

2095, provided that: “This part [part 3 (§§1031–1034) of subtitle A of title II of Pub. L. 93–406, enacting this section, sections 6058, 6059, 6690, and 6692 of this title and section 1320b–1 of Title 42, The Public Health and Welfare, and amending sections 6033, 6047, and 6652 of this title] shall take effect upon the date of the enactment of this Act [Sept. 2, 1974]; except that—

“(1) the requirements of section 6059 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply only with respect to plan years to which part I of this title applies. [For description of plan years to which part I applies, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title].

“(2) the requirements of section 6057 of such Code shall apply only with respect to plan years beginning after December 31, 1975.

“(3) the requirements of section 6058(a) of such Code shall apply only with respect to plan years beginning after the date of the enactment of this Act [Sept. 2, 1974], and

“(4) the amendments made by section 1032 [enacting section 1320b–1 of Title 42] shall take effect on January 1, 1978.”

§ 6058. Information required in connection with certain plans of deferred compensation

(a) In general

Every employer who maintains a pension, annuity, stock bonus, profit-sharing, or other funded plan of deferred compensation described in part I of subchapter D of chapter 1, or the plan administrator (within the meaning of section 414(g)) of the plan, shall file an annual return stating such information as the Secretary may by regulations prescribe with respect to the qualification, financial conditions, and operations of the plan; except that, in the discretion of the Secretary, the employer may be relieved from stating in its return any information which is reported in other returns.

(b) Actuarial statement in case of mergers, etc.

Not less than 30 days before a merger, consolidation, or transfer of assets or liabilities of a plan described in subsection (a) to another plan, the plan administrator (within the meaning of section 414(g)) shall file an actuarial statement of valuation evidencing compliance with the requirements of section 401(a)(12).

(c) Employer

For purposes of this section, the term “employer” includes a person described in section 401(c)(4) and an individual who establishes an individual retirement plan.

(d) Coordination with income tax returns, etc.

An individual who establishes an individual retirement plan shall not be required to file a return under this section with respect to such plan for any taxable year for which there is—

- (1) no special IRP tax, and
- (2) no plan activity other than—
 - (A) the making of contributions (other than rollover contributions), and
 - (B) the making of distributions.

(e) Special IRP tax defined

For purposes of this section, the term “special IRP tax” means a tax imposed by—

- (1) section 4973, or
- (2) section 4974.

(f) 403(b) multiple employer plans treated as one plan

In the case of annuity contracts to which this section applies and to which section 403(b) applies by reason of the plan under which such contracts are purchased meeting the requirements of paragraph (15) thereof, such plan shall be treated as a single plan for purposes of this section.

(g) Cross references

For provisions relating to penalties for failure to file a return required by this section, see section 6652(e).

For coordination between the Department of the Treasury and the Department of Labor with respect to the information required under this section, see section 3004 of title III of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 93–406, title II, §1031(a), Sept. 2, 1974, 88 Stat. 945; amended Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–600, title I, §157(k)(1), Nov. 6, 1978, 92 Stat. 2809; Pub. L. 98–369, div. A, title IV, §491(d)(48), July 18, 1984, 98 Stat. 852; Pub. L. 99–514, title XV, §1501(d)(1)(D), Oct. 22, 1986, 100 Stat. 2740; Pub. L. 115–141, div. U, title IV, §401(a)(264), Mar. 23, 2018, 132 Stat. 1197; Pub. L. 117–328, div. T, title I, §106(c), Dec. 29, 2022, 136 Stat. 5287.)

Editorial Notes

REFERENCES IN TEXT

Section 3004 of title III of the Employee Retirement Income Security Act of 1974, referred to in subsec. (g), is classified to section 1204 of Title 29, Labor.

AMENDMENTS

2022—Subsecs. (f), (g). Pub. L. 117–328 added subsec. (f) and redesignated former subsec. (f) as (g).

2018—Subsec. (e). Pub. L. 115–141 redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: “section 408(f).”

1986—Subsec. (f). Pub. L. 99–514 substituted “section 6652(e)” for “section 6652(f).”

1984—Subsec. (e). Pub. L. 98–369 struck out par. (2) which included a tax imposed by section 409(c) within term “special IRP tax”, and redesignated pars. (3) and (4) as (2) and (3), respectively.

1978—Subsec. (c). Pub. L. 95–600 substituted “an individual retirement plan” for “an individual retirement account or annuity described in section 408”.

Subsecs. (d) to (f). Pub. L. 95–600 added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

1976—Subsec. (a). Pub. L. 94–455 struck out “or his delegate” after “Secretary”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–328 applicable to plan years beginning after Dec. 31, 2022, see section 106(h)(1) of Pub. L. 117–328, set out as a note under section 403 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of

Pub. L. 98-369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title I, §157(k)(3), Nov. 6, 1978, 92 Stat. 2809, provided that: “The amendments made by paragraph (1) [amending this section] shall apply to returns for taxable years beginning after December 31, 1977. The amendment made by paragraph (2) [amending section 7701 of this title] shall apply to taxable years beginning after December 31, 1974.”

