

avoidance, exception for acquisitions made with intent to sell to United States persons, and special rule for investments in certain lending and financial corporations.

Section 4916, added Pub. L. 88-563, §2(a), Sept. 2, 1964, 78 Stat. 827; amended Pub. L. 89-243, §4(i), Oct. 9, 1965, 79 Stat. 960; Pub. L. 90-59, §5(g)(1), July 31, 1967, 81 Stat. 159; Pub. L. 92-9, §3(b)(3), Apr. 1, 1971, 85 Stat. 16; Pub. L. 93-17, §3(b), Apr. 10, 1973, 87 Stat. 13, related to exclusion for investment in less developed countries, provided special rules applicable to such investments, subsequent tax liability in certain cases, the repeal of exclusion for issues after Jan. 29, 1973, in the case of less developed country shipping companies, and defined term "less developed country".

Section 4917, added Pub. L. 88-563, §2(a), Sept. 2, 1964, 78 Stat. 830; amended Pub. L. 89-243, §4(j), (k), Oct. 9, 1965, 79 Stat. 960; Pub. L. 90-59, §5(h)(1), July 31, 1967, 81 Stat. 159, related to exclusion for original or new issues where required for international monetary stability.

Section 4918, added Pub. L. 88-563, §2(a), Sept. 2, 1964, 78 Stat. 831; amended Pub. L. 89-809, title II, §213(b)(2), Nov. 13, 1966, 80 Stat. 1585; Pub. L. 90-59, §4(a), July 31, 1967, 81 Stat. 148; Pub. L. 90-73, §2(a)-(c), Aug. 29, 1967, 81 Stat. 175, 176; Pub. L. 93-17, §3(h)(1), Apr. 10, 1973, 87 Stat. 18, related to exemption for prior American ownership and compliance, proof of such ownership or compliance, issuance of IET clean confirmation by participating firm, sales effected by participating firms in connection with exempt acquisitions, filing of transition inventory, transfer of custody certificate, certain debt obligations arising out of loans to assure raw material sources, regulations, and definitions of "participating firm," and "participating custodian".

Section 4919, added Pub. L. 88-563, §2(a), Sept. 2, 1964, 78 Stat. 833; amended Pub. L. 89-243, §4(1), Oct. 9, 1965, 79 Stat. 961; Pub. L. 90-59, §5(i)(1), (2), July 31, 1967, 81 Stat. 159, 160; Pub. L. 91-128, §4(d)(1), Nov. 26, 1969, 83 Stat. 264; Pub. L. 92-9, §3(f)(1), (2), Apr. 1, 1971, 85 Stat. 20; Pub. L. 93-17, §3(i)(1), Apr. 10, 1973, 87 Stat. 19, related to credit or refund on sales by underwriters and dealers to foreign persons, evidence needed to support such credit or refund, and defined terms "underwriter", "dealer", and "persons other than United States persons".

Section 4920, added Pub. L. 88-563, §2(a), Sept. 2, 1964, 78 Stat. 835; amended Pub. L. 89-243, §§3(a)(4), 4(m)(1), (2)(A), (n), Oct. 9, 1965, 79 Stat. 954, 961-963; Pub. L. 90-59, §§4(f), 5(j)-(k)(2), July 31, 1967, 81 Stat. 156, 160-163; Pub. L. 91-128, §4(e)(1), (2), (i)(3), Nov. 26, 1969, 83 Stat. 264, 269; Pub. L. 92-9, §3(e)(2), (3), (g)(1), (h)(1), Apr. 1, 1971, 85 Stat. 18, 20, 21; Pub. L. 93-17, §3(g)(2)(j), Apr. 10, 1973, 87 Stat. 18, 19, related to definitions and special rules.

Section 4921, added Pub. L. 92-9, §3(i)(1), Apr. 1, 1971, 85 Stat. 21, related to standby authority of the President to impose tax on debt obligations of foreign obligors having a period remaining to maturity of less than 1 year and provided that such authority may be extended by Executive order.

Section 4922, added Pub. L. 93-17, §3(d)(1), Apr. 10, 1973, 87 Stat. 15, related to exclusion for certain issues to finance new or additional direct investment in the United States, qualification for exclusion, and loss of entitlement to exclusion by subsequent noncompliance.

