

*Type of review:* New information collection request.

*OMB Number:* None.

*Affected Public:* Private sector, public sector, individuals, and households.

For the FMLA Employee survey:

*Frequency:* Once.

*Total Responses:* 3,000 respondents.

*Average Time per Response:* 26 minutes.

*Estimated Total Burden Hours:* 1,292 hours.

*Total Burden Cost:* \$0.

For the FMLA Employer Survey:

*Frequency:* Once.

*Total Responses:* 1800 firms.

*Average Time per Response:* 36 minutes.

*Estimated Total Burden Hours:* 2164 hours.

*Total Burden Cost:* \$0.

Note that, due to rounding, the numbers for the totals may differ from the sum of the component numbers.

Comments submitted in response to this request will be summarized and/or included in the request for Office of Management and Budget approval; they will also become a matter of public record.

Signed at Washington, DC, this 23rd day of March 2011.

**Mary Ziegler,**

*Director, Division of Regulations, Legislation, and Interpretation.*

[FR Doc. 2011-7345 Filed 3-28-11; 8:45 am]

**BILLING CODE 4510-27-P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

[Application Number D-11221]

**ZRIN 1210-ZA09**

#### Amendment to Prohibited Transaction Exemption (PTE) 96-23 for Plan Asset Transactions Determined by In-House Asset Managers

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Adoption of amendment to PTE 96-23.

**SUMMARY:** This document amends PTE 96-23, a class exemption that permits various transactions involving employee benefit plans whose assets are managed by in-house asset managers (INHAMs), provided the conditions of the exemption are met. The amendment affects participants and beneficiaries of employee benefit plans, the sponsoring employers of such plans, INHAMs, and other persons engaging in the described transactions.

**DATES:** The amendment is effective April 1, 2011, unless specified otherwise.

**FOR FURTHER INFORMATION CONTACT:**

Chris Motta, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, Room N-5700, 200 Constitution Avenue NW., Washington DC 20210, (202) 693-8540 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On June 14, 2010, a notice was published in the **Federal Register** (75 FR 33642) of the pendency before the Department of Labor (the Department) of a proposed amendment to PTE 96-23 (61 FR 15975, April 10, 1996). PTE 96-23 provides an exemption from certain restrictions of sections 406 and 407(a) of ERISA, and from certain taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code. The Department proposed the amendment on its own motion, 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>

#### Description of the Proposed Amendment

In the Notice published on June 14, 2010, the Department proposed to amend PTE 96-23 in several respects, including: Expanding the definition of INHAM to include a subsidiary that is 80% or more owned by the employer or parent company; broadening the scope of Part I(e) of the class exemption to permit transactions with a "co-joint venturer" if the joint venture relationship is the entity's sole relationship to the employer (or if the co-joint venturer is both a joint venturer and a service provider); and extending relief to certain existing leases with an employer or an affiliate resulting from the plan's acquisition of the underlying office or commercial space. In the Notice, the Department further proposed to: Increase the 5% ownership threshold for related persons (the "related" to test) to 10%, and increase the amount of assets that must be managed by an INHAM, from \$50 million to \$85 million.

<sup>1</sup> Section 102 of the Reorganization Plan No. 4 of 1978, 5 U.S.C. App. at 214 (2000 ed.), generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

In the Notice, the Department also offered several clarifications. The Department explained that PTE 96-23: provides relief for an INHAM to act on behalf of its own plan; does not allow an INHAM to direct a QPAM to negotiate specific terms of a deal that has already been generally agreed upon by the INHAM or an employer; and may be available for a continuing transaction (e.g., a loan or lease), notwithstanding a failure to satisfy one or more of the conditions of the exemption after the transaction is entered into. The Notice also amends the exemption in accordance with the Department's views and expectations regarding the class exemption's audit and written report requirements. For a more complete discussion of the changes made to the original exemption, see the notice of pendency.

