

**(2) Students**

For purposes of paragraph (1), the number of students of an institution (including for purposes of determining the number of students at a particular location) shall be based on the daily average number of full-time students attending such institution (with part-time students taken into account on a full-time student equivalent basis).

**(c) Net investment income**

For purposes of this section, net investment income shall be determined under rules similar to the rules of section 4940(c).

**(d) Assets and net investment income of related organizations****(1) In general**

For purposes of subsections (b)(1)(C) and (c), assets and net investment income of any related organization with respect to an educational institution shall be treated as assets and net investment income, respectively, of the educational institution, except that—

(A) no such amount shall be taken into account with respect to more than 1 educational institution, and

(B) unless such organization is controlled by such institution or is described in section 509(a)(3) with respect to such institution for the taxable year, assets and net investment income which are not intended or available for the use or benefit of the educational institution shall not be taken into account.

**(2) Related organization**

For purposes of this subsection, the term “related organization” means, with respect to an educational institution, any organization which—

(A) controls, or is controlled by, such institution,

(B) is controlled by 1 or more persons which also control such institution, or

(C) is a supported organization (as defined in section 509(f)(3)), or an organization described in section 509(a)(3), during the taxable year with respect to such institution.

(Added Pub. L. 115–97, title I, §13701(a), Dec. 22, 2017, 131 Stat. 2167; amended Pub. L. 115–123, div. D, title II, §41109(a), Feb. 9, 2018, 132 Stat. 159.)

## AMENDMENTS

2018—Subsec. (b)(1)(A). Pub. L. 115–123, §41109(a)(1), inserted “tuition-paying” after “500”.

Subsec. (b)(1)(B). Pub. L. 115–123, §41109(a)(2), inserted “tuition-paying” after “50 percent of the”.

## EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–123, div. D, title II, §41109(b), Feb. 9, 2018, 132 Stat. 159, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2017.”

## EFFECTIVE DATE

Pub. L. 115–97, title I, §13701(c), Dec. 22, 2017, 131 Stat. 2168, provided that: “The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 2017.”

**CHAPTER 43—QUALIFIED PENSION, ETC., PLANS**

Sec.  
4971. Taxes on failure to meet minimum funding standards.

Sec.  
4972. Tax on nondeductible contributions to qualified employer plans.  
4973. Tax on excess contributions to certain tax-favored accounts and annuities.  
4974. Excise tax on certain accumulations in qualified retirement plans.  
4975. Tax on prohibited transactions.  
4976. Taxes with respect to funded welfare benefit plans.  
4977. Tax on certain fringe benefits provided by an employer.  
4978. Tax on certain dispositions by employee stock ownership plans and certain cooperatives.  
[4978A, 4978B. Repealed.]  
4979. Tax on certain excess contributions.  
4979A. Tax on certain prohibited allocations of qualified securities.  
4980. Tax on reversion of qualified plan assets to employer.  
4980A. Tax on excess distributions from qualified retirement plans.<sup>1</sup>  
4980B. Failure to satisfy continuation coverage requirements of group health plans.  
4980C. Requirements for issuers of qualified long-term care insurance contracts.  
4980D. Failure to meet certain group health plan requirements.  
4980E. Failure of employer to make comparable Archer MSA contributions.  
4980F. Failure of applicable plans reducing benefit accruals to satisfy notice requirements.  
4980G. Failure of employer to make comparable health savings account contributions.  
4980H. Shared responsibility for employers regarding health coverage.  
[4980I. Repealed.]

## AMENDMENTS

2019—Pub. L. 116–94, div. N, title I, §503(b)(3), Dec. 20, 2019, 133 Stat. 3120, struck out item 4980I “Excise tax on high cost employer-sponsored health coverage”.

2010—Pub. L. 111–148, title I, §1513(b), title IX, §9001(b), Mar. 23, 2010, 124 Stat. 256, 853, added items 4980H and 4980I.

2003—Pub. L. 108–173, title XII, §1201(d)(4)(B), Dec. 8, 2003, 117 Stat. 2478, added item 4980G.

2002—Pub. L. 107–147, title IV, §417(17)(B), Mar. 9, 2002, 116 Stat. 56, substituted “Archer MSA contributions” for “medical savings account contributions” in item 4980E.

2001—Pub. L. 107–16, title VI, §659(a)(2), June 7, 2001, 115 Stat. 139, added item 4980F.

1998—Pub. L. 105–206, title VI, §6023(18)(B), July 22, 1998, 112 Stat. 825, substituted “certain tax-favored accounts and annuities” for “individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities” in item 4973.

1996—Pub. L. 104–191, title III, §§301(c)(4)(B), 326(b), title IV, §402(b), Aug. 21, 1996, 110 Stat. 2050, 2066, 2087, added items 4980C, 4980D, and 4980E.

Pub. L. 104–188, title I, §1602(b)(5)(B), Aug. 20, 1996, 110 Stat. 1834, struck out item 4978B “Tax on disposition of employer securities to which section 133 applied”.

1989—Pub. L. 101–239, title VII, §§7301(d)(2), 7304(a)(2)(C)(iii), Dec. 19, 1989, 103 Stat. 2348, 2353, struck out item 4978A “Tax on certain dispositions of employer securities to which section 2057 applied” and added item 4978B.

