Understanding **UBIT**

Unrelated Business Income Tax and General Excise Tax for
Hawaii Nonprofit Organizations

August 6, 2026

From the academic notes of a long time and long retired Accounting Professor

QUESTION: ?How many of you have UBIT?

Notes from "popular media" (and the things I share with my students that all think it is supposed to be become the next Trillionaire. You can't always get what you want: Jagger and Richards).

Curley (Jack Palance from "City Slickers" The index finger and the secret to success, "do one thing" and do it exceptionally well

The AC/DC concert in Las Vegas last Saturday at Allegiant Stadium. My lighted AC/DC horns from long ago that the batteries leaked and did not work, or there was a time. But the old rockers still play their biggest hits (the raised index finger)

OpenAI that started out as a $50 million nonprofit that was going to make all of its programs open source and free to the public. The flee that ate the elephant or the for-profit that ate the nonprofit. I use co-pilot and Gronk over Chat GPT.

The stats on how many businesses fail in the first year and how much money the successful ones have as start up capital that facilitate success (돈 없으면 사랑도 없다). It takes money to make money.

What Is Unrelated Business Income Tax?

Tax-exempt status does **not** mean all income is tax-free.

STATUTORY AUTHORITY	CORPORATE TAX RATE	FILING THRESHOLD	IN THE TAX CODE
§511	21%	$1K	50+
through §514 {1}			Years
Federal IRC sections governing UBIT — the foundational legal framework for all nonprofits.	Federal corporate rate applied to unrelated business taxable income (UBTI).	Federal gross income threshold — UBIT filing (Form 990-T) required above this amount. $100 in Hawaii	UBIT has been part of the federal tax code since 1950 — a long-standing compliance obligation.

UBIT applies when a tax-exempt nonprofit earns income from a **trade or business** that is **regularly carried on** and **not substantially related** to its exempt purpose.

Internal Revenue Code · Subtitle A · Chapter 1 · Subchapter F

TRADE OR BUSINESS

REGULARLY CARRIED ON

NOT SUBSTANTIALLY RELATED

FEDERAL UBIT FRAMEWORK

The Federal **Three-Part Test** for UBIT

All three elements must be present for income to be subject to UBIT.

ELEMENT 1

1 STEP ONE

TRADE OR BUSINESS

Commercial enterprise

The activity must involve the *sale of goods* or *performance of services* with a profit motive. It functions like a commercial enterprise competing in the marketplace.

Example from tax classes of my yesteryears. The retiree that had a hobby of creating stained glass windows and now has a big order from a church to create custom stained-glass windows for the church building

Profit motive required

ELEMENT 2

2 STEP TWO

REGULARLY CARRIED ON

Frequency & continuity

The activity is conducted with the *frequency and continuity* comparable to commercial competitors. Occasional, annual, or sporadic activities are excluded from UBIT.

Do many small businesses start small and often with a net loss and thus not being conducted as a hobby

Sporadic = excluded

ELEMENT 3

3 STEP THREE

NOT SUBSTANTIALLY RELATED

Exempt purpose link

The activity does *not contribute importantly* to the organization's exempt purpose. Size or volume of income does **not** count as relatedness.

What is the mission? Remember that the mission comes first! Open AI example

Nonprofits operate to benefit the public good, they pretty much exist to give their goods and services away.

Income size ≠ relatedness

If **any one element is absent**, the income is **NOT subject to UBIT** — all three must apply simultaneously.

The Federal **Three-Part Test** for UBIT

All three elements must be present for income to be subject to UBIT.

ELEMENT 1

STEP ONE

TRADE OR BUSINESS

Commercial enterprise

The *Groetzinger* Standard: The U.S. Supreme Court in *Commissioner v. Groetzinger* (1987) established that to be engaged in a trade or business, a taxpayer must be involved in the activity with "continuity and regularity," and the primary purpose for the activity must be for income or profit. [2]

trade or business

For purposes of this section, the term “trade or business” includes any activity which is carried on to produce income from the sale of goods or the performance of services. For purposes of the preceding sentence, an activity does not lose identity as a trade or business merely because it is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may, or may not, be related to the exempt purposes of the organization. Where an activity carried on for profit constitutes an unrelated trade or business, no part of such trade or business shall be excluded from such classification merely because it does not result in profit. (2)

If **any one element is absent**, the income is **NOT subject to UBIT** — all three must apply simultaneously.

UBIT: Taxable vs. Non-Taxable Activities

GENERALLY TAXABLE — UBIT APPLIES

- Advertising sold in newsletters, programs, or on the website
- Sale of merchandise unrelated to the exempt mission
- Income from debt-financed rental property
- Travel tours with little or no educational content
- Public parking lot or facility operated for a fee
- Testing or lab services performed for private industry
- Regularly conducted gaming outside statutory exceptions

GENERALLY NON-TAXABLE — EXEMPT

- Dividends, interest, and other passive investment income
- Royalties from licensing the organization's name or logo
- Rents from real property that is not debt-financed
- Gains from the sale or exchange of property
- Activities carried on substantially by volunteers
- Sales for the convenience of members, students, or patients
- Qualified sponsorship acknowledgments and donated-goods sales

UBIT Exceptions & Exclusions

SAFE HARBORS

Congress carved out important safe harbors — know them.

Passive Income

EXCLUDED

Dividends, interest, annuities, royalties, and gains from property sales are excluded from UBIT — *unless* from debt-financed property or a controlled subsidiary. (Does your organization have an investment committee or a CPA or tax attorney on staff or on your Board? Have an investment subcommittee within the Finance Committee) (Beware of the Leopold Aschenbrenner's of the world, things are not that easy in real life

If any one of the three-part test elements is absent, income is generally not subject to UBIT — but always verify using facts & circumstances analysis.

UBIT Exceptions & Exclusions

SAFE HARBORS

Congress carved out important safe harbors — know them.

Volunteer Labor

EXCLUDED

Activities where **substantially all work** is performed by unpaid volunteers are excluded.

Especially key for Hawaii nonprofits relying on community volunteers. Punahou Carnival

If any one of the three-part test elements is absent, income is generally not subject to UBIT — but always verify using facts & circumstances analysis.

UBIT Exceptions & Exclusions

SAFE HARBORS

Congress carved out important safe harbors — know them.

Bingo Exception

EXCLUDED

Income from bingo games is excluded if bingo is **legal in the jurisdiction** and not in direct competition with for-profit commercial bingo operations.

If any one of the three-part test elements is absent, income is generally not subject to UBIT — but always verify using facts & circumstances analysis.

UBIT Exceptions & Exclusions

SAFE HARBORS

Congress carved out important safe harbors — know them.

Student/Member Convenience

EXCLUDED

Businesses operated **primarily for the convenience** of members, students, patients, or employees — e.g., campus bookstores, cafeterias — are excluded from UBIT.

If any one of the three-part test elements is absent, income is generally not subject to UBIT — but always verify using facts & circumstances analysis.

UBIT Exceptions & Exclusions

SAFE HARBORS

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Low-Cost Article Exception

EXCLUDED

Distributing items worth **$12.10 or less** (2024 IRS limit) in connection with fundraising solicitations does not generate UBIT liability.

If any one of the three-part test elements is absent, income is generally not subject to UBIT — IRC §§ 512–513 govern the exclusions above

UBIT Exceptions & Exclusions

SAFE HARBORS

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Research Exception

EXCLUDED

Income from research for the **U.S. government, a state**, or conducted by a college/university for the public benefit is excluded from unrelated business income.

If any one of the three-part test elements is absent, income is generally not subject to UBIT —

IRS REQUIRED

Required when gross unrelated business income exceeds $1,000 · Filed separately from Form 990

Gross UBTI Threshold: $1,000

FORM 990-T

Exempt Organization Business Income Tax Return. Filed *separately* from Form 990 (the annual information return). Reports all unrelated business taxable income and calculates tax owed at the **21% federal corporate rate.**

DEADLINE

15th day of the 5th month after fiscal year end — **May 15** for calendar-year filers. Automatic **6-month extension** available by filing **Form 8868** (extension to file, not to pay).

