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## TERMINATION PREMIUM PAYMENT PACKAGE PENSION BENEFIT GUARANTY CORPORATION

**This Package Contains Form T And Instructions**

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### **Paperwork Reduction Act Notice**

The Pension Benefit Guaranty Corporation (PBGC) needs this information (1) to identify the plan for which a termination premium is paid to PBGC pursuant to Title IV of the Employee Retirement Income Security Act of 1974 (ERISA) and PBGC's premium regulations (29 CFR Parts 4006 and 4007), (2) to verify the determination of the premium, and (3) to identify the persons liable for the premium. You are required to give us this information. 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. OMB has approved this collection of information under control number 1212-00\_\_\_. Confidentiality is that provided by the Privacy Act and the Freedom of Information Act.

The estimated burden associated with preparing Form T for a first-year filing is 30 hours (for filings done in-house) or \$8,250 (for filings contracted out), and for a second- or third-year filing is 10 hours (for filings done in-house) or \$2,750 (for filings contracted out). (PBGC assumes that the preparation of about 95 percent of Form T filings is contracted out.) These burden estimates are an average for the filings PBGC expects to receive. The actual burden will vary depending on the circumstances of a given plan and sponsor group.

If you have comments concerning the accuracy of this time estimate or suggestions for making the form simpler, please send your comments to:

Pension Benefit Guaranty Corporation  
Legislative & Regulatory Department  
1200 K Street, NW  
Washington, DC 20005-4026

### **Introduction**

Under the Employee Retirement Income Security Act of 1974 (ERISA) and PBGC's regulations, a premium ("termination premium") must be paid to PBGC annually for three years after plan termination for certain distress and involuntary pension plan terminations. The premium is \$1,250 per participant except for certain airline-related plans (as described below). This booklet explains what terminations the termination premium applies to, how the amount of the termination premium is determined, who is liable to pay the premium, when it must be paid, and requirements for remitting the premium and providing related information to PBGC. See section 4006(a)(7) of ERISA as amended by the Deficit Reduction Act of 2005, Pub.L. 109-171 (DRA 2005), and the Pension Protection Act of 2006, Pub.L. 109-280 (PPA 2006); section 8101(d) of DRA 2005; section 402(g)(2)(B) of PPA 2006; and PBGC's regulations on Premium Rates (29 CFR Part 4006) and Payment of Premiums (29 CFR Part 4007).

### *When the termination premium applies*

In general, the termination premium applies where a single-employer plan terminates in a distress termination under section 4041(c) (unless all contributing sponsors and controlled group members meet the bankruptcy liquidation requirements of section 4041(c)(2)(B)(i)) or in an involuntary termination under section 4042 of ERISA, and the termination date under section 4048 of ERISA is after 2005. However, there is a special rule for certain bankruptcy situations. Under the special rule, the termination premium does not apply where as of the plan's termination date under section 4048 of ERISA —

(1) A bankruptcy proceeding has been filed by or against any person that was, on the day before the plan's termination date, a contributing sponsor of the plan or a member of a contributing sponsor's controlled group, and

(2) The proceeding is pending as a reorganization proceeding under chapter 11 of title 11, United States Code (or under any similar law of a State or political subdivision of a State), and

(3) The person has not been discharged from the proceeding, and

(4) The proceeding was filed before October 18, 2005.

Note that this special rule does not apply during a period when there is in effect an election of funding relief (an extended underfunding amortization period and lenient assumptions for valuing liabilities) by a commercial passenger airline or airline catering service for a frozen plan under section 402(a)(1) of PPA 2006.

### *How the termination premium is determined*

The termination premium is payable for three years. The same amount is payable each year. The amount of each payment is based on the number of participants in the plan as of the day before the termination date. The definition of "participant" for purposes of the termination premium is the same as the definition used for purposes of the annual flat-rate premium, but the participants are counted as of the day before the termination date, not as of the participant count date used for the flat-rate premium. In general, the amount of each payment is equal to \$1,250 times the number of participants. However, the rate is increased from \$1,250 to \$2,500 where a commercial passenger airline or airline catering service elects funding relief (an extended underfunding amortization period and lenient assumptions for valuing liabilities) for a frozen plan under section 402(a)(1) of PPA 2006, if the plan terminates during the first five years of the funding relief period, unless the Secretary of Labor determines that the termination resulted from extraordinary circumstances such as a terrorist attack or other similar event.

