

Blazek & Vetterling

Annual Tax Compliance Checklist for Private Foundation (PF)

PF's Name: _____ Prepared by: _____
Date: _____

Federal Tax-exempt Status

Review Form 1023 and determination letter for exempt status and purposes originally represented to the IRS. _____

Was there any new programs or substantial change(s) in PF's exempt purpose(s)? [§18.3] _____

Review the minutes of director's meetings. _____

Should change be reported on Form 990-PF? _____

Has there been a substantial contraction or termination? _____

Was there a change in the charter or bylaws to be attached? _____

Should PF consider conversion to a public charity? [§12.4] _____

Could PF qualify as a Private Operating Foundation? [§15.5] _____

Ask for copies of any IRS notices and reports of IRS exam. _____

Review reports for corrections and other compliance issues raised. _____

State and Local Taxes

Does PF properly claim sales tax exemption? _____

Is PF's address and status with State office(s) current? _____

Must the PF collect sales tax on goods or services sold? _____

If so, are timely returns filed? Is tax deposited on time? _____

Does the organization pay real or personal property tax? _____

Would use of property qualify it for exemption? _____

Has property classed as exempt-use been converted to investment-use property? _____

Instruct PF to send copy of 990-PF to State Attorney General(s). _____

Are there other state return filing requirements? _____

§ 4941 Self Dealing

Secure list of officers/directors, managers, significant staff. _____

Update disqualified persons ("DPs") and substantial contributor record [Ch.14]. _____

Did a sale, exchange, or other transaction involving property of any sort occur between the PF and its DPs? [§14.2] _____

Did the PF reimburse a DP for exempt function expenses? [§14.7] _____

Was interest-free loan being repaid? [§14.3] _____

If the PF shares people or space, does PF have an Expenditure Documentation Policy? [Exhibit 14.2] _____

§ 4941 Self Dealing, Continued

- Did a <\$5,000 transaction occur during "normal course" of retail business? [§14.1(c)] _____
- Were benefit tickets accepted for PF grant? [§14.5(c)] _____
- Does the PF pay for DP's memberships or pledges? [§14.5(c)] _____
- Does the PF indirectly do business with a DP or his/her business? [§14.8] _____
- For property bequeathed to the PF, should distributions from estate be delayed until property sold or divided? [§14.9] _____

§4942 Mandatory Distribution Requirement

Review the following issues to determine if the PF has spent a sufficient amount on its charitable programs.

- Review calculation of minimum investment return: [§15.2]
 - Are methods of valuation consistently applied? _____
 - Are non-readily marketable asset valuations updated at least annually? _____
 - Are exempt function assets excluded? _____
 - Is dual-use property reasonably allocated? _____
 - Can >1-1/2% cash reserves be justified? _____
 - Can a discount be applied to valuation of non-marketable assets? _____
 - Has real estate/mineral interest declined in value since last appraisal? _____
- Do all grants reported in Part XV count as qualifying distributions? [§15.4]
 - Any grants to organizations controlled by the PF? _____
 - Any redistributions to be offset against corpus? _____
 - Grant made to non-functionally integrated Type III SO? _____
 - Grant made to private foundation? _____
- Must portion of program expenses be reported in column (c) to offset revenues from exempt activities? _____
- Is Part I, column (d) prepared on a cash basis? [§15.4] _____
- Should PF seek approval for Set-Aside of funds for program better accomplished over several years? _____
- Does Part XIII reflect satisfaction of the minimum distribution requirements? [§15.6] _____
- Determine if adjustments to "qualifying distributions" are needed for the following. [§15.3]
 - Sale/disposition of exempt asset(s) previously classified as qualifying distribution? _____
 - Amounts not redistributed in a timely manner by another private foundation or controlled org? _____
 - Set-asides not used for the specified purpose? _____
 - Grant funds returned by grantee? _____
- If foundation is a private operating foundation, verify data to complete Part XIV [§15.5]:
 - Amount spent for active conduct of programs _____
 - Value of assets devoted to active programs _____
 - Evaluate character of grants to other organizations to distinguish active program activity _____
 - Determine if individual grant program qualifies as an active exempt function activity _____
- Does POF describe active programs it conducts in Part IX? _____

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§4943 Excess Business Holdings

If the PF owns more than 2% of a corporation, partnership, or other business holding, ascertain whether disqualified persons' holdings must be aggregated. [§16.1] _____

Calculate permitted holdings to identify whether excess business holdings exist. _____

If the PF has permitted temporary excess business holdings acquired through gift or bequest, evaluate status of planning for timely disposition of excess? _____

§4944 Jeopardizing Investments

Review PF's investment listing to evaluate presence of jeopardizing investments. [§16.2]

Is the fair market value of assets less than cost basis? _____

Does PF hold properties that produce no income? _____

If net capital loss reported, review past years of investment returns for trend indicating jeopardizing investments. _____

