count under subsection (c)(2) and to all subsequent taxable years.''

Subsec. (d)(2). Pub. L. 99–514, § 1851(a)(2)(A), inserted ''Subparagraph (B) of section 415(c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.''

Subsec. (e). Pub. L. 99–514, § 1851(a)(3)(A), amended subsec. (e) generally. Prior to amendment, par. (1), benefits must be nondiscriminatory, read as follows: ''No reserve may be taken into account under subsection (c)(2) for post-retirement medical benefits or life insurance benefits to be provided to covered employees unless the plan meets the requirements of section 505(b)(1) with respect to such benefits.'', and par. (2), taxable life insurance benefits not taken into account, read as follows: ''No life insurance benefit may be taken into account under subsection (c)(2) to the extent—

''(A) such benefit is includible in gross income under section 79, or

''(B) such benefit would be includible in gross income under section 101(b) (determined by substituting '$50,000' for '$5,000').''

Subsec. (f)(5). Pub. L. 99–514, § 1851(a)(13), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''HIGHER LIMIT IN CASE OF COLLECTIVELY BARGAINED PLANS.—Not later than July 1, 1985, the Secretary shall by regulations provide for special account limits in the case of any qualified asset account under a welfare benefit fund established under a collective bargaining agreement.''

Pub. L. 99–514, § 1851(a)(4), which directed amendment of par. (5) by substituting ''welfare benefit fund maintained pursuant to'' for ''welfare benefit fund established under'', was repealed by Pub. L. 100–647, § 1018(t)(2)(A).

Subsec. (f)(7)(C), (D). Pub. L. 99–514, § 1851(a)(7), added subpars. (C) and (D) and struck out former subpar. (C) which read as follows: ''For purposes of this paragraph, the term 'existing excess reserve' means the excess (if any) of—

''(i) the amount of assets set aside for purposes described in subsection (a) as of the close of the first taxable year ending after the date of the enactment of the Tax Reform Act of 1984, over

''(ii) the account limit which would have applied under this section to such taxable year if this section had applied to such taxable year.''

Subsec. (g)(3). Pub. L. 99–514, § 1851(a)(9), added par. (3).

Subsec. (h)(1). Pub. L. 99–514, § 1851(a)(6)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''At the election of the employer, 2 or more welfare benefit funds of such employer may be treated as 1 fund.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title VIII, § 843(b), Aug. 17, 2006, 120 Stat. 1010, provided that: ''The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by section 401(b)(21)(B), (C) of Pub. L. 115–141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115–141, set out as a note under section 23 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

APPLICATION OF SECTION 419A(e) TO GROUP-TERM LIFE INSURANCE

Pub. L. 99–514, title XVIII, § 1851(a)(3)(B), Oct. 22, 1986, 100 Stat. 2859, as amended by Pub. L. 100–647, title I, § 1018(t)(2)(D), Nov. 10, 1988, 102 Stat. 3587, provided that: ''Subsection (e) of section 419A, section 505, and section 4976(b)(1)(B) of the Internal Revenue Code of 1954 [now 1986] (as amended by subparagraph (A)) shall not apply to any group-term life insurance to the extent that the amendments made by section 223(a) of the Tax Reform Act of 1984 [section 223(a) of Pub. L. 98–369, amending section 79 of this title] do not apply to such insurance by reason of paragraph (2) of section 223(d) of such Act [set out as a note under section 79 of this title].''

SUBPART E—TREATMENT OF TRANSFERS TO RETIREE HEALTH ACCOUNTS

Sec.
420. Transfers of excess pension assets to retiree health accounts.

§ 420. Transfers of excess pension assets to retiree health accounts

(a) General rule

If there is a qualified transfer of any excess pension assets of a defined benefit plan to a health benefits account, or an applicable life insurance account, which is part of such plan—

(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

(3) such transfer shall not be treated—

(A) as an employer reversion for purposes of section 4980, or

(B) as a prohibited transaction for purposes of section 4975, and

(4) the limitations of subsection (d) shall apply to such employer.

(b) Qualified transfer

For purposes of this section—

(1) In general

The term ''qualified transfer'' means a transfer—

(A) of excess pension assets of a defined benefit plan to a health benefits account, or an applicable life insurance account, which is part of such plan,

(B) which does not contravene any other provision of law, and

(C) with respect to which the following requirements are met in connection with the plan—

(i) the use requirements of subsection (c)(1),

(ii) the vesting requirements of subsection (c)(2), and

(iii) the minimum cost requirements of subsection (c)(3).

(2) Only 1 transfer per year

No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section. If there is a transfer from a defined benefit plan to both a health benefits account and an applicable life insurance account during any taxable year, such transfers shall be treated as 1 transfer for purposes of this paragraph.

(3) Limitation on amount transferred

The amount of excess pension assets which may be transferred to an account in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree liabilities.

(4) Expiration

No transfer made after December 31, 2032, shall be treated as a qualified transfer.

(c) Requirements of plans transferring assets

(1) Use of transferred assets

(A) In general

Any assets transferred to a health benefits account, or an applicable life insurance account, in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(E)) for the taxable year of the transfer (whether directly or through reimbursement). In the case of a qualified future transfer or collectively bargained transfer to which subsection (f) applies, any assets so transferred may also be used to pay liabilities described in subsection (f)(2)(C).

(B) Amounts not used to pay for health benefits or life insurance

(i) In general

Any assets transferred to a health benefits account, or an applicable life insurance account, in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

(ii) Tax treatment of amounts

Any amount transferred out of an account under clause (i)—

(I) shall not be includible in the gross income of the employer for such taxable year, but

(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

(C) Ordering rule

For purposes of this section, any amount paid out of a health benefits account, or an applicable life insurance account, shall be treated as paid first out of the assets and income described in subparagraph (A).

(2) Requirements relating to pension benefits accruing before transfer

The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

(3) Minimum cost requirements

(A) In general

The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided, and each group-term life insurance plan under which applicable life insurance benefits are provided, provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer or, in the case of a transfer which involves a plan maintained by an employer described in subsection (f)(2)(E)(i)(III), if the plan meets the requirements of subsection (f)(2)(D)(i)(II).

(B) Applicable employer cost

For purposes of this paragraph, the term ''applicable employer cost'' means, with respect to any taxable year, the amount determined by dividing—

(i) the qualified current retiree liabilities of the employer for such taxable year determined—

(I) separately with respect to applicable health benefits and applicable life insurance benefits,

(II) without regard to any reduction under subsection (e)(1)(B), and

(III) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

(ii) the number of individuals to whom coverage was provided during such taxable year for the benefits with respect to which the determination under clause (i) is made.

