Managing Self-Dealing and Conflicts of Interest in an Increasingly Interconnected Environment

Nishka Chandrasoma Jody Blazek

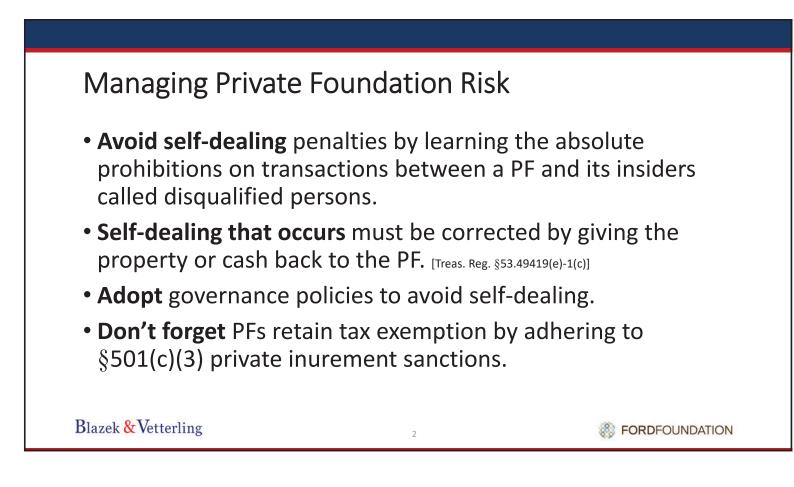
Ford Foundation Blazek & Vetterling

FORDFOUNDATION

January 17, 2019

1

Blazek & Vetterling



Managing Private Foundation Risk

Use tools available to qualify for exceptions to the strict selfdealing rules.

- Like, like, like rule and Guidestar. [Regs. §1.162-7(b)(3) and §53.4958-4(a)(4); IRS Tech Adv. Memo 9008001]
- Recognize distinction between co-ownership in partnership vs. jointly-owned property.
- Identify personal vs. non-personal services and incidental and tenuous.
- Apply fiduciary responsibility standards.

```
Blazek & Vetterling
```

The Tax Code - §4941-4946

- No self-dealing allowed (§4941).
- Annual mandatory distributions (§4942).
- No excess business holdings (§4943).
- No jeopardizing investments (§4944).
- No taxable expenditures (§4945).
- Definition of disqualified person (DP) (§4946).

4

FORDFOUNDATION

PF Disqualified Persons (§4946)

- Substantial contributor to PF (\$5k/2% rule).
- 20% owner of substantial contributor.
- PF's foundation managers.
- Family member in linear fashion(siblings not included).
- Entity in which any of above own >35% of voting power (corporation), profits interest (partnership), or beneficial interest (trust).

5

• Certain government officials.

Blazek & Vetterling

Self-Dealing Transactions

Direct or indirect [IRC 4941(d)]:

- Sales, exchanges, or leases of property.
- Lending of money or other extensions of credit.
- Furnishing of goods, services, or facilities.
- Payment of compensation or expense reimbursement.
- Transfer to, or use by or for benefit of, a DP of any income or assets of a PF.
- Payments of money or transfers of property to a government official.

6

Blazek & Vetterling

FORDFOUNDATION

FORDFOUNDATION

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the <u>UT Law CLE eLibrary (utcle.org/elibrary)</u>

Title search: Managing Self-Dealing and Conflicts of Interest in an Increasingly Interconnected Environment

Also available as part of the eCourse <u>Answer Bar: How to Protect Your Nonprofit</u>

First appeared as part of the conference materials for the 36th Annual Nonprofit Organizations Institute session "Navigating Self-Dealing and Conflicts of Interest in an Increasingly Interconnected Environment"