The notice of pendency gave interested persons sixty days (the comment period) to comment on the proposed amendment. While the Department did not receive any formal comments within the comment period, the Department was informally contacted and informed that some INHAMs may benefit to the extent the changes proposed for Part I(e) are made retroactive to the original effective date of PTE 96-23 (*i.e.*, April 10, 1996). The Department, after having concluded that the amendment to Part I(e) is sufficiently protective of plans on a prospective basis, believes that such conclusion is similarly applicable to a decision in favor of amending Part I(e) on a retroactive basis.

Accordingly, the Department has determined to make the amendment to Part I(e) retroactive to April 10, 1996. As noted above, the proposed amendment sets forth the Department's views and expectations regarding the exemption audit and written report. Among other things, section I(h) of the class exemption now requires that the exemption audit and written report must be completed within six months following the end of the year to which the audit relates. To remove any uncertainty regarding the completion date of the first exemption audit and written report performed after the adoption of this amendment, the Department has determined to make the amended section I(h) effective as of December 31, 2011. Accordingly, for an INHAM that operates on a calendar year basis, the exemption audit and written report attributable to the INHAM's 2011 calendar year must be completed by June 30, 2012. Where an INHAM operates on a fiscal year basis, and such fiscal year begins after January 1, 2011 (*e.g.* April 1, 2011), the exemption audit

and written report must be completed within six months following the end of such fiscal year (e.g., the exemption audit and written report must be completed no later than September 30, 2012).

The Department notes that the amended exemption does not provide any relief from the receipt of compensation by the INHAM or any minority owner of the INHAM in connection with the provision of investment management services to a plan maintained by the INHAM or an affiliate of the INHAM. Moreover, under section 406(b)(1) of ERISA, no INHAM may receive compensation from the plan for the provision of services in excess of direct expenses (see 29 CFR section 2550.408b-2(e)). The Department also notes that the INHAM exemption only provides relief from the restrictions of ERISA section 406(a)(1)(A) through (D) for transactions between a party in interest and a plan sponsored by the INHAM (an INHAM must be 80% or more owned by the employer or a parent corporation of such employer) or an affiliate of the INHAM. The exemption does not apply to transactions engaged in by an INHAM on behalf of other plans that are not maintained by the INHAM or affiliates of the INHAM.

#### **Executive Order 12866 Statement**

Under Executive Order 12866 (58 FR 51735), the Department must determine whether a regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB). Section 3(f) of the Executive Order defines a "significant regulatory action" as an action that is likely to result in a rule (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants; user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

OMB has determined that this final amendment is not "significant" under section 3(f)(4) of the Executive Order; and, therefore, it is not subject to OMB review.

#### *Paperwork Reduction Act Analysis*

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA 95), the Department submitted the information collection request (ICR) included in the Proposed Amendment to PTE 96–23 for Plan Asset Transactions Determined by In-House Asset Managers to OMB for review and clearance at the time the Notice of the proposed exemption was published in the **Federal Register** (June 14, 2010, 75 FR 33642). OMB approved the amendment under OMB control number 1210–0145, on July 26, 2010. The approval will expire on July 31, 2013.

The Department solicited comments concerning the ICR in connection with the notice of proposed amendment. The Department received no comments addressing its burden estimates; therefore, no substantive changes have been made in the final amendment that would affect the Department's earlier burden estimates.

The paperwork burden estimates are summarized as follows:

*Type of Collection:* New collection (Request for new OMB Control Number).

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Final Amendment to PTE 96–23 for Plan Asset Transactions Determined by In-House Asset Managers.

*OMB Control Number:* new.

*Affected Public:* Business or other for-profit; not-for-profit institutions.

*Estimated Number of Respondents:* 20.

*Estimated Number of Annual Responses:* 40 in the first year, 20 in each subsequent year.

*Frequency of Response:* Annually; occasionally.

*Estimated Total Annual Burden Hours:* 1,240 in the first year, 940 in each subsequent year.

*Estimated Total Annual Burden Cost:* \$400,000.

#### *Description of the Exemption*

The INHAM exemption consists of four separate parts. Part I sets forth the general exemption and enumerates certain conditions applicable to the transactions described therein. The general exemption allows that portion of a plan which is managed by an INHAM to engage in all transactions described in section 406(a)(1)(A) through (D) of ERISA with virtually all party in interest service providers except the INHAM or a person related to the INHAM. The general exemption does not extend to transactions that would give rise to violations of section 406(b) of ERISA.