(C) Election to compute cost separately

An employer may elect to have this paragraph applied separately for applicable health benefits with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals

not so eligible, and separately for applicable life insurance benefits with respect to individuals age 65 or older at any time during the taxable year and with respect to individuals under age 65 during the taxable year.

(D) Cost maintenance period

For purposes of this paragraph, the term ''cost maintenance period'' means the period of 5 taxable years (7 taxable years in the case of a transfer to which subsection (e)(7) applies) beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in two or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

(E) Regulations

(i) In general

The Secretary shall prescribe such regulations as may be necessary to prevent an employer who significantly reduces retiree health coverage or retiree life insurance coverage, as the case may be, during the cost maintenance period from being treated as satisfying the minimum cost requirement of this subsection.

(ii) Insignificant cost reductions for retiree health coverage permitted

(I) In general

An eligible employer shall not be treated as failing to meet the requirements of this paragraph for any taxable year if, in lieu of any reduction of retiree health coverage permitted under the regulations prescribed under clause (i), the employer reduces applicable employer cost by an amount not in excess of the reduction in costs which would have occurred if the employer had made the maximum permissible reduction in retiree health coverage under such regulations. In applying such regulations to any subsequent taxable year, any reduction in applicable employer cost under this clause shall be treated as if it were an equivalent reduction in retiree health coverage.

(II) Eligible employer

For purposes of subclause (I), an employer shall be treated as an eligible employer for any taxable year if, for the preceding taxable year, the qualified current retiree liabilities of the employer with respect to applicable health benefits were at least 5 percent of the gross receipts of the employer. For purposes of this subclause, the rules of paragraphs (2), (3)(B), and (3)(C) of section 448(c) shall apply in determining the amount of an employer's gross receipts.

(d) Limitations on employer

For purposes of this title—

(1) Deduction limitations

No deduction shall be allowed—

(A) for the transfer of any amount to a health benefits account, or an applicable life insurance account, in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

(B) for qualified current retiree liabilities paid out of the assets (and income) described in subsection (c)(1), or

(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

(i) the amount determined under subparagraph (A) (and income allocable thereto), over

(ii) the amount determined under subparagraph (B).

(2) No contributions allowed

An employer may not contribute any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree liabilities for which transferred assets are required to be used under subsection (c)(1).

(e) Definition and special rules

For purposes of this section—

(1) Qualified current retiree liabilities

For purposes of this section—

(A) In general

The term ''qualified current retiree liabilities'' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits and applicable life insurance benefits provided during such taxable year if—

(i) such benefits were provided directly by the employer, and

(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

(B) Reductions for amounts previously set aside

The amount determined under subparagraph (A) shall be reduced by the amount (determined separately for applicable health benefits and applicable life insurance benefits) which bears the same ratio to such amount as—

(i) the value (as of the close of the plan year preceding the year of the qualified transfer) of the assets in all health benefits accounts or applicable life insurance accounts or welfare benefit funds (as defined in section 419(e)(1)) set aside to pay for the qualified current retiree liability, bears to

(ii) the present value of the qualified current retiree liabilities for all plan years (determined without regard to this subparagraph).

(C) Applicable health benefits

The term ''applicable health benefits'' means health benefits or coverage which are provided to—

(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits by reason of retirement and who are entitled to pension benefits under the plan, and

(ii) their spouses and dependents.

(D) Applicable life insurance benefits

The term ''applicable life insurance benefits'' means group-term life insurance coverage provided to retired employees who, immediately before the qualified transfer, are entitled to receive such coverage by reason of retirement and who are entitled to pension benefits under the plan, but only to the extent that such coverage is provided under a policy for retired employees and the cost of such coverage is excludable from the retired employee's gross income under section 79.

(E) Key employees excluded

If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

(2) Excess pension assets

The term ''excess pension assets'' means the excess (if any) of—

(A) the lesser of—

(i) the fair market value of the plan's assets (reduced by the prefunding balance and funding standard carryover balance determined under section 430(f)), or

(ii) the value of plan assets as determined under section 430(g)(3) after reduction under section 430(f), over

(B) 125 percent of the sum of the funding target and the target normal cost determined under section 430 for such plan year.

(3) Health benefits account

The term ''health benefits account'' means an account established and maintained under section 401(h).

(4) Applicable life insurance account

The term ''applicable life insurance account'' means a separate account established and maintained for amounts transferred under this section for qualified current retiree liabilities based on premiums for applicable life insurance benefits.

(5) Coordination with sections 430 and 433

In the case of a qualified transfer, any assets so transferred shall not, for purposes of this section and sections 430 and 433, be treated as assets in the plan.

(6) Application to multiemployer plans

In the case of a multiemployer plan, this section shall be applied to any such plan—

(A) by treating any reference in this section to an employer as a reference to all employers maintaining the plan (or, if appropriate, the plan sponsor), and

(B) in accordance with such modifications of this section (and the provisions of this title relating to this section) as the Secretary determines appropriate to reflect the fact the plan is not maintained by a single employer.

(7) Special rule for de minimis transfers

(A) In general

In the case of a transfer of an amount which is not more than 1.75 percent of the amount determined under paragraph (2)(A) by a plan which meets the requirements of subparagraph (B), paragraph (2)(B) shall be applied by substituting ''110 percent'' for ''125 percent''.

(B) Two-year lookback requirement

A plan is described in this subparagraph if, as of any valuation date in each of the 2 plan years immediately preceding the plan year in which the transfer occurs, the amount determined under paragraph (2)(A) exceeded 110 percent of the sum of the funding target and the target normal cost determined under section 430 for each such plan year.

(f) Qualified transfers to cover future retiree costs and collectively bargained retiree benefits

(1) In general

An employer maintaining a defined benefit plan (other than a multiemployer plan) may, in lieu of a qualified transfer, elect for any taxable year to have the plan make—

(A) a qualified future transfer, or

(B) a collectively bargained transfer.

Except as provided in this subsection, a qualified future transfer and a collectively bargained transfer shall be treated for purposes of this title and the Employee Retirement Income Security Act of 1974 as if it were a qualified transfer.

