§ 57.8 Tax treatment of fee.

(a) Treatment as an excise tax. The fee is treated as an excise tax for purposes of subtitle F (sections 6001–7874). Thus, references in subtitle F to “taxes imposed by this title,” “internal revenue tax,” and similar references, are also references to the fee. For example, the fee is assessed (section 6201), collected (sections 6301, 6321, and 6331), enforced (section 7602), and subject to examination and summons (section 7602) in the same manner as taxes imposed by the Code.

(b) Deficiency procedures. The deficiency procedures of sections 6211–6216 do not apply to the fee.

(c) Limitation on assessment. The IRS must assess the amount of the fee for any fee year within three years of September 30th of that fee year.

(d) Application of section 275. The fee is treated as a tax described in section 275(a)(6) (relating to taxes for which no deduction is allowed).

§ 57.9 Refund claims.

Any claim for a refund of the fee must be made by the entity that paid the fee to the government and must be made on Form 843, “Claim for Refund and Request for Abatement,” in accordance with the instructions for that form.

§ 57.10 Effective/applicability date.

Sections 57.1 through 57.9 apply to any fee that is due on or after September 30, 2014.

§ 57.6302–1 Method of paying the health insurance providers fee.

(a) Fee to be paid by electronic funds transfer. Under the authority of section 6302(a), the fee imposed on covered entities engaged in the business of providing health insurance for United States health risks under section 9010 and §57.4 must be paid by electronic funds transfer as defined in §31.6302–1(h)(4)(i) of this chapter, as if the fee were a depository tax. For the time for paying the fee, see §57.7.

(b) Effective/Applicability date. This section applies with respect to any fee that is due on or after September 30, 2014.
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.

(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 (Pub. L. No. 91-172, 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 to compensate them for their 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]