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PRESENTS

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Splashes of Hope

BRINGING A UNIQUE UNDERSTANDING OF KEY ISSUES FACING NOT-FOR-PROFIT ORGANIZATIONS

FROM THE EDITOR - MATTHEW BURKE, CPA, CFE

CERINI & ASSOCIATES LLP
CERTIFIED PUBLIC ACCOUNTANTS

In the last edition of the NFP Advisor, we focused on emerging trends and the sector's reaction to the COVID pandemic, among other subjects that were timely then. While we're still (*sadly*) in the thick of trying to get back to some semblance of normalcy, we're going to divert our attention away from case counts, closures, vaccines, and government stimulus, if only for one issue. If the current environment changes meaningfully by the time we write again, rest assured that we will

At Cerini & Associates, we're always looking for new ways to educate our clients, friends, prospects, and the greater nonprofit community as a whole. We've found that Board members are an underserved group in this community. Complex rules and regulations impact their roles serving on Boards, but supporting resources are often hard to come by. In addition to our [Nonprofit Guide to Effective Board Membership](), we hosted and produced a fall webinar series designed to help effectively inform members of nonprofit board audit committees about how to best fulfill their obligations. We've outlined a summary of that webinar and some major topics to consider here. Please also be on the lookout for another webinar series in the coming months.

Our jobs as accountants of course wouldn't be complete if we didn't mention some technical matters in this newsletter. In the first, we provide a primer on UBIT, or unrelated business income tax, an oft misunderstood and neglected aspect of our tax code that could result in tax liabilities for nonprofits. Yes, nonprofit organizations may be required to pay income taxes. Though the piece is somewhat technical in nature, read on. it's very important for nonprofit leaders to familiarize themselves with UBIT – what it is, when a nonprofit may be exposed to it, and the many facts, circumstances, and exceptions that may apply. We also highlight some pending changes in accounting regulations that will soon impact nonprofits that receive non-cash donations of goods and services. It's best to be fully aware of oncoming accounting standards updates so nonprofits can adjust their internal accounting policies and procedures to capture data necessary for financial reporting and disclosure. It may also be a good idea to early-adopt new standards that may be beneficial to your organization. Besides that, there's nothing wrong with impressing your outside auditors (*like us*) by being well-versed on emerging accounting trends.

Our guest article, written by Erin Ward and Bobby D. Ehlert of Inspire Hearts Fundraising, highlights the importance of properly communicating your nonprofit's *"story"* when soliciting donations and forging relationships with donors. As they say, people give with their hearts as much as they do with their wallets.

We hope that everyone is faring well in this ever-challenging world, and as always, if there's anything that we can help with, please don't hesitate to reach out. No matter the challenge your nonprofit is facing, we and our network can most definitely assist.

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SPLASHES OF HOPE
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Founded in 1996, Splashes of Hope is a 501(c)3 nonprofit organization dedicated to creating art to transform spaces, enrich environments and facilitate healing.

Our custom-designed artwork is designed to comfort patients during treatment, healing and recovery by providing a soothing and uplifting visual focus. Each mural is designed to address the unique needs of the patients, their family and the staff that cares for them.

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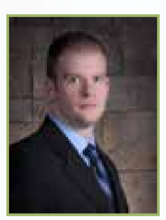

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GIFTS IN KIND - NEW RULES

Many nonprofit organizations rely not just on donations of cash and stock, but also on the donation of in-kind contributions. Food pantries see a large portion of their donations in the form of food, around the holidays toys and gift cards are high on the list, and back to school supplies are essential for many students. Add to that, donated services, free rent, interest free loans, and you can see that in-kind is a vital component of the sector's funding. While generally accepted accounting principles have always required nonprofits to properly value and record in-kind donations, there have never really been any clear disclosure requirements in terms of how in-kind donations are required to be reflected within an organization's financial statements. That is, until now.

