

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

PART 8—PENSION-LINKED EMERGENCY SAVINGS ACCOUNTS

§ 1193. Pension-linked emergency savings accounts**(a) In general**

A plan sponsor of an individual account plan may—

(1) include in such individual account plan a pension-linked emergency savings account meeting the requirements of subsection (c); and

(2)(A) offer to enroll an eligible participant in such pension-linked emergency savings account; or

(B) automatically enroll an eligible participant in such account pursuant to an automatic contribution arrangement described in paragraph (2) of subsection (c).

(b) Eligible participant**(1) In general**

For purposes of this part, the term “eligible participant”, with regard to an individual account plan, means an individual who—

(A) meets any age, service, and other eligibility requirements of the plan; and

(B) is not a highly compensated employee.

(2) Eligible participant who becomes a highly compensated employee

Notwithstanding paragraph (1)(B), an individual who is enrolled in a pension-linked emergency savings account and thereafter becomes a highly compensated employee may not make further contributions to such account, but retains the right to withdraw any account balance of such account in accordance with subsection (c)(1)(A)(ii).

(3) Definition

For purposes of this subsection, the term “highly compensated employee” has the meaning given the term in section 414(q) of title 26.

(c) Account requirements**(1) In general**

A pension-linked emergency savings account—

(A) shall—

(i) not have a minimum contribution or account balance requirement;

(ii) allow for withdrawal by the participant of the account balance, in whole or in part at the discretion of the participant, at least once per calendar month and for distribution of such withdrawal to the participant as soon as practicable from the date on which the participant elects to make such withdrawal; and

(iii) be, as selected by the plan sponsor, held as cash, in an interest-bearing deposit account, or in an investment product—

(I) designed to—

(aa) maintain over the term of the investment, the dollar value that is equal to the amount invested in the product; and

(bb) preserve principal and provide a reasonable rate of return, whether or not such return is guaranteed, consistent with the need for liquidity; and
(II) offered by a State- or federally-regulated financial institution;

(B) may be subject to, as permitted by the Secretary, reasonable restrictions; and

(C)(i) may not, for not less than the first 4 withdrawals of funds from the account in a plan year, be subject to any fees or charges solely on the basis of such a withdrawal; and

(ii) may, for any subsequent withdrawal in a plan year, be subject to reasonable fees or charges in connection with such a withdrawal, including reasonable reimbursement fees imposed for the incidental costs of handling of paper checks.

(2) Establishment and termination of account**(A) Establishment of account**

The pension-linked emergency savings account feature shall be included in the plan document of the individual account plan. Such individual account plan shall—

(i) separately account for contributions to the pension-linked emergency savings account of the individual account plan and any earnings properly allocable to the contributions;

(ii) maintain separate recordkeeping with respect to each such pension-linked emergency savings account; and

(iii) allow withdrawals from such account in accordance with section 402A(e)(7) of title 26.

(B) Termination of account

A plan sponsor may terminate the pension-linked emergency savings account feature of an individual account plan at any time.

(d) Account contributions**(1) Limitation****(A) In general**

Subject to subparagraph (B), no contribution shall be accepted to a pension-linked emergency savings account to the extent such contribution would cause the portion of the account balance attributable to participant contributions to exceed the lesser of—

(i) \$2,500; or

(ii) an amount determined by the plan sponsor of the pension-linked emergency savings account.

In the case of contributions made in taxable years beginning after December 31, 2024, the Secretary shall adjust the amount under clause (i) at the same time and in the same manner as the adjustment made by the Secretary of the Treasury under section 415(d) of title 26, except that the base period shall be the calendar quarter beginning July 1, 2023. Any increase under the preceding sentence which is not a multiple of \$100 shall be rounded to the next lowest multiple of \$100.

