

Pension Benefit Guaranty Corporation

75-29

September 29, 1975

REFERENCE:

[*1] 4044 Allocation of Assets

OPINION:

This letter is in response to your inquiry of August 14, 1975. In your letter you ask whether any provision in Title IV of the Employee Retirement Income Security Act of 1974 (hereinafter the "Act") applies to a pension plan excluded under § 4021(b) of the Act. It appears that at least one provision so applies.

Section 4044 in Title IV of the Act, which requires that plan assets be allocated to beneficiaries and participants upon termination of that plan in accordance with certain priorities, may apply to a plan excluded under § 4021(b). See § 403(d) of the Act. It applies to plans which satisfy the requirements of § 4, 401(a) and 403 (d) in Title I of the Act. We call your attention to the fact that Title I is administered by the Department of Labor. Accordingly, any questions you may have with respect to the scope of § 403 (d) should be addressed to the Department of Labor.

We trust the above discussion will be of assistance to you.

Henry Rose
General Counsel