

(i) which makes distributions only to a single identified organization or governmental entity, or

(ii) with respect to which a person described in subparagraph (A)(iii) advises as to which individuals receive grants for travel, study, or other similar purposes, if—

(I) such person's advisory privileges are performed exclusively by such person in the person's capacity as a member of a committee all of the members of which are appointed by the sponsoring organization,

(II) no combination of persons described in subparagraph (A)(iii) (or persons related to such persons) control, directly or indirectly, such committee, and

(III) all grants from such fund or account are awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the board of directors of the sponsoring organization, and such procedure is designed to ensure that all such grants meet the requirements of paragraph (1), (2), or (3) of section 4945(g).

(C) Secretarial authority

The Secretary may exempt a fund or account not described in subparagraph (B) from treatment as a donor advised fund—

(i) if such fund or account is advised by a committee not directly or indirectly controlled by the donor or any person appointed or designated by the donor for the purpose of advising with respect to distributions from such fund (and any related parties), or

(ii) if such fund benefits a single identified charitable purpose.

(3) Fund manager

The term “fund manager” means, with respect to any sponsoring organization—

(A) an officer, director, or trustee of such sponsoring organization (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the sponsoring organization), and

(B) with respect to any act (or failure to act), the employees of the sponsoring organization having authority or responsibility with respect to such act (or failure to act).

(4) Disqualified supporting organization

(A) In general

The term “disqualified supporting organization” means, with respect to any distribution—

(i) any type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

(ii) any organization which is described in subparagraph (B) or (C) if—

(I) the donor or any person designated by the donor for the purpose of advising with respect to distributions from a donor advised fund (and any related par-

ties) directly or indirectly controls a supported organization (as defined in section 509(f)(3)) of such organization, or

(II) the Secretary determines by regulations that a distribution to such organization otherwise is inappropriate.

(B) Type I and type II supporting organizations

An organization is described in this subparagraph if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

(ii) supervised or controlled in connection with one or more such organizations.

(C) Functionally integrated type III supporting organizations

An organization is described in this subparagraph if the organization is a functionally integrated type III supporting organization (as defined under section 4943(f)(5)(B)).

(Added Pub. L. 109-280, title XII, § 1231(a), Aug. 17, 2006, 120 Stat. 1095.)

EFFECTIVE DATE

Section applicable to taxable years beginning after Aug. 17, 2006, see section 1231(c) of Pub. L. 109-280, set out as an Effective Date of 2006 Amendment note under section 4963 of this title.

§ 4967. Taxes on prohibited benefits

(a) Imposition of taxes

(1) On the donor, donor advisor, or related person

There is hereby imposed on the advice of any person described in subsection (d) to have a sponsoring organization make a distribution from a donor advised fund which results in such person or any other person described in subsection (d) receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 125 percent of such benefit. The tax imposed by this paragraph shall be paid by any person described in subsection (d) who advises as to the distribution or who receives such a benefit as a result of the distribution.

(2) On the fund management

There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such benefit. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

(b) Exception

No tax shall be imposed under this section with respect to any distribution if a tax has been imposed with respect to such distribution under section 4958.

(c) Special rules

For purposes of subsection (a)—

(1) Joint and several liability

If more than one person is liable under paragraph (1) or (2) of subsection (a) with respect

to a distribution described in subsection (a), all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

(2) Limit for management

With respect to any one distribution described in subsection (a), the maximum amount of the tax imposed by subsection (a)(2) shall not exceed \$10,000.

(d) Person described

A person is described in this subsection if such person is described in section 4958(f)(7) with respect to a donor advised fund.

(Added Pub. L. 109-280, title XII, §1231(a), Aug. 17, 2006, 120 Stat. 1097.)

EFFECTIVE DATE

Section applicable to taxable years beginning after Aug. 17, 2006, see section 1231(c) of Pub. L. 109-280, set out as an Effective Date of 2006 Amendment note under section 4963 of this title.

CHAPTER 43—QUALIFIED PENSION, ETC., PLANS

Sec.	
4971.	Taxes on failure to meet minimum funding standards.
4972.	Tax on nondeductible contributions to qualified employer plans.
4973.	Tax on excess contributions to certain tax-favored accounts and annuities.
4974.	Excise tax on certain accumulations in qualified retirement plans.
4975.	Tax on prohibited transactions.
4976.	Taxes with respect to funded welfare benefit plans.
4977.	Tax on certain fringe benefits provided by an employer.
4978.	Tax on certain dispositions by employee stock ownership plans and certain cooperatives.
[4978A, 4978B.	Repealed.]
4979.	Tax on certain excess contributions.
4979A.	Tax on certain prohibited allocations of qualified securities.
4980.	Tax on reversion of qualified plan assets to employer.
4980A.	Tax on excess distributions from qualified retirement plans. ¹
4980B.	Failure to satisfy continuation coverage requirements of group health plans.
4980C.	Requirements for issuers of qualified long-term care insurance contracts.
4980D.	Failure to meet certain group health plan requirements.
4980E.	Failure of employer to make comparable Archer MSA contributions.
4980F.	Failure of applicable plans reducing benefit accruals to satisfy notice requirements.
4980G.	Failure of employer to make comparable health savings account contributions.
4980H.	Shared responsibility for employers regarding health coverage.
4980I.	Excise tax on high cost employer-sponsored health coverage.

