

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 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

§ 1369. Treatment of transactions to evade liability; effect of corporate reorganization

(a) Treatment of transactions to evade liability

If a principal purpose of any person in entering into any transaction is to evade liability to which such person would be subject under this subtitle and the transaction becomes effective within five years before the termination date of the termination on which such liability would be based, then such person and the members of such person's controlled group (determined as of the termination date) shall be subject to liability under this subtitle in connection with such termination as if such person were a contributing sponsor of the terminated plan as of the termination date. This subsection shall not cause any person to be liable under this subtitle in connection with such plan termination for any increases or improvements in the benefits provided under the plan which are adopted after the date on which the transaction referred to in the preceding sentence becomes effective.

(b) Effect of corporate reorganization

For purposes of this subtitle, the following rules apply in the case of certain corporate reorganizations:

(1) Change of identity, form, etc.

If a person ceases to exist by reason of a reorganization which involves a mere change in identity, form, or place of organization, however effected, a successor corporation resulting from such reorganization shall be treated as the person to whom this subtitle applies.

(2) Liquidation into parent corporation

If a person ceases to exist by reason of liquidation into a parent corporation, the parent corporation shall be treated as the person to whom this subtitle applies.

(3) Merger, consolidation, or division

If a person ceases to exist by reason of a merger, consolidation, or division, the successor corporation or corporations shall be treated as the person to whom this subtitle applies.

(Pub. L. 93-406, title IV, § 4069, as added Pub. L. 99-272, title XI, § 11013(a), Apr. 7, 1986, 100 Stat. 260.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 99-272, title XI, § 11013(b), Apr. 7, 1986, 100 Stat. 261, provided that: "Section 4069(a) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)) [subsec. (a) of this section] shall apply with

respect to transactions becoming effective on or after January 1, 1986."

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

§ 1370. Enforcement authority relating to terminations of single-employer plans

(a) In general

Any person who is with respect to a single-employer plan a fiduciary, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and is adversely affected by an act or practice of any party (other than the corporation) in violation of any provision of section 1341, 1342, 1362, 1363, 1364, or 1369 of this title, or who is an employee organization representing such a participant or beneficiary so adversely affected for purposes of collective bargaining with respect to such plan, may bring an action—

(1) to enjoin such act or practice, or

(2) to obtain other appropriate equitable relief (A) to redress such violation or (B) to enforce such provision.

(b) Status of plan as party to action and with respect to legal process

A single-employer plan may be sued under this section as an entity. Service of summons, subpoena, or other legal process of a court upon a trustee or an administrator of a single-employer plan in such trustee's or administrator's capacity as such shall constitute service upon the plan. If a plan has not designated in the summary plan description of the plan an individual as agent for the service of legal process, service upon any contributing sponsor of the plan shall constitute such service. Any money judgment under this section against a single-employer plan shall be enforceable only against the plan as an entity and shall not be enforceable against any other person unless liability against such person is established in such person's individual capacity.

(c) Jurisdiction and venue

The district courts of the United States shall have exclusive jurisdiction of civil actions under this section. Such actions may be brought in the district where the plan is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to grant the relief provided for in subsection (a) in any action.

(d) Right of corporation to intervene

A copy of the complaint or notice of appeal in any action under this section shall be served upon the corporation by certified mail. The corporation shall have the right in its discretion to intervene in any action.

(e) Awards of costs and expenses

(1) General rule

In any action brought under this section, the court in its discretion may award all or a por-

tion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to any party who prevails or substantially prevails in such action.

(2) Exemption for plans

Notwithstanding the preceding provisions of this subsection, no plan shall be required in any action to pay any costs and expenses (including attorney's fees).

(f) Limitation on actions

(1) In general

Except as provided in paragraph (3), an action under this section may not be brought after the later of—

(A) 6 years after the date on which the cause of action arose, or

(B) 3 years after the applicable date specified in paragraph (2).

(2) Applicable date

(A) General rule

Except as provided in subparagraph (B), the applicable date specified in this paragraph is the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

(B) Special rule for plaintiffs who are fiduciaries

In the case of a plaintiff who is a fiduciary bringing the action in the exercise of fiduciary duties, the applicable date specified in this paragraph is the date on which the plaintiff became a fiduciary with respect to the plan if such date is later than the date described in subparagraph (A).

(3) Cases of fraud or concealment

In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date specified in paragraph (2).

(Pub. L. 93-406, title IV, §4070, as added Pub. L. 99-272, title XI, §11014(a), Apr. 7, 1986, 100 Stat. 261; amended Pub. L. 101-239, title VII, §7881(f)(8), Dec. 19, 1989, 103 Stat. 2440.)

Editorial Notes

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-239 struck out “1349,” after “section 1341, 1342.”

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

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

§ 1371. Penalty for failure to timely provide required information

The corporation may assess a penalty, payable to the corporation, against any person who fails

to provide any notice or other material information required under this subtitle, subtitle A, B, or C, or section 1083(k)(4) or 1085a(g)(4) of this title,¹ or any regulations prescribed under any such subtitle or such section, within the applicable time limit specified therein. Such penalty shall not exceed \$1,000 for each day for which such failure continues.

(Pub. L. 93-406, title IV, §4071, as added Pub. L. 100-203, title IX, §9314(c)(1), Dec. 22, 1987, 101 Stat. 1330-367; amended Pub. L. 101-239, title VII, §7881(g)(8), (i)(3)(B), Dec. 19, 1989, 103 Stat. 2442; Pub. L. 109-280, title I, §108(b)(5), formerly §107(b)(5), Aug. 17, 2006, 120 Stat. 820, renumbered Pub. L. 111-192, title II, §202(a), June 25, 2010, 124 Stat. 1297; Pub. L. 110-458, title I, §101(d)(1)(B), Dec. 23, 2008, 122 Stat. 5099; Pub. L. 113-97, title I, §102(b)(9), Apr. 7, 2014, 128 Stat. 1117.)

Editorial Notes

AMENDMENTS

2014—Pub. L. 113-97 substituted “section 1083(k)(4) or 1085a(g)(4) of this title” for “section 1083(k)(4) of this title”.

2008—Pub. L. 110-458 substituted “or section 1083(k)(4) of this title,” for “as section 1083(k)(4) or 1085b(e) of this title”.

2006—Pub. L. 109-280 substituted “1083(k)(4)” for “1082(f)(4)”.

1989—Pub. L. 101-239, §7881(i)(3)(B), substituted “, subtitle A, B, or C, as section 1082(f)(4) or 1085b(e) of this title” for “or subtitle A, B, or C” and inserted “or such section” after “such subtitle”.

Pub. L. 101-239, §7881(g)(8), made clarifying amendment to directory language of Pub. L. 100-203, §9314(c)(1), resulting in no change in text.

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 Title 26, Internal Revenue Code.

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.

EFFECTIVE DATE OF 2006 AMENDMENT

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

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.

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,

¹ So in original.