

SUBTITLE D. MISCELLANEOUS EXCISE TAXES
CHAPTER 43. QUALIFIED PENSION, ETC., PLANS

IRC Sec. 4980F

Sec. 4980F. Failure of applicable plans reducing benefit accruals to satisfy notice requirements

(a) Imposition of tax. There is hereby imposed a tax on the failure of any applicable pension plan to meet the requirements of subsection (e) with respect to any applicable individual.

(b) Amount of tax.

(1) In general. The amount of the tax imposed by subsection (a) on any failure with respect to any applicable individual shall be \$ 100 for each day in the noncompliance period with respect to such failure.

(2) Noncompliance period. For purposes of this section, the term "noncompliance period" means, with respect to any failure, the period beginning on the date the failure first occurs and ending on the date the notice to which the failure relates is provided or the failure is otherwise corrected.

(c) Limitations on amount of tax.

(1) Tax not to apply where failure not discovered and reasonable diligence exercised. No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that any person subject to liability for the tax under subsection (d) did not know that the failure existed and exercised reasonable diligence to meet the requirements of subsection (e).

(2) Tax not to apply to failures corrected within 30 days. No tax shall be imposed by subsection (a) on any failure if--

(A) any person subject to liability for the tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), and

(B) such person provides the notice described in subsection (e) during the 30-day period beginning on the first date such person knew, or exercising reasonable diligence would have known, that such failure existed.

(3) Overall limitation for unintentional failures.

(A) In general. If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed \$ 500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as 1 plan.

(B) Taxable years in the case of certain controlled groups. For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561 [[26 USCS § 1561](#)].

(4) Waiver by secretary. In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by

subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

(d) Liability for tax. The following shall be liable for the tax imposed by subsection (a):

- (1) In the case of a plan other than a multiemployer plan, the employer.
- (2) In the case of a multiemployer plan, the plan.

(e) Notice requirements for plans significantly reducing benefit accruals.

(1) In general. If an applicable pension plan is amended to provide for a significant reduction in the rate of future benefit accrual, the plan administrator shall provide the notice described in paragraph (2) to each applicable individual (and to each employee organization representing applicable individuals).

(2) Notice. The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations prescribed by the Secretary) to allow applicable individuals to understand the effect of the plan amendment. The Secretary may provide a simplified form of notice for, or exempt from any notice requirement, a plan--

(A) which has fewer than 100 participants who have accrued a benefit under the plan, or

(B) which offers participants the option to choose between the new benefit formula and the old benefit formula.

(3) Timing of notice. Except as provided in regulations, the notice required by paragraph (1) shall be provided within a reasonable time before the effective date of the plan amendment.

(4) Designees. Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

(5) Notice before adoption of amendment. A plan shall not be treated as failing to meet the requirements of paragraph (1) merely because notice is provided before the adoption of the plan amendment if no material modification of the amendment occurs before the amendment is adopted.

(f) Definitions and special rules. For purposes of this section--

(1) Applicable individual. The term "applicable individual" means, with respect to any plan amendment--

(A) each participant in the plan, and

(B) any beneficiary who is an alternate payee (within the meaning of section 414(p)(8) [[26 USCS § 414\(p\)\(8\)](#)]) under an applicable qualified domestic relations order (within the meaning of section 414(p)(1)(A) [[26 USCS § 414\(p\)\(1\)\(A\)](#)]),

whose rate of future benefit accrual under the plan may reasonably be expected to be significantly reduced by such plan amendment.

(2) Applicable pension plan. The term "applicable pension plan" means--

(A) any defined benefit plan described in section 401(a) [[26 USCS § 401\(a\)](#)] which includes a trust exempt from tax under section 501(a) [[26 USCS § 501\(a\)](#)], or

(B) an individual account plan which is subject to the funding standards of section 412 [[26 USCS § 412](#)].

Such term shall not include a governmental plan (within the meaning of section 414(d)

[26 USCS § 414(d)] or a church plan (within the meaning of section 414(e) [26 USCS § 414(e)]) with respect to which the election provided by section 410(d) [26 USCS § 410(d)] has not been made.

(3) Early retirement. A plan amendment which eliminates or reduces any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i) [26 USCS § 411(d)(6)(B)(i)]) shall be treated as having the effect of reducing the rate of future benefit accrual.