of income and activities:

- **Convenience of Members/Patients/Employees**

- Activities carried out primarily for the convenience of an organization's members, patients, students or employees are excluded from UBI.
- Example: An organization's cafeteria or pharmacy that sells to its own patients or staff at the facility is typically for their convenience and related to operations, hence not UBI. However, sales to the general public are not included in this exception.

- **Sales of Donated Merchandise**

- Revenue where "substantially all" (approximately 85% or more) of the merchandise sold was received as gifts or contributions.
- Example: Proceeds from a thrift store run by the organization, substantially all of goods were donated, are not UBI.

- **Qualified Sponsorships**

- Payments from sponsors in which the sponsor receives only token recognition (and no substantial promotional benefit) are treated as tax-exempt sponsorships, not advertising income.
- By contrast, advertising revenue – where a sponsor or advertiser gets promotional value – is taxable UBI.
- An organization's fundraiser program can acknowledge sponsors, but if it sells ad space or endorsements, that crosses into UBI. *More detail on advertising income and UBI is presented later.)*

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UBI Siloing



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UBI Siloing

“Silo” Rules

Separate Reporting of Each Unrelated Business

Under IRC §512(a)(6), if a tax-exempt organization operates more than one unrelated trade or business, it must calculate and report the unrelated business taxable income (“UBTI”) for each trade or business separately.

An organization cannot use a loss from one unrelated activity to offset income from another when determining taxable UBI. In practice, the total UBI reported on Form 990-T is the sum of the net income (but not net losses) of each separate unrelated business. Any business that has a net loss simply reports zero taxable income for the year. *More detail on net operating loss carryforwards will be presented later.*

Identifying Separate Trades or Businesses

The regulations adopted a classification approach using NAICS 2-digit codes. Each unrelated activity should be classified by a NAICS category that best fits its business nature (using the first two digits of the NAICS code). Activities that fall under the same 2-digit industry groups are grouped in the same “silo”.

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UBI Siloing

Silo” Rules

Investment and Partnership Activities

The regulations provide that certain investment activities can be treated as one combined silo. Specifically, “Qualifying partnership interests” (QPI) – generally, partnership investments where the exempt organization **owns no more than 20% and has no controlling** role – may all be aggregated into a single separate business category for UBI reporting.

If an organization holds minority stakes in several LLCs (partnerships) that run various businesses, the organization can treat all those passive investments as one combined unrelated business for reporting purposes (assuming each meets the QPI thresholds).

On the other hand, if the organization has a larger partnership interest that exceeds 20% or where it does participate in control, that partnership’s activities must be reported as a separate silo (using the look-through NAICS code for the partnership’s trade).

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UBI Siloing

Silo” Rules

Example

Sunrise Community Health Center runs two unrelated commercial activities:

- a. a café open to the public, and
- b. a contract with a physician practice to provide billing services (not substantially related to its charity care mission).

Under the silo rules, Sunrise must compute UBI for the café and the billing services separately. If in 2025 the café generates a profit of \$15,000 (after direct expenses) and the billing service incurs a loss of \$5,000, Sunrise would still owe UBIT on the \$15,000 from the café. The \$5,000 loss from the billing service cannot offset the café’s income. Instead, that \$5,000 becomes a net operating loss carryforward within the billing service silo. On Form 990-T, Sunrise would attach two Schedules A and report \$15,000 of taxable UBI (the \$5k loss is preserved for later use by that same activity). Prior to the 2018 law change, Sunrise could have netted them to \$10,000 taxable – but siloing rules eliminate that benefit.

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Expense Allocations



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Expense Allocations

Permissible Expense Allocations for UBI Activities

When calculating unrelated business taxable income, an organization can deduct expenses that are “directly connected” with carrying on the unrelated trade or business. Proper expense allocation is critical.

Direct Expenses: Expenses solely attributable to the unrelated business are fully deductible against that income. For example, if an organization operates a shop unrelated to its health mission, the salary of the shop’s dedicated staff and the cost of goods sold in the shop are directly connected expenses that reduce UBI.

Dual-Use Resources: When facilities or personnel are used for both exempt activities and unrelated business, expenses must be allocated between the two uses on a **“reasonable basis.”** The IRS permits any reasonable method of allocation, as long as it accurately reflects the shared use.