The **Financial Accounting Standards Board ("FASB")** has issues **Accounting Standard Update 2020-07 ("ASU 2020-07")** *Not-for-Profit Entities (Topic 958): Presentation and Disclosures by Not-for-Profit Entities for Contributed Nonfinancial Assets,* which goes into effect for annual reporting periods beginning after June 15, 2021. Early adoption is permitted. FASB is requiring the standard to be applied retrospectively, which means you need to reflect it for all years presented within your financial statements.

ASU 2020-07 does not change how organizations account for in-kind donations (*aka gifts in kind*). Organizations still need to evaluate whether donated services are performed by a skilled professional that would have been paid for if not contributed (*e.g. construction, legal, accounting, medical*) or they enhance organizational assets (*such as fixed assets buildings, etc.*). The new ASU looks at disclosure, requiring not-for-profits to disclose the following within their financials:

1. Present contributed nonfinancial assets as a separate line item in the statement of activities, apart from contributions of cash and other financial assets.
2. Disclose:
   a. A disaggregation of the amount of contributed nonfinancial assets recognized within the statement of activities by category that depicts the type of contributed nonfinancial assets.
   b. For each category of contributed nonfinancial assets recognized (*as identified in (a)*):
      - Qualitative information about whether the contributed nonfinancial assets were either monetized or utilized during the reporting period. If utilized, an NFP will disclose a description of the programs or other activities in which those assets were used.
      - The NFP's policy about monetizing rather than utilizing contributed nonfinancial assets.
      - A description of any donor-imposed restrictions associated with the contributed nonfinancial assets.
      - A description of the valuation techniques and inputs used to arrive at a fair value measure, in accordance with the requirements in Topic 820, Fair Value Measurement, at initial recognition.
      - The principal market used to arrive at a fair value measure if it is a market in which the recipient NFP is prohibited by a donor-imposed restriction from selling or using the contributed nonfinancial assets.

GIFTS IN KIND - NEW RULES (CONTINUED)

There are multiple ways that a not-for-profit can meet the disclosure requirements of ASU 2020-07. One example is:

Contributed nonfinancial assets recognized within the Organization's statement of activities included the following at June 30:

	2021	2020
Leased facilities	$ 55,000	$ 52,000
Household goods	143,000	147,000
Food	885,000	925,000
Medical supplies	175,000	150,000
Clothing	34,000	357,000
Vehicles	87,000	94,000
Services	46,000	40,000
	$ 1,735,000	$ 1,765,000

The Organization recognized contributed nonfinancial assets within revenue, including contributed rent, household goods, food, medical supplies, clothing, vehicles, and services. Unless otherwise noted, contributed nonfinancial assets did not have donor-imposed restrictions.

Leased Facilities: The Organization receives the use of 3,500 square feet of retail space in Medford, NY on a donated basis that it utilizes for its food pantry (1,500 square feet) and for its thrift store (2,000 square feet). The space is donated on a month-to-month basis and has been valued at the fair market rent of similar space in the area.

Household Goods: Contributed household goods were used in domestic community development and services to community shelters and low-income families as well as sold within the Organization's thrift store. During the years ended June 30, 2021 and 2020, $83,000 and $78,000, respectively, were sold within the Organization's thrift store, with the balance of $60,000 and $69,000, respectively, were used utilized in the Organization's program activities. Household goods were valued at estimated thrift shop value on date of contribution.

Food: Contributed food was utilized in the following programs: natural disaster services, domestic community development, and distribution through the Organization's mobile food pantry and food pantries located throughout Suffolk County New York. Food represents food rescue from area restaurants as well as donations from food drives, individuals, and corporate partners. Food is valued at an estimate of $1.85 per pound, which is based upon a feeding America study trended forward to fiscal 2021.

Medical Supplies: Contributed medical supplies were utilized for natural disaster services and the Organizations operations with Long Island based shelters and clinics. The Organization estimated fair value of Medical Supplies on the basis of estimates of wholesale values that would be received for selling similar products in the United States.
Clothing: Contributed clothing were used in domestic community development and services to community shelters and low-income families as well as sold within the Organization's thrift store. During the years ended June 30, 2021 and 2020, $285,000 and $294,000, respectively, were sold within the Organization's thrift store, with the balance of $59,000 and $63,000, respectively, were used utilized in the Organization's program activities. Contributed clothing was valued at estimated thrift shop value on date of contribution.

