

GENERAL INSTRUCTIONS

Purpose of Form. This form may be used to request that the Pension Benefit Guaranty Corporation (PBGC) determine whether a plan is covered under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). A single-employer plan (a term which includes a multiple employer plan) or a multiemployer plan is covered under this title if it:

- Is described in ERISA § 4021(a), and
- Does not fall within one of the exemptions from coverage listed in ERISA §§ 4021(b)(1)-(13).

Most private-sector defined benefit pension plans that qualify for favorable tax treatment are covered by title IV.

How and Where to File. Send a completed form and attachments via email to Coverage@pbgc.gov or U.S. mail to:

Pension Benefit Guaranty Corporation
Standard Termination Compliance Division
Technical Assistance Branch
1200 K Street, NW
Washington, DC 20005-4026

After receiving a form, PBGC may require that a filer submit additional information. Also, as each coverage determination request is unique, a filer may provide information and documentation to support the filer's position in addition to what is required.

Information or documents previously provided to PBGC may be omitted. Include a statement in Part VII indicating the date on which any omitted document was filed.

SPECIFIC INSTRUCTIONS

Part I. Identifying Information

Provide identifying information about the plan, plan administrator, plan sponsor, and authorized contact person for the filer.

Part II. All Plans, Required Information

Check the box for a determination of either non-coverage or coverage under title IV of ERISA.

Check the box or boxes that apply to the request:

- Check "Substantial owners plan" if the plan is relying on ERISA § 4021(b)(9) (see Part III).
- Check "Small professional service employer plan" if the plan is relying on ERISA § 4021(b)(13) (see Part IV).
- Check "Church plan" if the plan is relying on ERISA § 4021(b)(3) (see Part V).
- Check "Other exemption in ERISA § 4021(b)," if the plan is relying on a statutory exemption (other than ERISA § 4021(b)(3), (9), or (13)), applicable to a plan that:
 - is an individual account plan (§ 4021(b)(1))

- is established and maintained by a government entity (§ 4021(b)(2))
 - is governed by the Railroad Retirement Act of 1935 or 1937 and financed by contributions under that Act (§ 4021(b)(2))
 - is established and maintained by a Fraternal Beneficiary Society or a Voluntary Employees' Beneficiary Association and is not funded by employer contributions (§ 4021(b)(4))
 - contains an Employee Pension Trust created before June 25, 1959 (§ 4021(b)(4))
 - since September 2, 1974, has not been funded with employer contributions (§ 4021(b)(5))
 - is an unfunded "top hat" plan maintained primarily to defer compensation for a select group of management or highly compensated employees (§ 4021(b)(6))
 - is established and maintained outside of the United States primarily for the benefit of nonresident aliens (§ 4021(b)(7))
 - is maintained by an employer to provide retirement benefits in excess of the limitations of 26 U.S.C. § 415 (§ 4021(b)(8))
 - is of an international organization exempt from taxation under the International Organizations Immunities Act (§ 4021(b)(10))
 - is maintained solely to comply with worker's compensation, unemployment compensation or disability insurance law (§ 4021(b)(11)), or
 - is a defined benefit plan but is described in ERISA § 3(35)(B), such that it is treated as an individual account plan (§ 4021(b)(12)).
- Check Puerto Rico-based if the plan is relying on ERISA § 1022(i)(1) (see Part VI).
 - Check "Other" if the plan's situation is not described in one of the other boxes. For instance, check this box if the plan is not a Puerto Rico-based plan and is not described in ERISA § 4021(a).

Note: A filer that checks "Other exemption in ERISA § 4021(b)" or "Other" should provide, in addition to the information required for all plans, documentation and information to support the filer's position on the plan's coverage status. The form and instructions do not list specific items for a filer to provide in these situations.

Check the box to indicate whether the form and attachments contain all relevant information for PBGC to determine the plan's coverage status. An answer of "no" means that the filer is knowingly not providing all relevant information. This response requires an explanation in Part VII. If a filer fails to provide complete and accurate information, then PBGC's determination cannot be relied upon.

Part III. Substantial Owners Plans, Required Information

Complete this section only if the substantial owners plan exemption is applicable to this coverage determination request.

Under ERISA § 4021(b)(9), a plan that is established and maintained exclusively for a business organization's substantial owners is exempt from title IV coverage.

Note: If the answer to the question "Does the plan cover an individual who is not a substantial owner?" is "yes," then the plan is likely not eligible for the substantial owners exemption.

A substantial owner is an individual who at some point during the past 60 months was: (1) the owner of the entire interest in an unincorporated trade or business, (2) a partner who owns more than 10 percent of profit or capital interest if the business is a partnership, or (3) an owner of more than 10 percent of the voting stock or of all the stock if the business is a corporation. For corporations only, the

constructive ownership rules, including spousal attribution rules, of 26 U.S.C. § 414(c) and § 1563(e) apply.

In addition to the information listed on the form, PBGC may request the following items.

- Copies of the plan's last three Form 5500s (if not available through EFAST2)
- A copy of the plan's most recent Actuarial Valuation Report
- Copies of the plan sponsor's federal tax returns for the last five years

Part IV. Small Professional Service Employer Plans, Required Information

Complete this section only if the small professional service employer plan exemption is applicable to this coverage determination request.

Under ERISA § 4021(b)(13), a plan is exempt from title IV coverage if it: (1) is established and maintained by a professional service employer and (2) has not since September 2, 1974, had more than 25 active participants.

Note: *If the answer to the question "Has the plan at any time since September 2, 1974, had more than 25 active participants?" is "yes," then the plan does not fall within the small professional employer exemption.*

Under ERISA § 4021(c)(2), a professional service employer is a business organization that delivers the services of professional individuals, which includes physicians, dentists, chiropractors, osteopaths, optometrists, other licensed practitioners of the healing arts, attorneys at law, public accountants, public engineers, architects, draftsmen, actuaries, psychologists, social or physical scientists, and performing artists. Further, the business organization must be owned by or controlled by professional individuals or by the executors or administrators of professional individuals.

