

this subsection) be required to be paid by the assigned operator.

Upon termination of the obligations for the premium liability of any assigned operator or related person for which such account is maintained, all funds remaining in such account (and earnings thereon) shall be refunded to such person as may be designated by the common parent described in paragraph (1)(B).

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3042; amended Pub. L. 103-296, title I, §108(h)(9)(A), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 109-432, div. C, title II, §§211(a), 212(a)(2), Dec. 20, 2006, 120 Stat. 3020, 3024; Pub. L. 115-141, div. U, title IV, §401(a)(344), Mar. 23, 2018, 132 Stat. 1200.)

#### **Editorial Notes**

##### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3), 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.

##### AMENDMENTS

2018—Subsec. (d)(2)(B). Pub. L. 115-141 substituted “1232,” for “1232),”.

2006—Subsec. (d). Pub. L. 109-432, §212(a)(2)(A), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows: “The unassigned beneficiaries premium for any plan year for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.”

Subsec. (e)(1). Pub. L. 109-432, §212(a)(2)(B)(i), inserted “and amounts transferred under section 9705(b)” after “premiums received”.

Subsec. (e)(3)(A). Pub. L. 109-432, §212(a)(2)(B)(ii), inserted at end “Amounts credited to an account from amounts transferred under section 9705(b) shall not be taken into account in determining whether there is a surplus in the account for purposes of this paragraph.”

Subsec. (f)(2)(C). Pub. L. 109-432, §212(a)(2)(C), added subpar. (C).

Subsec. (j). Pub. L. 109-432, §211(a), added subsec. (j).

1994—Subsecs. (b)(2), (h). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

#### **Statutory Notes and Related Subsidiaries**

##### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. C, title II, §212(a)(4), Dec. 20, 2006, 120 Stat. 3025, provided that: “The amendments made by this subsection [amending this section and sections 9705 and 9706 of this title] shall apply to plan years of the Combined Fund beginning after September 30, 2006.”

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

#### **§ 9705. Transfers**

##### **(a) Transfer of assets from 1950 UMWA Pension Plan**

###### **(1) In general**

From the funds reserved under paragraph (2), the board of trustees of the 1950 UMWA Pen-

sion Plan shall transfer to the Combined Fund—

- (A) \$70,000,000 on February 1, 1993,
- (B) \$70,000,000 on October 1, 1993, and
- (C) \$70,000,000 on October 1, 1994.

###### **(2) Reservation**

Immediately upon the enactment date, the board of trustees of the 1950 UMWA Pension Plan shall segregate \$210,000,000 from the general assets of the plan. Such funds shall be held in the plan until disbursed pursuant to paragraph (1). Any interest on such funds shall be deposited into the general assets of the 1950 UMWA Pension Plan.

###### **(3) Use of funds**

Amounts transferred to the Combined Fund under paragraph (1) shall—

(A) in the case of the transfer on February 1, 1993, be used to proportionately reduce the premium of each assigned operator under section 9704(a) for the plan year of the Fund beginning February 1, 1993, and

(B) in the case of any other such transfer, be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) and the death benefit premium under section 9704(a)(2) of each assigned operator for the plan year in which transferred and for any subsequent plan year in which such funds remain available.

Such funds may not be used to pay any amounts required to be paid by the 1988 agreement operators under section 9704(i)(1)(B).

##### **(4) Tax treatment; validity of transfer**

###### **(A) No deduction**

No deduction shall be allowed under this title with respect to any transfer pursuant to paragraph (1), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers, or amounts hereafter contributed by employers, to the 1950 UMWA Pension Plan, the 1950 UMWA Benefit Plan, the 1974 UMWA Pension Plan, the 1974 UMWA Benefit Plan, the 1992 UMWA Benefit Plan, or the Combined Fund.

###### **(B) Other tax provisions**

Any transfer pursuant to paragraph (1)—

(i) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

(ii) shall not be includible in the gross income of any employer maintaining the 1950 UMWA Pension Plan.

##### **(5) Treatment of transfer**

Any transfer pursuant to paragraph (1) shall not be deemed to violate, or to be prohibited by, any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to liability, taxes, fines, or penalties of any kind whatsoever.