Vehicles: It is the Organization's policy to sell all contributed vehicles immediately upon receipt at auction or for salvage unless the vehicle is restricted for use in a specific program by the donor. No vehicles received during the period were restricted for use. All vehicles were sold and valued according to the actual cash proceeds on their disposition.

Services: Contributed services recognized comprise professional services from attorneys advising the Organization on various administrative legal matters. Contributed services are valued and are reported at the estimated fair value in the financial statements based on current rates for similar legal services.

The goal of the new ASU is to provide consistency and transparency in financial reporting surrounding in-kind donations.

WRITTEN BY: ERIN GRUPPE
STAFF ACCOUNTANT

NEWS FLASH!

Exempt Organizations May Actually Have to Pay Income Tax

UBIT. Pronounced *"you-bit."* It's one of seemingly millions of acronyms that not-for-profit organizations (let's add another one, NFP's) have probably heard of, but don't know much about. It stands for unrelated business income tax, and it's an area of the **Internal Revenue Code (IRC)** that is overlooked all too often. NFP's may assume that, being tax-exempt entities, they are truly exempt from ever having to pay income taxes. Chances are that most of these assuming NFP's are correct, but those that aren't may be subjecting themselves to **Internal Revenue Service (IRS)** audits, income tax liabilities, interest, and penalties that they are completely unaware of. The worst-case scenario is that an NFP loses its exempt status by focusing too much of its efforts and energies on unrelated business activities. *"Too much"* in this case is not well-defined, but best practice seems to point at 20% as the threshold for having an excessive level of unrelated business. In recent years, the IRS has ramped up scrutiny of NFP's in efforts to generate additional revenue for itself and the federal government. UBIT audits are thus becoming more commonplace and adversarial.

The goal of this article is to shed some much-needed light on UBIT, what it is, why it's important to your NFP, how it practically comes into play, and what to be on the lookout for to ensure compliance and to avoid IRS scrutiny (*or worse*). There are countless situations, court cases, and exceptions that are enmeshed with this subject, so please realize the confines of this newsletter prohibit us from being completely comprehensive. As with any NFP issue, if you are facing a unique and/or complicated situation involving UBIT, we'd be glad to advise you on how to approach it.

WHAT IS UBIT?

UBIT is determined by the level of **unrelated business income (UBI)** that an NFP generates. The textbook definition of UBI is: *"income from a trade or business which is regularly carried on and is not substantially related to the charitable, educational, or other purpose that is the basis of the organization's exemption."* There are three major elements in that definition – the activity is **(1)** *a trade or business,* **(2)** *is regularly carried on,* and **(3)** *is not substantially related to the exempt purpose of the NFP.* We'll provide more clarity later for each of these elements.

WHY IS THERE UBIT?

There are multiple reasons why UBIT exists. In short, it's meant to provide a level playing field for NFP's competing with for-profit enterprises. For-profit entities, who presumably have to pay income taxes, cannot fairly compete with NFP's who are performing services or selling goods without the added burden of income taxes built into its pricing structure. The NFP, in this case, is operating with an unfair competitive advantage. UBIT helps reduce or eliminate that advantage. One may argue that the use of the funds from the sales in question still furthers the mission of the NFP, but unfortunately, when it concerns UBIT, the IRS is mainly interested in the operations generating the income, not the use of the funds (*which are normally still charitable*).

WHAT IS A "TRADE OF BUSINESS"?

An activity is a trade or business if it is carried on to sell goods, perform services, or includes some other activity with the purpose of producing income. Generally speaking, if the activity is designed solely to generate profits to supplement the NFP's income, it likely is considered to be carried on for the production of income. The fact that an activity may also be in direct competition with commercial for-profit entities further cements its classification here.

Thankfully there are some exceptions to these general rules. For instance, if the activity is conducted principally (*85% or more*) by unpaid volunteers, it is not considered a trade or business subject to UBIT. If activities involve sales of donated items, they too are exempted from UBIT, as are activities carried out for the convenience of constituents or members of the NFP (*the classic examples here are gift shops in NFP hospitals or cafeterias in NFP schools*). There are other factors involved, so please seek pointed advice for your unique situation.

