



SPECIAL BULLETIN

PBGC/DOL Announce "Relief" for Multiemployer Defined Benefit Plans for 2008 Form 5500 Schedule R

A representative from the Pension Benefit Guarantee Corporation (PBGC), Ms. Connie Markakis, was a speaker this week at a conference co-sponsored by the National Coordinating Committee for Multiemployer Plans (NCCMP) and the CPWR – The Center for Construction Research and Training. Ms. Markakis announced good news for multiemployer defined benefit plans regarding Form 5500 Schedule R question 3. She indicated that the agencies would not be making a formal announcement, but would count on the news filtering out.

As you may recall, multiemployer defined benefit pension plans that are subject to the minimum funding must provide certain information as an attachment to Schedule R of the Form 5500 labeled "*Schedule R Certain Information for Multiemployer Plan*," and include, among other information, the information requested by question 3, paraphrased below:

Q 3. Provide the number of participants on whose behalf no contributions were made by an employer as an employer of the participant.....2006, 2007 and 2008 Plan years

The instructions for question 3 state:

For this purpose, count only those participants whose employers or former employers had withdrawn from the plan by the beginning of the relevant plan year. Disregard any participants whose employers had not withdrawn from the plan, even if, in the relevant year, no contributions were made by the employer on behalf of those participants. Thus, for the limited purposes of this item and notwithstanding any contrary definition of such participants applicable elsewhere, the deferred vested and retired participants of employers who have not withdrawn from the plan should not be included in these numbers.

After realizing that many multiemployer plans do not have access to such information, Ms. Markakis stated the PBGC and DOL would consider the following compliant for the 2008 Form 5500 Schedule R attachment at question 3:

1. If the plan has the information at hand or it is easily obtainable, then the plan should report the information.
2. If the plan does not have the information in easily accessible form or it would be difficult or expensive to compile the information, the plan may provide an estimate. This can be done by any reasonable means, including but not limited to some type of sampling. If the plan is providing an estimate, it should state so in the answer to question 3.
3. If the plan does not have the information, then it should state so in the answer to question 3.

Ms. Markakis stated that the agencies were working on guidance to clarify the matter for the 2009 Form 5500 filings.

For some background on the new Form 5500, see [Client Bulletin 2009-43](#) and the Research Department publications mentioned therein.

* * *

LEGAL DISCLAIMER: Information contained in this publication is not legal advice, and should not be construed as legal advice. If you need legal advice upon which you can rely, you should seek a legal opinion from your attorney.