

Blazek & Vetterling

COMPENSATION OF DISQUALIFIED PERSON CHECKLIST

This checklist can serve as a guide to documenting the reasonableness of compensation a private foundation (“PF”) pays to the persons that create, control, and manage it. The general rule prohibits such payments [§14.1]. A statutory exception permits the payment of reasonable compensation to such persons for personal services rendered in carrying out the tax-exempt purposes of the foundation

Name of Foundation _____

Self-dealing occurs, and penalties can be imposed, when a disqualified person receives unreasonable compensation for services rendered.

Unreasonable compensation results when the total economic benefit provided directly or indirectly to a disqualified person (DP) exceeds value of personal services provided by the DP.

Disqualified Person is one with substantial influence over the PF’s affairs, including a substantial contributor, officer, director, trustee, or one with similar responsibilities, owners of certain businesses that contribute to the PF, and their family members [§12.1(c)].

Question 1. Is the compensation paid to a disqualified person reasonable?

- Is there a job description, employment contract, engagement letter, or other agreement that fully describes the duties, hours, responsibilities of the disqualified person? [§14.4(a)] _____
- Are all types of compensation, including benefits, fringes, and allowances, taken into account to determine total annual compensation? _____
- If commission or other type of revenue sharing (incentive pay) is paid, evidence that rate is in lien with industry standards are obtained? [§20.2(c)] _____

Question 2. Is the reasonableness of compensation properly documented?

- Is comparable data –surveys, offers DP received from others, availability of others for job, opinion of consultants, and other evidence of value gathered? _____
- Is the compensation reported to the IRS on Forms W-2 or 1099? _____
- Is all compensation, including taxable and non-taxable fringe benefits reported on Part VIII of Form 990-PF? _____
- Is compensation approved (when possible) by non-disqualified persons? _____
- Are written record of meeting (minutes) when engagement was approved kept with notations of votes, abstentions (conflict), and any other discussions? _____

Prepared by _____ with (PF representative) _____ date _____