(2) Qualified future and collectively bargained transfers

For purposes of this subsection—

(A) In general

The terms ''qualified future transfer'' and ''collectively bargained transfer'' mean a transfer which meets all of the requirements for a qualified transfer, except that—

(i) the determination of excess pension assets shall be made under subparagraph (B),

(ii) the limitation on the amount transferred shall be determined under subparagraph (C),

(iii) the minimum cost requirements of subsection (c)(3) shall be modified as provided under subparagraph (D), and

(iv) in the case of a collectively bargained transfer, the requirements of subparagraph (E) shall be met with respect to the transfer.

(B) Excess pension assets

(i) In general

(I) Determination

In determining excess pension assets for purposes of this subsection, subsection (e)(2)(B) shall be applied by substituting ''120 percent'' for ''125 percent''.

(II) Special rule for collectively bargained transfers

In determining excess pension assets for purposes of a collectively bargained transfer, subsection (e)(7) shall not apply.

(ii) Requirement to maintain funded status

If, as of any valuation date of any plan year in the transfer period, the amount determined under subsection (e)(2)(B) (after application of clause (i)) exceeds the amount determined under subsection (e)(2)(A), either—

(I) the employer maintaining the plan shall make contributions to the plan in an amount not less than the amount required to reduce such excess to zero as of such date, or

(II) there is transferred from the health benefits account or applicable life insurance account, as the case may be, to the plan an amount not less than the amount required to reduce such excess to zero as of such date.

(C) Limitation on amount transferred

Notwithstanding subsection (b)(3), the amount of the excess pension assets which may be transferred—

(i) in the case of a qualified future transfer shall be equal to the sum of—

(I) if the transfer period includes the taxable year of the transfer, the amount determined under subsection (b)(3) for such taxable year, plus

(II) in the case of all other taxable years in the transfer period, the sum of the qualified current retiree liabilities which the plan reasonably estimates, in accordance with guidance issued by the Secretary, will be incurred for each of such years, and

(ii) in the case of a collectively bargained transfer, shall not exceed the amount which is reasonably estimated, in accordance with the provisions of the collective bargaining agreement and generally accepted accounting principles, to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the collectively bargained cost maintenance period for collectively bargained retiree liabilities.

(D) Minimum cost requirements

(i) In general

The requirements of subsection (c)(3) shall be treated as met if—

(I) in the case of a qualified future transfer, each group health plan or arrangement under which applicable health benefits are provided, and each group-term life insurance plan or arrangement under which applicable life insurance benefits are provided, provides applicable health benefits or applicable life insurance benefits, as the case may be, during the period beginning with the first year of the transfer period and ending with the last day of the 4th year (the 6th year in the case of a transfer to which subsection (e)(7) applies) following the transfer period such that the annual average amount of the applicable employer cost during such period is not less than the applicable employer cost determined under subsection (c)(3)(A) with respect to the transfer, and

(II) in the case of a collectively bargained transfer, each collectively bargained plan under which collectively bargained health benefits or collectively bargained life insurance benefits are provided provides that the collectively bargained employer cost for each taxable year during the collectively bargained cost maintenance period shall not be less than the amount specified by the collective bargaining agreement.

(ii) Election to maintain benefits for future transfers

An employer may elect, in lieu of the requirements of clause (i)(I), to meet the requirements of subsection (c)(3) with respect to applicable health benefits or applicable life insurance benefits by meeting the requirements of such subsection (as in effect before the amendments made by section 535 of the Tax Relief Extension Act of 1999) for each of the years described in the period under clause (i)(I). Such election may be made separately with respect to applicable health benefits and applicable life insurance benefits. In the case of an election with respect to applicable life insurance benefits, the first sentence of this clause shall be applied as if subsection (c)(3) as in effect before the amendments made by such Act applied to such benefits.

(iii) Collectively bargained employer cost

For purposes of this subparagraph, the term ''collectively bargained employer cost'' means the average cost per covered individual of providing collectively bargained health benefits, collectively bargained life insurance benefits, or both, as the case may be, as determined in accordance with the applicable collective bargaining agreement. Such agreement may provide for an appropriate reduction in the collectively bargained employer cost to take into account any portion of the collectively bargained health benefits, collectively bargained life insurance benefits, or both, as the case may be, that is provided or financed by a government program or other source.

(E) Special rules for collectively bargained transfers

(i) In general

A collectively bargained transfer shall only include a transfer which—

(I) is made in accordance with a collective bargaining agreement,

(II) before the transfer, the employer designates, in a written notice delivered to each employee organization that is a party to the collective bargaining agree-

ment, as a collectively bargained transfer in accordance with this section, and

(III) involves a defined benefit plan maintained by an employer which, in its taxable year ending in 2005, provided health benefits or coverage to retirees and their spouses and dependents under all of the health benefit plans maintained by the employer, but only if the aggregate cost (including administrative expenses) of such benefits or coverage which would have been allowable as a deduction to the employer (if such benefits or coverage had been provided directly by the employer and the employer used the cash receipts and disbursements method of accounting) is at least 5 percent of the gross receipts of the employer (determined in accordance with the last sentence of subsection (c)(3)(E)(ii)(II)) for such taxable year, or a plan maintained by a successor to such employer.

(ii) Use of assets

Any assets transferred to a health benefits account, or an applicable life insurance account, in a collectively bargained transfer (and any income allocable thereto) shall be used only to pay collectively bargained retiree liabilities (other than liabilities of key employees not taken into account under paragraph (6)(B)(iii)) for the taxable year of the transfer or for any subsequent taxable year during the collectively bargained cost maintenance period (whether directly or through reimbursement).

(3) Coordination with other transfers

In applying subsection (b)(3) to any subsequent transfer during a taxable year in a transfer period or collectively bargained cost maintenance period, qualified current retiree liabilities shall be reduced by any such liabilities taken into account with respect to the qualified future transfer or collectively bargained transfer to which such period relates.

(4) Special deduction rules for collectively bargained transfers

In the case of a collectively bargained transfer—

(A) the limitation under subsection (d)(1)(C) shall not apply, and

(B) notwithstanding subsection (d)(2), an employer may contribute an amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to collectively bargained retiree liabilities for which transferred assets are required to be used under subsection (c)(1)(B), and the deductibility of any such contribution shall be governed by the limits applicable to the deductibility of contributions to a welfare benefit fund under a collective bargaining agreement (as determined under section 419A(f)(5)(A)) without regard to whether such contributions are made to a health benefits account or welfare benefit fund and without regard to the provisions of section 404 or the other provisions of this section. The Secretary shall provide rules to ensure that the application of this paragraph does not result in a deduction being allowed more than once for the same contribution or for 2 or more contributions or expenditures relating to the same collectively bargained retiree liabilities.

