

political expenditures by reason of section 4955(d)(2)(E), only if the expenditures violate the prohibition on political activity provided in section 501(c)(3).

(d) *Abatement, refund, or no assessment of initial tax.* No initial (first-tier) tax will be imposed under section 4955(a), or the initial tax will be abated or refunded, if the organization or an organization manager establishes to the satisfaction of the IRS that—

(1) The political expenditure was not willful and flagrant; and

(2) The political expenditure was corrected.

(e) *Correction—(1) Recovery of Expenditure.* For purposes of section 4955(f)(3) and this section, correction of a political expenditure is accomplished by recovering part or all of the expenditure to the extent recovery is possible, and, where full recovery cannot be accomplished, by any additional corrective action which the Commissioner may prescribe. The organization making the political expenditure is not under any obligation to attempt to recover the expenditure by legal action if the action would in all probability not result in the satisfaction of execution on a judgment.

(2) *Establishing safeguards.* Correction of a political expenditure must also involve the establishment of sufficient safeguards to prevent future political expenditures by the organization. The determination of whether safeguards are sufficient to prevent future political expenditures by the organization is made by the District Director.

(f) *Effective date.* This section is effective December 5, 1995.

[T.D. 8628, 60 FR 62210, Dec. 5, 1995]

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[T.D. 8978, 67 FR 3083, Jan. 23, 2002]

§ 53.4958-1 Taxes on excess benefit transactions.

(a) *In general.* Section 4958 imposes excise taxes on each excess benefit transaction (as defined in section 4958(c) and § 53.4958-4) between an applicable tax-exempt organization (as defined in section 4958(e) and § 53.4958-2) and a disqualified person (as defined in section 4958(f)(1) and § 53.4958-3). A disqualified person who receives an excess benefit from an excess benefit transaction is liable for payment of a section 4958(a)(1) excise tax equal to 25 percent of the excess benefit. If an initial tax is imposed by section 4958(a)(1) on an excess benefit transaction and the transaction is not corrected (as defined in section 4958(f)(6) and § 53.4958-7) within the taxable period (as defined in section 4958(f)(5) and paragraph (c)(2)(ii) of this section), then any disqualified person who received an excess benefit from the excess benefit transaction on which the initial tax was imposed is liable for an additional tax of 200 percent of the excess benefit. An organization manager (as defined in section 4958(f)(2) and paragraph (d) of this section) who participates in an excess benefit transaction, knowing that it was such a transaction, is liable for payment of a section 4958(a)(2) excise tax equal to 10 percent of the excess benefit, unless the participation was not willful and was due to reasonable cause. If an organization manager also receives an excess benefit from an excess benefit transaction, the manager may be liable for both taxes imposed by section 4958(a).

(b) *Excess benefit defined.* An excess benefit is the amount by which the value of the economic benefit provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person exceeds the value of the consideration (including the performance of services) received for providing such benefit.

(c) *Taxes paid by disqualified person—*
 (1) *Initial tax.* Section 4958(a)(1) imposes a tax equal to 25 percent of the excess benefit on each excess benefit transaction. The section 4958(a)(1) tax shall be paid by any disqualified person who received an excess benefit from that excess benefit transaction. With respect to any excess benefit transaction, if more than one disqualified person is liable for the tax imposed by section 4958(a)(1), all such persons are jointly and severally liable for that tax.

(2) *Additional tax on disqualified person—*(i) *In general.* Section 4958(b) imposes a tax equal to 200 percent of the excess benefit in any case in which section 4958(a)(1) imposes a 25-percent tax on an excess benefit transaction and the transaction is not corrected (as defined in section 4958(f)(6) and § 53.4958-7) within the taxable period (as defined in section 4958(f)(5) and paragraph (c)(2)(ii) of this section). If a disqualified person makes a payment of less than the full correction amount under the rules of § 53.4958-7, the 200-percent tax is imposed only on the unpaid portion of the correction amount (as described in § 53.4958-7(c)). The tax imposed by section 4958(b) is payable by any disqualified person who received an excess benefit from the excess benefit transaction on which the initial tax was imposed by section 4958(a)(1). With respect to any excess benefit transaction, if more than one disqualified person is liable for the tax imposed by section 4958(b), all such persons are jointly and severally liable for that tax.

(ii) *Taxable period.* *Taxable period* means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earlier of—

(A) The date of mailing a notice of deficiency under section 6212 with respect to the section 4958(a)(1) tax; or