### *Who is liable for the termination premium*

The following persons are jointly and severally liable for the termination premium with respect to a terminated plan:

(1) Each person that was a contributing sponsor of the plan on the day before the plan's termination date, and

(2) Each person that was a member of any contributing sponsor's controlled group on the day before the plan's termination date.

*When the termination premium is due*

The termination premium is due on the 30th day of each of three consecutive 12-month periods. In general, the first 12-month period begins shortly after the plan's termination date; however, in certain bankruptcy situations, the first 12-month period may begin considerably later. There is also a special rule that applies if the termination date is set retroactively. The details are as follows:

General rule. In general, the first 12-month period begins with the first calendar month following the calendar month in which the plan's termination date falls.

Special rule for certain bankruptcy situations. There is a special rule that applies if the plan terminates under section 4041(c) of ERISA — with at least one contributing sponsor or controlled group member meeting the requirements of section 4041(c)(2)(B)(ii) — or under section 4042 of ERISA, and as of the plan's termination date under section 4048 of ERISA —

(1) A bankruptcy proceeding has been filed by or against any person that was, on the day before the plan's termination date, a contributing sponsor of the plan or member of a contributing sponsor's controlled group, and

(2) The proceeding is pending as a reorganization proceeding under chapter 11 of title 11, United States Code (or under any similar law of a State or political subdivision of a State), and

(3) The person has not been discharged from the proceeding.

If the special rule applies, the first 12-month period begins with the first calendar month following the calendar month in which, for each person liable for the termination premium, either —

(1) There is not pending any bankruptcy proceeding that was filed by or against such person and that was, as of the plan's termination date, a reorganization proceeding under chapter 11 of title 11, United States Code (or under any similar law of a State or political subdivision of a State), or

(2) The person has been discharged from any such proceeding, or

(3) The person no longer exists.

Special rule for retroactive termination dates. If a plan's termination date is in the past when it is established by agreement or court action, then the first 12-month period begins with the later of —

(1) The first calendar month following the calendar month in which the termination date is established by agreement or court action, or

(2) The first calendar month specified under the general rule or special bankruptcy rule above.

*Who must remit the termination premium and provide related information*

Each person liable for the termination premium has a duty to remit the premium and provide related information by filing Form T with PBGC, but only one filing need be made: any one of such persons may file on behalf of all such persons. However, if a required filing is not timely made, penalties may be assessed against each person liable for the premium.

### *Interest and penalties*

Interest on any amount of termination premium not timely paid will be computed in the same way as for amounts of annual flat-rate or variable-rate premium not timely paid. Interest is charged at the rate imposed under section 6601(a) of the Internal Revenue Code from the due date to the payment date. Interest is compounded daily.

Penalties may be assessed both for failure to pay the termination premium in full and on time and for failure to file required related information on time. Penalties will be assessed based on the facts and circumstances and may be waived in appropriate circumstances. A penalty for late payment will not exceed the amount of termination premium paid late.

### *Recordkeeping and audits*

Each person liable for the termination premium has a duty to keep records that support or validate each termination premium filing for six years after the termination premium due date. PBGC may audit any termination premium filing.

## **Instructions for Form T**

### *What to report*

Item 1 — *Name of plan*. Report the full name of the plan as reported on the plan's most recent annual (flat- and/or variable-rate) premium filing.

Item 2 — *EIN/PN*. Report the EIN/PN reported on the plan's most recent annual (flat- and/or variable-rate) premium filing.

Item 3 — *Date of plan termination*. Report the date of plan termination as defined in section 4048 of ERISA.

Item 4 — *Number of participants*. Report the number of participants in the plan as of the day before the termination date.

