
29 C.F.R. § 2570.35

Information to be included in applications for individual exemptions only.

- (a) Except as provided in paragraph (c) of this section, every application for an individual exemption must include, in addition to the information specified in § 2570.34, the following information:
- (1) The name, address, email address, telephone number, and type of plan or plans to which the requested exemption applies;
 - (2) The Employer Identification Number (EIN) and the plan number (PN) used by such plan or plans in all reporting and disclosure required by the Department (individuals should not submit Social Security numbers);
 - (3) Whether any plan or trust affected by the requested exemption is currently under investigation for violation of, or has ever been found by the Department, the Internal Revenue Service, or by a court to have violated, the exclusive benefit rule of Code section 401(a), Code section 4975(c)(1), ERISA sections 406 or 407(a), or 5 U.S.C. 8477(c)(3), including a description of the circumstances surrounding such violation;
 - (4) Whether any relief under ERISA section 408(a), Code section 4975(c)(2), or 5 U.S.C. 8477(c)(3) has been requested by, or provided to, the applicant or any parties in interest (or their affiliates) involved in the exemption transaction and, if so, the exemption application number or the prohibited transaction exemption number;
 - (5) Whether the applicant or any party in interest (or its affiliates) involved in the exemption transaction is currently, or has been within the last five years, a defendant in any lawsuits or criminal actions concerning its conduct as a fiduciary or party in interest with respect to any plan (other than lawsuits with respect to a routine claim for benefits), and a description of the circumstances of the lawsuits or criminal actions;
 - (6)
 - (i) Whether the applicant (including any person described in § 2570.34(b)(6)(ii)) or any of the parties in interest involved in the exemption transaction has, within the last 13 years, been:
 - (A) Convicted or released from imprisonment, whichever is later, as a result of any felony involving abuse or misuse of such person's position or employment with an employee benefit plan or a labor organization; any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company, or fiduciary; income tax evasion; any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; conspiracy or attempt to commit any such crimes or a crime of which any of the foregoing crimes is an element; or any crime identified in ERISA section 411, regardless of whether the conviction occurred in a U.S. or foreign jurisdiction; or
 - (B) Convicted by a foreign court of competent jurisdiction or released from imprisonment, whichever is later, as a

result of any crime, however denominated by the laws of the relevant foreign government, that is substantially equivalent to an offense described in paragraph (a)(6)(i)(A) of this section and a description of the circumstances of any such conviction in paragraph (a)(6)(i)(A) or this paragraph (a)(6)(i)(B); and

(ii) For purposes of this paragraph (a), a person shall be deemed to have been “convicted” from the date of the judgment of the trial court (or the date of the judgment of any court in a foreign jurisdiction that is the equivalent of a U.S. Federal or state trial court), regardless of whether that judgment remains under appeal and regardless of whether the foreign jurisdiction considers a trial court judgment final while under appeal;

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