

Instructions for Form 5330

(Rev. December 2023)

Return of Excise Taxes Related to Employee Benefit Plans

Volume 2 of 2



Department of the Treasury
Internal Revenue Service

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1. A corporation, partnership, or trust or estate of which (or in which) any direct or indirect owner holds 50% or more of the interest described in (5a), (5b), or (5c) of such entity. For this purpose, the beneficial interest of the trust or estate is owned, directly or indirectly, or held by persons described in (1) through (5).
2. An officer, director (or an individual having powers or responsibilities similar to those of officers or directors), a 10% or more shareholder or highly compensated employee (earning 10% or more of the yearly wages of an employer) of a person described in (3), (4), (5), or (7).
3. A 10% or more (in capital or profits) partner or joint venturer of a person described in (3), (4), (5), or (7).
4. Any disqualified person, as described in (1) through (9) above, who is a

disqualified person with respect to any plan to which a section 501(c)(22) trust applies, that is permitted to make payments under section 4223 of the Employee Retirement Income Security Act (ERISA).

Prohibited transaction. A “prohibited transaction” is any direct or indirect:

1. Sale or exchange, or leasing of any property between a plan and a disqualified person; or a transfer of real or personal property by a disqualified person to a plan where the property is subject to a mortgage or similar lien placed on the property by the disqualified person within 10 years prior to the transfer, or the property transferred is subject to a mortgage or similar lien which the plan assumes;
2. Lending of money or other extension of credit between a plan and a disqualified person;

3. Furnishing of goods, services, or facilities between a plan and a disqualified person;
4. Transfer to, or use by or for the benefit of, a disqualified person of income or assets of a plan;
5. Act by a disqualified person who is a fiduciary dealing with the income or assets of a plan in the disqualified person's own interest or account; or
6. Receipt of any consideration for a disqualified person's own personal account by any disqualified person who is a fiduciary from any party dealing with the plan connected with a transaction involving the income or assets of the plan.

Exemptions. See sections 4975(d), 4975(f)(6)(B)(ii), and 4975(f)(6)(B)(iii) for specific exemptions to prohibited transactions. Also, see section 4975(c)(2) for

certain other transactions or classes of transactions that may become exempt.

Line 1. Check the box that best characterizes the prohibited transaction for which an excise tax is being paid. A prohibited transaction is *discrete* unless it is of an ongoing nature. Transactions involving the use of money (loans, etc.) or other property (rent, etc.) are of an ongoing nature and will be treated as a new prohibited transaction on the first day of each succeeding tax year or part of a tax year that is within the taxable period.

Line 2, column (b). List the date of all prohibited transactions that took place in connection with a particular plan during the current tax year. Also, list the date of all prohibited transactions that took place in prior years unless either the transaction was corrected in a prior tax year or the section 4975(a) tax was assessed in the prior tax year. A disqualified person who engages in a prohibited transaction must file a separate

Form 5330 to report the excise tax due under section 4975 for each tax year.

Line 2, columns (d) and (e). The “amount involved in a prohibited transaction” means the greater of the amount of money and the fair market value (FMV) of the other property given, or the amount of money and the FMV of the other property received. However, for services described in sections 4975(d)(2) and (10), the amount involved only applies to excess compensation. For purposes of section 4975(a), FMV must be determined as of the date on which the prohibited transaction occurs. If the use of money or other property is involved, the amount involved is the greater of the amount paid for the use or the FMV of the use for the period for which the money or other property is used. In addition, transactions involving the use of money or other property will be treated as giving rise to a prohibited transaction occurring on the date of the actual transaction, plus a new

prohibited transaction on the first day of each succeeding tax year or portion of a succeeding tax year which is within the taxable period. The "taxable period" for this purpose is the period of time beginning with the date of the prohibited transaction and ending with the earliest of:

1. The date the correction is completed,
2. The date of the mailing of a notice of deficiency, or
3. The date on which the tax under section 4975(a) is assessed.

See the instructions for Schedule C, under *Additional tax for failure to correct the prohibited transaction (section 4975(b))*, for the definition of "correction."



Temporary Regulations section 141.4975-13 states that, until final regulations are written under section 4975(f), the definitions of amount involved and correction found in Regulations section 53.4941(e)-1 will apply.

Figure 1. Example for the Calendar 2022 Plan Year Used When Filing for the 2022 Tax Year

Schedule C. Tax on Prohibited Transactions (Section 4975) (see instructions) Reported by the last day of the 7th month after the end of the tax year of the employer (or other person who must file the return)

(a) Transaction number	(b) Date of transaction (see instructions)	(c) Description of prohibited transaction	(d) Amount involved in prohibited transaction (see instructions)		(e) Initial tax on prohibited transaction (multiply each transaction in column (d) by the appropriate rate (see instructions))
(i)	7-1-22	Loan	\$6,000		\$900
(ii)					
(iii)					
3 Add amounts in column (e). Enter here and on Part I, line 3a				▶	\$900

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Failure to transmit participant

contributions. For purposes of calculating the excise tax on a prohibited transaction where there is a failure to transmit participant contributions (elective deferrals) or amounts that would have otherwise been payable to the participant in cash, the amount involved is based on interest on those elective deferrals. See Rev. Rul. 2006-38.

Column (e). The initial tax on a prohibited transaction is 15% of the amount involved in each prohibited transaction for each year or part of a year in the taxable period. Multiply the amount in column (d) by 15%.

Example. The example of a prohibited transaction below does not cover all types of prohibited transactions. For more examples, see Regulations section 53.4941(e)-1(b)(4).

A disqualified person borrows money from a plan in a prohibited transaction under section 4975. The FMV of the use of the money and the actual interest on the loan is \$1,000 per

month (the actual interest is paid in this example). The loan was made on July 1, 2022 (date of transaction), and repaid on December 31, 2023 (date of correction). The disqualified person's tax year is the calendar year. On July 31, 2024, the disqualified person files a delinquent Form 5330 for the 2022 plan year (which in this case is the calendar year) and a timely Form 5330 for the 2023 plan year (which in this case is the calendar year). No notice of deficiency with respect to the tax imposed by section 4975(a) has been mailed to the disqualified person and no assessment of such excise tax has been made by the IRS before the time the disqualified person filed the Forms 5330.

Each prohibited transaction has its own separate taxable period that begins on the date the prohibited transaction occurred or is deemed to occur and ends on the date of the correction. The taxable period that begins on the date the loan occurs runs from July 1,

2022 (date of loan), through December 31, 2023 (date of correction). When a loan is a prohibited transaction, the loan is treated as giving rise to a prohibited transaction on the date the transaction occurs, and an additional prohibited transaction on the first day of each succeeding tax year (or portion of a tax year) within the taxable period that begins on the date the loan occurs. Therefore, in this example, there are two prohibited transactions, the first occurring on July 1, 2022, and ending on December 31, 2022, and the second occurring on January 1, 2023, and ending on December 31, 2023.

Section 4975(a) imposes a 15% excise tax on the amount involved for each tax year or part thereof in the taxable period of each prohibited transaction.

The Form 5330 for the year ending December 31,

2022. The amount involved to be reported in Form 5330, Schedule C, line 2, column (d), for the 2022 plan year, is \$6,000 (6 months x \$1,000). The tax due is \$900 (\$6,000 x 15%). (See Figure 1 above.) (Any interest and penalties imposed for the delinquent filing of Form 5330 and the delinquent payment of the excise tax for 2022 will be billed separately to the disqualified person.)

The Form 5330 for the year ending December 31, 2023. The excise tax to be reported on the 2023 Form 5330 would include both the prohibited transaction of July 1, 2022, with an amount involved of \$6,000, resulting in a tax due of \$900 (\$6,000 x 15%), and the second prohibited transaction of January 1, 2023, with an amount involved of \$12,000 (12 months x \$1,000), resulting in a tax due of \$1,800 (\$12,000 x 15%). (See Figure 2, later.) The taxable period for the

second prohibited transaction runs from January 1, 2023, through December 31, 2023 (date of correction). Because there are two prohibited transactions with taxable periods running during 2023, the section 4975(a) tax is due for the 2023 tax year for both prohibited transactions.