Item 5 — *Premium rate*. Enter \$1,250 unless the special airline rule applies. (By entering \$1,250, you represent that the special airline rule does not apply.) Special airline rule: The premium rate is \$2,500 where a commercial passenger airline or airline catering service elects funding relief (an extended underfunding amortization period and lenient assumptions for valuing liabilities) for a frozen plan under section 402(a)(1) of PPA 2006, if the plan terminates during the first five years of the funding relief period, unless the Secretary of Labor determines that the termination resulted from extraordinary circumstances such as a terrorist attack or other similar event.

Item 6 — *Amount of premium*. This is the participant count from item 4 multiplied by the premium rate from item 5. This is the amount you owe PBGC.

Item 7 — *Which termination premium payment is this?* Check a box to indicate whether this is the first, second, or third termination premium payment for this plan.

Item 8 — *Method of premium payment.* Check a box to indicate whether you are paying by paper check enclosed with Form T or by electronic funds transfer.

Item 9 — *Name and address of filer.* The filer must be a person liable for the termination premium.

Item 10 — *List of all persons liable for the termination premium.* Provide a list showing the name and address of every person liable for the termination premium (other than the filer).

Item 11 — *Signature.* Form T must be signed by or for the filer. If the filer is not an individual, Form T must be signed by an authorized officer or agent. Also report the date of signature, the signer's printed name, the signer's title, and the signer's business telephone number.

#### *Where to file*

Termination premium filings are exempt from electronic filing requirements. Form T must be filed on paper. Payment of the termination premium may be made by paper check or electronically.

File Form T and your termination premium payment as follows:

- a. If you use mail, send Form T to:
  - Pension Benefit Guaranty Corporation
  - Dept. 77430
  - P.O. Box 77000
  - Detroit, MI 48277-0430
- b. If you use a delivery service, send Form T to:
  - Pension Benefit Guaranty Corporation
  - JPMorgan Chase Bank, N.A.
  - 9000 Haggerty Road
  - Dept. 77430
  - Mail Code MI1-8244
  - Belleville, MI 48111
- c. If you pay by check, write the plan's EIN/PN and the termination date (DOPT) on the check and send the check with Form T.

- d. If you pay by electronic funds transfer, send the payment to:  
JPMorgan Chase Bank, N.A.  
ABA: 071000013  
Account: 656510666  
Beneficiary: PBGC  
Reference: "EIN/PN: XX-XXXXXXXX/XXX DOPT: MM/DD/YY"

*Other correspondence*

For all correspondence related to the termination premium (other than premium filings), including termination premium filing questions, requests for instructions or forms, and requests for reconsideration of penalty assessments:

- a. If you mail your correspondence, address it to:  
Pension Benefit Guaranty Corporation  
Dept. 77840  
P.O. Box 77000  
Detroit, MI 48277-0840
- b. If you send your correspondence by delivery service, address it to:  
Pension Benefit Guaranty Corporation  
JPMorgan Chase Bank, N.A.  
9000 Haggerty Road  
Dept. 77430  
Mail Code MI1-8244  
Belleville, MI 48111
- c. Call: 1-800-736-2444 or (202) 326-4242
- d. Fax: (202) 326-4250
- e. E-mail: [premiums@pbgc.gov](mailto:premiums@pbgc.gov)

TERMINATION PREMIUM DECLARATION

(See Form T Instructions)

1. Name of plan:

2. EIN/PN (as reported in most recent premium filing):

9-digit EIN

3-digit PN

3. Date of plan termination:

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4. Number of participants as of the day before the termination date in item 3 above:

5. Premium rate (enter \$1,250 unless the special airline rule applies — see instructions):

6. Amount of premium (participant count from item 4 above times premium rate from item 5 above):

7. Which termination premium payment is this:

First

Second

Third

8. Method of premium payment:

Paper check

Electronic payment

9. Name and address of filer (must be a person liable for the termination premium):

10. Attach a list showing the name and address of each person (other than the filer) that is liable for the termination premium and that is in existence on the filing date.

11. Signature (of or for filer) \_\_\_\_\_

Date \_\_\_\_\_

Print name of person who signs \_\_\_\_\_

Telephone number \_\_\_\_\_

Title of person who signs \_\_\_\_\_