

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by 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.

EFFECTIVE DATE

Part, relating to multiemployer plan reorganization, effective, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of the date on which the last collective-bargaining agreement providing for employer contributions under the plan, which was in effect on Sept. 26, 1980, expires, without regard to extensions agreed to after Sept. 26, 1980, or three years after Sept. 26, 1980, see section 1461(e)(3) of this title.

§ 1422. Notice of reorganization and funding requirements

(a)(1) If—

(A) a multiemployer plan is in reorganization for a plan year, and

(B) section 1423 of this title would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, accrued benefits under the plan may be reduced or an excise tax may be imposed (or both such reduction and imposition may occur).

(2) The persons described in this paragraph are—

(A) each employer who has an obligation to contribute under the plan (within the meaning of section 1381(h)(5) of this title), and

(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

(3) The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 1424 of this title.

(b) The corporation may prescribe additional or alternative requirements for assuring, in the case of a plan with respect to which notice is required by subsection (a)(1) of this section, that the persons described in subsection (a)(2) of this section—

(1) receive appropriate notice that the plan is in reorganization,

(2) are adequately informed of the implications of reorganization status, and

(3) have reasonable access to information relevant to the plan's reorganization status.

(Pub. L. 93-406, title IV, § 4242, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1251.)

§ 1423. Minimum contribution requirement

(a) Maintenance of funding standard account; amount of accumulated funding deficiency

(1) For any plan year for which a plan is in reorganization—

(A) the plan shall continue to maintain its funding standard account while it is in reorganization, and

(B) the plan's accumulated funding deficiency under section 1084(a) of this title for

such plan year shall be equal to the excess (if any) of—

(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 1424(a) of this title) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such year or under section 1084(a) of this title if the plan was not in reorganization), over

(ii) amounts considered contributed by employers to or under the plan for the plan year (increased by any amount waived under subsection (f) of this section for the plan year).

(2) For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

(b) Determination of amount; applicable factors

(1) Except as otherwise provided in this section, for purposes of this part the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to the excess of—

(A) the sum of—

(i) the plan's vested benefits charge for the plan year, and

(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

(B) the amount of the overburden credit (if any) determined under section 1424 of this title for the plan year.

(2) If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this part other than this paragraph) and a fraction—

(A) the numerator of which is the plan's current contribution base for the plan year, and

(B) the denominator of which is the plan's valuation contribution base for the plan year.

(3)(A) If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term "cash-flow amount" for the term "vested benefits charge" in paragraph (1)(A).

(B) For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by