


## International Grantmaking by Private Foundations



Grantee Organization	Can You Fund?	Must You Make Equivalency Determination?	Must You Assume Expenditure Responsibility?	Does Grant Count Towards Payout?
1. U.S. 501(c)(3) operating overseas	Yes	No. Presumed by status, provided grant is in furtherance of grantee's purposes.	No, provided grantee is a public charity.	Yes
2. "Friends of" organization	Yes	No. Holds IRS 501(c)(3) determination letter.	No, provided grantee is a public charity.	Yes
3. Non-U.S. Gov't. Unit without 501 (c)(3) status	Yes	No, but grant must be limited to charitable purposes.	No	Yes
4. Non-U.S. entity with 501(c)(3) status from IRS	Yes	No. Holds IRS 501(c)(3) determination letter.	No, provided grantee is a public charity.	Yes
5. Non-U.S. Equivalent of 501(c)(3) organization that is a public charity	Yes	Yes	No, if grantee can qualify as a public charity.	Yes
6. Non-U.S. Equivalent of a 501(c)(3) organization that is a private foundation	Yes	Yes	Yes	Yes, but only if "out-of-corpus" rules are satisfied.
7. Other Non-U.S. organizations who cannot qualify as 501(c)(3) equivalents	Yes	No. Not possible by definition.	Yes. Also grant funds must be segregated.	Yes

Annual Rate, Compounded Daily		Annual Rate, Compounded Daily		Annual Rate, Compounded Daily	
Days	4.23 Percent Factor	Days	4.23 Percent Factor	Days	4.23 Percent Factor
316	0.037194219	335	0.039474166	354	0.041759125
317	0.037314092	336	0.039594302	355	0.041879525
318	0.037433978	337	0.039714452	356	0.041999939
319	0.037553878	338	0.039834616	357	0.042120367
320	0.037673792	339	0.039954793	358	0.042240809
321	0.037793720	340	0.040074985	359	0.042361264
322	0.037913662	341	0.040195190	360	0.042481734
323	0.038033617	342	0.040315410	361	0.042602218
324	0.038153587	343	0.040435643	362	0.042722715
325	0.038273570	344	0.040555890	363	0.042843226
326	0.038393567	345	0.040676151	364	0.042963752
327	0.038513578	346	0.040796426	365	0.043084291
328	0.038633603	347	0.040916714	366	0.043204844
329	0.038753642	348	0.041037017	367	0.043325411
330	0.038873695	349	0.041157334	368	0.043445992
331	0.038993761	350	0.041277664	369	0.043566587
332	0.039113842	351	0.041398009	370	0.043687196
333	0.039233936	352	0.041518367	371	0.043807819
334	0.039354044	353	0.041638739		

End of Text

## SEC. 601.105—EXAMINATION OF RETURNS AND CLAIMS

• Simplified procedure is provided for private foundations to make reasonable judgment and good-faith determination required to have grant to a foreign grantee treated as a grant to a public charity. REV. PROC. 92-94

This revenue procedure provides a simplified procedure that private foundations (including non-exempt charitable trusts) may follow in making "reasonable judgments" and "good faith determinations" under Sections 53.4945-6(c)(2)(ii), 53.4942(a)-3(a)(6), and 53.4945-5(a)(5) of the Foundation Excise Tax Regulations.

If a foreign grantee has a ruling or determination letter classifying it as a public charity within the meaning of Section 509(a)(1), (2), or (3), or a private operating foundation under Section 4942(j)(3), a domestic private foundation making the grant is assured of treatment of such grant as a qualifying distribution for purposes of Section 4942 rather than as a taxable expenditure for purposes of Section 4945. Absent a ruling or determination letter relating to the foreign grantee, the regulations set forth requirements that must be met in order to assure that the grant will be considered a qualifying distribution.

Under those regulations, a foundation that wishes to have a grant treated as a grant to a public charity must complete two steps. First, the foundation manager of the grantor must make a "reasonable judgment" that the grantee is an organization described in Section 501(c)(3) (other than Section 509(a)(4)). Second, the grantor must make a good faith determination, based on an affidavit of the grantee or an opinion of counsel of either the grantor or the grantee, that the

grantee is described in Section 509(a)(1), (2), or (3), or Section 4942(j)(3).

The grantor's "reasonable judgment" and "good faith determination" must be based on a "currently qualified" affidavit prepared by the grantee for the grantor or another grantor. The affidavit must be written in English and an English translation must accompany any supporting documents that are not written in English. If the grantee's status as a qualified recipient depends on its financial support, the affidavit must include a financial schedule showing the grantee's sources of support for the four most recently completed taxable years. A grantee that is a school must provide a statement concerning whether it operates pursuant to a racially non-discriminatory policy as to students.

### Full Text:

## SECTION 1. PURPOSE

Private foundations generally want their grants to foreign grantees to be treated as qualifying distributions for purposes of section 4942 of the Internal Revenue Code rather than as taxable expenditures for purposes of section 4945 of the Code. This treatment is assured if the foreign grantee has a ruling or determination letter classifying it as a public charity within the meaning of section 509(a)(1), (2), or (3), or a private operating foundation under section 4942(j)(3) of the Code. If a foreign grantee does not have such a ruling or determination letter, the Foundation Excise Tax Regulations set forth requirements that must be satisfied in order to assure that the grant will be considered a qualifying distribution.

In response to requests from private foundations, this revenue procedure provides a simplified procedure that private foundations (including nonexempt charitable trusts) may follow in making "reasonable judgments" and "good faith determinations" under sections 53.4945-6(c)(2)(ii), 53.4942(a)-3(a)(6) and 53.4945-5(a)(5) of the Foundation



12. Affidavit signed by grantee organization must include:
- a statement that the charity is operated exclusively for specifically identified charitable purposes;
  - a description of its past and future activities;
  - copies of its charter, bylaws or other relevant governing documents;
  - a statement that either the laws and customs, or the organization's governing documents, do not permit any of its assets or income to benefit a private person;
  - a dissolution clause assuring that its assets must go to another charitable organization should it go out of business;
  - a statement that either the laws and customs, or the organization's governing documents, do not permit non-charitable activities or lobbying except to an insubstantial extent;
  - a statement that either the laws and customs, or the organization's governing documents, strictly prohibit any direct or indirect intervention in any political campaign.

If an organization must prove that they meet a mathematical public support test, the financial information required for the four most recently completed taxable years is virtually identical to that financial information now required of US charities when completing Schedule A of the Form 990.

- These conditions Do not Apply to our grantees*
13. Expenditure responsibility must be applied where the non-US organization:
- can qualify as 501(c)(3) but not as a public charity, thus deemed a private foundation.
  - appears legitimate charity but can't provide sufficient documentation of public charity equivalency.
  - is not organized and operated exclusively for charitable purposes (i.e. labor union, chamber of commerce, trade association or professional association).
  - operates in part to affect outcome of political campaigns or influences legislation.
  - is a for-profit business.
14. Expenditure responsibility requires 5 steps (4 if grantee is a private foundation):
- Pre-grant inquiry that grantee is capable of fulfilling charitable purposes of the grant.
  - Written grant agreement signed by officer or director specifying charitable purposes of the grant which commits the grantee to
    - a) repayment of funds not used for the grant's specified purpose,
    - b) submission of annual reports,
    - c) maintenance of books and records that are available to the grantor at reasonable times,
    - d) not to use the funds to carry on propaganda, or