

# What Is or Isn't a Taxable Expenditures

Kelli Archibald, Ernst & Young  
Jody Blazek, Blazek & Vetterling

## Kelli Archibald CPA



Kelli is the Private Foundation Practice Leader within EY's Exempt Organization Tax Services practice. She has practiced with EY for nearly 30 years and has worked with many private foundations and public charities. She advises them through charitable structure planning, helping them choose what makes the most sense for achieving their philanthropic goals. She assists foundations through the entire life-cycle and guides them through the, sometimes counter intuitive, tax law governing interactions between donors, for-profit entities and their tax-exempt organizations. She helps organizations understand the tax impact (international, federal and local) of investments and of charitable spending, from their initial structuring to their complex annual reporting requirements. She assists with program-related investment analysis and reporting, with co-investing concerns, and with navigation of the private foundation penalty excise tax laws. She's experienced serving clients with private foundation tax controversy, IRS audit representation and many other 501(c)(3) issues. Kelli develops and leads private foundation educational programs within EY and speaks at industry conferences and events throughout the country.

## Jody Blazek CPA



Jody Blazek is a partner in Blazek & Vetterling, a Houston CPA firm focusing on tax and financial services for over 500 tax-exempt organizations. Jody began her professional career at KPMG, then Peat, Marwick, Mitchell & Co. where in 1969 she studied and advised clients about the Tax Reform Act that completely revamped the taxation of charities and created private foundations. From 1972 to 1981, she gained nonprofit management experience as treasurer of the Menil Foundation. She reentered public practice in 1981 to found the firm she now serves. She is the author of six books in the Wiley Nonprofit Series. Jody served on the Financial Accounting and Transparency Group created by Independent Sector to support the Panel on the Nonprofit Sector's reports to the Senate Finance Committee and is past chair and adjunct member of the AICPA Tax-Exempt Organizations Resource Panel. She serves on the national editorial board of Tax Analysts' *The Exempt Organization Tax Review*. She is a frequent speaker at nonprofit symposia.

## Basic Rules for Private Foundations

Excise Tax on Investment income: §4940 imposes a **1.39%** tax on a PF's income from investments and certain exempt assets.

Self-dealing: §4941 forbids, with some exceptions, financial transactions between a PF and those that created and manage it and their related parties.

# Basic Rules for Private Foundations

- Mandatory Pay-Out: §4942 requires PF to spend 5% of FMV of non-exempt use assets for qualifying charitable purposes each year.
- Excess Business Holdings: §4943 limits PF's holdings of a business to 2% unless PF shares when combined with DP's = less than 20%.
- Jeopardizing Investments: §4944 imposes 10% penalty on PF and its managers for holdings that violate prudent investor rules.

## Private foundation excise taxes

IRC Sec.	Tier 1 Excise Tax	Tier 2 Excise Tax	Tier 1 Manager Tax	Tier 2 Manager Tax
4940	1.39% of Investment Income	N/A	N/A	N/A
4941	10% of amount involved	200% of amount involved	5% of the amount involved	50% of the amount involved
4942	30% of amount of undistributed income	100% of remaining undistributed income	N/A	N/A
4943	10% of Excess business holdings	200% of Excess business holdings	N/A	N/A
4944	10% of amount invested	25% of amount invested	10% of amount invested	5% of amount invested
4945	20% of taxable expenditure	100% of taxable expenditure	5% of taxable expenditure	50% of taxable expenditure

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: What Is or Isn't a Taxable Expenditures

Also available as part of the eCourse

[2020 Nonprofit Organizations eConference](#)

First appeared as part of the conference materials for the  
37<sup>th</sup> Annual Nonprofit Organizations Institute session

"Taxable Expenditure Flashpoints"