

Pension Benefit Guaranty Corporation

78-30

December 15, 1978

REFERENCE:

[\*1] 4007 Payment of Premiums

OPINION:

You have asked whether a Puerto Rican pension plan which is not qualified under Section 401(a) of the Internal Revenue Code may now request a refund of all premiums paid to PBGC. A plan may be qualified under the Internal Revenue Code even though the plan has not received an Internal Revenue Service determination letter. Further, a plan without a determination letter may meet the qualification in practice test of Section 4021(a)(1) of ERISA. Accordingly, in order to determine whether a Puerto Rican plan without an IRS determination letter meets the tax qualification requirement of Section 4021(a) of ERISA it will be necessary for us to examine the plan provisions. Plans which seek a refund of PBGC premiums should initially submit to us copies of the plan document as of September 2, 1974 and subsequent amendments. After PBGC has made a determination as to a plan coverage status, we will then be in a position to inform you with respect to the questions that you have raised concerning reportable events and employer liability.

You have also asked whether PBGC will make interests payments on premium refunds. There is no provision in Title IV of ERISA [\*2] for the payment of interest on premium refunds.

With respect to your question as to whether a non-covered defined benefit plan is subject to the asset allocation provisions of Title IV on termination, we refer you to Section 403(d)(1) of ERISA, which provides that the assets of a pension plan to which Section 4021 does not apply and to which Part 4 of Subtitle B of Title I applies are to be allocated in accordance with the provisions of Title IV.

Henry Rose  
General Counsel