When a loan from a qualified plan that is a prohibited transaction spans successive tax years, constituting multiple prohibited transactions, and during those years the first tier prohibited transaction excise tax rate changes, the first tier excise tax liability for each prohibited transaction is the sum of the products resulting from multiplying the amount involved for each year in the taxable period for that prohibited transaction by the excise tax rate in effect at the beginning of that taxable period. For more information, see www.irs.gov/pub/irs-irbs/irb02-28.pdf. Unlike

the previous example, the example in Rev. Rul. 2002-43 contains unpaid interest.

Additional tax for failure to correct the prohibited transaction (section 4975(b)).

To avoid liability for additional taxes and penalties, and in some cases further initial taxes, a correction must be made within the taxable period. The term “correction” is defined as undoing the prohibited transaction to the extent possible, but in any case placing the plan in a financial position not worse than that in which it would be if the disqualified person were acting under the highest fiduciary standards.

If the prohibited transaction is not corrected within the taxable period, an additional tax equal to 100% of the amount involved will be imposed under section 4975(b). Any disqualified person who participated in the prohibited transaction (other than a fiduciary acting only as such) must pay this tax

imposed by section 4975(b). Report the additional tax on Part I, Section A, line 3b.

Line 4. Check “No” if there has not been a correction of all of the prohibited transactions by the end of the tax year for which this Form 5330 is being filed. Attach a statement including item number from line 2a and description indicating when the correction will be made.

Line 5. If more than one disqualified person participated in the same prohibited transaction, list on this schedule the name, address, and SSN or EIN of each disqualified person, other than the disqualified person who files this return.

For all transactions, complete columns (a), (b), and (c). If the transaction has been corrected, complete columns (a) through (e). If additional space is needed, you may attach a statement fully explaining the correction and identifying persons involved in the prohibited transaction.

Prohibited transactions and investment advice. The prohibited transaction rules of section 4975(c) will not apply to any transaction in connection with investment advice if the investment advice provided by a fiduciary adviser is provided under an eligible investment advice arrangement.

For this purpose, an “eligible investment advice arrangement” is an arrangement that either:

- Provides that any fees, including any commission or other compensation, received by the fiduciary adviser for investment advice or with respect to the sale, holding, or acquisition of any security or other property for the investment of plan assets do not vary depending on the basis of any investment option selected; or
- Uses a computer model under an investment advice program, described in section 4975(f)(8)(C), in connection with

investment advice provided by a fiduciary adviser to a participant or beneficiary.

Additionally, the eligible investment advice arrangement must meet the provisions of sections 4975(f)(8)(D), (E), (F), (G), (H), and (I).

For purposes of the statutory exemption on investment advice, a “fiduciary adviser” is defined in section 4975(f)(8)(J).

Correcting certain prohibited transactions. Generally, if a disqualified person enters into a direct or indirect prohibited transaction, listed in (1) through (4) below, in connection with the acquisition, holding, or disposition of certain securities or commodities, and the transaction is corrected within the correction period, it will not be treated as a prohibited transaction and no tax will be assessed.

1. Sale or exchange, or leasing of any property between a plan and a disqualified person.
2. Lending of money or other extension of credit between a plan and a disqualified person.
3. Furnishing of goods, services, or facilities between a plan and a disqualified person.
4. Transfer to, or use by or for the benefit of, a disqualified person of income or assets of a plan.

However, if, at the time the transaction was entered into, the disqualified person knew or had reason to know that the transaction was prohibited, the transaction would be subject to the tax on prohibited transactions.

For purposes of section 4975(d)(23), the term “correct” means to:

- Undo the transaction to the extent possible and in all cases to make good to the plan or affected account any losses resulting from the transaction, and
- Restore to the plan or affected account any profits made through the use of assets of the plan.

The “correction period” is the 14-day period beginning on the date on which the disqualified person discovers or reasonably should have discovered that the transaction constitutes a prohibited transaction.

Schedule D. Tax on Failure To Meet Minimum Funding Standards (Section 4971(a))

In the case of a single-employer plan, section 4971(a) imposes a 10% tax on the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year. In the case of a multiemployer plan, section 4971(a) imposes a 5% tax on

the amount of the accumulated funding deficiency determined as of the end of the plan year.

If a plan fails to meet the funding requirements under section 412, the employer and all controlled group members will be subject to excise taxes under sections 4971(a) and (b).

