

990-PF: A HIGH LEVEL OVERVIEW FOR PRIVATE FOUNDATIONS

PSW PROFESSIONAL LEARNING WEBINAR



DATE/TIME

WEDNESDAY, NOVEMBER 4
10:00 - 11:00 AM CT



**Webinar Participants are Eligible for Continuing Professional Education Credit*



Jonathan Blum, Shareholder
Polsinelli

BKD

CPAs & Advisors



Kevin Einsminger, Director
BKD CPAs and Advisors

Logistics

This call will include numerous participants, so here are a few housekeeping notes:

- Take a moment to download the Zoom software directly onto your computer. Desktop access allows for full functionality (including the chat box) and participation while the mobile browser access has its limitations.
- Everyone joining the call will be muted automatically; this webinar is being recorded.
- If you have issues with your bandwidth, you may want to close any web-based applications or ask other household members to hold off on using the Internet during this time period. These actions should help boost your bandwidth for Zoom Conference.
- We will be taking questions following the presentation. Please feel free to type your question in the “Q/A Box” at any time during the webinar.



Private Foundations 101



Jonathan Blum
Shareholder
jblum@polsinelli.com



Kevin Ensminger, CPA
Director
kensminger@bkd.com

Topics

- Private Foundation vs. Public Charity
- Form 990-PF and what it's asking for
- Types of Taxes & Penalties
 - § 4940 Excise Tax
 - § 4941 Self-Dealing
 - § 4942 Required Minimum Distribution
 - § 4943 Excess Business Holdings
 - § 4944 Jeopardizing Investments
 - § 4945 Taxable Expenditures



Polling Question 1

Which types of exempt organizations are you involved with?

- Public charities
- Private Foundations
- Other exempt organizations
- None

How Are Private Foundations Different?

- Support from small group
- Private foundations pay tax on investment income
- Annual expenditure requirements, but actually often much lower than public charity spend
- No impermissible activities allowed & penalties imposed for missteps



Private Foundation Potential Excise Taxes

IRC Section	Sanction	Tax Imposed On		
		Private Foundation	Managers	Tax
4940	Investment income tax	X		1% - 2% → Now 1.39%
4941	Self-dealing		Self-dealer	10%-200%
			Foundation manager	5%-50%
4942	Undistributed income	X		30% -100%
4943	Excess business holdings	X		10% - 200%
4944	Jeopardizing investments	X		10%-25%
				X
4945	Taxable expenditures	X		20% - 100%
				X

How Are Private Foundations Different?

- Contribution deduction limits for gifts to private foundations are different
- General rule is gifts to private foundations are limited to the donor's tax basis unless made in cash or marketable securities

How Are Private Foundations Different?

Private Foundation Nonoperating	Private Operating Foundation	Public Charity
Income tax deduction level 30%/20%	Income tax deduction level 60%/30%	Income tax deduction level 60%/30%
Not qualified to receive PF grants without ER	Not qualified to receive PF grants without ER	N/A 100% pass-through
Taxed on net investment income	Taxed on net investment income	Not necessarily taxed on net investment income
Excise tax on failure to meet MDR	No MDR penalty tax BUT must meet POF test to keep status	Payout requirements come from supporters not tax code
Grants plus programs	Active programs with limited grants	Grants plus programs

Coronavirus Aid, Relief and Economic Security (CARES) Act

- Charitable contribution limitation increases
 - \$300 above-the-line deduction for taxpayers electing not to itemize
 - Cash payments only
 - Does not include contributions to donor advised funds and 509(a)(3) supporting organizations
 - Individuals – 60% AGI limitation is suspended for 2020 for cash to public charities
 - Corporations – 10% taxable income limitation increased to 25%
 - Food inventory – 15% taxable income limitation increased to 25%

How Are Private Foundations the Same?

- Like all 501(c)(3) tax-exempt entities, they must meet an organizational & operational test both on formation & must satisfy these tests on an ongoing basis
- Tax compliance issues – employee classification, salary reasonableness, annual tax reporting requirements to the IRS & states in which the private foundation is registered
- The board has the fiduciary responsibility to manage & protect assets to be able to accomplish charitable mission

How Are Private Foundations the Same?

Charitable deduction to both limited to basis for donations of

- Ordinary income property, such as inventory or in-kind services that have no basis
- Tangible personal property, such as work of art or an antique



Polling Question 2

How familiar are you with Form 990-PF?

- I know it very well
- I'm familiar with most of it
- It's a tax return, right?
- I don't know what that is

Return of Private Foundation
or Section 4947(a)(1) Trust Treated as Private Foundation

▶ Do not enter social security numbers on this form as it may be made public.
▶ Go to www.irs.gov/Form990PF for instructions and the latest information.