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Expense Allocations

Permissible Expense Allocations for UBI Activities

When allocating dual-use resources, organizations often use methods such as:

Ratio of revenue (“gross-to-gross”): Allocate costs based on the proportion of unrelated business revenue to total revenue. (E.g., if 20% of an organization’s total revenue is from UBI activities, it might allocate 20% of certain overhead expenses to UBI.)

This allocation method is not reasonable if the cost of providing a good or service is essentially the same in a related and an unrelated activity but the price charged in the unrelated activity is greater and no adjustment was made to equalize the price differences in allocating indirect expenses.

Time/effort percentages: Allocate staff costs or facility costs based on how much time is spent on the unrelated activity. (E.g., if a staff member spends 10% of their hours running an unrelated business program, 10% of their salary can be allocated to that program’s expenses.)

Usage measures: Allocate expenses like utilities or depreciation based on usage of space/equipment. (E.g., if a conference room is rented out for unrelated purposes 50 days a year out of 250 working days (20%), allocate 20% of the room’s maintenance cost to the unrelated rental activity.)

Documentation: It’s important to document the allocation rationale. The IRS may scrutinize how an organization splits expenses between exempt and unrelated activities. A defensible methodology (consistent and reasonable) and records to support it (e.g. time sheets, logs of facility use, cost accounting records) will help substantiate the deductions if audited.

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Net Operating Losses / Charitable
Contribution Deductions and
Carryforwards



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Net Operating Losses

General

Definition: A net operating loss (“NOL”) for an exempt organization’s unrelated business arises when the allowable deductions for a given unrelated trade or business exceed its gross income for that activity in a tax year. In simpler terms, if one of your unrelated business silos operates at a loss, that loss is an NOL.

Pre-2018 vs Post-2017 NOL Rules: The rules for carrying forward and using these NOLs changed under the Tax Cuts and Jobs Act.

Old Rule (Pre-2018 NOLs)

- Before the siloing law, an organization calculated UBIT in aggregate, so any NOL that arose could be used against any future unrelated business income (no matter which activity generated it).
- Pre-2018 NOLs can be carried forward up to 20 years.
- Pre-2018 NOLs can be used without regard to silos.
- Pre-2018 NOLs can be applied against total UBTI (aggregated) and are **utilized first before any post-2017 NOLs**.

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Net Operating Losses

General

New Silo-Specific NOLs (Post-2017)

- For NOLs arising in tax years 2018 and later, IRC §512(a)(6) requires that the loss only offsets income from the same unrelated business in future years. You effectively track a separate NOL pool for each silo. This silo restriction prevents cross-subsidizing between activities; each must stand on its own for tax purposes.
 - For example, if an organization's gift shop (an unrelated business) incurs a \$10,000 loss in 2025, that \$10,000 NOL can be carried forward to offset future profits of the gift shop activity – but cannot be used to offset income from a different activity, like the pharmacy or lab services, in 2026.
- No Expiration of NOLs (Indefinite Carryforward). The 20-year expiration for NOLs was eliminated for Post-2017 NOLs.
- 80% Limitation on NOL Usage: NOL deduction is limited to 80% of taxable income (for the year the NOL is used). This rule, which aligns with corporate tax NOL limitations, means that even if a silo has large carryforward losses, in a year it becomes profitable it cannot reduce its taxable UBI to zero if the profit is significant. It can only offset up to 80% of that year's income with its NOL; the remaining 20% of income is still taxable (and any leftover NOL carries forward further).

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Charitable Contribution Deductions and Carryforwards

General

Even though 501(c)(3) organizations are themselves charitable entities, they sometimes make charitable contributions (for example, to another nonprofit or community cause). The tax law allows a charitable contribution deduction against UBI, under certain conditions, which mirrors the rules for taxable corporations.

Deduction Allowed up to 10% of UBTI

- An organization that owes tax on UBI can claim a deduction for charitable contributions made to other qualified charities during the tax year.
- The deduction is limited to 10% of the organization's UBTI computed before the contribution deduction (and before the \$1,000 specific deduction). This 10% limit is analogous to the limit that applies to C-corporations. In practice, on Form 990-T, an exempt corporation will calculate its total UBTI (summing up the positive amounts from each silo, as required by the silo rules), then it can deduct any cash or property donations it made to other charities, up to 10% of that pre-deduction UBTI amount.