Except in the case of a multiemployer plan, all members of a controlled group are jointly and severally liable for this tax. A “controlled group” in this case means a controlled group of corporations under section 414(b), a group of trades or businesses under common control under section 414(c), an affiliated service group under section 414(m), and any other group treated as a single employer under section 414(o).



If the IRS determined at any time that your plan was a plan as defined on Schedule C, it will always remain

subject to the excise tax on failure to meet minimum funding standards.

Line 1. Enter the amount (if any) of the aggregate unpaid minimum required contributions (or in the case of a multiemployer plan, an accumulated funding deficiency as defined in section 431(a) (or section 418B if a multiemployer plan in reorganization)).

Line 2. Multiply line 1 by the applicable tax rate shown below and enter the result.

- 10% for plans other than multiemployer plans.
- 5% for all multiemployer plans.

Additional tax for failure to correct. For single-employer plans, when an initial tax is imposed under section 4971(a) on any unpaid minimum required contribution and the unpaid minimum required contribution remains unpaid as of the close of the taxable period, an additional tax of 100% of the

amount that remains unpaid is imposed under section 4971(b).

For multiemployer plans, when an initial tax is imposed under section 4971(a)(2) on an accumulated funding deficiency and the accumulated funding deficiency is not corrected within the taxable period, an additional tax equal to 100% of the accumulated funding deficiency, to the extent not corrected, is imposed under section 4971(b).

For this purpose, the “taxable period” is the period beginning with the end of the plan year where there is an unpaid minimum required contribution or an accumulated funding deficiency and ending on the earlier of:

- The date the notice of deficiency for the section 4971(a) excise tax is mailed, or
- The date the section 4971(a) excise tax is assessed.

Report the tax for failure to correct the unpaid minimum required contribution or the accumulated funding deficiency on Part I, Section B, line 8b.

Schedule E. Tax on Failure To Pay Liquidity Shortfall (Section 4971(f)(1))

If your plan has a liquidity shortfall for which an excise tax under section 4971(f)(1) is imposed for any quarter of the plan year, complete lines 1 through 4.

Line 1. Enter the amount of the liquidity shortfall(s) for each quarter of the plan year.

Line 2. Enter the amount of any contributions made to the plan by the due date of the required quarterly installment(s) that partially corrected the liquidity shortfall(s) reported on line 1.

Line 3. Enter the net amount of the liquidity shortfall. (Subtract line 2 from line 1.)

Additional tax for failure to correct liquidity shortfall. If the plan has a liquidity shortfall as of the close of any quarter and as of the close of the following 4 quarters, an additional tax will be imposed under section 4971(f)(2) equal to the amount on which tax was imposed by section 4971(f)(1) for such quarter. Report the additional tax on Part I, Section B, line 9b.

Schedule F. Tax on Multiemployer Plans in Endangered or Critical Status (Sections 4971(g)(3) and 4971(g)(4))

For years beginning after 2007, section 4971(g) imposes an excise tax on employers who contribute to multiemployer plans for failure to comply with a funding improvement or rehabilitation plan, failure to meet requirements for plans in endangered or critical status, or failure to adopt a rehabilitation plan. See the instructions for line 10a, earlier.

Line 1. Under section 4971(g)(3), a multiemployer plan that is in seriously endangered status when it fails to meet its applicable benchmarks by the end of the funding improvement period will be treated as having an accumulated funding deficiency for the last plan year in such period and each succeeding year until the funding benchmarks are met.

Similarly, a plan that is in critical status and either fails to meet the requirements of section 432 by the end of the rehabilitation period, or has received certification under section 432(b)(3)(A)(ii) for 3 consecutive plan years that the plan is not making the scheduled progress in meeting its requirements under the rehabilitation plan, will be treated as having an accumulated funding deficiency for the last plan year in such period and each succeeding plan year until the funding requirements are met.

In both cases, the accumulated funding deficiency is an amount equal to the greater of the amount of the contributions necessary to meet the benchmarks or requirements, or the amount of the accumulated funding deficiency without regard to this rule. The existence of an accumulated funding deficiency triggers the initial 5% excise tax under section 4971(a).

