

Private foundation considerations

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Agenda

- Self-dealing and conflicts of interest
 - The law
 - Practice points
- Taxable expenditures and expenditure responsibility
 - The law
 - Practice points



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Self-dealing



Acts of self-dealing

- ▶ Acts of self-dealing between a private foundation and a disqualified person (DQP) include:
 - Sale, exchange, or leasing of property
 - Lending money or other extensions of credit
 - Providing goods, services or facilities
 - Paying compensation or reimbursing expenses of a DQP
 - Transferring private foundation (PF) income or assets to, or for the use or benefit of, a DQP
 - Certain agreements to make payments to government officials



- Internal Revenue Code (IRC) 4941 imposes excise taxes with respect to any direct or indirect act of self-dealing between a private foundation and a disqualified person.
- Who does this apply to?
 - The self-dealer and, in certain cases, the foundation managers.
- What else can go wrong?
 - More than one excise (Chapter 42) tax can be assessed on the same act.

- The various enumerated acts of self-dealing may be engaged in directly between a disqualified party and a private foundation or **indirectly through a third party**
- Inserting an organization in the middle does not prevent self-dealing
- Exceptions
 - Estate administration exception
 - Certain transactions in the ordinary course of business involving limited amounts

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