

## AMENDMENTS

2018—Subsec. (c)(1). Pub. L. 115-141 substituted “United States Court of Federal Claims” for “United States Claims Court” in heading.

1986—Subsec. (c)(1). Pub. L. 99-514 substituted “United States Claims Court” for “Court of Claims” in heading.

## EFFECTIVE DATE

Pub. L. 96-596, §2(d), Dec. 24, 1980, 94 Stat. 3474, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) **FIRST TIER TAXES.**—The amendments made by this section [enacting this section and section 4962 of this title and amending sections 4941 to 4945, 4951, 4952, 4971, 4975, 6213, 6214, 6503, and 7422 of this title] with respect to any first tier tax shall take effect as if included in the Internal Revenue Code of 1986 [formerly I.R.C. 1954] when such tax was first imposed.

“(2) **SECOND TIER TAXES.**—The amendments made by this section with respect to any second tier tax shall apply only with respect to taxes assessed after the date of the enactment of this Act [Dec. 24, 1980]. Nothing in the preceding sentence shall be construed to permit the assessment of a tax in a case to which, on the date of the enactment of this Act, the doctrine of *res judicata* applies.

“(3) **FIRST AND SECOND TIER TAX.**—For purposes of this subsection, the terms ‘first tier tax’ and ‘second tier tax’ have the respective meanings given to such terms by section 4962 of the Internal Revenue Code of 1986.”

### § 4962. Abatement of first tier taxes in certain cases

#### (a) General rule

If it is established to the satisfaction of the Secretary that—

(1) a taxable event was due to reasonable cause and not to willful neglect, and

(2) such event was corrected within the correction period for such event,

then any qualified first tier tax imposed with respect to such event (including interest) shall not be assessed and, if assessed, the assessment shall be abated and, if collected, shall be credited or refunded as an overpayment.

#### (b) Qualified first tier tax

For purposes of this section, the term “qualified first tier tax” means any first tier tax imposed by subchapter A, C, D, or G of this chapter, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing).

#### (c) Special rule for tax on political expenditures of section 501(c)(3) organizations

In the case of the tax imposed by section 4955(a), subsection (a)(1) shall be applied by substituting “not willful and flagrant” for “due to reasonable cause and not to willful neglect”.

(Added Pub. L. 98-369, div. A, title III, §305(a), July 18, 1984, 98 Stat. 783; amended Pub. L. 100-203, title X, §10712(b)(1), (2), (4), Dec. 22, 1987, 101 Stat. 1330-467; Pub. L. 105-34, title XVI, §1603(a), Aug. 5, 1997, 111 Stat. 1096; Pub. L. 110-172, §3(h), Dec. 29, 2007, 121 Stat. 2475.)

## PRIOR PROVISIONS

A prior section 4962 was renumbered section 4963 of this title.

## AMENDMENTS

2007—Subsec. (b). Pub. L. 110-172 substituted “D, or G” for “or D”.

1997—Subsec. (b). Pub. L. 105-34 substituted “subchapter A, C, or D” for “subchapter A or C”.

1987—Pub. L. 100-203, §10712(b)(4), struck out “private foundation” before “first tier taxes” in section catchline.

Subsec. (a). Pub. L. 100-203, §10712(b)(2), substituted “any qualified first tier tax” for “any private foundation first tier tax” in closing provisions.

Subsec. (b). Pub. L. 100-203, §10712(b)(1), added subsec. (b) and struck out former subsec. (b) “Private foundation first tier tax” which read as follows: “For purposes of this section, the term ‘private foundation first tier tax’ means any first tier tax imposed by subchapter A of chapter 42, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing).”

Subsec. (c). Pub. L. 100-203, §10712(b)(1), added subsec. (c).

## EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-172 effective as if included in the provisions of the Pension Protection Act of 2006, Pub. L. 109-280, to which such amendment relates, see section 3(j) of Pub. L. 110-172, set out as a note under section 170 of this title.

## EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XVI, §1603(c), Aug. 5, 1997, 111 Stat. 1097, provided that: “The amendments made by this section [amending this section and section 6033 of this title] shall take effect as if included in the provisions of the Taxpayer Bill of Rights 2 [Pub. L. 104-168] to which such amendments relate.”

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100-203, set out as an Effective Date note under section 4955 of this title.

## EFFECTIVE DATE

Pub. L. 98-369, div. A, title III, §305(c), July 18, 1984, 98 Stat. 784, provided that: “The amendments made by this section [enacting this section, redesignating former section 4962 as 4963, and amending sections 4942, 6213, and 6503 of this title] shall apply to taxable events occurring after December 31, 1984.”

### § 4963. Definitions

#### (a) First tier tax

For purposes of this subchapter, the term “first tier tax” means any tax imposed by subsection (a) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4955, 4958, 4966, 4967, 4971, or 4975.

