

A PRIVATE FOUNDATION MAY NOT:

(1) ENGAGE IN ANY ACT OF "SELF-DEALING," AS DEFINED IN §4941(D) OF THE FEDERAL INTERNAL REVENUE CODE, WHICH WOULD CAUSE ANY TAX LIABILITY UNDER §4941(A) OF THE FEDERAL INTERNAL REVENUE CODE;

(2) RETAIN ANY "EXCESS BUSINESS HOLDINGS," AS DEFINED IN §4943(C) OF THE FEDERAL INTERNAL REVENUE CODE, WHICH WOULD CAUSE ANY TAX LIABILITY UNDER §4943(A) OF THE FEDERAL INTERNAL REVENUE CODE;

(3) MAKE ANY INVESTMENT WHICH WOULD JEOPARDIZE THE CARRYING OUT OF ANY OF ITS EXEMPT PURPOSES UNDER §4944 OF THE FEDERAL INTERNAL REVENUE CODE AND CAUSE ANY TAX LIABILITY UNDER §4944(A) OF THE FEDERAL INTERNAL REVENUE CODE; OR

(4) MAKE ANY "TAXABLE EXPENDITURES," AS DEFINED IN §4945(D) OF THE FEDERAL INTERNAL REVENUE CODE, WHICH WOULD CAUSE ANY TAX LIABILITY UNDER §4945(A) OF THE FEDERAL INTERNAL REVENUE CODE.

REVISOR'S NOTE: This section presently appears as Art. 23, §445.

The only changes are in style.

Section 508 (e)(1) of the Internal Revenue Code provides that a private foundation may not be exempt from taxation "unless its governing instrument includes provisions the effects of which" prohibit the activities enumerated in that section and require the distribution of its income in the manner provided by the Internal Revenue Code. However, by a Federal Tax Regulation, 26 CFR 1.508(3)(d), a state is permitted to enact legislation prohibiting a private foundation from engaging in the actions enumerated in §5-402(a)(1) through (4) and requiring income distribution as in §5-403. By so doing, a private foundation is considered to have included these provisions in its charter. The 1971 enactment of this subtitle, which adopts as State law these prohibitions (§5-402) and the income distribution requirement (§5-403), made it unnecessary for private foundations to amend or include these specific provisions in their charters. Rev. Rul. 73-286.

For similar provisions dealing with the administration of a charitable trust, split-interest trust, and a private foundation