

Wednesday, July 20, 2011

*GiftLaw Pro*

**Sec. 4967 Taxes on Prohibited Benefits**

**Code Sections**

**(a) IMPOSITION OF TAXES**

**(b) EXCEPTION**

**(c) SPECIAL RULES**

**(d) PERSON DESCRIBED**

**(a) IMPOSITION OF TAXES**

(1) ON THE DONOR, DONOR ADVISOR, OR RELATED PERSON

There is hereby imposed on the advice of any person described in subsection (d) to have a sponsoring organization make a distribution from a donor advised fund which results in such person or any other person described in subsection (d) receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 125 percent of such benefit. The tax imposed by this paragraph shall be paid by any person described in subsection (d) who advises as to the distribution or who receives such a benefit as a result of the distribution.

(2) ON THE FUND MANAGEMENT

There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such benefit. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

**(b) EXCEPTION**

No tax shall be imposed under this section with respect to any distribution if a tax has been imposed with respect to such distribution under section 4958.

**(c) SPECIAL RULES**

For purposes of subsection (a) --

(1) JOINT AND SEVERAL LIABILITY

If more than one person is liable under paragraph (1) or (2) of subsection (a) with respect to a distribution described in subsection (a), all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

(2) LIMIT FOR MANAGEMENT

With respect to any one distribution described in subsection (a), the maximum amount of the tax imposed by subsection (a)(2) shall not exceed \$10,000.

**(d) PERSON DESCRIBED**

A person is described in this subsection if such person is described in section 4958(f)(7) with respect to a donor advised fund.

[Aug. 17, 2006]



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