EFFECTIVE DATE

Section effective Sept. 2, 1974, except that the requirements of subsec. (a) shall apply only with respect to plan years beginning after Sept. 2, 1974, see section 1034 of Pub. L. 93-406, set out as a note under section 6057 of this title.

UPDATED FORMS

Pub. L. 117-328, div. T, title I, §103(c)(2), Dec. 29, 2022, 136 Stat. 5285, provided that: “The Secretary of the Treasury shall amend the forms relating to reports required under section 6058 of the Internal Revenue Code of 1986 to require—

“(A) separate reporting of the aggregate amount of contributions received by the plan during the year under section 6433 of the Internal Revenue Code of 1986 (as added by this section), and

“(B) similar reporting with respect to individual retirement accounts (as defined in section 408 of such Code) and individual retirement annuities (as defined in section 408(b) of such Code).”

[Pub. L. 117-328, div. T, title I, §103(f), Dec. 29, 2022, 136 Stat. 5286, provided that section 103(c)(2) of Pub. L. 117-328, set out above, is applicable to taxable years beginning after Dec. 31, 2026.]

COMBINED ANNUAL REPORT FOR GROUP OF PLANS

Pub. L. 116-94, div. O, title II, §202(a)-(c), (e), Dec. 20, 2019, 133 Stat. 3162, 3163, as amended by Pub. L. 117-328, div. T, title III, §345(a), Dec. 29, 2022, 136 Stat. 5380, provided that:

“(a) IN GENERAL.—The Secretary of the Treasury and the Secretary of Labor shall, in cooperation, modify the returns required under section 6058 of the Internal Revenue Code of 1986 and the reports required by section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024) so that—

“(1) all members of a group of plans described in subsection (c) may file a single aggregated annual return or report satisfying the requirements of both such sections; and

“(2) any opinions required by section 103(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)) shall relate only to each individual plan which would otherwise be subject to the requirements of such section 103(a)(3).

“(b) ADMINISTRATIVE REQUIREMENTS.—In developing the consolidated return or report under subsection (a), the Secretary of the Treasury and the Secretary of Labor may require such return or report to include any information regarding each plan in the group as such Secretaries determine is necessary or appropriate for the enforcement and administration of the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.] and shall require such information as will enable a participant in a plan to identify any aggregated return or report filed with respect to the plan.

“(c) PLANS DESCRIBED.—A group of plans is described in this subsection if all plans in the group—

“(1) are individual account plans or defined contribution plans (as defined in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)) or in section 414(i) of the Internal Revenue Code of 1986);

“(2) have—

“(A) the same trustee (as described in section 403(a) of such Act (29 U.S.C. 1103(a)));

“(B) the same one or more named fiduciaries (as described in section 402(a) of such Act (29 U.S.C. 1102(a)));

“(C) the same administrator (as defined in section 3(16)(A) of such Act (29 U.S.C. 1002(16)(A))) and plan administrator (as defined in section 414(g) of the Internal Revenue Code of 1986); and

“(D) plan years beginning on the same date; and

“(3) provide the same investments or investment options to participants and beneficiaries.

A plan not subject to title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.] shall be treated as meeting the requirements of paragraph (2) as part of a group of plans if the same person that performs each of the functions described in such paragraph, as applicable, for all other plans in such group performs each of such functions for such plan.

“(e) EFFECTIVE DATE.—The modification required by subsection (a) shall be implemented not later than January 1, 2022, and shall apply to returns and reports for plan years beginning after December 31, 2021.”

[Pub. L. 117-328, div. T, title III, §345(b), Dec. 29, 2022, 136 Stat. 5381, provided that: “The amendments made by this section [amending section 202(a) of Pub. L. 116-94, set out above] shall take effect on the date of the enactment of this Act [Dec. 29, 2022].”]

REPORTING SIMPLIFICATION

Pub. L. 109-280, title XI, §1103, Aug. 17, 2006, 120 Stat. 1057, provided that:

“(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—

“(1) IN GENERAL.—The Secretary of the Treasury shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of \$250,000 or less as of the close of the plan year need not file a return for that year.

“(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term ‘one-participant retirement plan’ means a retirement plan with respect to which the following requirements are met:

“(A) on the first day of the plan year—

“(i) the plan covered only one individual (or the individual and the individual’s spouse) and the individual owned 100 percent of the plan sponsor (whether or not incorporated), or

“(ii) the plan covered only one or more partners (or partners and their spouses) in the plan sponsor;

“(B) the plan meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business;

“(C) the plan does not provide benefits to anyone except the individual (and the individual’s spouse) or the partners (and their spouses);

“(D) the plan does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and

“(E) the plan does not cover a business that uses the services of leased employees (within the meaning of section 414(n) of such Code).