ESTIMATED TAX PAYMENTS

Required if expected UBIT liability is **$500 or more.** Use **Form 990-W** to calculate. Quarterly payments due: **Apr 15 · Jun 15 · Sep 15 · Dec 15.**

POST-TCJA 2017

Losses from one unrelated business activity **CANNOT offset income** from a different unrelated business activity. Each activity is siloed — taxed **independently.** Separate books required per activity.

PUBLIC DISCLOSURE

Form 990-T is publicly disclosable for 501(c)(3) organizations. Members of the public may request copies. Ensure accuracy — this return is not private. Non-501(c)(3) filers are **not** subject to public disclosure.

DEDUCTIONS ALLOWED

Organizations may deduct **expenses directly connected** to the unrelated business activity. A **reasonable allocation** of dual-use expenses (shared with exempt activities) is permitted with proper documentation.

Sample Completed Form 990-T — Illustrative Example Only

SAMPLE / FICTITIOUS DATA

Department of the Treasury
Internal Revenue Service
Go to www.irs.gov/Form990T for instructions.

990-T

Exempt Organization Business Income Tax Return
(and proxy tax under section 6033(e)) — Tax Year 2024

OMB No. 1545-0687
For calendar year 2024
Employer ID: **47-8821053**

NAME OF ORGANIZATION	ADDRESS	EXEMPT UNDER SECTION
Aloha Community Foundation, Inc.	1200 Pali Hwy, Honolulu HI 96813	501(c)(3) Unrelated Business Activity Code: 522130

PART I — UNRELATED BUSINESS TAXABLE INCOME

1	Gross receipts or sales (UBTI)	$148,500
2	Cost of goods sold	$62,200
3	Gross profit (Line 1 minus Line 2)	$86,300
4a	Capital gain net income (Sch D)	$12,400
5	Income (loss) from partnerships/S-Corps	$0
6	Rent income (Sch C)	$24,000
7	Unrelated debt-financed income (Sch E)	$9,750
12	**Total gross unrelated business income**	$132,450
13	**Deductions not taken elsewhere**	$38,100

PART II — DEDUCTIONS

28	Compensation of officers/directors	$14,500
29	Salaries and wages	$9,200
33	Depreciation (Form 4562)	$3,800
34	Advertising expenses	$2,100
38	**Total deductions (Lines 28–37)**	$38,100
39	**Unrelated business taxable income (Line 12 minus Line 38)**	$94,350
42	Specific deduction (generally $1,000)	($1,000)
43	**Taxable income (Line 39 minus Line 42)**	$93,350
44	**Tax (21% × Line 43)**	$19,603

Reminder: this is a business income statement not a nonprofit statement of activities. Also, again note the 21% flat tax on all UBIT profits

SIGNATURE OF OFFICER / AUTHORIZED PERSON	DATE	PREPARER / PTIN
U. R. Stuck	05/ 15 / 20XX	Your CPA / P01234567

KEY FIGURES

Gross UBTI	$132,450
Total Deductions	$38,100
Specific Deduction	$1,000
Taxable Income	$93,350
Tax Rate	21%
Tax Due	$19,603

KEY LINES EXPLAINED

- **Ln 1** Gross receipts from unrelated trade/business
- **Ln 12** Total UBTI — sum of all unrelated income streams
- **Ln 38** All allowable deductions against unrelated income
- **Ln 42** $1,000 specific deduction for most exempt orgs
- **Ln 44** Corporate rate 21% applied to net taxable income

Note: This is a sample for educational purposes. Data shown is fictitious. Consult your tax advisor for actual filing.

HAWAII STATE · UBIT

How Hawaii Taxes Unrelated Business Income

Hawaii conforms to federal UBIT rules but adds state-level requirements.

HAWAII CONFORMITY

Federal IRC Definitions Adopted

Hawaii adopts federal IRC definitions of unrelated business income. Nonprofits exempt under **IRC §501(c)** must also file state returns when they have UBTI above Hawaii thresholds.

