

(d) Entity manager

For purposes of this section, the term “entity manager” means—

(1) in the case of an entity described in paragraph (1), (2), or (3) of subsection (c)—

(A) the person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization, and

(B) with respect to any act, the person having authority or responsibility with respect to such act, and

(2) in the case of an entity described in paragraph (4), (5), (6), or (7) of subsection (c), the person who approves or otherwise causes the entity to be a party to the prohibited tax shelter transaction.

(e) Prohibited tax shelter transaction; subsequently listed transaction

For purposes of this section—

(1) Prohibited tax shelter transaction**(A) In general**

The term “prohibited tax shelter transaction” means—

(i) any listed transaction, and

(ii) any prohibited reportable transaction.

(B) Listed transaction

The term “listed transaction” has the meaning given such term by section 6707A(c)(2).

(C) Prohibited reportable transaction

The term “prohibited reportable transaction” means any confidential transaction or any transaction with contractual protection (as defined under regulations prescribed by the Secretary) which is a reportable transaction (as defined in section 6707A(c)(1)).

(2) Subsequently listed transaction

The term “subsequently listed transaction” means any transaction to which a tax-exempt entity is a party and which is determined by the Secretary to be a listed transaction at any time after the entity has become a party to the transaction. Such term shall not include a transaction which is a prohibited reportable transaction at the time the entity became a party to the transaction.

(f) Regulatory authority

The Secretary is authorized to promulgate regulations which provide guidance regarding the determination of the allocation of net income or proceeds of a tax-exempt entity attributable to a transaction to various periods, including before and after the listing of the transaction or the date which is 90 days after the date of the enactment of this section.

(g) Coordination with other taxes and penalties

The tax imposed by this section is in addition to any other tax, addition to tax, or penalty imposed under this title.

(Added Pub. L. 109-222, title V, §516(a)(1), May 17, 2006, 120 Stat. 368; amended Pub. L. 110-172, §11(a)(30), Dec. 29, 2007, 121 Stat. 2487.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (b)(1)(B) and (f), is the date of enactment of Pub. L. 109-222, which was approved May 17, 2006.

AMENDMENTS

2007—Subsec. (c)(6). Pub. L. 110-172 substituted “section 457(e)(1)(A)” for “section 4457(e)(1)(A)”.

EFFECTIVE DATE

Pub. L. 109-222, title V, §516(d), May 17, 2006, 120 Stat. 372, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending sections 6011, 6033, and 6652 of this title] shall apply to taxable years ending after the date of the enactment of this Act [May 17, 2006], with respect to transactions before, on, or after such date, except that no tax under section 4965(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply with respect to income or proceeds that are properly allocable to any period ending on or before the date which is 90 days after such date of enactment.

“(2) DISCLOSURE.—The amendments made by subsections (b) and (c) [amending sections 6011, 6033, and 6652 of this title] shall apply to disclosures the due date for which are after the date of the enactment of this Act.”

Subchapter G—Donor Advised Funds

Sec. 4966.	Taxes on taxable distributions.
4967.	Taxes on prohibited benefits.

CODIFICATION

Pub. L. 109-280, title XII, §1231(a), Aug. 17, 2006, 120 Stat. 1094, which directed the addition of subchapter G at the end of chapter 42, without specifying the act to be amended, was executed by adding subchapter G at the end of chapter 42 of this title, which consists of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

§ 4966. Taxes on taxable distributions**(a) Imposition of taxes****(1) On the sponsoring organization**

There is hereby imposed on each taxable distribution a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the sponsoring organization with respect to the donor advised fund.

(2) On the fund management

There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that it is a taxable distribution, a tax equal to 5 percent of the amount thereof. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

(b) Special rules

For purposes of subsection (a)—

(1) Joint and several liability

If more than one person is liable under subsection (a)(2) with respect to the making of a taxable distribution, 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 taxable distribution, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed \$10,000.