Private Foundation Grants Used to Satisfy Personal Pledges May be Self-Dealing

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Private foundations are subject to special rules relating to conflicts of interest. These are called "self-dealing" rules. These rules flatly prohibit transactions between interested persons (known as "disqualified persons") and the foundation. These transactions are prohibited even if they benefit the foundation. A foundation's disqualified persons generally include its substantial contributors, directors, officers, family members of these individuals, and certain business entities controlled by these individuals. In the case of a company foundation, the business associated with the private foundation is almost always a disqualified person. There are some important exceptions to the self-dealing rules, such as compensating disqualified persons reasonably for work completed.

Under the self-dealing rules, a private foundation is prohibited from providing goods, services, or facilities to a disqualified person, or allowing foundation assets to be used by or for the benefit of a disqualified person. In most cases, this is logical—the private foundation cannot pay for a disqualified person's entertainment, for example.

Grants made by private foundations to Section 501(c)(3) organizations usually do not raise an issue of self-dealing. But, when a disqualified person has legally pledged to make a charitable contribution to a Section 501(c)(3) organization, and the private foundation later makes a grant to satisfy this personal pledge, the IRS takes the position that the private foundation's grant may constitute self-dealing.