

Pension Benefit Guaranty Corporation

83-19

August 11, 1983

REFERENCE:

[*1] 4211 Withdrawal Liability
4211(b)(2)(A) Withdrawal Liability - Sum of Proportional Shares
4213 Actuarial Assumptions
4213(c) Actuarial Assumptions. Unfunded Vested Benefits - Definition

OPINION:

This responds to your inquiry concerning PBGC opinion letter number 82-34 dated November 10, 1982. That letter relates to the operation of the presumptive method of allocating withdrawal liability under section 4211 of the Multiemployer Pension Plan Amendments Act of 1980.

In that opinion letter, we stated that annual changes in a plan's unfunded vested benefits (UVB) are zero so long as plan assets have always exceeded the value of vested liabilities. We were and are of the opinion that the term "unfunded" has no meaning when assets exceed plan liabilities.

You ask whether, any time a plan's assets exceed its vested liabilities, the UVB is zero regardless of whether the magnitude of the asset surplus has increased or decreased during the preceding year. We believe the UVB is zero under those circumstances. Moreover, the source of the change in asset surplus is also immaterial. For example, consider a plan with assets of \$5 million at the end of each of three consecutive plan years with corresponding [*2] vested liabilities of \$2 million, \$4 million and \$3 million. The UVB is zero at the end of each year.

You also ask whether, under the presumptive method, the possibility of withdrawal liability is eliminated any time assets exceed liabilities. Under the presumptive method, an employer's withdrawal liability is determined as a proportionate share of the plan's UVB as of the end of the last plan year ending before April 29, 1980, plus a share of the change in UVB as determined under section 4211 for each year the employer is obligated to contribute. It follows, therefore, that a zero UVB in one year does not necessarily eliminate potential withdrawal liability.

Consider the following example:

End of Plan Year	Plan UVB
1979	\$1 million
1980	2 million
1981	3 million
1982	4 million
1983	

Depending on an employer's contribution pattern, a withdrawal during 1984 could result in withdrawal liability. The amount is determined as a share of the \$1 million plus a share of the change in plan UVB (see section 4211(b)(2)(A)) for each of the next four years. The employer would receive a "credit" for the improvement in funding during 1983, but the credit could be smaller than [*3] the employer's share of the past "charges" determined pursuant to the statutory withdrawal liability allocation method.

Section 4213(c) defines unfunded vested benefits as the value of nonforfeitable benefits under the plan less the value of plan assets. In opinion letter 82-34 we said the term unfunded has no meaning when assets always exceed plan liabilities. Your inquiry has caused us to consider the more general question. In our view, the plan's UVB is zero whenever assets are not less than vested liabilities. In the example above, therefore, the plan UVB for 1983 is zero even if assets are greater than liabilities.

Finally, you asked whether our letter of November 10, 1982 represents an "official" PBGC position. A legal opinion issued by the General Counsel is authoritative.

We appreciate your comments concerning the handling of contributions made under reciprocity agreements for allocation fraction purposes. They will be helpful to us in our consideration of this issue.

We hope this information is of assistance to you.

Edwin M. Jones
Executive Director