

- (A) a contributor to the trust,
- (B) a trustee of the trust,
- (C) an owner of more than 10 percent of—
 - (i) the total combined voting power of a corporation,
 - (ii) the profits interest of a partnership, or
 - (iii) the beneficial interest of a trust or unincorporated enterprise,

which is a contributor to the trust,

(D) an officer, director, or employee of a person who is a contributor to the trust,

(E) the spouse, ancestor, lineal descendant, or spouse of a lineal descendant of an individual described in subparagraph (A), (B), (C), or (D),

(F) a corporation of which persons described in subparagraph (A), (B), (C), (D), or (E) own more than 35 percent of the total combined voting power,

(G) a partnership in which persons described in subparagraph (A), (B), (C), (D), or (E), own more than 35 percent of the profits interest, or

(H) a trust or estate in which persons described in subparagraph (A), (B), (C), (D), or (E), hold more than 35 percent of the beneficial interest.

For purposes of subparagraphs (C)(i) and (F), there shall be taken into account indirect stockholdings which would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) shall be treated as providing that the members of the family of an individual are only those individuals described in subparagraph (E) of this paragraph. For purposes of subparagraphs (C) (ii) and (iii), (G), and (H), the ownership of profits or beneficial interests shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) (other than paragraph (3) thereof), except that section 267(c)(4) shall be treated as providing that the members of the family of an individual are only those individuals described in subparagraph (E) of this paragraph.

(f) Payments of benefits

For purposes of this section, a payment, out of assets or income of a trust described in section 501(c)(21), for the purposes described in subclause (I) or (IV) of section 501(c)(21)(A)(i) shall not be considered an act of self-dealing.

(Added Pub. L. 95-227, §4(c)(1), Feb. 10, 1978, 92 Stat. 18; amended Pub. L. 96-596, §2(a)(1)(G), (H), (2)(F), (3)(E), Dec. 24, 1980, 94 Stat. 3469-3471; Pub. L. 102-486, title XIX, §1940(b), Oct. 24, 1992, 106 Stat. 3035.)

Editorial Notes

AMENDMENTS

1992—Subsec. (f). Pub. L. 102-486 substituted “subclause (I) or (IV) of section 501(c)(21)(A)(i)” for “clause (i) of section 501(c)(21)(A)”.

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

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

Subsec. (e)(2)(B). Pub. L. 96-596, §2(a)(1)(H), substituted “taxable period” for “correction period”.

Subsec. (e)(4), (5). Pub. L. 96-596, §2(a)(3)(E), redesignated par. (5) as (4) and struck out former par. (4) which defined correction period, with respect to any act of self-dealing, as the period beginning with the date on which the act of self-dealing occurs and ending 90 days after the date of mailing of a notice of deficiency under section 6212 of this title with respect to the tax imposed by subsec. (b)(1) of this section, 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 correction of the act of self-dealing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-486 applicable to taxable years beginning after Dec. 31, 1991, see section 1940(d) of Pub. L. 102-486, set out as a note under section 192 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.

EFFECTIVE DATE

Subchapter effective with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95-227, set out as a note under section 192 of this title.

§ 4952. Taxes on taxable expenditures

(a) Tax imposed

(1) On the fund

There is hereby imposed on each taxable expenditure (as defined in subsection (d)) from the assets or income of a trust described in section 501(c)(21) a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the trustee out of the assets of the trust.

(2) On the trustee

There is hereby imposed on the agreement of any trustee of such a trust to the making of an expenditure, knowing that it is a taxable expenditure, a tax equal to 2½ 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 the trustee who agreed to the making of the expenditure.

(b) Additional taxes

(1) On the fund

In any case in which an initial tax is imposed by subsection (a)(1) on a taxable expenditure and such expenditure is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the trustee out of the assets of the trust.

