

Pension Benefit Guaranty Corporation

75-117

December 14, 1975

REFERENCE:

[*1] 208 Mergers, Consolidations and other Transfers of Plan Assets
4041 Termination by Plan Administrator

OPINION:

This is in response to your letter inquiring as to whether a transfer of plan assets conjunctive with the termination of participation of some of the plan participants constitutes a termination under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act"). Next, you asked for the concurrence of the Pension Benefit Guaranty Corporation (the "PBG") that there will be no employer liability under Sub-Title D of Title IV of the Act as a result of this transfer of assets and cessation of contributions.

We understand that none of the participants are terminating employment nor is the employer ceasing operations as a result of the transfer of assets. The sole cause of the transfer is the ceasing of plan participation by certain employees who are joining a new plan. The plan is continuing in operation. This does not constitute a termination under Title IV of the Act and § 4062(e) of the Act does not apply. Accordingly, no present or future liability under Subtitle D of Title IV of the Act is incurred by the employer as a result of this cessation of contributions [*2] and transfer of assets.

We express no opinion on the validity of the asset transfer under the Plan or other provisions of the law. Furthermore, questions as to whether this is a transfer of plan assets within the meaning of §§ 208 or 1021(b) of the Act should be directed to the appropriate administering agencies, the Department of Labor and the Internal Revenue Service.

We hope this is of assistance.

Henry Rose
General Counsel