##### **(b) Transfers**

###### **(1) In general**

The Combined Fund shall include any amount transferred to the Fund under sub-

sections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

**(2) Use of funds**

Any amount transferred under paragraph (1) for any fiscal year shall be used to pay benefits and administrative costs of beneficiaries of the Combined Fund or for such other purposes as are specifically provided in the Act described in paragraph (1).

(Added Pub. L. 102-486, title XIX, §19143(a), Oct. 24, 1992, 106 Stat. 3046; amended Pub. L. 109-432, div. C, title II, §212(a)(1), Dec. 20, 2006, 120 Stat. 3023; Pub. L. 115-141, div. U, title IV, §401(a)(345), (346), Mar. 23, 2018, 132 Stat. 1200, 1201.)

**Editorial Notes**

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115-141, §401(a)(345), substituted “1232” for “1232(h)”.

Subsec. (b)(2). Pub. L. 115-141, §401(a)(346), substituted “Act” for “Acts”.

2006—Subsec. (b). Pub. L. 109-432, §212(a)(1)(C), struck out “from abandoned mine reclamation fund” after “Transfers” in heading.

Subsec. (b)(1). Pub. L. 109-432, §212(a)(1)(A), substituted “subsections (h) and (i) of section 402” for “section 402(h)”.

Subsec. (b)(2). Pub. L. 109-432, §212(a)(1)(B), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: “Any amount transferred under paragraph (1) for any fiscal year shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for the plan year in which transferred.”

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to plan years of the Combined Fund beginning after Sept. 30, 2006, see section 212(a)(4) of Pub. L. 109-432, set out as a note under section 9704 of this title.

**§ 9706. Assignment of eligible beneficiaries**

**(a) In general**

For purposes of this chapter, the Commissioner of Social Security shall, before October 1, 1993, assign each coal industry retiree who is an eligible beneficiary to a signatory operator which (or any related person with respect to which) remains in business in the following order:

(1) First, to the signatory operator which—

(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry for at least 2 years.

(2) Second, if the retiree is not assigned under paragraph (1), to the signatory operator which—

(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry.

(3) Third, if the retiree is not assigned under paragraph (1) or (2), to the signatory operator which employed the coal industry retiree in the coal industry for a longer period of time than any other signatory operator prior to the effective date of the 1978 coal wage agreement.

**(b) Rules relating to employment and reassignment upon purchase**

For purposes of subsection (a)—

**(1) Aggregation rules**

**(A) Related person**

Any employment of a coal industry retiree in the coal industry by a signatory operator shall be treated as employment by any related persons to such operator.

**(B) Certain employment disregarded**

Employment with—

(i) a person which is (and all related persons with respect to which are) no longer in business, or

(ii) a person during a period during which such person was not a signatory to a coal wage agreement,

shall not be taken into account.

**(2) Reassignment upon purchase**

If a person becomes a successor of an assigned operator after the enactment date, the assigned operator may transfer the assignment of an eligible beneficiary under subsection (a) to such successor, and such successor shall be treated as the assigned operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the assigned operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. An assigned operator shall notify the trustees of the Combined Fund of any transfer described in this paragraph.

**(c) Identification of eligible beneficiaries**

The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall, by the later of October 1, 1992, or the twentieth day after the enactment date, provide to the Commissioner of Social Security a list of the names and social security account numbers of each eligible beneficiary, including each deceased eligible beneficiary if any other individual is an eligible beneficiary by reason of a relationship to such deceased eligible beneficiary. In addition, the plans shall provide, where ascertainable from plan records, the names of all persons described in subsection (a) with respect to any eligible beneficiary or deceased eligible beneficiary.

**(d) Cooperation by other agencies and persons**

**(1) Cooperation**

The head of any department, agency, or instrumentality of the United States shall cooperate fully and promptly with the Commissioner of Social Security in providing information which will enable the Commissioner to carry out his responsibilities under this section.

**(2) Providing of information**

**(A) In general**

Notwithstanding any other provision of law, including section 6103, the head of any