Contents

Preface	xiii	
Chapter	One: Overview of College and University Taxation	1
§ 1.1	Historical Overview 1	
§ 1.2	Tax Resource Material 4	
§ 1.3	Description of Legal Authorities 5	
Chapter '	Two: Unrelated Business Income	10
§ 2.1	Introduction—General Principles of the Unrelated Business Income Tax 11	
§ 2.2	Statutory Exceptions to Unrelated Business Income 22	
§ 2.3	Income from Controlled Organizations 50	
§ 2.4	Foreign Insurance Income 52	
§ 2.5	Unrelated Debt-Financed Income 52	
§ 2.6	Allowable Deductions 57	
Chapter '	Three: Common Activities Conducted by Colleges and Universities	
	that Raise Unrelated Business Income Tax Concerns	67
§ 3.1	Bookstore Operations 68	
§ 3.2	Dormitory Rentals 69	
§ 3.3	Advertising Income 71	
§ 3.4	Corporate Sponsorship Payments 77	
§ 3.5	Hotel and Restaurant Operations 87	
§ 3.6	Travel Tours 89	
§ 3.7	Operation of Farking Lots 99	
§ 3.8	Participation in Partnerships 101	
§ 3.9	Professional Entertainment Events 104	
§ 3.10	Use of Recreational Facilities by the General Public 107	
§ 3.11	Summer Sports Camps 111	
§ 3.12	Publishing Activities 112	
§ 3.13	Affinity Credit Cards 114	
§ 3.14	Sale, Rental, or Exchange of Mailing Lists 118	
§ 3.15	Concession Sales 120	
§ 3.16	Catering Activities 121	
§ 3.17	Treatment of Alumni 122	
§ 3.18	Conferences, Meetings, and Training Programs 123	
§ 3.19	Athletic Events/Television and Broadcast Rights 126	
§ 3.20	Retirement Homes 128	
§ 3.21	Intellectual Property Issues 129	
8 3 22	Internet Fund-Raising and Advertising Issues 132	

CONTENTS

§ 3.23 § 3.24 § 3.25	Ownership of S Corporation Stock 137 Sale of Products Derived from Conduct of Related Activity 137 Business Incubator Activities 138			
	Four: Employment Taxes	141		
§ 4.1	Introduction 142			
§ 4.2	Employee versus Independent Contractor Classification 143			
§ 4.3	Social Security Tax Exemption for Students 173			
§ 4.4	The Nonresident Alien Exception 194			
§ 4.5	State College and University Employees 198			
§ 4.6	Classification of Signing Bonuses and Termination, Early Retirement,			
0	Royalty, and Settlement Payments 199			
§ 4.7	Student Loans Forgiven in Return for Subsequent Services 217			
§ 4.8	Deferred Compensation Payments 218			
Chanter F	Five: Fringe Benefits	223		
§ 5.1	Five: Fringe Benefits Introduction 223 The Section 132 Rules 226	220		
§ 5.2	The Section 132 Rules 226			
§ 5.3	Fringe Benefits Typically Provided by Celeges and Universities 241			
30.0	Timge beliene Typicany Trovided by Colleges and Onliversides 211			
Chapter S	Six: Charitable Contribution Deductions	263		
§ 6.1	Introduction 263			
§ 6.2	Bona Fide Transfer of Money or Property 264			
§ 6.3	Permissible Donees 267			
§ 6.4	No Consideration Received in Return 271			
§ 6.5	Gifts of Patents and Related Rights 279			
§ 6.6	The Substantiation and Disclosure Requirements 281			
§ 6.7	Bargain Sales 287			
§ 6.8	Gifts of Partial Interests 288			
§ 6.9	Contribution: Made in Trust 289			
§ 6.10	Gift Annuities 290			
§ 6.11	Charitable Split-Dollar Life Insurance 290			
Chapter S	Seven: Scholarships and Fellowships	292		
§ 7.1	Introduction 292			
§ 7.2	The Section 117 Rules 294			
§ 7.3	Withholding and Reporting on Scholarship/Fellowship Payments 29	8		
§ 7.4	Qualified Tuition Reductions 300			
§ 7.5	Section 117(c)—Distinguishing Between Scholarship/Fellowship Gran	ts		
0.7.6	and Compensation 304			
§ 7.6	Athletic Scholarships 316			
§ 7.7	Tax-Free Discharges of Student Loans 319			
Chapter Eight: Income Tax Withholding and Reporting on Payments				
	o Nonresident Aliens	322		
§ 8.1	Introduction 322			

■ x ■

CONTENTS

8	§ 8.2	Determining U.S. Tax Residency 323	
	§ 8.3	Determining U.S. Taxable Income 326	
	§ 8.4	Withholding Agent 328	
	§ 8.5	U.S. Tax Withholding Obligations 329	
	§ 8.6	Travel and Living Expense Reimbursements 331	
	§ 8.7	U.S. Tax Reporting Obligations 333	
	§ 8.8	Income Tax Treaties 334	
	§ 8.9	Foreign Athletes: The NCAA versus the IRS 340	
	§ 8.10	Honorarium Payment Issues 340	
	§ 8.11	Voluntary Compliance Program for Nonresident Alien Tax Issues 34	1
	§ 8.12	Tax Treatment of Immigration-Related Expenses Paid by Colleges and	
•	5	Universities 342	
~ 1		Y 6 11 12 12 12 12 12 12 12 12 12 12 12 12	2.4
	_	Nine: Special Issues and Problems	347
	§ 9.1	Exemption Issues 348	
	§ 9.2	Related Entities 405	
	§ 9.3	Section 403(b) and Other Retirement Plans 415	
	§ 9.4	Related Entities 405 Section 403(b) and Other Retirement Plans 415 Tax-Exempt Bonds 429 Conducting Activities Overseas 439 Form 990 Filing Issues 448 State Colleges and Universities 453 Education Tax Incentives 465	
	§ 9.5	Conducting Activities Overseas 439	
	§ 9.6	Form 990 Filing Issues 448	
	§ 9.7	State Colleges and Universities 453	
	§ 9.8	Eddeation Tax meetitives 403	
	§ 9.9	Prohibited Tax Shelter Transactions 473	
8	§ 9.10	Allowing Charitable Remainder Trusts to Participate in Endowment	
		Investment Return 474	
Cl-	t T	lan. IDC Audito of Colleges and Hairmanities	470
	_	Terror of Audits of Colleges and Universities	478
	§ 10.1	Types of Audits 479 The Initial Contact 479	
	_	The Initial Contact 479	
	_	The Examination 481	
	§ 10.4	Presentation of IRS Findings 486	
	§ 10.5	Conclusion of the Audit 487	
	§ 10.6	Extending the Statute of Limitations 488	
	§ 10.7	Closing Agreements 489	
	§ 10.8	Technical Advice Procedures 491	
	§ 10.9	Tips on Preparing for, and Participating in, An Audit 493	
		The Appeals Office Process 495	
		Beyond the Appeals Office—Litigation of the Tax Case 497	
8	§ 10.12	The Attorney-Client and Work Product Privileges 498	

Index 511

nttp./www.phookshop.com