(5) Transfer period

For purposes of this subsection, the term ''transfer period'' means, with respect to any transfer, a period of consecutive taxable years (not less than 2) specified in the election under paragraph (1) which begins and ends during the 10-taxable-year period beginning with the taxable year of the transfer.

(6) Terms relating to collectively bargained transfers

For purposes of this subsection—

(A) Collectively bargained cost maintenance period

The term ''collectively bargained cost maintenance period'' means, with respect to each covered retiree and his covered spouse and dependents, the shorter of—

(i) the remaining lifetime of such covered retiree and, in the case of a transfer to a health benefits account, his covered spouse and dependents, or

(ii) the period of coverage provided by the collectively bargained plan (determined as of the date of the collectively bargained transfer) with respect to such covered retiree and, in the case of a transfer to a health benefits account, his covered spouse and dependents.

(B) Collectively bargained retiree liabilities

(i) In general

The term ''collectively bargained retiree liabilities'' means the present value, as of the beginning of a taxable year and determined in accordance with the applicable collective bargaining agreement, of all collectively bargained health benefits, and collectively bargained life insurance benefits, (including administrative expenses) for such taxable year and all subsequent taxable years during the collectively bargained cost maintenance period.

(ii) Reduction for amounts previously set aside

The amount determined under clause (i) shall be reduced by the value (as of the close of the plan year preceding the year of the collectively bargained transfer) of the assets in all health benefits accounts, applicable life insurance accounts, or welfare benefit funds (as defined in section 419(e)(1)) set aside to pay for the collectively bargained retiree liabilities. The preceding sentence shall be applied separately for collectively bargained health benefits and collectively bargained life insurance benefits.

(iii) Key employees excluded

If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable

year, such employee shall not be taken into account in computing collectively bargained retiree liabilities for such taxable year or in calculating collectively bargained employer cost under subsection (c)(3)(C).

(C) Collectively bargained health benefits

The term ''collectively bargained health benefits'' means health benefits or coverage—

(i) which are provided to retired employees who, immediately before the collectively bargained transfer, are entitled to receive such benefits by reason of retirement and who are entitled to pension benefits under the plan, and their spouses and dependents, and

(ii) if specified by the provisions of the collective bargaining agreement governing the collectively bargained transfer, which will be provided at retirement to employees who are not retired employees at the time of the transfer and who are entitled to receive such benefits and who are entitled to pension benefits under the plan, and their spouses and dependents.

(D) Collectively bargained life insurance benefits

The term ''collectively bargained life insurance benefits'' means, with respect to any collectively bargained transfer—

(i) applicable life insurance benefits which are provided to retired employees who, immediately before the transfer, are entitled to receive such benefits by reason of retirement, and

(ii) if specified by the provisions of the collective bargaining agreement governing the transfer, applicable life insurance benefits which will be provided at retirement to employees who are not retired employees at the time of the transfer.

(E) Collectively bargained plan

The term ''collectively bargained plan'' means a group health plan or arrangement for retired employees and their spouses and dependents, or a group-term life insurance plan or arrangement for retired employees, that is maintained pursuant to 1 or more collective bargaining agreements.

(7) Election to end transfer period

(A) In general

In the case of an employer maintaining a plan which has made a qualified future transfer under this subsection, such employer may, not later than December 31, 2021, elect to terminate the transfer period with respect to such transfer effective as of any taxable year specified by the taxpayer that begins after the date of such election.

(B) Amounts transferred to plan on termination

Any assets transferred to a health benefits account, or an applicable life insurance account, in a qualified future transfer (and any income allocable thereto) which are not used as of the effective date of the election to terminate the transfer period with respect to such transfer under subparagraph (A), shall be transferred out of the account to the transferor plan within a reasonable period of time. The transfer required by this subparagraph shall be treated as an employer reversion for purposes of section 4980 (other than subsection (d) thereof), unless before the end of the 5-year period beginning after the original transfer period an equivalent amount is transferred back to such health benefits account, or applicable life insurance account, as the case may be. Any such transfer back pursuant to the preceding sentence may be made without regard to section 401(h)(1).

(C) Minimum cost requirements continue

The requirements of subsection (c)(3) and paragraph (2)(D) shall apply with respect to a qualified future transfer without regard to any election under subparagraph (A) with respect to such transfer.

(D) Modified maintenance of funded status during original transfer period

The requirements of paragraph (2)(B) shall apply without regard to any such election, and clause (i) thereof shall be applied by substituting ''100 percent'' for ''120 percent'' during the original transfer period.

(E) Continued maintenance of funding status after original transfer period

(i) In general

In the case of a plan with respect to which there is an excess described in paragraph (2)(B)(ii) as of the valuation date of the plan year in the last year of the original transfer period, paragraph (2)(B) shall apply for 5 years after the original transfer period in the same manner as during a transfer period by substituting the applicable percentage for ''120 percent'' in clause (i) thereof.

(ii) Applicable percentage

For purposes of this subparagraph, the applicable percentage shall be determined under the following table:

For the valuation date of the plan year in the following year after the original transfer period:	The applicable percentage is:
1st	104 percent
2nd	108 percent
3rd	112 percent
4th	116 percent
5th	120 percent

(iii) Early termination of continued maintenance period when 120 percent funding reached

If, as of the valuation date of any plan year in the first 4 years after the original transfer period with respect to a qualified future transfer, there would be no excess determined under this subparagraph were the applicable percentage 120 percent, then this subparagraph shall cease to apply with respect to the plan.

(F) Original transfer period

For purposes of this paragraph, the term ''original transfer period'' means the trans-

fer period under this subsection with respect to a qualified future transfer determined without regard to the election under subparagraph (A).

(g) Segment rates determined without pension stabilization

For purposes of this section, section 430 shall be applied without regard to subsection (h)(2)(C)(iv) thereof.

