

**UNION MULTI-EMPLOYER PENSION PLAN WITHDRAWAL
LIABILITY/AN EMPLOYER MINE FIELD**

Many employers with a unionized workforce contribute to multi-employer pension funds established by a collective bargaining agreements, In recent years, due to many facts, most multi-employer funds have faced significant financial difficulties akin under funding. As employers have left these funds, either voluntarily through negotiating out or involuntarily because of union decertification, many have had to become familiar with the concept of withdrawal liability.

Withdrawal liability is the employer's proportional share of the pension plan's unfunded vested benefits, in other words, the money that is set aside for future pension by estimating actuarially the number of individuals who would retire in the future, Under the Multi-Employer Pension Plan Amendment Act of 1980, what usually occurs is the assessment comes out of nowhere. In many instances employers have no idea that by failing to take prompt action to challenge the Binds assessment they may forfeit any right to challenge the assessment. In other words, not contacting and protesting the assessment in accordance with the detailed regulations may lead to the employer being held liable without any wage way, to defend the matter if they do not react within three (3) months of the assessment.

In other words, by failing to make payments in accordance with the assessment even before the actual litigation may result in the Rind holding the employer in default and accelerating the entire amount due. This withdrawal law allows an employer to challenge the fluids assessment determinations through arbitration. It also creates many legal and procedural hurdles for employers to seek the challenge and assessment both before and during the arbitration.

Employers who are able to challenge the assessment thee a substantial obstacle since the statute essentially assumes the accuracy of the funds calculations and assessment, In other words, many experts in the field call this a "home advantage" for the fund.

What employers do not realize is if they are withdrawing or partially cutting down the amount of employees who are on pension with the union approximately (70% cut-back) will be liable for partial withdrawal liability and those who leave the union, terminate the union contract or go bankrupt. All those you must take into account the substantial potential withdrawal liability. This also will occur if the company is being sold since the new company will be responsible and there are complicated procedures that you must follow when selling the company.

There is good news on the other side, as stated, these matters can be challenged. The assessments that are made sometimes do not meet the complicated formulas that need to be taken into account when requesting withdrawal liability by a fund.

Therefore, you should be very aware about withdrawal liability and seek counsel under the following circumstances:

1. When you are renegotiating a new collective bargaining agreement and are considering cutting back on the pension.
2. If you are considering cut-backs in union or employees or layoffs.
3. If you are considering selling your company.
4. If you are negotiating a new contract or adding a pension.
5. Any circumstances where you are changing or reducing pension contributions even if they are not substantial, they should be reviewed by counsel.

Again, with proper counsel many mistakes can be avoided and employers can get through this process.