FILING FORM

Form N-70NP

$100+

STATE TAX RATE

Hawaii Corporate Income Tax — Applied to Unrelated Business Income

4.4%	First $25,000
5.4%	Next $75,000
6.4%	Over $100,000

Hawaii uses a **graduated corporate rate structure** — unlike the flat federal 21% rate. The rate applied depends on total Hawaii unrelated business taxable income for the year.

DUE DATE

N-70NP Filing Deadline

April 20

HAWAII ADDITIONS & MODIFICATIONS

Reconcile Federal UBTI

Hawaii may **disallow some federal deductions**. Always reconcile federal UBTI with Hawaii modifications before computing state tax owed.

Hawaii largely follows federal rules for Unrelated Business Income Tax (UBIT) regarding what qualifies as an unrelated trade or business. However, key differences exist in state-specific reporting forms, tax rates, and the critical intersection with Hawaii's General Excise Tax (GET). [2]

Key Differences: State vs. Federal

Filing Forms:

Federal: Nonprofits file **IRS Form 990-T**.
Hawaii: Nonprofits file **Form N-70NP** (Exempt Organization Business Income Tax Return), and a copy of the federal Form 990-T must be attached to the state return. Plus the GET form.

Key Differences: State vs. Federal (continued)

Tax Rates:
Federal: UBIT is taxed at a flat federal corporate rate of **21%**.
Hawaii: Hawaii taxes unrelated business taxable income using progressive corporate income tax rates (ranging from **4.4% up to 6.4%** depending on the net income bracket) or trust rates if the organization is organized as a charitable trust.

The General Excise Tax (GET) Trap:
Federal: The federal government does not levy a sales or gross receipts tax alongside UBIT. Certain fundraising activities may be shielded from federal income tax definitions.

Hawaii: Hawaii imposes its broad-based **General Excise Tax (4.% plus applicable county surcharges)** on gross proceeds of most fundraising activities (such as food sales, bazaars, or selling items) even if that specific revenue is not heavily pursued or is deemed non-taxable under standard income-tax UBIT rules. An organization must secure a specific GET exemption via Form G-6 for core exempt functions, but unrelated or fundraising receipts often remain exposed to GET.

Hawaii General Excise Tax & Nonprofits

UBIT and GET are separate obligations — both may apply simultaneously

01

GET Basics

Hawaii's GET is a **privilege tax on business activity** assessed at **4%** statewide. Oahu adds a **0.5% surcharge** for a combined effective rate of **4.5%** on Oahu transactions. Unlike a sales tax, GET is imposed on the seller — not the buyer.

02

Nonprofit GET Exemptions

Many nonprofits qualify for GET exemptions on their **charitable activities**. Exemption requires a separate application using **Form G-6** — it is **not automatic** upon receiving 501(c) status. Critically, the exemption does **not extend** to unrelated business activities.

03

When GET Still Applies

Nonprofits conducting **unrelated business activities** may owe GET **even if they are UBIT-exempt** on that same activity. GET and UBIT exemptions are evaluated **independently** under separate legal frameworks — an exemption under one does not confer an exemption under the other.

04

GET Registration

Organizations with unrelated business activities must register for GET using **Form BB-1**. Ongoing filing obligations include periodic GET returns: **G-45** (filed quarterly or semi-annually) and **G-49** (annual reconciliation return) with Hawaii Department of Taxation.

Key Principle:

Always evaluate GET and UBIT exposure separately for every revenue-generating activity — exemption under one does not guarantee exemption under the other.

Hawaii UBIT Filing Roadmap

Know your Hawaii obligations under Form N-70NP

1

EVALUATE

Does your organization have **gross unrelated business income of $1000+** in Hawaii?

Review all revenue-generating activities against the federal three-part UBIT test.

> Threshold: $1000 gross UBTI triggers Hawaii

2

REGISTER

Register with the **Hawaii Dept. of Taxation** for income tax purposes.

Also register for GET using **Form BB-1** if conducting taxable business activities in Hawaii.

