

# **Underpayment Reimbursement and Interest Payments**

**Issue Date** 03/30/2021

Sometimes payees in a pension plan may receive less than the payments to which they are entitled. There are several ways this may occur. For example, payees may:

- receive estimated PBGC benefits that are later determined to be less than their final benefit, including estimated payments based on the continuation of calculations by the plan administrator;
- not receive monthly payments between their annuity starting date (ASD) and actual first payment date, due to the processing time between the ASD and completion of the benefit application process;
- not receive benefit payments because the payments were suspended for a period; or
- not receive payments from a plan that were due prior to DOPT (pre-termination plan liabilities).

This guidance details when PBGC will make payments to payees in trustee plans to compensate for underpayments. It applies to all reimbursement payments processed on or after April 1, 2021, except for payees with reimbursement payments communicated prior to April 2, 2021.

## **Guidance**

PBGC pays net underpayments including backpayments, with interest, if the net underpayment plus interest totals \$1 or more as described in 29 C.F.R. Section 4022.81(c).

PBGC calculates net underpayments as described in 29 C.F.R. Section 4022.81(c) and Internal Guidance Computation and Netting of Post-DOPT Overpayments and Underpayments.

PBGC pays the net underpayment in a single payment, including interest as appropriate, as soon as practicable.

PBGC will add interest to underpayments, as provided in 29 C.F.R. Section 4022.81(c)(4) ("PBGC interest").

PBGC pays interest on de minimis lump sum benefits from the first day of the month coincident with or following DOPT to the date of distribution.

## **Pre-Termination Liabilities**

PBGC will determine pre-termination liabilities (amounts owed to payees prior to DOPT, including "residual" amounts determined owed after a prior pre-termination liability payment was made) by including PBGC interest before and after DOPT, and by applying the tolerance rules in Internal Guidance Benefit Corrections. PBGC will pay these pre-termination liabilities if a plan has sufficient assets to pay the amounts. These amounts may be missed payments or underpayments as of DOPT including uncashed checks from the prior plan administrator.

PBGC pays the pre-termination plan liabilities with interest to the extent the plan's assets are sufficient to pay for them. Sufficiency is determined based on the Financial Plan Assets, as opposed to Valuation Plan Assets. For small plans (unfunded non-guaranteed benefits not exceeding \$20 million), Financial

**Plan Assets and Valuation Plan Assets** use different values for PBGC's recovery of Due and Unpaid Employer Contributions (DUEC). If the Financial Plan Assets as of DOPT are less than the total pre-termination plan liabilities (including benefit and non-benefit liabilities), assets are allocated to each payee according to the ratio of his or her pre-termination liability to the total pre-termination plan liabilities.

**Financial Plan Assets** consist of:

- (a) the DUEC Recovery as defined in Internal Guidance DUEC Recovery Amounts, plus
- (b) the value at DOPT of all other plan assets (i.e., stocks, bonds, accounts, and other tangible or intangible plan assets).

The **DUEC Recovery** is the value of DUEC determined under Internal Guidance Valuation and Allocation of Recoveries. Valuation DUEC Recovery amounts (e.g. Small Plan DUEC Recovery Ratio (SPDRR) amounts) are not considered when determining if assets are sufficient to pay pre-termination plan liabilities.

Valuation Plan Assets are allocated to participants' benefits via the priority categories under 29 C.F.R. Section 4044. They consist of

- (a) the Valuation DUEC Recovery as defined in Internal Guidance DUEC Recovery Amounts, plus
- (b) the value at DOPT of all other plan assets (i.e., stocks, bonds, accounts, and other tangible or intangible plan assets).

The **Valuation DUEC Recovery** is the value determined by multiplying the DUEC for a plan by the 29 C.F.R. Section 4062(c) recovery ratio (e.g. the SPDRR for small plans). Any pre-termination plan liabilities paid are subtracted from the Valuation Plan Assets before the assets are allocated to participants' benefits. The amount allocated to participants' benefits cannot be less than the full amount of the Valuation DUEC Recovery.

		Example 1 Pre-termination liabilities are less than all other plan assets	Example 2 Pre-termination liabilities are greater than all other plan assets	Example 3 Pre-Termination liabilities are greater than valuation plan assets
(a)	All Other Plan Assets	\$1000	\$1000	\$1000
(b)	DUEC Recovery	\$100	\$50	\$100
(c)	Valuation DUEC Recovery	\$100	\$100	\$50
(d)	Pre-Termination Plan Liabilities (PTPL)	\$900	\$1075	\$1075
(e)	Financial Plan Assets (a) + (b) =	\$1100	\$1050	\$1100

		Example 1 Pre-termination liabilities are less than all other plan assets	Example 2 Pre-termination liabilities are greater than all other plan assets	Example 3 Pre-Termination liabilities are greater than valuation plan assets
(f)	PTPL Payable Lesser of (d) and (e) =	\$900	\$1050	\$1075
(g)	Valuation Plan Assets (VPA)	\$1100	\$1100	\$1050
(h)	VPA Available for 4044 Allocation Greater of (c) and [(g) – (f)] =	\$200	\$100	\$50

## Specific Situations

A payment may be suspended while a Domestic Relations Orders is being reviewed. After the suspension is lifted, PBGC pays interest and underpayments.

PBGC may determine that it will reissue a post-DOPT payment previously issued by PBGC or the prior plan administrator in response to a payee's assertion that the payment was not received. PBGC generally does not pay interest on post-DOPT payment replacements; however, if the reimbursement is issued more than 180 days after the original payment was issued, PBGC interest will be paid.

Generally, payments received as part of an annuity are not eligible for rollovers. However, under rare conditions, PBGC will treat a large reimbursement payment as eligible for rollover distribution. For PBGC to report the payment as eligible for rollover distribution:

- the payee must be a participant, surviving spouse or alternate payee under a QDRO who is a spouse or former spouse;
- the payment must be made prior to the payee's required beginning date (RBD); and
- the payment must equal or exceed \$50,000; and be at least twelve times the monthly benefit.