

This chapter, referred to in subsec. (c)(1), was in the original “this Act”, meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Section 1017(d) of this Act, referred to in subsec. (d), is section 1017 of Pub. L. 93-406, which is set out as an Effective Date; Transitional Rules note under section 410 of Title 26.

AMENDMENTS

1989—Subsecs. (c)(1), (d). Pub. L. 101-239, §7891(a)(1), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26”.

Subsec. (f). Pub. L. 101-239, §7894(h)(2), added subsec. (f).

1986—Subsec. (c)(1). Pub. L. 99-272 made a technical amendment to the reference to section 1086(c) of this title to reflect the renumbering of the corresponding section of the original act.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7891(a)(1) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

Amendment by section 7894(h)(2) of Pub. L. 101-239 effective, except as otherwise provided, as if originally included in the provision of the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, to which such amendment relates, see section 7894(i) of Pub. L. 101-239, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 applicable with respect to applications for waivers, extensions, and modifications filed on or after Apr. 7, 1986, see section 11015(a)(3) of Pub. L. 99-272, set out as an Effective Date note under section 412 of Title 26, Internal Revenue Code.

PART 3—FUNDING

§ 1081. Coverage

(a) Plans excepted from applicability of this part

This part shall apply to any employee pension benefit plan described in section 1003(a) of this title, (and not exempted under section 1003(b) of this title), other than—

- (1) an employee welfare benefit plan;
- (2) an insurance contract plan described in subsection (b) of this section;
- (3) a plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees;
- (4)(A) a plan which is established and maintained by a society, order, or association described in section 501(c)(8) or (9) of title 26, if no part of the contributions to or under such plan are made by employers of participants in such plan; or
 - (B) a trust described in section 501(c)(18) of title 26;
- (5) a plan which has not at any time after September 2, 1974, provided for employer contributions;
- (6) an agreement providing payments to a retired partner or deceased partner or a deceased partner's successor in interest as described in section 736 of title 26;

(7) an individual retirement account or annuity as described in section 408(a) of title 26, or a retirement bond described in section 409 of title 26 (as effective for obligations issued before January 1, 1984);

(8) an individual account plan (other than a money purchase plan) and a defined benefit plan to the extent it is treated as an individual account plan (other than a money purchase plan) under section 1002(35)(B) of this title;

(9) an excess benefit plan; or

(10) any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this chapter.

(b) “Insurance contract plan” defined

For the purposes of paragraph (2) of subsection (a) of this section a plan is an “insurance contract plan” if—

(1) the plan is funded exclusively by the purchase of individual insurance contracts,

(2) such contracts provide for level annual premium payments to be paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase became effective),

(3) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

(4) premiums payable for the plan year, and all prior plan years under such contracts have been paid before lapse or there is reinstatement of the policy,

(5) no rights under such contracts have been subject to a security interest at any time during the plan year, and

(6) no policy loans are outstanding at any time during the plan year.

A plan funded exclusively by the purchase of group insurance contracts which is determined under regulations prescribed by the Secretary of the Treasury to have the same characteristics as contracts described in the preceding sentence shall be treated as a plan described in this subsection.

(c) Applicability of this part to terminated multi-employer plans

This part applies, with respect to a terminated multiemployer plan to which section 1321 of this title applies, until the last day of the plan year in which the plan terminates, within the meaning of section 1341a(a)(2) of this title.

(Pub. L. 93-406, title I, §301, Sept. 2, 1974, 88 Stat. 868; Pub. L. 96-364, title III, §304(a), title IV, §411(b), Sept. 26, 1980, 94 Stat. 1293, 1308; Pub. L.

101-239, title VII, §§ 7891(a)(1), 7894(d)(1)(A), (4)(A), Dec. 19, 1989, 103 Stat. 2445, 2449; Pub. L. 109-280, title II, § 201(c)(1), Aug. 17, 2006, 120 Stat. 868.)

