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Internal Revenue Service
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Ms. Janine Cook
Deputy Associate Chief Counsel (TE/GE)
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Re: Unrelated Business Income Expense Allocation Methodologies for Dual Use Facilities

Dear Mmes. Judson and Cook:

The American Institute of CPAs (AICPA) appreciates the efforts by the Internal Revenue Service (IRS) Office of Chief Counsel to issue guidance for tax preparers and taxpayers on how a tax-exempt organization should allocate expenses attributable to facilities and/or personnel which are used for both tax-exempt activities and unrelated trade or business activities.

To further this mission, we previously provided an outline with suggestions of various unrelated business income (UBI) expense allocation methodologies. In this letter, we submit additional guidelines and examples for your consideration in addressing how to allocate expenses for dual use facilities.

<u>Guidelines for allocation of indirect expenses</u>

1. Deductible expenses must bear a proximate and primary relationship to the conduct of the activity.

2. Deductible expenses include both direct costs and indirect costs.

3. Indirect costs include *fixed* expenses (those which do not change when the unrelated activity is conducted or not conducted) and *variable* expenses (those which increase or decrease when the unrelated activity is conducted or not conducted).

4. The methodology for allocating expenses relating to dual use facilities/personnel is reasonable and consistently[1] followed from year to year, and should not cause the double-counting of any expense.

5. The methodology for allocating expenses relating to dual use facilities/personnel is based on the character of the expense involved.

   a. Facility costs (rent, mortgage interest, insurance, taxes, security, and utilities) apportioned based on portion of facility used (square footage and time) for each activity.

   b. Personnel costs (salary, benefits, and taxes) apportioned based on time spent on each activity.

   c. Information technology costs (software, computer services, and internet) apportioned based on allocation of personnel to activity.

6. The Office expenses (supplies, printing, postage, and subscriptions) are apportioned based on allocation of personnel to activity.

Examples

Example 1: Exempt Organization (EO) owns an office building which is subject to a mortgage. The portion of the building which is not used by the EO is rented to unrelated third parties. Tenants have separately contracted for utilities. The EO's office manager is responsible for collecting rents and responding to the tenants' requests for repairs. Under Internal Revenue Code (IRC or "Code") section 514,[2] a portion of the rent earned by the EO is treated as unrelated business taxable income. (This example is for purposes of illustrating the calculation to determine the costs attributable to the activity, and therefore, does not include the calculations required by section 514 to allocate a percentage of the revenue and expenses to UBTI based on the average debt/basis ratio.)

Allocation of building costs based on square footage

Total building square footage: 5,000
Rented square footage: 1,500
Annual building depreciation: $50,000
Annual building insurance: $20,000
Annual mortgage interest: $60,000

[1] Allocation methods are revised from time to time as the organization's activities and related expenses evolve over time. Such changes that enhance the accuracy of expense allocations do not violate the consistency principle.
[2] All references herein to "section" or "§" are to the Internal Revenue Code (IRC) of 1986, as amended, or the Treasury Regulations promulgated thereunder.

Allocated expenses:
Depreciation = \$50,000 × (1,500 ÷ 5,000) = \$15,000
Insurance = \$20,000 × (1,500 ÷ 5,000) = \$6,000
Interest = \$60,000 × (1,500 ÷ 5,000) = \$18,000

Allocation of personnel time devoted to rental activity based on time spent

Annual office manager compensation: \$75,000
% time devoted to rental activities: 15%

Allocated expenses:
Personnel = \$75,000 × 15% = \$11,250

Allocation of overhead devoted to rental activity based on related personnel's office space

Office manager's office square footage: 100
Annual utilities: \$40,000

Allocated expenses:
Depreciation = \$50,000 × (100 ÷ 5,000) × 15% = \$150
Insurance = \$20,000 × (100 ÷ 5,000) × 15% = \$60
Interest = \$60,000 × (100 ÷ 5,000) × 15% = \$180
Utilities = \$40,000 × (100 ÷ 5,000) × 15% = \$120

Total allocated expenses = \$50,760

Example 2: EO owns an office building which is subject to a mortgage. The building has a ballroom which is sometimes used by the EO for events related to its mission and at other times is rented to unrelated third parties. Under section 514, a portion of the rent earned by the EO is treated as unrelated business taxable income. (This example is for purposes of illustrating the calculation to determine the costs attributable to the activity and therefore does not include the calculations required by section 514 to allocate a percentage of the revenue and expenses to UBTI based on the average debt/basis ratio.)