For calendar year 2019 or tax year beginning , 2019, and ending , 20

Name of foundation		A Employer identification number
Number and street (or P.O. box number if mail is not delivered to street address)	Room/suite	B Telephone number (see instructions)
City or town, state or province, country, and ZIP or foreign postal code		C If exemption application is pending, check here <input type="checkbox"/>
G Check all that apply: <input type="checkbox"/> Initial return <input type="checkbox"/> Initial return of a former public charity <input type="checkbox"/> Final return <input type="checkbox"/> Amended return <input type="checkbox"/> Address change <input type="checkbox"/> Name change		D 1. Foreign organizations, check here <input type="checkbox"/> 2. Foreign organizations meeting the 85% test, check here and attach computation <input type="checkbox"/>
H Check type of organization: <input type="checkbox"/> Section 501(c)(3) exempt private foundation <input type="checkbox"/> Section 4947(a)(1) nonexempt charitable trust <input type="checkbox"/> Other taxable private foundation		E If private foundation status was terminated under section 507(b)(1)(A), check here <input type="checkbox"/>
I Fair market value of all assets at end of year (from Part II, col. (c), line 16) ▶ \$	J Accounting method: <input type="checkbox"/> Cash <input type="checkbox"/> Accrual (Part I, column (d), must be on cash basis.)	F If the foundation is in a 60-month termination under section 507(b)(1)(B), check here <input type="checkbox"/>

Part I Analysis of Revenue and Expenses (The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a) (see instructions).)		(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes (cash basis only)
Revenue	1 Contributions, gifts, grants, etc., received (attach schedule)				
	2 Check <input type="checkbox"/> if the foundation is not required to attach Sch. B				
	3 Interest on savings and temporary cash investments				
	4 Dividends and interest from securities				
	5a Gross rents				
	b Net rental income or (loss)				
	6a Net gain or (loss) from sale of assets not on line 10				
	b Gross sales price for all assets on line 6a				
	7 Capital gain net income (from Part IV, line 2)				
	8 Net short-term capital gain				
	9 Income modifications				
	10a Gross sales less returns and allowances				
b Less: Cost of goods sold					
c Gross profit or (loss) (attach schedule)					
11 Other income (attach schedule)					
12 Total. Add lines 1 through 11					
Operating and Administrative Expenses	13 Compensation of officers, directors, trustees, etc.				
	14 Other employee salaries and wages				
	15 Pension plans, employee benefits				
	16a Legal fees (attach schedule)				
	b Accounting fees (attach schedule)				
	c Other professional fees (attach schedule)				
	17 Interest				
	18 Taxes (attach schedule) (see instructions)				
	19 Depreciation (attach schedule) and depletion				
	20 Occupancy				
	21 Travel, conferences, and meetings				
	22 Printing and publications				
	23 Other expenses (attach schedule)				
	24 Total operating and administrative expenses. Add lines 13 through 23				
25 Contributions, gifts, grants paid					
26 Total expenses and disbursements. Add lines 24 and 25					
27 Subtract line 26 from line 12:					
a Excess of revenue over expenses and disbursements					
b Net investment income (if negative, enter -0-)					
c Adjusted net income (if negative, enter -0-)					

§ 4940 Excise Tax on Investment Income

- Column a – revenue & expenses per books (cash or accrual)
- Column b – revenue & expenses that are subject to 4940 excise tax on net investment income
- Column c – revenue & expenses that are included in calculation of adjusted net income (private operating foundations)
- Column d – expenses which are treated as qualifying distributions



§ 4940 Excise Tax on Investment Income

- § 4940 originally imposed a 4% tax rate described as an “audit tax” to provide IRS funding to monitor compliance with new private foundation rules
- In 1978, rate was reduced to 2% since tax collections far exceeded actual cost of IRS enforcement efforts
- In 1984, a graduated rate of 1–2% was instituted allowing the lower tax rate when charitable spending in the year exceeded the private foundation’s historic payout rate
- **Beginning in 2020, a flat 1.39% rate was installed**

§ 4940 Excise Tax on Investment Income

- Net investment income includes dividends, interest, royalties, rents, security loan payments, options, straddles, currency transactions & most capital gains (both investment & exempt function property) less directly connected expenses that are taxed
- Income reported to private foundation on Form K-1 by a trust, partnership or other co-owned property retains the character it had in the hands of separate entity

§ 4940 Excise Tax on Investment Income

- Income subject to ordinary income tax under the § 512 unrelated business income rules is excluded, including distributions from a Subchapter S corporation
- Same tax rate is paid on all types of net investment income
 - So, long vs. short capital gains & losses are not distinguished
- Net capital loss cannot be used to offset other investment income, carried forward or back
- Tax-exempt income not subject to tax

§ 4940 Excise Tax on Investment Income

- Qualifying deductions are governed by concepts contained in IRC § 172 & § 212 & associated regulation (ordinary & necessary)
- Depreciation of investment assets must be straight-line
- Overhead costs allocable to more than one column, is allocated on reasonable & consistently used method
 - Rensselaer Polytechnic Institute v. Commissioner – 2d Cir. 1984
 - Disabled American Veterans v. U.S. – Fed. Cir. 1983
 - Internal Revenue Manual 7.27.6

§ 4940 Excise Tax on Investment Income

- Planning tips
 - Gain inherent in property granted (& treated as qualifying distribution) to a qualifying charitable recipient grantee is not treated as a sale or other taxable disposition
 - [Reg. § 53.4940-1(f)(1)]
 - Private foundations with gifted property retaining donor's basis often have very low basis property, usually marketable securities, that are ideal for this savings idea. Need to maintain separate tracking if FMV of gift is booked