(B) Excess contributions

To the extent any contribution to the pension-linked emergency savings account of a participant for a taxable year would exceed the limitation of subparagraph (A)—

(i) in the case of a participant with another designated Roth account under the individual account plan, such plan may provide that—

(I) the participant may elect to increase the participant's contribution to such other account; and

(II) in the absence of such a participant election, the participant is deemed to have elected to increase the participant's contributions to such other account at the rate at which contributions were being made to the pension-linked emergency savings account; and

(ii) in any other case, such plan shall provide that such excess contributions will not be accepted.

(2) Automatic contribution arrangement

For purposes of this section—

(A) In general

An automatic contribution arrangement described in this paragraph is an arrangement under which an eligible participant is treated as having elected to have the plan sponsor make elective contributions to a pension-linked emergency savings account at a participant contribution rate that is not more than 3 percent of the compensation of the eligible participant, unless the eligible participant, at any time (subject to such reasonable advance notice as is required by the plan administrator), affirmatively elects to—

- (i) make contributions at a different rate or amount; or
- (ii) opt out of such contributions.

(B) Participant contribution rate

For purposes of an automatic contribution arrangement described in subparagraph (A), the plan sponsor—

- (i) shall select a participant contribution rate under such automatic contribution arrangement that meets the requirements of subparagraph (A); and
- (ii) may amend (prior to the plan year in which an amendment would take effect) such rate not more than once annually.

(3) Disclosure by plan administrator of contributions**(A) In general**

With respect to an individual account plan with a pension-linked emergency savings account feature, the administrator of the plan shall, not less than 30 days and not more than 90 days prior to date of the first contribution to the pension-linked emergency savings account, including any contribution under an automatic contribution arrangement described in subsection (d)(2), or the date of any adjustment to the participant contribution rate under subsection (d)(2)(B)(ii), and not less than annually

thereafter, shall furnish to the participant a notice describing—

- (i) the purpose of the account, which is for short-term, emergency savings;
- (ii) the limits on, and tax treatment of, contributions to the pension-linked emergency savings account of the participant;
- (iii) any fees, expenses, restrictions, or charges associated with such pension-linked emergency savings account;
- (iv) procedures for electing to make contributions to or opting out of the pension-linked emergency savings account, for changing participant contribution rates for such pension-linked emergency savings account, and for making participant withdrawals from such pension-linked emergency savings account, including any limits on frequency;
- (v) as applicable, the amount of the intended contribution to such pension-linked emergency savings account or the change in the percentage of the compensation of the participant of such contribution;
- (vi) the amount in the emergency savings account and the amount or percentage of compensation that a participant has contributed to the pension-linked emergency savings account;
- (vii) the designated investment option under subsection (c)(1)(A)(iii) for amounts contributed to the pension-linked emergency savings account;
- (viii) the options under subsection (e) for the account balance of the pension-linked emergency savings account after termination of the employment of the participant or termination by the plan sponsor of the pension-linked emergency savings account; and
- (ix) the ability of a participant who becomes a highly compensated employee (as such term is defined in paragraph (3) of subsection (b)) to, as described in paragraph (2) of such subsection, withdraw any account balance from a pension-linked emergency savings account and the restriction on the ability of such a participant to make further contributions to the pension-linked emergency savings account.

(B) Notice requirements

A notice furnished to a participant under subparagraph (A) shall be—

- (i) sufficiently accurate and comprehensive to apprise the participant of the rights and obligations of the participant with regard to the pension-linked emergency savings account of the participant; and
- (ii) written in a manner calculated to be understood by the average participant.

(C) Consolidated notices

The required notices under subparagraph (A) may be included with any other notice under this chapter, including under section 1104(c)(5)(B) or 1144(e)(3) of this title, or under section 401(k)(13)(E) or 414(w)(4) of title 26, if such other notice is provided to the participant at the time required for such notice.