5-Year Carryforward for Excess Contributions

- If the organization's charitable contributions exceed the 10% of UBTI limit for the year, the excess amount can be carried forward for up to five subsequent years.
- The carryforward amounts are used on a first-in, first-out basis and still respect the 10% limitation in the carryforward years. Any carryforward that isn't used within five years expires

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Charitable Contribution Deductions and Carryforwards

General

No Silo Restriction on Contributions

- Unlike NOLs, charitable contributions are not silo-specific. The 10% limit is applied to the organization's total UBTI (after adding up all silos) and the deduction is taken in one lump sum against that total.

Contributions Must Be to Other Organizations

- The contribution has to be made to another qualified organization to be deductible.
- An organization cannot deduct the cost of its own free care or program services as a “contribution” for UBIT purposes (those are program expenses, not charitable gifts).

Contributions and NOLs Interaction

- The law prevents a double tax benefit from contributions generating or increasing an NOL.
- In calculating an NOL from UBIT activities, you cannot use a charitable contribution deduction to create or enlarge an NOL.
- If your organization's UBI deductions (excluding contributions) already equal or exceed UBI income (resulting in zero or negative taxable income), you won't get any current-year benefit from additionally claiming a charitable contribution deduction – and any such “excess” contribution in that scenario can only go to the 5-year carryforward, not into the NOL.
- Charitable deductions apply only against positive taxable income.

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Charitable Contribution Deductions and Carryforwards

OBBB Changes

1% Floor on Charitable Contributions

- 1% floor for tax years beginning after December 31, 2025. The organization can only deduct charitable contributions for amounts that exceed 1% of their taxable income.
- If contributions are less than 1% of the contribution base, no deduction.
- If contributions are between 1% & 10%, deduction is actual contributions less 1% of contribution base.
- If contributions exceed 10% of contribution base, current year deduction is 9%.
- If contributions exceed the 10% ceiling, the excess can be carried forward for up to 5 tax years, applied on a first-in, first-out basis.

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Common Sources of Unrelated Business Income



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Common Sources of Unrelated Business Income

Patient vs Non-Patient

The IRS uses a narrow, longstanding definition of “patient” (originating from Revenue Ruling 68-376 in 1968) to determine whether income from healthcare services is related to an organization’s mission. If services are provided to individuals who do not meet this “patient” definition, the income is generally treated as UBI.

The tax code doesn’t explicitly define “patient,” but IRS guidance from 1968 (Rev. Rul. 68-376) provides examples of who counts as a “patient” of a healthcare organization for UBI purposes. Under that ruling, a person is considered a patient of the healthcare organization if, for example, they are:

- Admitted to as an inpatient.
- Receiving treatment at the healthcare organization’s outpatient facilities
- Directly referred to the healthcare organization for specific procedures by their physician (and the procedure is done by the healthcare organization’s staff as part of healthcare organization’s services).
- Refilling a prescription from a healthcare organization visit at the healthcare organization’s pharmacy (the prescription having been issued during a healthcare organization treatment).
- Getting home care services from the healthcare organization (healthcare organization staff providing care in the patient’s home as an extension of healthcare organization’s services).

If a patient relationship exists, then providing services or goods to that individual is considered “for the convenience of the healthcare organization’s patients” (falling under an exception in the UBI rules, IRC §513(a)(2)) and is treated as related to the organization’s exempt purpose.

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Common Sources of Unrelated Business Income

Pharmacy Sales to Non-Patients

Many CHCs operate on-site pharmacies for their patients. If a CHC's pharmacy begins selling prescription drugs to the general public or individuals who are **not patients** of the health center, the income from those sales is likely unrelated business income.

The IRS treats providing medicine to your own patients as related to healthcare, but sales to “nonpatients” are a commercial activity outside the CHC's charitable scope.

Prescriptions filled or refilled for patients are fine, but selling to walk-in customers who are not patients would be UBI.