Part II Balance Sheets		Attached schedules and amounts in the description column should be for end-of-year amounts only. (See instructions.)	Beginning of year	End of year	
			(a) Book Value	(b) Book Value	(c) Fair Market Value
Assets	1	Cash—non-interest-bearing			
	2	Savings and temporary cash investments			
	3	Accounts receivable ▶			
		Less: allowance for doubtful accounts ▶			
	4	Pledges receivable ▶			
		Less: allowance for doubtful accounts ▶			
	5	Grants receivable			
	6	Receivables due from officers, directors, trustees, and other disqualified persons (attach schedule) (see instructions)			
	7	Other notes and loans receivable (attach schedule) ▶			
		Less: allowance for doubtful accounts ▶			
	8	Inventories for sale or use			
	9	Prepaid expenses and deferred charges			
	10a	Investments—U.S. and state government obligations (attach schedule)			
	b	Investments—corporate stock (attach schedule)			
	c	Investments—corporate bonds (attach schedule)			
	11	Investments—land, buildings, and equipment: basis ▶			
	Less: accumulated depreciation (attach schedule) ▶				
12	Investments—mortgage loans				
13	Investments—other (attach schedule)				
14	Land, buildings, and equipment: basis ▶				
	Less: accumulated depreciation (attach schedule) ▶				
15	Other assets (describe ▶)				
16	Total assets (to be completed by all filers—see the instructions. Also, see page 1, item I)				
Liabilities	17	Accounts payable and accrued expenses			
	18	Grants payable			
	19	Deferred revenue			
	20	Loans from officers, directors, trustees, and other disqualified persons			
	21	Mortgages and other notes payable (attach schedule)			
	22	Other liabilities (describe ▶)			
	23	Total liabilities (add lines 17 through 22)			
Net Assets or Fund Balances	Foundations that follow FASB ASC 958, check here ▶ <input type="checkbox"/>				
	and complete lines 24, 25, 29, and 30.				
	24	Net assets without donor restrictions			
	25	Net assets with donor restrictions			
	Foundations that do not follow FASB ASC 958, check here ▶ <input type="checkbox"/>				
	and complete lines 26 through 30.				
	26	Capital stock, trust principal, or current funds			
	27	Paid-in or capital surplus, or land, bldg., and equipment fund			
28	Retained earnings, accumulated income, endowment, or other funds				
29	Total net assets or fund balances (see instructions)				
30	Total liabilities and net assets/fund balances (see instructions)				

Part III Analysis of Changes in Net Assets or Fund Balances		
1	Total net assets or fund balances at beginning of year—Part II, column (a), line 29 (must agree with end-of-year figure reported on prior year's return)	1
2	Enter amount from Part I, line 27a	2
3	Other increases not included in line 2 (itemize) ▶	3
4	Add lines 1, 2, and 3	4
5	Decreases not included in line 2 (itemize) ▶	5
6	Total net assets or fund balances at end of year (line 4 minus line 5)—Part II, column (b), line 29	6

Part IV Capital Gains and Losses for Tax on Investment Income

(a) List and describe the kind(s) of property sold (for example, real estate, 2-story brick warehouse; or common stock, 200 shs. MLC Co.)		(b) How acquired P—Purchase D—Donation	(c) Date acquired (mo., day, yr.)	(d) Date sold (mo., day, yr.)
1a				
b				
c				
d				
e				

(e) Gross sales price	(f) Depreciation allowed (or allowable)	(g) Cost or other basis plus expense of sale	(h) Gain or (loss) ((e) plus (f) minus (g))
a			
b			
c			
d			
e			

Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69.

(i) FMV as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any	(l) Gains (Col. (h) gain minus col. (k), but not less than -0-) or Losses (from col. (h))
a			
b			
c			
d			
e			

2 Capital gain net income or (net capital loss) { If gain, also enter in Part I, line 7 If (loss), enter -0- in Part I, line 7 }	2
3 Net short-term capital gain or (loss) as defined in sections 1222(5) and (6): If gain, also enter in Part I, line 8, column (c). See instructions. If (loss), enter -0- in Part I, line 8	3

Part V Qualification Under Section 4940(e) for Reduced Tax on Net Investment Income

(For optional use by domestic private foundations subject to the section 4940(a) tax on net investment income.)

If section 4940(d)(2) applies, leave this part blank.

Was the foundation liable for the section 4942 tax on the distributable amount of any year in the base period? Yes No

If "Yes," the foundation doesn't qualify under section 4940(e). Do not complete this part.

1 Enter the appropriate amount in each column for each year; see the instructions before making any entries.

(a) Base period years Calendar year (or tax year beginning in)	(b) Adjusted qualifying distributions	(c) Net value of noncharitable-use assets	(d) Distribution ratio (col. (b) divided by col. (c))
2018			
2017			
2016			
2015			
2014			

2 Total of line 1, column (d)	2
3 Average distribution ratio for the 5-year base period—divide the total on line 2 by 5.0, or by the number of years the foundation has been in existence if less than 5 years	3
4 Enter the net value of noncharitable-use assets for 2019 from Part X, line 5	4
5 Multiply line 4 by line 3	5
6 Enter 1% of net investment income (1% of Part I, line 27b)	6
7 Add lines 5 and 6	7
8 Enter qualifying distributions from Part XII, line 4 If line 8 is equal to or greater than line 7, check the box in Part VI, line 1b, and complete that part using a 1% tax rate. See the Part VI instructions.	8

