

PBGC Requires Electronic Filing for Certain Multiemployer Notices

The PBGC recently finalized its proposed rule requiring multiemployer plans to file certain notices with the PBGC in electronic form. Specifically, notices of termination, insolvency and insolvency benefit levels, as well as applications for financial assistance, must be filed electronically. This final rule applies to filings made on or after January 1, 2016, and only affects notices to the PBGC — and not to participants or other interested parties.

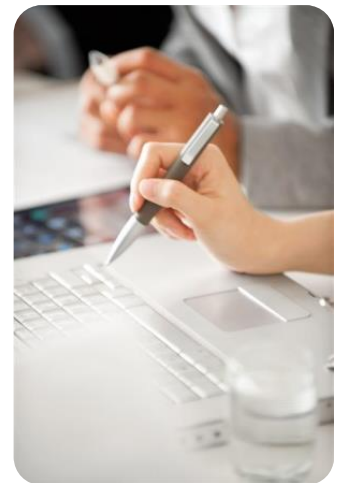
Background

There are two ways to terminate a multiemployer plan: mass withdrawal and plan amendment. In a mass withdrawal termination, all employers withdraw or cease to be obligated to contribute to the plan. In a plan amendment termination, the plan adopts an amendment freezing all future service credit after a specific date or an amendment that makes it no longer a covered plan for PBGC purposes. Sponsors of a terminated multiemployer plan must file with the PBGC a notice of termination, which includes basic information on the possible strain the termination may have on the PBGC's multiemployer insurance program.

Insolvent multiemployer plans must alert the PBGC with a notice of insolvency (which states the sponsor's determination that the plan is or may become insolvent) and a notice of insolvency level (which states the level of benefits that will be paid during an insolvency year). These notices must also be provided to the PBGC if a plan incurs a mass withdrawal. Finally, a plan must submit an application to PBGC for financial assistance if the plan is, or will be, unable to pay guaranteed benefits when due.

In April 2015, the PBGC proposed to require that the following four multiemployer filings be submitted electronically:

- Notice of termination under part 4041A
- Notice of insolvency and of insolvency benefit level under part 4245 (insolvent plans)
- Notice of insolvency and of insolvency benefit level under part 4281 (following mass withdrawal)
- Applications for financial assistance under part 4281 (following mass withdrawal)



Final Rule Identical to Proposed Rule

Receiving no comments on its proposed rule to require electronic filing of the above notices, the PBGC recently [finalized the rule as proposed](#). The final rule applies to filings made on or after January 1, 2016.

The PBGC noted in the final rule that it will grant “case-by-case” exemptions to the electronic filing requirement in circumstances where filers can demonstrate good cause for an exemption.

The PBGC expects the final rule to simplify the filing process, reduce the need for filers to contact the PBGC for assistance, improve the PBGC’s recordkeeping system and enhance PBGC’s ability to protect sensitive data. The PBGC estimates that this rule will result in total administrative savings of \$99,000 annually.

Electronic Filing Not (Yet) Required for Certain Other Notices

Like the proposed rule, the final rule does not require electronic filing of notices of benefit reduction and of restoration of benefits. However, the PBGC may ultimately require electronic filing for these notices, as well.

In Closing

These electronic filing requirements only apply to notices provided to the PBGC. The final rule does not address notices required to be provided to participants or other interested parties.

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Produced by the Knowledge Resource Center of Buck Consultants at Xerox

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