

Subsec. (e). Pub. L. 109-280, § 1233(a), added subsec. (e). See Codification note above.

Subsec. (f). Pub. L. 109-280, § 1243(a), added subsec. (f). See Codification note above.

1984—Subsec. (c)(4)(A)(ii). Pub. L. 98-369, § 308(a), substituted “For purposes of the preceding sentence, any decrease in percentage holdings attributable to issuances of stock (or to issuances of stock coupled with redemptions of stock) shall be disregarded so long as (I) the net percentage decrease disregarded under this sentence does not exceed 2 percent, and (II) the number of shares held by the foundation is not affected by any such issuance or redemption” for “For purposes of this clause, any decrease in percentage holdings attributable to issuances of stock (or to issuances of stock coupled with redemptions of stock) shall be determined only as of the close of each taxable year of the private foundation unless the aggregate of the percentage decreases attributable to the issuances of stock (or such issuances and redemptions) during such taxable year equals or exceeds 1 percent”.

Subsec. (c)(4)(B)(i). Pub. L. 98-369, § 309(a), substituted “the private foundation and all disqualified persons have” for “the private foundation has”.

Subsec. (c)(6). Pub. L. 98-369, § 310(a), inserted following subpar. (B) “In any case where an acquisition by a disqualified person would result in a substitution under clause (i) or (ii) of subparagraph (D) of paragraph (4), the preceding sentence shall be applied with respect to such acquisition as if it did not contain the phrase ‘or by a disqualified person’ in the material preceding subparagraph (A).”

Subsec. (c)(7). Pub. L. 98-369, § 307(a), added par. (7).

Subsec. (d)(4). Pub. L. 98-369, § 314(c)(1), added par. (4).

1980—Subsec. (b). Pub. L. 96-596, § 2(a)(1)(D), substituted “taxable period” for “correction period”.

Subsec. (d)(2). Pub. L. 96-596, § 2(a)(2)(C), substituted provision ending the taxable period on the earlier of the date of mailing of a notice of deficiency with respect to the tax imposed by subsec. (a) of this section under section 6212 of this title in respect to such holdings or the date on which the tax imposed by subsec. (a) of this section in respect to such holdings is assessed for provision ending the taxable period on the date of mailing the notice of deficiency with respect to a tax imposed by subsec. (a) of this section under section 6212 of this title in respect to such holdings.

Subsec. (d)(3), (4). Pub. L. 96-596, § 2(a)(3)(C), (4)(B), redesignated par. (4) as (3), and in subpar. (A) of par. (3) as so redesignated, substituted “section 4942(j)(4)” for “section 4942(j)(5)”, and struck out par. (3), which defined correction period, with respect to excess business holdings of a private foundation in a business enterprise, as the period ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsec. (b) of this section under section 6212 of this title, extended by any period in which a deficiency cannot be assessed under section 6213(a) of this title and any other period which the Secretary determines is reasonable and necessary to permit orderly disposition of such excess business holdings.

1976—Subsecs. (c), (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 1212(c) of Pub. L. 109-280 applicable to taxable years beginning after Aug. 17, 2006, see section 1212(f) of Pub. L. 109-280, set out as a note under section 4941 of this title.

Pub. L. 109-280, title XII, § 1233(b), Aug. 17, 2006, 120 Stat. 1100, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 17, 2006].”

Pub. L. 109-280, title XII, § 1243(b), Aug. 17, 2006, 120 Stat. 1107, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 17, 2006].”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 307(b) of Pub. L. 98-369, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to business holdings with respect to which the 5-year period described in section 4943(c)(6) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] ends on or after November 1, 1983.

“(2) TRANSITIONAL RULE.—Any plan submitted to the Secretary of the Treasury or his delegate on or before the 60th day after the date of the enactment of this Act [July 18, 1984] shall be treated as submitted before the close of the initial 5-year period referred to in section 4943(c)(7)(B) of the Internal Revenue Code of 1986 (as added by subsection (a)).”

Section 308(b) of Pub. L. 98-369 provided that: “The amendment made by subsection (a) [amending this section] shall apply to increases and decreases occurring after the date of the enactment of this Act [July 18, 1984].”

Section 309(b) of Pub. L. 98-369 provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendment made by section 101(b) of the Tax Reform Act of 1969 [section 101(b) of Pub. L. 91-172 which enacted this section].”

Section 310(b) of Pub. L. 98-369 provided that: “The amendment made by subsection (a) [amending this section] shall apply to acquisitions after the date of the enactment of this Act [July 18, 1984].”

Section 314(c)(2) of Pub. L. 98-369 provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to taxable years beginning after the date of the enactment of this Act [July 18, 1984].”

EFFECTIVE DATE OF 1980 AMENDMENT

For effective date of amendment by Pub. L. 96-596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96-596, set out as an Effective Date note under section 4961 of this title.