WHAT IS CONSIDERED *"REGULARLY CARRIED ON"*?

Of course there is ambiguity in this definition, and specific circumstances require specific insights. In this case the frequency and ongoing nature of activities will play a role. Minor, one-time activities likely are excluded. Those that are conducted either seasonally or in a routine fashion, and require a relatively significant level of ongoing or scheduled efforts, likely are considered regularly carried on. Following the NFP food pantry example above, if sales of excess food occurred once over a short duration of time, it's likely no considered regularly carried on, and would not be subjected to UBIT. If, however, it's a part of normal operations, has staff dedicated to it, and is ongoing or occurring more periodically, it would fall under the auspices of UBIT rules.

WHEN IS AN ACTIVITY CONSIDERED NOT SUBSTANTIALLY RELATED TO THE NFP'S EXEMPT PURPOSE?

If an activity has no bearing on or contributes no meaningful advancement towards the NFP's exempt purpose/mission, then it is not related, and it would be subject to UBIT. The most common rebuttal from NFP's is that they *"use the profits to pay for our mission and carry out our exempt purpose."* The IRS has specifically rejected this argument. The disposition of the funds generate from the activity in question has no bearing on the labeling of the activity as subject to UBIT or not.

MY ACTIVITY SEEMS TO BE SUBJECT TO UBIT. *NOW WHAT?*

Don't panic yet. The IRS has specifically identified certain transactions and activities as being statutorily exempt from UBIT. They are generally passive activities, and include interest, dividends, capital gains, royalties, and real estate rentals (*though special rules exist for rentals of debt-financed property, which we will discuss later*).

If your unrelated business activities do not seem to be excluded, then you'll have to work on filing annual UBIT returns with the IRS (*Form 990-T*) and related states in which those activities are carried out. Like with any for-profit business enterprise though, you're able to deduct expenses related to the activity to arrive at your unrelated business taxable income (*UBTI, which is not the same as UBIT*). Allocations can be tricky, but remember that whatever costs you claim as deductions against your **unrelated business income (UBI)** must be directly associated with those activities and must be supported by reasonable and appropriate allocation methodologies. Ultimately after deductions and credits, your UBTI will be taxed at a rate of 21%. For NFP's with projected liabilities, you should consider the need for making quarterly estimated payments throughout the year to avoid late-filing penalties and interest.

WHAT ABOUT DEBT-FINANCED PROPERTY?

The most common questions that we face about UBIT come about with debt-financed real property. There are no simple answers, so if this applies to you, please let us know and we'll help you closely analyze your particular set of circumstances.

Consider an NFP that purchased a building through debt financing. The NFP occupies a portion of the building, but rents the rest. If the NFP occupies substantially all of the property (*measured in square feet, over 90%*), it can probably stop there. The rental income is usually not subject to UBIT. If, however, a more significant portion of the space is rented, an amount subject to UBIT must be calculated based on the average level of acquisition indebtedness for the year in question (*average debt balance associated with the property purchase*) as compared to the average cost basis in the building during that same year (*net of accumulated depreciation*). That percentage is applied to the rental income to arrive at the portion subject to UBIT. It sounds complicated because it is. Again, seek professional advice if this applies to your NFP. Just know that if you're renting space that you bought with debt financing, you definitely need to carefully assess the taxability of your rental income.

IN SUMMARY

Almost 1,300 words in, we're only scratching the surface of the beast that is UBIT. The main takeaways should be that **(1)** *NFP's are not always exempt from paying income taxes,* **(2)** *activities that NFP's carry out that are not related to their missions may subject them to UBIT,* and **(3)** *there are complexities, exceptions, and calculations that will likely come into play.* If you think UBIT applies to your organization, we can help you determine to what extent it does or doesn't.

