

§194-H. Distribution of proceeds

1. Requirements. The proceeds of a conversion transaction must be distributed to an existing or new foundation or public benefit corporation that meets the following requirements.

A. The foundation or public benefit corporation must operate pursuant to 26 United States Code, Section 501(c)(3) or 501(c)(4), and, regardless of whether the foundation is classified as a private foundation under 26 United States Code, Section 509, the foundation or public benefit corporation must operate in accordance with the restrictions and limitations that apply to private foundations found in 26 United States Code, Sections 4941 to 4945. [PL 2001, c. 550, Pt. A, §2 (NEW).]

B. The foundation or public benefit corporation and its directors, officers and staff must be and remain independent of the for-profit company and its affiliates. A person who is an officer, director or staff member with influence over a conversion decision of a public charity submitting a conversion plan, at the time the plan is submitted or at the time of the conversion transaction or within 5 years thereafter, is not qualified to be an officer, director or staff member of the foundation. A director, officer, agent or employee of the public charity submitting the plan or the foundation receiving the charitable assets may not benefit directly or indirectly from the transaction. [PL 2001, c. 550, Pt. A, §2 (NEW).]

C. A foundation or public benefit corporation must have or establish formal mechanisms to avoid conflicts of interest and to prohibit grants benefiting the for-profit corporation or members of the board of directors and management of the for-profit corporation. [PL 2001, c. 550, Pt. A, §2 (NEW).]

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SECTION HISTORY

PL 2001, c. 550, §A2 (NEW).

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