SAVINGS PROVISION

Applicability of section to private foundations, see section 101(l)(4) of Pub. L. 91-172, set out as a note under section 4940 of this title.

§ 4944. Taxes on investments which jeopardize charitable purpose

(a) Initial taxes

(1) On the private foundation

If a private foundation invests any amount in such a manner as to jeopardize the carrying out of any of its exempt purposes, there is hereby imposed on the making of such investment a tax equal to 10 percent of the amount so invested for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by the private foundation.

(2) On the management

In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any foundation manager in the making of the investment, knowing that it is jeopardizing the carrying out of any of the foundation's exempt purposes, a tax equal to 10 percent of the amount so invested for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who participated in the making of the investment.

(b) Additional taxes**(1) On the foundation**

In any case in which an initial tax is imposed by subsection (a)(1) on the making of an investment and such investment is not removed from jeopardy within the taxable period, there is hereby imposed a tax equal to 25 percent of the amount of the investment. The tax imposed by this paragraph shall be paid by the private foundation.

(2) On the management

In any case in which an additional tax is imposed by paragraph (1), if a foundation manager refused to agree to part or all of the removal from jeopardy, there is hereby imposed a tax equal to 5 percent of the amount of the investment. The tax imposed by this paragraph shall be paid by any foundation manager who refused to agree to part or all of the removal from jeopardy.

(c) Exception for program-related investments

For purposes of this section, investments, the primary purpose of which is to accomplish one or more of the purposes described in section 170(c)(2)(B), and no significant purpose of which is the production of income or the appreciation of property, shall not be considered as investments which jeopardize the carrying out of exempt purposes.

(d) Special rules

For purposes of subsections (a) and (b)—

(1) Joint and several liability

If more than one person is liable under subsection (a)(2) or (b)(2) with respect to any one investment, all such persons shall be jointly and severally liable under such paragraph with respect to such investment.

(2) Limit for management

With respect to any one investment, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed \$10,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed \$20,000.

(e) Definitions

For purposes of this section—

(1) Taxable period

The term “taxable period” means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which the amount is so invested and ending on the earliest of—

(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

(C) the date on which the amount so invested is removed from jeopardy.

(2) Removal from jeopardy

An investment which jeopardizes the carrying out of exempt purposes shall be considered to be removed from jeopardy when such investment is sold or otherwise disposed of, and the proceeds of such sale or other disposition are not investments which jeopardize the carrying out of exempt purposes.

(Added Pub. L. 91-172, title I, §101(b), Dec. 30, 1969, 83 Stat. 511; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-596, §2(a)(1)(E), (2)(D), (3)(D), Dec. 24, 1980, 94 Stat. 3469-3471; Pub. L. 109-280, title XII, §1212(d), Aug. 17, 2006, 120 Stat. 1074.)

CODIFICATION

Section 1212(d) of Pub. L. 109-280, which directed the amendment of section 4944 without specifying the act to be amended, was executed to this section, which is section 4944 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-280, §1212(d)(1), substituted “10 percent” for “5 percent” in pars. (1) and (2). See Codification note above.

Subsec. (d)(2). Pub. L. 109-280, §1212(d)(2), substituted “\$10,000,” for “\$5,000,” and “\$20,000.” for “\$10,000.” See Codification note above.

1980—Subsec. (b)(1). Pub. L. 96-596, §2(a)(1)(E), substituted “taxable period” for “correction period”.

Subsec. (e)(1)(B), (C). Pub. L. 96-596, §2(a)(2)(D), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (e)(3). Pub. L. 96-596, §2(a)(3)(D), struck out par. (3), which defined correction period, with respect to any investment which jeopardizes the carrying out of exempt purposes, as the period beginning with the date on which such investment is entered into and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsec. (b)(1) of this section under section 6212 of this title, extended by any period in which a deficiency cannot be assessed under section 6213(a) of this title and any other period which the Secretary determines is reasonable and necessary to bring about removal from jeopardy.

1976—Subsec. (e)(3)(B). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to taxable years beginning after Aug. 17, 2006, see section 1212(f) of Pub. L. 109-280, set out as a note under section 4941 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

For effective date of amendment by Pub. L. 96-596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96-596, set out as an Effective Date note under section 4961 of this title.

§ 4945. Taxes on taxable expenditures**(a) Initial taxes****(1) On the foundation**

There is hereby imposed on each taxable expenditure (as defined in subsection (d)) a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the private foundation.

(2) On the management

There is hereby imposed on the agreement of any foundation manager to the making of an expenditure, knowing that it is a taxable expenditure, a tax equal to 5 percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who agreed to the making of the expenditure.

(b) Additional taxes**(1) On the foundation**

In any case in which an initial tax is imposed by subsection (a)(1) on a taxable expend-