

section 401 of Title 26, Internal Revenue Code] shall be effective with respect to distributions that occur in plan years commencing after final regulations implementing these provisions are prescribed by the Pension Benefit Guaranty Corporation.” [Final implementing regulations were issued Nov. 22, 1995, effective for distributions in plan years beginning on or after Jan. 1, 1996. See 60 F.R. 61740.]

#### 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.

Amendment by section 7894(c)(8) of Pub. L. 101-239 effective, except as otherwise provided, as if originally included in the provision of the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, to which such amendment relates, see section 7894(i) of Pub. L. 101-239, set out as a note under section 1002 of this title.

Pub. L. 101-239, title VII, § 7894(c)(9)(B), Dec. 19, 1989, 103 Stat. 2449, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if included in section 104 of the Retirement Equity Act of 1984 [Pub. L. 98-397].”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective as if included in the provision of the Retirement Equity Act of 1984, Pub. L. 98-397, to which such amendment relates, except as otherwise provided, see section 1898(j) of Pub. L. 99-514, set out as a note under section 401 of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-397 effective Jan. 1, 1985, except as otherwise provided, see section 303(d) of Pub. L. 98-397, set out as a note under section 1001 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 Title 26, Internal Revenue Code.

#### 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, set out as a note under section 401 of Title 26, Internal Revenue Code.

### **§ 1057. Repealed. Pub. L. 109-280, title I, § 108(d), formerly § 107(d), Aug. 17, 2006, 120 Stat. 820, renumbered Pub. L. 111-192, title II, § 202(a), June 25, 2010, 124 Stat. 1297**

Section, Pub. L. 93-406, title I, § 207, Sept. 2, 1974, 88 Stat. 865, related to temporary variances from certain vesting requirements.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF REPEAL

Repeal applicable to plan years beginning after 2007, see section 108(e) of Pub. L. 109-280, set out as an Effective Date of 2006 Amendment note under section 1021 of this title.

### **§ 1058. Mergers and consolidations of plans or transfers of plan assets**

A pension plan may not merge or consolidate with, or transfer its assets or liabilities to, any other plan after September 2, 1974, unless each participant in the plan would (if the plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the plan had then terminated). The preceding sentence shall not apply to any transaction to the extent that participants either before or after the transaction are covered under a multi-employer plan to which subchapter III of this chapter applies.

(Pub. L. 93-406, title I, § 208, Sept. 2, 1974, 88 Stat. 865; Pub. L. 96-364, title IV, § 402(b)(1), Sept. 26, 1980, 94 Stat. 1299.)

#### Editorial Notes

##### AMENDMENTS

1980—Pub. L. 96-364 substituted provisions respecting applicability of preceding sentence to transactions under a covered multiemployer plan to which subchapter III applies, for provisions relating to applicability of paragraph to a multiemployer plan only to extent determined by Corporation.

#### Statutory Notes and Related Subsidiaries

##### 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.

### **§ 1059. Recordkeeping and reporting requirements**

(a)(1) Except as provided by paragraph (2) every employer shall, in accordance with such regulations as the Secretary may prescribe, maintain records with respect to each of his employees sufficient to determine the benefits due or which may become due to such employees. The plan administrator shall make a report, in such manner and at such time as may be provided in regulations prescribed by the Secretary, to each employee who is a participant under the plan and who—

(A) requests such report, in such manner and at such time as may be provided in such regulations,

(B) terminates his service with the employer, or

(C) has a 1-year break in service (as defined in section 1053(b)(3)(A) of this title).

The employer shall furnish to the plan administrator the information necessary for the administrator to make the reports required by the preceding sentence. Not more than one report shall be required under subparagraph (A) in any 12-month period. Not more than one report shall be required under subparagraph (C) with respect to consecutive 1-year breaks in service. The report required under this paragraph shall be in the same form, and contain the same information, as periodic benefit statements under section 1025(a) of this title.

(2) If more than one employer adopts a plan, each such employer shall furnish to the plan administrator the information necessary for the administrator to maintain the records, and make the reports, required by paragraph (1). Such administrator shall maintain the records, and make the reports, required by paragraph (1).

