

other act causing participation) described in subsection (a)(2).

(c) Tax-exempt entity

For purposes of this section, the term “tax-exempt entity” means an entity which is—

- (1) described in section 501(c) or 501(d),
- (2) described in section 170(c) (other than the United States),
- (3) an Indian tribal government (within the meaning of section 7701(a)(40)),
- (4) described in paragraph (1), (2), or (3) of section 4979(e),
- (5) a program described in section 529,
- (6) an eligible deferred compensation plan described in section 457(b) which is maintained by an employer described in section 457(e)(1)(A),
- (7) an arrangement described in section 4973(a), or
- (8) a program described in section 529A.

(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; Pub. L. 113-295, div. B, title I, §102(e)(3), Dec. 19, 2014, 128 Stat. 4062.)

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

- 2014—Subsec. (c)(8). Pub. L. 113-295 added par. (8).
- 2007—Subsec. (c)(6). Pub. L. 110-172 substituted “section 457(e)(1)(A)” for “section 4457(e)(1)(A)”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 applicable to taxable years beginning after Dec. 31, 2014, see section 102(f)(1) of Pub. L. 113-295, set out as a note under section 552a of Title 5, Government Organization and Employees.

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.