

# UConn Tax Compliance Training

**Presented by:**

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- **PURPOSE OF TODAY'S MEETING**
- **OVERVIEW OF TAX COMPLIANCE**
- **PRIVATE ACTIVITY**
- **MANAGEMENT CONTRACTS/RESEARCH AGREEMENTS**
- **ARBITRAGE/REBATE**
- **DUE DILIGENCE/RECORD KEEPING**
- **QUESTIONS/WRAP UP**

# Purpose of Meeting

Stu's Views

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"Tax Lawyer of the Year!"  
I'd like to thank the IRS, without  
whose incomprehensible regulations  
I wouldn't have a job.

- A. High Level Education of IRS Private Activity Concerns**
- B. Contract Review Process Prior to Execution**
- C. Goal is to accommodate University**

- A. Compliance with IRS regulations and requirements
  - i. Bond Documents (reasonable expectations at time of issuance)
    - a. Tax Questionnaires
    - b. Tax Regulatory Agreement
    - c. IRS Form 8038
  - ii. Compliance required for Life of Bonds
    - a. Change in Private Use
    - b. Sale of Bond-financed Property
    - c. Violations go back to Bond issue date
    - d. Remedial Actions
  - iii. Importance
    - a. Tax status of Bonds
    - b. Cost of IRS audits
    - c. Reputation in credit markets
    - d. Increased debt service costs
    - e. Reputation in Connecticut

## University Procedures

- a. Private Activity Compliance Procedures
- b. Management Contract Guidelines
- c. Research Agreement Guidelines
- d. Tax-Exempt Equipment Lease Procedures

## A. Private Business Use Test

### i. Private Use Definition

- a. Direct or indirect use of a tax-exempt financed facility in a trade or business carried on by any person other than a State or Local governmental unit
- b. Types of private users - includes federal government and 501(c)(3)s
- c. Examples
  - Lease/license of space (e.g. restaurants, private offices, UCHC Research Tower)
  - cell towers
  - solar panel installations
  - management contracts
  - sponsored research
  - output facilities and contracts (electric, gas and water)
  - P3 arrangements (sports facilities)
  - Corporate naming rights
  - Equipment Leasing/Financing
- d. Sale of Bond-Financed Facility
  - Remedial Actions

- A. Private Business Use Test
  - ii. Private Use Exceptions
    - a. General Public Use (e.g. parking garage or auditorium)
      - 200-day exception
      - 100-day exception
      - 50-day exception
    - c. Incidental Use (e.g. vending machines or advertising display)
    - d. Qualified Improvements
    - e. Qualified Management Contracts
      - Revenue Procedure 97-13
      - Revenue Procedure 2017-13
    - f. Qualified Research Contracts
      - Revenue Procedure 2007- 47



## **A. Revenue Procedure 97-13**

- i. Applicable to management contracts executed prior to August 18, 2017 and not modified or extended on or after August 18, 2017
  - a. Reasonable Compensation
  - b. Safe Harbors
    - 95% Fixed Fee Arrangement
    - 80% Fixed Fee Arrangement
    - 50% Fixed Fee Arrangement
    - Per-Unit Fee Arrangement
  - c. Service Provider has no role or relationship with University

## B. Revenue Procedure 2017-13 (less objective)

- i. Applicable to management contracts executed on or after January 17, 2017
  - c. **No Net-Profit Arrangements**
    - a. No automatic safe-harbors
    - b. Reasonable Compensation
    - c. No Bearing of Net Losses
    - d. Permissible Compensation
    - f. Term of Contract
    - g. University control of facility
    - h. Service Provider has no role or relationship with University

## **A. Revenue Procedure 2007-47**

- i. Basic Research definition
- ii. Corporate Sponsor Research
  - a. Sponsor pays FMV for license or resulting technology
  - b. FMV determined at time license or technology becomes available
- iii. Industry Sponsor Research
  - a. University controls and performs research
  - b. License or resulting technology owned by University
  - c. Nonexclusive, royalty free licenses permitted

## **A. Revenue Procedure 2007-47**

- iv. Federal Government Sponsor
  - a. University controls and performs research
  - b. License or resulting technology owned by University
  - c. Nonexclusive, royalty free licenses permitted
- v. Clinical Trials
  - a. Performed on general patient population
  - b. Performed at facilities that serve general patient population
  - c. University is paid objective fee
  - d. Collected data given to sponsor, except for records typically retained by University
  - e. Sponsor does not dictate what facilities are used for trial
  - f. Not undertaken for discovering patentable inventions
  - g. University retains right to publish results

# Measuring Private Use and Private Payment

## A. Measurement of Private Use

- i. Measured on issue-by-issue basis
- ii. Measurement Period
- iii. Time and Space Analysis
- iv. Allocation of Qualified Equity
  - a. University funds
  - b. Taxable bond proceeds

