



[Billing Code 7709-02-P]

PENSION BENEFIT GUARANTY CORPORATION

Pension Benefit Guaranty Corporation Disaster Relief

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is changing how it announces relief from filing deadlines and penalties when a disaster occurs. Under an Announcement made today, PBGC's disaster relief will be available at the same time the Internal Revenue Service issues disaster relief for taxpayers that includes filing extensions for the Form 5500 series. Filers will not have to wait for PBGC to issue a separate announcement. For premium filings, PBGC is changing its practice so that in addition to no late payment penalty charges, no late payment interest charges will be assessed for the disaster relief period.

DATES: The Disaster Relief Announcement in this notice is effective for disasters for which the Internal Revenue Service has issued a disaster relief news release on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Stephanie Cibinic, Deputy Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington DC 20005-4026; cibinic.stephanie@pbgc.gov; 202-326-4400 extension 6352. TTY users may call the Federal relay service toll-free at 800-877-8339 and ask to be connected to 202-326-4400 extension 6352.

SUPPLEMENTARY INFORMATION:

Background

When there is a disaster covered by Internal Revenue Code section 1033(h)(3), Employee Retirement Income Security Act (ERISA) section 4002(i) gives the Pension Benefit Guaranty Corporation (PBGC) authority to extend deadlines by notice or otherwise. PBGC has followed a practice of posting a disaster relief announcement on its web site each time the Internal Revenue Service (IRS) posts a disaster relief news release that includes filing extensions for the Annual Return/Report of Employee Benefit Plan Form 5500 Series. Each PBGC disaster relief announcement copies the disaster, disaster area, and relief period from the IRS news release on which it is based. Except for these types of fields, the text in PBGC disaster relief announcements is boilerplate that is repeated in every announcement.

IRS issues a separate disaster relief news release for each state affected by a disaster. Each news release lists the names of counties in the state that are covered by the relief. IRS may add newly affected counties to an existing news release. PBGC filers have to rely on a statement in each PBGC announcement that the corresponding IRS news release should be checked for other counties that IRS might have added. Because PBGC's announcements rely on data from IRS news releases, PBGC's announcements are always issued later than IRS' news releases. PBGC filers have to wait for PBGC to respond to each IRS disaster relief news release before they can be certain that PBGC is providing disaster relief.

PBGC is changing its practice to simplify how it announces disaster relief by referring PBGC filers directly to IRS' disaster relief news releases. Filers will no longer have to wait for PBGC to act, because PBGC's disaster relief will be keyed to IRS' news releases. Instead of multiple disaster relief announcements, all explaining disaster relief in the same repetitive

language, PBGC will have one simple announcement that clearly explains how PBGC disaster relief is keyed to IRS relief, what circumstances generally lead to relief, and the nature of relief generally granted.

The qualifications for disaster relief and relief granted will be simpler and easier to apply. Formerly, relief was described separately for premiums, single-employer plan terminations, reportable events notices, annual employer reporting, administrative review, and multiemployer plan filings. This detail is unnecessary because, no matter the type of PBGC filing or whether the plan is a multiemployer or single-employer plan, the deadline extension is simply the end of the IRS relief period for due dates that fall within that period.

As with the current practice, there are exceptions to this general “IRS-based” relief, which are listed in the Announcement. Filers would still be able to request relief on a case-by-case basis for the excepted filings or other actions not covered by the general relief.

PBGC also makes the following changes and clarifications in the Announcement, which are designed to be helpful to plan sponsors:

- Formerly, a late premium payment eligible for disaster relief and paid by the end of the relief period was treated as timely for purposes of assessing the late payment penalty, but not the applicable interest charge. Under PBGC’s new practice, the premium payment due date is extended so that no late payment penalty or interest charges will be assessed for the disaster relief period.
- Formerly, premium filers had to submit the premium form and payment owed (“the premium filing”) by the end of the relief period for disaster relief to apply. Under PBGC’s new practice, where a filer is unable to submit, or anticipates difficulty in submitting, a premium filing by the end of the relief period, the filer would simply notify PBGC by the end of the period

of the filer's eligibility for disaster relief to apply. For example, if a premium filer notifies PBGC by the end of the relief period that the filer is eligible for disaster relief but is unable to submit the premium filing by that time, late payment penalty and interest charges would not begin to accrue until after the end of the relief period, i.e., the extended due date for the payment. This same method of notification is available for filings other than premium filings covered by the general disaster relief.

