

- (A) Amounts paid or incurred to such individual for speeches or other services.
- (B) Travel expenses of such individual.
- (C) Expenses of conducting polls, surveys, or other studies, or preparing papers or other materials, for use by such individual.
- (D) Expenses of advertising, publicity, and fundraising for such individual.
- (E) Any other expense which has the primary effect of promoting public recognition, or otherwise primarily accruing to the benefit, of such individual.

(e) Coordination with sections 4945 and 4958

If tax is imposed under this section with respect to any political expenditure, such expenditure shall not be treated as a taxable expenditure for purposes of section 4945 or an excess benefit for purposes of section 4958.

(f) Other definitions

For purposes of this section—

(1) Section 501(c)(3) organization

The term “section 501(c)(3) organization” means any organization which (without regard to any political expenditure) would be described in section 501(c)(3) and exempt from taxation under section 501(a).

(2) Organization manager

- The term “organization manager” means—
- (A) any officer, director, or trustee of the organization (or individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization), and
 - (B) with respect to any expenditure, any employee of the organization having authority or responsibility with respect to such expenditure.

(3) Correction

The terms “correction” and “correct” mean, with respect to any political expenditure, recovering part or all of the expenditure to the extent recovery is possible, establishment of safeguards to prevent future political expenditures, and where full recovery is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

(4) Taxable period

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

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

(Added Pub. L. 100-203, title X, §10712(a), Dec. 22, 1987, 101 Stat. 1330-465; amended Pub. L. 104-168, title XIII, §1311(c)(1), July 30, 1996, 110 Stat. 1478.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-168 substituted “sections 4945 and 4958” for “section 4945” in heading and inserted “or an excess benefit for purposes of section 4958” before period at end of text.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title XIII, §1311(d)(1), (2), July 30, 1996, 110 Stat. 1478, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting section 4958 of this title and amending this section and sections 4963, 6213, 7422, and 7454 of this title] (other than subsection (b)) [amending section 501 of this title] shall apply to excess benefit transactions occurring on or after September 14, 1995.

“(2) BINDING CONTRACTS.—The amendments referred to in paragraph (1) shall not apply to any benefit arising from a transaction pursuant to any written contract which was binding on September 13, 1995, and at all times thereafter before such transaction occurred.”

EFFECTIVE DATE

Pub. L. 100-203, title X, §10712(d), Dec. 22, 1987, 101 Stat. 1330-468, provided that: “The amendments made by this section [enacting this section and amending sections 4962, 4963, 6213, 6501, 6503, 6684, 7422, and 7454 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Dec. 22, 1987].”

Subchapter D—Failure by Certain Charitable Organizations To Meet Certain Qualification Requirements

Sec. 4958.	Taxes on excess benefit transactions.
4959.	Taxes on failures by hospital organizations.

PRIOR PROVISIONS

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

AMENDMENTS

2010—Pub. L. 111-148, title IX, §9007(b)(2), Mar. 23, 2010, 124 Stat. 857, added item 4959.

§ 4958. Taxes on excess benefit transactions

(a) Initial taxes

(1) On the disqualified person

There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

(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 organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

(b) Additional tax on the disqualified person

In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

(c) Excess benefit transaction; excess benefit

For purposes of this section—