

§ 4007.12

(i) The applicable due date specified in paragraph (a)(1), (a)(2), or (a)(3) of this section, or

(ii) 30 days after the date on which the amendment changing the plan year was adopted.

(c) *Due dates for new and newly covered plans.* Notwithstanding paragraph (a) of this section, the due date for the flat-rate premium and any variable-rate premium for the first plan year of coverage of any new plan or newly covered plan is the latest of—

(1) The last day of the sixteenth full calendar month that began on or after the first day of the premium payment year (the effective date, in the case of a new plan), or

(2) 90 days after the date of the plan's adoption.

(d) *Continuing obligation to file.* The obligation to make flat-rate and (as applicable) variable-rate premium filings and payments under this part continues through the plan year in which all plan assets are distributed pursuant to a plan's termination or in which a trustee is appointed under section 4042 of ERISA, whichever occurs earlier.

[61 FR 34020, July 1, 1996, as amended at 63 FR 68685, Dec. 14, 1998; 71 FR 31081, June 1, 2006; 72 FR 71229, Dec. 17, 2007; 73 FR 15077, Mar. 21, 2008]

§ 4007.12 Liability for single-employer premiums.

(a) The designation under this part of the plan administrator as the person required to make flat-rate and variable-rate premium filings and payments under this part for a single-employer plan is a procedural requirement only and does not alter the liability for premium payments imposed by section 4007 of ERISA. Pursuant to section 4007(e) of ERISA, both the plan administrator and the contributing sponsor of a single-employer plan are liable for flat-rate and variable-rate premium payments, and, if the contributing sponsor is a member of a controlled group, each member of the controlled group is jointly and severally liable for the required premiums. Any entity that is liable for required premiums is also liable for any interest and penalties assessed with respect to such premiums.

29 CFR Ch. XL (7-1-10 Edition)

(b) For any plan year in which a plan administrator issues (pursuant to section 4041(a)(2) of ERISA) notices of intent to terminate in a distress termination under section 4041(c) of ERISA or the PBGC initiates a termination proceeding under section 4042 of ERISA, and for each plan year thereafter, the obligation to pay the premiums (and any interest or penalties thereon) imposed by ERISA and this part for a single-employer plan shall be an obligation solely of the contributing sponsor and the members of its controlled group, if any.

(Approved by the Office of Management and Budget under control number 1212-0009)

[61 FR 34020, July 1, 1996, as amended at 72 FR 71229, Dec. 17, 2007]

§ 4007.13 Premiums for certain terminated single-employer plans.

(a) *Applicability*—(1) *In general.* This section applies where there is a “DRA 2005 termination” of a plan. Subject to paragraph (a)(2) of this section, there is a DRA 2005 termination where a single-employer plan's termination date under section 4048 of ERISA is after 2005 and either—

(i) The plan terminates under section 4042 of ERISA, or

(ii) The plan terminates under section 4041(c) of ERISA and at least one contributing sponsor or member of a contributing sponsor's controlled group meets the requirements of section 4041(c)(2)(B)(ii) or (iii) of ERISA.

(2) *Plans terminated during reorganization proceedings.* Except as provided in paragraph (a)(3) of this section, a DRA 2005 termination of a plan does not occur where as of the plan's termination date under section 4048 of ERISA—

(i) A bankruptcy proceeding has been filed by or against any person that was a contributing sponsor of the plan on the day before the plan's termination date or that was on that day a member of any controlled group of which any such contributing sponsor was a member,

(ii) The proceeding is pending as a reorganization proceeding under chapter 11 of title 11, United States Code (or under any similar law of a State or political subdivision of a State),