

**§ 54.4979-0**

**26 CFR Ch. I (4-1-06 Edition)**

of the type described in section 409(l)(1), the disposition of such securities shall not be treated as a disposition of restricted qualified securities to which the tax under section 4978 is imposed if, within 90 days after such disposition, securities meeting the requirements of section 409(l) ("new restricted qualified securities") that are of equal value to the old restricted qualified securities (at the time of the disposition of the old restricted qualified securities) are substituted for such old restricted qualified securities. However, for purposes of determining the tax imposed under section 4978, old restricted qualified securities shall not be treated as if they retained their status as restricted qualified securities and new restricted qualified securities derived from the disposition of old restricted qualified securities pursuant to the preceding sentence shall be treated as restricted qualified securities for the remaining portion of the period during which the disposition of the old restricted qualified securities would have been subject to tax under section 4978.

Q-4: To whom does the tax under section 4978 apply?

A-4: The tax under section 4978 is imposed on the domestic corporation (or corporations) or the eligible worker-owned cooperative that made the written statement of consent as described in section 1042(a)(2)(B) and Q&A-2 of § 1.1042-1T with respect to the disposition of the restricted qualified securities.

Q-5: When does section 4978, as enacted by the Tax Reform Act of 1984, become effective?

A-5: Section 4978 applies to the disposition of qualified securities acquired in a sale to which section 1042 applies. See Q&A-6 of § 1.1042-1T for the effective date of section 1042.

[T.D. 8073, 51 FR 4336, Feb. 4, 1986]

**§ 54.4979-0 Excise tax on certain excess contributions and excess aggregate contributions; table of contents.**

This section contains the captions that appear in § 54.4979.

**§ 54.4979-1 Excise tax on certain excess contributions and excess aggregate contributions.**

- (a) In general.
  - (1) General rule.
  - (2) Liability for tax.
  - (3) Due date and form for payment of tax.
  - (4) Special rule for simplified employee pensions.
- (b) Definitions.
  - (1) Excess aggregate contributions.
  - (2) Excess contributions.
  - (3) Plan.
- (c) No tax when excess distributed within 2½ months of close of year or additional employer contributions made.
  - (1) General rule.
  - (2) Tax treatment of distributions.
  - (3) Income.
  - (4) Example.
- (d) Effective date.
  - (1) General rule.
  - (2) Section 403(b) annuity contracts.
  - (3) Collectively bargained plans and plans of state or local governments.
  - (4) Plan years beginning before January 1, 1992.

[T.D. 8357, 56 FR 40550, Aug. 15, 1991; 57 FR 10290, Mar. 25, 1992, as amended by T.D. 8581, 59 FR 66181, Dec. 23, 1994]

**§ 54.4979-1 Excise tax on certain excess contributions and excess aggregate contributions.**

(a) *In general*—(1) *General rule*. In the case of any plan (as defined in paragraph (b)(3) of this section), there is imposed a tax for the employer's taxable year equal to 10 percent of the sum of:

(i) Any excess contributions under a plan for the plan year ending in the taxable year; and

(ii) Any excess aggregate contributions under the plan for the plan year ending in the taxable year.

(2) *Liability for tax*. The tax imposed by paragraph (a)(1) of this section is to be paid by the employer. In the case of a collectively bargained plan to which section 413(b) applies, all employers who are parties to the collective bargaining agreement and whose employees are participants in the plan are jointly and severally liable for the tax.

(3) *Due date and form for payment of tax*—(i) The tax described in paragraph (a)(1) of this section is due on the last day of the 15th month after the close of the plan year to which the excess contributions or excess aggregate contributions relate.