Part II of the exemption provides limited relief under both sections 406(a) and (b), and 407(a), of ERISA for certain transactions involving employers and their affiliates who cannot qualify for the general exemption provided by Part I. Section II(a) provides limited relief for the leasing of office or commercial space by a plan to an employer if the plan acquired the property subject to an outstanding lease with an employer or affiliate as a result of foreclosure on a mortgage or deed of trust. Section II(b) permits a plan to lease residential space to an employee of an employer any of whose employees are covered by such plan, or to any employee of a 50% or more parent or subsidiary of the employer.

Part III of the exemption provides relief from sections 406(a)(1)(A) through (D), 406(b)(1) and (b)(2) of ERISA for the furnishing of services, facilities and any goods incidental thereto by a place of accommodation owned by a plan managed by an INHAM to a party in interest with respect to the plan, if the services, facilities or incidental goods are furnished on a comparable basis to the general public.

Part IV contains definitions of certain terms used in the exemption.

Part V sets forth the date the changes adopted pursuant to this amendment are effective.

For the sake of convenience, the entire text of PTE 96–23 has been reprinted with this notice.

#### **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. Additionally, the fact that a transaction is the subject of an exemption does not 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) The Department finds that the amended exemption is administratively feasible, in the interests of the plan and

of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

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

(4) The amended exemption 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

Under 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 part 2570, subpart B (55 FR 32836, 32847, August 10, 1990), the Department amends PTE 96–23 as set forth below:

#### Part I—Basic Exemption

The restrictions of section 406(a)(1)(A) through (D) 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 (D) of the Code, shall not apply to a transaction between a party in interest with respect to a plan (as defined in section IV(h)) and such plan, provided that an in-house asset manager (INHAM) (as defined in section IV(a)) has discretionary authority or control with respect to the plan assets involved in the transaction and the following conditions are satisfied:

(a) The terms of the transaction are negotiated on behalf of the plan by, or under the authority and general direction of, the INHAM, and either the INHAM, or (so long as the INHAM retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by the INHAM, makes the decision on behalf of the plan to enter into the transaction. Notwithstanding the foregoing, a transaction involving an amount of \$5,000,000 or more, which has been negotiated on behalf of the plan by the INHAM will not fail to meet the requirements of this section I(a) solely because the plan sponsor or its designee retains the right to veto or approve such transaction;

(b) The transaction is not described in—

(1) Prohibited Transaction Exemption 2006–16 (71 FR 63786, October 31, 2006) (relating to securities lending

arrangements) (as amended or superseded);

(2) Prohibited Transaction Exemption 83–1 (48 FR 895, January 7, 1983) (relating to acquisitions by plans of interests in mortgage pools) (as amended or superseded); or

(3) Prohibited Transaction Exemption 88–59 (53 FR 24811, June 30, 1988) (relating to certain mortgage financing arrangements) (as amended or superseded);

(c) The transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest;

(d) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the INHAM, the terms of the transaction are at least as favorable to the plan as the terms generally available in arm's length transactions between unrelated parties;

(e) Effective April 10, 1996, the party in interest dealing with the plan: (1) Is a party in interest with respect to the plan (including a fiduciary) either (i) solely by reason of providing services to the plan, or solely by reason of a relationship to a service provider described in section 3(14)(F), (G), (H) or (I) of ERISA or (ii) solely by reason of being a 10-percent or more shareholder, partner or joint venturer, in a person, which is 50 percent or more owned by an employer of employees covered by the plan (directly or indirectly in capital or profits), or the parent company of such an employer, provided that such person is not controlled by, controlling, or under common control with such employer, or (iii) by reason of both (i) and (ii) only, and (2) does not have discretionary authority or control with respect to the investment of the plan assets involved in the transaction and does not render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(f) The party in interest dealing with the plan is neither the INHAM nor a person related to the INHAM (within the meaning of section IV(d));

