




## Private Foundations: Compliance and Operational Framework for Maintaining Tax-Exempt Status

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## “Chapter 42” Requirements

<b>A Private Foundation <u>MUST</u></b>	<b>A Private Foundation <u>MUST NOT</u></b>
<ul style="list-style-type: none"><li>• Pay 1.39% tax on investment income (§4941)</li><li>• Make sufficient annual distributions (§4942)</li></ul>	<ul style="list-style-type: none"><li>• Engage in self-dealing transactions (§4941)</li><li>• Retain “excess business holdings” (§4943)</li><li>• Make “jeopardizing investments” (§4944)</li><li>• Make “taxable expenditures” (§4945)</li></ul>

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## The “Must Nots”



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## I.R.C. §4941: Prohibition on Self-Dealing

Applies to transactions between foundation and any “disqualified person”:

<p>A. Substantial Contributor</p> <p>B. Officers, directors, trustees, certain employees</p> <p>C. &gt;20% owner of a substantial contributor entity</p> <p>D. Member of family of A-C</p>	<p>E. Corporation &gt;35% owned by A-C</p> <p>F. Partnership &gt;35% profits interest owned by A-C</p> <p>G. Trust or estate in which A-C has &gt;35% beneficial interest</p> <p>H. Government officials</p>
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## Consequences of Self-Dealing

- 10% initial tax on “disqualified person”
- 5% initial tax on foundation managers
- 200% additional tax on “disqualified person” if transaction not timely corrected
- 50% additional tax on foundation managers who do not agree to correction



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## Acts of Self-Dealing

- Sale, exchange, leasing of property
- Lending of money; extension of credit
- Furnishing goods, services, facilities
- Payment of compensation/reimbursement of expenses
- Foundation income or assets transferred to, or used by or for benefit of, a disqualified person
- Payments to government officials
- Beware of indirect self-dealing



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