Part VI Excise Tax Based on Investment Income (Section 4940(a), 4940(b), 4940(e), or 4948—see instructions)

1a	Exempt operating foundations described in section 4940(d)(2), check here <input type="checkbox"/> and enter "N/A" on line 1. Date of ruling or determination letter: _____ (attach copy of letter if necessary—see instructions)		
b	Domestic foundations that meet the section 4940(e) requirements in Part V, check here <input type="checkbox"/> and enter 1% of Part I, line 27b	1	
c	All other domestic foundations enter 2% of line 27b. Exempt foreign organizations, enter 4% of Part I, line 12, col. (b)		
2	Tax under section 511 (domestic section 4947(a)(1) trusts and taxable foundations only; others, enter -0-)	2	
3	Add lines 1 and 2	3	
4	Subtitle A (income) tax (domestic section 4947(a)(1) trusts and taxable foundations only; others, enter -0-)	4	
5	Tax based on investment income. Subtract line 4 from line 3. If zero or less, enter -0-	5	
6	Credits/Payments:		
a	2019 estimated tax payments and 2018 overpayment credited to 2019	6a	
b	Exempt foreign organizations—tax withheld at source	6b	
c	Tax paid with application for extension of time to file (Form 8868)	6c	
d	Backup withholding erroneously withheld	6d	
7	Total credits and payments. Add lines 6a through 6d	7	
8	Enter any penalty for underpayment of estimated tax. Check here <input type="checkbox"/> if Form 2220 is attached	8	
9	Tax due. If the total of lines 5 and 8 is more than line 7, enter amount owed ▶	9	
10	Overpayment. If line 7 is more than the total of lines 5 and 8, enter the amount overpaid ▶	10	
11	Enter the amount of line 10 to be: Credited to 2020 estimated tax ▶ Refunded ▶	11	

Part VII-A Statements Regarding Activities

	Yes	No
1a During the tax year, did the foundation attempt to influence any national, state, or local legislation or did it participate or intervene in any political campaign?		
b Did it spend more than \$100 during the year (either directly or indirectly) for political purposes? See the instructions for the definition If the answer is "Yes" to 1a or 1b , attach a detailed description of the activities and copies of any materials published or distributed by the foundation in connection with the activities.		
c Did the foundation file Form 1120-POL for this year?		
d Enter the amount (if any) of tax on political expenditures (section 4955) imposed during the year: (1) On the foundation. ▶ \$ _____ (2) On foundation managers. ▶ \$ _____		
e Enter the reimbursement (if any) paid by the foundation during the year for political expenditure tax imposed on foundation managers. ▶ \$ _____		
2 Has the foundation engaged in any activities that have not previously been reported to the IRS? If "Yes," attach a detailed description of the activities.		
3 Has the foundation made any changes, not previously reported to the IRS, in its governing instrument, articles of incorporation, or bylaws, or other similar instruments? If "Yes," attach a conformed copy of the changes		
4a Did the foundation have unrelated business gross income of \$1,000 or more during the year?		
b If "Yes," has it filed a tax return on Form 990-T for this year?		
5 Was there a liquidation, termination, dissolution, or substantial contraction during the year? If "Yes," attach the statement required by <i>General Instruction T</i> .		
6 Are the requirements of section 508(e) (relating to sections 4941 through 4945) satisfied either: • By language in the governing instrument, or • By state legislation that effectively amends the governing instrument so that no mandatory directions that conflict with the state law remain in the governing instrument?		
7 Did the foundation have at least \$5,000 in assets at any time during the year? If "Yes," complete Part II, col. (c), and Part XV		
8a Enter the states to which the foundation reports or with which it is registered. See instructions. ▶		
b If the answer is "Yes" to line 7, has the foundation furnished a copy of Form 990-PF to the Attorney General (or designate) of each state as required by <i>General Instruction G</i> ? If "No," attach explanation		
9 Is the foundation claiming status as a private operating foundation within the meaning of section 4942(j)(3) or 4942(j)(5) for calendar year 2019 or the tax year beginning in 2019? See the instructions for Part XIV. If "Yes," complete Part XIV		
10 Did any persons become substantial contributors during the tax year? If "Yes," attach a schedule listing their names and addresses		

Form 990-PF (2019)

Email to:
990PFFilings@
oag.texas.gov

Part VII-A Statements Regarding Activities *(continued)*

		Yes	No
11	At any time during the year, did the foundation, directly or indirectly, own a controlled entity within the meaning of section 512(b)(13)? If "Yes," attach schedule. See instructions	11	
12	Did the foundation make a distribution to a donor advised fund over which the foundation or a disqualified person had advisory privileges? If "Yes," attach statement. See instructions	12	
13	Did the foundation comply with the public inspection requirements for its annual returns and exemption application? Website address ▶ _____	13	
14	The books are in care of ▶ _____ Telephone no. ▶ _____ Located at ▶ _____ ZIP+4 ▶ _____		
15	Section 4947(a)(1) nonexempt charitable trusts filing Form 990-PF in lieu of Form 1041 —check here <input type="checkbox"/> and enter the amount of tax-exempt interest received or accrued during the year ▶ 15		
16	At any time during calendar year 2019, did the foundation have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country? See the instructions for exceptions and filing requirements for FinCEN Form 114. If "Yes," enter the name of the foreign country ▶	16	

