

FAHE 2019 ANNUAL MEETING  
Breakout Session: Social Enterprise-Tax and legal Navigation  
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### **3-Factor Test for Unrelated Trade or Business**

Treasury Regulation § 1.513-1(a) establishes a three-part analysis to determine whether an activity constitutes an unrelated trade or business (making the net income of such activity subject to UBIT) as follows:

1. Is the activity a trade or business?
2. Is the activity regularly carried on?
3. Is the activity substantially related to exempt purposes of the non-profit, exempt organization?

### **Multi-Factor Test for Attribution of Subsidiary to Parent**

Factors the Services reviews to evaluate whether a for-profit subsidiary's activities will be attributed to a tax-exempt parent organization

NOTE: Stock ownership is NOT a factor so a parent entity may own 100% of the stock of a subsidiary.

- Independence (v. Commonality) of Directors
- Maintenance of Arm's Length Dealings
- No Involvement by Parent in Subsidiary's Day-to-Day Management
- Financial Independence/Capitalization of Subsidiary
- Observance of Corporate Formalities of Subsidiary
- Independence of Personnel between Two Entities
- Public Perception of Independence