(g) The INHAM adopts written policies and procedures that are designed to assure compliance with the conditions of the exemption; and

(h) An independent auditor, who has appropriate technical training or experience and proficiency with ERISA's fiduciary responsibility provisions and so represents in writing, conducts an exemption audit (as defined in section IV(f)) on an annual basis. Following completion of the exemption audit, the auditor shall issue a written report to the plan presenting its specific findings regarding the level

of compliance: (1) With the policies and procedures adopted by the INHAM in accordance with section I(g); and (2) with the objective requirements of the exemption. The written report shall also contain the auditor's overall opinion regarding whether the INHAM's program complied: (1) With the policies and procedures adopted by the INHAM; and (2) with the objective requirements of the exemption. Effective December 31, 2011, the exemption audit and the written report must be completed within six months following the end of the year to which the audit relates.

#### Part II—Specific Exemptions

The restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of Code section 4975(c)(1)(A) through (E), shall not apply to:

(a) The leasing of office or commercial space owned by a plan managed by an INHAM to an employer any of whose employees are covered by the plan or an affiliate of such employer (as defined in section 407(d)(7) of the Act), if—

(1) The plan acquires the office or commercial space subject to an existing lease with the employer or its affiliate;

(2) The lease was negotiated by a party unrelated to the employer or its affiliate;

(3) The INHAM makes the decision on behalf of the plan to acquire the office or commercial space as part of the exercise of its discretionary authority;

(4) The exemption provided for transactions engaged in with a plan pursuant to section II(a) is effective until the later of the expiration of the lease term or any renewal thereof which does not require the consent of the plan lessor;

(5) The amount of space covered by the lease does not exceed fifteen (15) percent of the rentable space of the office building or the commercial center; and

(6) The requirements of sections I(c), I(g) and I(h) are satisfied with respect to the transaction.

(b) The leasing of residential space by a plan to a party in interest if—

(1) The party in interest leasing space from the plan is an employee of an employer any of whose employees are covered by the plan or an employee of an affiliate of such employer (as defined in section 407(d)(7) of the Act);

(2) The employee who is leasing space does not have any discretionary authority or control with respect to the investment of the assets involved in the lease transaction and does not render investment advice (within the meaning

of 29 CFR 2510.3–21(c)) with respect to those assets;

(3) The employee who is leasing space is not an officer, director, or a 10% or more shareholder of the employer or an affiliate of such employer;

(4) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of the INHAM, the terms of the transaction are not less favorable to the plan than the terms afforded by the plan to other, unrelated lessees in comparable arm's length transactions;

(5) The amount of space covered by the lease does not exceed five percent (5%) of the rentable space of the apartment building or multi-unit residential subdivision [townhouses or garden apartments], and the aggregate amount of space leased to all employees of the employer or an affiliate of such employer does not exceed ten percent (10%) of such rentable space; and

(6) The requirements of sections I(a), I(c), I(d), I(g) and I(h) are satisfied with respect to the transaction.

### Part III—Places of Public Accommodation

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (2) of ERISA and the taxes imposed by Code section 4975(a) and (b), by reason of Code section 4957(c)(1)(A) through (E), shall not apply to the furnishing of services and facilities (and goods incidental thereto) by a place of public accommodation owned by a plan and managed by an INHAM to a party in interest with respect to the plan, if the services and facilities (and incidental goods) are furnished on a comparable basis to the general public.

### Part IV—Definitions

For purposes of this exemption:

(a) The term “in-house asset manager” or “INHAM” means an organization which is—

(1) Either (A) a direct or indirect 80 percent or more owned subsidiary of an employer, or a direct or indirect 80 percent more owned subsidiary of a parent organization of such an employer, or (B) a membership nonprofit corporation a majority of whose members are officers or directors of such an employer or parent organization; and

(2) An investment adviser registered under the Investment Advisers Act of 1940 that, as of the last day of its most recent fiscal year, has under its management and control total assets attributable to plans maintained by affiliates of the INHAM (as defined in section IV(b)) in excess of \$50 million;

provided that if it has no prior fiscal year as a separate entity as a result of it constituting a division or group within the employer's organizational structure, then this requirement will be deemed met as of the date during its initial fiscal year as a separate legal entity that responsibility for the management of such assets in excess of \$50 million was transferred to it from the employer. Effective as of the last day of the first fiscal year of the investment adviser beginning on or after the date of publication of this adopted amendment in the **Federal Register**, substitute “\$85 million” for “\$50 million” in (a)(2) of section IV above.

