

Pension Benefit Guaranty Corporation

74-4

November 6, 1974

REFERENCE:

[*1] 4001(a)(3) Definitions. Multiemployer Plan
4007(a). Payment of Premiums. Due Dates

OPINION:

This is in response to your recent letter raising three questions: (1) Must a plan be maintained pursuant to a collective bargaining agreement in order to be treated as a "multiemployer plan"?; (2) Is the premium based on the number of participants on the last day of the preceding plan year? If not, what is the basis?; (3) Must you submit a separate premium payment check and report for each participating employer, if it is not a "multiemployer plan"?

The Employee Retirement Income Security Act of 1974 provides that in order for a plan to be deemed a multiemployer plan, it must be "maintained pursuant to a collective bargaining agreement between employee representatives and more than one employer."

The premiums for the first plan year commencing after September 2, 1974 are due within 30 days after such plan year commences. The premiums are based on the estimated number of participants during the plan year. There will be an opportunity to adjust the premiums on the basis of the actual participation at a later date. See page 5 of the enclosed instructions to the form for guidance in making your [*2] estimate.

The instructions further state that multiple employer plans qualifying neither as a "multiemployer plan" nor as a "controlled group" must file declarations "for each of them as you would for a single employer plan." However, a single check and declaration may be filed if a statement is attached explaining the reason for filing separately for each employer (See page 4 of the PBGC-1 instructions).

We hope that the above guidance is of assistance in fulfilling the premium payment declaration obligation.

Charles Skopic
Acting Executive Director