

amount for administrative expenses incurred by the plan sponsor (other than legal expenses incurred with respect to the plan) in calculating, assessing, and refunding such amounts.

“(c) NO INCREASE IN LIABILITY.—The amendments made by this section [amending sections 1391, 1397, 1399, 1415 and 1461 of this title and provisions set out as a note under section 1385 of this title] shall not be construed to increase the liability incurred by any employer pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381 et seq.), as in effect immediately before the amendments made by subsection (b) [amending sections 1391, 1397, 1399, 1415, and 1461 of this title and provisions set out as a note under section 1385 of this title], as a result of the complete or partial withdrawal of such employer from a multiemployer plan prior to September 26, 1980.

“(d) SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS.—In the case of an employer who, on September 26, 1980, has a binding agreement to withdraw from a multiemployer plan, subsection (a)(1) shall be applied by substituting ‘December 31, 1980’ for ‘September 26, 1980.’”

APPLICABILITY TO CERTAIN EMPLOYERS WITHDRAWN BEFORE SEPT. 26, 1980, FROM MULTIEMPLOYER PLAN COVERING EMPLOYEES IN SEAGOING INDUSTRY; EFFECTIVE DATE, COVERAGE, ETC.

Pub. L. 96-364, title I, §108(c)(4), Sept. 26, 1980, 94 Stat. 1269, provided that: “In the case of an employer who withdrew before the date of enactment of this Act [Sept. 26, 1980] from a multiemployer plan covering employees in the seagoing industry (as determined by the corporation), sections 4201 through 4219 of the Employee Retirement Income Security Act of 1974, as added by this Act, [section 1381 through 1399 of this title], are effective as of May 3, 1979. For the purpose of applying section 4217 [section 1397 of this title] for purposes of the preceding sentence, the date ‘May 2, 1979,’ shall be substituted for ‘April 28, 1980,’ and the date ‘May 3, 1979’ shall be substituted for ‘April 29, 1980’. For purposes of this paragraph, terms which are used in title IV of the Employee Retirement Income Security Act of 1974 [this subchapter], or in regulations prescribed under that title, and which are used in the preceding sentence have the same meaning as when used in that Act [see Short Title note set out under sections 1001 of this title] or those regulations. For purposes of this paragraph, the term ‘employer’ includes only a substantial employer covering employees in the seagoing industry (as so determined) in connection with ports on the West Coast of the United States, but does not include an employer who withdrew from a plan because of a change in the collective bargaining representative.”

§ 1382. Determination and collection of liability; notification of employer

When an employer withdraws from a multiemployer plan, the plan sponsor, in accordance with this part, shall—

- (1) determine the amount of the employer’s withdrawal liability,
- (2) notify the employer of the amount of the withdrawal liability, and
- (3) collect the amount of the withdrawal liability from the employer.

(Pub. L. 93-406, title IV, §4202, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1218.)

§ 1383. Complete withdrawal

(a) Determinative factors

For purposes of this part, a complete withdrawal from a multiemployer plan occurs when an employer—

- (1) permanently ceases to have an obligation to contribute under the plan, or
- (2) permanently ceases all covered operations under the plan.

(b) Building and construction industry

(1) Notwithstanding subsection (a) of this section, in the case of an employer that has an obligation to contribute under a plan for work performed in the building and construction industry, a complete withdrawal occurs only as described in paragraph (2), if—

(A) substantially all the employees with respect to whom the employer has an obligation to contribute under the plan perform work in the building and construction industry, and

(B) the plan—

(i) primarily covers employees in the building and construction industry, or

(ii) is amended to provide that this subsection applies to employers described in this paragraph.

(2) A withdrawal occurs under this paragraph if—

(A) an employer ceases to have an obligation to contribute under the plan, and

(B) the employer—

(i) continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required, or

(ii) resumes such work within 5 years after the date on which the obligation to contribute under the plan ceases, and does not renew the obligation at the time of the resumption.

(3) In the case of a plan terminated by mass withdrawal (within the meaning of section 1341a(a)(2) of this title), paragraph (2) shall be applied by substituting “3 years” for “5 years” in subparagraph (B)(ii).

(c) Entertainment industry

(1) Notwithstanding subsection (a) of this section, in the case of an employer that has an obligation to contribute under a plan for work performed in the entertainment industry, primarily on a temporary or project-by-project basis, if the plan primarily covers employees in the entertainment industry, a complete withdrawal occurs only as described in subsection (b)(2) of this section applied by substituting “plan” for “collective bargaining agreement” in subparagraph (B)(i) thereof.

(2) For purposes of this subsection, the term “entertainment industry” means—

(A) theater, motion picture (except to the extent provided in regulations prescribed by the corporation), radio, television, sound or visual recording, music, and dance, and

(B) such other entertainment activities as the corporation may determine to be appropriate.

(3) The corporation may by regulation exclude a group or class of employers described in the preceding sentence from the application of this subsection if the corporation determines that such exclusion is necessary—

(A) to protect the interest of the plan’s participants and beneficiaries, or