PBGC Premiums

Supplemental reading: ERISA sections 4006, 4007, and 4021
Current PBGC premium Form 1 and instructions

- PBGC premiums (ERISA section 4006)
  - Note that there was a major overhaul of the premium rules for years beginning in 2008 and later.
  - Amount of premium
    - Single employer plans
      - Flat rate premium is $49 per participant for 2014 and $57 per participant for 2015. The flat premium is subject to an annual cost of living increase. Note that it is not necessary to know the rate for prior years.
      - Variable rate premium
        - Equal to 2.4% (previously 1.4% for 2014 and 0.9% for years before 2014) of the unfunded vested benefits (rounded up to next multiple of $1,000) as of the first day of the premium year (or generally the first day of the year for a new plan). The unfunded vested benefits are equal to the Premium Funding Target less the market value of the assets.
        - The Premium Funding Target is the funding target determined for minimum funding purposes under IRC section 430, but only with regard to <u>vested</u> benefits
          - Disability benefits are not vested if the participant is not disabled.
          - Lump sum pre-retirement death benefits are not vested if the participant is living. Note, however, that QPSA benefits that are available to married participants are considered to be vested benefits.

- The Premium Funding Target for an at-risk plan includes any load that may apply to that plan and any transition phase-in (from previously being not at-risk) that applies to the plan.
- The unfunded vested benefits are determined on the same date as the minimum funding requirement is determined.
- Benefits that are not yet payable, such as subsidized early retirement benefits, are not considered as vested for purposes of the variable premium until the participant is eligible to elect the benefit.
- The interest rate used for the Premium Funding Target is based upon the segment interest rates of IRC section 430(h)(2)(C). If the Standard Premium Funding Target is used, then these are different than what is used for funding since the funding rates are based upon a 24-month average of bond yields, there is no averaging for PBGC premium purposes.
- Either the standard premium funding target or the alternative premium funding target may be used to determine the variable rate premium.
- Standard Premium Funding Target
  - The interest rate is based upon the spot segment rates published for the month prior to the first day of the premium year. For example, for the 2012 calendar year, the December, 2011 segment rates would be used.

- Alternative Premium Funding Target
  - The interest rate is based upon the <u>smoothed</u> segment rates used in the valuation for the premium year, including the election of the look-back month.
  - If the alternative premium funding target is elected to be used, it must be used for a minimum of 5 consecutive years. If the plan sponsor switches back to the standard premium funding target, then it must be used for at least 5 consecutive years.
  - The election to use the alternative premium funding target must be made by the date that the variable rate premium is due.
- Market value of assets
  - Assets are adjusted by including the receivable contributions for the prior year, discounted with interest at the effective interest rate (used for minimum funding purposes) for the prior year. Receivable contributions are included only if contributed on or before the premium filing (actual date filed, not the due date).
  - Contributions made for the current year are excluded from the assets, increased with the current year effective interest rate from the date contributed to the current year valuation date.
  - Assets are not reduced by any prefunding balance or funding standard carryover balance.

- Variable premium cap
  - The variable rate premium for employers with 25 or fewer **employees** on the first day of the plan year cannot exceed $5 per **participant** (as of the close of the prior plan year) squared (square the number of participants before multiplying by $5). The entire controlled group must be counted in determining whether there are 25 or fewer employees. The participant count is the same as for the flat premium.
  - For years beginning in 2015, the variable rate premium cannot exceed $418 multiplied by the number of participants. (This cap was $412 in 2014 and $400 in 2013, and did not exist before 2013.) The participant count is the same as for the flat premium. There is no minimum or maximum employee or participant count needed for this variable premium cap to apply.
  - If both variable premium caps apply, then the actual cap is the smaller of the two. In no event is the variable premium more than the variable premium cap.

- Special rules for small plans (no more than 100 participants)
  - The variable rate premium is generally determined using valuation results from the prior plan year valuation date (this exception for small plans is needed because they may have a valuation date other than the first day of the year, making determination of the variable premium impossible by the premium due date for the current year without this special rule). For small plans, the prior year valuation results are used to determine the unfunded vested benefits to be applied to the current year variable rate premium calculation.
  - A small plan can elect to use the current year valuation results for the variable rate premium calculation.
  - There is no variable rate premium for a new small plan (since there is no prior year valuation), other than a new small plan resulting from a non-de minimis consolidation or spin-off.
- There are several exemptions from the variable rate premium.
  - No participants have vested benefits.
  - The plan is a fully insured plan.
  - The plan is a new plan, or a plan newly covered by the PBGC.
  - The plan has issued a notice of intent to terminate as a standard termination in a <u>prior</u> year (with the proposed plan termination date in the prior year). This exemption applies even if the final distribution of assets happens in a later

year, as long as a final distribution of assets in connection with the standard termination is eventually made.

        - The plan has issued a notice of intent to terminate as a standard termination in a <u>current</u> year, and makes a final distribution of assets during the current year.
    - Premium surcharge
        - Beginning in 2006, there is a premium surcharge for some plans terminating as a distress or involuntary termination. The surcharge does not apply to plans going through liquidation in bankruptcy, but only for bankruptcies filed prior to 10/18/2005. So, generally, the premium surcharge will apply even though the employer is going through a bankruptcy proceeding.
        - Additional premium is equal to $1,250 multiplied by the number of plan participants on the day prior to the plan termination date.
        - The surcharge is payable for each of the next 3 years, and is in addition to any other premiums. The initial due date for the surcharge is 30 days after the beginning of the month following the plan termination date. The subsequent year due dates are on the anniversary of the initial due date.
        - The surcharge is paid by the sponsor (or sponsors) who were responsible for the plan immediately prior to the plan termination.
- Multiemployer plans
    - Flat rate premium is $13.00 per participant for years beginning in 2015 (previously $12 per participant for 2013 and 2014, and $9 per participant for years before 2013). The flat rate premium is subject to an annual cost of living increase.
    - There is no variable rate premium for multiemployer plans.

