

with such employer by the labor organization which represented such employees immediately preceding such withdrawal.

(h) Purchase of insurance by employer

Nothing in this section shall be construed to prohibit the purchase of insurance by an employer from any other person, to limit the circumstances under which such insurance would be payable, or to limit in any way the terms and conditions of such insurance.

(i) Promulgation of regulations for establishment and maintenance of fund

The corporation may provide by regulation rules not inconsistent with this section governing the establishment and maintenance of funds, but only to the extent necessary to carry out the purposes of this part (other than section 1402 of this title).

(Pub. L. 93-406, title IV, §4223, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1241; amended Pub. L. 101-239, title VII, §7891(a), Dec. 19, 1989, 103 Stat. 2445.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (f), 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—Subsecs. (b)(1), (c)(4)(B). Pub. L. 101-239 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.

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 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.

§ 1404. Alternative method of withdrawal liability payments

A multiemployer plan may adopt rules providing for other terms and conditions for the satisfaction of an employer's withdrawal liability if such rules are consistent with this chapter and with such regulations as may be prescribed by the corporation.

(Pub. L. 93-406, title IV, §4224, as added Pub. L. 96-364, title I, §104(2), Sept. 26, 1980, 94 Stat. 1242.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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.

§ 1405. Limitation on withdrawal liability

(a) Unfunded vested benefits allocable to employer in bona fide sale of assets of employer in arms-length transaction to unrelated party; maximum amount; determinative factors

(1) In the case of bona fide sale of all or substantially all of the employer's assets in an arm's-length transaction to an unrelated party (within the meaning of section 1384(d) of this title), the unfunded vested benefits allocable to an employer (after the application of all sections of this part having a lower number designation than this section), other than an employer undergoing reorganization under title 11 or similar provisions of State law, shall not exceed the greater of—

(A) a portion (determined under paragraph (2)) of the liquidation or dissolution value of the employer (determined after the sale or exchange of such assets), or

(B) in the case of a plan using the attributable method of allocating withdrawal liability, the unfunded vested benefits attributable to employees of the employer.

(2) For purposes of paragraph (1), the portion shall be determined in accordance with the following table:

If the liquidation or distribution value of the employer after the sale or exchange is—	The portion is—
Not more than \$5,000,000	30 percent of the amount.
More than \$5,000,000, but not more than \$10,000,000.	\$1,500,000, plus 35 percent of the amount in excess of \$5,000,000.
More than \$10,000,000, but not more than \$15,000,000.	\$3,250,000, plus 40 percent of the amount in excess of \$10,000,000.
More than \$15,000,000, but not more than \$17,500,000.	\$5,250,000, plus 45 percent of the amount in excess of \$15,000,000.
More than \$17,500,000, but not more than \$20,000,000.	\$6,375,000, plus 50 percent of the amount in excess of \$17,500,000.
More than \$20,000,000, but not more than \$22,500,000.	\$7,625,000, plus 60 percent of the amount in excess of \$20,000,000.
More than \$22,500,000, but not more than \$25,000,000.	\$9,125,000, plus 70 percent of the amount in excess of \$22,500,000.
More than \$25,000,000	\$10,875,000, plus 80 percent of the amount in excess of \$25,000,000.

(b) Unfunded vested benefits allocable to insolvent employer undergoing liquidation or dissolution; maximum amount; determinative factors

In the case of an insolvent employer undergoing liquidation or dissolution, the unfunded vested benefits allocable to that employer shall not exceed an amount equal to the sum of—

(1) 50 percent of the unfunded vested benefits allocable to the employer (determined without regard to this section), and

(2) that portion of 50 percent of the unfunded vested benefits allocable to the employer (as determined under paragraph (1)) which does not exceed the liquidation or dissolution value of the employer determined—