(Added Pub. L. 101–508, title XII, §12011(a), Nov. 5, 1990, 104 Stat. 1388–567; amended Pub. L. 103–465, title VII, §731(a)–(c)(3), Dec. 8, 1994, 108 Stat. 5003, 5004; Pub. L. 104–188, title I, §1704(a), (t)(32), Aug. 20, 1996, 110 Stat. 1878, 1889; Pub. L. 106–170, title V, §535(a)(1), (b), Dec. 17, 1999, 113 Stat. 1934; Pub. L. 108–218, title II, §204(a), Apr. 10, 2004, 118 Stat. 609; Pub. L. 108–357, title VII, §709(b)(1), (2), Oct. 22, 2004, 118 Stat. 1551, 1552; Pub. L. 109–280, title I, §114(d), title VIII, §§841(a), 842(a), Aug. 17, 2006, 120 Stat. 854, 1005, 1009; Pub. L. 110–28, title VI, §§6612(a), (b), 6613(a), May 25, 2007, 121 Stat. 181; Pub. L. 110–458, title I, §108(i)(1), (2), Dec. 23, 2008, 122 Stat. 5110; Pub. L. 112–141, div. D, title II, §§40211(a)(2)(D), 40241(a), 40242(a)–(c), (e)(1)–(13), (f), (g), July 6, 2012, 126 Stat. 847, 859, 860, 862, 863; Pub. L. 113–97, title II, §202(c)(7), Apr. 7, 2014, 128 Stat. 1137; Pub. L. 114–41, title II, §2007(a), July 31, 2015, 129 Stat. 459; Pub. L. 115–141, div. U, title IV, §401(a)(97), Mar. 23, 2018, 132 Stat. 1188; Pub. L. 116–260, div. N, title II, §285(a), Dec. 27, 2020, 134 Stat. 1988; Pub. L. 117–328, div. T, title VI, §606(a), Dec. 29, 2022, 136 Stat. 5396.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(3)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. 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.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (f)(1), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

Subsection (c)(3) as in effect before the amendments made by section 535 of the Tax Relief Extension Act of 1999, referred to in subsec. (f)(2)(D)(ii), is subsec. (c)(3) of this section prior to its general amendment by section 535(b)(1) of Pub. L. 106–170.

AMENDMENTS

2022—Subsec. (b)(4). Pub. L. 117–328, §606(a)(1), substituted ''December 31, 2032'' for ''December 31, 2025''.

Subsec. (c)(3)(D). Pub. L. 117–328, §606(a)(2)(B), substituted ''5 taxable years (7 taxable years in the case of a transfer to which subsection (e)(7) applies)'' for ''5 taxable years''.

Subsec. (e)(7). Pub. L. 117–328, §606(a)(2)(A), added par. (7).

Subsec. (f)(2)(B)(i). Pub. L. 117–328, §606(a)(2)(C)(i), designated existing provisions as subcl. (I), inserted heading, substituted ''subsection (e)(2)(B)'' for ''subsection (e)(2)'', and added subcl. (II).

Subsec. (f)(2)(D)(i)(I). Pub. L. 117–328, §606(a)(2)(C)(ii), substituted ''4th year (the 6th year in the case of a transfer to which subsection (e)(7) applies)'' for ''4th year''.

2020—Subsec. (f)(7). Pub. L. 116–260 added par. (7).

2018—Subsec. (c)(1)(A). Pub. L. 115–141 substituted ''subsection (e)(1)(E)'' for ''subsection (e)(1)(D)''.

2015—Subsec. (b)(4). Pub. L. 114–41 substituted ''December 31, 2025'' for ''December 31, 2021''.

2014—Subsec. (e)(5). Pub. L. 113–97 substituted ''sections 430 and 433'' for ''section 430'' in heading and text.

2012—Pub. L. 112–141, §40242(e)(1), substituted ''qualified current retiree liabilities'' for ''qualified current retiree health liabilities'' wherever appearing in subsecs. (b) to (d), (e)(1), and (f).

Subsec. (a). Pub. L. 112–141, §40242(a), inserted '', or an applicable life insurance account,'' after ''health benefits account''.

Subsec. (b)(1)(A). Pub. L. 112–141, §40242(g)(1), struck out ''in a taxable year beginning after December 31, 1990'' after ''such plan''.

Pub. L. 112–141, §40242(e)(2), inserted '', or an applicable life insurance account,'' after ''a health benefits account''.

Subsec. (b)(2). Pub. L. 112–141, §40242(g)(3), struck out ''(A) In general'' before ''No more than'' and struck out heading and text of subpar. (B). Prior to amendment, text read as follows: ''A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).''

Subsec. (b)(2)(A). Pub. L. 112–141, §40242(e)(3)(A), inserted at end ''If there is a transfer from a defined benefit plan to both a health benefits account and an applicable life insurance account during any taxable year, such transfers shall be treated as 1 transfer for purposes of this paragraph.''

Subsec. (b)(3). Pub. L. 112–141, §40242(e)(3)(B), inserted ''to an account'' after ''may be transferred''.

Subsec. (b)(4). Pub. L. 112–141, §40242(g)(2), redesignated par. (5) as (4) and struck out former par. (4) which related to a special rule for 1990.

Subsec. (b)(5). Pub. L. 112–141, §40242(g)(2), redesignated par. (5) as (4).

Pub. L. 112–141, §40241(a), substituted ''December 31, 2021'' for ''December 31, 2013''.

Subsec. (c)(1)(A). Pub. L. 112–141, §40242(e)(2), inserted '', or an applicable life insurance account,'' after ''a health benefits account''.

Subsec. (c)(1)(B). Pub. L. 112–141, §40242(e)(4), inserted ''or life insurance'' after ''health benefits'' in heading.

Subsec. (c)(1)(B)(i). Pub. L. 112–141, §40242(e)(2), inserted '', or an applicable life insurance account,'' after ''a health benefits account''.

Subsec. (c)(1)(C). Pub. L. 112–141, §40242(e)(2), inserted '', or an applicable life insurance account,'' after ''a health benefits account''.

Subsec. (c)(2). Pub. L. 112–141, §40242(g)(4), struck out ''(A) In general'' before ''The requirements of'', realigned margins, and struck out heading and text of subpar. (B). Prior to amendment, text read as follows: ''In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.''

Subsec. (c)(3)(A). Pub. L. 112–141, §40242(c)(1), inserted '', and each group-term life insurance plan under which applicable life insurance benefits are provided,'' after ''health benefits are provided''.

Subsec. (c)(3)(B)(i). Pub. L. 112–141, §40242(c)(2)(A)(i), redesignated subcls. (I) and (II) as (II) and (III), respectively, and added subcl. (I).

Subsec. (c)(3)(B)(ii). Pub. L. 112–141, §40242(c)(2)(A)(ii), substituted ''was provided during such taxable year for the benefits with respect to which the determination under clause (i) is made.'' for ''for applicable health benefits was provided during such taxable year.''

Subsec. (c)(3)(C). Pub. L. 112–141, §40242(c)(2)(B), inserted ''for applicable health benefits'' after ''applied separately'' and '', and separately for applicable life insurance benefits with respect to individuals age 65 or older at any time during the taxable year and with respect to individuals under age 65 during the taxable year'' before the period at end.

