

in subsection (b) shall be applied by substituting the plan year which is specified in the amendment and for which the plan has no unfunded vested benefits for the plan year ending before September 26, 1980.

(d) Method of calculating allocable share of employer of unfunded vested benefits set forth in subsection (c)(3) of this section; applicability of certain statutory provisions

(1) The method of calculating an employer's allocable share of unfunded vested benefits set forth in subsection (c)(3) of this section shall be the method for calculating an employer's allocable share of unfunded vested benefits under a plan to which section 404(c) of title 26, or a continuation of such a plan, applies, unless the plan is amended to adopt another method authorized under subsection (b) or (c) of this section.

(2) Sections 1384, 1389, 1399(c)(1)(B), and 1405 of this title shall not apply with respect to the withdrawal of an employer from a plan described in paragraph (1) unless the plan is amended to provide that any of such sections apply.

(e) Reduction of liability of withdrawn employer in case of transfer of liabilities to another plan incident to withdrawal or partial withdrawal of employer

In the case of a transfer of liabilities to another plan incident to an employer's withdrawal or partial withdrawal, the withdrawn employer's liability under this part shall be reduced in an amount equal to the value, as of the end of the last plan year ending on or before the date of the withdrawal, of the transferred unfunded vested benefits.

(f) Computations applicable in case of withdrawal following merger of multiemployer plans

In the case of a withdrawal following a merger of multiemployer plans, subsection (b), (c), or (d) of this section shall be applied in accordance with regulations prescribed by the corporation; except that, if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination under this section shall be made as if each of the multiemployer plans had remained separate plans.

(Pub. L. 93-406, title IV, § 4211, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1226; amended Pub. L. 98-369, div. A, title V, § 558(b)(1)(A), (B), July 18, 1984, 98 Stat. 899; Pub. L. 101-239, title VII, § 7891(a)(1), Dec. 19, 1989, 103 Stat. 2445; Pub. L. 109-280, title II, § 204(c)(2), Aug. 17, 2006, 120 Stat. 887.)

AMENDMENTS

2006—Subsec. (c)(5)(E). Pub. L. 109-280 added subpar. (E).

1989—Subsec. (d)(1). Pub. L. 101-239 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.

1984—Subsec. (b). Pub. L. 98-369, § 558(b)(1)(A), (B), substituted "September 25, 1980" for "April 28, 1980" in pars. (1)(A) and (2)(A), (B)(ii)(II), and "September 26, 1980" for "April 29, 1980" in pars. (1)(B) and (2)(B)(ii)(I), (D), and in par. (3) in provisions preceding subpar. (A) and in subpar. (B)(i), (ii).

Subsec. (c)(2). Pub. L. 98-369, § 558(b)(1)(A), (B), substituted "September 25, 1980" for "April 28, 1980" in

subpars. (B)(ii)(II) and (C)(i)(II) and "September 26, 1980" for "April 29, 1980" in subpar. (B)(i), (ii)(I), (II).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable with respect to plan withdrawals occurring on or after Jan. 1, 2007, see section 204(c)(3) of Pub. L. 109-280, set out as a note under section 1390 of this title.

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.

§ 1392. Obligation to contribute

(a) "Obligation to contribute" defined

For purposes of this part, the term "obligation to contribute" means an obligation to contribute arising—

- (1) under one or more collective bargaining (or related) agreements, or
- (2) as a result of a duty under applicable labor-management relations law, but

does not include an obligation to pay withdrawal liability under this section or to pay delinquent contributions.

(b) Payments of withdrawal liability not considered contributions

Payments of withdrawal liability under this part shall not be considered contributions for purposes of this part.

(c) Transactions to evade or avoid liability

If a principal purpose of any transaction is to evade or avoid liability under this part, this part shall be applied (and liability shall be determined and collected) without regard to such transaction.

(Pub. L. 93-406, title IV, § 4212, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1233.)

§ 1393. Actuarial assumptions

(a) Use by plan actuary in determining unfunded vested benefits of a plan for computing withdrawal liability of employer

The corporation may prescribe by regulation actuarial assumptions which may be used by a plan actuary in determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part. Withdrawal liability under this part shall be determined by each plan on the basis of—

- (1) actuarial assumptions and methods which, in the aggregate, are reasonable (taking into account the experience of the plan and reasonable expectations) and which, in combination, offer the actuary's best estimate of anticipated experience under the plan, or
- (2) actuarial assumptions and methods set forth in the corporation's regulations for purposes of determining an employer's withdrawal liability.

(b) Factors determinative of unfunded vested benefits of plan for computing withdrawal liability of employer

In determining the unfunded vested benefits of a plan for purposes of determining an employer's