

Complex PRI Issues

40TH ANNUAL NONPROFIT LAW CONFERENCE

JANUARY 20, 2023

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1

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2

2



Notice

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3

3

Program Related Investments Overview

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4

Sec. 4944 – Tax on Jeopardizing Investments

- Section 4944 imposes an excise tax on a foundation that makes a “jeopardizing investment” – that is, an investment that jeopardizes the carrying out of the organization’s charitable purposes
 - Determination is made at the time of the investment, taking into account the entire portfolio
 - Jeopardizing investment is one in which managers did not use ordinary business care and prudence in making investment
 - Additional managers taxes may also apply if a manager participates in the investment, knowing it is a jeopardizing investment, unless such participation is not willful and is due to reasonable cause

- Section 4944 defines program-related investments and indicates they are NOT jeopardizing investments

5

5

Program-Related Investments (PRIs)

- A PRI is an investment where:
 - The **primary purpose** is to accomplish a charitable purpose; **and**
 - **No significant purpose** is financial profit (“production of income or appreciation of property”); **and**
 - **No purpose** is lobbying or participation in political campaigns

- PRIs generally treated as “grant equivalents”
 - treated as grants for the 5% distribution requirement (§4942)
 - exempt from the excess business holdings rules (§4943)
 - not jeopardizing investments (§4944)

(Note: self-dealing rules apply and expenditure responsibility is required if PRI is not to a public charity)

6

6

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First appeared as part of the conference materials for the
40th Annual Nonprofit Organizations Institute session
"Complex PRI Issues"