

§ 2570.36

§ 2570.36 Where to file an application.

The Department's prohibited transaction exemption program is administered by the Employee Benefits Security Administration (EBSA). Any exemption application governed by these procedures should be mailed or otherwise delivered to: Exemption Application, EBSA, Office of Exemption Determinations, Division of Exemptions, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

§ 2570.37 Duty to amend and supplement exemption applications.

(a) During the pendency of his exemption application, an applicant must promptly notify the Division of Exemptions in writing if he discovers that any material fact or representation contained in his application or in any documents or testimony provided in support of the application is inaccurate, if any such fact or representation changes during this period, or if, during the pendency of the application, anything occurs that may affect the continuing accuracy of any such fact or representation.

(b) If, at any time during the pendency of his exemption application, an applicant or any other party in interest who would participate in the exemption transaction becomes the subject of an investigation or enforcement action by the Department, the Internal Revenue Service, the Justice Department, the Pension Benefit Guaranty Corporation, or the Federal Retirement Thrift Investment Board involving compliance with provisions of ERISA, provisions of the Code relating to employee benefit plans, or provisions of FERSA relating to the Federal Thrift Savings Fund, the applicant must promptly notify the Division of Exemptions.

(c) The Department may require an applicant to provide documentation it considers necessary to verify any statements contained in the application or in supporting materials or documents.

§ 2570.38 Tentative denial letters.

(a) If, after reviewing an exemption file, the Department concludes that it will not grant the exemption, it will notify the applicant in writing of its ten-

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tative denial of the exemption application. At the same time, the Department will provide a short statement of the reasons for its tentative denial.

(b) An applicant will have 20 days from the date of a tentative denial letter to request a conference under § 2570.40 of these procedures and/or to notify the Department of its intent to submit additional information in writing under § 2570.39 of these procedures. If the Department does not receive a request for a conference or a notification of intent to submit additional information within that time, it will issue a final denial letter pursuant to § 2570.41.

(c) The Department need not issue a tentative denial letter to an applicant before issuing a final denial letter where the Department has conducted a hearing on the exemption pursuant to either § 2570.46 or § 2570.47 of these procedures.

§ 2570.39 Opportunities to submit additional information.

(a) An applicant may notify the Department of its intent to submit additional information supporting an exemption application either by telephone or by letter sent to the address furnished in the applicant's tentative denial letter. At the same time, the applicant should indicate generally the type of information that he will submit.

(b) An applicant will have 30 days from the date of the notification discussed in paragraph (a) of this section to submit in writing all of the additional information he intends to provide in support of his application. All such information must be accompanied by a declaration under penalty of perjury attesting to the truth and correctness of the information provided, which is dated and signed by a person qualified under § 2570.34(b)(5) of these procedures to sign such a declaration.

(c) If, for reasons beyond his control, an applicant is unable to submit in writing all the additional information he intends to provide in support of his application within the 30-day period described in paragraph (b) of this section, he may request an extension of time to furnish the information. Such requests must be made before the expiration of