

TITLE 26 - INTERNAL REVENUE CODE**Subtitle D - Miscellaneous Excise Taxes****CHAPTER 42 - PRIVATE FOUNDATIONS; AND CERTAIN OTHER TAX-EXEMPT ORGANIZATIONS****Subchapter C - Political Expenditures of Section 501(c)(3) Organizations****§ 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 21/2 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.)

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.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Effective Date of 1996 Amendment

Section 1311(d)(1), (2) of Pub. L. 104–168 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

Section 10712(d) of Pub. L. 100–203 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].”