(4) Employer matching contributions to an individual account plan for employee contributions to a pension-linked emergency savings account

(A) In general

If an employer makes any matching contributions to an individual account plan of which a pension-linked emergency savings account is part, subject to the limitations of paragraph (1)(A), the employer shall make matching contributions on behalf of a participant on account of the contributions by the participant to the pension-linked emergency savings account at the same rate as any other matching contribution on account of an elective contribution by such participant. The matching contributions shall be made to the participant's account under the individual account plan that is not the pension-linked emergency savings account. Such matching contributions on account of contributions under paragraph (1)(A) shall not exceed the maximum account balance under paragraph (1)(A) for such plan year.

(B) Coordination rule

For purposes of any applicable limitation on matching contributions, any matching contributions made under the plan shall be treated first as attributable to the elective deferrals of the participant other than contributions to a pension-linked emergency savings account.

(C) Matching contributions

For purposes of subparagraph (A), the term “matching contribution” has the meaning given such term in section 401(m)(4) of title 26.

(e) Account balance after termination

Upon termination of employment of the participant, or termination by the plan sponsor of the pension-linked emergency savings account, the pension-linked emergency savings account of such participant in an individual account plan shall—

(1) allow, at the election of the participant, for transfer by the participant of the account balance of such account, in whole or in part, into another designated Roth account of the participant under the individual account plan; and

(2) for any amounts in such account not transferred under paragraph (1), make such amounts available within a reasonable time to the participant.

(f) Anti-abuse rules

(1) In general

A plan of which a pension-linked emergency savings account is part—

(A) may employ reasonable procedures to limit the frequency or amount of matching contributions with respect to contributions to such account, solely to the extent necessary to prevent manipulation of the rules of the plan to cause matching contributions to exceed the intended amounts or frequency; and

(B) shall not be required to suspend matching contributions following any participant

withdrawal of contributions, including elective deferrals and employee contributions, whether or not matched and whether or not made pursuant to an automatic contribution arrangement described in section 402A(e)(4) of title 26.

(2) Regulations or other guidance

The Secretary of the Treasury, in consultation with the Secretary of Labor, shall issue regulations or other guidance not later than 12 months after December 29, 2022, with respect to the anti-abuse rules described in paragraph (1).

(Pub. L. 93-406, title I, §801, as added Pub. L. 117-328, div. T, title I, §127(b)(1), Dec. 29, 2022, 136 Stat. 5318.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to plan years beginning after Dec. 31, 2023, see section 127(g) of Pub. L. 117-328, set out as an Effective Date of 2022 Amendment note under section 72 of Title 26, Internal Revenue Code.

§ 1193a. Preemption of State anti-garnishment laws

Notwithstanding any other provision of law, this part shall supersede any law of a State which would directly or indirectly prohibit or restrict the use of an automatic contribution arrangement, described in section 1193(d)(2) of this title, for a pension-linked emergency savings account. The Secretary may promulgate regulations to establish minimum standards that such an arrangement would be required to satisfy in order for this subsection to apply with respect to such an account.

(Pub. L. 93-406, title I, §802, as added Pub. L. 117-328, div. T, title I, §127(b)(1), Dec. 29, 2022, 136 Stat. 5323.)

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EFFECTIVE DATE

Section applicable to plan years beginning after Dec. 31, 2023, see section 127(g) of Pub. L. 117-328, set out as an Effective Date of 2022 Amendment note under section 72 of Title 26, Internal Revenue Code.

§ 1193b. Reporting and disclosure requirements

The Secretary shall—

(1) prescribe such regulations as may be necessary to address reporting and disclosure requirements for pension-linked emergency savings accounts; and

(2) seek to prevent unnecessary reporting and disclosure for such accounts under this chapter, including for purposes of any reporting or disclosure related to pension plans required by this title or under the Internal Revenue Code of 1986.

(Pub. L. 93-406, title I, §803, as added Pub. L. 117-328, div. T, title I, §127(b)(1), Dec. 29, 2022, 136 Stat. 5323.)

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in par. (2), is classified generally to Title 26, Internal Revenue Code.