§ 4946 Disqualified Persons

- Disqualified persons
 - Substantial contributor = creator of trust or one (including relatives) that donated more than \$5,000 or 2% of total donations during PF's life
 - PF managers (those in a position of authority with or without title)
 - Any entity owned &/or controlled > 35% by a disqualified person
 - > 20% owner of entity that is a substantial contributor
 - Family member of disqualified person (spouse, ancestor, descendants & spouses of all: not siblings)
 - Government officials for self-dealing
 - Another controlled PF for excess business holdings

§ 4941 Self-Dealing

- Any financial transaction between private foundation & a disqualified person should be analyzed
- Some important exceptions
 - Reasonable compensation for personal services
 - Shared services (reimbursement of time)
 - Management services agreement (transfer pricing)
 - Assets under management



§ 4941 Self-Dealing

- Self-dealing penalties cannot be abated. § 4958 imposed on public charities does not provide a safe harbor, but best practices to use here
- Tax is assessed on the disqualified person & management (those who approved the payments)
- Excess must be repaid



§ 4941 Self-Dealing

- Examples
 - The foundation makes a bad investment; disqualified person wants to buy at more than FMV
 - The foundation needs money to make distributions, a disqualified person loans the money
 - The foundation provides office space to a disqualified person at no charge
 - The foundation purchases a table at charity gala; a disqualified person & friends attend the gala

§ 4941 Self-Dealing

- Tips to prevent
 - Know who the disqualified persons are
 - Consider if grants to charities include any benefits
 - Make sure the disqualified person keeps clearly marked separate checkbooks & credit cards



Part VII-B Statements Regarding Activities for Which Form 4720 May Be Required

File Form 4720 if any item is checked in the "Yes" column, unless an exception applies.

	Yes	No
1a During the year, did the foundation (either directly or indirectly):		
(1) Engage in the sale or exchange, or leasing of property with a disqualified person? <input type="checkbox"/> Yes <input type="checkbox"/> No		
(2) Borrow money from, lend money to, or otherwise extend credit to (or accept it from) a disqualified person? <input type="checkbox"/> Yes <input type="checkbox"/> No		
(3) Furnish goods, services, or facilities to (or accept them from) a disqualified person? <input type="checkbox"/> Yes <input type="checkbox"/> No		
(4) Pay compensation to, or pay or reimburse the expenses of, a disqualified person? <input type="checkbox"/> Yes <input type="checkbox"/> No		
(5) Transfer any income or assets to a disqualified person (or make any of either available for the benefit or use of a disqualified person)? <input type="checkbox"/> Yes <input type="checkbox"/> No		
(6) Agree to pay money or property to a government official? (Exception. Check "No" if the foundation agreed to make a grant to or to employ the official for a period after termination of government service, if terminating within 90 days.) <input type="checkbox"/> Yes <input type="checkbox"/> No		
b If any answer is "Yes" to 1a(1)–(6), did any of the acts fail to qualify under the exceptions described in Regulations section 53.4941(d)-3 or in a current notice regarding disaster assistance? See instructions 1b		
Organizations relying on a current notice regarding disaster assistance, check here <input type="checkbox"/>		
c Did the foundation engage in a prior year in any of the acts described in 1a, other than excepted acts, that were not corrected before the first day of the tax year beginning in 2019? 1c		
2 Taxes on failure to distribute income (section 4942) (does not apply for years the foundation was a private operating foundation defined in section 4942(j)(3) or 4942(j)(5)):		
a At the end of tax year 2019, did the foundation have any undistributed income (Part XIII, lines 6d and 6e) for tax year(s) beginning before 2019? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," list the years ► 20 __, 20 __, 20 __, 20 __		
b Are there any years listed in 2a for which the foundation is not applying the provisions of section 4942(a)(2) (relating to incorrect valuation of assets) to the year's undistributed income? (If applying section 4942(a)(2) to all years listed, answer "No" and attach statement—see instructions.) 2b		
c If the provisions of section 4942(a)(2) are being applied to any of the years listed in 2a, list the years here. ► 20 __, 20 __, 20 __, 20 __		
3a Did the foundation hold more than a 2% direct or indirect interest in any business enterprise at any time during the year? <input type="checkbox"/> Yes <input type="checkbox"/> No		
b If "Yes," did it have excess business holdings in 2019 as a result of (1) any purchase by the foundation or disqualified persons after May 26, 1969; (2) the lapse of the 5-year period (or longer period approved by the Commissioner under section 4943(c)(7)) to dispose of holdings acquired by gift or bequest; or (3) the lapse of the 10-, 15-, or 20-year first phase holding period? (Use Form 4720, Schedule C, to determine if the foundation had excess business holdings in 2019.) 3b		
4a Did the foundation invest during the year any amount in a manner that would jeopardize its charitable purposes?		
b Did the foundation make any investment in a prior year (but after December 31, 1969) that could jeopardize its charitable purpose that had not been removed from jeopardy before the first day of the tax year beginning in 2019? 4b		

Form 990-PF (2019)

