

Pension Benefit Guaranty Corporation

§ 4050.2

fund established pursuant to ERISA section 4005(a)) to pay guaranteed benefits and related expenses under the plan while it was terminated are a debt of the restored plan. The terms and conditions for payment of this debt shall be determined by the PBGC.

(b) *Repayment terms.* The PBGC shall prescribe reasonable terms and conditions for payment of the debt described in paragraph (a) of this section, including the number, amount and commencement date of the payments. In establishing the terms, PBGC will consider the cash needs of the plan, the timing and amount of contributions owed to the plan, the liquidity of plan assets, the interests of the single-employer insurance program, and any other factors PBGC deems relevant. PBGC may, in its discretion, revise any of the payment terms and conditions, upon written notice to the plan administrator in accordance with paragraph (c) of this section.

(c) *Notification to plan administrator.* Whenever the PBGC issues or has issued a plan restoration order, it shall send a written notice to the plan administrator of the restored plan advising the plan administrator of the amount owed the PBGC pursuant to paragraph (a) of this section. The notice shall also include the terms and conditions for payment of this debt, as established under paragraph (b) of this section.

PART 4050—MISSING PARTICIPANTS

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APPENDIX A TO PART 4050—EXAMPLES OF DESIGNATED BENEFIT DETERMINATIONS FOR

MISSING PARTICIPANTS UNDER §4050.5 IN PLANS WITH DEEMED DISTRIBUTION DATES ON AND AFTER AUGUST 17, 1998
APPENDIX B TO PART 4050—EXAMPLES OF BENEFIT PAYMENTS FOR MISSING PARTICIPANTS UNDER §§4050.8 THROUGH 4050.10

AUTHORITY: 29 U.S.C. 1302(b)(3), 1350.

SOURCE: 62 FR 60440, Nov. 7, 1997, unless otherwise noted.

§ 4050.1 Purpose and scope.

This part prescribes rules for distributing benefits under a terminating single-employer plan for any individual whom the plan administrator has not located when distributing benefits under §4041.28 of this chapter. This part applies to a plan if the plan's deemed distribution date (or the date of a payment made in accordance with §4050.12) is in a plan year beginning on or after January 1, 1996.

§ 4050.2 Definitions.

The following terms are defined in §4001.2 of this chapter: annuity, Code, ERISA, insurer, irrevocable commitment, mandatory employee contributions, normal retirement age, PBGC, person, plan, plan administrator, plan year and title IV benefit.

In addition, for purposes of this part:

Deemed distribution date means—

(1) The last day of the period in which distribution may be made under part 4041 of this chapter; or

(2) If the plan administrator selects an earlier date that is no earlier than the date when all benefit distributions have been made under the plan except for distributions to missing participants whose designated benefits are paid to the PBGC, such earlier date.

Designated benefit means the amount payable to the PBGC for a missing participant pursuant to §4050.5.

Designated benefit interest rate means the rate of interest applicable to underpayments of guaranteed benefits by the PBGC under §4022.81(c) of this chapter.

Guaranteed benefit form means, with respect to a benefit, the form in which the PBGC would pay a guaranteed benefit to a participant or beneficiary in the PBGC's program for trustee plans under subparts A and B of part 4022 of this chapter (treating the deemed distribution date as the termination date for this purpose).

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Missing participant means a participant or beneficiary entitled to a distribution under a terminating plan whom the plan administrator has not located as of the date when the plan administrator pays the individual's designated benefit to the PBGC (or distributes the individual's benefit by purchasing an irrevocable commitment from an insurer). In the absence of proof of death, individuals not located are presumed living.

Missing participant annuity assumptions means the interest rate assumptions and actuarial methods for valuing benefits under § 4044.52 of this chapter, applied—

(1) As if the deemed distribution date were the termination date;

(2) Using the mortality rates prescribed in Revenue Ruling 95-6, 1995-1 C.B. 80 (for availability, see 26 CFR 601.601(d));

(3) Without using the expected retirement age assumptions in §§ 4044.55 through 4044.57 of this chapter;

(4) Without making the adjustment for expenses provided for in § 4044.52(e) of this chapter; and

(5) By adding \$300, as an adjustment (loading) for expenses, for each missing participant whose designated benefit without such adjustment would be greater than \$5,000.

Missing participant forms and instructions means PBGC Forms 501 and 602, Schedule MP thereto, and related forms, and their instructions.

Missing participant lump sum assumptions means the interest rate and mortality assumptions and actuarial methods for determining the lump sum value of a benefit under § 4022.7(d) of this chapter applied—

(1) As if the deemed distribution date were the termination date; and

(2) Without using the expected retirement age assumptions in §§ 4044.55 through 4044.57 of this chapter.

Pay status means, with respect to a benefit under a plan, that the plan administrator has made or (except for administrative delay or a waiting period) would have made one or more benefit payments.

Post-distribution certification means the post-distribution certification required by § 4041.29 or § 4041.50 of this chapter.

Unloaded designated benefit means the designated benefit reduced by \$300; except that the reduction does not apply in the case of a designated benefit determined using the missing participant annuity assumptions without adding the \$300 load described in paragraph (5) of the definition of "missing participant annuity assumptions."

[62 FR 60440, Nov. 7, 1997, as amended at 63 FR 29355, May 29, 1998; 63 FR 38306, July 16, 1998; 65 FR 14753, Mar. 17, 2000]

§ 4050.3 Method of distribution for missing participants.

The plan administrator of a terminating plan must distribute benefits for each missing participant by—

(a) Purchasing from an insurer an irrevocable commitment that satisfies the requirements of § 4041.28(c) or § 4041.50 of this chapter (whichever is applicable); or

(b) Paying the PBGC a designated benefit in accordance with §§ 4050.4 through 4050.6 (subject to the special rules in § 4050.12).

§ 4050.4 Diligent search.

(a) *Search required.* A diligent search must be made for each missing participant before information about the missing participant or payment is submitted to the PBGC pursuant to § 4050.6.

(b) *Diligence.* A search is a diligent search only if the search—

(1) Begins not more than 6 months before notices of intent to terminate are issued and is carried on in such a manner that if the individual is found, distribution to the individual can reasonably be expected to be made on or before the deemed distribution date;

(2) Includes inquiry of any plan beneficiaries (including alternate payees) of the missing participant whose names and addresses are known to the plan administrator; and

(3) Includes use of a commercial locator service to search for the missing participant (without charge to the missing participant or reduction of the missing participant's plan benefit).

§ 4050.5 Designated benefit.

(a) *Amount of designated benefit.* The amount of the designated benefit is the amount determined under paragraph