REFERENCES IN TEXT

Section 409 of title 26, referred to in subsec. (a)(7), means section 409 of Title 26, Internal Revenue Code, prior to its repeal by Pub. L. 98-369, div. A, title IV, § 491(b), July 18, 1984, 98 Stat. 848, applicable to obligations issued after Dec. 31, 1983.

This chapter, referred to in subsec. (a)(10), was in the original “this Act”, meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109-280 struck out heading and text of subsec. (d). Text read as follows: “Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary of the Treasury.”

1989—Subsec. (a)(4)(A), (6). Pub. L. 101-239, § 7891(a)(1), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Subsec. (a)(7). Pub. L. 101-239, § 7894(d)(4)(A), substituted “section 409 of title 26 (as effective for obligations issued before January 1, 1984)” for “section 409 of title 26”.

Subsec. (a)(8). Pub. L. 101-239, § 7894(d)(1)(A)(i), struck out “or” after semicolon at end.

Subsec. (a)(9). Pub. L. 101-239, § 7894(d)(1)(A)(ii), substituted “; or” for period at end.

Subsec. (a)(10). Pub. L. 101-239, § 7894(d)(1)(A)(iii), substituted “any” for “Any”.

1980—Subsec. (a)(10). Pub. L. 96-364, § 411(b), added par. (10).

Subsecs. (c), (d). Pub. L. 96-364, § 304(a), added subsecs. (c) and (d).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title II, § 201(d), Aug. 17, 2006, 120 Stat. 868, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting section 1084 of this title and amending this section] shall apply to plan years beginning after 2007.

“(2) SPECIAL RULE FOR CERTAIN AMORTIZATION EXTENSIONS.—If the Secretary of the Treasury grants an extension under section 304 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1084] and section 412(e) of the Internal Revenue Code of 1986 [former 26 U.S.C. 412(e)] with respect to any application filed with the Secretary of the Treasury on or before June 30, 2005, the extension (and any modification thereof) shall be applied and administered under the rules of such sections as in effect before the enactment of this Act [Aug. 17, 2006], including the use of the rate of interest determined under section 6621(b) of such Code [26 U.S.C. 6621(b)].”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7891(a)(1) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

Section 7894(d)(1)(B) of Pub. L. 101-239 provided that: “The amendments made by subparagraph (A) [amending this section] shall take effect as if included in sec-

tion 411 of the Multiemployer Pension Plan Amendments Act of 1980 [Pub. L. 96-364].”

Section 7894(d)(4)(B) of Pub. L. 101-239 provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if originally included in section 491(b) of Public Law 98-369.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-364 effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

REGULATIONS

Secretary authorized, effective Sept. 2, 1974, to promulgate regulations wherever provisions of this subchapter call for the promulgation of regulations, see section 1031 of this title.

SPECIAL RULE FOR CERTAIN BENEFITS FUNDED UNDER AN AGREEMENT APPROVED BY THE PENSION BENEFIT GUARANTY CORPORATION

For applicability of amendment by Pub. L. 109-280 to a multiemployer plan that is a party to an agreement that was approved by the Pension Benefit Guaranty Corporation prior to June 30, 2005, and that increases benefits and provides for certain withdrawal liability rules, see section 206 of Pub. L. 109-280, set out as a note under section 412 of Title 26, Internal Revenue Code.

§ 1082. Minimum funding standards

(a) Requirement to meet minimum funding standard

(1) In general

A plan to which this part applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

(2) Minimum funding standard

For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

(A) in the case of a defined benefit plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which, in the aggregate, are not less than the minimum required contribution determined under section 1083 of this title for the plan for the plan year,

(B) in the case of a money purchase plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan, and

(C) in the case of a multiemployer plan, the employers make contributions to or under the plan for any plan year which, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 1084 of this title as of the end of the plan year.

(b) Liability for contributions

(1) In general

Except as provided in paragraph (2), the amount of any contribution required by this section (including any required installments under paragraphs (3) and (4) of section 1083(j) of this title) shall be paid by the employer responsible for making contributions to or under the plan.