

Pension Benefit Guaranty Corporation

75-101

August 8, 1975

REFERENCE:

[\*1] 3(39) Definitions. Plan Year  
4007(a). Payment of Premiums. Due Dates

OPINION:

I'm sorry that this reply was delayed. Some time ago, you and I corresponded about the requirement to pay premiums to the Pension Benefit Guaranty Corporation ("PBG") imposed upon administrators of pension plans covered by the Employee Retirement Income Security Act of 1974 ("ERISA"). See ERISA § 4007(a). More specifically, in your letter of January 15, 1975, you stated that to require premiums to be paid to this Corporation within 30 days after the commencement of the plan year would be to make even more difficult the complexities created by ERISA. You also suggested that "the words 'plan year' should be given a specific and unambiguous meaning."

The section of ERISA relating to premiums states,

"Premiums imposed by this title on the first plan year commencing after the date of enactment of this Act are due within 30 days after such plan year commences." ERISA § 4007(a).

As you can tell, the statute is fairly clear as to when premiums are due. Were there sufficient ambiguity on the face of the statute to permit selection of an alternative due date, we would certainly consider payment alternatives less disruptive [\*2] to the administration of pension plans. However, the clarity of this section of the statute leaves us no choice but to administer it as written.

The statute calls for payment of premiums within 30 days after the first plan year commences but it seems to permit other payment periods in subsequent years. We expect to maintain the same premium payment schedule for the second plan year because we do not want to change the premium payment system now, but we are considering changes for subsequent years. Your thoughts have been helpful in this regard.

The term "plan year" is defined in ERISA § 3(39).

"The terms 'plan year' and 'fiscal year of the plan' mean with respect to a plan, calendar, policy, or fiscal year on which the records of the plan are kept."

We interpret this section to permit the plan \* \* \* administrator to elect the plan year, as long as it is consistent with the definition of plan year under ERISA.

I appreciate your helpful suggestions, and we are forwarding them to the appropriate officials at the Department of Labor for their consideration as you requested. Should you have any questions, please feel free to contact me.

Steven E. Schanes  
Executive Director