

## **Background and General Policies**

The Multiemployer Pension Plan Amendments Act of 1980 (MPPAA), requires assessment of withdrawal liability to an employer that withdraws<sup>1</sup> from a Defined Benefit Plan, like the Screen Actors Guild – Producers Pension Plan (the Plan), if the Plan has “unfunded vested benefits”<sup>2</sup> at the time of withdrawal.

The law provides that an employer’s withdrawal liability is based on the unfunded vested benefits as of the end of the plan year preceding withdrawal. For example, the withdrawal liability for employers who withdrew during the 2009 calendar year must be based on the unfunded vested benefits as of December 31, 2008.

Each year, the determination of the amount, if any, of unfunded vested benefits will be determined by the Plan’s actuaries. Determination of the value of vested benefits is based on the same actuarial assumptions as those used for the actuarial funding valuation with respect to rates of investment return, mortality and retirement age. For the determination of unfunded vested benefits, the value of assets is the greater of the market value of assets or the actuarial (“smoothed”) value of assets.

### **The “Entertainment Industry Exception”**

Under the law, an employer that has withdrawn from a Plan with unfunded vested benefits normally has an obligation to pay for its share of the unfunded vested benefits when the obligation is assessed by the Plan after the employer withdraws. However, in the entertainment industry, a plan may take the approach that a withdrawing employer who contributed to the Plan for work performed on a project-by-project basis (like most entertainment industry work) does not have an obligation to pay for its share of the Plan’s unfunded vested benefits unless that employer either continues to work in the industry on a non-union basis, or returns to work in the industry on a non-union basis within five years. This is known as the “Entertainment Industry Exception.”<sup>3</sup> The Trustees of the Plan have adopted the Entertainment Industry Exception for determining withdrawal liability.

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<sup>1</sup> A complete withdrawal from the Plan occurs when an employer (a) permanently ceases to have an obligation to contribute under the Plan, or (b) permanently ceases all covered operations under the Plan.

<sup>2</sup> “Unfunded Vested Benefits” are the excess, if any, of the present value of vested benefits over the value of Plan assets. For this purpose, the value of Plan assets is the greater of the market value or actuarial value of assets.

<sup>3</sup> If an employer has an obligation to contribute under a plan for work performed in the entertainment industry, primarily on a temporary or project-by-project basis, and if the plan primarily covers employees in the entertainment industry, a complete withdrawal occurs only if an employer ceases to have an obligation to contribute under the plan, and the employer (a) continues to perform work in the jurisdiction of the plan of the type for which contributions were previously required, or (b) resumes such work within 5 years after the date on which the obligation to contribute under the plan ceases, and does not renew the obligation at the time of the resumption.

As a result, a withdrawing employer is not automatically liable to the Plan for any withdrawal liability. Only if that employer either continues to work in the industry on a non-SAG basis, or re-enters the industry on a non-SAG basis within five years will that employer be liable. Thus, an employer that completely shuts down its operations will not be assessed withdrawal liability.

An employer is considered to be working in the industry if that company contracts out work to non-signatory companies. Therefore, for example, if an advertiser who is signatory to a Guild contract ceases being a signatory and instead contracts with a non-signatory advertising agency to perform the work, it is possible that the withdrawing advertising agency would be assessed withdrawal liability.

## **Procedures**

### **Requests for Estimates of Withdrawal Liability**

Must be made in writing to the Plan Office.

Must include:

1. Employer's name
2. Date of planned withdrawal

The Plan Office will contact you to inform you of the date the estimate will be available.

### **Notification to employers of their possible withdrawal liability**

When an employer ceases making contributions to the Plan, the Plan will determine whether that employer's potential withdrawal liability exceeds the de minimis amount. Those employers whose potential withdrawal liability exceeds the de minimis amount will be notified by the Plan that they may have a legal obligation to pay to the Plan withdrawal liability if they continue to work in the industry on a non-SAG basis or if they return to the industry on a non-SAG basis within five years.