(b) If any person who is required, under subsection (a), to furnish information or maintain records for any plan year fails to comply with such requirement, he shall pay to the Secretary a civil penalty of \$10 for each employee with respect to whom such failure occurs, unless it is shown that such failure is due to reasonable cause.

(Pub. L. 93-406, title I, § 209, Sept. 2, 1974, 88 Stat. 865; Pub. L. 110-458, title I, § 105(f), Dec. 23, 2008, 122 Stat. 5105.)

#### Editorial Notes

##### AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-458, § 105(f)(1), in introductory provisions, substituted “such regulations as the Secretary may prescribe” for “regulations prescribed by the Secretary” and, in concluding provisions, inserted last sentence and struck out former last sentence which read as follows: “The report required under this paragraph shall be sufficient to inform the employee of his accrued benefits under the plan and the percentage of such benefits which are nonforfeitable under the plan.”

Subsec. (a)(2). Pub. L. 110-458, § 105(f)(2), added par. (2) and struck out former par. (2) which read as follows: “If more than one employer adopts a plan, each such employer shall, in accordance with regulations prescribed by the Secretary, furnish to the plan administrator the information necessary for the administrator to maintain the records and make the reports required by paragraph (1). Such administrator shall maintain the records and, to the extent provided under regulations prescribed by the Secretary, make the reports, required by paragraph (1).”

#### Statutory Notes and Related Subsidiaries

##### 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 Title 26, Internal Revenue Code.

##### REGULATIONS

Secretary authorized, effective Sept. 2, 1974, to promulgate regulations wherever provisions of this subchapter call for the promulgation of regulations, see section 1031 of this title.

#### § 1060. Multiple employer plans and other special rules

##### (a) Plan maintained by more than one employer

Notwithstanding any other provision of this part or part 3, the following provisions of this subsection shall apply to a plan maintained by more than one employer:

(1) Section 1052 of this title shall be applied as if all employees of each of the employers were employed by a single employer.

(2) Sections 1053 and 1054 of this title shall be applied as if all such employers constituted a single employer, except that the application of any rules with respect to breaks in service

shall be made under regulations prescribed by the Secretary.

(3) The minimum funding standard provided by section 1082 of this title shall be determined as if all participants in the plan were employed by a single employer.

##### (b) Maintenance of plan of predecessor employer

For purposes of this part and part 3—

(1) in any case in which the employer maintains a plan of a predecessor employer, service for such predecessor shall be treated as service for the employer, and

(2) in any case in which the employer maintains a plan which is not the plan maintained by a predecessor employer, service for such predecessor shall, to the extent provided in regulations prescribed by the Secretary of the Treasury, be treated as service for the employer.

##### (c) Plan maintained by controlled group of corporations

For purposes of sections 1052, 1053, and 1054 of this title, all employees of all corporations which are members of a controlled group of corporations (within the meaning of section 1563(a) of title 26, determined without regard to section 1563(a)(4) and (e)(3)(C) of title 26) shall be treated as employed by a single employer. With respect to a plan adopted by more than one such corporation, the minimum funding standard of section 1082 of this title shall be determined as if all such employers were a single employer, and allocated to each employer in accordance with regulations prescribed by the Secretary of the Treasury.

##### (d) Plan of trades or businesses under common control

For purposes of sections 1052, 1053, and 1054 of this title, under regulations prescribed by the Secretary of the Treasury, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer. The regulations prescribed under this subsection shall be based on principles similar to the principles which apply in the case of subsection (c).

##### (e) Special rules for eligible combined defined benefit plans and qualified cash or deferred arrangements

###### (1) General rule

Except as provided in this subsection, this chapter shall be applied to any defined benefit plan or applicable individual account plan which are<sup>1</sup> part of an eligible combined plan in the same manner as if each such plan were not a part of the eligible combined plan. In the case of a termination of the defined benefit plan and the applicable defined contribution plan forming part of an eligible combined plan, the plan administrator shall terminate each such plan separately.

###### (2) Eligible combined plan

For purposes of this subsection—

###### (A) In general

The term “eligible combined plan” means a plan—

<sup>1</sup> So in original. Probably should be “is”.