In addition, plans maintained by affiliates of the INHAM and/or the INHAM must have, as of the last day of each plan's reporting year, aggregate assets of at least \$250 million.

(b) For purposes of sections IV(a) and IV(h), an “affiliate” of an INHAM means a member of either (1) a controlled group of corporations (as defined in section 414(b) of the Code) of which the INHAM is a member, or (2) a group of trades or businesses under common control (as defined in section 414(c) of the Code) of which the INHAM is a member; provided that “50 percent” shall be substituted for “80 percent” wherever “80 percent” appears in section 414(b) or 414(c) or the rules thereunder.

(c) The term “party in interest” means a person described in the Act section 3(14) and includes a “disqualified person” as defined in Code section 4975(e)(2).

(d) An INHAM is “related” to a party in interest for purposes of section I(f) of this exemption if, as of the last day of its most recent calendar quarter: (i) The INHAM (or a person controlling, or controlled by, the INHAM) owns a ten percent or more interest in the party in interest; or (ii) the party in interest (or a person controlling, or controlled by, the party in interest) owns a ten percent or more interest in the INHAM. For purposes of this definition:

(1) The term “interest” means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation,

(B) The capital interest or the profits interest of the entity if the entity is a partnership, or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(2) A person is considered to own an interest if, other than in a fiduciary

capacity, the person has or shares the authority—

(A) To exercise any voting rights or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose or to direct the disposition of such interest; and

(3) The term “control” means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) For purposes of this exemption, the time as of which any transaction occurs is the date upon which the transaction is entered into. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into on or after April 10, 1996, or any renewal that requires the consent of the INHAM occurs on or after April 10, 1996, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, the requirements will continue to be satisfied with respect to the transaction. Nothing in this paragraph shall be construed as exempting a transaction entered into by a plan which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption. In determining compliance with the conditions of the exemption at the time that the transaction was entered into for purposes of the preceding sentence, section I(e) will be deemed satisfied if the transaction was entered into between a plan and a person who was not then a party in interest.

(f) Exemption Audit. An “exemption audit” of a plan must consist of the following:

(1) A review of the written policies and procedures adopted by the INHAM pursuant to section I(g) for consistency with each of the objective requirements of this exemption (as described in section IV(g)).

(2) A test of a sample of the INHAM's transactions during the audit period that is sufficient in size and nature to afford the auditor a reasonable basis: (A) To make specific findings regarding whether the INHAM is in compliance with (i) the written policies and procedures adopted by the INHAM pursuant to section I(g) of the exemption and (ii) the objective requirements of the exemption; and (B) to render an overall opinion regarding the level of compliance of the INHAM's program

with section IV(f)(2)(A)(i) and (ii) of the exemption.

(3) A determination as to whether the INHAM satisfied the definition of an INHAM under the exemption; and

(4) Issuance of a written report describing the steps performed by the auditor during the course of its review and the auditor's findings.

(g) For purposes of section IV(f), the written policies and procedures must describe the following objective requirements of the exemption and the steps adopted by the INHAM to assure compliance with each of these requirements:

(1) The definition of an INHAM in section IV(a).

(2) The requirements of Part I and section I(a) regarding the discretionary authority or control of the INHAM with respect to the plan assets involved in the transaction, in negotiating the terms of the transaction, and with regard to the decision on behalf of the plan to enter into the transaction.

(3) That any procedure for approval or veto of the transaction meets the requirements of section I(a).

(4) For a transaction described in Part I:

(A) That the transaction is not entered into with any person who is excluded from relief under section I(e)(1), section I(e)(2), to the extent such person has discretionary authority or control over the plan assets involved in the transaction, or section I(f), and

(B) That the transaction is not described in any of the class exemptions listed in section I(b).

