

Pension Benefit Guaranty Corporation

94-4

August 9, 1994

REFERENCE:

[*1] >4006(a)(3)(E)>

OPINION:

I write in response to your request for our opinion regarding whether a plan that is at the full funding limitation, taking into account as part of plan assets any credit balance, is exempt from the Pension Benefit Guaranty Corporation's variable rate premium.

Section 4006(a)(3)(E)(v) of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1306(a)(3)(E)(v), provides an exemption from the variable rate premium "for any plan year if, as of the close of the preceding plan year, contributions to the plan for the preceding plan year were not less than the full funding limitation for the preceding plan year under section 412(c)(7) of the Internal Revenue Code of 1986." IRC § 412(c)(7), in turn, defines the full funding limitation as the excess of a measure of the plan's liabilities (i.e., the lesser of (1) 150% of current liability, or (2) 100% of accrued liability) over a measure of the plan's assets (i.e., the lesser of the fair market value or the actuarial value of assets).

In determining whether the full funding limitation exemption from the variable rate premium is met, adjustments to the plan's assets that may be required when calculating [*2] the full funding limitation for purposes of determining the minimum required contribution under IRC § 412 are inapplicable. Specifically, assets need not be reduced by the amount of any credit balance in the plan's funding standard account under IRC § 412.

We further note that, while the full funding limitation is determined as of the close of the preceding plan year, contributions for that preceding plan year may be made prior to the close of the year. In such cases, whether the contributions equal the full funding limitation is determined by adding to those contributions the interest credit allowed under IRC § 412.

Thus, a plan that is at the full funding limitation, taking into account as part of plan assets any credit balance and any interest credit under IRC § 412 for contributions made prior to the close of the preceding plan year, is exempt from the variable rate premium. If you have further questions, please let us know.

Carol Connor Flowe
General Counsel