

DEPARTMENT OF LABOR**Employment and Training
Administration**

[NAFTA-006531]

**Venice T-Shirt and Medical
Corporation, Venice, CA; Notice of
Termination**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-1) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on August 30, 2002, in response to a petition filed on behalf of workers at Venice T-Shirt and Medical Corporation, Venice, California. Workers produced knit t-shirts.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 18th day of November, 2002.

Elliott S. Kushner,*Certifying Officer, Division of Trade
Adjustment Assistance.*

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DEPARTMENT OF LABOR**Pension and Welfare Benefits
Administration**

[Application Number: D-10934]

**Amendment to Prohibited Transaction
Exemption 97-11 (PTE 97-11) for the
Receipt of Certain Investment Services
by Individuals for Whose Benefit
Individual Retirement Accounts or
Retirement Plans for Self-Employed
Individuals Have Been Established or
Maintained**

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

ACTION: Adoption of amendment to PTE 97-11.

SUMMARY: This document amends PTE 97-11, a class exemption that permits the receipt of services at reduced or no cost by an individual for whose benefit an individual retirement account (IRA) ¹

¹ In Advisory Opinion 98-03A (March 6, 1998), the Department stated that a Roth IRA which satisfies the definition of an individual retirement plan contained in section 7701(a)(37)(A) of the

or, if self-employed, a Keogh Plan, is established or maintained, or by members of his or her family, from a broker-dealer, provided that the conditions of the exemption are met. The amendment affects individuals with beneficial interests in such plans who receive such services as well as the broker-dealers who provide such services.

FOR FURTHER INFORMATION CONTACT: Ms. Allison Padams Lavigne or Mr. Christopher Motta, 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 June 18, 2002, the Department proposed an amendment to PTE 97-11 (67 FR 41504) ² PTE 97-11 provides relief from the restrictions of sections 406(a)(1)(D) and 406(b) of ERISA and the sanctions resulting from the application of sections 4975(a) and (b), 4975(c)(3) and 408(e)(2) of the Code by reason of section 4975(c)(1)(D), (E) and (F) of the Code. ³ The amendment to PTE 97-11 was requested in an exemption application dated September 26, 2000, filed on behalf of American Funds Distributors, Inc. (AFD), a broker-dealer registered under the Securities Exchange Act of 1934.

The notice of pendency gave interested persons an opportunity to comment on the proposed amendment. Two comments were received pursuant to the provisions of 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. No requests for a public hearing were received.

For the sake of convenience, the entire text of PTE 97-11, as amended, has been reprinted.

Internal Revenue Code of 1986 (the Code) is an "individual retirement account" described in section 408(a) of the Code. Therefore, a Roth IRA which is not an employee benefit plan covered by Title I of ERISA (except for certain Simplified Employee Pensions and Simple Retirement Accounts described in section 408(k) and 408(p) of the Code, respectively) would be covered by the relief provided in PTE 97-11, if all conditions therein are met. In this regard, the Department wishes to clarify that this proposed modification of section III(b) of PTE 97-11 would include Roth individual retirement annuities described in section 7701(a)(37)(B) of the Code.

² PTE 97-11 was granted on February 7, 1997 (62 FR 5855) and amended on March 8, 1999 (64 FR 11042). Any references to PTE 97-11 include the 1999 amendment.

³ Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 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(c)(2) of the Code to the Secretary of Labor.

1. Description of the Exemption

PTE 97-11 permits the receipt of services at reduced or no cost by an individual for whose benefit an IRA or Keogh Plan is established or maintained or by members of his or her family, from a broker-dealer registered under the Securities Exchange Act of 1934 pursuant to an arrangement in which the account value of, or the fees incurred for services provided to, the IRA or Keogh Plan is/are taken into account for purposes of determining eligibility to receive such services, provided that certain conditions are met.

Relief under PTE 97-11, as originally amended, was limited to transactions involving IRAs, as defined in section III(b) of the class exemption. In this regard, section III(b) defined the term "IRA" as "an individual retirement account described in Code section 408(a) or an education individual retirement account described in section 530 of the Code." The exemption stated further that "(f)or purposes of the exemption, the term IRA shall not include an IRA which is an employee benefit plan covered by Title I of ERISA, except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code or a Simple Retirement Account described in section 408(p) of the Code which provides participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions."

AFD requested that PTE 97-11 be amended to expand the definition of IRA contained in section III(b) of PTE 97-11 to include Individual Retirement Annuities, as such term is defined in section 408(b) of the Code.

2. Discussion of the Comments Received

The Department received two comments on the proposed amendment to PTE 97-11. One of the commenters, the American Council of Life Insurers (ACLI), supported the amendment. The second commenter sought clarification with respect to the reduction of commissions in connection with the aggregation of variable annuity contracts and mutual funds that are offered and/or managed by unaffiliated entities. Specifically, the commenter asked the Department whether the amendment to PTE 97-11 is applicable to situations where the distributor of the annuity contract, the investment manager of the variable annuity separate account and mutual funds, and the provider of the annuity contracts are not affiliated.