- Formerly, filers would need to apply for case-by-case disaster relief for late annual financial and actuarial information reporting under ERISA section 4010. PBGC believes these filings more appropriately fall under general relief.
- Formerly, post-event notices of reportable events under ERISA section 4043 fell under general relief. Because certain of these filings involve time-sensitive information where there may be a high risk of substantial harm to participants or PBGC's insurance program, PBGC believes five post-event filings are more appropriate for case-by-case relief. Those five events are identified in the exceptions list in the Announcement.
- Formerly, where disaster relief is founded on problems getting information or assistance from a service provider, the provider's operations must be "directly affected" by the disaster. This vague standard is replaced with a clear standard that the service provider be located in the disaster area. This is the same objective condition as for the person required to file.

PBGC's Announcement of disaster relief is set forth below and posted on the "Disaster Relief" web page of pbgc.gov.

Announcement of

Pension Benefit Guaranty Corporation Disaster Relief

When a disaster causes a delay in making a required filing or in taking some other required action, the Pension Benefit Guaranty Corporation (PBGC) generally grants relief by extending the time to act. PBGC's relief relies on data from Internal Revenue Service (IRS) announcements, so historically PBGC has followed IRS' lead when announcing relief. With this Announcement, unless a filing is on the "Exceptions List" below, filers can be assured that PBGC grants disaster relief when, where, and for the same relief period that IRS grants relief for taxpayers affected by a disaster. Filers will not have to wait for PBGC to issue a separate announcement.

PBGC also may grant case-by-case relief for filings and actions on the Exceptions List. See "Requesting Case-by-Case Relief" below for how to request such relief.

Disasters Covered

Except for filings and actions on the Exceptions List, PBGC provides relief where there is a disaster for which the IRS announces that tax relief is being granted for affected taxpayers that includes filing extensions for the Form 5500 series returns. The IRS announces tax relief for a disaster in a news release that states:

- The identifying number of the announcement.
- The disaster for which relief is granted.
- The disaster area covered by the announcement (typically counties within a state).
- The starting and ending dates of the relief period covered by the announcement.

Each news release may be updated periodically by the IRS to broaden the disaster area to include places subsequently affected by the same disaster and covered by the relief.

IRS news releases announcing tax relief for disasters are listed on IRS' web site. Select the applicable news release on the list to see the text of the announcement.

Requirements for Disaster Relief

The disaster relief in this Announcement applies only if all of the following requirements are met:

- The person responsible for a filing, payment, or other action under PBGC regulations, e.g., a plan administrator or contributing sponsor, is located in the disaster area. Or, a person responsible for providing information or other assistance needed for the filing, payment, or other

action, e.g., a service provider (such as the plan’s enrolled actuary) or bank, is located in the disaster area.

- The due date of the filing, payment, or other action falls within the relief period.
- The filer notifies PBGC of the filer’s eligibility for disaster relief on or before the last day of the relief period. See “Notifying PBGC of Your Eligibility for Disaster Relief” below.
- The filing or action is not described in the Exceptions List below.

Relief Granted

If the requirements for relief listed above are met, the due date for the filing, payment, or other action is extended to the last day of the relief period. Accordingly —

- A filing will not be subject to a late filing penalty under section 4071 or 4302 of the Employee Retirement Income Security Act of 1974 (ERISA) for the relief period.
- A premium payment will not be subject to late payment penalty or interest charges under section 4007 of ERISA for the relief period.
- The extended due date for a filing or other action will apply for purposes of calculating any other due date that is based on the due date of the filing or other action. For instance, if a plan is filing certain actuarial information by an alternative due date that is 15 days after a plan’s Form 5500 due date (29 CFR 4010.10(b)), and the deadline to file a Form 5500 is extended because of a disaster, then the 15-day period in PBGC’s regulation is automatically measured from the last day of the Form 5500 disaster relief period.