Part VII-B Statements Regarding Activities for Which Form 4720 May Be Required *(continued)*

		Yes	No
5a	During the year, did the foundation pay or incur any amount to:		
	(1) Carry on propaganda, or otherwise attempt to influence legislation (section 4945(e))? <input type="checkbox"/> Yes <input type="checkbox"/> No		
	(2) Influence the outcome of any specific public election (see section 4955); or to carry on, directly or indirectly, any voter registration drive? <input type="checkbox"/> Yes <input type="checkbox"/> No		
	(3) Provide a grant to an individual for travel, study, or other similar purposes? <input type="checkbox"/> Yes <input type="checkbox"/> No		
	(4) Provide a grant to an organization other than a charitable, etc., organization described in section 4945(d)(4)(A)? See instructions <input type="checkbox"/> Yes <input type="checkbox"/> No		
	(5) Provide for any purpose other than religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals? <input type="checkbox"/> Yes <input type="checkbox"/> No		
b	If any answer is "Yes" to 5a(1)–(5), did any of the transactions fail to qualify under the exceptions described in Regulations section 53.4945 or in a current notice regarding disaster assistance? See instructions <input type="checkbox"/> Yes <input type="checkbox"/> No	5b	
	Organizations relying on a current notice regarding disaster assistance, check here <input type="checkbox"/>		
c	If the answer is "Yes" to question 5a(4), does the foundation claim exemption from the tax because it maintained expenditure responsibility for the grant? <input type="checkbox"/> Yes <input type="checkbox"/> No		
	If "Yes," attach the statement required by Regulations section 53.4945-5(d).		
6a	Did the foundation, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract? <input type="checkbox"/> Yes <input type="checkbox"/> No		
b	Did the foundation, during the year, pay premiums, directly or indirectly, on a personal benefit contract? <input type="checkbox"/> Yes <input type="checkbox"/> No	6b	
	If "Yes" to 6b, file Form 8870.		
7a	At any time during the tax year, was the foundation a party to a prohibited tax shelter transaction? <input type="checkbox"/> Yes <input type="checkbox"/> No		
b	If "Yes," did the foundation receive any proceeds or have any net income attributable to the transaction? <input type="checkbox"/> Yes <input type="checkbox"/> No	7b	
8	Is the foundation subject to the section 4960 tax on payment(s) of more than \$1,000,000 in remuneration or excess parachute payment(s) during the year? <input type="checkbox"/> Yes <input type="checkbox"/> No		

§ 4943 Excess Business Holdings

- Know the definition of “business enterprise”
 - Active, not passive, conduct of trade or business
- Know permissible thresholds
 - 2% safe harbor
 - 20% permitted combined holdings with all disqualified persons
 - 35% alternative holding percentage when disqualified person is not in control

§ 4944 Jeopardizing Investments

- Ask if reasonable business care & prudence in providing long- & short-term financial needs of the private foundation considered in the acquisition of an investment
- No single factor indicates jeopardy
- Determination on investment-by-investment basis
- Transaction may be protected by opinion of legal counsel



§ 4945 Taxable Expenditures

- Private foundation's work to achieve a public purpose, *e.g.*, conducting research to find a solution to rising sea levels caused by melting icebergs or other social ills, is permissible spending
- What is prohibited is to ask a legislative representative to use results to introduce & support a provision to change laws to accomplish this purpose
- Such spending is prohibited & results in a taxable expenditure & a 20% penalty

Polling Question 3

Based on the results we know so far, how do you think the elections will effect private foundations?

- Favorably
- Unfavorably
- About the same
- I'm not sure

Part VIII Information About Officers, Directors, Trustees, Foundation Managers, Highly Paid Employees, and Contractors

1 List all officers, directors, trustees, and foundation managers and their compensation. See instructions.

(a) Name and address	(b) Title, and average hours per week devoted to position	(c) Compensation (If not paid, enter -0-)	(d) Contributions to employee benefit plans and deferred compensation	(e) Expense account, other allowances

2 Compensation of five highest-paid employees (other than those included on line 1—see instructions). If none, enter "NONE."

(a) Name and address of each employee paid more than \$50,000	(b) Title, and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans and deferred compensation	(e) Expense account, other allowances

Total number of other employees paid over \$50,000 ▶

Part IX-A Summary of Direct Charitable Activities

List the foundation's four largest direct charitable activities during the tax year. Include relevant statistical information such as the number of organizations and other beneficiaries served, conferences convened, research papers produced, etc.

Expenses

1

.....
.....
.....

2

.....
.....
.....

3

.....
.....
.....

4

.....
.....
.....

Part IX-B Summary of Program-Related Investments (see instructions)

Describe the two largest program-related investments made by the foundation during the tax year on lines 1 and 2.

Amount

1

.....
.....
.....

2

.....
.....
.....

All other program-related investments. See instructions.

3

.....
.....
.....

Total. Add lines 1 through 3 ▶

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§ 4942 Required Minimum Distributions

Part X **Minimum Investment Return** (All domestic foundations must complete this part. Foreign foundations, see instructions.)