A plan is in "endangered status" if either of the following occurs.

- The plan's actuary timely certifies that the plan is not in critical status for that plan year and at the beginning of that plan year the plan's funded percentage for the plan year is less than 80%.
- The plan has an accumulated funding deficiency for the plan year or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension

of amortization periods under section 431(d).

A plan is in “critical status” if it is determined by the multiemployer plan's actuary that one of the four formulas in section 432(b)(2) is met for the applicable plan year.

All or part of this excise tax may be waived due to reasonable cause.

Line 2. Under section 4971(g)(4), the plan sponsor of a multiemployer plan in critical status, as defined above, will be liable for an excise tax for failure to adopt a rehabilitation plan within the time prescribed under section 432. The tax is equal to the greater of:

- The amount of tax imposed under section 4971(a)(2); or
- An amount equal to \$1,100, multiplied by the number of days in the tax year which are included in the period that begins on the first day following the close of the 240-day period that a multiemployer plan

has to adopt a rehabilitation plan once it has entered critical status and that ends on the day the rehabilitation plan is adopted. Section 432(e)(1)(A) allows the plan sponsor to adopt a rehabilitation plan within the 240-day period following the required date for the actuarial certification of critical status in section 432(b)(3)(A).

Liability for this tax is imposed on each plan sponsor. This excise tax may not be waived.



Follow the instructions as defined above for counting days and completing line 2b.

Complete line 2b as instructed below. Enter the number of days during the tax year that are included in the period beginning on the first day following the close of the 240-day period and ending on the day the rehabilitation plan is adopted.

Schedule G. Tax on Excess Fringe Benefits (Section 4977)

If you made an election to be taxed under section 4977 to continue your nontaxable fringe benefit policy that was in existence on or after January 1, 1984, check "Yes" on line 1 and complete lines 2 through 4.

Line 3. Excess fringe benefits are calculated by subtracting 1% of the aggregate compensation paid by you to your employees during the calendar year that was includible in their gross income from the aggregate value of the nontaxable fringe benefits under sections 132(a)(1) and (2).

Schedule H. Tax on Excess Contributions to Certain Plans (Section 4979)

Any employer who maintains a plan described in section 401(a), 403(a), 403(b), 408(k), or 501(c)(18) may be subject to an excise tax on excess aggregate contributions made on behalf of highly compensated employees. The

employer may also be subject to an excise tax on excess contributions to a cash or deferred arrangement connected with the plan.

The tax is on the excess contributions and the excess aggregate contributions made to or on behalf of the highly compensated employees as defined in section 414(q).

Generally, a “highly compensated employee” is an employee who:

1. Was a 5% owner at any time during the year or the preceding year; or
2. For the preceding year, had compensation from the employer in excess of a dollar amount for the year (\$150,000 for 2023) and, if the employer so elects, was in the top paid group for the preceding year.

An employee is in the “top-paid group” for any year if the employee is in the group consisting of the top 20% of employees when

ranked on the basis of compensation paid. An employee (who is not a 5% owner) who has compensation in excess of \$150,000 is not a highly compensated employee if the employer elects the top-paid group limitation and the employee is not a member of the top-paid group.

The excess contributions subject to the section 4979 excise tax are equal to the amount by which employer contributions actually paid over to the trust exceed the employer contributions that could have been made without violating the special nondiscrimination requirements of section 401(k)(3) or section 408(k)(6) in the instance of certain SEPs.

The excess aggregate contributions subject to the section 4979 excise tax are equal to the amount by which the aggregate matching contributions of the employer and the employee contributions (and any qualified nonelective contribution or elective

contribution taken into account in computing the contribution percentage under section 401(m)) actually made on behalf of the highly compensated employees for each plan year exceed the maximum amount of contributions permitted in the contribution percentage computation under section 401(m)(2)(A).

However, there is no excise tax liability if the excess contributions or the excess aggregate contributions and any income earned on the contributions are distributed (or, if forfeitable, forfeited) to the participants for whom the excess contributions were made within 2¹/₂ months after the end of the plan year.