Subsec. (c)(3)(E)(i). Pub. L. 112–141, § 40242(c)(2)(C)(i), inserted ''or retiree life insurance coverage, as the case may be,'' after ''retiree health coverage''.

Subsec. (c)(3)(E)(ii). Pub. L. 112–141, § 40242(c)(2)(C)(ii), inserted ''for retiree health coverage'' after ''cost reductions'' in heading.

Subsec. (c)(3)(E)(ii)(II). Pub. L. 112–141, § 40242(c)(2)(C)(iii), inserted ''with respect to applicable health benefits'' after ''liabilities of the employer''.

Subsec. (d)(1)(A). Pub. L. 112–141, § 40242(e)(2), inserted '', or an applicable life insurance account,'' after ''a health benefits account''.

Subsec. (d)(2). Pub. L. 112–141, § 40242(g)(5), struck out ''after December 31, 1990'' after ''may not contribute''.

Subsec. (e)(1). Pub. L. 112–141, § 40242(e)(5)(B), struck out ''health'' after ''Qualified current retiree'' in the heading.

Subsec. (e)(1)(A). Pub. L. 112–141, § 40242(e)(5)(A), inserted ''and applicable life insurance benefits'' after ''applicable health benefits''.

Subsec. (e)(1)(B). Pub. L. 112–141, § 40242(e)(6)(A), inserted ''(determined separately for applicable health benefits and applicable life insurance benefits)'' after ''shall be reduced by the amount'' in introductory provisions.

Subsec. (e)(1)(B)(i). Pub. L. 112–141, § 40242(e)(6)(C), substituted ''qualified current retiree liability'' for ''qualified current retiree health liability''.

Pub. L. 112–141, § 40242(e)(6)(B), which directed the insertion of ''or applicable life insurance accounts'' after ''health benefit accounts'', was executed by making the insertion after ''health benefits accounts'' to reflect the probable intent of Congress.

Subsec. (e)(1)(C)(i). Pub. L. 112–141, § 40242(b)(3)(B)(i), substituted ''by reason of retirement'' for ''upon retirement''.

Subsec. (e)(1)(D), (E). Pub. L. 112–141, § 40242(b)(2), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (e)(4) to (6). Pub. L. 112–141, § 40242(b)(1), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (f). Pub. L. 112–141, § 40242(e)(7), struck out ''health'' after ''retiree'' in two places in the heading.

Subsec. (f)(2)(B)(ii)(II). Pub. L. 112–141, § 40242(e)(8), inserted ''or applicable life insurance account, as the case may be,'' after ''health benefits account''.

Subsec. (f)(2)(C)(ii). Pub. L. 112–141, § 40242(c)(2)(D), substituted ''collectively bargained retiree liabilities'' for ''collectively bargained retiree health liabilities''.

Subsec. (f)(2)(D)(i)(I). Pub. L. 112–141, § 40242(c)(2)(E)(i), (ii), inserted '', and each group-term life insurance plan or arrangement under which applicable life insurance benefits are provided,'' after ''applicable health benefits are provided'' and ''or applicable life insurance benefits, as the case may be,'' after ''provides applicable health benefits''.

Subsec. (f)(2)(D)(i)(II). Pub. L. 112–141, § 40242(c)(2)(E)(iii), (iv), struck out ''group health'' after ''each collectively bargained'' and inserted ''or collectively bargained life insurance benefits'' after ''collectively bargained health benefits''.

Subsec. (f)(2)(D)(ii). Pub. L. 112–141, § 40242(c)(2)(F), inserted ''with respect to applicable health benefits or applicable life insurance benefits'' after ''requirements of subsection (c)(3)'' and inserted at end ''Such election may be made separately with respect to applicable health benefits and applicable life insurance benefits. In the case of an election with respect to applicable life insurance benefits, the first sentence of this clause shall be applied as if subsection (c)(3) as in effect before the amendments made by such Act applied to such benefits.''

Subsec. (f)(2)(D)(iii). Pub. L. 112–141, § 40242(c)(2)(G), struck out ''retiree'' before ''health benefits'' in two places and inserted '', collectively bargained life insurance benefits, or both, as the case may be,'' after ''health benefits'' in two places.

Subsec. (f)(2)(E)(i)(III). Pub. L. 112–141, § 40242(e)(9), inserted ''defined benefit'' before ''plan maintained by an employer'' and ''health'' before ''benefit plans maintained by the employer''.

Subsec. (f)(2)(E)(ii). Pub. L. 112–141, § 40242(e)(2), inserted '', or an applicable life insurance account,'' after ''a health benefits account''.

Pub. L. 112–141, § 40242(c)(2)(D), substituted ''collectively bargained retiree liabilities'' for ''collectively bargained retiree health liabilities''.

Subsec. (f)(4). Pub. L. 112–141, § 40242(e)(10), substituted ''collectively bargained retiree liabilities'' for ''collectively bargained retiree health liabilities'' in two places.

Subsec. (f)(6)(A)(i). Pub. L. 112–141, § 40242(e)(11)(A), inserted '', in the case of a transfer to a health benefits account,'' before ''his covered spouse and dependents''.

Subsec. (f)(6)(A)(ii). Pub. L. 112–141, § 40242(e)(11), inserted '', in the case of a transfer to a health benefits account,'' before ''his covered spouse and dependents'' and substituted ''plan'' for ''health plan''.

Subsec. (f)(6)(B). Pub. L. 112–141, § 40242(e)(12)(C), struck out ''health'' after ''retiree'' in the heading.

Pub. L. 112–141, § 40242(e)(10), substituted ''collectively bargained retiree liabilities'' for ''collectively bargained retiree health liabilities'' wherever appearing.

Subsec. (f)(6)(B)(i). Pub. L. 112–141, § 40242(e)(12)(A), inserted '', and collectively bargained life insurance benefits,'' after ''collectively bargained health benefits''.

Subsec. (f)(6)(B)(ii). Pub. L. 112–141, § 40242(e)(12)(B)(ii), which directed the insertion of '', applicable life insurance accounts,'' after ''health benefit accounts'', was executed by making the insertion after ''health benefits accounts'' to reflect the probable intent of Congress.

Pub. L. 112–141, § 40242(e)(12)(B)(i), inserted at end ''The preceding sentence shall be applied separately for collectively bargained health benefits and collectively bargained life insurance benefits.''

Subsec. (f)(6)(B)(iii). Pub. L. 112–141, § 40242(f), substituted ''416(i)(1)'' for ''416(I)(1)''.