Example of How Disaster Relief Works

Plan A is a calendar year plan. Absent disaster relief, Plan A would be required to submit the 2018 Comprehensive Premium Filing (CPF) and pay its 2018 premium by October 15, 2018. IRS issues a news release providing disaster relief for tax payers in a specified disaster area for the period September 4, 2018 through January 31, 2019. Plan A’s plan administrator is located in the disaster area covered by the IRS disaster relief news release. Plan A notifies PBGC that it is eligible for disaster relief on or before January 31, 2019 (either by submitting a CPF in which such eligibility is reported or by sending an email to PBGC). If Plan A pays its 2018 premium:

- On or before January 31, 2019, no late payment charges (interest or penalties) will be assessed.
- After January 31, 2019, late payment charges will begin accruing on February 1, 2019.

Exceptions List

The following filings and actions are not covered by the disaster relief described above. These are filings that involve particularly important or time-sensitive information where there may be a

high risk of substantial harm to participants or PBGC's insurance program. To request case-by-case relief for these filings see "Requesting Case-by-Case Relief" below.

- Advance notices of reportable events under ERISA section 4043 (Form 10-Advance).
- Notices of large missed contributions under ERISA section 303(k) (Form 200).
- Post-event notices for the following five reportable events under ERISA section 4043:
 - Failure to make required contributions under \$1 million.
 - Inability to pay benefits when due.
 - Liquidation.
 - Loan default.
 - Insolvency or similar settlement.
- Actions related to distress terminations for which PBGC has issued a distribution notice.

Notifying PBGC of Your Eligibility for Disaster Relief

Premium filings: Notify us by providing certain information as part of the Comprehensive Premium Filing. See the **Filing Instructions** for the applicable plan year for details. We also encourage filers to notify us by email to premiums@pbgc.gov as soon as reasonably possible that you are eligible for disaster relief. The email should contain the following identifying information: (1) the number of the applicable IRS News Release, (2) plan information, i.e., plan name, EIN, plan number, and, (3) the name and address of the person affected by the disaster. Item (3) may be omitted if the plan administrator's address reported in the most recently submitted premium filing is in the applicable disaster area.

In situations where a filer is unable to submit, or anticipates difficulty in submitting, the Comprehensive Premium Filing by the end of the relief period, the filer should notify us by sending an email with the same information and to the same address noted above.

All other filings or actions: Notify us by following the disaster relief instructions (if any) for the particular filing. If there are no such instructions, filers should notify us of their eligibility for relief by sending an email by the end of the relief period to the email address included in the instructions for the particular filing, or on a PBGC web page listing applicable contact information, such as PBGC's Contact Information for Practitioners page. The email should contain relevant identifying information, such as: (1) the number of the applicable IRS News Release, (2) plan information, i.e., plan name, EIN, plan number, and, (3) the name and address of the person affected by the disaster. We encourage filers to notify us as soon as reasonably possible.

Requesting Case-by-Case Relief

Follow the instructions for requesting a waiver or extension in the regulations or instructions for completing the particular filing. For example, for a reportable events filing on the Exceptions List, follow the provision for waivers and extensions in PBGC's reportable events regulation at 29 CFR 4043.4. That provision explains that a request for a waiver or extension must be filed with PBGC in writing (which may be in electronic form) and must state the facts and circumstances on which the request is based.

If there is no such guidance, contact PBGC as soon as reasonably possible using the phone number or email address in the instructions for the particular filing, or on a PBGC web page listing applicable contact information, such as PBGC's Contact Information for Practitioners page.

Otherwise, contact PBGC's Practitioner Problem Resolution Officer by —

- Email at practitioner.pro@pbgc.gov.
- Telephone at 800-736-2444 extension 4136 or 202-326-4136. (For TTY users, call 800-877-8339 and request connection to 202-326-4136.)
- US mail at Practitioner Problem Resolution Officer, Pension Benefit Guaranty Corporation, 1200 K Street NW, Suite 610, Washington DC 20005-4026.

For general information on PBGC disaster relief, please call our toll-free practitioner number, 800-736-2444.

Issued in Washington DC by

William Reeder,

Director, Pension Benefit Guaranty Corporation.

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