

Pension Benefit Guaranty Corporation

§ 4903.19

§ 4903.17 When will PBGC refer debts owed to PBGC to the Department of Justice?

PBGC may initiate litigation pursuant to 29 U.S.C. 1302 with delinquent debts on which aggressive collection activity has been taken in accordance with this part and that should not be compromised, and on which collection activity should not be suspended or terminated. Alternatively, PBGC may refer debts owed to PBGC having a principal balance over \$100,000, or such higher amount as authorized by the Attorney General, to the Department of Justice for approval of any compromise of a debt or suspension or termination of collection activity. See §§ 4903.8 and 4903.9 of this part; 31 CFR 902.1, 903.1, and part 904. PBGC may authorize the Financial Management Service to refer to the Department of Justice for litigation those delinquent debts that have been transferred to the Financial Management Service under § 4903.10 of this part.

§ 4903.18 Will a debtor who owes a debt to PBGC or another Federal agency, and persons controlled by or controlling such debtors, be ineligible for Federal loan assistance, grants, cooperative agreements, or other sources of Federal funds?

(a) Delinquent debtors are ineligible for and barred from obtaining Federal loans or loan insurance or guaranties. As required by 31 U.S.C. 3720B and 31 CFR 901.6, PBGC will not extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a debt owed to a Federal agency. PBGC may issue standards under which it may determine that persons controlled by or controlling such delinquent debtors are similarly ineligible in accordance with 31 CFR 285.13(c)(2). This prohibition does not apply to disaster loans. PBGC may extend credit after the delinquency has been resolved. See 31 CFR 285.13.

(b) This section does not apply to loans provided to multi-employer pension plans pursuant to 29 U.S.C. 1431, 29 CFR 4261.1 and 4281.47.

(c) A debtor who has a judgment lien against the debtor's property for a debt to the United States is not eligible to receive grants, loans or funds directly

or indirectly from the United States until the judgment is paid in full or otherwise satisfied. This prohibition does not apply to funds to which the debtor is entitled as beneficiary. PBGC may promulgate regulations to allow for waivers of this ineligibility. See 28 U.S.C. 3201(e).

§ 4903.19 How does a debtor request a special review based on a change in circumstances such as catastrophic illness, divorce, death, or disability?

(a) *Material change in circumstances.* A debtor who owes a debt to PBGC may, at any time, request a special review by PBGC of the amount of any offset, administrative wage garnishment, or voluntary payment, based on materially changed circumstances beyond the control of the debtor such as, but not limited to, catastrophic illness, divorce, death, or disability.

(b) *Inability to pay.* For purposes of this section, in determining whether an involuntary or voluntary payment would prevent the debtor from meeting essential subsistence expenses (e.g., costs incurred for food, housing, clothing, transportation, and medical care), the debtor must submit a detailed statement and supporting documents for the debtor, his or her spouse, and dependents, indicating:

- (1) Income from all sources;
- (2) Assets;
- (3) Liabilities;
- (4) Number of dependents;
- (5) Expenses for food, housing, clothing, and transportation;
- (6) Medical expenses;
- (7) Exceptional expenses, if any; and
- (8) Any additional materials and information that PBGC may request relating to ability or inability to pay the amount(s) currently required.

(c) *Alternative payment arrangement.* If the debtor requests a special review under this section, the debtor must submit an alternative proposed payment schedule and a statement to PBGC, with supporting documents, showing why the current offset, garnishment or repayment schedule imposes an extreme financial hardship on the debtor. PBGC will evaluate the statement and documentation and determine whether the current offset, garnishment, or repayment schedule imposes extreme financial hardship on

the debtor. PBGC will notify the debtor in writing of such determination, including, if appropriate, a revised offset, garnishment, or payment schedule. If the special review results in a revised offset, garnishment, or repayment schedule, PBGC will notify the appropriate Federal agency or other persons about the new terms.

§ 4903.20 Will PBGC issue a refund if money is erroneously collected on a debt?

PBGC will promptly refund to a debtor any amount collected on a debt owed to PBGC when the debt is waived or otherwise found not to be owed to the United States, or as otherwise required by law.

Subpart C—Procedures for Offset of PBGC Payments To Collect Debts Owed to Other Federal Agencies

§ 4903.21 How do other Federal agencies use the offset process to collect debts from payments issued by PBGC?

(a) *Offset of PBGC payments to collect debts owed to other Federal agencies.* (1) In most cases, Federal agencies submit debts to the Treasury Offset Program to collect delinquent debts from payments issued by PBGC and other Federal agencies, a process known as “centralized offset.” When centralized offset is not available or appropriate, any Federal agency may ask PBGC (when acting as a “payment agency”) to collect a debt owed to such agency by offsetting funds payable to a debtor by PBGC, including salary payments issued to PBGC employees. This section and § 4903.21 of this subpart C apply when a Federal agency asks PBGC to offset a payment issued by PBGC to a person who owes a debt to the United States.

(2) This subpart C does not apply to debts owed to PBGC. See §§ 4903.11 through 4903.13 of this part for offset procedures applicable to debts owed to PBGC.

(3) This subpart C does not apply to the collection of non-PBGC debts through tax refund offset. See 31 CFR 285.2 for tax refund offset procedures.

(4) Benefits paid by PBGC generally will not be offset, subject to limited exceptions (e.g., in certain fiduciary breach situations).

(b) *Administrative offset (including salary offset); certification.* PBGC will initiate a requested offset only upon receipt of written certification from the creditor agency that the debtor owes the past-due, legally enforceable debt in the amount stated, and that the creditor agency has fully complied with all applicable due process and other requirements contained in 31 U.S.C. 3716, 5 U.S.C. 5514, and the creditor agency’s regulations, as applicable. Offsets will continue until the debt is paid in full or otherwise resolved to the satisfaction of the creditor agency.

(c) *Where a creditor agency makes requests for offset.* Requests for offset under this section must be sent to PBGC, ATTN: Chief Financial Officer, 1200 K Street, NW., Washington, DC 20005.

(d) *Incomplete certification.* PBGC will return an incomplete debt certification to the creditor agency with notice that the creditor agency must comply with paragraph (b) of this section before action will be taken to collect a debt from a payment issued by PBGC.

(e) *Review.* PBGC is not authorized to review the merits of the creditor agency’s determination with respect to the amount or validity of the debt certified by the creditor agency.

(f) *When PBGC will not comply with offset request.* PBGC will comply with the offset request of another agency unless PBGC determines, in consultation with that agency, that the offset would not be in the best interests of the United States, or would otherwise be contrary to law.

(g) *Multiple debts.* When two or more creditor agencies are seeking offsets from payments made to the same person, or when two or more debts are owed to a single creditor agency, PBGC may determine the order in which the debts will be collected or whether one or more debts should be collected by offset simultaneously.

(h) *Priority of debts owed to PBGC.* For purposes of this section, debts owed to PBGC generally take precedence over debts owed to other agencies. PBGC may determine whether to pay debts