> GET & UBIT registrations are separate

3

CALCULATE

Start with **federal UBTI**, then apply Hawaii modifications.

Apply Hawaii corporate rates: **4.4%** first $25K · **5.4%** next $75K · **6.4%** over $100K

> Reconcile federal vs. Hawaii UBTI carefully

4

FILE N-70NP

File **Hawaii Exempt Organization Business Income Tax Return**.

Due: **April 20** for calendar-year filers (20th day of 4th month). Include **Hawaii Schedule O** for required disclosures.

> Deadline: April 20 (calendar-year orgs)

5

PAY & RETAIN

Pay any tax due with filing. Retain all records supporting UBIT calculations for **at least 7 years**.

Document all activities **reviewed for UBIT exposure**, even those ultimately excluded.

> Records: minimum 7-year retention

Real-World UBIT Scenarios for Hawaii Nonprofits

Understanding how UBIT applies through practical examples

1

SCENARIO 1 · EDUCATIONAL INSTITUTION

Educational Museum — Honolulu

- Museum gift shop sells Hawaii-themed merchandise to visitors

✓ Items tied to educational exhibits → NOT UBIT

✗ Generic souvenirs (t-shirts, mugs) → UBIT APPLIES

2

SCENARIO 2 · RELIGIOUS ORGANIZATION

Church — Commercial Parking Lot

- Operates large parking lot on weekdays, charging market-rate fees to nearby office workers when church is not in session

✗ Regularly carried on, profit-motivated, unrelated to religious purpose → UBIT APPLIES

3

SCENARIO 3 · HIGHER EDUCATION

University / College — UH-Affiliated Org

- Rents dormitory space to non-students during summer break as a hotel

✗ Debt-financed rental + commercial hotel activity → UBIT APPLIES

4

SCENARIO 4 · HEALTHCARE (FQHC / NONPROFIT)

Health Clinic — Nonprofit / FQHC

- Medical services to underserved patients — substantially related to exempt purpose

✓ Core medical mission → NOT UBIT

✗ Spa / cosmetic services for general public → UBIT APPLIES

NOT UBIT — Substantially Related to Exempt Purpose | UBIT APPLIES — All Three Elements Present | Hawaii nonprofits may owe both federal (21%) and Hawaii state UBIT simultaneously

Hawaii Form N-70NP — Exempt Organization Business Income Tax Return

State of Hawaii — Department of Taxation

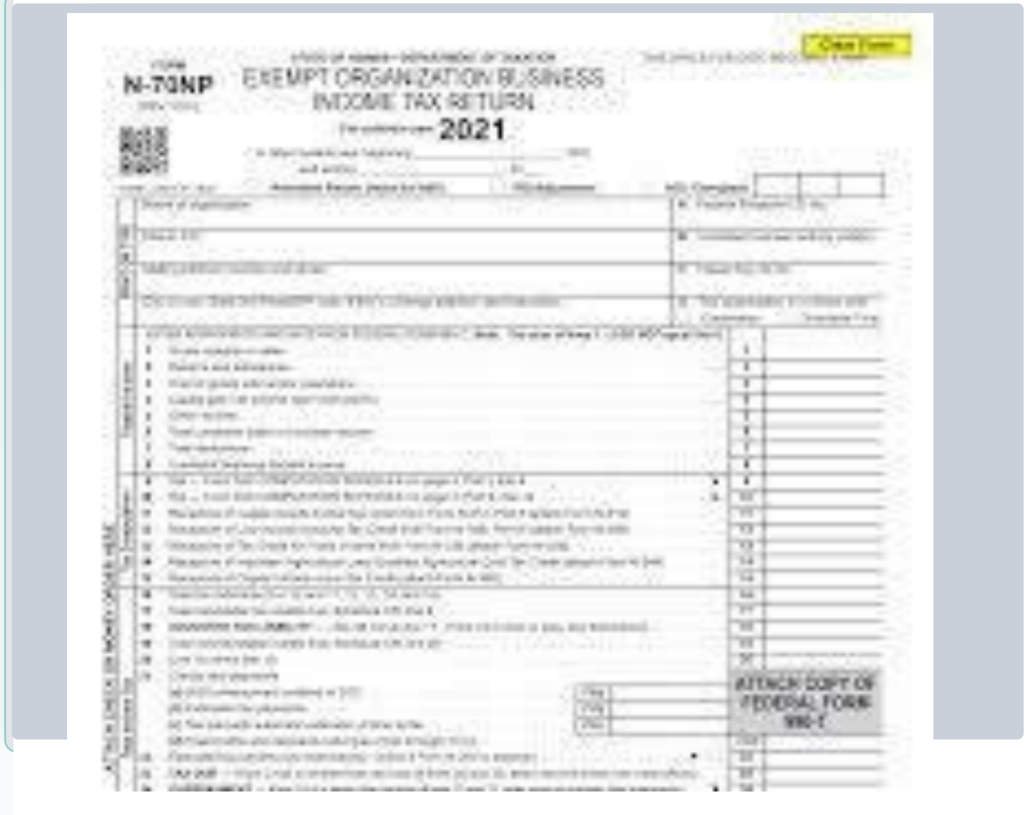
Filed by **exempt orgs** with Hawaii UBTI

