MEMORANDUM

TO:        UB Foundation Audit Committee
FROM:      Richard J. Kustich
DATE:      November 6, 2015
RE:        Annual Government Filings

Form 990 is required to be filed for the University at Buffalo Foundation, Inc. and each of its six affiliates for the Fiscal Year ended June 20, 2015. The Form 990s will be prepared by management and reviewed by KPMG as preparer. The Form 990 preparation process began in October and the actual filing will be made in the spring of 2016. Audit Committee members will be given the opportunity to review drafts of the Form 990 prior to filing. For the fiscal year 2015 Form 990 filings, UBF staff will use for the second year a software tool provided by KPMG called eWorkPapers-990 which streamlines the process of preparation and provides a structured documentation trail.

The University at Buffalo Foundation, Inc. and affiliates are generally exempt from income tax on activities that are considered related to the tax exempt purpose. Any Unrelated Business Income (UBI) in excess of $1,000 is reported on Form 990-T for Federal income tax purposes. On an annual basis management reviews all activities to determine the extent of UBI. If a Form 990-T is required, it is prepared by management and reviewed as preparer by KPMG. In past year’s Form 990-T has been filed for University at Buffalo Foundation, Inc., UB Foundation Activities, Inc. and UBF Corp.

The activity that consistently generates UBI is University at Buffalo Foundation, Inc.’s investment in private equity partnerships. To date this activity has generated a cumulative net loss and has been reported on Form 990-T to offset future income. The private equity partner compliance process also requires the reporting of various foreign transactions on Forms 926, 8621, and 8865.

Since the UBI related to investment partnerships is generated across the United States, there is potential filing requirements in a number of states as well. The Audit Committee has been made aware of this issue through past communications from management. Registering and reporting in all states where UBI is generated can be costly, time consuming and create additional filing requirements within that state.

Based on the conclusion of an Audit Subcommittee which relied on the recommendation of legal counsel, an approach was established for fiscal year 2012 with respect to state filings. As reported to the Audit Committee on April 29, 2014, state registration and filings were made in each state that had at least $100 tax due or where potential liability, including penalty, was $10,000 or more. This resulted in tax reporting in 19 states and payment of $29,981 in state income taxes for fiscal year 2014. This approach provided a material coverage of potential state tax liabilities and maximized the efforts of management and KPMG. This approach is again recommended for fiscal year 2015.