

tirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

**(d) Terminated multiemployer plans**

Any multiemployer plan which terminates under section 1341a(a)(2) of this title shall not be considered in reorganization after the last day of the plan year in which the plan is treated as having terminated.

(Pub. L. 93-406, title IV, §4241, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1249; amended Pub. L. 101-239, title VII, §7891(a)(1), Dec. 19, 1989, 103 Stat. 2445.)

REFERENCES IN TEXT

Section 412, referred to in subsec. (b)(2), was amended generally by Pub. L. 109-280, title I, §111(a), Aug. 17, 2006, 120 Stat. 820, and as so amended, section 412 no longer contains a subsec. (b)(3)(B) and section 412(b)(2) no longer relates to charges to the funding standard account.

AMENDMENTS

1989—Subsec. (b)(2)(A). 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.

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

(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary of the Treasury,

adjusted in a manner consistent with section 1421(b)(4) of this title.

**(c) Current contribution base; valuation contribution base**

(1) For purposes of this part, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary of the Treasury.

(2)(A) Except as provided in subparagraph (B), for purposes of this part a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

(ii) adjusted upward (in accordance with regulations prescribed by the Secretary of the Treasury) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

(iii) adjusted (in accordance with regulations prescribed by the Secretary of the Treasury) for reductions in the contribution base resulting from transfers of liabilities.

(B) For any plan year—

(i) in which the plan is insolvent (within the meaning of section 1426(b)(1) of this title), and

(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in ef-

fect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

**(d) Maximum amount; amount of funding standard requirement; applicability to plan amendments increasing benefits**

(1) Under regulations prescribed by the Secretary of the Treasury, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) of this section (without regard to subsection (b)(2) of this section) shall not exceed an amount which is equal to the sum of—

(A) the greater of—

(i) the funding standard requirement for such plan year, or

(ii) 107 percent of—

(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

(B) if for the plan year a change in benefits is first required to be considered in computing the charges under section 412(b)(2)(A) or (B)<sup>1</sup> of title 26, the sum of—

(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 1421(b)(4)(A)(ii) of this title (determined without regard to section 1421(b)(4)(B)(i) of this title), and

(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

(II) 25 years, to the extent such increase in value is attributable to other participants.

(2) For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 1421(b)(2) of this title).

(3)(A) In the case of a plan described in section 1396(b) of this title, if a plan amendment which increases benefits is adopted after January 1, 1980—

(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

(ii) the amount under paragraph (1) shall be determined without regard to paragraph (1)(B).

<sup>1</sup> See References in Text note below.

(B) A plan is described in this subparagraph if—

(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

(ii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

(I) the rate which when multiplied by the valuation contribution base for that subsequent plan year produces the annual amount that would be necessary to complete the amortization schedule described in clause (i), or

(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

(C) The period determined under this subparagraph is the lesser of—

(i) 12 years, or

(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

(4) Paragraph (1) shall not apply with respect to a plan, other than a plan described in paragraph (3), for the period of consecutive plan years in each of which the plan is in reorganization, beginning with a plan year in which occurs the earlier of the date of the adoption or the effective date of any amendment of the plan which increases benefits with respect to service performed before the plan year in which the adoption of the amendment occurred.

**(e) Adjustment of vested benefits charge**

In determining the minimum contribution requirement with respect to a plan for a plan year under subsection (b) of this section, the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8)<sup>1</sup> of title 26.

**(f) Waiver of accumulated funding deficiency**

(1) The Secretary of the Treasury may waive any accumulated funding deficiency under this section in accordance with the provisions of section 1082(c) of this title.

(2) Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 1082(c)(3) of this title).

**(g) Statutory methods applicable for determinations**

For purposes of making any determination under this part, the requirements of section 1084(c)(3) of this title shall apply.

(Pub. L. 93-406, title IV, §4243, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1252; amended Pub. L. 101-239, title VII, §7891(a)(1), Dec. 19, 1989, 103 Stat. 2445; Pub. L. 109-280, title I, §108(b)(6)-(9), formerly §107(b)(6)-(9), Aug. 17, 2006, 120 Stat. 820, renumbered Pub. L. 111-192, title II, §202(a), June 25, 2010, 124 Stat. 1297.)

REFERENCES IN TEXT

Section 412, referred to in subssecs. (d)(1) and (e), was amended generally by Pub. L. 109-280, title I, §111(a), Aug. 17, 2006, 120 Stat. 820, and as so amended, no longer contains a subsec. (b)(2)(A) or (B) or (c)(8).

AMENDMENTS

2006—Subsec. (a)(1)(B). Pub. L. 109-280, §108(b)(6), formerly §107(b)(6), as renumbered by Pub. L. 111-192, substituted “1084(a)” for “1082(a)” in introductory provisions and cl. (i).

Subsec. (f)(1). Pub. L. 109-280, §108(b)(7), formerly §107(b)(7), as renumbered by Pub. L. 111-192, substituted “1082(c)” for “1083(a)”.

Subsec. (f)(2). Pub. L. 109-280, §108(b)(8), formerly §107(b)(8), as renumbered by Pub. L. 111-192, substituted “1082(c)(3)” for “1083(c)”.

Subsec. (g). Pub. L. 109-280, §108(b)(9), formerly §107(b)(9), as renumbered by Pub. L. 111-192, substituted “1084(c)(3)” for “1082(c)(3)”.

1989—Subsecs. (d)(1)(B), (e). 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.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to plan years beginning after 2007, see section 108(e) of Pub. L. 109-280, set out as a note under section 1021 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.

APPLICABILITY OF AMENDMENTS BY SUBTITLES A AND B OF TITLE I OF PUB. L. 109-280

For special rules on applicability of amendments by subtitles A (§§101-108) and B (§§111-116) of title I of Pub. L. 109-280 to certain eligible cooperative plans, PBGC settlement plans, and eligible government contractor plans, see sections 104, 105, and 106 of Pub. L. 109-280, set out as notes under section 401 of Title 26, Internal Revenue Code.

**§ 1424. Overburden credit against minimum contribution requirement**

**(a) Applicability of overburden credit to determinations**

For purposes of determining the minimum contribution requirement under section 1423 of this title (before the application of section 1423(b)(2) or (d) of this title) the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan’s minimum contribution requirement for the plan year (determined without regard to section 1423(b)(2) or (d) of this title and without regard to this section).