Threshold: gross UBTI ≥ **$1000**

Tax rate mirrors **federal UBIT** rules

Annual return — **calendar or fiscal** year

6-month extension **available** on request



ISSUING AGENCY
State of Hawaii
Department of Taxation

DUE DATE
20th day of the **4th month** after tax year end

FORM NUMBER
N-70NP
Sorry for the blurry image

RETURN TYPE
Unrelated Business Income Tax (UBTI)

WHERE TO FILE
Hawaii Dept. of Taxation
P.O. Box 1425, Honolulu HI

Hawaii Department of Taxation | 20th day of the 4th month after tax year end | gross UBTI in Hawaii is $100 or more

Sample Completed Form N-70NP — Illustrative Example Only

FICTITIOUS DATA · FOR EDUCATION ONLY

STATE OF HAWAII
Dept. of Taxation

N-70NP

Exempt Organization Business Income Tax Return

Tax Year
2025
Jan 1 – Dec 31, 2025

Aloha Community Foundation	99-1234567
1234 Kalakaua Ave	Honolulu, HI 96815
501(c)(3) — Charitable Organization	813 — Community Services

SAMPLE · FICTITIOUS

PART I — UNRELATED BUSINESS TAXABLE INCOME		
1 Gross receipts or sales from unrelated business	18,500.00	Gross Income
2 Cost of goods sold (from Schedule A)	0.00	
3 Gross profit (Line 1 minus Line 2)	18,500.00	
4 Other income	0.00	
5	18,500.00	
PART II — DEDUCTIONS		
6 Salaries and wages directly connected	3,800.00	
7 Depreciation (from Form 4562)	900.00	
8 Other deductions (itemized on attached schedule)	1,500.00	
9	6,200.00	
PART III — TAX COMPUTATION		
10 Unrelated business taxable income (Line 5 minus Line 9)	12,300.00	
11 Hawaii income tax rate	4.4%	
12	541.20	
13 Credits (if any)	0.00	
14	541.20	TAX DUE

Kai Makoa, Executive Director	Executive Director	04/15/2026	(808) 555-0192

TOTAL HAWAII TAX DUE
$541.20
@ 4.4% on $12,300 taxable income

KEY FINANCIAL FIGURES

Gross UBI	$18,500
Total Deductions	$6,200
Taxable Income	$12,300
Tax Rate (HI)	4.4%
Tax Owed	$541.20

ORGANIZATION INFO

Name	Aloha Community Fdn.
EIN	99-1234567
Location	Honolulu, HI 96815
Tax Year	2025

Illustrative Only. This sample uses entirely fictitious data. Actual form fields and rates may differ. Always verify with Hawaii DOR instructions for your filing year.

Note: All data shown is fictitious and for educational purposes only. Consult a Hawaii CPA or tax attorney for actual filing.

