

Accepting Gifts from Private Foundations

North Carolina State University

Office of Advancement Services

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WHY DONATIONS FROM PRIVATE FOUNDATIONS ARE DIFFERENT

An individual, a family, or a for-profit company may fund a private foundation. At North Carolina State University, we frequently receive donations from family foundations. While the IRS does not have a legal category of “family foundation,” we use the phrase often to describe one particular type of private foundation. Regardless of the source of funding, it is important to understand that once an entity gives cash or other assets to a private foundation, those assets then belong to a separate legal entity that is subject to many legal restrictions. Said as simply as possible: It is not the individual donor’s money anymore.

Individual donors may not understand this important distinction and therefore make the mistake of thinking that private foundation assets are simply another source of their funds so long as the payment seems fair and a legitimate charity benefits. Unfortunately, a private foundation payment can be completely fair, benefit charity, and yet still considered as an act of “self-dealing” by the IRS. The IRS can levy excise taxes on the foundation and (in some cases) on foundation managers when various prohibited activities occur. While the rules on self-dealing cover a broad range of foundation practices, of particular interest to NCSU fundraisers are the regulations surrounding the purchase of tickets to fundraising events and payments made on the pledges of foundation contributors, founders, board, staff members, and other “disqualified persons” as defined by the IRS.

It is important for all NCSU fundraisers to understand and follow appropriate procedures in order to protect the tax interests of NCSU supporters who give through private foundations.

CONSIDERATIONS ABOUT SPECIAL EVENTS

Fundraising events typically provide some tangible benefit to the attending ticket holder (e.g., dinner, entertainment, etc.). Generally, the purchases of tickets to such an event are not fully tax deductible – you must reduce the deduction by the value of the goods and services provided to the purchaser.

Related to this, the purchase of an event ticket using private foundation funds could result in a violation of the self-dealing rules. The key factor here is who uses the ticket. The IRS has ruled that a board member (or other manager) of a private foundation **may** use foundation funds to purchase the ticket if attendance is related to their duties for the foundation (grantee oversight, program evaluation, etc.). However, any other closely related individual to the foundation with no such duties (i.e., the spouse, or child of a board member) may not purchase a ticket for use.

Additionally, the foundation may not divide the cost of the ticket whereby the user of the ticket pays for the value of the tangible benefits received (such as a dinner) and the foundation pays the balance of the ticket price. The IRS position is that “but for” the foundation paying the balance of the ticket price, the ticket could not be purchased.

CONSIDERATIONS ABOUT PLEDGES

IRS self-dealing regulations explicitly say that a private foundation may not satisfy the enforceable¹ pledge of a disqualified person. An individual’s pledge is a personal obligation and, therefore, a charitable foundation may not satisfy it. (Recall that private foundation funds are not the individual donor’s money anymore.) An individual who prefers to have their private foundation fulfill a pledge should have the foundation itself make the pledge.

If a donor wishes to make an individual commitment, but plans to direct payments from a private foundation, attach that information to the NCSU Pledge Transmittal form.

WHAT IF A DONOR INSISTS THAT A PRIVATE FOUNDATION PAY FOR A SPECIAL EVENT TICKET OR SATISFY A PLEDGE?

Return any distribution received from the private foundation for a special event ticket to the donor and explain that it is our understanding that there may be negative tax consequences for the donor were their foundation to purchase special event tickets. We, however, will accept the payment if the donor requires that we apply the foundation payment to the event, provided the donor so stipulates in writing acknowledging our concerns.

Likewise, when we receive a distribution from a private foundation as a pledge payment, the fundraiser should explain that it is our understanding that we cannot apply distributions from a foundation to a pledge because of possible negative tax consequences to the donor. Instead, ask the donor whether it is his or her intention to pay the full amount of the pledge or if we should manually decrease the personal pledge by the amount of the foundation gift. In either case, the fundraiser should have written documentation of the donor’s wishes. Documentation may be a letter from a donor, a confirming letter sent by the fundraiser to the donor, or written documentation of a conversation with the donor. The documentation should include, if applicable, revised pledge amounts and payment schedules.

¹ Determination as to whether a pledge is enforceable is dependent on state law and varies from state to state. Generally, though, a signed written pledge is enforceable when a charity relies upon it.

WHAT IS APPROPRIATE STEWARDSHIP FOR A PRIVATE FOUNDATION GIFT?

When any office receives a gift from a private foundation, Advancement staff should thank the appropriate representative of the foundation as well as the related individual, as appropriate. However, letters or conversations should not refer to a gift from a private foundation as a gift (or pledge payment) from an individual.

❖ **What to say**

“Many thanks for your recommendation that the ABC Foundation direct gifts over the coming three years to The College of Management Entrepreneurship program.”

“I was thrilled to learn of your decision to recommend that the Jane Doe Family Foundation make a \$150,000 gift in support of the College of Natural Resource’s project in Forest Restoration.”

“We recently received a generous gift for the University’s Greatest Needs Fund from the ABC Foundation and are deeply grateful for your help in making this happen.”

❖ **What NOT to say**

“We were delighted to receive the ABC Foundation’s recent payment on your pledge.”