

Editorial Notes

REFERENCES IN TEXT

Section 342(e) of the SECURE 2.0 Act of 2022, referred to in subsec. (f), is section 342(e) of div. T of Pub. L. 117-328, which is set out as a note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-328, div. T, title III, §342(d), Dec. 29, 2022, 136 Stat. 5378, provided that: “The requirements of section 113 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1032], as added by subsection (b) [probably means subsec. (a) of section 342 of Pub. L. 117-328, which enacted this section], shall apply beginning on the applicable effective date specified in the final regulations promulgated pursuant to subsection (e) [set out below].”

REGULATIONS

Pub. L. 117-328, div. T, title III, §342(e), Dec. 29, 2022, 136 Stat. 5378, provided that: “Not earlier than 1 year after the date of enactment of this Act [Dec. 29, 2022], the Secretary of Labor, in consultation with the Secretary of the Treasury, shall issue regulations to implement section 113 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1032], as added by subsection (a). Such regulations shall be applicable not earlier than the issuance of a final rule and not later than 1 year after issuance of a final rule.”

PART 2—PARTICIPATION AND VESTING

§ 1051. Coverage

This part shall apply to any employee benefit plan described in section 1003(a) of this title (and not exempted under section 1003(b) of this title) other than—

- (1) an employee welfare benefit plan;
- (2) a plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees;
- (3)(A) a plan established and maintained by a society, order, or association described in section 501(c)(8) or (9) of title 26, if no part of the contributions to or under such plan are made by employers of participants in such plan, or
 - (B) a trust described in section 501(c)(18) of title 26;
- (4) a plan which is established and maintained by a labor organization described in section 501(c)(5) of title 26 and which does not at any time after September 2, 1974, provide for employer contributions;
- (5) any agreement providing payments to a retired partner or a deceased partner's successor in interest, as described in section 736 of title 26;
- (6) an individual retirement account or annuity described in section 408 of title 26, or a retirement bond described in section 409 of title 26 (as effective for obligations issued before January 1, 1984);
- (7) an excess benefit plan; or
- (8) any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired

employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this chapter.

(Pub. L. 93-406, title I, §201, Sept. 2, 1974, 88 Stat. 852; Pub. L. 96-364, title IV, §411(a), Sept. 26, 1980, 94 Stat. 1308; Pub. L. 101-239, title VII, §§7891(a)(1), 7894(c)(1)(A), (11)(A), Dec. 19, 1989, 103 Stat. 2445, 2448, 2449.)

Editorial Notes

REFERENCES IN TEXT

Section 409 of title 26, referred to in par. (6), means section 409 of Title 26, Internal Revenue Code, prior to its repeal by Pub. L. 98-369, div. A, title IV, §491(b), July 18, 1984, 98 Stat. 848, applicable to obligations issued after Dec. 31, 1983.

This chapter, referred to in par. (8), was in the original “this Act”, meaning Pub. L. 93-406, known as the Employee Retirement Income Security Act of 1974. Titles I, III, and IV of such Act are classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1989—Pars. (3)(A), (4), (5). Pub. L. 101-239, §7891(a)(1), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Par. (6). Pub. L. 101-239, §7891(a)(1), substituted “section 408 of the Internal Revenue Code of 1986” for “section 408 of the Internal Revenue Code of 1954”, which for purposes of codification was translated as “section 408 of title 26” thus requiring no change in text.

Pub. L. 101-239, §7894(c)(11)(A), substituted “section 409 of title 26 (as effective for obligations issued before January 1, 1984)” for “section 409 of title 26”.

Pub. L. 101-239, §7894(c)(1)(A)(i), struck out “or” after semicolon at end.

Par. (7). Pub. L. 101-239, §7894(c)(1)(A)(ii), substituted “plan; or” for “plan.”

Par. (8). Pub. L. 101-239, §7894(c)(1)(A)(iii), substituted “any plan” for “Any plan”.

1980—Par. (8). Pub. L. 96-364 added par. (8).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7891(a)(1) of Pub. L. 101-239 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 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

Pub. L. 101-239, title VII, §7894(c)(1)(B), Dec. 19, 1989, 103 Stat. 2449, provided that: “The amendments made by subparagraph (A) [amending this section] shall take effect as if included in section 411 of the Multiemployer Pension Plan Amendments Act of 1980 [Pub. L. 96-364].”

Pub. L. 101-239, title VII, §7894(c)(11)(B), Dec. 19, 1989, 103 Stat. 2449, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if originally included in section 491(b) of Public Law 98-369.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-364 effective Sept. 26, 1980, except as specifically provided, see section 1461(e) of this title.

§ 1052. Minimum participation standards

(a)(1)(A) No pension plan may require, as a condition of participation in the plan, that an