

**Program-related investments (PRIs)** were first defined as part of §4944 of the Internal Revenue Code, which was adopted in 1969 to prohibit “jeopardizing investments.” In the 1960s, there was concern that foundations investing in emerging investment structures, such as private equity and venture capital, could be endangering charitable assets through risky speculation. PRIs were created as a carve out from this new prohibition. To qualify a PRI must satisfy three basic requirements:

- 1. That the primary purpose of the investment is to accomplish one or more of the foundation’s charitable purposes;**
- 2. That no significant purpose of the investment is the production of income or the appreciation of property; and,**
- 3. That the funds not be used for politicking, lobbying, or other prohibited political activity.**

As an additional incentive to make these types of investment, they are counted towards a foundation’s mandated 5% payout requirement.

To illustrate how these requirements can be applied, in 1972 the IRS published nine examples of qualifying investments and one example of a non-qualifying investment. These initial examples primarily focus on situations wherein PRIs are designed to benefit “economically disadvantaged individuals” or “deteriorated urban areas.” Though these examples were not meant to be exhaustive, their narrowness contributed to overly conservative interpretations of PRI permissibility. Even as the charitable purposes described by these examples were limited, the investment tools described were quite broad. One of the 1972 examples, for instance, even contemplated a qualifying PRI made into a large, publicly traded company.

In response to calls from practitioners to further clarify PRI permissibility, the IRS issued nine new examples of qualifying investments in 2016. Among other things, these new examples confirmed a more expansive view of the tool, including:

- 1. That PRIs could be structured as equity investments or credit enhancements;**
- 2. That PRIs could be made alongside commercial investors at similar terms and could potentially generate significant financial returns; and,**
- 3. That PRIs could be made to advance charitable purposes other than serving to benefit economically disadvantaged individuals.**

Though a number of foundations have successfully pursued these approaches for decades, this recent guidance should encourage others to think expansively about PRIs as a philanthropic tool.