Compliance Best Practices

Proactive steps to manage UBIT exposure and avoid penalties

✅ DO — BEST PRACTICES

- **Annual UBIT activity review** — catalog all revenue-generating activities against the three-part test
- **Separate books & records** for each potentially unrelated business activity (required post-TCJA silo rules)
- **Document in writing** the relationship between each activity and your exempt purpose
- **Consult a Hawaii CPA or tax attorney** when starting any new revenue-generating activities
- **File timely:** federal 990-T by **May 15** and Hawaii N-70NP by **April 20**
- **Review GET exemption certificate** annually and verify it covers all your current activities
- **Educate your board** — UBIT exposure is a governance issue, not just a finance issue

❌ AVOID — COMMON MISTAKES

- **Assuming tax-exempt status** means all income is tax-free — it does not
- **Mixing UBIT and exempt-activity expenses** without proper allocation records
- **Missing thresholds** — file even if no tax is owed when federal **$1,000** or Hawaii **$100** gross income limits are met
- **Ignoring silo rules** — losses from one unrelated business activity cannot offset income from another
- **Overlooking debt-financed property rules** on real estate transactions
- **Failing to apply for GET exemption (Form G-6)** separately — it is not automatic
- **Neglecting to report UBIT activities** on Schedule A of Form 990

Key Takeaways

What every Hawaii nonprofit needs to know about UBIT

1 **Three-Part Test:**

UBIT applies when income is from a trade or business, regularly carried on, and not substantially related to exempt purpose — ***all three elements must be present***.

2 **Tax Rates:**

The federal rate on UBTI is **21%**. Hawaii adds its own corporate rates (**4.4%–6.4%**). Both can apply simultaneously to the same income.

3 **Filing Thresholds:**

Federal **Form 990-T** is required when gross UBTI exceeds **$1,000**. Hawaii **Form N-70NP** is also required at **$1000** of gross UBTI.

4 **Safe Harbors:**

Key exclusions include passive income, volunteer labor, convenience activities, bingo games, and research income — *know your safe harbors before assuming UBIT applies.*

5 **Hawaii GET is Separate:**

GET obligations are independent of UBIT. Nonprofits must independently evaluate both their **UBIT** and **GET** exposure for each revenue-generating activity.

6 **Proactive Compliance:**

Recordkeeping, annual activity reviews, and early consultation with a **Hawaii tax professional** are the best defenses against unexpected UBIT liability.

On another note, I spend way too much time on financial social media postings in my old age retirement. Still, I believe that there is a lot of truth in some of the sales pitches I routinely hear on various social media posts:

1. There is a big difference between tax filing (compliance) and tax planning (successful operations of a UBIT generating business).

2. There is also a big difference between fiduciary compliance and business planning when it comes to developing a profitable subsidiary business to assist in funding your nonprofit organization.

Trust but verify, seek good council. Build your boards well.

Two good references (Don’t say what my students say, “TLDR”:

Publication 598 (03/2021), Tax on Unrelated Business Income of Exempt Organizations. Revised: March 2021

https://www.irs.gov/publications/p598

Tax Facts 98-3 ("Tax Issues for Hawaii Nonprofit Organizations") is an informational publication released by the Hawaii Department of Taxation in November 1998.

It outlines state tax rules for nonprofits, confirming that organizations exempt from federal income tax are not always automatically exempt from Hawaii taxation without filing a separate state application (example filing a form G-6 for G.E.T. exemption on income related to a nonprofit’s mission related income). Once again, the mission comes first.

https://files.hawaii.gov/tax/legal/taxfacts/tf98-3.pdf

A partial list of references:

(1) 26 U.S.C. section 513(c) and following on UBIT
(2) "Groetzinger Standard" comes from the 1987 U.S. Supreme Court case *Commissioner v. Groetzinger* (480 U.S. 23). It establishes that to treat an activity as a "trade or business"
(3) November, 1998 From the State of Hawaii, Department of Taxation TAX ISSUES FOR HAWAII NONPROFIT ORGANIZATIONS 98-3