

Pension Benefit Guaranty Corporation

77-153

July 31, 1977

REFERENCE:

[*1] 4044 Allocation of Assets

OPINION:

This is in response to your letter to this Office requesting that the Pension Benefit Guaranty Corporation (the "PBGC") reconsider its decision to disallow a waiver of benefits by * * * with respect to an allocation of assets under * * * (the "Plan").

It appears that * * * waived his benefit, and the Plan then submitted to the Internal Revenue Service (the "IRS") its application for a determination containing an allocation of assets incorporating * * * waiver. * * * was an employee described in Section 401(a)(4) of the Internal Revenue Code, and IRS approved the proposed allocation. It appears also that the Plan is a sufficient plan without the waiver, that the purpose of the waiver is to allow non-eligible employees to receive retirement benefits under the Plan, and that any gains on trust assets accumulated during the period of plan termination will be used for the benefit of plan participants. Under these circumstances the PBGC will not object to * * * waiver.

I hope this is of assistance to you.

Henry Rose
General Counsel