1	Fair market value of assets not used (or held for use) directly in carrying out charitable, etc., purposes:		
a	Average monthly fair market value of securities	1a	
b	Average of monthly cash balances	1b	
c	Fair market value of all other assets (see instructions)	1c	
d	Total (add lines 1a, b, and c)	1d	
e	Reduction claimed for blockage or other factors reported on lines 1a and 1c (attach detailed explanation)		1e
2	Acquisition indebtedness applicable to line 1 assets	2	
3	Subtract line 2 from line 1d	3	
4	Cash deemed held for charitable activities. Enter 1½% of line 3 (for greater amount, see instructions)	4	
5	Net value of noncharitable-use assets. Subtract line 4 from line 3. Enter here and on Part V, line 4	5	
6	Minimum investment return. Enter 5% of line 5	6	

§ 4942 Required Minimum Distributions

- Cash
 - Valued on a monthly basis by averaging the amount on hand on the first & last day of the month
- Marketable securities (common & preferred stocks, bonds & mutual fund shares)
 - Regularly traded
 - Value monthly
 - Use basis on last day of the month



§ 4942 Required Minimum Distributions

- Other assets
 - Real estate
 - Valued every five years
 - Written independent appraisal
 - Alternative investments
 - Valued annually
 - Exempt purpose assets
 - Example: fixed assets used partially for charitable & investment



§ 4942 Required Minimum Distributions

Part XI **Distributable Amount** (see instructions) (Section 4942(j)(3) and (j)(5) private operating foundations and certain foreign organizations, check here and do not complete this part.)

1	Minimum investment return from Part X, line 6		1	
2a	Tax on investment income for 2019 from Part VI, line 5	2a		
b	Income tax for 2019. (This does not include the tax from Part VI.)	2b		
c	Add lines 2a and 2b		2c	
3	Distributable amount before adjustments. Subtract line 2c from line 1		3	
4	Recoveries of amounts treated as qualifying distributions		4	
5	Add lines 3 and 4		5	
6	Deduction from distributable amount (see instructions)		6	
7	Distributable amount as adjusted. Subtract line 6 from line 5. Enter here and on Part XIII, line 1		7	

Part XII **Qualifying Distributions** (see instructions)

1	Amounts paid (including administrative expenses) to accomplish charitable, etc., purposes:			
a	Expenses, contributions, gifts, etc.—total from Part I, column (d), line 26		1a	
b	Program-related investments—total from Part IX-B		1b	
2	Amounts paid to acquire assets used (or held for use) directly in carrying out charitable, etc., purposes		2	
3	Amounts set aside for specific charitable projects that satisfy the:			
a	Suitability test (prior IRS approval required)		3a	
b	Cash distribution test (attach the required schedule)		3b	
4	Qualifying distributions. Add lines 1a through 3b. Enter here and on Part V, line 8; and Part XIII, line 4		4	
5	Foundations that qualify under section 4940(e) for the reduced rate of tax on net investment income. Enter 1% of Part I, line 27b. See instructions		5	
6	Adjusted qualifying distributions. Subtract line 5 from line 4		6	

Note: The amount on line 6 will be used in Part V, column (b), in subsequent years when calculating whether the foundation qualifies for the section 4940(e) reduction of tax in those years.

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Part XIII Undistributed Income (see instructions)

	(a) Corpus	(b) Years prior to 2018	(c) 2018	(d) 2019
1 Distributable amount for 2019 from Part XI, line 7				
2 Undistributed income, if any, as of the end of 2019:				
a Enter amount for 2018 only				
b Total for prior years: 20____, 20____, 20____				
3 Excess distributions carryover, if any, to 2019:				
a From 2014				
b From 2015				
c From 2016				
d From 2017				
e From 2018				
f Total of lines 3a through e				
4 Qualifying distributions for 2019 from Part XII, line 4: ▶ \$ _____				
a Applied to 2018, but not more than line 2a				
b Applied to undistributed income of prior years (Election required—see instructions)				
c Treated as distributions out of corpus (Election required—see instructions)				
d Applied to 2019 distributable amount				
e Remaining amount distributed out of corpus				
5 Excess distributions carryover applied to 2019 (If an amount appears in column (d), the same amount must be shown in column (a).)				
6 Enter the net total of each column as indicated below:				
a Corpus. Add lines 3f, 4c, and 4e. Subtract line 5				
b Prior years' undistributed income. Subtract line 4b from line 2b				
c Enter the amount of prior years' undistributed income for which a notice of deficiency has been issued, or on which the section 4942(a) tax has been previously assessed				
d Subtract line 6c from line 6b. Taxable amount—see instructions				
e Undistributed income for 2018. Subtract line 4a from line 2a. Taxable amount—see instructions				
f Undistributed income for 2019. Subtract lines 4d and 5 from line 1. This amount must be distributed in 2020				
7 Amounts treated as distributions out of corpus to satisfy requirements imposed by section 170(b)(1)(F) or 4942(g)(3) (Election may be required—see instructions)				
8 Excess distributions carryover from 2014 not applied on line 5 or line 7 (see instructions)				
9 Excess distributions carryover to 2020. Subtract lines 7 and 8 from line 6a				
10 Analysis of line 9:				
a Excess from 2015				
b Excess from 2016				
c Excess from 2017				
d Excess from 2018				
e Excess from 2019				



§ 4942 Required Minimum Distributions

- Considered the most costly sanction
- Failure to satisfy the mandatory distribution requirement is 30% each year the underpayment remains uncorrected
 - Correction achieved when deficiency distributed
 - 1–2% tax rate used in prior returns is recalculated
 - Statute of limitations to correct remains open [GCM39808]



Polling Question 4

When does your private foundation typically make grants?

