

Pension Benefit Guaranty Corporation

85-4

January 30, 1985

REFERENCE:

[\*1] 4201(b)(1) Withdrawal Liability Established. Unadjusted Amount of Unfunded Vested Benefits  
4206(a) Adjustment for Partial Withdrawal. Reduction of Liability  
4206(b)(1) Adjustment for Partial Withdrawal. Reduction of liability for subsequent withdrawal

OPINION:

This responds to your request for the PBGC's opinion concerning Section 4206(b)(1) of ERISA. That section requires, when an employer has been assessed liability in a prior plan year for a partial withdrawal, that the employer's liability for any subsequent withdrawal be reduced by the amount of the previously assessed partial withdrawal liability. You wish to know how this reduction is to be made by a pension plan.

You describe two methods by which the partial withdrawal reduction might be applied. Under Method 1 a plan calculates withdrawal liability for the subsequent withdrawal as directed by Section 4201(b)(1) (without regard to the prior year's partial withdrawal) and then reduces the current amount of withdrawal liability by the amount of the previously assessed liability as required by Section 4206(b)(1).

Method 1

Step 1: Calculate allocable amount of unfunded vested benefits (§ 4211).

Step 2: Subtract de [\*2] minimis deductible, if any (§ 4209).

Step 3: If partial withdrawal has occurred, multiply by partial withdrawal fraction (§ 4206(a)).

Step 4: Make any additional adjustments required by Section 4201(b) (§ § 4219, 4225).

Step 5: Reduce withdrawal liability by the amount of any previously assessed partial withdrawal liability (§ 4206(b)(1)).

Method 2 on the other hand subtracts the amount required by Section 4206(b)(1) in the course of calculating withdrawal liability under Section 4201(b)(1). Indeed Method 2, as you describe it, subtracts the Section 4206(b)(1) amount from the amount calculated under Section 4211 and adjusted under Section 4209 first and then applies the partial withdrawal reduction fraction determined under Section 4206(a) to the result.

Method 2

Step 1: Calculate allocable amount of unfunded vested benefits (§ 4211).

Step 2: Subtract de minimis deductible, if any (§ 4209).

Step 3: Subtract amount of any previously assessed partial withdrawal liability (§ 4206(b)(1)).

Step 4: If partial withdrawal has occurred, multiply by partial withdrawal fraction (§ 4206(a)).

Step 5: Make any additional adjustments required by Section [\*3] 4201(b) (§ § 4219, 4225).

As you suggest, Method 1 is correct and Method 2 is clearly erroneous.

Section 4201(b)(1) defines withdrawal liability as the result of four potential adjustments to an employer's allocable amount of unfunded vested benefits (which is calculated under Section 4211). The second of these adjustments (Section 4201(b)(1)(B)) is made in accordance with Section 4206 in the case of a partial withdrawal. Section 4206(a) makes clear that this adjustment is made by multiplying "the amount determined under Section 4211, and adjusted under Section 4209" (the first adjustment) by a fraction described in Section 4206(a)(2). Thus by its plain language, Section 4206(a) precludes the prior use of Section 4206(b)(1) in this adjustment process.

Section 4206(b)(1) itself makes clear that it is not an adjustment under Section 4201(b)(1). Section 4206(b)(1) states that "any withdrawal liability of that employer for a partial or complete withdrawal from that plan in a subsequent year shall be reduced." First, it is an adjustment to withdrawal liability, i.e. a further adjustment to the Section 4201(b)(1) amount. Second, it applies to either a partial or complete [\*4] withdrawal while Section 4201(b)(1)(B) applies only to a partial withdrawal. Thus, Section 4206(b)(1) is not an adjustment under Section 4201(b)(1) at all, much less an adjustment to be made prior to application of the Section 4206(a) fraction.

Accordingly it is our opinion that the reduction in an employer's withdrawal liability required by Section 4206(b)(1) on account of a previous partial withdrawal assessment must be made after the employer's subsequent withdrawal liability is calculated in accordance with Section 4201(b) (without regard to Section 4206(b)(1)).

If you have further questions concerning this matter please contact \* \* \* of my staff at the above address or at (202) 254-4873.

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