

26 USC 7454: Burden of proof in fraud, foundation manager, and transferee cases Text contains those laws in effect on September 25, 2026

From Title 26-INTERNAL REVENUE CODES Subtitle F-Procedure and Administration CHAPTER 76-JUDICIAL PROCEEDINGS Subchapter C-The Tax Court PART II-PROCEDURE

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§7454. Burden of proof in fraud, foundation manager, and transferee cases

(a) Fraud

In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, the burden of proof in respect of such issue shall be upon the Secretary.

(b) Foundation managers

In any proceeding involving the issue whether a foundation manager (as defined in section 4946(b)) has "knowingly" participated in an act of self-dealing (within the meaning of section 4941), participated in an investment which jeopardizes the carrying out of exempt purposes (within the meaning of section 4944), or agreed to the making of a taxable expenditure (within the meaning of section 4945), or whether the trustee of a trust described in section 501(c)(21) has "knowingly" participated in an act of self-dealing (within the meaning of section 4951) or agreed to the making of a taxable expenditure (within the meaning of section 4952), or whether an organization manager (as defined in section 4955(f)(2)) has "knowingly" agreed to the making of a political expenditure (within the meaning of section 4955), or whether an organization manager (as defined in section 4912(d)(2)) has "knowingly" agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), or whether an organization manager (as defined in section 4958(f)(2)) has "knowingly" participated in an excess benefit transaction (as defined in section 4958(c)), the burden of proof in respect of such issue shall be upon the Secretary.

(c) Cross reference

For provisions relating to burden of proof as to transferee liability, see section 6902(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 884 ; Pub. L. 91–172, title I, §101(j)(57), Dec. 30, 1969, 83 Stat. 532 ; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 ; Pub. L. 95–227, §4(d)(7), Feb. 10, 1978, 92 Stat. 23 ; Pub. L. 96–222, title I, §108(b)(3)(B), Apr. 1, 1980, 94 Stat. 226 ; Pub. L. 100–203, title X, §§10712(c)(6), 10714(b), Dec. 22, 1987, 101 Stat. 1330–467 , 1330–471; Pub. L. 104–168, title XIII, §1311(c)(5), July 30, 1996, 110 Stat. 1478 ; Pub. L. 104–188, title I, §1704(t)(43), Aug. 20, 1996, 110 Stat. 1889 ; Pub. L. 115–141, div. U, title IV, §401(a)(329), Mar. 23, 2018, 132 Stat. 1200 .)

Editorial Notes

Amendments

2018-Subsec. (b). Pub. L. 115–141 substituted "4955)," for "4955),,,".

1996-Subsec. (b). Pub. L. 104–188 substituted "section 4955(f)(2)" for "section 4955(e)(2)".

Pub. L. 104–168 inserted "or whether an organization manager (as defined in section 4958(f)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4958(c))," after "section 4912(b),".

1987-Subsec. (b). Pub. L. 100–203, §10714(b), substituted ", or whether an organization manager (as defined in section 4912(d)(2)) has 'knowingly' agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), the burden of proof" for "the burden of proof".

Pub. L. 100–203, §10712(c)(6), substituted "or whether an organization manager (as defined in section 4955(e)(2)) has 'knowingly' agreed to the making of a political expenditure (within the meaning of section 4955), the burden of proof" for "the burden of proof".

1980-Subsec. (b). Pub. L. 96–222 substituted "section 501(c)(21)" for "section 502(c)(21)".

1978-Subsec. (b). Pub. L. 95–227 inserted provision relating to trustees of a trust described under section 502(c)(21) of this title.

1976-Subsecs. (a), (b). Pub. L. 94–455 struck out "or his delegate" after "Secretary".

1969-Pub. L. 91–172 inserted ", foundation manager" in section catchline.

Subsecs (b), (c). Pub. L. 91–172 added subsec. (b) and redesignated former subsec. (b) as (c).

Statutory Notes and Related Subsidiaries

Effective Date of 1996 Amendment

Amendment by Pub. L. 104–168 applicable to excess benefit transactions occurring on or after Sept. 14, 1995, and not applicable to any benefit arising from a transaction pursuant to any written contract which was binding on Sept. 13, 1995, and at all times thereafter before such transaction occurred, see section 1311(d)(1), (2) of Pub. L. 104–168, set out as a note under section 4955 of this title.

Effective Date of 1987 Amendment

Amendment by section 10712(c)(6) of Pub. L. 100–203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100–203, set out as an Effective Date note under section 4955 of this title.

Amendment by section 10714(b) of Pub. L. 100–203 applicable to taxable years beginning after Dec. 22, 1987, see section 10714(e) of Pub. L. 100–203, set out as an Effective Date note under section 4912 of this title.

Effective Date of 1980 Amendment

Amendment by Pub. L. 96–222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95–227, see section 108(b)(4) of Pub. L. 96–222, set out as a note under section 192 of this title.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95–227, set out as an

Effective Date note under section 192 of this title.

Effective Date of 1969 Amendment

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

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