

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting a new table that applies to any plan being terminated either in a distress termination or involuntarily by the PBGC with a valuation date falling in 2006, and is used to determine expected retirement ages for plan participants. This table is needed in order to compute the value of early retirement benefits and, thus, the total value of benefits under the plan.

EFFECTIVE DATE: January 1, 2006.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974. Under ERISA section 4041(c), guaranteed benefits and benefit liabilities under a plan that is undergoing a distress termination must be valued in accordance with part 4044, subpart B. In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA Section

4042(a), it uses the subpart B valuation rules to determine the amount of the plan's underfunding.

Under § 4044.51(b) of the asset allocation regulation, early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.57 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendix D of part 4044 contains tables to be used in determining the expected early retirement ages.

Table I in appendix D (Selection of Retirement Rate Category) is used to determine whether a participant has a low, medium, or high probability of retiring early. The determination is based on the year a participant would reach "unreduced retirement age" (*i.e.*, the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant's monthly benefit at unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by the PBGC to reflect changes in the cost of living, etc.

Tables II-A, II-B, and II-C (Expected Retirement Ages for Individuals in the Low, Medium, and High Categories respectively) are used to determine the expected retirement age after the probability of early retirement has been determined using Table I. These tables establish, by probability category, the expected retirement age based on both the earliest age a participant could retire under the plan and the unreduced retirement age. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

This document amends appendix D to replace Table I-05 with Table I-06 in order to provide an updated correlation, appropriate for calendar year 2006, between the amount of a participant's

benefit and the probability that the participant will elect early retirement. Table I-06 will be used to value benefits in plans with valuation dates during calendar year 2006.

The PBGC has determined that notice of and public comment on this rule are impracticable and contrary to the public interest. Plan administrators need to be able to estimate accurately the value of plan benefits as early as possible before initiating the termination process. For that purpose, if a plan has a valuation date in 2006, the plan administrator needs the updated table being promulgated in this rule. Accordingly, the public interest is best served by issuing this table expeditiously, without an opportunity for notice and comment, to allow as much time as possible to estimate the value of plan benefits with the proper table for plans with valuation dates in early 2006.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—[AMENDED]

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. Appendix D to part 4044 is amended by removing Table I-05 and adding in its place Table I-06 to read as follows:

Appendix D to Part 4044—Tables Used To Determine Expected Retirement Age

TABLE I-06.—SELECTION OF RETIREMENT RATE CATEGORY
[For plans with valuation dates after December 31, 2005, and before January 1, 2007]

| Participant reaches URA in year— | Participant's retirement rate category is— | | | |
|----------------------------------|--|--|-------|---|
| | Low ¹ if monthly benefit at URA is less than— | Medium ² if monthly benefit at URA is | | High ³ if monthly benefit is greater than— |
| | | From | To | |
| 2007 | 500 | 500 | 2,113 | 2,113 |
| 2008 | 512 | 512 | 2,164 | 2,164 |
| 2009 | 524 | 524 | 2,216 | 2,216 |
| 2010 | 536 | 536 | 2,269 | 2,269 |
| 2011 | 549 | 549 | 2,324 | 2,324 |
| 2012 | 562 | 562 | 2,379 | 2,379 |
| 2013 | 576 | 576 | 2,437 | 2,437 |

TABLE I-06.—SELECTION OF RETIREMENT RATE CATEGORY—Continued
 [For plans with valuation dates after December 31, 2005, and before January 1, 2007]

| Participant reaches URA in year— | Participant's retirement rate category is— | | | |
|----------------------------------|--|--|-------|---|
| | Low ¹ if monthly benefit at URA is less than— | Medium ² if monthly benefit at URA is | | High ³ if monthly benefit is greater than— |
| | | From | To | |
| 2014 | 590 | 590 | 2,495 | 2,495 |
| 2015 | 604 | 604 | 2,555 | 2,555 |
| 2016 or later | 618 | 618 | 2,616 | 2,616 |

¹ Table II-A.
² Table II-B.
³ Table II-C.

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Issued in Washington, DC, this 16th day of November, 2005.

Vincent K. Snowbarger,

Deputy Executive Director, Pension Benefit Guaranty Corporation.

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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 253

[Docket No. 2005-6 CRB NCBRA]

Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Board of the Library of Congress announces a cost of living adjustment of 4.3% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio for the use of copyrighted published nondramatic musical compositions in the BMI, ASCAP and SESAC repertoires. The cost of living adjustment is based on the change in the Consumer Price Index from October 2004 to October 2005.

DATES: January 3, 2006.

FOR FURTHER INFORMATION CONTACT: William J. Roberts, Jr., Senior Attorney, or Abioye E. Oyewole, CRB Program Specialist, Copyright Royalty Board (CRB), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act, 17 U.S.C., creates a compulsory license for the use of published nondramatic musical

works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR part 253 and are subject to adjustment at five-year intervals. 17 U.S.C. 118 (c).

The most recent proceeding to consider the terms and rates for the section 118 license occurred in 2002. 67 FR 15414 (April 1, 2002). Final regulations governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works for the license period beginning January 1, 2003, and ending December 31, 2007, were published in the **Federal Register** on December 17, 2002. 67 FR 77170 (December 17, 2002). Pursuant to these regulations, on December 1 of each year the Librarian shall publish a notice of the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published prior to the previous notice, to the most recent Index published prior to December 1 of that year. 37 CFR 253.10 (a). The regulations also require that the Librarian publish a revised schedule of rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertoires by public broadcasting entities licensed to colleges and universities, reflecting the change in the Consumer Price Index. 37 CFR 253.10 (b). Accordingly, the Copyright Royalty Board of the Library of Congress is hereby announcing the change in the Consumer Price Index and performing the annual cost of living adjustment to the rates set out in § 253.5 (c).

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index

published before December 1, 2004, to the most recent Index published before December 1, 2005, is 4.3% (2004's figure was 190.9; the figure for 2004 is 199.2, based on 1982-1984 = 100 as a reference base). Rounding off to the nearest dollar, the royalty rates for the use of musical compositions in the repertoires of ASCAP, BMI, and SESAC are \$273, \$273, and \$89 respectively.

List of Subjects in 37 CFR Part 253

Copyright, Radio, Television.

Final Regulations

■ For the reasons set forth in the preamble, the Copyright Royalty Board amends 37 CFR part 253 as follows:

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

■ 1. The authority citation for part 253 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

§ 253.5 [Amended]

■ 2. Section 253.5 (c) (1) is amended by removing “\$262” and adding “\$273” in its place.

§ 253.5 [Amended]

■ 3. Section 253.5 (c) (2) is amended by removing “\$262” and adding “\$273” in its place.

§ 253.5 [Amended]

■ 4. Section 253.5 (c) (3) is amended by removing “\$85” and adding “\$89” in its place.

Dated: November 28, 2005.

Bruce G. Forrest,

Interim Chief Copyright Royalty Judge.

[FR Doc. 05-23548 Filed 11-30-05; 8:45 am]

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