## B. Private Payment Test

- i. Private payments relating to financed facilities
  - a. Operating expense exception
  - b. Generally applicable tax exception

## A. Arbitrage Bonds

- i. A bond which the issuer “reasonably expects to earn or intentionally earns more from any portion of the proceeds of the bond than it pays in interest”
  - a. Some investment earnings are inevitable
  - b. Code and Regulations provide ways to deal with investment earnings
  - c. Spend proceeds quickly

## B. Rules Regarding Arbitrage

- i. Temporary Period (typically 3 years)

## C. Rules regarding Rebate

- i. 24-month exception
- ii. 18-month exception
- iii. 6-month exception
- iv. Other

## A. Tracking Private Business Use

- i. Real Estate provides information to Treasury Services
  - a. unexecuted agreement
  - b. Project Tax Information Compliance Questionnaire
  - c. description of bond-funded asset (building identifier, location, square footage, etc.)
  - d. funding history for building
  - e. profitability analysis
  - f. other requested information
- ii. Treasury Services/Bond Counsel review information

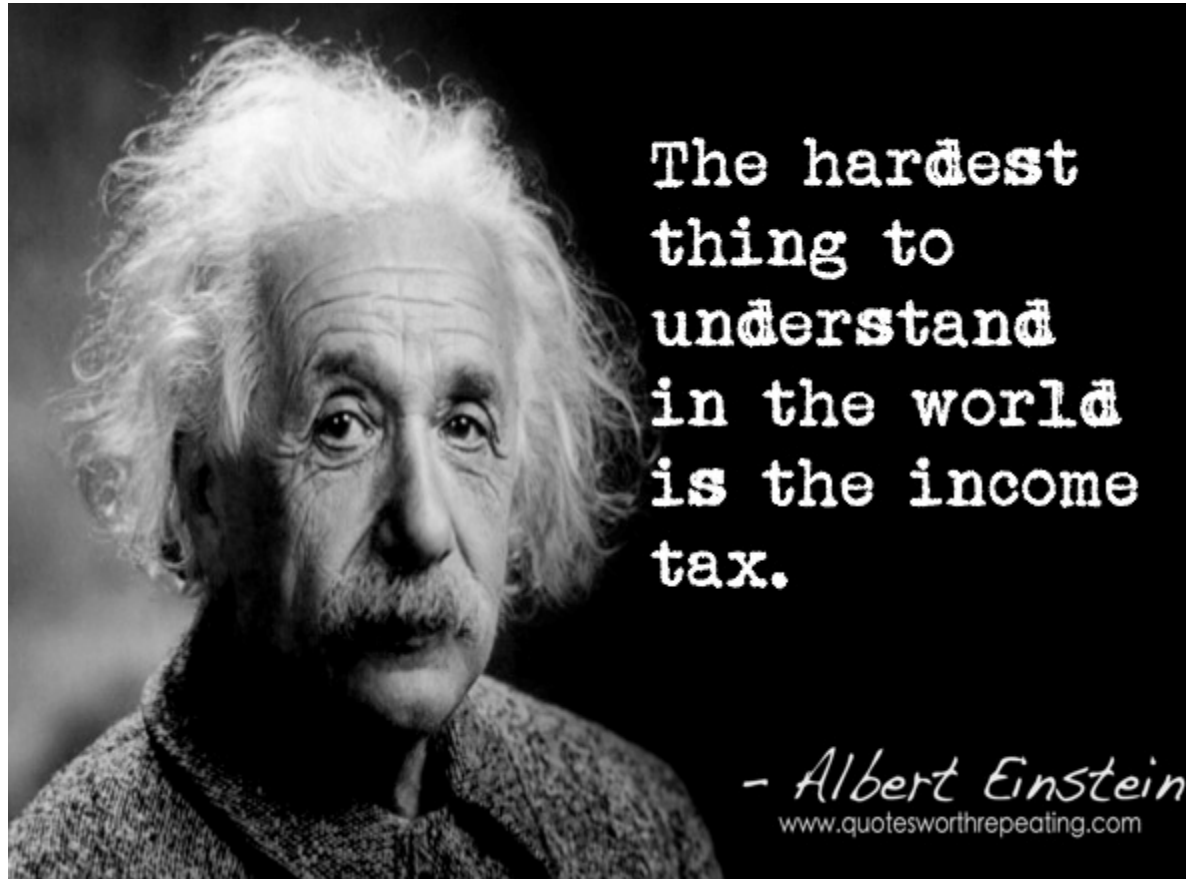
## A. Tracking Private Business Use (continued)

- iii. Real Estate forwards and reviews necessary information with Attorney General Office
- iv. Real Estate forwards and reviews necessary information with State Treasurer Office
- v. State Treasurer Office sign-off
- vi. Real Estate maintains records

## B. Documentation

- i. Monitoring private business use
- ii. Maintaining detail records for each financed facility







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