

- (B) which is a disqualified organization (within the meaning of section 501(h)(5)), or
- (C) which is a private foundation.

**(d) Definitions**

**(1) Lobbying expenditures**

The term “lobbying expenditure” means any amount paid or incurred by the organization in carrying on propaganda, or otherwise attempting to influence legislation.

**(2) Organization manager**

The term “organization manager” has the meaning given to such term by section 4955(f)(2).

**(3) Joint and several liability**

If more than 1 person is liable under subsection (b), all such persons shall be jointly and severally liable under such subsection.

(Added Pub. L. 100-203, title X, §10714(a), Dec. 22, 1987, 101 Stat. 1330-470.)

EFFECTIVE DATE

Pub. L. 100-203, title X, §10714(e), Dec. 22, 1987, 101 Stat. 1330-472, provided that: “The amendments made by this section [enacting this section and amending sections 6501 and 7454 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Dec. 22, 1987].”

**CHAPTER 42—PRIVATE FOUNDATIONS; AND CERTAIN OTHER TAX-EXEMPT ORGANIZATIONS**

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|------------|--|-------------------|
| Subchapter |  | Sec. <sup>1</sup> |
| A.         | Private foundations .....  | 4940              |
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AMENDMENTS

2017—Pub. L. 115-97, title I, §13701(b), Dec. 22, 2017, 131 Stat. 2168, added item for subchapter H.

2006—Pub. L. 109-280, title XII, §1231(b)(2), Aug. 17, 2006, 120 Stat. 1098, which directed the addition of item for subchapter G to the analysis for chapter 42 without specifying the act to be amended, was executed by adding the item to this analysis, which is for chapter 42 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

Pub. L. 109-222, title V, §516(a)(2), May 17, 2006, 120 Stat. 371, added item for subchapter F.

1996—Pub. L. 104-168, title XIII, §1311(c)(6), July 30, 1996, 110 Stat. 1478, struck out item for subchapter D “Abatement of first and second-tier taxes in certain cases” and added items for subchapters D and E.

1987—Pub. L. 100-203, title X, §10712(c)(7), (9), Dec. 22, 1987, 101 Stat. 1330-467, substituted in chapter heading “AND CERTAIN OTHER TAX-EXEMPT ORGANIZATIONS” for “BLACK LUNG BENEFIT TRUSTS”, struck out item for subchapter C “Abatement of first and second tier taxes in certain cases”, and added items for subchapters C and D.

1984—Pub. L. 98-369, div. A, title III, §305(b)(3), July 18, 1984, 98 Stat. 784, substituted “Abatement of first

and second tier taxes in certain cases” for “Abatement of second tier taxes where there is correction during correction period” in item for subchapter C.

1980—Pub. L. 96-596, §2(c)(3), Dec. 24, 1980, 94 Stat. 3474, added item for subchapter C.

1978—Pub. L. 95-227, §4(c)(2)(A), Feb. 10, 1978, 92 Stat. 22, in chapter heading inserted “; BLACK LUNG BENEFIT TRUSTS” after “FOUNDATIONS”, and added items for subchapters A and B.

1969—Pub. L. 91-172, title I, §101(b), Dec. 30, 1969, 83 Stat. 498, added chapter heading “PRIVATE FOUNDATIONS”.

**Subchapter A—Private Foundations**

|       |   |
|-------|---|
| Sec.  |   |
| 4940. | Excise tax based on investment income.  |
| 4941. | Taxes on self-dealing.  |
| 4942. | Taxes on failure to distribute income.  |
| 4943. | Taxes on excess business holdings.  |
| 4944. | Taxes on investments which jeopardize charitable purpose.                                   |
| 4945. | Taxes on taxable expenditures.  |
| 4946. | Definitions and special rules.  |
| 4947. | Application of taxes to certain nonexempt trusts.   |
| 4948. | Application of taxes and denial of exemption with respect to certain foreign organizations. |

AMENDMENTS

1978—Pub. L. 95-227, §4(c)(2)(A), Feb. 10, 1978, 92 Stat. 22, added subchapter A heading and designated sections 4940 to 4948 as subchapter A.

1969—Pub. L. 91-172, title I, §101(b), Dec. 30, 1969, 83 Stat. 498, added analysis of sections.

**§ 4940. Excise tax based on investment income**

**(a) Tax-exempt foundations**

There is hereby imposed on each private foundation which is exempt from taxation under section 501(a) for the taxable year, with respect to the carrying on of its activities, a tax equal to 1.39 percent of the net investment income of such foundation for the taxable year.

**(b) Taxable foundations**

There is hereby imposed on each private foundation which is not exempt from taxation under section 501(a) for the taxable year, with respect to the carrying on of its activities, a tax equal to—

- (1) the amount (if any) by which the sum of (A) the tax imposed under subsection (a) (computed as if such subsection applied to such private foundation for the taxable year), plus (B) the amount of the tax which would have been imposed under section 511 for the taxable year if such private foundation had been exempt from taxation under section 501(a), exceeds
- (2) the tax imposed under subtitle A on such private foundation for the taxable year.

**(c) Net investment income defined**

**(1) In general**

For purposes of subsection (a), the net investment income is the amount by which (A) the sum of the gross investment income and the capital gain net income exceeds (B) the deductions allowed by paragraph (3). Except to the extent inconsistent with the provisions of this section, net investment income shall be determined under the principles of subtitle A.

**(2) Gross investment income**

For purposes of paragraph (1), the term “gross investment income” means the gross

<sup>1</sup> Section numbers editorially supplied.