

§ 1453. Election of plan status**(a) Authority, time, and criteria**

Within one year after September 26, 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation, that the plan shall not be treated as a multiemployer plan for any purpose under this chapter or the Internal Revenue Code of 1954, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

(1) the plan was not a multiemployer plan because the plan was not a plan described in section 1002(37)(A)(iii) of this title and section 414(f)(1)(C) of title 26 (as such provisions were in effect on the day before September 26, 1980); and

(2) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.

(b) Requirements

An election described in subsection (a) of this section shall be effective only if—

(1) the plan is amended to provide that it shall not be treated as a multiemployer plan for all purposes under this chapter and the Internal Revenue Code of 1954, and

(2) written notice of the amendment is provided to the corporation within 60 days after the amendment is adopted.

(c) Effective date

An election described in subsection (a) of this section shall be treated as being effective as of September 26, 1980.

(Pub. L. 93-406, title IV, § 4303, as added Pub. L. 96-364, title I, § 108(f), Sept. 26, 1980, 94 Stat. 1270.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), was in the original "this Act", meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Internal Revenue Code of 1954, referred to in subsecs. (a) and (b)(1), was redesignated the Internal Revenue Code of 1986 by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, and is classified to Title 26, Internal Revenue Code.

For the effective date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (a), see section 1461(e) of this title.

SUBTITLE F—TRANSITION RULES AND EFFECTIVE DATES

AMENDMENTS

1980—Pub. L. 96-364, title I, § 104(1), Sept. 26, 1980, 94 Stat. 1217, substituted "Subtitle F—Transition Rules and Effective Dates" for "Subtitle E—Effective Date; Special Rules".

§ 1461. Effective date; special rules

(a) The provisions of this subchapter take effect on September 2, 1974.

(b) Notwithstanding the provisions of subsection (a) of this section, the corporation shall

pay benefits guaranteed under this subchapter with respect to any plan—

(1) which is not a multiemployer plan,

(2) which terminates after June 30, 1974, and before September 2, 1974,

(3) to which section 1321 of this title would apply if that section were effective beginning on July 1, 1974, and

(4) with respect to which a notice is filed with the Secretary of Labor and received by him not later than 10 days after September 2, 1974, except that, for reasonable cause shown, such notice may be filed with the Secretary of Labor and received by him not later than October 31, 1974, stating that the plan is a plan described in paragraphs (1), (2), and (3).

The corporation shall not pay benefits guaranteed under this subchapter with respect to a plan described in the preceding sentence unless the corporation finds substantial evidence that the plan was terminated for a reasonable business purpose and not for the purpose of obtaining the payment of benefits by the corporation under this subchapter or for the purpose of avoiding the liability which might be imposed under subtitle D of this subchapter if the plan terminated on or after September 2, 1974. The provisions of subtitle D of this subchapter do not apply in the case of such a plan which terminates before September 2, 1974. For purposes of determining whether a plan is a plan described in paragraph (2), the provisions of section 1348 of this title shall not apply, but the corporation shall make the determination on the basis of the date on which benefits ceased to accrue or on any other reasonable basis consistent with the purposes of this subsection.

(c)(1) Except as provided in paragraphs (2), (3), and (4), the corporation shall not pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates before August 1, 1980. Whenever the corporation exercises the authority granted under paragraph (2) or (3), the corporation shall notify the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives, and the Committee on Labor and Public Welfare and the Committee on Finance of the Senate.

(2) The corporation may, in its discretion, pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates after September 2, 1974 and before August 1, 1980, if—

(A) the plan was maintained during the 60 months immediately preceding the date on which the plan terminates, and

(B) the corporation determines that the payment by the corporation of benefits guaranteed under this subchapter with respect to that plan will not jeopardize the payments the corporation anticipates it may be required to make in connection with benefits guaranteed under this subchapter with respect to multiemployer plans which terminate after July 31, 1980.

(3) Notwithstanding any provision of section 1321 or 1322 of this title which would prevent such payments, the corporation, in carrying out its authority under paragraph (2), may pay bene-