

Pension Benefit Guaranty Corporation

78-1

January 5, 1978

REFERENCE:

[*1] 4021(b)(3) Plans Covered. Church Plans
1015(e) (IRC § 414) Definitions & Special Rules. Church Plans

OPINION:

You have asked us whether the pension plan ("Plan") maintained by * * * is a "church plan" and, therefore, excluded from the plan termination insurance provisions of the Employee Retirement Income Security Act of 1974 ("Act") by § 4021(b)(3) of the Act. Under § 4021(b)(3) of the Act, only plans which meet the definition of "church plan" contained in § 414(e) of the Internal Revenue Code of 1954 ("IRC") qualify for exclusion from the plan termination insurance program.

Jurisdiction over the administration of IRC § 414(e) is placed in the Internal Revenue Service ("IRS"). The IRS has issued proposed regulations under IRC § 414(e), and a public hearing has been held on these regulations. To insure uniform administration of the Act, "church plan" status should be determined by IRS, and we request that the Plan obtain such a determination.

When you have received a final ruling on "church plan" status from the IRS, please send us a copy of that ruling. The IRS ruling will control our determination under the "church plan" exemption of § 4021(b)(3) of the Act.

The instructions to [*2] the Premium Payment and Annual Report Form (Form PBGC-1) advise plan administrators to submit premium payments to us, even where uncertainty exists that premiums must be paid. Such action on the part of the plan administrator will avoid the assessment of interest and late payment charges, if the plan is later determined not a "church plan". If the IRS should rule that the plan is a "church plan", we will, of course, refund the premiums paid.

For your information, a request for a ruling as to "church plan" status should be directed to:

Commissioner, Internal Revenue Service, Washington, D.C. 20224

Attn: E:EP:T:1.

Henry Rose
General Counsel