

two or more contributing sponsors at least two of whom are not under common control at the time such plan is terminated under section 1341(c) or 1342 of this title, or who, at any time within the 5 plan years preceding the date of termination, made contributions under the plan.

(b) The corporation shall determine the liability with respect to each contributing sponsor and each member of its controlled group in a manner consistent with section 1362 of this title, except that the amount of liability determined under section 1362(b)(1) of this title with respect to the entire plan shall be allocated to each controlled group by multiplying such amount by a fraction—

(1) the numerator of which is the amount required to be contributed to the plan for the last 5 plan years ending prior to the termination date by persons in such controlled group as contributing sponsors, and

(2) the denominator of which is the total amount required to be contributed to the plan for such last 5 plan years by all persons as contributing sponsors,

and section 1368(a) of this title shall be applied separately with respect to each controlled group. The corporation may also determine the liability of each such contributing sponsor and member of its controlled group on any other equitable basis prescribed by the corporation in regulations.

(Pub. L. 93-406, title IV, §4064, Sept. 2, 1974, 88 Stat. 1031; Pub. L. 96-364, title IV, §403(i), Sept. 26, 1980, 94 Stat. 1301; Pub. L. 99-272, title XI, §11016(a)(5)(B), Apr. 7, 1986, 100 Stat. 270; Pub. L. 100-203, title IX, §9312(b)(2)(C)(i), Dec. 22, 1987, 101 Stat. 1330-361; Pub. L. 101-239, title VII, §7881(f)(3)(A), Dec. 19, 1989, 103 Stat. 2440.)

Editorial Notes

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-239 substituted “section 1368(a)” for “clauses (i)(II) and (ii) of section 1362(b)(1)(A)”.

1987—Subsec. (b). Pub. L. 100-203 amended first sentence generally. Prior to amendment, first sentence read as follows: “The corporation shall determine the liability with respect to each contributing sponsor and each member of its controlled group in a manner consistent with section 1362 of this title, except that—

“(1) the amount of the liability determined under section 1362(b)(1) of this title with respect to the entire plan—

“(A) shall be determined without regard to clauses (i)(II) and (ii) of section 1362(b)(1)(A) of this title, and

“(B) shall be allocated to each controlled group by multiplying such amount by a fraction—

“(i) the numerator of which is the amount required to be contributed to the plan for the last 5 plan years ending prior to the termination date by persons in such controlled group as contributing sponsors, and

“(ii) the denominator of which is the total amount required to be contributed to the plan for such last 5 plan years by all persons as contributing sponsors,

and clauses (i)(II) and (ii) of section 1362(b)(1)(A) of this title shall be applied separately with respect to each such controlled group, and

“(2) the amount of the liability determined under section 1362(c)(1) of this title with respect to the entire plan shall be allocated to each controlled group

by multiplying such amount by the fraction described in paragraph (1)(B) in connection with such controlled group.”

1986—Pub. L. 99-272, §11016(a)(5)(B)(iii), substituted “on termination of single-employer plans under multiple controlled groups” for “of employers on termination of plan maintained by more than one employer” in section catchline.

Subsec. (a). Pub. L. 99-272, §11016(a)(5)(B)(i), substituted “all contributing sponsors of a single-employer plan which has two or more contributing sponsors at least two of whom are not under common control” for “all employers who maintain a plan under which more than one employer makes contributions (other than a multiemployer plan)” and inserted “under section 1341(c) or 1342 of this title” after “terminated”.

Subsec. (b). Pub. L. 99-272, §11016(a)(5)(B)(ii), amended subsec. (b) generally, substituting reference to each contributing sponsor and each member of its controlled group for reference to each employer of a plan maintained by more than one employer and inserted provisions that liability determined under section 1362(b)(1) of this title with respect to the entire plan be determined without regard to cls. (i)(II) and (ii) of section 1362(b)(1)(A) of this title and that the amount of liability determined under section 1362(c)(1) of this title with respect to the entire plan be allocated to each controlled group by multiplying such amount by the fraction described in par. (1)(B) in connection with such controlled group.

1980—Subsec. (a). Pub. L. 96-364 inserted provisions excepting a multiemployer plan.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Pension Protection Act, Pub. L. 100-203, §§9302-9346, to which such amendment relates, see section 7882 of Pub. L. 101-239, set out as a note under section 401 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable with respect to plan terminations under section 1341 of this title with respect to which notices of intent to terminate are provided under section 1341(a)(2) of this title after Dec. 17, 1987, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 1342 of this title after that date, see section 9312(d)(1) of Pub. L. 100-203, as amended, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 effective Jan. 1, 1986, with certain exceptions, see section 11019 of Pub. L. 99-272, set out as a note under section 1341 of this title.

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.

