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Private Foundations Bulletin

Disqualified Persons and the Private Foundation — Who Are They?

Certain questions on the Form 990-PF relate to transactions with “disqualified persons.” We often are asked — sometimes by board members themselves — “Who are disqualified persons?” It may be helpful to have the list below handy for easy reference and to help ensure that self-dealing does not occur.

Self-dealing transactions are described on the [IRS website](#) as they relate to the private foundation.

Disqualified

With respect to a private foundation, the following are referred to as “disqualified persons” with respect to certain transactions:

- an officer, director, or trustee of a foundation;
- an employee or other individual having powers or responsibilities similar to those of an officer, director or trustee;
- a **substantial contributor**¹ to the foundation;
- an owner of more than 20 percent of the total combined voting power of a corporation, the profits interest of a partnership, or the beneficial interest of a trust or unincorporated enterprise, which is a **substantial contributor**¹ to the foundation;
- a member of the family of any individual described above which includes his/her spouse, ancestors, children, grandchildren, great grandchildren, and the spouses of children, grandchildren, and great grandchildren. [A sibling is not considered a disqualified person.];
- organizations in which any of the above own more than 35% interest in the form of a corporation, partnership, or trust or estate;
- controlled private foundations for purposes of the excess business holding provisions; and,
- a government official, with respect to an act of self-dealing, who at the time of such act, holds certain offices or positions in the Government of the United States.

Potential Consequences

There are certain acts that are acceptable between the foundation and disqualified persons. However, it is important to understand who the disqualified persons of a foundation are because disallowed transactions will result in excise taxes on the amounts involved in any act of self-dealing. These excise taxes are payable by the disqualified person involved, as well as the foundation manager who knowingly participates in the act. That is why if there is any question as to whether or not a person/entity could lead to a self-dealing transaction with the disqualified person or entity, seek professional counsel.

¹ The term “**substantial contributor**” means any person who contributed or bequeathed an aggregate amount of more than \$5,000 to the private foundation, if such amount is more than 2 percent of the total contributions and bequests received by the foundation before the close of the taxable year of the foundation in which the contribution or bequest is received by the foundation from such person. In the case of a trust, the term “substantial contributor” also means the creator of the trust. Special rules apply and should be considered; however, they are beyond the scope of this article.

Contact Us

Should you have any questions regarding this bulletin, self-dealing or any other matters related to accounting, auditing and tax for private foundations, please contact the following experienced professionals in our Philanthropic and Private Foundation Services Practice:

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