Subsec. (f)(6)(C). Pub. L. 112–141, § 40242(b)(3)(B)(ii)(I), struck out ''which are provided to'' after ''coverage'' in introductory provisions.

Subsec. (f)(6)(C)(i). Pub. L. 112–141, § 40242(b)(3)(B)(ii)(II), (III), inserted ''which are provided to'' before ''retired employees'' and substituted ''by reason of retirement'' for ''upon retirement''.

Subsec. (f)(6)(C)(ii). Pub. L. 112–141, § 40242(b)(3)(B)(ii)(IV), substituted ''which will be provided at retirement to employees who are not retired employees at the time of the transfer and who'' for ''active employees who, following their retirement,''.

Subsec. (f)(6)(D). Pub. L. 112–141, § 40242(b)(3)(A), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (f)(6)(E). Pub. L. 112–141, § 40242(e)(13), struck out ''health'' after ''bargained'' in heading, substituted ''bargained'' for ''bargained health'', and inserted '', or a group-term life insurance plan or arrangement for retired employees,'' after ''dependents''.

Pub. L. 112–141, § 40242(b)(3)(A), redesignated subpar. (D) as (E).

Subsec. (g). Pub. L. 112–141, § 40211(a)(2)(D), added subsec. (g).

2008—Subsec. (c)(1)(A). Pub. L. 110–458, § 108(i)(1), inserted last sentence ''In the case of a qualified future transfer or collectively bargained transfer to which subsection (f) applies, any assets so transferred may also be used to pay liabilities described in subsection (f)(2)(C).''

Subsec. (f)(2)(D)(i)(I). Pub. L. 110–458, § 108(i)(2), struck out ''such'' after ''average amount of''.

2007—Subsec. (c)(3)(A). Pub. L. 110–28, § 6613(a), substituted ''transfer or, in the case of a transfer which involves a plan maintained by an employer described in subsection (f)(2)(E)(i)(III), if the plan meets the requirements of subsection (f)(2)(D)(i)(II).'' for ''transfer.''

Subsec. (e)(2)(B). Pub. L. 110–28, § 6612(b), substituted ''funding target'' for ''funding shortfall''.

Subsec. (f)(2)(E)(i)(III). Pub. L. 110–28, § 6612(a), substituted ''subsection (c)(3)(E)(ii)(II)'' for ''subsection (c)(2)(E)(ii)(II)''.

2006—Subsec. (a). Pub. L. 109–280, §842(a)(1), struck out ''(other than a multiemployer plan)'' after ''defined benefit plan'' in introductory provisions.

Subsec. (e)(2). Pub. L. 109–280, §114(d)(1), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: ''The term 'excess pension assets' means the excess (if any) of—

''(A) the amount determined under section 412(c)(7)(A)(ii), over

''(B) the greater of—

''(i) the amount determined under section 412(c)(7)(A)(i), or

''(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.''

Subsec. (e)(4). Pub. L. 109–280, §114(d)(2), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: ''In the case of a qualified transfer to a health benefits account—

''(A) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

''(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)) and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'.''

Subsec. (e)(5). Pub. L. 109–280, §842(a)(2), added par. (5).

Subsec. (f). Pub. L. 109–280, §841(a), added subsec. (f).

2004—Subsec. (b)(5). Pub. L. 108–218 substituted ''2013'' for ''2005''.

Subsec. (c)(3)(E). Pub. L. 108–357 designated existing provisions as cl. (i), inserted heading, and added cl. (ii).

1999—Subsec. (b)(1)(C)(iii). Pub. L. 106–170, §535(b)(2)(A), substituted ''cost'' for ''benefits''.

Subsec. (b)(5). Pub. L. 106–170, §535(a)(1), substituted ''made after December 31, 2005'' for ''in any taxable year beginning after December 31, 2000''.

Subsec. (c)(3). Pub. L. 106–170, §535(b)(1), amended heading and text of par. (3) generally, substituting present provisions for provisions relating to maintenance of benefit requirements.

Subsec. (e)(1)(D). Pub. L. 106–170, §535(b)(2)(B), substituted ''or in calculating applicable employer cost under subsection (c)(3)(B)'' for ''and shall not be subject to the minimum benefit requirements of subsection (c)(3)''.

1996—Pub. L. 104–188, §1704(a), provided that, except as otherwise expressly provided, whenever in title XII of Pub. L. 101–508 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986. Section 12011(a) of title XII of Pub. L. 101–508 directed the amendment of part I of subchapter D of chapter 1 by adding this subpart, including this section, without specifying that amendment was to the Internal Revenue Code of 1986.

Subsec. (e)(1)(C). Pub. L. 104–188, §1704(t)(32), substituted ''means'' for ''mean''.

1994—Subsec. (b)(1)(C)(iii). Pub. L. 103–465, §731(c)(1), substituted ''benefits'' for ''cost''.

Subsec. (b)(5). Pub. L. 103–465, §731(a), substituted ''2000'' for ''1995''.

Subsec. (c)(3). Pub. L. 103–465, §731(b), amended par. (3) generally, substituting present provisions for provisions outlining minimum cost requirements for plans, providing for elections to compute costs separately, and defining ''applicable employer cost'' and ''cost maintenance period''.

Subsec. (e)(1)(B). Pub. L. 103–465, §731(c)(2), reenacted subpar. (B) heading without change and amended text generally. Prior to amendment, text read as follows: ''The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.''

Subsec. (e)(1)(D). Pub. L. 103–465, §731(c)(3), substituted ''and shall not be subject to the minimum benefit requirements of subsection (c)(3)'' for ''or in calculating applicable employer cost under subsection (c)(3)(B)''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–328, div. T, title VI, §606(c), Dec. 29, 2022, 136 Stat. 5398, provided that: ''The amendments made by this section [amending this section and sections 1021, 1103, and 1108 of Title 29, Labor] shall apply to transfers made after the date of the enactment of this Act [Dec. 29, 2022].''

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–260, div. N, title II, §285(b), Dec. 27, 2020, 134 Stat. 1989, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2019.''

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–97 applicable to years beginning after Dec. 31, 2013, see section 3 of Pub. L. 113–97, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by section 40211(a)(2)(D) of Pub. L. 112–141 applicable with respect to plan years beginning after December 31, 2011, except as otherwise provided, see section 40211(c) of Pub. L. 112–141, set out as a note under section 404 of this title.