With respect to professions that aren't explicitly listed above (e.g., financial advisors), PBGC will determine whether the individual in question is a "professional individual" based on an analysis of the services performed and the expertise required to perform them. PBGC determines this question on a case-by-case basis, taking into account the individual's educational degrees, certifications, and accreditations.

In addition to the information listed on the form, PBGC may request the following items.

- Copies of the plan's last three Form 5500s (if not available through EFAST2)
- A copy of the plan's most recent Actuarial Valuation Report
- A copy of the plan sponsor's most recent federal tax return including all schedules, exhibits, attachments, and amendments
- Copies of licenses, degrees, or certifications of all individuals who control, manage, or direct the plan sponsor and whose professions are not listed in ERISA § 4021(c)(2)
- Documents showing percentages and periods of ownership for all current owners of the plan sponsor
- Documents supporting the positions of all individuals who control, manage, or direct the plan sponsor
- If the plan sponsor provides multiple services, documents supporting the percentage breakdown of the services performed

Part V. Church Plans, Required Information

Complete this section only if the church plan exemption is applicable to this coverage determination request.

Under ERISA § 4021(b)(3), a church plan as described in 26 U.S.C. § 414(e) is exempt from title IV coverage unless it has made an election under 26 U.S.C. § 410(d) to be covered and has notified PBGC that it wishes to have title IV apply to it.

Part VI. Puerto Rico-Based Plans, Required Information

Complete this section only if the plan is a Puerto Rico-based plan.

A Puerto Rico pension plan within the meaning of ERISA § 1022(i)(1) (“Puerto Rico Plan”) has two elements. First, the plan’s trust is created or organized in Puerto Rico. Second, all of the plan’s participants are residents of Puerto Rico. For purposes of this element, “a resident of Puerto Rico is either a bona fide resident of Puerto Rico or a person who performs labor or services primarily within Puerto Rico regardless of residence,” and “a participant is a current employee who is not excluded under the eligibility provisions of the plan.” Rev. Rul. 2008-40, 2008-30 I.R.B. 166.

A Puerto Rico Plan is generally not covered under title IV of ERISA, but it can become covered by making an irrevocable election under ERISA § 1022(i)(2) to be treated as created or organized in the United States for purposes of 26 U.S.C. § 401(a). See 26 C.F.R. § 1.401(a)-50 for further information. A Puerto Rico Plan that makes this election, and otherwise satisfies the qualification requirements of 26 U.S.C. § 401(a), is covered under title IV.

Part VII. Missing Information

A filer that is not providing an item as requested on the form should explain its absence.

Part VIII. Narrative Information

A filer may provide a written narrative to support the filer’s request for a determination of non-coverage or coverage and describe any additional items provided.

Part IX. Certification

The filer, meaning the individual who is on behalf of the plan administrator of contributing sponsor completing this form, must assert under penalty of perjury that the responses, information, and documents provided are truthful and accurate to the best of his or her knowledge and belief.

PAPERWORK REDUCTION ACT NOTICE

PBGC needs this information so that it can determine whether a plan is covered under title IV of ERISA. Information provided to PBGC is confidential to the extent provided by the Freedom of Information Act and the Privacy Act. PBGC estimates that preparation and submission of a form will take an average of 10 hours and \$3,500. If you have any comments concerning the accuracy of this estimate or suggestions for improving this form, please send your comments to the Pension Benefit Guaranty Corporation, Regulatory Affairs Division, Office of the General Counsel, 1200 K Street, NW, Washington, DC 20005-4026. This collection of information has been approved by the Office of Management and Budget (OMB) under control number 1212-XXXX and expires on Month XX, 20XX. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PRIVACY ACT NOTICE

The Privacy Act of 1974, as amended, 5 U.S.C. § 552a (2012 & Supp. II 2014), as amended, requires the Pension Benefit Guaranty Corporation (PBGC) to give you this notice when collecting information from you. PBGC will use the information we collect to determine whether a plan is covered under title IV of ERISA. The information collected here, including names, dates of birth, and/or other necessary personally identifiable information (PII), is used by PBGC to make this determination. Submission of this information is voluntary. However, failure to provide this information to PBGC may delay or prevent PBGC from issuing the requested coverage determination.

PBGC may release information to other individuals and entities when necessary and appropriate under 5 U.S.C. § 552a(b) of the Privacy Act, including: to comply with Federal laws requiring disclosure of the information contained in our records; to facilitate statistical research, audit or investigative matters; and to appropriate agencies for the collection of debt.

PBGC may also release information to appropriate federal, state, local or tribal law enforcement agencies when PBGC becomes aware of a possible violation of civil or criminal law or regulation. If PBGC, an employee of PBGC, the United States, or another agency of the United States, is involved in litigation, PBGC may provide relevant information to a court or other adjudicative body or to the Department of Justice when it represents PBGC. PBGC may also provide information to the Office of Management and Budget in connection with review of private relief legislation or to a Congressional office in response to an inquiry that office makes. This information may also be disclosed for any of the PBGC general routine uses as published in the Federal Register.

PBGC publishes notices in the Federal Register that describe in more detail when information about you may be made available to others. A copy of the most recent Federal Register notice may be obtained online at PBGC.gov/privacy. PBGC's authority to collect information, including Social Security Numbers, is derived from 29 U.S.C. §§ 1055, 1056(d)(3), 1302, 1321, 1322, 1322a, 1341, 1341a, and 1350 (2012 & Supp. II 2014).