

your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigations on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1996.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operation on that product during calendar year 2001 (request quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2001 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on

an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2001 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different

national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: August 26, 2002.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

[Application Number D-10786]

#### Amendment to Prohibited Transaction Exemption 92-6 (PTE 92-6) Involving the Transfer of Individual Life Insurance Contracts and Annuities from Employee Benefit Plans to Plan Participants, Certain Beneficiaries of Plan Participants, Personal Trusts, Employers and Other Employee Benefit Plans

**AGENCY:** Pension and Welfare Benefits Administration, U.S. Department of Labor.

**ACTION:** Adoption of Amendment to PTE 92-6.

**SUMMARY:** This document amends PTE 92-6, a class exemption that enables an employee benefit plan to sell individual life insurance contracts and annuities to: (1) A plan participant insured under such policies; (2) a relative of such insured participant who is the beneficiary under the contract; (3) an employer any of whose employees are covered by the plan; or (4) another employee benefit plan, for the cash surrender value of the contract, provided certain conditions are met. The amendment affects, among others, certain participants, beneficiaries and

fiduciaries of plans engaged in the described transactions.

**DATES:** The amendment is effective February 12, 1992.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary H. Lefkowitz, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 693-8540. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On May 10, 2002, notice was published in the **Federal Register** (67 FR 31835) of the pendency before the Department of a proposed amendment to PTE 92-6 (57 FR 5189, February 12, 1992), which amended Prohibited Transaction Exemption 77-8 (PTE 77-8)(42 FR 31574, June 21, 1977). PTE 92-6 provides an exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1986 (the Code), by reason of section 4975(c)(1)(A) through (E) of the Code.

The amendment to PTE 92-6 adopted by this notice was requested in an exemption application filed by the Chicago, Illinois law firm of Sonnenschein, Nath & Rosenthal on behalf of the General American Life Group (the Applicant). The Department is adopting the amendment pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).<sup>1</sup>

For the sake of convenience, the entire text of PTE 92-6, as amended, has been reprinted with this notice.

#### A. Description of the Exemption

Section I of PTE 92-6 permits the sale of an individual life insurance or annuity contract by an employee benefit plan to: (1) A plan participant; (2) a relative of such insured participant who is the beneficiary under the contract; (3) an employer any of whose employees are covered by the plan; or (4) another employee benefit plan, if: (a) such participant is the insured under the contract; (b) such relative is a "relative" as defined in section 3(15) of the Act (or a "member of the family" as defined in section 4975(e)(6) of the Code), or is a brother or sister of the insured (or a spouse of such brother or sister), and the beneficiary under the contract; (c) the

contract would, but for the sale, be surrendered by the plan; (d) with respect to sales of the policy to the employer, a relative of the insured or another plan, the participant insured under the policy is first informed of the proposed sale and is given the opportunity to purchase such contract from the plan, and delivers a written document to the plan stating that he or she elects not to purchase the policy and consents to the sale by the plan of such policy to such employer, relative or other plan; (e) the amount received by the plan as consideration for the sale is at least equal to the amount necessary to put the plan in the same cash position as it would have been had it retained the contract, surrendered it, and made any distribution owing to the participant on his vested interest under the plan; and (f) with regard to any plan which is an employee welfare benefit plan, such plan must not, with respect to such sale, discriminate in form or in operation in favor of plan participants who are officers, shareholders or highly compensated employees. Section II of PTE 92-6 amended PTE 77-8 to provide that the relief for transactions described in part I would be available, effective October 22, 1986, for plan participants who are owner-employees (as defined in section 401(c)(3) of the Code) or shareholder-employees (as defined in section 1379 of the Internal Revenue Code of 1954 as in effect on the day before the date of enactment of the Subchapter S Revision Act of 1982), if the conditions set forth in part I are met.

The Department, at the request of the Applicant, has amended PTE 92-6 in order to expand the coverage of the exemption to include the sale by an employee benefit plan (the Plan) of an individual life insurance or annuity contract to a personal or private trust (the Trust) established by or for the benefit of an individual who is a participant in the Plan and the insured under the policy, or by or for the benefit of one or more relatives (as defined in Section I(2) of PTE 92-6) of the participant.<sup>2</sup> The amendment is effective February 12, 1992.

<sup>2</sup> Section 406(a)(1)(A) of the Act prohibits a direct or indirect sale or exchange of any property between a Plan and a party in interest. Section 406(a)(1)(D) of the Act prohibits a transfer to, or use by or for the benefit of, a party in interest, of any assets of the Plan. In most cases, the participant will be a party in interest with respect to the Plan under section 3(14)(H) of the Act, as an employee of an employer any of whose employees are covered by the Plan. In some cases, the participant or relative will also be a party in interest under section 3(14)(A) or (E) as a fiduciary of the Plan, or as an owner of 50% or more of the employer maintaining the Plan. The Trust would be a party in interest under section 3(14)(G) of the Act if 50% or more of the beneficial interest of such Trust is owned or

#### B. Written Comments and Hearing Requests

The notice of pendency gave interested persons an opportunity to comment or to request a hearing on the proposed amendment. No requests for a hearing were received.

The Department received one comment letter with respect to the notice of proposed amendment. The comment letter strongly supported the Department's amendment to PTE 92-6, but also requested that the Department clarify two points with respect to PTE 92-6.