AMENDMENTS

2010—Pub. L. 111-148, title I, §1513(b), title IX, §9001(b), Mar. 23, 2010, 124 Stat. 256, 853, added items 4980H and 4980I.

2003—Pub. L. 108-173, title XII, §1201(d)(4)(B), Dec. 8, 2003, 117 Stat. 2478, added item 4980G.

¹Section repealed by Pub. L. 105-34 without corresponding amendment of chapter analysis.

2002—Pub. L. 107-147, title IV, §417(17)(B), Mar. 9, 2002, 116 Stat. 56, substituted “Archer MSA contributions” for “medical savings account contributions” in item 4980E.

2001—Pub. L. 107-16, title VI, §659(a)(2), June 7, 2001, 115 Stat. 139, added item 4980F.

1998—Pub. L. 105-206, title VI, §6023(18)(B), July 22, 1998, 112 Stat. 825, substituted “certain tax-favored accounts and annuities” for “individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities” in item 4973.

1996—Pub. L. 104-191, title III, §§301(c)(4)(B), 326(b), title IV, §402(b), Aug. 21, 1996, 110 Stat. 2050, 2066, 2087, added items 4980C, 4980D, and 4980E.

Pub. L. 104-188, title I, §1602(b)(5)(B), Aug. 20, 1996, 110 Stat. 1834, struck out item 4978B “Tax on disposition of employer securities to which section 133 applied”.

1989—Pub. L. 101-239, title VII, §§7301(d)(2), 7304(a)(2)(C)(iii), Dec. 19, 1989, 103 Stat. 2348, 2353, struck out item 4978A “Tax on certain dispositions of employer securities to which section 2057 applied” and added item 4978B.

1988—Pub. L. 100-647, title I, §1011A(g)(1)(B), title III, §3011(c), Nov. 10, 1988, 102 Stat. 3479, 3625, redesignated item 4981A as 4980A and added item 4980B.

1987—Pub. L. 100-203, title X, §10413(b)(2), Dec. 22, 1987, 101 Stat. 1330-438, added item 4978A.

1986—Pub. L. 99-514, title XI, §§1117(b)(2), 1121(a)(2), 1131(c)(2), 1132(b), 1133(b), title XVIII, §§1854(a)(9)(C), 1899A(75), Oct. 22, 1986, 100 Stat. 2462, 2465, 2478, 2480, 2483, 2877, 2963, added item 4972, inserted “section” in item 4973, substituted “Excise tax on certain accumulations in qualified retirement plans” for “Tax on certain accumulations in individual retirement accounts” in item 4974, struck out “and allocations” after “certain dispositions” in item 4978, and added items 4979, 4979A, 4980, and 4981A.

1984—Pub. L. 98-369, div. A, title IV, §491(d)(56), title V, §§511(c)(2), 531(e)(2), 545(b), July 18, 1984, 98 Stat. 852, 862, 886, 896, substituted “and certain individual retirement annuities” for “certain individual retirement annuities, and certain retirement bonds” in item 4973 and added items 4976 to 4978.

1982—Pub. L. 97-248, title II, §237(c)(2), Sept. 3, 1982, 96 Stat. 511, struck out item 4972 “Tax on excess contributions for self-employed individuals”.

1974—Pub. L. 93-406, title II, §§1013(b), 2001(f)(2), 2002(h)(3), Sept. 2, 1974, 88 Stat. 920, 957, 970, added chapter heading and analysis of sections 4971 to 4975.

§ 4971. Taxes on failure to meet minimum funding standards

(a) Initial tax

If at any time during any taxable year an employer maintains a plan to which section 412 applies, there is hereby imposed for the taxable year a tax equal to—

(1) in the case of a single-employer plan, 10 percent of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending with or within the taxable year, and

(2) in the case of a multiemployer plan, 5 percent of the accumulated funding deficiency determined under section 431 as of the end of any plan year ending with or within the taxable year.

(b) Additional tax

If—

(1) a tax is imposed under subsection (a)(1) on any unpaid minimum required contribution and such amount remains unpaid as of the close of the taxable period, or

(2) a tax is imposed under subsection (a)(2) on any accumulated funding deficiency and