Unrelated Business Income & Community Health Centers

Common Sources of Unrelated Business Income

Lab or Diagnostic Services for Outside Entities

If a CHC's laboratory (or imaging department) performs tests and analyses for clients other than the CHC's own patients – for example, a contract to process lab tests for local employers or for individuals without seeing a CHC provider – that revenue could be UBI (it's a commercial lab service, not part of the CHC's charitable patient care). The same principle applies to any clinical services offered beyond the CHC's primary service population.

Unrelated Business Income & Community Health Centers

Common Sources of Unrelated Business Income

Fitness Center Open to Public

Some health centers operate fitness facilities. If these facilities are open to the general public for a fee (and not just for the CHC's patients or community health outreach), they risk classification as unrelated trades. Example: A CHC runs a gym on-site intended for patient rehabilitation and employee health. If they start selling gym memberships to the public, those fees would likely be UBI, since general gym services aren't part of the CHC's charitable purpose.

Unrelated Business Income & Community Health Centers

Common Sources of Unrelated Business Income

Management or Consulting Services

A CHC might have expertise in administration or billing and could be asked to provide management services (e.g., back-office support, IT, billing services) to another clinic or an unrelated organization for a fee. Income from such contract services is not related to the CHC's health mission and would typically be UBI. (This has been a pitfall for some nonprofits that monetize their know-how; unless the client base or purpose relates to your mission, it's taxable.)

Unrelated Business Income & Community Health Centers

Common Sources of Unrelated Business Income

Joint Ventures / Partnership Income

If a CHC participates in a joint venture that operates a business (for instance, partnering with a for-profit to run an urgent care center or pharmacy), the CHC's share of earnings can be UBI if the venture's activities don't substantially further its exempt purpose. Many healthcare organizations invest in partnerships or LLCs (e.g., imaging centers, specialty clinics); revenue from those investments often comes through as UBI on a K-1, especially if the partnership carries on a business unrelated to the CHC's charitable programs.

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Common Sources of Unrelated Business Income

Debt-Financed Rental of Facility Space

Renting out unused space can be an attractive revenue stream. As noted earlier, rent from real property is generally excluded from UBI, but if a CHC financed the property with a mortgage or bond, a portion of the rental income becomes taxable as unrelated debt-financed income under IRS rules. Example: A CHC leases half of its building to a retail pharmacy (a separate for-profit company). If the building was funded with tax-exempt bonds or a mortgage, the rent must be prorated and a percentage equivalent to the financing is treated as UBI (per IRC §514 debt-financed income rules).

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Common Sources of Unrelated Business Income

Rental Including Personal Property or Services

What is a Mixed Lease? A “mixed lease” refers to a rental agreement that includes both: Real property (e.g., land, buildings, rooms), and Personal property (e.g., furniture, equipment, A/V systems, medical devices). Under IRC §512(b)(3), rent from real property is generally excluded from UBI. However, when personal property is leased alongside real property, the IRS applies a percentage-based test to determine whether the rental income remains excludable.

The IRS uses a three-tiered test to determine how much of the rental income is excludable:

Personal Property Portion of Rent / UBI Treatment

- $\leq 10\%$ of total rent / Entire rent is excluded from UBI.
- $>10\%$ but $\leq 50\%$ / Only the portion attributable to real property is excluded; the rest is UBI.
- $>50\%$ / None of the rent is excluded; entire amount is UBI.

These thresholds are applied based on the fair rental value of the personal property relative to the total rent under the lease, as determined at the time the personal property is first placed in service.

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Common Sources of Unrelated Business Income

Rental Including Personal Property or Services

Rental income loses its UBI exclusion when an exempt organization goes beyond acting as a passive landlord and starts providing substantial services to the occupant. According to Treas. Reg. §1.512(b)-1(c)(5), payments for use of space “where services are also rendered to the occupant” do not count as rent from real property.

The regulation offers examples: operating “rooms in hotels, boarding houses, or apartment houses furnishing hotel services” or running “parking lots or warehouses” are considered active businesses, not passive rentals. The litmus test is whether services are rendered “for the occupant’s convenience” and not those usually provided in a mere rental.