#### (b) Second tier tax

For purposes of this subchapter, the term “second tier tax” means any tax imposed by subsection (b) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4955, 4958, 4971, or 4975.

#### (c) Taxable event

For purposes of this subchapter, the term “taxable event” means any act (or failure to act) giving rise to liability for tax under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4955, 4958, 4966, 4967, 4971, or 4975.

#### (d) Correct

For purposes of this subchapter—

##### (1) In general

Except as provided in paragraph (2), the term “correct” has the same meaning as when used in the section which imposes the second tier tax.

**(2) Special rules**

The term “correct” means—

(A) in the case of the second tier tax imposed by section 4942(b), reducing the amount of the undistributed income to zero,

(B) in the case of the second tier tax imposed by section 4943(b), reducing the amount of the excess business holdings to zero, and

(C) in the case of the second tier tax imposed by section 4944, removing the investment from jeopardy.

**(e) Correction period**

For purposes of this subchapter—

**(1) In general**

The term “correction period” means, with respect to any taxable event, the period beginning on the date on which such event occurs and ending 90 days after the date of mailing under section 6212 of a notice of deficiency with respect to the second tier tax imposed on such taxable event, extended by—

(A) any period in which a deficiency cannot be assessed under section 6213(a) (determined without regard to the last sentence of section 4961(b)), and

(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the taxable event.

**(2) Special rules for when taxable event occurs**

For purposes of paragraph (1), the taxable event shall be treated as occurring—

(A) in the case of section 4942, on the first day of the taxable year for which there was a failure to distribute income,

(B) in the case of section 4943, on the first day on which there are excess business holdings,

(C) in the case of section 4971, on the last day of the plan year in which there is an accumulated funding deficiency, and

(D) in any other case, the date on which such event occurred.

(Added Pub. L. 96-596, §2(c)(1), Dec. 24, 1980, 94 Stat. 3473, §4962; renumbered §4963, Pub. L. 98-369, div. A, title III, §305(a), July 18, 1984, 98 Stat. 783; amended Pub. L. 100-203, title X, §10712(b)(3), Dec. 22, 1987, 101 Stat. 1330-467; Pub. L. 104-168, title XIII, §1311(c)(2), July 30, 1996, 110 Stat. 1478; Pub. L. 109-280, title XII, §1231(b)(1), Aug. 17, 2006, 120 Stat. 1098.)

## AMENDMENTS

2006—Subsecs. (a), (c). Pub. L. 109-280, which directed the insertion of “4966, 4967,” after “4958,” in subsecs. (a) and (c) of section 4963, without specifying the act to be amended, was executed by making the insertion in subsecs. (a) and (c) of this section, which is section 4963 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

1996—Subsecs. (a) to (c). Pub. L. 104-168 inserted “4958,” after “4955.”

1987—Subsecs. (a) to (c). Pub. L. 100-203 inserted reference to section 4955 of this title.

## EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title XII, §1231(c), Aug. 17, 2006, 120 Stat. 1098, provided that: “The amendments made by this section [enacting subchapter G of this chapter and amending this section] shall apply to taxable years be-

ginning after the date of the enactment of this Act [Aug. 17, 2006].”

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-168 applicable to excess benefit transactions occurring on or after Sept. 14, 1995, and not applicable to any benefit arising from a transaction pursuant to any written contract which was binding on Sept. 13, 1995, and at all times thereafter before such transaction occurred, see section 1311(d)(1), (2) of Pub. L. 104-168, set out as a note under section 4955 of this title.

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100-203, set out as an Effective Date note under section 4955 of this title.

## EFFECTIVE DATE

For effective date of section 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 a note under section 4961 of this title.

**Subchapter F—Tax Shelter Transactions**

Sec.

4965.

Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions.

**§ 4965. Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions****(a) Being a party to and approval of prohibited transactions****(1) Tax-exempt entity****(A) In general**

If a transaction is a prohibited tax shelter transaction at the time any tax-exempt entity described in paragraph (1), (2), or (3) of subsection (c) becomes a party to the transaction, such entity shall pay a tax for the taxable year in which the entity becomes such a party and any subsequent taxable year in the amount determined under subsection (b)(1).

**(B) Post-transaction determination**

If any tax-exempt entity described in paragraph (1), (2), or (3) of subsection (c) is a party to a subsequently listed transaction at any time during a taxable year, such entity shall pay a tax for such taxable year in the amount determined under subsection (b)(1).

**(2) Entity manager**

If any entity manager of a tax-exempt entity approves such entity as (or otherwise causes such entity to be) a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, such manager shall pay a tax for such taxable year in the amount determined under subsection (b)(2).

**(b) Amount of tax****(1) Entity**

In the case of a tax-exempt entity—

**(A) In general**

Except as provided in subparagraph (B), the amount of the tax imposed under sub-