

HIGHER EDUCATION TAX INSTITUTE
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STUDENT AND AFFILIATED ORGANIZATIONS

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Separate Legal Entity

- Is the student/affiliated organization a separate legal entity in its own right?
- No – formless aggregation of individuals, or integral part of university
- Yes – incorporated under state law, or has “corporate characteristics”

Corporate Characteristics

- Organizing document (e.g., a constitution or bylaws)
- Centralized management, such as directors and officers
- Objective to carry on particular activity
- Continuity of life
- Control over own income/expenses
- Members believe liability is limited to assets of organization

If Organization is Not Separate Legal Entity

- If formless aggregation of individuals, activities and operations ignored
- If integral part of university, university must be concerned about nature of activities
- Charitable contribution deductions, political activities, contractual issues, etc.

Integral Part Test

- Activities would not be UBI if conducted by university
- Activities are “necessary and indispensable” to the operations of university
- Organization is controlled by university

If Organization is Separate Legal Entity

- Obtain its own tax-exempt status under section 501(c)(3) or other Code section
- Be part of group ruling issued to university
- Otherwise, organization is taxable as a corporation

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