Unrelated Business Income & Community Health Centers

Common Sources of Unrelated Business Income

Rental Including Personal Property or Services

Impermissible (Occupant Convenience) Services: Services that cross the line include things like:

- Housekeeping/Maid Services: Cleaning inside the rented room or space during the rental period (beyond basic end-of-event cleanup).
- Catering or Food Service: Providing meals, refreshments, or dining services to event attendees.
- Audio/Visual Support: Supplying and operating A/V equipment, technical support staff, or IT services for the event.
- Event Staffing or Coordination: Providing personnel to manage registration, security, entertainment, or other event logistics on behalf of the renter.
- Specialized Facility Services: For example, for a sports facility rental – maintaining the playing field during the event, providing locker room attendants or towel/linen service, or handling crowd control for the renter.

Such services are mainly for the convenience or benefit of the renting party and their guests, effectively turning the arrangement into a service business rather than a simple property lease. The IRS notes that even running a parking garage or a storage facility typically involves providing security and customer services, thus parking fees and storage income are usually UBI rather than excludable rent (unless the operation is structured as a true lease of space to another operator).

Unrelated Business Income & Community Health Centers

Common Sources of Unrelated Business Income

Advertising or Sponsorship Revenue

If the health center publishes a community health newsletter or runs events and sells advertising space or advertising messages (as opposed to passive donor acknowledgments), that advertising income is UBI (common to all nonprofits). For instance, an advert online or in a brochure paid for by a local business is unrelated business income. The CHC would want to structure such arrangements as qualified sponsorships if possible (to fall under the exception mentioned earlier).

Advertising

- Any message or material that promotes or markets a trade or business, or its products or services.
- Includes typical commercial advertising activities such as:
 - Promotional messages with qualitative or comparative language – e.g., calling a product “the healthiest choice” or “best in town.”
 - Price information or indications of savings or value – e.g., “Special discount – 20% off all services this week!”
 - Endorsements or testimonials – e.g., a CHC explicitly recommending a sponsor’s product or stating it’s “officially approved” by the health center.
 - Calls to action or inducements to purchase, sell, or use – e.g., “Visit our sponsor’s clinic for your flu shots; call 1-800-XXX”.

Unrelated Business Income & Community Health Centers

Common Sources of Unrelated Business Income

Advertising or Sponsorship Revenue

Qualified Sponsorship Payment (“QSP”)

A qualified sponsorship payment (QSP), as defined by IRC §513(i), is a payment of money, property, or services by a business to a tax-exempt organization with no arrangement or expectation of any substantial benefit in return, other than the use or acknowledgment of the donor’s name, logo, or product lines in connection with the organization’s activities.

QSPs are essentially donations where the sponsor may receive a modest recognition or “thank you,” but does not receive advertising or other valuable benefits.

QSPs are explicitly excluded from the definition of an unrelated trade or business by law, income from genuine sponsorships is not subject to UBIT.

Unrelated Business Income & Community Health Centers

Common Sources of Unrelated Business Income

Advertising or Sponsorship Revenue

Qualified Sponsorship Payment (“QSP”)

Key points about qualified sponsorship payments (from IRC §513(i) and Treas. Reg. §1.513-4):“

- No Substantial Return Benefit:” The sponsoring business should not receive significant benefits in exchange. Any benefit to the sponsor must be limited to acknowledgement of their support (and certain token benefits). If the sponsor does receive substantial value in return (like advertising or commercial privileges), the payment (or a portion of it) will fall outside the QSP safe harbor.
- Any incidental benefits (e.g., a few free tickets, a token gift) must be within IRS limits (not exceeding 2% of the payment’s value) or treated separately.

Unrelated Business Income & Community Health Centers

Common Sources of Unrelated Business Income

Heading

What Counts as a “Use or Acknowledgment”:

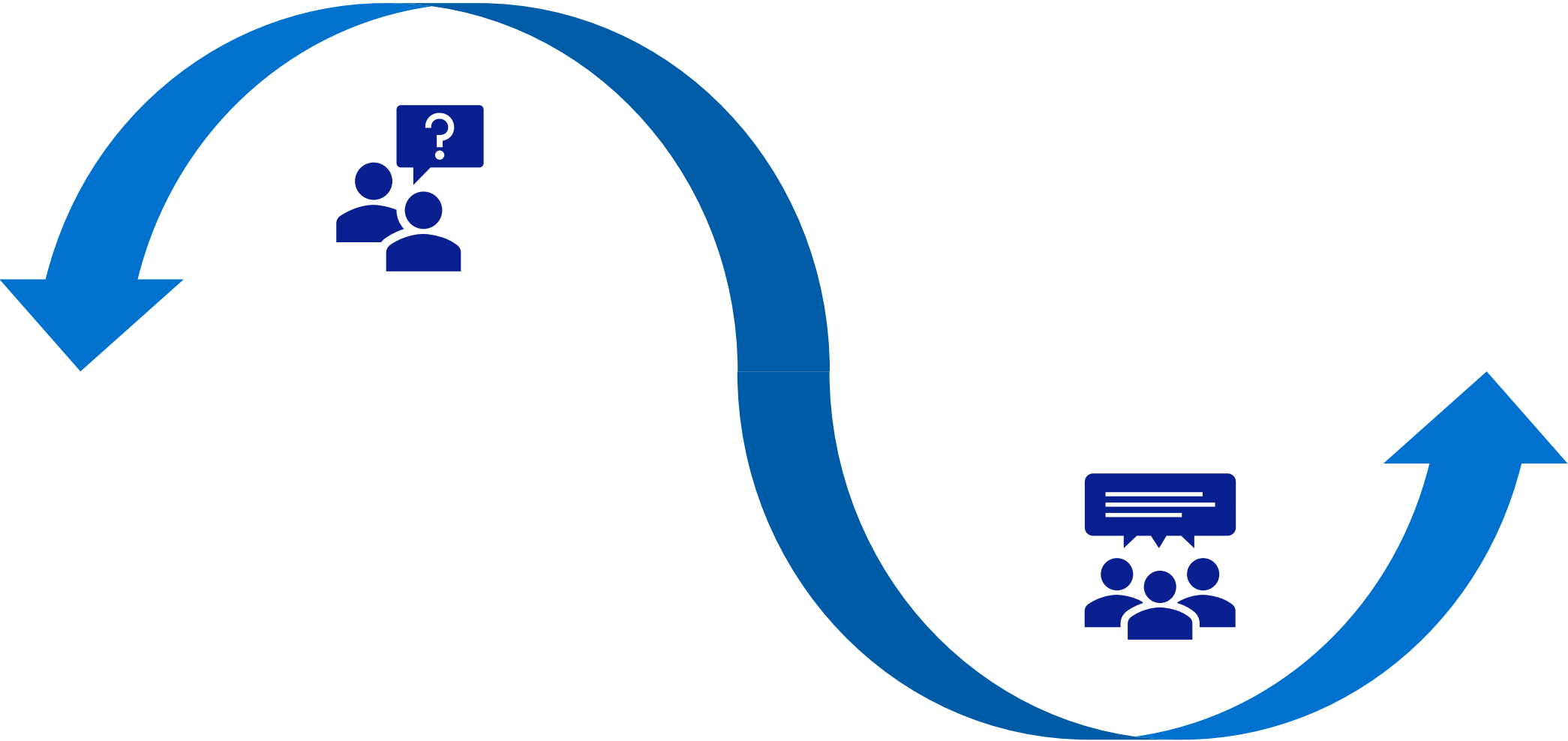
- The IRS specifies that simply using or acknowledging the sponsor’s name, logo, or product lines in connection with the nonprofit’s activities is permissible and does not constitute advertising.
- Acceptable acknowledgments may include:
 - Sponsor’s name or logo (and slogans, if they are value-neutral and established as part of the sponsor’s identity – for example, a company tagline like “Just Do It” or “I’m Lovin’ It,” which isn’t a qualitative description of the product).
 - Contact information – such as the sponsor’s locations, phone number, or website address.
 - Value-neutral product or service descriptions – e.g., displaying or describing a sponsor’s product line without any comparison or qualitative evaluation. For instance, “ABC Labs provides blood testing and diagnostic services” is value-neutral, whereas “ABC Labs provides the most accurate blood tests at the lowest prices in town” would be advertising.
 - Listing of brand or trade names and product lines – simply naming the sponsor’s brands or products is allowed, as long as it’s not paired with promotional language.
 - Exclusive Sponsorship Titles – acknowledging a sponsor as “the exclusive sponsor” of an event or program (or the exclusive sponsor in a particular industry category) is generally permitted as a form of recognition and does not by itself confer a substantial benefit.

07

Questions



Unrelated Business Income & Community Health Centers Questions



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