Does PF use outside investment advisors? _____

Does PF have "alternative investments?" _____

If so, complete Checklist for Alternative Investments. [Exhibit 19.11] _____

§4945 Taxable Expenditures

Obtain a list of grants paid during year. _____

Determine if PF spent money for any of following: [Answers should be NO] _____

Organizations listed as 509(a)(3) Type III - Non-Functionally Integrated* _____

Organizations classified as private foundations* _____

Organizations classified as other than a permitted public charity* _____

*unless Expenditure Responsibility exercised. _____

Lobbying or a grant to finance lobbying [§17.1] _____

Political campaign [§17.1] _____

Unapproved individual grant for study, travel, or similar [§17.3] _____

Support of noncharitable program [§17.7] _____

Are files (IRS approves electronic) maintained to evidence charitable nature of the PF's activities? _____

(For example: files for grantees, programs, exhibitions, class schedules, articles published)

Do grant files contain a Grants Checklist [Exhibit 17.2] and Grant Transmittal Letter [Exhibits 17.3 and 17.4] for each grant paid? _____

Did the PF make an expenditure responsibility grant to another PF, Type III non-func.int. SO, or a non-(c)(3) entity? [§17.6] If so, were following prepared? _____

Control Checklist of 7 Steps [Cklt. 17.5] _____

Pre-grant inquiry [Checklist 17.6] _____

Expenditure responsibility agreement [Cklt. 17.7 & 17.8] _____

Report in Form 990-PF for current and prior year ER grants[Exhibit 17.9] _____

§4945 Taxable Expenditures, Continued

Is the list of grantees for Part XV designed to reflect the purpose of each grant and summarized to reflect the PF's mission? i.e., does this part paint a clear picture of type of programs the PF wants to support? _____

Violations of §4941/4945 Sanctions

Did a violation of §4941-4945 rules occur? _____

Verify correct answers given in Part VII-B. A "Yes" indicates Form 4720 may need to be filed. _____

Coordinate answer to Quest. 5(c) of Part VII-B with attachment of Expenditure Responsibility Report(s). _____

Should a Form 4720 be prepared? _____

Has violation been corrected? [§§14.10,15.6,16.4,17.8] _____

Can the penalty be abated for reasonable cause? _____

Have practices to avoid such acts in the future been adopted? _____

§4940 Investment Excise Tax

Does the PF maintain records to support allocation to identify disbursements directly related to its investments, grant-making and program activity, and management and general expenses? See Exp.Alloc.Memo. [§13.3] _____

Are expense allocations consistent with prior years? _____

Is the tax basis of assets (donee's basis for gifts received) maintained separately from the book basis? [§13.2] _____

Consider distribution of substantially appreciated property (rather than cash) to grantees to reduce excise tax on capital gain from sale of the property. [§13.4] _____

Should PF plan timing of qualifying distributions to reduce its excise tax to 1%? [§13.4] _____

Does PF properly report all investment income? Most all types of income are now taxable, including gains from sale of exempt function property [§13.1] _____

Does PF have unrelated business income? [Ch. 21] If so: _____

Complete UBI checklist and prepare Form 990-T. _____

Is the unrelated income excluded from Part I, column (b)? _____

Was excise tax paid in a timely fashion? [§13.6] _____

Should Form 2220 be attached to Form 990-PF? _____

Must large corporation method for estimating be used? _____

Is tax properly paid electronically? _____

Filing Requirements

Has PF followed the public disclosure rules for its past three years of 990-PFs, 990-Ts and Form 1023? [§18.3(a)] _____

All PFs and PFs converting to public status must file 990-PF regardless of support, even if zero. [§12.4] _____

Was an extension(s) of time requested on Form 8868? _____

If the return is being filed late, has penalty abatement been requested? _____

Electronic filing required for all PFs and charitable trusts, that file 250 or more tax returns. _____

Filing Requirements, Continued

If the PF wants to change its fiscal year, set up due date for automatic change for next year? [§18.3(b)] _____

Does the PF need to file Form 3115 to adopt change in tax accounting method? [§18.3(c)] _____

Does Part XVI-A, Analysis of Income Producing Activity, indicate PF has unrelated business income? _____

If so, has Form 990-T been filed? _____

Investigate application of exceptions and modifications that exclude or modify unrelated income from tax. [§21.9 & §21.10] _____

Does the EO make payments for personal services? If so, _____

Determine whether PF has a policy to distinguish between employees and independent contractors. [§24.1] _____

Does PF comply with Federal/state payroll withholding/reporting requirements (including ACA)? _____

Are payroll taxes deposited in a timely fashion? _____

Is withholding required for payments to foreign persons? _____

Are Forms 941, 5500, W-2 and other tax reports timely filed? _____

Contributions Received

Has substantial contributor list been updated? [§12.1] _____

Has the PF received gifts of property (other than listed securities) for which Form 8283 is required? _____

Must sales of \$5,000+ donated property made within three years from date of gift be reported on Form 8282? _____

Has PF furnished its funders §170 donation acknowledgments indicating no benefits provided? [§24.2] (Provision of benefits would indicate self-dealing.) _____