§ 1365. Annual report of plan administrator

For each plan year for which section 1321 of this title applies to a plan, the plan administrator shall file with the corporation, on a form prescribed by the corporation, an annual report which identifies the plan and plan administrator and which includes—

(1) a copy of each notification required under section 1363 of this title with respect to such year,

(2) a statement disclosing whether any reportable event (described in section 1343(b)¹ of this title) occurred during the plan year except to the extent the corporation waives such requirement, and

(3) in the case of a multiemployer plan, information with respect to such plan which the corporation determines is necessary for the enforcement of subtitle E and requires by regulation, which may include—

(A) a statement certified by the plan's enrolled actuary of—

- (i) the value of all vested benefits under the plan as of the end of the plan year, and
- (ii) the value of the plan's assets as of the end of the plan year;

(B) a statement certified by the plan sponsor of each claim for outstanding withdrawal liability (within the meaning of section 1301(a)(12) of this title) and its value as of the end of that plan year and as of the end of the preceding plan year; and

(C) the number of employers having an obligation to contribute to the plan and the number of employers required to make withdrawal liability payments.

The report shall be filed within 6 months after the close of the plan year to which it relates. The corporation shall cooperate with the Secretary of the Treasury and the Secretary of Labor in an endeavor to coordinate the timing and content, and possibly obtain the combination, of reports under this section with reports required to be made by plan administrators to such Secretaries.

(Pub. L. 93-406, title IV, §4065, Sept. 2, 1974, 88 Stat. 1032; Pub. L. 96-364, title I, §106, Sept. 26, 1980, 94 Stat. 1266.)

Editorial Notes

REFERENCES IN TEXT

Section 1343(b) of this title, referred to in par. (2), was redesignated section 1343(c) of this title and a new section 1343(b) was added by Pub. L. 103-465, title VII, §771(b), Dec. 8, 1994, 108 Stat. 5042.

AMENDMENTS

1980—Pub. L. 96-364 inserted provisions in par. (2) respecting waiver by corporation and added par. (3).

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.

§ 1366. Annual notification to substantial employers

The plan administrator of each single-employer plan which has at least two contributing sponsors at least two of whom are not under common control shall notify, within 6 months after the close of each plan year, any contributing sponsor of the plan who is described in section 1301(a)(2) of this title that such contributing sponsor (alone or together with members

of such contributing sponsor's controlled group) constitutes a substantial employer for that year.

(Pub. L. 93-406, title IV, §4066, Sept. 2, 1974, 88 Stat. 1032; Pub. L. 96-364, title IV, §403(j), Sept. 26, 1980, 94 Stat. 1301; Pub. L. 99-272, title XI, §11016(a)(5)(C), Apr. 7, 1986, 100 Stat. 271; Pub. L. 101-239, title VII, §7893(g)(2), Dec. 19, 1989, 103 Stat. 2447.)

Editorial Notes

AMENDMENTS

1989—Pub. L. 101-239 inserted "any" before "contributing sponsor of the plan".

1986—Pub. L. 99-272 substituted "each single-employer plan which has at least two contributing sponsors at least two of whom are not under common control" for "each plan under which contributions are made by more than one employer (other than a multi-employer plan)", "contributing sponsor of the plan" for "any employer making contributions under that plan", and "that such contributing sponsor (alone or together with members of such contributing sponsor's controlled group) constitutes a substantial employer" for "that he is a substantial employer".

1980—Pub. L. 96-364 inserted provisions excepting a multiemployer plan.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective as if included in the provision of the Single-Employer Pension Plan Amendments Act of 1986, Pub. L. 99-272, title XI, to which such amendment relates, see section 7893(h) of Pub. L. 101-239, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 effective Jan. 1, 1986, with certain exceptions, see section 11019 of Pub. L. 99-272, set out as a note under section 1341 of this title.

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.

§ 1367. Recovery of liability for plan termination

The corporation is authorized to make arrangements with contributing sponsors and members of their controlled groups who are or may become liable under section 1362, 1363, or 1364 of this title for payment of their liability, including arrangements for deferred payment of amounts of liability to the corporation accruing as of the termination date on such terms and for such periods as the corporation deems equitable and appropriate.

(Pub. L. 93-406, title IV, §4067, Sept. 2, 1974, 88 Stat. 1032; Pub. L. 99-272, title XI, §11016(a)(6)(A), Apr. 7, 1986, 100 Stat. 271; Pub. L. 100-203, title IX, §9313(b)(6), Dec. 22, 1987, 101 Stat. 1330-366; Pub. L. 101-239, title VII, §7893(g)(3), Dec. 19, 1989, 103 Stat. 2448.)

Editorial Notes

AMENDMENTS

1989—Pub. L. 101-239 amended directory language of Pub. L. 99-272, §11016(a)(6)(A)(ii), see 1986 Amendment note below.

¹ See References in Text note below.