

Earliest PBGC Retirement Date

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Most pension plans contain provisions that clearly identify payments that, for PBGC purposes, would be regarded as retirement annuities. However, in some cases it may be more difficult to distinguish retirement annuities from other plan payments. For example, a plan may offer a consensual lump sum upon separation from employment regardless of age, and, if so, the plan is required to offer a qualified joint-and-survivor annuity commencing immediately. The plan may or may not distinguish such a separation annuity from a retirement annuity.

The Earliest PBGC Retirement Date (EPRD) establishes when a participant is first eligible to be placed in pay status by PBGC, affects the expected retirement age at which a participant's benefit is valued, and affects how much, if any, of a participant's benefit is in Priority Category 3. For valuation of benefits and allocation of assets, the EPRD applies to benefits in any plan with a Date of Plan Termination (DOPT) on or after June 1, 2002.

For determining when participants will first be able to receive annuity benefits, the EPRD applies to benefits not yet in pay status as of June 1, 2002, in plans trusteeed by PBGC on and after October 1, 1998. In plans trusteeed by PBGC before October 1, 1998, PBGC will not apply the new age-55 rule, but, instead, will continue to apply only the facts-and- circumstances test.

Note that EPRD does not affect PBGC's guidance around annuity starting dates, see Internal Guidance Annuity Starting Dates.

Definitions

Earliest Annuity Date is the earliest date under plan provisions on which the participant could receive an immediate annuity. Earliest Annuity Date is generally determined based on the plan provisions in effect at the earlier of DOPT or the date the participant terminated employment.

Age is age as of the last birthday unless otherwise stated or clear from context.

Guidance

The Earliest PBGC Retirement Date (EPRD) is the earliest date on which the participant could "retire" for certain purposes under Title IV of ERISA. If the participant's Earliest Annuity Date is on or after the date the participant reaches age 55, the EPRD will be the Earliest Annuity Date. However, if the participant's Earliest Annuity Date is before the date the participant reaches age 55, the EPRD will be the date the participant reaches age 55, unless PBGC determines, under a facts-and-circumstances test, that the participant could retire on an earlier date. When making a facts-and-circumstances determination, PBGC will consider plan provisions, the age at which employees customarily retire (under the plan or in the

company or industry, as appropriate), and all other relevant factors. EPRD will never be earlier than the participant's Earliest Annuity Date.

Examples

Normal retirement age

A plan's normal retirement age is age 65. The plan does not offer a consensual lump sum or an immediate annuity upon separation before normal retirement age. The EPRD for a participant who, as of the plan's DOPT, is age 50 is the date the participant reaches age 65.

Early retirement age

A plan's normal retirement age is age 65. The plan specifies an early retirement age of 60 with 10 years of service. The plan does not offer a consensual lump sum or an immediate annuity upon separation before early retirement age. The EPRD for a participant who, as of the plan's DOPT, is age 55 and has completed 10 years of service is the date the participant reaches age 60.

Separation at any age

A plan's normal retirement age is age 65. The plan specifies an early retirement age of 60 but offers an immediate annuity upon separation regardless of age. The EPRD for a participant who, as of the plan's DOPT, is age 35 is the date the participant reaches age 55, unless PBGC determines under the facts and circumstances that the participant could "retire" for purposes of ERISA section 4044(a)(3)(B) on an earlier date, in which case the participant's EPRD would be that earlier date.

Age 50 retirement common

A plan's normal retirement age is age 60. The plan specifies an early retirement age of 50 but offers an immediate annuity upon separation regardless of age. The EPRD for a participant who, as of the plan's DOPT, is age 35 is the date the participant reaches age 55, unless PBGC determines under the facts and circumstances that the participant could retire for purposes of ERISA section 4044(a)(3)(B) on an earlier date, in which case the EPRD would be that earlier date. For example, if it were common for participants to retire at age 50, PBGC could determine that the participant's EPRD would be the date the participant reached age 50.

"30-and-out" benefit

A plan's normal retirement age is age 65. The plan offers an immediate annuity upon separation regardless of age and a fully subsidized annuity upon separation with 30 years of service. The EPRD for a participant who, as of the plan's DOPT, is age 48 and has completed 30 years of service is the date the participant reaches age 55, unless PBGC determines under the facts and circumstances that the participant could retire for purposes of ERISA section 4044(a)(3)(B) on an earlier date, in which case the participant's EPRD would be that earlier date. In this example, PBGC generally would determine under the facts and circumstances that the participant's EPRD is the date the participant completed 30 years of service.

Typical airline pilots' plan

An airline pilots' plan has a normal retirement age of 60. The plan specifies an early retirement age of 50 (with 5 years of service). The EPRD for a participant who, as of the plan's DOPT, is age 48 and has completed five years of service would be the date the participant reaches age 55, unless PBGC determines under the facts and circumstances that the participant could retire for purposes of ERISA section 4044(a)(3)(B) on an earlier date, in which case the participant's EPRD would be that earlier date. In this example, PBGC generally would determine under the facts and circumstances that the participant's EPRD is the date the participant reaches age 50. If the plan instead had provided for early retirement before age 50, PBGC would consider all the facts and circumstances (including the plan's normal retirement age and the age at which employees customarily retire in the airline industry) in determining whether to treat the date the participant reaches the plan's early retirement age as the participant's Earliest PBGC Retirement Date.

EPRD Precedes Earliest Retirement Date in Benefit Determination Issued Prior to June 2002

PBGC trusted the plan October 19, 1998. DOPT is August 24, 1998. On September 30, 2001, PBGC issued a benefit determination to a participant who, at DOPT, was 37 years old with ten years of service. The determination stated that the participant's earliest retirement date was the first of the month on or after his attainment of age 60. Because of plan provisions that provided an annuity at any age, his EPRD under this Internal Guidance is age 55. PBGC will allow the participant to retire upon attainment of age 55, subject to Internal Guidance Annuity Starting Dates.