

sions of section 9711(c)(2) shall apply to any last signatory operator described in such section (without regard to whether security is provided under such section, a payment is made under section 9704(j), or both) and if security meeting the requirements of section 9711(c)(3) is provided, the common parent described in section 9711(c)(2)(B) shall be exclusively responsible for any liability for premiums under this section which, but for this sentence, would be required to be paid by the last signatory operator or any related person.

(5) Deductibility

Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

(6) 1988 last signatory operator

For purposes of this section, the term “1988 last signatory operator” means a last signatory operator which is a 1988 agreement operator.

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3053; amended Pub. L. 109-432, div. C, title II, §§211(c), 212(b)(1)-(2)(B), Dec. 20, 2006, 120 Stat. 3023, 3025, 3026; Pub. L. 115-141, div. U, title IV, §401(a)(348), Mar. 23, 2018, 132 Stat. 1201.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(3)(C), (D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2018—Subsec. (a)(4)(A). Pub. L. 115-141 inserted “section 402 of” after “subsections (h) and (i) of”.

2006—Subsec. (a)(3), (4). Pub. L. 109-432, §212(b)(1), added pars. (3) and (4).

Subsec. (d)(1). Pub. L. 109-432, §212(b)(2)(A), amended text of par. (1) generally. Prior to amendment, par. (1) provided that the contribution requirements of all 1988 last signatory operators include the payment of an annual prefunding premium for all eligible and potentially eligible beneficiaries, payment of a monthly per beneficiary premium, and provision of security.

Subsec. (d)(2)(B). Pub. L. 109-432, §212(b)(2)(B)(i), substituted “backstop” for “prefunding”.

Subsec. (d)(3). Pub. L. 109-432, §212(b)(2)(B)(ii), substituted “paragraph (1)(A)” for “paragraph (1)(B)”.

Subsec. (d)(4). Pub. L. 109-432, §211(c), inserted at end “The provisions of section 9711(c)(2) shall apply to any last signatory operator described in such section (without regard to whether security is provided under such section, a payment is made under section 9704(j), or both) and if security meeting the requirements of section 9711(c)(3) is provided, the common parent described in section 9711(c)(2)(B) shall be exclusively responsible for any liability for premiums under this section which, but for this sentence, would be required to be paid by the last signatory operator or any related person.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. C, title II, §212(b)(2)(C), Dec. 20, 2006, 120 Stat. 3026, provided that: “The amendments made by this paragraph [amending this section] shall apply to fiscal years beginning on or after October 1, 2010.”

Subchapter D—Other Provisions

| | |
|-------|--------------------|
| Sec. | |
| 9721. | Civil enforcement. |
| 9722. | Sham transactions. |

§ 9721. Civil enforcement

The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply, in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act, to any claim—

(1) arising out of an obligation to pay any amount required to be paid by this chapter; or

(2) arising out of an obligation to pay any amount required by section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(5)(B)(ii)).

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3055; amended Pub. L. 109-432, div. C, title II, §213(b)(2), Dec. 20, 2006, 120 Stat. 3027.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in text, is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, as amended. Subtitle E of title IV of the Act is classified generally to subtitle E (§1381 et seq.) of subchapter III of chapter 18 of Title 29, Labor. Section 4301 of the Act is classified to section 1451 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

2006—Pub. L. 109-432 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply to any claim arising out of an obligation to pay any amount required to be paid by this chapter in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act. For purposes of the preceding sentence, a signatory operator and related persons shall be treated in the same manner as employers.”

§ 9722. Sham transactions

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

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3056.)

Subtitle K—Group Health Plan Requirements

| | | |
|---------|--------------------------------------|-------------------|
| Chapter | | Sec. ¹ |
| 100. | Group health plan requirements | 9801 |

AMENDMENTS

1997—Pub. L. 105-34, title XV, §1531(a)(1), Aug. 5, 1997, 111 Stat. 1080, struck out “Portability, Access, and Renewability” before “Requirements” in subtitle heading and made similar change in item for chapter 100.

¹ Section number editorially supplied.