

## 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.

**§ 1349. Repealed. Pub. L. 100-203, title IX, § 9312(a), Dec. 22, 1987, 101 Stat. 1330-361**

Section, Pub. L. 93-406, title IV, § 4049, as added Pub. L. 99-272, title XI, § 11012(a), Apr. 7, 1986, 100 Stat. 258; amended Pub. L. 99-514, title XVIII, § 1879(u)(2), Oct. 22, 1986, 100 Stat. 2913; Pub. L. 100-203, title IX, § 9312(d)(2), Dec. 22, 1987, 101 Stat. 1330-364, related to distribution of liability payments to participants and beneficiaries.

## EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to plan terminations under section 1341 of this title with respect to which notices of intent to terminate are provided under section 1341(a)(2) of this title after Dec. 17, 1987, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 1342 of this title after that date, see section 9312(d)(1) of Pub. L. 100-203, as amended, set out as an Effective Date of 1987 Amendment note under section 1301 of this title.

**§ 1350. Missing participants**

**(a) General rule**

**(1) Payment to the corporation**

A plan administrator satisfies section 1341(b)(3)(A) of this title in the case of a missing participant only if the plan administrator—

(A) transfers the participant's designated benefit to the corporation or purchases an irrevocable commitment from an insurer in accordance with clause (i) of section 1341(b)(3)(A) of this title, and

(B) provides the corporation such information and certifications with respect to such designated benefits or irrevocable commitments as the corporation shall specify.

**(2) Treatment of transferred assets**

A transfer to the corporation under this section shall be treated as a transfer of assets from a terminated plan to the corporation as trustee, and shall be held with assets of terminated plans for which the corporation is trustee under section 1342 of this title, subject to the rules set forth in that section.

**(3) Payment by the corporation**

After a missing participant whose designated benefit was transferred to the corporation is located—

(A) in any case in which the plan could have distributed the benefit of the missing participant in a single sum without participant or spousal consent under section 1055(g) of this title, the corporation shall pay the participant or beneficiary a single sum benefit equal to the designated benefit paid the corporation plus interest as specified by the corporation, and

(B) in any other case, the corporation shall pay a benefit based on the designated benefit and the assumptions prescribed by the corporation at the time that the corporation received the designated benefit.

The corporation shall make payments under subparagraph (B) available in the same forms

and at the same times as a guaranteed benefit under section 1322 of this title would be available to be paid, except that the corporation may make a benefit available in the form of a single sum if the plan provided a single sum benefit (other than a single sum described in subsection (b)(2)(A) of this section).

**(b) Definitions**

For purposes of this section—

**(1) Missing participant**

The term "missing participant" means a participant or beneficiary under a terminating plan whom the plan administrator cannot locate after a diligent search.

**(2) Designated benefit**

The term "designated benefit" means the single sum benefit the participant would receive—

(A) under the plan's assumptions, in the case of a distribution that can be made without participant or spousal consent under section 1055(g) of this title;

(B) under the assumptions of the corporation in effect on the date that the designated benefit is transferred to the corporation, in the case of a plan that does not pay any single sums other than those described in subparagraph (A); or

(C) under the assumptions of the corporation or of the plan, whichever provides the higher single sum, in the case of a plan that pays a single sum other than those described in subparagraph (A).

**(c) Multiemployer plans**

The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this subchapter that terminate under section 1341a of this title.

**(d) Plans not otherwise subject to subchapter**

**(1) Transfer to corporation**

The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

**(2) Information to the corporation**

To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

(A) to the corporation, or

(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

**(3) Payment by the corporation**

If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

(A) in a single sum (plus interest), or

(B) in such other form as is specified in regulations of the corporation.

**(4) Plans described**

A plan is described in this paragraph if—