Pub. L. 112–141, div. D, title II, §40241(c), July 6, 2012, 126 Stat. 859, provided that: ''The amendments made by this Act [probably should be ''section'', amending this section and sections 1021, 1103, and 1108 of Title 29, Labor] shall take effect on the date of the enactment of this Act [July 6, 2012].''

Pub. L. 112–141, div. D, title II, §40242(h), July 6, 2012, 126 Stat. 864, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section, section 79 of this title, and section 1021 of Title 29, Labor] shall apply to transfers made after the date of the enactment of this Act [July 6, 2012].

''(2) CONFORMING AMENDMENTS RELATING TO PENSION PROTECTION ACT.—The amendments made by subsections (b)(3)(B) and (f) [amending this section] shall take effect as if included in the amendments made by section 841(a) of the Pension Protection Act of 2006 [Pub. L. 109–280].''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–458 effective as if included in the provisions of Pub. L. 109–280 to which the amendment relates, except as otherwise provided, see section 112 of Pub. L. 110–458, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–28, title VI, §6612(c), May 25, 2007, 121 Stat. 181, provided that: ''The amendments made by this section [amending this section] shall take effect as if included in the provisions of the Pension Protection Act of 2006 [Pub. L. 109–280] to which they relate.''

Pub. L. 110–28, title VI, §6613(b), May 25, 2007, 121 Stat. 181, provided that: ''The amendment made by sub-

section (a) [amending this section] shall apply to transfers after the date of the enactment of this Act [May 25, 2007].''

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 114(d) of Pub. L. 109–280 applicable to plan years beginning after 2007, see section 114(g)(1) of Pub. L. 109–280, as added by Pub. L. 110–458, set out as a note under section 401 of this title.

Pub. L. 109–280, title VIII, § 841(b), Aug. 17, 2006, 120 Stat. 1009, provided that: ''The amendments made by this section [amending this section] shall apply to transfers after the date of the enactment of this Act [Aug. 17, 2006].''

Pub. L. 109–280, title VIII, § 842(b), Aug. 17, 2006, 120 Stat. 1009, provided that: ''The amendment made by this section [amending this section] shall apply to transfers made in taxable years beginning after December 31, 2006.''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title VII, § 709(b)(3), Oct. 22, 2004, 118 Stat. 1552, provided that: ''The amendments made by this subsection [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 22, 2004].''

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–170, title V, § 535(c), Dec. 17, 1999, 113 Stat. 1935, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 1021, 1103, and 1108 of Title 29, Labor] shall apply to qualified transfers occurring after the date of the enactment of this Act [Dec. 17, 1999].

''(2) TRANSITION RULE.—If the cost maintenance period for any qualified transfer after the date of the enactment of this Act [Dec. 17, 1999] includes any portion of a benefit maintenance period for any qualified transfer on or before such date, the amendments made by subsection (b) [amending this section] shall not apply to such portion of the cost maintenance period (and such portion shall be treated as a benefit maintenance period).''

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–465, title VII, § 731(d), Dec. 8, 1994, 108 Stat. 5004, provided that:

''(1) EXTENSION.—The amendments made by subsections (a) and (c)(3) [amending this section] shall apply to taxable years beginning after December 31, 1995.

''(2) BENEFITS.—The amendments made by subsections (b) and (c)(1) and (2) [amending this section] shall apply to qualified transfers occurring after the date of the enactment of this Act [Dec. 8, 1994].''

EFFECTIVE DATE

Pub. L. 101–508, title XII, § 12011(c), Nov. 5, 1990, 104 Stat. 1388–571, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting this section and amending section 401 of this title] shall apply to transfers in taxable years beginning after December 31, 1990.

''(2) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or section 6655 of the Internal Revenue Code of 1986 for the taxable year preceding the taxpayer's 1st taxable year beginning after December 31, 1990, with respect to any underpayment to the extent such underpayment was created or increased by reason of [former] section 420(b)(4)(B) of such Code (as added by subsection (a)).''

APPLICABILITY OF AMENDMENTS BY SUBTITLES A AND B OF TITLE I OF PUB. L. 109–280

For special rules on applicability of amendments by subtitles A (§§ 101–108) and B (§§ 111–116) of title I of Pub. L. 109–280 to certain eligible cooperative plans, PBGC settlement plans, and eligible government contractor plans, see sections 104, 105, and 106 of Pub. L. 109–280, set out as notes under section 401 of this title.

PART II—CERTAIN STOCK OPTIONS

Editorial Notes

AMENDMENTS

1990—Pub. L. 101–508, title XI, § 11801(b)(6), (c)(9)(A)(ii), Nov. 5, 1990, 104 Stat. 1388–522, 1388–524, struck out items 422 ''Qualified stock options'' and 424 ''Restricted stock options'' and redesignated items 422A and 425 as 422 and 424, respectively.

1981—Pub. L. 97–34, title II, § 251(b)(6), Aug. 13, 1981, 95 Stat. 259, added item 422A.

1964—Pub. L. 88–272, title II, § 221(a), Feb. 26, 1964, 78 Stat. 63, substituted ''CERTAIN STOCK OPTIONS'' for ''MISCELLANEOUS PROVISIONS'' in part II heading, and ''General rules'' for ''Employee stock options'' in item 421, and added items 422–425.

§ 421. General rules

(a) Effect of qualifying transfer

If a share of stock is transferred to an individual in a transfer in respect of which the requirements of section 422(a) or 423(a) are met—

(1) no income shall result at the time of the transfer of such share to the individual upon his exercise of the option with respect to such share;

(2) no deduction under section 162 (relating to trade or business expenses) shall be allowable at any time to the employer corporation, a parent or subsidiary corporation of such corporation, or a corporation issuing or assuming a stock option in a transaction to which section 424(a) applies, with respect to the share so transferred; and

(3) no amount other than the price paid under the option shall be considered as received by any of such corporations for the share so transferred.

(b) Effect of disqualifying disposition

If the transfer of a share of stock to an individual pursuant to his exercise of an option would otherwise meet the requirements of section 422(a) or 423(a) except that there is a failure to meet any of the holding period requirements of section 422(a)(1) or 423(a)(1), then any increase in the income of such individual or deduction from the income of his employer corporation for the taxable year in which such exercise occurred attributable to such disposition, shall be treated as an increase in income or a deduction from income in the taxable year of such individual or of such employer corporation in which such disposition occurred. No amount shall be required to be deducted and withheld under chapter 24 with respect to any increase in income attributable to a disposition described in the preceding sentence.

(c) Exercise by estate

(1) In general

If an option to which this part applies is exercised after the death of the employee by the