Section 4931, added Pub. L. 88-563, §2(a), Sept. 2, 1964, 78 Stat. 839; amended Pub. L. 89-243, §§3(e)(1), 4(a)(4), (o), Oct. 9, 1965, 79 Stat. 955, 956, 964; Pub. L. 89-809, title II, §215(a), Nov. 13, 1966, 80 Stat. 1587, Pub. L. 90-59, §3(b)(1), July 31, 1967, 81 Stat. 145, related to the standby authority of the President to impose, by Executive order, tax on acquisitions by commercial banks of debt obligations of foreign obligors, made provision for exclusions concerning export loans, foreign currency loans by foreign branches, preexisting commitments, and provided for prescription of regulations by the Secretary.

EFFECTIVE DATE OF REPEAL OF PRIOR PROVISIONS

Section 1904(a)(21)(B) of Pub. L. 94-455 provided that: "The repeal made by subparagraph (A) [repealing sec-

tions 4911 through 4922 and section 4931 of this title] shall apply with respect to acquisitions of stock and debt obligations made after June 30, 1974."

**§ 4911. Tax on excess expenditures to influence legislation**

**(a) Tax imposed**

**(1) In general**

There is hereby imposed on the excess lobbying expenditures of any organization to which this section applies a tax equal to 25 percent of the amount of the excess lobbying expenditures for the taxable year.

**(2) Organizations to which this section applies**

This section applies to any organization with respect to which an election under section 501(h) (relating to lobbying expenditures by public charities) is in effect for the taxable year.

**(b) Excess lobbying expenditures**

For purposes of this section, the term "excess lobbying expenditures" means, for a taxable year, the greater of—

(1) the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year, or

(2) the amount by which the gross roots expenditures made by the organization during the taxable year exceed the gross roots nontaxable amount for such organization for such taxable year.

**(c) Definitions**

For purposes of this section—

**(1) Lobbying expenditures**

The term "lobbying expenditures" means expenditures for the purpose of influencing legislation (as defined in subsection (d)).

**(2) Lobbying nontaxable amount**

The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) \$1,000,000 or (B) the amount determined under the following table:

<b>If the exempt purpose expenditures are—</b>	<b>The lobbying nontaxable amount is—</b>
Not over \$500,000 .....	20 percent of the exempt purpose expenditures.
Over \$500,000 but not over \$1,000,000.	\$100,000, plus 15 percent of the excess of the exempt purpose expenditures over \$500,000.
Over \$1,000,000 but not over \$1,500,000.	\$175,000 plus 10 percent of the excess of the exempt purpose expenditures over \$1,000,000.
Over \$1,500,000 .....	\$225,000 plus 5 percent of the excess of the exempt purpose expenditures over \$1,500,000.

**(3) Gross roots expenditures**

The term "gross roots expenditures" means expenditures for the purpose of influencing legislation (as defined in subsection (d) without regard to paragraph (1)(B) thereof).

**(4) Gross roots nontaxable amount**

The gross roots nontaxable amount for any organization for any taxable year is 25 percent

of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.

**(d) Influencing legislation**

**(1) General rule**

Except as otherwise provided in paragraph (2), for purposes of this section, the term “influencing legislation” means—

(A) any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof, and

(B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation.

**(2) Exceptions**

For purposes of this section, the term “influencing legislation”, with respect to an organization, does not include—

(A) making available the results of non-partisan analysis, study, or research;

(B) providing of technical advice or assistance (where such advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be;

(C) appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, tax-exempt status, or the deduction of contributions to the organization;

(D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than communications described in paragraph (3); and

(E) any communication with a governmental official or employee, other than—

(i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or

(ii) a communication the principal purpose of which is to influence legislation.

**(3) Communications with members**

(A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate as provided in paragraph (1)(B) shall be treated as a communication described in paragraph (1)(B).

(B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either subparagraph (A) or subparagraph (B) of paragraph (1) shall be treated as a communication described in paragraph (1)(A).

**(e) Other definitions and special rules**

For purposes of this section—

**(1) Exempt purpose expenditures**

**(A) In general**

The term “exempt purpose expenditures” means, with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in section 170(c)(2)(B) (relating to religious, charitable, educational, etc., purposes).

**(B) Certain amounts included**

The term “exempt purpose expenditures” includes—

(i) administrative expenses paid or incurred for purposes described in section 170(c)(2)(B), and

(ii) amounts paid or incurred for the purpose of influencing legislation (whether or not for purposes described in section 170(c)(2)(B)).

**(C) Certain amounts excluded**

The term “exempt purpose expenditures” does not include amounts paid or incurred to or for—

(i) a separate fundraising unit of such organization, or

(ii) one or more other organizations, if such amounts are paid or incurred primarily for fundraising.