- The premium surcharge does not apply to multiemployer plans.

- Premium filing due dates
  - The following are the rules that apply to years beginning in 2014 and later.
  - The <u>normal premium due date</u> is generally the 15th day of the 10th full calendar month in the plan year (generally 9½ months from the beginning of the plan year, which is October 15 for a calendar year plan).
    - The normal premium due date applies unless:
      - The plan is a new or newly covered plan,
      - The plan year has changed, or
      - The assets are distributed during the year as part of a standard termination.
    - Transition rule in 2014 for small plans (plans with fewer than 100 participants as determined for the 2013 flat rate premium)
      - Prior to 2014, the due date for small plans was the last day of the 16th full calendar month after the end of the prior plan year (April 30 of the following year for a calendar year plan).
      - For 2014, the normal premium due date for a plan that was considered small for 2013 is extended to the 15th day of the 14th full calendar month after the end of the plan year (February 15, 2015 for a 2014 calendar year small plan).
      - Beginning in 2015, the premium due date for small plans will be the same as for all other size plans (the normal premium due date).
    - Historical note for large plans with 500 or more participants: the flat premium due date was the last day of the 2nd calendar month in the plan year (generally 2 months from the beginning of the plan year) for years prior to 2014.

- For a plan terminating as a standard termination, the due date is no later than the date when the post-distribution certification is due (no more than 90 days after the final distribution is made).
- If a plan year does not begin on the first day of a month, the due date is based upon the beginning of the following month.
- Note that although the participant count for determining the size of the plan is as of the end of the second prior year, the participant count for determining the premium itself is the count as of the end of the prior year.
- A premium filing must be made by all plans covered by the PBGC even if no premium is owed.

- In the first year of a plan (or the first year that a plan is covered by the PBGC), premium due dates are generally determined as if the plan was a small plan.
    - If the adoption date of the plan is less than 90 days before the premium due date, then the premiums are due 90 days after the plan adoption date.
    - The participant count for the first year of the plan is as of the first day of the year.
- Short plan years
    - The premium due date is determined in the same way for a short year as it is for a full year. However, the due date cannot be less than 30 days after the amendment is adopted changing the plan year.
    - The full-year premium is pro-rated by multiplying it by a fraction, the numerator being the total plan months (and fractions of months) that the plan was in effect, and the denominator being 12.
    - Plans that were not required to be covered by the PBGC in previous years and are now covered for the first time pro-rate their first-year premiums if they became covered after the first day of the year.
    - The premium for plans terminating as a standard termination is pro-rated in the year that final distribution of assets occurs (pro-rated to the final asset distribution date). The same pro-ration applies to distress terminations in the year that a trustee for the terminating plan is appointed.
- Premiums with due dates on a Saturday, Sunday or Federal Holiday are due on the next business day.

- Late premium payment
  - Late interest is charged if premiums are paid late.
    - The late interest begins to accrue after the premium due date has passed.
  - There is a penalty charge in addition to the late interest charge if premiums are paid late.
    - The penalty ranges from a minimum of $25 to a maximum of 100% of the late premium (50% if the late payment is made prior to the date the PBGC issues a premium delinquency notice). The penalty rate is 1% of the late premium per month if the late payment is made no later than the date that the PBGC issues written notification that there is a premium delinquency, and 5% if the late payment is made after that notification.

Question 179

Unrelated employers A and B each sponsor defined benefit plans A and B, respectively. Plans A and B were each effective on 1/1/2010.

Data for determination of 2015 PBGC variable-rate premium for defined benefit plans A and B (data is identical for each plan):

Number of participants as of 12/31/2014	20
Value of vested benefits as of 1/1/2014	$1,500,000
Market value of assets as of 1/1/2014	$1,100,000

Number of employees on 1/1/2015:

Employer A	30
Employer B	24

X = minimum 2015 variable rate premium for the defined benefit plan of Employer A
Y = minimum 2015 variable rate premium for the defined benefit plan of Employer B

What is X + Y?

Solution to question 179

The plans are small plans, so the unfunded vested benefits are determined as of the 2014 valuation date of 1/1/2014 (the prior year valuation date is used for small plans unless they elect to use the current year valuation date). The value of unfunded vested benefits is \$400,000 (\$1,500,000 - \$1,100,000) for each plan. For 2015, the variable rate premium is equal to 2.4% of the value of the unfunded vested benefits. This is:

$$2.4\% \times \$400{,}000 = \$9{,}600$$

In 2015, the variable premium cannot exceed \$418 times the number of plan participants as of the last day of the prior year (12/31/2014).

$$\$418 \times 20 = \$8{,}360$$

This variable premium is limited to \$8,360.

For certain employers, the variable rate premium is capped at an amount equal to \$5 multiplied by the number of participants squared. This applies only to employers with 25 or fewer employees as of the first day of the premium year. Employer A has 30 employees as of the first day of 2015, and is not eligible for the variable rate premium cap even though there are only 20 participants. Employer B has 24 employees as of the first day of 2015, and is eligible for the variable rate premium cap.

The variable rate premium cap is: $\$5 \times 20^2 = \$2{,}000$

Therefore, the variable rate premium X for Employer A is \$8,360, and the variable rate premium Y for Employer B is \$2,000.

$X + Y = \$8{,}360 + \$2{,}000 = \$10{,}360$