

## Foundation Advocacy Initiative

### Private Foundation Taxes as amended by the Pension Protection Act of 2006

Private foundations are subject to taxes for engaging in (or failing to engage in) certain activities. Public foundations and all other public charities are *not* subject to these taxes. The following chart lists the tax rates for the various excise taxes to which private foundations may be subject. The Pension Protection Act of 2006 increased many of the taxes, to be effective for taxable years beginning after August 17, 2006, and this table reflects the changes.

Private Foundation Activity	Internal Revenue Code section	Initial Taxes	Additional Taxes (per incident, if not cured within taxable period)
<b>Investment Income</b> (taxes foundation's net investment income)	4940	<b>Foundation:</b> 2% of net investment income of foundation; may be 1% if foundation meets certain distribution requirements	N/A
<b>Self-dealing</b> (restricts certain transactions between the private foundation and a disqualified person, such as a trustee)	4941	<b>Disqualified Person:</b> 10% of amount involved with respect to act of self-dealing for each year <b>Foundation Manager:</b> 5% on each manager who participated in the self-dealing act, unless participation is not willful and is due to reasonable cause (not to exceed \$20,000)	<b>Disqualified Person:</b> 200% <b>Foundation Manager:</b> 50%, to be paid by any manager who refused to agree to part or all of the correction (not to exceed \$20,000)
<b>Failure to Distribute Income</b> (requires distribution of at least 5% of the fair market value of foundation's assets each year)	4942	<b>Foundation:</b> 30% of undistributed income (the difference between the minimum distribution requirement and the amount actually distributed)	<b>Foundation:</b> 100%
<b>Excess Business Holdings</b> (limits the percentage of voting stock (generally 20%, but may never exceed 35%) a foundation may hold in a business enterprise)	4943	<b>Foundation:</b> 10% of excess business holdings	<b>Foundation:</b> 200%
<b>Investments which Jeopardize Charitable Purpose</b> (taxes risky investments that could jeopardize the foundation's ability to carry out its exempt purposes)	4944	<b>Foundation:</b> 10% of jeopardizing investment <b>Foundation Manager:</b> 10% on each foundation manager who participates in the making of the investment, knowing it is jeopardizing the carrying out of exempt purposes, unless such participation is not willful and is due to reasonable cause (not to exceed \$10,000)	<b>Foundation:</b> 25% <b>Foundation Manager:</b> 5%, on each manager that refuses to agree to part or all of the removal from jeopardy (not to exceed 20,000)
<b>Taxable Expenditures</b> (taxes certain expenditures for lobbying; voter registration drives, and grants to individuals and non-public charities)	4945	<b>Foundation:</b> 20% of each taxable expenditure <b>Foundation Manager:</b> 5% on each foundation manager who agrees to making of the expenditure, unless such agreement is not willful and is due to reasonable cause (not to exceed \$10,000)	<b>Foundation:</b> 100% <b>Foundation Manager:</b> 50%, on each manager that refuses to agree to part or all of the correction (not to exceed \$20,000)

Note: This handout provides general guidelines only, and is intended to serve as an overview. Because the application of law is fact-sensitive and context is critical, it should not be relied upon as legal advice. Organizations should consult with their attorney to receive guidance on special rules governing their conduct.