The comment letter first requested that the Department confirm the commentator's interpretation that, in a participant directed defined contribution plan, when a life insurance policy is sold at the participant's direction, the requirement of condition I(3) has been satisfied that "the contract would, but for the sale, be surrendered by the plan." The Department agrees that, in the case of a participant in a defined contribution plan that provides for participant direction, if the participant has discretion and control of his/her account in the plan, and has exercised that authority, without being subject to any undue influence, in accordance with plan provisions for individually-directed investment of participant accounts, to sell a life insurance contract in compliance with the conditions of PTE 92-6, the requirement of condition I(3) of the exemption would be satisfied.

The comment letter also requested that the Department confirm its interpretation set out in Advisory Opinion 98-07A (issued September 24, 1998) to the effect that PTE 92-6 applies to a policy that insures both the participant's life and the life of another individual in whom the participant has an insurable interest. In Advisory Opinion 98-07A, the Department concluded that, to the extent state law and pertinent plan provisions permit the acquisition and holding of an individual life insurance contract covering the life of the participant and the participant's spouse, that such a contract would constitute "an individual life insurance contract" for purposes of PTE 92-6. The Department confirms that PTE 92-6 applies to life insurance contracts that cover the life of the participant and the participant's spouse. However, since the Department does not have sufficient information concerning contracts covering the life of the participant and the life of another individual in whom the participant has

held by persons described in section 3(14)(A) or (E) of the Act.

<sup>1</sup> Section 102 of the Reorganization Plan No. 4 of 1978 (5 U.S.C. App. 1 [1996]) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975 of the Code to the Secretary of Labor.

an insurable interest, other than the participant's spouse, it is unable to conclude that PTE 92-6 would apply to such contracts.

### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary, or other party in interest or disqualified person with respect to a plan, from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act or section 4975(c)(1)(F) of the Code;

(3) In accordance with section 408(a) of ERISA and 4975(c)(2) of the Code, the Department makes the following determinations:

(i) The amendment set forth herein is administratively feasible;

(ii) The amendment set forth herein is in the interests of plans and of their participants and beneficiaries; and

(iii) The amendment set forth herein is protective of the rights of participants and beneficiaries of plans;

(4) The amendment is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(5) The amendment is supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

### Exemption

Accordingly, PTE 92-6 is amended under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR 2570, Subpart B (55 FR 32836, 32847, August 10, 1990), as set forth below:

I(a). Effective January 1, 1975, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of an individual life insurance or annuity contract by an employee benefit plan to: (1) A participant under such plan; (2) a relative of a participant under such plan; (3) an employer any of whose employees are covered by the plan; or (4) another employee benefit plan, provided that the conditions in section II are met.

I(b). Effective February 12, 1992, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of an individual life insurance or annuity contract by an employee benefit plan to a trust established by or for the benefit of one or more of the persons described in (1) or (2) of section I(a) above, provided that the conditions in section II are met.

II. (a) Such participant is the insured under the contract;

(b) such relative is a "relative" as defined in section 3(15) of the Act (or a "member of the family" as defined in section 4975(e)(6) of the Code), or is a brother or sister of the insured (or a spouse of such brother or sister), and such relative or trust is the beneficiary under the contract;

(c) the contract would, but for the sale, be surrendered by the plan;

(d) with respect to sales of the policy to the employer, a relative of the insured, a trust, or another plan, the participant insured under the policy is first informed of the proposed sale and is given the opportunity to purchase such contract from the plan, and delivers a written document to the plan stating that he or she elects not to purchase the policy and consents to the sale by the plan of such policy to such employer, relative, trust or other plan;

(e) the amount received by the plan as consideration for the sale is at least equal to the amount necessary to put the plan in the same cash position as it would have been had it retained the contract, surrendered it, and made any distribution owing to the participant on his vested interest under the plan; and

(f) with regard to any plan which is an employee welfare benefit plan, such plan must not, with respect to such sale, discriminate in form or in operation in favor of plan participants who are officers, shareholders or highly compensated employees.

III. Effective October 22, 1986, the exemption provided for transactions described in part I is available for plan participants who are owner-employees (as defined in section 401(c)(3) of the Code) or shareholder-employees as defined in section 1379 of the Internal Revenue Code of 1954 as in effect on the day before the date of enactment of the Subchapter S Revision Act of 1982) if the conditions set forth in part II are met.

Signed at Washington, DC, this 28th day of August, 2002.

**Ivan L. Strasfeld,**

*Director, Office of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.*

[FR Doc. 02-22376 Filed 8-30-02; 8:45 am]

**BILLING CODE 4510-29-P**

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## NATIONAL SCIENCE FOUNDATION

### Notice of Intent To Seek Approval To Establish an Information Collection

**AGENCY:** National Science Foundation.

**ACTION:** Notice and request for comments.

**SUMMARY:** The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

**DATES:** Written comments on this notice must be received by November 4, 2002 to be assured of consideration.

Comments received after that date will be considered to the extent practicable.

#### FOR ADDITIONAL INFORMATION OR

**COMMENTS:** Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292-7556; or send e-mail to [splimpto@nsf.gov](mailto:splimpto@nsf.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

**SUPPLEMENTARY INFORMATION:** *Title of Collection:* Grantee Reporting Requirements for Science and