



BENEFIT NEWS BRIEFS

PBGC To Waive Premium Penalties If Late Less Than 7 Days

The PBGC published a *Notice* in the *Federal Register* that it will waive premium penalties if the premium payment is less than seven days late. The *Notice* is available at <http://www.gpo.gov/fdsys/pkg/FR-2011-09-15/pdf/2011-23692.pdf> or by "[clicking here.](#)"

According to the *Notice*, under *ERISA* Section 4007 and the PBGC's regulation on *Payment of Premiums* (29 CFR part 4007), late payment charges (interest and late payment penalties) apply to required annual premium payments that are not timely made. According to the law, penalties (but not interest) may be waived in accordance with the premium payment regulation. The PBGC's premium penalty policy is set forth in the appendix to the premium payment regulation.

As announced in the *Notice*, for the 2011 plan year and thereafter, the PBGC will automatically waive premium payment penalties that are assessed solely because premium payments are late by not more than seven calendar days.

However, this relief does not apply to late payment *interest* charges, to *penalties for failure to timely file required premium information*, or to penalties for *late payment of termination premiums*.

The *Notice* states that in applying this policy, the PBGC will assume that each premium payment was made seven calendar days before it was actually made. Thereafter, all other rules will then be applied as usual. If the result of this procedure is that no penalty would arise, then any penalty assessed on the basis of the actual payment dates will be waived.

Filers may still seek reconsideration of late payment penalties assessed in circumstances to which the relief under this *Notice* does not apply.

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