




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

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“Chapter 42” Requirements

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

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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”:

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

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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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