

TITLE 29 - LABOR**CHAPTER 18 - EMPLOYEE RETIREMENT INCOME SECURITY PROGRAM****SUBCHAPTER I - PROTECTION OF EMPLOYEE BENEFIT RIGHTS****Subtitle A - General Provisions****§ 1003. Coverage****(a) In general**

Except as provided in subsection (b) or (c) of this section and in sections 1051, 1081, and 1101 of this title, this subchapter shall apply to any employee benefit plan if it is established or maintained—

- (1) by any employer engaged in commerce or in any industry or activity affecting commerce; or
- (2) by any employee organization or organizations representing employees engaged in commerce or in any industry or activity affecting commerce; or
- (3) by both.

(b) Exceptions for certain plans

The provisions of this subchapter shall not apply to any employee benefit plan if—

- (1) such plan is a governmental plan (as defined in section 1002 (32) of this title);
- (2) such plan is a church plan (as defined in section 1002 (33) of this title) with respect to which no election has been made under section 410 (d) of title 26;
- (3) such plan is maintained solely for the purpose of complying with applicable workmen's compensation laws or unemployment compensation or disability insurance laws;
- (4) such plan is maintained outside of the United States primarily for the benefit of persons substantially all of whom are nonresident aliens; or
- (5) such plan is an excess benefit plan (as defined in section 1002 (36) of this title) and is unfunded.

The provisions of part 7 of subtitle B of this subchapter shall not apply to a health insurance issuer (as defined in section 1191b (b)(2) of this title) solely by reason of health insurance coverage (as defined in section 1191b (b)(1) of this title) provided by such issuer in connection with a group health plan (as defined in section 1191b (a)(1) of this title) if the provisions of this subchapter do not apply to such group health plan.

(c) Voluntary employee contributions to accounts and annuities

If a pension plan allows an employee to elect to make voluntary employee contributions to accounts and annuities as provided in section 408 (q) of title 26, such accounts and annuities (and contributions thereto) shall not be treated as part of such plan (or as a separate pension plan) for purposes of any provision of this subchapter other than section 1103 (c), 1104, or 1105 of this title (relating to exclusive benefit, and fiduciary and co-fiduciary responsibilities) and part 5 of subtitle B of this subchapter¹ (relating to administration and enforcement). Such provisions shall apply to such accounts and annuities in a manner similar to their application to a simplified employee pension under section 408 (k) of title 26.

Footnotes

¹ See References in Text note below.

(Pub. L. 93–406, title I, § 4, Sept. 2, 1974, 88 Stat. 839; Pub. L. 101–239, title VII, § 7891(a)(1), Dec. 19, 1989, 103 Stat. 2445; Pub. L. 104–191, title I, § 101(d), Aug. 21, 1996, 110 Stat. 1952; Pub. L. 104–204, title VI, § 603(b)(3)(A), Sept. 26, 1996, 110 Stat. 2938; Pub. L. 107–16, title VI, § 602(b), June 7, 2001, 115 Stat. 96; Pub. L. 107–147, title IV, § 411(i)(2), Mar. 9, 2002, 116 Stat. 47.)

References in Text

Part 5 of subtitle B of this subchapter, referred to in subsec. (c), was in the original a reference to “part 5” and was translated as meaning part 5 of subtitle B of title I of Pub. L. 93–406, to reflect the probable intent of Congress.

Amendments

2002—Subsec. (c). Pub. L. 107–147 inserted “and part 5 of subtitle B of this subchapter (relating to administration and enforcement)” after “co-fiduciary responsibilities)” and “Such provisions shall apply to such accounts and annuities in a manner similar to their application to a simplified employee pension under section 408 (k) of title 26.” at end.

2001—Subsec. (a). Pub. L. 107–16, § 602(b)(2), inserted “or (c)” after “subsection (b)” in introductory provisions.

Subsec. (c). Pub. L. 107–16, § 602(b)(1), added subsec. (c).

1996—Subsec. (b). Pub. L. 104–204, in concluding provisions, made technical amendment to references in original act which appear in text as references to section 1191b of this title.

Pub. L. 104–191 inserted at end “The provisions of part 7 of subtitle B of this subchapter shall not apply to a health insurance issuer (as defined in section 1191b (b)(2) of this title) solely by reason of health insurance coverage (as defined in section 1191b (b)(1) of this title) provided by such issuer in connection with a group health plan (as defined in section 1191b (a)(1) of this title) if the provisions of this subchapter do not apply to such group health plan.”

1989—Subsec. (b)(2). 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.

Effective Date of 2002 Amendment

Amendment by Pub. L. 107–147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107–16, to which such amendment relates, see section 411(x) of Pub. L. 107–147, set out as a note under section 25B of Title 26, Internal Revenue Code.

Effective Date of 2001 Amendment

Amendment by Pub. L. 107–16 applicable to plan years beginning after Dec. 31, 2002, see section 602(c) of Pub. L. 107–16, set out as a note under section 408 of Title 26, Internal Revenue Code.

Effective Date of 1996 Amendments

Section 603(c) of Pub. L. 104–204 provided that: “The amendments made by this section [enacting section 1185 of this title and amending this section and sections 1021, 1022, 1024, 1132, 1136, 1144, 1181, 1191, and 1191a of this title] shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.”

Amendment by Pub. L. 104–191 applicable with respect to group health plans for plan years beginning after June 30, 1997, except as otherwise provided, see section 101(g) of Pub. L. 104–191, set out as an Effective Date note under section 1181 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 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.