WRITTEN BY: MATTHEW BURKE, CPA, CFE
PARTNER

AUDIT COMMITTEE BOOTCAMP **WRAP UP**

In the fall of 2020, we presented a three-part webinar series, Audit Committee Bootcamp. We created this webinar series to bring important information about the audit committee and its roles and responsibilities to light. The information we shared was broken out in the following topics: roles and responsibilities of the audit committee; the committee's role in the audit process; and internal communication and understanding risk. Here is a summary of the information presented at each webinar.

ROLES AND RESPONSIBILITIES OF THE AUDIT COMMITTEE

- The audit committee is a committee of the Board. Its members, all independent of the organization, typically include those that understand financial statements that are prepared in accordance with accepted accounting principles, the financial statement audit process, and the organization's internal controls.
- An important purpose of the audit committee is to evaluate the internal and external risks of the organization.
- The audit committee should meet with the board of directors, external auditors, and if the organization has these functions/requirements: internal auditors and corporate/Medicaid compliance officer/quality assurance officer.
- The audit committee reviews and approves the organization's audited financial statements, auditor's findings, reports from government audits and its funding sources, and its annual IRS Form 990 and applicable state returns. If the organization has a pension plan, the audit committee should also review the pension to make sure it is properly being benchmarked on a periodic basis.
- The audit committee will meet periodically throughout the year and minutes must be maintained for all meetings held.

THE AUDIT COMMITTEE'S ROLE IN THE AUDIT PROCESS

- Audit Committee members play an important role in the selection of the organization's external auditor.
- The audit committee will prepare a request for proposal to send out to various CPA Firms, including the organization's existing external audit firm.
- There are many factors to consider when selecting an audit firm. *Does the firm have experience working with other organizations in the same industry?* The firm should provide references to organizations that are comparable to your organization. COVID-19 brought a change in how audits are performed. *Is the firm's use of technology appropriate for remote working and secure for sharing of sensitive audit documents? Other than performing the audit, is the auditor available to answer questions throughout the year? Do they provide resources for accounting and industry updates?* Other factors to consider are staffing patterns, will the partner and manager have significant involvement in the audit; demeanor and communication style, responsiveness to emails, deadline awareness, flexibility of the auditor to work with you with respect to audit adjustments and findings; fees and extra billing, how does the firm budget for annual increases and will they bill for additional time spent above the quoted audit fee. Price is an important factor for many organizations; however, audit quality should be in line with the price of the audit. Lastly, the audit firm's most recent peer review report should be reviewed.
- Based on the previously noted factors, the audit committee should develop a scorecard to compare the type of factors that are most important in the decision of the audit firm.
- Once the audit firm is selected, the audit committee will review the engagement letter to ensure understanding of management and the auditor's responsibilities.
- The audit committee will meet with the auditors before and after the audit, approve the audited financial statements and audit findings, if any, and present to the full board of directors.

INTERNAL COMMUNICATION AND UNDERSTANDING RISK

- The audit committee interacts with the Board of directors, management of the organization, internal and external auditors.
- There is a purpose for the audit committee's communication with each of these groups. The discussions with the board of directors are for the plans and results of internal and external audits; results of risk management; internal controls; board policies and compliance with annual return filings. The audit committee will discuss with organization management, any changes to internal controls and risk management reviews. Communication with the internal auditors over risk assessments and audit tests will help the audit committee in its risk management process.
- The audit committee's risk management includes its assessment on several factors that can have a significant impact on the organization. The audit committee being aware of these factors can help to ensure the organization reduces its exposure to risk of non-compliance with laws and regulations, as well as the risk of significant audit findings from both its external auditors and if applicable, audit findings from its funding sources. Some factors include having the required board policies, proper internal controls, compliance with funding source contracts, compliance with annual filing requirements (*i.e. 990 and audited financial statements to the NYS Charities Bureau*), reviewing and understanding the finances of the organization, compliance with regulations surrounding human resources, and ensuring there are proper information technology policies and security in place.

Each of these webinars and materials are ***available on our website***. Please share them with your audit committee. We also provided an ***audit committee self-assessment guide***. We recommend reading this over and performing your own self-assessment to ensure the audit committee is functioning in the manner it was designed and that best fits the organization.

