MULTIEMPLOYER PENSION PLANS RECEIVE COVID BAILOUT

Hodgson Russ Employee Benefits Newsletter
March 31, 2021

As you may be well aware, many multiemployer pension plans have faced significant funding issues in recent years. While the problems with these multiemployer funds were not caused by the COVID pandemic, the recently passed American Rescue Plan Act of 2021 ("Act") does contain what may be best described as a bailout of some of the most troubled multiemployer pension plans. Under the Act, certain qualifying multiemployer plans (plans which are either insolvent, projected to become insolvent, approved by the Treasury to suspend benefits, or have a modified funding percentage of 40% or less and more retirees than active participants) may be eligible for assistance. Under this assistance, the United States government (taxpayers) will fully fund vested benefits, including reinstatement of benefits previously suspended by a plan, for a period of 30 years. The projections are that approximately 185 multiemployer plans will be eligible for this relief and that the potential cost to American taxpayers is approximately $86 billion. These payments to the plans do not require that the plan return any payments or take any actions that might be viewed as helping to deal with perceived abuses that may have occurred in these plans.

While this is a very expensive proposal, it is good news for the participants in the plans whose benefits were suspended or if the plan would have become insolvent in the future.

What does this mean for employers who are participating in these plans? Here the answers are a little less clear. The House version of the Act contained a provision that said the assets being provided to these plans were not to be included in the calculation of withdrawal liability. In other words, the bailout provided to these plans would not help employers who have been assessed or are facing withdrawal liability from the plans. However, the Senate version of the Act (the version signed by the President) did not contain this provision. Therefore, it will be up to the Pension Benefit Guaranty Corporation to provide guidance on whether this bailout money will help reduce withdrawal liability within the plans. Many employers will be anxiously awaiting guidance on this issue from the PBGC.

Attorneys

Peter Bradley

Michael Flanagan

Richard Kaiser

Ryan Murphy

Amy Walters

Practices & Industries

Employee Benefits