(5) For a transaction described in Part II:

(A) If the transaction is described in section II(a),

(i) That the transaction is with a party described in section II(a);

(ii) That the transaction occurs under the circumstances described in section II(a)(1), (2) and (3);

(iii) That the transaction does not extend beyond the period of time described in section II(a)(4); and

(iv) That the percentage test in section II(a)(5) has been satisfied or

(B) If the transaction is described in section II(b),

(i) That the transaction is with a party described in section II(b)(1);

(ii) That the transaction is not entered into with any person excluded from relief under section II(b)(2) to the extent such person has discretionary authority or control over the plan assets involved in the lease transaction or section II(b)(3); and

(iii) That the percentage test in section II(b)(5) has been satisfied.

(h) The term "plan" means a plan maintained by the INHAM or an affiliate of the INHAM.

#### Part V—Effective Date

This amendment to the class exemption is effective April 1, 2011, unless specified otherwise.

Signed at Washington, DC, this 25th day of March 2011.

**Ivan L. Strasfeld,**

*Director, Office of Exemption Determinations, Employee Benefits Security Administration, Department of Labor.*

[FR Doc. 2011-7655 Filed 3-31-11; 8:45 am]

**BILLING CODE 4510-29-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of a Change in Status of an Extended Benefit (EB) Period for Michigan

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice announces a change in benefit period eligibility under the EB program for Michigan.

The following changes have occurred since the publication of the last notice regarding the State's EB status:

- Based on data released by the Bureau of Labor Statistics on March 10, 2011, Michigan no longer meets the 110% criteria to remain "on" in the EB program. As a result, the payable period for Michigan in the EB program will conclude April 2, 2011.

The trigger notice covering state eligibility for the EB program can be found at: [http://ows.doleta.gov/unemploy/claims\\_arch.asp](http://ows.doleta.gov/unemploy/claims_arch.asp).

#### Information for Claimants

The duration of benefits payable in the EB program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the U.S. Department of Labor. In the case of a state beginning an EB period, the State Workforce Agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EB (20 CFR 615.13(c)(1)).

Persons who believe they may be entitled to EB, or who wish to inquire about their rights under the program, should contact their State Workforce Agency.

#### FOR FURTHER INFORMATION CONTACT:

Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue, NW., Frances Perkins Bldg., Room S-4231, Washington, DC 20210, telephone number (202) 693-3008 (this is not a toll-free number) or by e-mail: [gibbons.scott@dol.gov](mailto:gibbons.scott@dol.gov).

Signed in Washington, DC, this 28th day of March 2011.

**Jane Oates,**

*Assistant Secretary, Employment and Training Administration.*

[FR Doc. 2011-7659 Filed 3-31-11; 8:45 am]

**BILLING CODE 4510-FW-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Announcement Regarding Delaware Triggering "on" Tier Four of Emergency Unemployment Compensation 2008 (EUC08)

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** Announcement regarding Delaware triggering "on" Tier Four of Emergency Unemployment Compensation 2008 (EUC08).

Public Law 111-312 extended provisions in Public Law 111-92 which amended prior laws to create a Third and Fourth Tier of benefits within the EUC08 program for qualified unemployed workers claiming benefits in high unemployment states. The Department of Labor produces a trigger notice indicating which states qualify for EUC08 benefits within Tiers Three and Four and provides the beginning and ending dates of payable periods for each qualifying state. The trigger notice covering state eligibility for the EUC08 program can be found at: [http://ows.doleta.gov/unemploy/claims\\_arch.asp](http://ows.doleta.gov/unemploy/claims_arch.asp).

Based on data published March 10, 2011, by the Bureau of Labor Statistics, the following trigger change has occurred for Delaware in the EUC08 program:

- The seasonally-adjusted total unemployment rate for the 3-month period ending January 2011 for Delaware rose to meet or exceed the 8.5% threshold to be "on" Tier Four of the EUC08 program. As a result, the payable period for Delaware in Tier Four of the EUC08 program will begin March 27, 2011, and the maximum