**Event Tickets May Constitute Self-Dealing**

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As private foundations and other charitable organizations look forward to the end of the coronavirus pandemic and the return of in-person events, it may be a good idea to review the self-dealing rules involving event tickets related to contributions by foundations.

**Self-Dealing Generally**

Self-dealing occurs when a private foundation furnishes goods, services, or facilities to a disqualified person (a trustee, director, officer, substantial contributor, or certain family members and related businesses). An excise tax is imposed on self-dealing transactions (and the disqualified person is required to repay any benefit to the private foundation in order to make the private foundation “whole”). Other forms of self-dealing were discussed in a previous [article](https://www.foley.com/en/insights/publications/2020/09/private-foundation-grants-personal-pledges).

**Tickets, Tables, and Other Benefits**

Frequently, when a donor makes a grant to a charitable organization, the donor is entitled to benefits for making the grant. These benefits include meals at fundraising dinners, tickets to events, or gifts. If the private foundation redirects these benefits to a disqualified person, the IRS may consider the disqualified person to have received a benefit subject to self-dealing. For example, if a private foundation gives a gala ticket to one of its directors, the benefit of the ticket (the food, entertainment, etc.) is considered an asset of the foundation and allowing a director or officer to use the ticket is considered self-dealing.

Oftentimes, the donors to a private foundation want to attend the event but also have the private foundation use its assets to make a gift to the cause. The private foundation can sponsor a gala or event (and the disqualified persons can attend) so long as the disqualified persons pay their own “cost of attendance.” The “cost of attendance” is *not* equivalent to the non-charitable portion of the event (the portion equal to the value of the meal and entertainment and therefore non-deductible). Instead, it is equivalent to the entire amount that an individual must contribute in order to attend the function (the stated contribution minimum for obtaining the tangible benefit of attendance). The “cost of attendance” does not include the cost of sponsoring the event when the only benefit to sponsorship is signage or sponsorship acknowledgment.

For example, a solicitation for a table at a charitable gala may require a minimum contribution of $10,000 and the ticket may state that the individual donor who receives a table will receive food and entertainment valued at $1,000 and is therefore entitled to a $9,000 charitable income tax deduction (solicitations for fundraising tickets are required to state the value of the benefit to the individual or business donor so that the individual or business donor can correctly deduct the amount of the net contribution for income tax purposes). In order for the disqualified person to attend, he or she would need to make an individual gift of $10,000 for the table (the entire cost of attendance). But, if the cost to be a “Diamond Sponsor” is $50,000, then the private foundation can make an additional gift of $40,000 to allow the donor and/or private foundation to be recognized as a Diamond Sponsor.

For more examples, the Council on Foundations (the largest group of private foundations in the United States) has published an [article](https://www.cof.org/sites/default/files/documents/files/Thats-the-Ticket.pdf) regarding the use of foundation-purchased tickets by disqualified persons.

The IRS reasoning behind these rules is that the opportunity to attend the event and only pay the non-charitable portion of the ticket is a direct economic benefit to the disqualified person, who is alleviated of the requirement to make a charitable contribution.  In allowing the disqualified person to “piggyback” on the private foundation’s charitable gift, the private foundation is paying the disqualified person’s obligation.

**Exception for Attendance for Charitable Purpose**

If the disqualified person’s presence at the event is related to the private foundation’s charitable mission or its administration, the disqualified person’s use of the event ticket will not be treated as self-dealing. For example, if the charitable organization offers tickets to attend a lunch which features significant educational content or a speech by the executive director about the current and future operations of the organization, the private foundation’s officers and directors may use the tickets to attend as part of their grant-making responsibilities and they may eat the lunch as any other attendee. This exception is often used for events when the private foundation feels that its leaders should be in attendance to show leadership in the community.

This rationale is less applicable for fundraising events where the primary purpose of the event is entertainment (such as galas and golf outings). Attendance at an event with an extravagant dinner or live band and no educational or charitable content is not clearly related to the foundation’s charitable purpose.

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