1988—Pub. L. 100–647, title I, §1011A(g)(1)(B), title III, §3011(c), Nov. 10, 1988, 102 Stat. 3479, 3625, redesignated item 4981A as 4980A and added item 4980B.

1987—Pub. L. 100–203, title X, §10413(b)(2), Dec. 22, 1987, 101 Stat. 1330–438, added item 4978A.

1986—Pub. L. 99–514, title XI, §§1117(b)(2), 1121(a)(2), 1131(c)(2), 1132(b), 1133(b), title XVIII, §§1854(a)(9)(C),

<sup>1</sup> Section repealed by Pub. L. 105–34 without corresponding amendment of chapter analysis.

1899A(75), Oct. 22, 1986, 100 Stat. 2462, 2465, 2478, 2480, 2483, 2877, 2963, added item 4972, inserted “section” in item 4973, substituted “Excise tax on certain accumulations in qualified retirement plans” for “Tax on certain accumulations in individual retirement accounts” in item 4974, struck out “and allocations” after “certain dispositions” in item 4978, and added items 4979, 4979A, 4980, and 4981A.

1984—Pub. L. 98-369, div. A, title IV, §491(d)(56), title V, §§511(c)(2), 531(e)(2), 545(b), July 18, 1984, 98 Stat. 852, 862, 886, 896, substituted “and certain individual retirement annuities” for “certain individual retirement annuities, and certain retirement bonds” in item 4973 and added items 4976 to 4978.

1982—Pub. L. 97-248, title II, §237(c)(2), Sept. 3, 1982, 96 Stat. 511, struck out item 4972 “Tax on excess contributions for self-employed individuals”.

1974—Pub. L. 93-406, title II, §§1013(b), 2001(f)(2), 2002(h)(3), Sept. 2, 1974, 88 Stat. 920, 957, 970, added chapter heading and analysis of sections 4971 to 4975.

### § 4971. Taxes on failure to meet minimum funding standards

#### (a) Initial tax

If at any time during any taxable year an employer maintains a plan to which section 412 applies, there is hereby imposed for the taxable year a tax equal to—

(1) in the case of a single-employer plan, 10 percent of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending with or within the taxable year,

(2) in the case of a multiemployer plan, 5 percent of the accumulated funding deficiency determined under section 431 as of the end of any plan year ending with or within the taxable year, and

(3) in the case of a CSEC plan, 10 percent of the CSEC accumulated funding deficiency as of the end of the plan year ending with or within the taxable year.

#### (b) Additional tax

If—

(1) a tax is imposed under subsection (a)(1) on any unpaid minimum required contribution and such amount remains unpaid as of the close of the taxable period,

(2) a tax is imposed under subsection (a)(2) on any accumulated funding deficiency and the accumulated funding deficiency is not corrected within the taxable period, or

(3) a tax is imposed under subsection (a)(3) on any CSEC accumulated funding deficiency and the CSEC accumulated funding deficiency is not corrected within the taxable period,

there is hereby imposed a tax equal to 100 percent of the unpaid minimum required contribution, accumulated funding deficiency, or CSEC accumulated funding deficiency, whichever is applicable, to the extent not so paid or corrected.

#### (c) Definitions

For purposes of this section—

##### (1) Accumulated funding deficiency

The term “accumulated funding deficiency” has the meaning given to such term by section 431.

##### (2) Correct

The term “correct” means, with respect to an accumulated funding deficiency or CSEC

accumulated funding deficiency, the contribution, to or under the plan, of the amount necessary to reduce such accumulated funding deficiency or CSEC accumulated funding deficiency as of the end of a plan year in which such deficiency arose to zero.

#### (3) Taxable period

The term “taxable period” means, with respect to an accumulated funding deficiency, CSEC accumulated funding deficiency, or unpaid minimum required contribution, whichever is applicable, the period beginning with the end of the plan year in which there is an accumulated funding deficiency, CSEC accumulated funding deficiency, or unpaid minimum required contribution, whichever is applicable, and ending on the earlier of—

(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a), or

(B) the date on which the tax imposed by subsection (a) is assessed.

#### (4) Unpaid minimum required contribution

##### (A) In general

The term “unpaid minimum required contribution” means, with respect to any plan year, any minimum required contribution under section 430 for the plan year which is not paid on or before the due date (as determined under section 430(j)(1)) for the plan year.

##### (B) Ordering rule

Any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 430 for the plan year.

#### (5) CSEC accumulated funding deficiency

The term “CSEC accumulated funding deficiency” means the accumulated funding deficiency determined under section 433.

#### (d) Notification of the Secretary of Labor

Before issuing a notice of deficiency with respect to the tax imposed by subsection (a) or (b), the Secretary shall notify the Secretary of Labor and provide him a reasonable opportunity (but not more than 60 days)—

(1) to require the employer responsible for contributing to or under the plan to eliminate the accumulated funding deficiency, CSEC accumulated funding deficiency, or unpaid minimum required contribution, whichever is applicable, or

(2) to comment on the imposition of such tax.

#### (e) Liability for tax

##### (1) In general

Except as provided in paragraph (2), the tax imposed by subsection (a), (b), or (f) shall be paid by the employer responsible for contributing to or under the plan the amount described in section 412(a)(2).