Summary
This procedure provides guidance on the taxability of income generated by the State University of New York’s (University) campuses. Under the 1948 statutes that created the University under the Board of Regents, the University is to provide higher education in the State of New York, supported in whole or in part with state funds. As a government entity, income derived from the activities of the University is excluded from taxation based on two underlying principles: the application of the Constitutional standard of implied immunity by the U.S. Internal Revenue Service (IRS) and 26 U.S.C. §115.

Process
Under the implied immunity doctrine, while the Federal government has the right to impose taxes on states and their political subdivisions (such as the University), it has chosen not to do so absent specific authorizing legislation to the contrary from Congress. Exemption from tax on income is also afforded to a political subdivision of a state when the income derived from its activities constitutes carrying out an essential governmental function. When the University is conducting its activities in providing higher education to its students, it is carrying out the governmental function for which it was created.

Since the University is exempt statutorily, it does not have to apply for and receive exemption from tax (i.e., the administrative procedure whereby it would apply and receive a determination letter from the IRS as to its tax-exempt status). Additionally, since the University was formed pursuant to New York State statute, it qualifies as a public charity under I.R.C. § 509(a)(1) and I.R.C. § 70(b)(1)(A)(v) as a governmental entity. Therefore, in the case of grant sponsoring and donor organizations, these organizations and donors can rely upon this status to make charitable contributions to the State University campuses in accordance with I.R.C. § 170(c)(1).

Although public colleges and universities are not subject to income tax relating to their exempt purpose, I.R.C. § 511(a)(2) imposes an income tax on activities they are involved in if such activities generate taxable income that is
unrelated to their exempt purpose. I.R.C. § 511(a) (2) (B) states that if net income is earned from the conduct of a trade or business that is unrelated to the exempt purpose of the institution, it is subject to taxation. Therefore, it is important to assess periodically the activities of the University to determine whether it has generated income that may be subject to unrelated business income tax procedures (UBIT).

However, if a sponsored grant is made to the Research Foundation of State University of New York, a letter of exemption (IRS tax determination letter) is generally required and can be obtained from the Research Foundation. Similarly, if the donation or grant is made to a campus-related foundation, a letter of exemption may be obtained from that organization.

Forms
There are no forms relevant to this procedure.

Related Procedures
There are no related procedures relevant to this procedure.

Other Related Information
The Research Foundation of State University of New York

Authority
U.S. Internal Revenue Service (IRS) of the Constitutional standard of implied immunity
I.R.C. § 509(a)(1) (Private foundation.)
1 I.R.C. § 70(b)(1)(A)(v) (Itemized deductions for individuals and corporations.)
26 U.S.C. § 115 (Income of States, municipalities, etc.).

History
There is no history relevant to this procedure.

Appendices
There are no appendices relevant to this procedure.