

Example 19. Assume the same facts as stated in *Example 18*, except that instead of making a deposit of \$h into B, Y enters into a guarantee agreement with B. The guarantee agreement provides that if X defaults on the loan, Y will repay the balance due on the loan to B. B was unwilling to make the loan to X in the absence of Y's guarantee. X must use the proceeds from the loan to construct the new child care facility. At the same time, X and Y enter into a reimbursement agreement whereby X agrees to reimburse Y for any and all amounts paid to B under the guarantee agreement. The signed guarantee and reimbursement agreements together constitute a "guarantee and reimbursement arrangement." Y's primary purpose in entering into the guarantee and reimbursement arrangement is to further Y's educational purposes. No significant purpose of the guarantee and reimbursement arrangement involves the production of income or the appreciation of property. The guarantee and reimbursement arrangement significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the guarantee and reimbursement arrangement and Y's exempt activities. Accordingly, the guarantee and reimbursement arrangement is a program-related investment.

(c) *Effective/applicability date.* Paragraphs (a)(2)(ii) and (b), *Examples 11* through *19* of this section, apply on or after April 25, 2016.

[T.D. 7240, 37 FR 28747, Dec. 27, 1972, as amended by T.D. 9762, 81 FR 24017, Apr. 25, 2016]

§ 53.4944-4 Special rules.

(a) *Joint and several liability.* In any case where more than one foundation manager is liable for the tax imposed under section 4944 (a)(2) or (b)(2) with respect to any one jeopardizing investment, all such foundation managers shall be jointly and severally liable for the tax imposed under each such paragraph with respect to such investment.

(b) *Limits on liability for management.* With respect to anyone jeopardizing investment, the maximum aggregate amount of tax collectible under section 4944(a)(2) from all foundation managers shall not exceed \$5,000, and the maximum aggregate amount of tax collectible under section 4944(b)(2) from all foundation managers shall not exceed \$10,000.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example 1. A, B, and C are foundation managers of X, a private foundation. Assume that A, B, and C are liable for both initial and additional taxes under sections 4944(a)(2) and 4944(b)(2), respectively, for the following investments by X: an investment of \$5,000 in the common stock of corporation M, and an investment of \$10,000 in the common stock of corporation N. A, B, and C will be jointly and severally liable for the following initial taxes under section 4944(a)(2): a tax of \$250 (*i.e.*, 5 percent of \$5,000) for each year (or part thereof) in the taxable period (as defined in section 4944(e)(1)) for the investment in M, and a tax of \$500 (*i.e.*, 5 percent of \$10,000) for each year (or part thereof) in the taxable period for the investment in N. Further, A, B, and C will be jointly and severally liable for the following additional taxes under section 4944(b)(2): a tax of \$250 (*i.e.*, 5 percent of \$5,000) for the investment in M, and a tax of \$500 (*i.e.*, 5 percent of \$10,000) for the investment in N.

Example 2. Assume the facts as stated in *Example 1*, except that X has invested \$500,000 in the common stock of M, and \$1 million in the common stock of N. A, B, and C will be jointly and severally liable for the following initial taxes under section 4944(a)(2): a tax of \$5,000 for the investment in M, and a tax of \$5,000 for the investment in N. Further, A, B, and C will be jointly and severally liable for the following additional taxes under section 4944(b)(2): a tax of \$10,000 for the investment in M, and a tax of \$10,000 for the investment in N.

§ 53.4944-5 Definitions.

(a) *Taxable period*—(1) *In general.* For purposes of section 4944, the term "taxable period" means, with respect to any investment which jeopardizes the carrying out of a private foundation's exempt purposes, the period beginning with the date on which the amount is invested and ending on the earliest of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on the making of the investment by section 4944(a)(1);

(ii) The date on which the amount invested is removed from jeopardy; or

(iii) The date on which the tax imposed by section 4944(a)(1) is assessed.

(2) *Special rule.* Where a notice of deficiency referred to in subparagraph (1) (i) of this paragraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively,