



NEW YORK UNIVERSITY
A private university in the public service

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OFFICE OF GENERAL COUNSEL MEMORANDUM

CORPORATE SPONSORSHIP ARRANGEMENTS

From time to time, departments, schools, colleges, institutes and other units of New York University may be offered corporate sponsorship opportunities. Common situations involving corporate sponsors include the following:

- A company agrees to sponsor a conference or seminar with NYU, including providing funding for the event.
- A company agrees to sponsor an NYU play, concert, exhibition or sports event and provides funding for the event.
- A company agrees to be the exclusive sponsor of an NYU student club and provides financial support to the club.
- A soda company agrees to provide a payment to a school at NYU if it sells the company's products at the school and does not sell competitor products at the school.
- An automobile dealership agrees to offer alumni of an NYU school a special discount on the purchase of a car from the dealership and to pay the school \$100 for any alumni who takes advantage of the offer.

This memo explains the unrelated business income tax ("UBIT") consequences of entering into a transaction with a corporate sponsor. There also are reputational and business issues that should be considered when entering into a corporate sponsorship arrangement. Please also remember that a corporate sponsor is not permitted to use NYU's name or logo without the approval of the [Office of Public Affairs](#). Finally, where a corporate sponsor is receiving something in exchange for the support being provided, a charitable gift receipt should not be issued without contacting the [Office of Gift Administration](#). Many businesses expect to take a business deduction, and not a charitable deduction, in the amount of the support

provided. Nevertheless, NYU can be liable for issuing a charitable gift receipt for support that does not qualify for a charitable deduction or that overstates the amount that qualifies for the charitable deduction because the charitable deduction is reduced by the economic benefits received by the business in return for the corporate sponsorship.

UBIT

As a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, NYU generally is not required to pay federal income tax on activities related to its educational and charitable activities and on certain other types of income (such as its investment income). However, income from activities of NYU that are not related to its educational and charitable purposes often result in NYU having to pay UBIT. For more information on UBIT, see our memo "[Unrelated Business Taxable Income](#)."

Where corporate sponsors receive benefits in exchange, the tax laws view NYU as providing those benefits in return for the corporate sponsorship payment – and thus NYU can have to pay UBIT on some or all of the sponsorship payment depending on the type and value of the benefits provided. If no benefits are provided in return for the support, NYU will not have UBIT. Certain types of benefits are permitted to be provided without generating UBIT, while providing other types of benefits will result in UBIT to NYU to the extent of the fair market value of the benefits provided. In many situations, slight changes to the types of benefits a sponsor is provided can move a payment from being taxable to non-taxable. Taxable benefits must be tracked and reported on the University's annual tax return (Form 990-T). Please contact the [NYU Controller's Office, Tax Services Division](#), for assistance.

These rules are complex, and you should seek advice from the Office of General Counsel if you are planning on entering into a corporate sponsorship arrangement.

Corporate Sponsorship Funding in Exchange for Benefits NYU Can Provide Without Generating UBIT

Certain types of benefits are permitted to be provided to a corporate sponsor without generating UBIT. These include:

- **Benefits that are substantially related to the charity's exempt purposes.** A charity is permitted to provide benefits to a corporate sponsor that are substantially related to the charitable purposes of the charity without generating UBIT. This could include, for example, NYU providing the sponsor of an academic symposium NYU will run with ten admissions to that symposium. This will not result in UBIT to NYU because NYU is generating income from carrying out its educational purposes, which includes presenting such symposia. The fact that other attendees are required to pay to attend the conference would, however, reduce the amount of any charitable deduction for which the sponsor qualifies. Assume, for example, that the sponsor paid \$10,000 and that it costs \$250 to attend the conference. The

fair market value of ten free admissions in such case is \$2,500. Accordingly, the maximum charitable contribution is \$7,500 (the \$10,000 sponsorship payment less the \$2,500 benefit received). In such case, the \$2,500 benefit may, however, constitute a deductible business expense to the sponsor depending on the facts and circumstances.

- ***De minimis* benefits.** The tax laws disregard benefits provided in return for a corporate sponsorship where the total fair market value of all such benefits does not exceed 2% of the sponsorship payment. Thus, in the case of a \$10,000 donation, NYU could provide up to \$200 worth of goods or services that are unrelated to NYU's educational and charitable purposes without generating UBIT.
- **Acknowledgement of the sponsor.** The tax laws permit the charity to use or provide acknowledgement of the name or logo or product lines of the corporate sponsor. The term "acknowledgment" includes use of the sponsor's name, logos and slogans (which are not considered to contain qualitative or comparative descriptions if they are an established part of the sponsor's identity), value-neutral descriptions of the sponsor, contact information, and internet address. However, such acknowledgments must not constitute advertising, as discussed below.
 - Thus a statement on NYU's website that "NYU thanks WidgetPlus for its generous sponsorship," accompanied by a value-neutral description of the company (e.g., "Widget Plus has been serving New Yorkers for over 50 years and currently has stores in each of the city's five boroughs") with a link to the website of WidgetPlus, would be a permissible form of acknowledgment that would not render WidgetPlus's payment to NYU taxable.
 - By contrast, a statement that "NYU thanks WidgetPlus, the *leading* widget manufacturer in the U.S., for its generous sponsorship" includes qualitative or competitive language (because "leading" does not merely mean "largest" but rather implies "best"). In this situation, the entire statement is deemed advertising, and the sponsorship payment to NYU is taxable to the extent of the fair market value of the advertising.

Corporate Sponsorship Funding in Exchange for Advertising Typically Is Subject to UBIT

Perhaps the most common benefit that subjects a corporate sponsorship payment to UBIT is the sponsor's receipt of advertising. In most situations, the IRS considers advertising to be an unrelated activity, even when it occurs in the context of a related activity (a rule known as the "fragmentation" rule).

"Advertising" is defined as any message that promotes or markets any trade or

business, service, facility or product, and it includes messages containing qualitative or comparative language, price information or other indications of savings or value, as well as messages containing an endorsement or an inducement to purchase or use a company's service or product.

On the other hand, the mere acknowledgement of financial support from a corporate sponsor, discussed above, is not considered advertising and would not make the financial support subject to UBIT.

Corporate Sponsorship Funding in Exchange for Exclusive Provider Arrangements Typically Is Subject to UBIT

An exclusive provider arrangement that limits the sale, distribution, availability or use of competing products, services or facilities in connection with the University's activities typically is a substantial return benefit that generates UBIT. For example, if a University sponsorship agreement provides that only Brand X Soda may be sold in a specific University dining hall sponsored by Brand X, that exclusive provider arrangement typically constitutes a substantial return benefit. Unless the value of the exclusive arrangement, together with any other non-excluded benefits, are less than the 2% *de minimis* benefit described above, NYU will have UBIT to the extent of the value of all of the benefits provided.

On the other hand, an arrangement that acknowledges the payor as the exclusive sponsor of an exempt organization's activity does not, by itself, result in a substantial return benefit. For example, if Company Q sponsors a University art exhibit, and the University announces that the exhibit is sponsored exclusively by Company Q and NYU does not provide any advertising or other substantial return benefit to Company Q, NYU will not have UBIT.

Further Resources

If you have legal questions about corporate sponsorship arrangements, you can find a member of the Office of General Counsel who practices in this area by visiting our [practice areas page](#) and scrolling to "Charitable Giving".