

(c) Amount of liability of employer; “a year of signatory service” defined

(1) The amount of an employer’s liability under this paragraph is the product of—

(A) the amount of the employer’s withdrawal liability determined without regard to this section, and

(B) the greater of 90 percent, or a fraction—

(i) the numerator of which is an amount equal to the portion of the plan’s unfunded vested benefits that is attributable to plan participants who have a total of 10 or more years of signatory service, and

(ii) the denominator of which is an amount equal to the total unfunded vested benefits of the plan.

(2) For purposes of paragraph (1), the term “a year of signatory service” means a year during any portion of which a participant was employed for an employer who was obligated to contribute in that year, or who was subsequently obligated to contribute.

(Pub. L. 93-406, title IV, §4216, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1234.)

§ 1397. Application of part in case of certain pre-1980 withdrawals; adjustment of covered plan

(a) For the purpose of determining the amount of unfunded vested benefits allocable to an employer for a partial or complete withdrawal from a plan which occurs after September 25, 1980, and for the purpose of determining whether there has been a partial withdrawal after such date, the amount of contributions, and the number of contribution base units, of such employer properly allocable—

(1) to work performed under a collective bargaining agreement for which there was a permanent cessation of the obligation to contribute before September 26, 1980, or

(2) to work performed at a facility at which all covered operations permanently ceased before September 26, 1980, or for which there was a permanent cessation of the obligation to contribute before that date,

shall not be taken into account.

(b) A plan may, in a manner not inconsistent with regulations, which shall be prescribed by the corporation, adjust the amount of unfunded vested benefits allocable to other employers under a plan maintained by an employer described in subsection (a) of this section.

(Pub. L. 93-406, title IV, §4217, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1235; amended Pub. L. 98-369, div. A, title V, §558(b)(1)(A), (B), July 18, 1984, 98 Stat. 899.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-369, §558(b)(1)(A), (B), substituted “September 25, 1980” for “April 28, 1980” in provisions preceding par. (1) and “September 26, 1980” for “April 29, 1980” in pars. (1) and (2).

§ 1398. Withdrawal not to occur because of change in business form or suspension of contributions during labor dispute

Notwithstanding any other provision of this part, an employer shall not be considered to have withdrawn from a plan solely because—

(1) an employer ceases to exist by reason of—

(A) a change in corporate structure described in section 1369(b) of this title, or

(B) a change to an unincorporated form of business enterprise,

if the change causes no interruption in employer contributions or obligations to contribute under the plan, or

(2) an employer suspends contributions under the plan during a labor dispute involving its employees.

For purposes of this part, a successor or parent corporation or other entity resulting from any such change shall be considered the original employer.

(Pub. L. 93-406, title IV, §4218, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1236; amended Pub. L. 99-514, title XVIII, §1879(u)(4), as added Pub. L. 101-239, title VII, §7862(b)(1)(C), Dec. 19, 1989, 103 Stat. 2432; Pub. L. 101-239, title VII, §7893(f), Dec. 19, 1989, 103 Stat. 2447.)

AMENDMENTS

1989—Par. (1)(A). Pub. L. 101-239, §7893(f), made identical amendment to that of Pub. L. 99-514, §1879(u)(4), as added by Pub. L. 101-239, §7862(b)(1)(C), see below.

Pub. L. 101-239, §7862(b)(1)(C), added Pub. L. 99-514, §1879(u)(4), see 1986 Amendment note below.

1986—Par. (1)(A). Pub. L. 99-514, §1879(u)(4), as added by Pub. L. 101-239, §7862(b)(1)(C), substituted “section 1369(b) of this title” for “section 1362(d) of this title”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7862(b)(1)(C) of Pub. L. 101-239 effective as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7863 of Pub. L. 101-239, set out as a note under section 106 of Title 26, Internal Revenue Code.

Amendment by section 7893(f) of Pub. L. 101-239 effective as if included in the provision of the Single-Employer Pension Plan Amendments Act of 1986, Pub. L. 99-272, title XI, to which such amendment relates, see section 7893(h) of Pub. L. 101-239, set out as a note under section 1002 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 1399. Notice, collection, etc., of withdrawal liability**(a) Furnishing of information by employer to plan sponsor**

An employer shall, within 30 days after a written request from the plan sponsor, furnish such information as the plan sponsor reasonably determines to be necessary to enable the plan sponsor to comply with the requirements of this part.