

Voter Registration Rules for Private Foundations

Private foundations may conduct, and fund public charities to engage in, non-partisan voter engagement activities, such as candidate and public education, get-out-the vote, and voter registration. Federal tax law imposes added restrictions on private foundation grants (or other expenditures) earmarked for voter registration activities only. These restrictions *do not* apply to public foundations.

Private foundations may make grants earmarked for voter registration activities only if certain requirements under section 4945(f) of the Internal Revenue Code are met. Otherwise, the private foundation providing the grant will be taxed for all expenditures supporting the public charity's voter registration activity.

Section 4945(f) requires:

- The organization sponsoring or conducting the voter registration drive (the sponsoring organization) must be a 501(c)(3) organization
- The registration activities of the sponsoring organization must be nonpartisan, **conducted in five or more states**, and **occur over more than one election cycle**
- A contribution for such activities may not be subject to conditions requiring use in a specific state (or political subdivision) or in a specific election cycle
- At least 85 percent of the sponsoring organization's income must be directly spent on activities relating to the purpose for which it was organized and operated, and
- At least 85 percent of the sponsoring organization's support, other than gross investment income, must be contributed by exempt organizations, the general public, or government units; no more than 25 percent of its support may come from any one exempt organization; and no more than 50 percent of its support may come from gross investment income (interest, dividends, or other investment-related income)

A private foundation may earmark funds for voter registration and a public charity may accept such funding only if the charity's program meets the criteria and special rules provided under section 4945(f). A public charity may seek an advance ruling from the IRS stating that it satisfies the 4945(f) requirements. It is recommended that private foundations make voter registration grants only to those organizations that have received pre-certification.

It is important to remember that these requirements apply to grants from private foundations that are earmarked for voter registration and to grants made to public charities that engage exclusively (or almost exclusively) in voter registration activities only. If a private foundation provides a general support grant to a charity, the charity may choose to use some, or all, of the grant for voter registration work without penalty to the charity or to the private foundation.

Unless there is a specific oral or written understanding that the grant is to be used for voter registration activities, a general support grant will not be deemed "earmarked" for voter registration. In addition, the amount of the general support grant may not exceed the total amount the grantee spends on non-voter registration activities. Similarly, grants earmarked for a grantee's other projects, other than voter registration, are not subject to the rules under 4945(f).

This handout provides general guidelines only and should not be relied upon as legal advice.

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