Schedule I. Tax on Reversion of Qualified Plan Assets to an Employer (Section 4980)

Section 4980 imposes an excise tax on an employer reversion of qualified plan assets to an employer. Generally, the tax is 20% of the amount of the employer reversion. The excise tax rate increases to 50% if the employer

does not establish or maintain a qualified replacement plan following the plan termination or provide certain pro-rata benefit increases in connection with the plan termination. See section 4980(d)(1)(A) or (B) for more information.

An “employer reversion” is the amount of cash and the FMV of property received, directly or indirectly, by an employer from a qualified plan. For exceptions to this definition, see section 4980(c)(2)(B) and section 4980(c)(3). A “qualified plan” is:

- Any plan meeting the requirements of section 401(a) or 403(a), other than a plan maintained by an employer if that employer has at all times been exempt from federal income tax; or
- A governmental plan within the meaning of section 414(d). ***Terminated defined benefit plan.*** If a defined benefit plan is terminated, and an amount in excess of 25% of the maximum amount otherwise

available for reversion is transferred from the terminating defined benefit plan to a defined contribution plan, the amount transferred is not treated as an employer reversion for purposes of section 4980. However, the amount the employer receives is subject to the 20% excise tax. For additional information, see Rev. Rul. 2003-85, 2003-32 I.R.B. 291 at www.irs.gov/irb/2003-32_IRB/ar11.html.

Lines 1 through 4. Enter the date of reversion on line 1. Enter the reversion amount on line 2a and the applicable excise tax rate on line 2b. If you use a tax percentage other than 50% on line 2b, explain on line 4 why you qualify to use a rate other than 50%.

Schedule J. Tax on Failure To Provide Notice of Significant Reduction in Future Accruals (Section 4980F)

Section 204(h) notice. Section 4980F imposes an excise tax on an employer (or, in the case of a multiemployer plan, the plan) for failure to give section 204(h) notice of plan amendments that provide for a significant reduction in the rate of future benefit accrual or the elimination or significant reduction of an early retirement benefit or retirement-type subsidy. The tax is \$100 per day per each applicable individual and each employee organization representing participants who are applicable individuals for each day of the noncompliance period. This notice is called a “section 204(h) notice” because section 204(h) of ERISA has parallel notice requirements.

An “applicable individual” is a participant in the plan, or an alternate payee of a participant under a qualified domestic relations order, whose rate of future benefit accrual (or early retirement benefit or retirement-type subsidy) under the plan may

reasonably be expected to be significantly reduced by a plan amendment. (For plan years beginning after December 31, 2007, the requirement to give 204(h) notice was extended to an employer who has an obligation to contribute to a multiemployer plan.)

Whether a participant, alternate payee, or an employer (as described in the above paragraph) is an applicable individual is determined on a typical business day that is reasonably approximate to the time the section 204(h) notice is provided (or on the latest date for providing section 204(h) notice, if earlier), based on all relevant facts and circumstances. For more information in determining whether an individual is a participant or alternate payee, see Regulations section 54.4980F-1, Q&A 10.

The “noncompliance period” is the period beginning on the date the failure first occurs and ending on the date the notice of failure is provided or the failure is corrected.

Exceptions. The section 4980F excise tax will not be imposed for a failure during any period in which the following occurs.

1. Any person subject to liability for the tax did not know that the failure existed and exercised reasonable diligence to meet the notice requirement. A person is considered to have exercised reasonable diligence but did not know the failure existed only if:
 - a. The responsible person exercised reasonable diligence in attempting to deliver section 204(h) notice to applicable individuals by the latest date permitted; or
 - b. At the latest date permitted for delivery of section 204(h) notice,

the person reasonably believed that section 204(h) notice was actually delivered to each applicable individual by that date.

2. Any person subject to liability for the tax exercised reasonable diligence to meet the notice requirement and corrects the failure within 30 days after the employer (or other person responsible for the tax) knew, or exercising reasonable diligence would have known, that the failure existed.

Generally, section 204(h) notice must be provided at least 45 days before the effective date of the section 204(h) amendment. For exceptions to this rule, see Regulations section 54.4980F-1, Q&A 9.

