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PENSION ANALYST COMPLIANCE BULLETIN



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PBGC streamlines disaster relief

On July 2, 2018, the Pension Benefit Guaranty Corporation (PBGC) issued an [announcement](#) that streamlines the process for granting relief from filing deadlines and penalties when a disaster occurs.

Background

The Employee Retirement Income Security Act (ERISA) grants the PBGC authority to extend certain deadlines due to a disaster, including filing extensions for the Form 5500, Annual Return/Report of Employee Benefit Plan. When the IRS issues relief to taxpayers, including plan sponsors that are unable to meet a filing deadline because of a major disaster, the PBGC also provides relief.

Previously, each time the IRS issued disaster relief, the PBGC followed with its own stand-alone announcement. To streamline its process, the PBGC recently issued a one-time announcement regarding disaster relief that applies each time the IRS grants relief in response to a particular disaster.

The announcement, which applies to disaster-related IRS news releases issued on or after July 2, 2018, provides assurance that the PBGC now automatically grants disaster relief any time relief is granted by the IRS. Individual announcements regarding specific disaster relief are no longer being issued by the PBGC.

Summary of relief

The PBGC relief generally extends the due date for the plan filing, payment, or other action to the last day of the relief period provided by the IRS, for the same disaster areas covered by the IRS relief. Under the PBGC relief:

- A filing will not be subject to a late filing penalty;
- A premium payment will not be subject to late payment penalty or interest charges; and
- The extended due date will apply for purposes of calculating any other due date that is based on the due date of the filing or other action. *For example, if a plan is filing certain actuarial information by an alternative due date that is 15 days after a plan's Form 5500 due date, and the deadline to file a Form 5500 is extended because of a disaster, then the 15-day period is automatically measured from the last day of the Form 5500 disaster relief period.*

The disaster relief applies only if the following conditions are satisfied:

- The person responsible for a filing, payment, or other action under PBGC regulations, such as a plan administrator or contributing sponsor, is located in the disaster area. Or, a person responsible for providing information or other assistance needed for the filing, payment, or other action, such as a service provider or bank, is located in the disaster area;
- The due date of the filing, payment, or other action falls within the relief period;
- The filer notifies PBGC of the filer's eligibility for disaster relief on or before the last day of the relief period; and
- The filing or action is not one of the exceptions described in the announcement.

The relief does not apply to certain filings that involve particularly important or time-sensitive information where there may be a high risk of substantial harm to participants or the PBGC's insurance program, including:

- Advance notices of reportable events;
- Notices of large missed contributions;

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- Post-event notices for the following five reportable events:
 - Failure to make required contributions under \$1 million;
 - Inability to pay benefits when due;
 - Liquidation;
 - Loan default; or
 - Insolvency or similar settlement.
- Actions related to distress terminations for which PBGC has issued a distribution notice.

Next steps

As a result of the announcement, plan sponsors no longer need to wait for the PBGC to issue a notice following IRS news releases for disaster relief. Sponsors unable to meet a PBGC deadline due to a disaster should review the PBGC announcement to determine if an extended deadline applies. If eligible for disaster relief or to request case-by-case relief for exceptions, sponsors should follow the instructions of the announcement on the PBGC website.

Compliance Bulletin by Prudential Retirement

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