

(A) any defined benefit plan described in section 401(a) which includes a trust exempt from tax under section 501(a), or

(B) an individual account plan which is subject to the funding standards of section 412.

Such term shall not include a governmental plan (within the meaning of section 414(d)) or a church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made.

(3) Early retirement

A plan amendment which eliminates or reduces any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)) shall be treated as having the effect of reducing the rate of future benefit accrual.

(g) New technologies

The Secretary may by regulations allow any notice under subsection (e) to be provided by using new technologies.

(Added Pub. L. 107-16, title VI, § 659(a)(1), June 7, 2001, 115 Stat. 137; amended Pub. L. 107-147, title IV, § 411(u)(1), Mar. 9, 2002, 116 Stat. 51; Pub. L. 109-280, title V, § 502(c)(2), Aug. 17, 2006, 120 Stat. 941.)

AMENDMENTS

2006—Subsec. (e)(1). Pub. L. 109-280 inserted “and to each employer who has an obligation to contribute to the plan” before period at end.

2002—Subsec. (e)(1). Pub. L. 107-147, § 411(u)(1)(A), substituted “the notice described in paragraph (2)” for “written notice”.

Subsec. (f)(2)(A). Pub. L. 107-147, § 411(u)(1)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “any defined benefit plan, or”.

Subsec. (f)(3). Pub. L. 107-147, § 411(u)(1)(C), struck out “significantly” before “reduces” and before “reducing”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title V, § 502(d), Aug. 17, 2006, 120 Stat. 941, provided that: “The amendments made by this section [amending this section and sections 1021, 1054, and 1132 of Title 29, Labor] shall apply to plan years beginning after December 31, 2007.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, to which such amendment relates, see section 411(x) of Pub. L. 107-147, set out as a note under section 25B of this title.

EFFECTIVE DATE

Pub. L. 107-16, title VI, § 659(c), June 7, 2001, 115 Stat. 141, as amended by Pub. L. 107-147, title IV, § 411(u)(3), Mar. 9, 2002, 116 Stat. 52, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and amending section 1054 of Title 29, Labor] shall apply to plan amendments taking effect on or after the date of the enactment of this Act [June 7, 2001].

“(2) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under sections 4980F(e)(2) and (3) of the Internal Revenue Code of 1986, and section 204(h) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1054(h)], as added by the amendments made by this section, a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

“(3) SPECIAL NOTICE RULE.—

“(A) IN GENERAL.—The period for providing any notice required by the amendments made by this section shall not end before the date which is 3 months after the date of the enactment of this Act.

“(B) REASONABLE NOTICE.—The amendments made by this section shall not apply to any plan amendment taking effect on or after the date of the enactment of this Act if, before April 25, 2001, notice was provided to participants and beneficiaries adversely affected by the plan amendment (and their representatives) which was reasonably expected to notify them of the nature and effective date of the plan amendment.”

§ 4980G. Failure of employer to make comparable health savings account contributions

(a) General rule

In the case of an employer who makes a contribution to the health savings account of any employee during a calendar year, there is hereby imposed a tax on the failure of such employer to meet the requirements of subsection (b) for such calendar year.

(b) Rules and requirements

Rules and requirements similar to the rules and requirements of section 4980E shall apply for purposes of this section.

(c) Regulations

The Secretary shall issue regulations to carry out the purposes of this section, including regulations providing special rules for employers who make contributions to Archer MSAs and health savings accounts during the calendar year.

(d) Exception

For purposes of applying section 4980E to a contribution to a health savings account of an employee who is not a highly compensated employee (as defined in section 414(q)), highly compensated employees shall not be treated as comparable participating employees.

(Added Pub. L. 108-173, title XII, § 1201(d)(4)(A), Dec. 8, 2003, 117 Stat. 2478; amended Pub. L. 109-432, div. A, title III, § 306(a), Dec. 20, 2006, 120 Stat. 2951.)

AMENDMENTS

2006—Subsec. (d). Pub. L. 109-432 added subsec. (d).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title III, § 306(b), Dec. 20, 2006, 120 Stat. 2951, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.”

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 2003, see section 1201(k) of Pub. L. 108-173, set out as an Effective Date of 2003 Amendment note under section 62 of this title.

§ 4980H. Shared responsibility for employers regarding health coverage

(a) Large employers not offering health coverage

If—

(1) any applicable large employer fails to offer to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible em-