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Tax Update

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Tax Update

- UBIT
- Crowe Tax Consulting Contract
- 1099–MISC & 1099–NEC
- IRS FORM 6166 Certification of U.S. Tax Residency
- Employee Educational Assistance
Crowe LLC is our outside CPA firm that prepares our 990T.
- IRS Requires electronic filing for 990T–First Year.
- State UBI filings–State laws vary.

UBIT
- Work papers to be sent out in November.
- Completed work papers due Monday February 28, 2022.

Crowe LLC tax consulting contract.
- State taxes.
- Foreign countries.
IS IT OR IS IT NOT URELATED BUSINESS INCOME (UBI)

UNRELATED BUSINESS INCOME IS:

- Income that is not related to our exempt mission of education.
- UBI activities should have business plan
- UBI activities need to have a profit motive.
- UBI activities that have losses 3 out of 5 years are considered by the IRS to have no profit motive. (IRS uses hobby loss rules) All reported UBI activities need to be tracked annually even if they are determined to have no profit motive. They are reportable for any year they have profit.
IS IT OR IS IT NOT UNRELATED BUSINESS INCOME (UBI)

- UNRELATED BUSINESS INCOME IS:
- Sale of personal items or services to alumni and general public.
- Contracts/Rental/Services provided to alumni and general public.
- Participation in partnerships where the agency shares in the net income.
- Sub chapter S corporations income is always UBI.
- All advertising is UBI.
IS IT OR IS IT NOT UNRELATED BUSINESS INCOME (UBI)

UNRELATED BUSINESS INCOME IS NOT:

- Rental of real property—minimal services provided.
- Royalties
- Activities that include faculty, staff and students learning to apply research techniques etc. thru OJT and is part of their course training.
All revenue accounts for mixed use facilities must be reported.

Allocation percentage for expenses can no longer be determined by Gross to Gross revenue method.

Expense allocation needs to be determined by a reasonable method. Could be based on square footage, total number of persons to number of unrelated persons. Please give explanation of method.

Detail Transactions are required to be attached in worksheet in excel format not just summary.
1099–MISC & 1099–NEC

- What do you report on these forms
  - See IRS Instructions for Forms 1099–MISC and 1099–NEC

1099–Miscellaneous
- Rents (Box 1) – $600 or more
- Royalties (Box 2) – $10 or more
- Other Income (Box 3) – $600 or more
- Gross proceeds paid to an attorney (Box 10) – $600 or more.
  - Shows gross proceeds paid to an attorney in connection with legal services. You are paying someone else’s attorney generally as part of a legal settlement.

1099–NEC
- Payment to individual who performs services for you.
1099–MISC & 1099–NEC

1099–NEC continued
- Nonemployee compensation (Box 1) – $600 or more.
- Includes services for attorneys you hire.

Both forms require reporting if federal income taxes are withheld from a payment. Most common in a backup withholding situation.

Both forms have exemptions from reporting on corporations. The exception are for attorneys.
1099–MISC & 1099–NEC

- IRS audits of payment to individuals
  - 1099 and W–2 received by recipient in the same calendar year from the same reporting entity.
  - Misclassification of individuals as independent contractors.
  - W–9 forms
    - Incomplete
    - Marked as a reportable entity on the form but marked as a corporation in FAMIS.
Form 6166 Certification of U.S. Tax Residency

- Foreign governments and other foreign entities are requesting this form.
- Form 8802 Application for United States Residency Certification.
  - Approximately 45 days for approval.
  - Lists countries forms are needed for and the number requested for each country.
  - Application fee is $185 regardless the number of countries requested.
  - System submits application annually.
Any fringe benefit you provide is taxable and must be included in the recipient's pay unless the law specifically excludes it.

Exclusions:
- IRC 127 – Qualified Educational Assistance Program – $5,250 limit.
- IRC 132(d) – Working Condition Fringe Benefit – Must meet job related tests.

Section 127 limit is based on calendar year.

Texas Government Code 656.043
- Requires sending a report to the LBB if the amount is over $5,000 per employee per fiscal year.
Employer Provided Educational Assistance

- **Relevant Text of SB 255 [Govt. Code Section 656.047(c)]**
  
  (c) A state agency that spends more than $5,000 in a state fiscal year for a training or education program for any individual administrator or employee shall, not later than August 31 of that year, submit to the Legislative Budget Board a report including:
  
  1. a list of the administrators and employees participating in a training or education program;
  2. the amount spent on each administrator or employee; and
  3. the certification earned by each administrator or employee through the training or education program.

- **Training Authorized by the Statute:**
  - Subchapter C, Chapter 656, Government Code authorizes Training
  - A state agency’s training and educational program may include:
    1. preparing for technological and legal developments;
    2. increasing work capabilities;
    3. increasing the number of qualified employees in areas designated by institutions of higher education as having an acute faculty shortage; and
    4. increasing the competence of state employees.

- **Highlights of the SB 255 Reporting Requirements:**
  - Report to the LBB spending $5,000 or more for a specific person on a training course, education course or education program in a fiscal year
    o Report any training courses, education courses, etc. to be defined as leading to a certification or degree. This would not include routine/necessary continuing professional education.
  - Report due by August 31 of the fiscal year
  - Expenses to be reported include the tuition, other fees, travel expenses (transportation, lodging, and meals), expense of training materials, and other necessary expenses of an instructor, student, or other participant in a training or education program.
  - The statute mentions “public funds” which we interpret to mean all funds, not just appropriated funds.
What is not included in the SB 255 Report:

- Spending less than $5,000 per person on a course (including travel, etc.)
- Courses costing more than $5,000 with multiple individuals such that it doesn’t cost $5,000 per person
- Unrelated training courses that add up to $5,000 for a person (e.g. 2 courses costing $3,000 each)
- Training with a value in excess of $5,000 but for which no funds were expended (complementary training).
  - We received a question regarding tuition waivers at the institution for family members of staff members. As the statute relates to administrators and employees, we do not believe waivers of tuition for family members constitutes a reportable event.

Issues and Recommendations:

- Reportable items may require aggregation of multiple transactions (registration and travel would be separate)
  - A simple query capturing training costs of $5,000 or more would potentially miss some transactions. A lower scope such as $4,000 or $4,500 is recommended.
  - Transactions meeting scope must be reviewed to determine they are for a single individual
  - If for a single individual, related travel costs must be accumulated to determine if the $5,000 reporting threshold is met.
  - Template asks for employee name, position, type of certification or degree obtained (if any), type of professional license or certification (if applicable), total expenditures, statutory purpose, other comments
- Report is due on the last day of the reporting period (fiscal year).
Employer Provided Educational Assistance

Employer Provided Educational Assistance

- Exceptions

![Diagram of Working Condition Educational Fringe Benefit - General Guide](image-url)
QUESTIONS?