Allocation of fixed building costs to Ballroom based on square footage

Total building square footage: 10,000
Rented square footage: 2,000
Annual building depreciation: \$40,000
Annual building insurance: \$10,000
Annual mortgage interest: \$30,000
Allocated expenses:
Depreciation = \$40,000 × (2,000 ÷ 10,000) = \$8,000

Insurance = $10,000 × (2,000 ÷ 10,000) = $2,000
Interest = $30,000 × (2,000 ÷ 10,000) = $6,000

Allocation of fixed Ballroom costs based on usage

Days used by EO for its own exempt activities: 100
Days used by unrelated third parties for non-exempt purposes: 20
Days in EO's tax year: 365

Allocated expenses:
Depreciation = $8,000 × (20 ÷ 365) = $438
Insurance = $2,000 × (20 ÷ 365) = $110
Interest = $6,000 × (20 ÷ 365) = $329

Allocation of variable Ballroom costs based on usage
(The costs below are attributable to the ballroom only and are incurred only when it is used)

Janitorial services = $12,000
Utilities = $6,000

Allocated expenses:
Janitorial services = $12,000 × (20 ÷ 120) = $2,000
Utilities = $6,000 × (20 ÷ 120) = $1,000

Total allocated expenses = $3,877

Example 3: EO operates a facility which processes laboratory services for patients at its hospital facility and non-patients. The revenue earned from non-patient lab services is treated as unrelated business taxable income. Although customers are eligible for different discounts, the gross charges for each service are the same regardless of who receives the services. Assume the profit margin is consistent.

Allocation of expenses based on revenue

Total gross revenue: $100,000
Gross revenue attributable to patient services: $80,000
Gross revenue attributable to non-patient services: $20,000
Total facility expenses: $75,000

Allocated expenses:
Facility expenses = $75,000 × $20,000 ÷ $100,000 = $15,000

Total allocated expenses = $15,000

Example 4: EO operates a laundry facility which processes laundry for affiliated organizations and unrelated third parties. The revenue earned from unrelated third parties is treated as unrelated business taxable income. Charges for laundry services are based on the number of pounds processed.

Allocation of expenses based on units of service

Total annual pounds of laundry processed: 80,000
Annual pounds of laundry processed for affiliated organizations: 50,000
Annual pounds of laundry processed for unrelated third parties: 30,000
Total facility expenses: $200,000

Allocated expenses:
Facility expenses: $200,000 × 30,000 ÷ 80,000 = $75,000

Total allocated expenses = $75,000

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The comments and recommendations included in this letter were developed by the AICPA Exempt Organizations Taxation Technical Resource Panel and approved by the AICPA Tax Executive Committee.

The AICPA is the world's largest member association representing the accounting profession, with more than 412,000 members in 144 countries, and a history of serving the public interest since 1887. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

We appreciate your consideration of our recommendations and welcome the opportunity to discuss them with you. If you have any questions, please feel free to contact me at (801) 523-1051 or tlewis@sisna.com; Betsy Krisher, Chair, AICPA Exempt Organizations Taxation Technical Resource Panel, at (412) 535-5503, or bkrisher@md-cpas.com; or Ogochukwu Anokwute, Lead Technical Manager, AICPA Tax Policy & Advocacy, at (202) 434-9231, or oanokwute@aicpa.org.

Sincerely,

Troy K. Lewis, CPA, CGMA
Chair, AICPA Tax Executive Committee