**(2) Legislation**

The term “legislation” includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.

**(3) Action**

The term “action” is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

**(4) Depreciation, etc., treated as expenditures**

In computing expenditures paid or incurred for the purpose of influencing legislation (within the meaning of subsection (b)(1) or (b)(2)) or exempt purpose expenditures (as defined in paragraph (1)), amounts properly chargeable to capital account shall not be taken into account. There shall be taken into account a reasonable allowance for exhaustion, wear and tear, obsolescence, or amortization. Such allowance shall be computed only on the basis of the straight-line method of depreciation. For purposes of this section, a determination of whether an amount is properly chargeable to capital account shall be made on the basis of the principles that apply under subtitle A to amounts which are paid or incurred in a trade or business.

**(f) Affiliated organizations**

**(1) In general**

Except as otherwise provided in paragraph (4), if for a taxable year two or more organizations described in section 501(c)(3) are members of an affiliated group of organizations as defined in paragraph (2), and an election under

section 501(h) is effective for at least one such organization for such year, then—

(A) the determination as to whether excess lobbying expenditures have been made and the determination as to whether the expenditure limits of section 501(h)(1) have been exceeded shall be made as though such affiliated group is one organization,

(B) if such group has excess lobbying expenditures, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which has excess lobbying expenditures in an amount which equals such organization's proportionate share of such group's excess lobbying expenditures,

(C) if the expenditure limits of section 501(h)(1) are exceeded, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which is not described in section 501(c)(3) by reason of the application of 501(h), and

(D) subparagraphs (C) and (D) of subsection (d)(2), paragraph (3) or subsection (d), and clause (i) of subsection (e)(1)(C) shall be applied as if such affiliated group were one organization.

## (2) Definition of affiliation

For purposes of paragraph (1), two organizations are members of an affiliated group of organizations but only if—

(A) the governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or

(B) the governing board of one such organization includes persons who—

(i) are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and

(ii) by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

## (3) Different taxable years

If members of an affiliated group of organizations have different taxable years, their expenditures shall be computed for purposes of this section in a manner to be prescribed by regulations promulgated by the Secretary.

## (4) Limited control

If two or more organizations are members of an affiliated group of organizations (as defined in paragraph (2) without regard to subparagraph (B) thereof), no two members of such affiliated group are affiliated (as defined in paragraph (2) without regard to subparagraph (A) thereof), and the governing instrument of no such organization requires it to be bound by decisions of any of the other such organizations on legislative issues other than as to action with respect to Acts, bills, resolutions, or similar items by the Congress, then—

(A) in the case of any organization whose decisions bind one or more members of such affiliated group, directly or indirectly, the

determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h)(1) shall be made as though such organization has paid or incurred those amounts paid or incurred by such members of such affiliated group to influence legislation with respect to Acts, bills, resolutions, or similar items by the Congress, and

(B) in the case of any organization to which subparagraph (A) does not apply, but which is a member of such affiliated group, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h)(1) shall be made as though such organization is not a member of such affiliated group.

(Added Pub. L. 94-455, title XIII, §1307(b), Oct. 4, 1976, 90 Stat. 1723; amended Pub. L. 95-600, title VII, §703(g)(1), Nov. 6, 1978, 92 Stat. 2940.)

### AMENDMENTS

1978—Subsec. (c)(2). Pub. L. 95-600 substituted "exempt purpose expenditures" for "proposed expenditures" in heading of table.

### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

## § 4912. Tax on disqualifying lobbying expenditures of certain organizations

### (a) Tax on organization

If an organization to which this section applies is not described in section 501(c)(3) for any taxable year by reason of making lobbying expenditures, there is hereby imposed a tax on the lobbying expenditures of such organization for such taxable year equal to 5 percent of the amount of such expenditures. The tax imposed by this subsection shall be paid by the organization.

### (b) On management

If tax is imposed under subsection (a) on the lobbying expenditures of any organization, there is hereby imposed on the agreement of any organization manager to the making of any such expenditures, knowing that such expenditures are likely to result in the organization not being described in section 501(c)(3), a tax equal to 5 percent of the amount of such expenditures, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this subsection shall be paid by any manager who agreed to the making of the expenditures.

### (c) Organizations to which section applies

#### (1) In general

Except as provided in paragraph (2), this section shall apply to any organization which was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3).

#### (2) Exceptions

This section shall not apply to any organization—