

**(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.)

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.

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.

PRIOR PROVISIONS

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

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

**(a) Initial taxes**

**(1) On the organization**

There is hereby imposed on each political expenditure by a section 501(c)(3) organization a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the organization.

**(2) On the management**

There is hereby imposed on the agreement of any organization manager to the making of any expenditure, knowing that it is a political 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 any organization manager who agreed to the making of the expenditure.

**(b) Additional taxes**

**(1) On the organization**

In any case in which an initial tax is imposed by subsection (a)(1) on a political 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 organization.

**(2) On the management**

In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the political expenditure. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

**(c) Special rules**

For purposes of subsections (a) and (b)—

**(1) Joint and several liability**

If more than 1 person is liable under subsection (a)(2) or (b)(2) with respect to the making of a political expenditure, all such persons shall be jointly and severally liable under such subsection with respect to such expenditure.

**(2) Limit for management**

With respect to any 1 political expenditure, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed \$5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed \$10,000.

**(d) Political expenditure**

For purposes of this section—

**(1) In general**

The term “political expenditure” means any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

**(2) Certain other expenditures included**

In the case of an organization which is formed primarily for purposes of promoting

the candidacy (or prospective candidacy) of an individual for public office (or which is effectively controlled by a candidate or prospective candidate and which is availed of primarily for such purposes), the term “political expenditure” includes any of the following amounts paid or incurred by the organization:

(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.)