- Throughout the year
- After the prior year tax return is completed
- End of year
- I'm not sure or N/A

Part XV Supplementary Information (Complete this part only if the foundation had \$5,000 or more in assets at any time during the year – see instructions.)

1 Information Regarding Foundation Managers:

- a** List any managers of the foundation who have contributed more than 2% of the total contributions received by the foundation before the close of any tax year (but only if they have contributed more than \$5,000). (See section 507(d)(2).)
- b** List any managers of the foundation who own 10% or more of the stock of a corporation (or an equally large portion of the ownership of a partnership or other entity) of which the foundation has a 10% or greater interest.

2 Information Regarding Contribution, Grant, Gift, Loan, Scholarship, etc., Programs:

Check here if the foundation only makes contributions to preselected charitable organizations and does not accept unsolicited requests for funds. If the foundation makes gifts, grants, etc., to individuals or organizations under other conditions, complete items 2a, b, c, and d. See instructions.

- a** The name, address, and telephone number or email address of the person to whom applications should be addressed:
- b** The form in which applications should be submitted and information and materials they should include:
- c** Any submission deadlines:
- d** Any restrictions or limitations on awards, such as by geographical areas, charitable fields, kinds of institutions, or other factors:

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Part XV Supplementary Information *(continued)*

3 Grants and Contributions Paid During the Year or Approved for Future Payment

Recipient	If recipient is an individual, show any relationship to any foundation manager or substantial contributor	Foundation status of recipient	Purpose of grant or contribution	Amount
Name and address (home or business)				
<p>a <i>Paid during the year</i></p>				
<p>Total ▶ 3a</p>				
<p>b <i>Approved for future payment</i></p>				

Part XVI-A Analysis of Income-Producing Activities

Enter gross amounts unless otherwise indicated.

	Unrelated business income		Excluded by section 512, 513, or 514		(e) Related or exempt function income (See instructions.)
	(a) Business code	(b) Amount	(c) Exclusion code	(d) Amount	
1 Program service revenue:					
a _____					
b _____					
c _____					
d _____					
e _____					
f _____					
g Fees and contracts from government agencies					
2 Membership dues and assessments					
3 Interest on savings and temporary cash investments					
4 Dividends and interest from securities					
5 Net rental income or (loss) from real estate:					
a Debt-financed property					
b Not debt-financed property					
6 Net rental income or (loss) from personal property					
7 Other investment income					
8 Gain or (loss) from sales of assets other than inventory					
9 Net income or (loss) from special events					
10 Gross profit or (loss) from sales of inventory					
11 Other revenue: a _____					
b _____					
c _____					
d _____					
e _____					
12 Subtotal. Add columns (b), (d), and (e)					
13 Total. Add line 12, columns (b), (d), and (e)					13 _____

(See worksheet in line 13 instructions to verify calculations.)

Part XVI-B Relationship of Activities to the Accomplishment of Exempt Purposes

Line No.	Explain below how each activity for which income is reported in column (e) of Part XVI-A contributed importantly to the accomplishment of the foundation's exempt purposes (other than by providing funds for such purposes). (See instructions.)
▼	

Part XVII Information Regarding Transfers to and Transactions and Relationships With Noncharitable Exempt Organizations

- 1 Did the organization directly or indirectly engage in any of the following with any other organization described in section 501(c) (other than section 501(c)(3) organizations) or in section 527, relating to political organizations?
a Transfers from the reporting foundation to a noncharitable exempt organization of:
(1) Cash
(2) Other assets
b Other transactions:
(1) Sales of assets to a noncharitable exempt organization
(2) Purchases of assets from a noncharitable exempt organization
(3) Rental of facilities, equipment, or other assets
(4) Reimbursement arrangements
(5) Loans or loan guarantees
(6) Performance of services or membership or fundraising solicitations
c Sharing of facilities, equipment, mailing lists, other assets, or paid employees
d If the answer to any of the above is "Yes," complete the following schedule. Column (b) should always show the fair market value of the goods, other assets, or services given by the reporting foundation.

Table with 4 columns: (a) Line no., (b) Amount involved, (c) Name of noncharitable exempt organization, (d) Description of transfers, transactions, and sharing arrangements.

- 2a Is the foundation directly or indirectly affiliated with, or related to, one or more tax-exempt organizations described in section 501(c) (other than section 501(c)(3)) or in section 527?
b If "Yes," complete the following schedule.

Table with 3 columns: (a) Name of organization, (b) Type of organization, (c) Description of relationship.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.
Signature of officer or trustee, Date, Title

Paid Preparer Use Only
Print/Type preparer's name, Preparer's signature, Date, Check if self-employed, PTIN, Firm's name, Firm's address, Firm's EIN, Phone no.

May the IRS discuss this return with the preparer shown below? See instructions. Yes No



Questions?

Thank you!



Jonathan Blum
Shareholder
jblum@polsinelli.com



Kevin Ensminger, CPA
Director
kensminger@bkd.com



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