

The Termination Process for Private Foundations

Section 507 of the Internal Revenue Code permits termination of a private foundation in either trust or corporate form and the distribution of its assets to a public charity. The Princeton Area Community Foundation qualifies as a public charity into which a private foundation may distribute all of its assets. Such a termination releases the private foundation from the reporting requirements of the Code, and also terminates the payment of the excise tax imposed on private foundations.

Terminating a Private Foundation into a fund at the Princeton Area Community Foundation

1. Determine whether the foundation has current obligations regarding any of the following:
 - The 2% investment income excise tax, unrelated business income taxes, or private foundation penalty taxes. (Note that foundations must make quarterly estimated payments of these taxes.)
 - Outstanding grants that are subject to expenditure responsibility (see IRS Form 990-PF)
 - Fees for accountants, lawyers, investment managers, or other service providers
 - Filing of IRS Form 990-PF and related forms with the IRS and state attorney general
2. Satisfy all current obligations of the terminating foundation, and create a reserve for anticipated expenditures through the completion of the conversion process.
3. Identify any donor-imposed restrictions that apply to the foundation's assets. These might include purpose restrictions, endowment restrictions, or both. Funds subject to narrow purpose restrictions may not be good candidates for conversion, unless the restrictions can be eliminated with the donor's consent or a court order.
4. Work with the Princeton Area Community Foundation to prepare a fund agreement that will spell out the terms of the new fund. This agreement will reflect any purpose or endowment restrictions that will apply to the fund and identify the advisors.
5. You may choose to submit a letter to the New Jersey Attorney General's office requesting a waiver of objections to the transfer of the foundation's assets to the Community Foundation.
6. Transfer all of the foundation's assets, except for the reserved funds, to the new fund. (This transfer may take the form of a grant.)
7. Wind up the remaining obligations of the foundation, including the preparation of a final Form 990-PF. In a final board meeting of the private foundation, vote to dissolve the corporation, as provided in the foundation's bylaws.

This checklist is not intended to provide legal advice and should not be construed as such.

Please consult with legal counsel prior to planning for the termination of private foundation status.