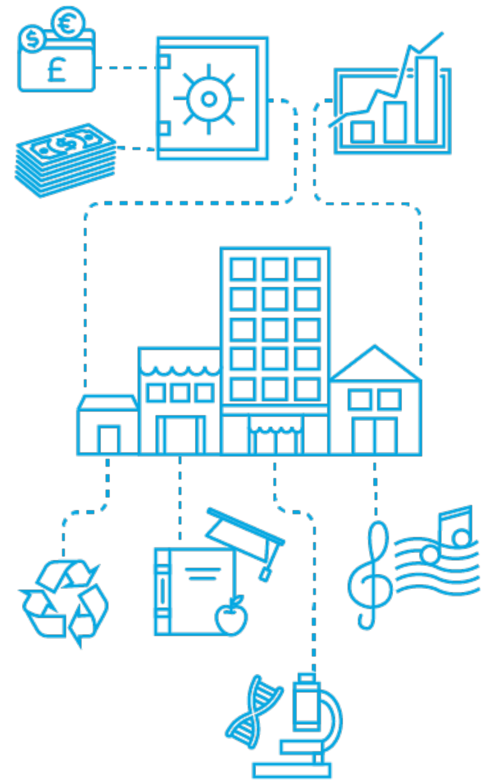
Private foundation do’s and don’ts: Common self-dealing issues

Private foundations generally may not engage in transactions with disqualified persons (DPs), even under terms that are favorable to the private foundation. These restrictions apply to transactions in <u>any</u> amount that either directly or indirectly benefit a DP. Consequences of engaging in a prohibited self-dealing transaction include unwinding the transaction, reporting it to the IRS, and paying an excise tax.

Disqualified persons (DPs): “Insiders” with respect to the private foundation and include:

- **Officers, directors, and trustees**
- **Substantial contributors (i.e., generally persons that have contributed at least 2% of the private foundation’s total support)**
- **More than 20% owner of a substantial contributor**
- **Linear family members (i.e., ancestors and descendants), including spouses**
- **Corporations, partnerships, and trusts or estates owned more than 35% by the above**



Private Foundation Self-Dealing Do's and Don'ts

DO'S

- Rent property for free <u>from</u> a disqualified person.
- Make grants to employees of a related company for federally declared disaster relief.
- Make grants and attend events that are reasonable and necessary to oversee, evaluate, and monitor grantees.
- Make and fulfill pledges.
- Borrow money from a disqualified person with zero interest.
- Pay reasonable compensation and reimbursements to disqualified persons for services that require specialized training and are necessary to carrying out the foundation's exempt purposes (e.g., director fees, officer salaries, investment management fees).

DON'TS

- Rent property <u>to</u> a disqualified person regardless of amount charged.
- Make grants to employees of a related company for personal emergencies or hardships encountered.
- Make grants to charities where a disqualified person receives a benefit (e.g., a ticket to the charity's fundraising gala).
- Bifurcate payments (e.g., DP pays the ticket fee, and the foundation pays the charitable contribution portion).
- Satisfy pledges made by disqualified persons.
- Lend money to a disqualified person regardless of interest charged.
- Pay disqualified persons for general or overhead expenses (e.g., utilities, allocation of administrative expenses, janitorial fees).

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