WRITTEN BY: TANIA QUIGLEY, CPA
PARTNER

WHERE STORIES, DONATIONS, AND QUARANTINE LIFE MEET

If I told you to hire my company, you would look at what we do and make a decision but if we told you the full story of our background you would learn more of the heart and soul of our product or service. This is so important today, to so many people, more than ever. One day I was sitting with my partner at a restaurant, when the sommelier offered us a wine pairing for our meal. In the introduction to one of the wines, he told us not just of the tastes and bodies of the wine but also the story of the couple that had created it. They had both been raised in a winemaking family and had a lineage in wines. When they met, they created something new and blended together two amazing histories. This story was part of the glasses he filled.

In today's world, everyone wants to know not only that their product is great quality but also about its creation story. *Where is it from? Who made it? How did they make it? Where did they get the product to make it? Why did they create it?* Marketing companies know this and they fold it into every advertisement and brand we see. Shelves around the world, market a story with their product. We even know about the small family that owns a farm on the north shore, that sells its apples to a plant to create our juice.

Story is more important to us now than ever before. In the world of nonprofits it is the gift of the story that sometimes gets overlooked. We spend so much time looking at donations as a gift of dollars and cents, that we forget that it really is a gift from the heart. No matter who is signing the check, it is the story that pushes the pen. Some organizations feel their story doesn't have the appeal of other groups, but that is where they are wrong. All nonprofits started the exact same way! A need was identified and people that knew the need decided they had to do something about it. They poured blood, sweat, and tears into the creation of an organization to aid in the repair of that need. Your organization has a story behind it and your donors want to know it. There is a line that many use that says *"people give to people, not to numbers"* and that has never been truer than today.

In today's world, statistically human to human donations are the biggest form of giving and in the age of technology the opportunity to tell your story is easier than ever. Everyone understands. Everyone knows the challenges facing our communities, so much that we want to rally together to fix these problems.

With the creation of online giving, GoFundMe pages and virtual gala's, this opportunity to share your story far and wide is easier than ever. In fact, it is the most affordable investment to make today because of its ability to touch many people and their hearts. You can spread your message and show your story in a sincere, transparent, and easy way that can travel around the world.

With today's online giving and virtual events, you can have donors gather together from all over the nation. Family, friends, boards, and communities can invite people to an event they would not otherwise be able to see. Some people have never heard of these nonprofits or have been invited to these events. They say the number one reason people don't attend events is that they weren't invited. Now the ease of inviting guests has been amplified. While you have your guests at your *'new gala'* you can show them your mission and impact. You have an opportunity to spread the mission farther and in a clear way. Viewers don't expect all organizations to have video quality of Marvel movies, but they can see your story shot from a nice cell phone camera or a local production company. A video can tell the heart and soul of your story and it can embed the images of your organization forever. You have an opportunity now to give your organization a new life.

Think of the image of Sara Mclachlan and the sad puppies in the commercial that went around the world (*see picture to the right*). Now you don't need the budget of a super bowl ad to tell more and more people about your mission. Share the heart and soul of your organization and tell the story of you and those that you serve. Use what you have. Look into the first introduction of your connection to the organization and share that feeling. Talk to your boots on the ground workers. Ask what they are seeing and feeling today. Share their successes and challenges. Tell the story of your need in 2021 and tell the story of your why. When you match up these pieces and give donors the ability to support you, then real magic begins.

We have seen so much success with improved online giving and virtual events, that we never expected these amazing results in these trying times. The biggest successes have been from NPO's reporting back that we were able to get 100% participation from attendees and viewers. That means that they were able to tell the story clearly enough that everyone was able to become a part of the mission.

There is a great need for clarity, transparency, and opportunity to feel better. This is a great awakening for nonprofit donors. The future of gifts will be in a story you probably have heard a million times or maybe one you overlooked but when it's shared it can create a gift of a new believer. Someone ready to sit at the table to tell of the important works being done and inspire them to roll up their sleeves to get the work done themselves. Stories create relationships and it's these relationships that are where the legacy donors live.

WRITTEN BY: ERIN WARD AND BOBBY D. EHLERT,
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