

## Private Foundations Bulletin

# Charitable Galas and Events: Potential Self-Dealing

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With the increase of organizations returning to in-person fundraising galas and benefit events, it is a good time for a reminder on self-dealing directives that should be considered prior to attending these events.

### Basic Self-Dealing Issues Associated with Charitable Events

In accordance with IRS guidelines, a disqualified person (i.e., board members, substantial contributors, key management, etc.) may not receive any benefit from the use of a private foundation's income or assets. If a disqualified person receives any benefit from these assets or income, the IRS considers this an act of self-dealing that is subject to an excise tax.

One potential area where self-dealing issues may arise for private foundations is when a disqualified person attends fundraising events or charitable galas that were acquired through the private foundation's resources. Tickets to these charitable events are considered to have a tangible economic value (typically the fair value of the goods or services provided for the event); therefore, if a disqualified person uses these tickets, the economic value of the tickets is subject to federal excise tax. Since the IRS does not provide definitive guidance on who is considered a disqualified person in these situations, a conservative approach is to interpret all employees as disqualified persons as recommended by certain industry experts.

While IRS regulations for individuals allow for the bifurcation of the cost of these tickets between the economic value and the charitable portion of the ticket, this is not allowable for private foundations. The IRS has determined that even the charitable portion of these tickets carries an economic value by allowing an individual to forego the obligation to pay the remaining amount necessary to gain admittance. If a disqualified person would like to attend one of these events, they should purchase their own ticket at the same cost of attendance as that of the remainder of the general public.

### Exceptions

Although, in general, the use of these tickets by disqualified persons is considered an act of self-dealing, there are certain exceptions to these rules. The IRS allows for disqualified persons to receive benefits from a private foundation's assets or income as long as the benefits received are reasonable and necessary to carrying out the exempt purpose of the private foundation. For example, a disqualified person may attend one of these events if he or she is there to monitor how the private foundation's grant funding is being spent.

### Bottom Line, Best Practice and Corrective Action

In general, if your private foundation receives tickets to any of these events, it is recommended that the foundation consider returning them. If a disqualified person would like to attend these events or galas, he or she should make a personal charitable contribution as a good faith donation to avoid any potential self-dealing conflicts. The foundation can still contribute and be recognized as a patron in the program or other sponsorship signage. If it is determined that self-dealing has occurred in your foundation, corrective action should be taken immediately and you should contact your accountant and/or legal counsel.

## Contact Us

We welcome the opportunity to answer any questions you may have related to this topic or any other accounting, audit, tax or advisory matters relative to private foundations. Please call 212.286.2600 or email any of the Private Foundation Services team members below:

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