(2) On the trustee

In any case in which an additional tax is imposed by paragraph (1), if a trustee refused to agree to a part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the taxable expenditure. The

tax imposed by this paragraph shall be paid by any trustee who refused to agree to part or all of the correction.

(c) Joint and several liability

For purposes of subsections (a) and (b), if more than one person is liable under subsection (a)(2) or (b)(2) with respect to the making of a taxable expenditure, all such persons shall be jointly and severally liable under such paragraph with respect to such expenditure.

(d) Taxable expenditure

For purposes of this section, the term “taxable expenditure” means any amount paid or incurred by a trust described in section 501(c)(21) other than for a purpose specified in such section.

(e) Definitions

(1) Correction

The terms “correction” and “correct” mean, with respect to any taxable expenditure, recovering part or all of the expenditure to the extent recovery is possible, and where full recovery is not possible, contributions by the person or persons whose liabilities for black lung benefit claims (as defined in section 192(e)) are to be paid out of the trust to the extent necessary to place the trust in a financial position not worse than that in which it would be if the taxable expenditure had not been made.

(2) Taxable period

The term “taxable period” means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of—

- (A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or
- (B) the date on which the tax imposed by subsection (a)(1) is assessed.

(Added Pub. L. 95-227, §4(c)(1), Feb. 10, 1978, 92 Stat. 21; amended Pub. L. 96-596, §2(a)(1)(I), (2)(G), Dec. 24, 1980, 94 Stat. 3469, 3471.)

Editorial Notes

AMENDMENTS

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

Subsec. (e)(2). Pub. L. 96-596, §2(a)(2)(G), substituted provision defining taxable period as the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of the date of mailing a notice of deficiency with respect to the tax imposed by subsec. (a)(1) of this section under section 6212 of this title or the date on which the tax imposed by subsec. (a)(1) of this section is assessed for provision defining correction period as the period beginning with the date on which the taxable expenditure occurs and ending 90 days after the date of mailing a notice of deficiency under section 6212 of this title with respect to the tax imposed by subsec. (b)(1) of this section, extended by any period in which the deficiency cannot be assessed under section 6213(a) of this title and any other period which the Secretary determines reasonable and necessary to bring about the correction of the taxable expenditure.

Statutory Notes and Related Subsidiaries

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.

§ 4953. Tax on excess contributions to black lung benefit trusts

(a) Tax imposed

There is hereby imposed for each taxable year a tax in an amount equal to 5 percent of the amount of the excess contributions made by a person to or under a trust or trusts described in section 501(c)(21). The tax imposed by this subsection shall be paid by the person making the excess contribution.

(b) Excess contribution

For purposes of this section, the term “excess contribution” means the sum of—

- (1) the amount by which the amount contributed for the taxable year to a trust or trusts described in section 501(c)(21) exceeds the amount of the deduction allowable to such person for such contributions for the taxable year under section 192, and
- (2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

- (A) the excess of the maximum amount allowable as a deduction under section 192 for the taxable year over the amount contributed to the trust or trusts for the taxable year, and
- (B) amounts distributed from the trust to the contributor which were excess contributions for the preceding taxable year.

(c) Treatment of withdrawal of excess contributions

Amounts distributed during the taxable year from a trust described in section 501(c)(21) to the contributor thereof the sum of which does not exceed the amount of the excess contribution made by the contributor shall not be treated as—

- (1) an act of self-dealing (within the meaning of section 4951),
- (2) a taxable expenditure (within the meaning of section 4952), or
- (3) an act contrary to the purposes for which the trust is exempt from taxation under section 501(a).

(Added Pub. L. 95-227, §4(c)(1), Feb. 10, 1978, 92 Stat. 22.)

Subchapter C—Political Expenditures of Section 501(c)(3) Organizations

Sec. 4955. Taxes on political expenditures of section 501(c)(3) organizations.

Editorial Notes

PRIOR PROVISIONS

A prior subchapter C, consisting of sections 4961 to 4963 of this title, was redesignated subchapter E.