

**(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.)

## 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.

Sec.	
4959.	Taxes on failures by hospital organizations.
4960.	Tax on excess tax-exempt organization executive compensation.

## PRIOR PROVISIONS

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

## AMENDMENTS

2017—Pub. L. 115-97, title I, §13602(b), Dec. 22, 2017, 131 Stat. 2159, added item 4960.

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—

**(1) Excess benefit transaction****(A) In general**

The term “excess benefit transaction” means any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

**(B) Excess benefit**

The term “excess benefit” means the excess referred to in subparagraph (A).

**(2) Special rules for donor advised funds**

In the case of any donor advised fund (as defined in section 4966(d)(2))—

(A) the term “excess benefit transaction” includes any grant, loan, compensation, or other similar payment from such fund to a person described in subsection (f)(7) with respect to such fund, and

(B) the term “excess benefit” includes, with respect to any transaction described in subparagraph (A), the amount of any such grant, loan, compensation, or other similar payment.

**(3) Special rules for supporting organizations****(A) In general**

In the case of any organization described in section 509(a)(3)—

(i) the term “excess benefit transaction” includes—

(I) any grant, loan, compensation, or other similar payment provided by such organization to a person described in subparagraph (B), and

(II) any loan provided by such organization to a disqualified person (other than an organization described in subparagraph (C)(ii)), and

(ii) the term “excess benefit” includes, with respect to any transaction described in clause (i), the amount of any such grant, loan, compensation, or other similar payment.

**(B) Person described**

A person is described in this subparagraph if such person is—

(i) a substantial contributor to such organization,

(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting “persons described in clause (i) or (ii) of section 4958(c)(3)(B)” for “persons described in subparagraph (A) or (B) of paragraph (1)” in subparagraph (A)(i) thereof).

**(C) Substantial contributor**

For purposes of this paragraph—

**(i) In general**

The term “substantial contributor” means any person who contributed or bequeathed an aggregate amount of more than \$5,000 to the organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, such term also means the creator of the trust. Rules similar to the rules of subparagraphs (B) and (C) of section 507(d)(2) shall apply for purposes of this subparagraph.

**(ii) Exception**

Such term shall not include—

(I) any organization described in paragraph (1), (2), or (4) of section 509(a), and

(II) any organization which is treated as described in such paragraph (2) by rea-