

Violations of Chapter 42

How to Identify, Correct, and Report While Minimizing Audit Risks

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Form 4720

Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code

- Used to report various tax violations involving exempt organizations and to pay any excise tax due as a result
- Today's focus– violations by private foundations of the excise tax rules under Sections 4941 through 4945 of Chapter 42 of the Internal Revenue Code (IRC) are all reported in Schedules A through E
- Requires detailed disclosure on correction and calculation of tax liability
- Has its own separate annual due date, that may be separately extended
- Questions on the annual Form 990-PF trigger filing

Our Focus Today

Chapter 42 Private Foundation Excise Taxes

- IRC § 4941 – Self-dealing
- IRC § 4942 – Mandatory Distributions
- IRC § 4943 – Excess Business Holdings
- IRC § 4944 – Jeopardizing Investments
- IRC § 4945 – Taxable Expenditures

Possible Violation– What Next?

Violations of each of these Sections must be corrected, reported, and any excise tax due paid. Each violation has a different means of correction and a different calculation for a first, and sometimes second, tier excise tax.

Mitigation or abatement may be available depending on the timing and circumstances of the violation and reporting.

1. Has there been a violation?
2. How should it be corrected?
3. What tax is due?

Note: the “correction period” begins at the date of the violation and ends 90 days after the statutory notice of deficiency.

Reporting

- Form 990-PF
 - Part VII-B: Questions on Chapter 42 violations requiring Form 4720
 - Part XIII: Calculation for minimum distributions under Section 4942
- Form 4720
 - Each individual excise tax is reported on Schedules
 - Correction is required before reporting
 - Correction can be coordinated with other forms such as Form 8940
 - Some taxes may be abated for reasonable cause

Section 4941: Self-Dealing

Excise tax imposed on specified types of “self-dealing” between a private foundation and a disqualified person (as defined by IRC § 4946).

1a	During the year, did the foundation (either directly or indirectly):			
(1)	Engage in the sale or exchange, or leasing of property with a disqualified person?	☐ Yes	☐ No	
(2)	Borrow money from, lend money to, or otherwise extend credit to (or accept it from) a disqualified person?	☐ Yes	☐ No	
(3)	Furnish goods, services, or facilities to (or accept them from) a disqualified person?	☐ Yes	☐ No	
(4)	Pay compensation to, or pay or reimburse the expenses of, a disqualified person?	☐ Yes	☐ No	
(5)	Transfer any income or assets to a disqualified person (or make any of either available for the benefit or use of a disqualified person)?	☐ Yes	☐ No	
(6)	Agree to pay money or property to a government official? (Exception. Check “No” if the foundation agreed to make a grant to or to employ the official for a period after termination of government service, if terminating within 90 days.)	☐ Yes	☐ No	
b	If any answer is “Yes” to 1a(1)–(6), did any of the acts fail to qualify under the exceptions described in Regulations section 53.4941(d)-3 or in a current notice regarding disaster assistance? See instructions			
	Organizations relying on a current notice regarding disaster assistance, check here		☐	
c	Did the foundation engage in a prior year in any of the acts described in 1a, other than excepted acts, that were not corrected before the first day of the tax year beginning in 2018?			

Form 990-PF, Part VII-B

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