

**PART 141—TEMPORARY EXCISE  
TAX REGULATIONS UNDER THE  
EMPLOYEE RETIREMENT INCOME  
SECURITY ACT OF 1974**

**§ 141.4975-13 Definition of “amount involved” and “correction”.**

Until superseded by permanent regulations under sections 4975(f) (4) and (5), § 53.4941(e)-1 of this chapter (Foundation Excise Tax Regulations) will be controlling to the extent such regulations describe terms appearing both in section 4941(e) and section 4975(f). Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[T.D. 7425, 41 FR 32890, Aug. 6, 1976, as amended by T.D. 8084, 51 FR 16305, May 2, 1986]

**PART 143—TEMPORARY EXCISE  
TAX REGULATIONS UNDER THE  
TAX REFORM ACT OF 1969**

Sec.

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143.6 Election to shorten the period during which certain excess business holdings of private foundations are treated as permitted holdings.

AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

**§ 143.1 [Reserved]**

**§ 143.2 Taxes on self-dealing; scholarship and fellowship grants by private foundations.**

(a) *In general.* Section 4941(d)(1)(D) of the Internal Revenue Code of 1954 as added by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 500) provides that the term “self-dealing” includes any direct or indirect payment of compensation (or payment or reimbursement of expenses) by a private founda-

tion to a disqualified person. Section 4941(d)(1)(E) provides that the term “self-dealing” includes any direct or indirect transfer to, or use by, or for the benefit of, a disqualified person of the income or assets of a private foundation.

(b) *Scholarship and fellowship grants.* A scholarship or fellowship grant to a person other than a Government official paid or incurred by a private foundation in accordance with a program which is consistent with the allowance of a deduction under section 170 for contributions made to such private foundation shall not constitute an act of self-dealing. For example, a scholarship or fellowship grant made by a private foundation in accordance with a program to award scholarship or fellowship grants to the children of employees of the donor shall not constitute an act of self-dealing if the private foundation has, after disclosure of the method of carrying out such program, received a ruling or determination letter stating that it is exempt from taxation under section 501(c)(3) and that contributions to the private foundation are deductible by the donor under section 170.

[T.D. 7030, 35 FR 4293, Mar. 10, 1970]

**§§ 143.3-143.4 [Reserved]**

**§ 143.5 Taxes on self-dealing; indirect transactions by a private foundation.**

(a) *In general.* Section 4941(d)(1)(D) of the Internal Revenue Code of 1954 as added by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 500) provides that the term “self-dealing” includes any direct or indirect payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person. Section 4941(d)(1)(E) provides that the term “self-dealing” includes any direct or indirect transfer to, or use by, or for the benefit of, a disqualified person of the income or assets of a private foundation. Section 4941(d)(1)(F) provides that the term “self-dealing” includes any direct or indirect agreement by a private foundation to make any payment of money or other property to a government official other than an agreement to employ such individual

for any period after the termination of his government service if such individual is terminating his government service within a 90-day period.

(b) *Indirect transactions by a private foundation.* A transaction engaged in directly with a Government official by an organization described in section 509(a) (1), (2), or (3) which is the recipient of a grant from a private foundation shall not constitute an indirect act of self-dealing between such private foundation and Government official if the private foundation does not earmark the use of the grant for any named Government official and does not control or retain any veto power over the selection of the Government official by the grantee organization. For purposes of the preceding sentence, a grant by a private foundation shall not constitute an indirect act of self-dealing even though such foundation had reason to believe that certain Government officials would derive benefits from such grant so long as the grantee, in fact, exercises control over the selecting process and actually makes the selection completely independent of the private foundation.

(c) *Example.* The provisions of subsection (b) of this section may be illustrated by the following example.

*Example.* A private foundation made a grant to an organization described in section 509(a) (1), (2), or (3) to conduct a judicial seminar. The grantee conducting the seminar made payments to certain Government officials. By the nature of the seminar the grantor foundation had reason to believe that Government officials would be compensated for participation in such seminar. The grantee, however, had complete independent control over the selection of such participants. Since the grantee has not acted as a conduit for the private foundation and has, in fact, exercised independent control over the use of the grant, such grant by the private foundation shall not constitute an act of self-dealing with respect to the Government officials.

[T.D. 7036, 35 FR 6322, Apr. 18, 1970]

**§ 143.6 Election to shorten the period during which certain excess business holdings of private foundations are treated as permitted holdings.**

(a) *In general.* Under section 4943(c)(4)(B)(ii), where the combined holdings on May 26, 1969, of a private

foundation and all disqualified persons in any one business enterprise exceed 75 percent of the voting stock or more than a 75 percent interest in the value of all outstanding shares of all classes of stock in such enterprise, and the foundation's holdings on such date do not exceed 95 percent of the voting stock in such enterprise, then such combined holdings must be reduced to 50 percent of the voting stock of such enterprise by the end of a 15-year period beginning on May 26, 1969. However, under section 4943(c)(4)(E), the 15-year period during which such combined holdings in the enterprise must be reduced to 50 percent is to be shortened to a 10-year period, referred to in section 4943(c)(4)(B)(iii), if, at any time before January 1, 1971, one or more individuals:

(1) Who are substantial contributors (as described in section 507(d)(2)) or members of the family within the meaning of section 4946(d) of one or more substantial contributors to such private foundation, and

(2) Who on May 26, 1969, held in aggregate more than 15 percent of the voting stock of the enterprise, make an election in the manner described in paragraph (b). If an individual who owns 15 percent or less of the voting stock of the enterprise wishes to make an election under this paragraph, he and one or more other individuals who together own more than 15 percent of the voting stock of the enterprise may join in making an election by together filing the statement referred to in paragraph (b) of this section.

(b) *Manner of making election.* The election referred to in paragraph (a) of this section is made by filing two copies of a written statement with the Office of the Assistant Commissioner (Technical), Internal Revenue Service, Washington, DC 20224.

(c) *Additional copies.* The individual filing the written statement referred to in paragraph (b) of this section shall submit a copy of the statement to the private foundation with respect to which the election is being made and to the management of such business enterprise.

(d) *Content of statement.* The statement shall indicate that an election is being made under section 4943(c) (4)(E)