For purposes of this paragraph, the term ‘partner’ includes a 2-percent shareholder (as defined in section 1372(b) of such Code) of an S corporation.

“(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.

“(4) EFFECTIVE DATE.—The provisions of this subsection shall apply to plan years beginning on or after January 1, 2007.

“(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 PARTICIPANTS.—In the case of plan years beginning after December 31, 2006, the Secretary of the Treasury and the Secretary of Labor shall provide for the filing of a simplified annual return

for any retirement plan which covers less than 25 participants on the first day of a plan year and which meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2).”

§ 6059. Periodic report of actuary

(a) General rule

The actuarial report described in subsection (b) shall be filed by the plan administrator (as defined in section 414(g) of each defined benefit plan to which section 412 applies, for the first plan year for which section 412 applies to the plan and for each third plan year thereafter (or more frequently if the Secretary determines that more frequent reports are necessary).

(b) Actuarial report

The actuarial report of a plan required by subsection (a) shall be prepared and signed by an enrolled actuary (within the meaning of section 7701(a)(35)) and shall contain—

(1) a description of the funding method and actuarial assumptions used to determine costs under the plan,

(2) a certification of the contribution necessary to reduce the minimum required contribution determined under section 430, the accumulated funding deficiency under section 433, or the accumulated funding deficiency determined under section 431, to zero,

(3) a statement—

(A) that to the best of his knowledge the report is complete and accurate, and

(B) that the requirements for reasonable actuarial assumptions under section 430(h)(1), 431(c)(3), or 433(c)(3), whichever are applicable, have been complied with,

(4) such other information as may be necessary to fully and fairly disclose the actuarial position of the plan, and

(5) such other information regarding the plan as the Secretary may by regulations require.

(c) Time and manner of filing

The actuarial report and statement required by this section shall be filed at the time and in the manner provided by regulations prescribed by the Secretary.

(d) Cross reference

For coordination between the Department of the Treasury and the Department of Labor with respect to the report required to be filed under this section, see section 3004 of title III of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 93-406, title II, §1033(a), Sept. 2, 1974, 88 Stat. 947; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 109-280, title I, §114(f), Aug. 17, 2006, 120 Stat. 855; Pub. L. 113-97, title II, §202(c)(10), Apr. 7, 2014, 128 Stat. 1138; Pub. L. 115-141, div. U, title IV, §401(a)(265), Mar. 23, 2018, 132 Stat. 1197.)

Editorial Notes

REFERENCES IN TEXT

Section 3004 of title III of the Employee Retirement Income Security Act of 1974, referred to in subsec. (d), is classified to section 1204 of Title 29, Labor.

AMENDMENTS

2018—Subsec. (b)(3)(B). Pub. L. 115-141 substituted “that the requirements” for “the requirements” and “with,” for “with.”

2014—Subsec. (b)(2). Pub. L. 113-97, §202(c)(10)(A), substituted “430, the accumulated funding deficiency under section 433,” for “430.”

Subsec. (b)(3)(B). Pub. L. 113-97, §202(c)(10)(B), substituted “430(h)(1), 431(c)(3), or 433(c)(3)” for “430(h)(1) or 431(c)(3)”.

2006—Subsec. (b)(2). Pub. L. 109-280, §114(f)(1), substituted “the minimum required contribution determined under section 430, or the accumulated funding deficiency determined under section 431,” for “the accumulated funding deficiency (as defined in section 412(a))”.

Subsec. (b)(3)(B). Pub. L. 109-280, §114(f)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “the requirements of section 412(c) (relating to reasonable actuarial assumptions) have been complied with.”

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

Statutory Notes and Related Subsidiaries

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 2006 AMENDMENT

Amendment by 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.

EFFECTIVE DATE

Requirements of section applicable only with respect to plan years to which part I of subtitle A of title II of Pub. L. 93-406 applies, see section 1034(1) of Pub. L. 93-406, set out as a note under section 6057 of this title. For a description of the plan years to which part 1 applies, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

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.

CONSOLIDATION OF ACTUARIAL REPORTS

Pub. L. 93-406, title X, §1033(c), Sept. 2, 1974, 88 Stat. 948, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The Secretary of the Treasury and the Secretary of Labor shall take such steps as may be necessary to assure coordination to the maximum extent feasible between the actuarial reports required by section 6059 of the Internal Revenue Code of 1986 and by section 103(d) of title I of the Employee Retirement Income Security Act of 1974 [section 1023(d) of Title 29, Labor].”

SUBPART F—INFORMATION CONCERNING TAX RETURN PREPARERS

Sec.

6060. Information returns of tax return preparers.

Editorial Notes

AMENDMENTS

2007—Pub. L. 110-28, title VIII, §8246(a)(2)(A)(iii), (iv), May 25, 2007, 121 Stat. 201, substituted “Tax Return Preparers” for “Income Tax Return Preparers” in subpart heading and “tax return preparers” for “income tax return preparers” in item 6060.