If the person subject to liability for the excise tax exercised reasonable diligence to meet the notice requirement, the total excise tax imposed during a tax year of the employer will not exceed \$500,000. Furthermore, in the

case of a failure due to reasonable cause and not to willful neglect, the Secretary of the Treasury is authorized to waive the excise tax to the extent that the payment of the tax would be excessive relative to the failure involved. See Rev. Proc. 2013-4, 2013-1 I.R.B. 123, as revised by subsequent documents, available at www.irs.gov/irb/2013-01_IRB/ar09.html, for procedures to follow in applying for a waiver of part or all of the excise tax due to reasonable cause.

Line 4. A *failure* occurs on any day that any applicable individual (AI) is not provided section 204(h) notice.

Example. There are 1,000 AIs. The plan administrator fails to give section 204(h) notice to 100 AIs for 60 days, and to 50 of those AIs for an additional 30 days. In this case, there are 7,500 failures ((100 AIs x 60 days) + (50 AIs x 30 days) = 7,500).

Schedule K. Tax on Prohibited Tax Shelter Transactions (Section 4965)

Section 4965 provides that an entity manager of a tax-exempt organization may be subject to an excise tax on prohibited tax shelter transactions under section 4965. In the case of a plan entity, an *entity manager* is any person who approves or otherwise causes the tax-exempt entity to be a party to a prohibited tax shelter transaction. The excise tax is \$20,000 and is assessed for each approval or other act causing the organization to be a party to the prohibited tax shelter transaction.

Schedule L. Tax on Failure of a Cooperative and Small Employer Charity (CSEC) Plan Sponsor To Adopt Funding Restoration Plan (Section 4971(h))

A CSEC plan is:

- a defined benefit plan (other than a multiemployer plan) including an eligible cooperative plan (as defined in section 104 of the PPA '06);

- a plan that, as of June 25, 2010, was maintained by more than one section 501(c)(3) organization;

- a plan that, as of June 25, 2010, was maintained by a single employer that was a 501(c)(3) organization chartered under Part B, Subtitle II, Title 36 of the U.S.C., whose primary exempt purpose is to provide services with respect to children, and which has employees in at least 40 states; or

- any plan that, as of January 1, 2000, was maintained by an employer that is a 501(c)(3) organization, has been in existence since at least 1938, conducts medical research directly or indirectly

through grant making, and has a primary exempt purpose to provide services with respect to mothers and children (section 414(y)(1), amended by section 3609 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136)).

Section 433(j)(3) requires a CSEC plan sponsor to establish a written funding restoration plan within 180 days of the receipt by the plan sponsor of a certification from the plan actuary that the plan is in funding restoration status for a plan year. Section 4971(h) imposes an excise tax on the CSEC plan sponsor for the plan in funding restoration status for the failure to adopt a funding restoration plan within the time prescribed under section 433(j)(3).

A CSEC plan is treated as being in funding restoration status for a plan year if the plan's funded percentage as of the beginning of such plan year is less than 80%. Funded percentage means the ratio that the value of

plan assets bears to the plan's funding liability.

Line 1. Under section 4971(h)(2), the excise tax amount with respect to any CSEC plan sponsor for any tax year should be the amount equal to \$100 multiplied by the number of days during the tax year that are included in the period beginning on the day following the close of the 180-day period described in section 433(j)(3) and ending on the day on which the funding restoration plan is adopted.

Line 2. Calculate the excise tax amount by multiplying days entered on line 1 by \$100. Enter the excise tax amount on line 2 and on Part I, line 10d.

All or part of this excise tax may be waived if the IRS determines that a failure is due to reasonable cause and not to willful neglect.

Privacy Act and Paperwork Reduction Act

Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. This form is required to be filed under sections 4965, 4971, 4972, 4973, 4975, 4976, 4977, 4978, 4979, 4979A, 4980, and 4980F of the Internal Revenue Code. Section 6109 requires you to provide your identifying number. If you fail to provide this information in a timely manner, you may be liable for penalties and interest. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to federal and state or local agencies to enforce federal nontax criminal laws and to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act

unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping.....	30 hr., 22 min.
Learning about the law or the form.....	15 hr., 45 min.
Preparing and sending the form to the IRS.....	18 hr., 08 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from [IRS.gov/FormsComments](https://www.irs.gov/formscomments). Or you can write to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send Form 5330 to this address. Instead, see *Where To File*, earlier.

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