

§ 93.2

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the documents be forwarded to the appropriate authority of the foreign state or political subdivision upon which service is being made. The note shall state that, under United States law, questions of jurisdiction and of state immunity must be addressed to the court and not to the Department of State, and that it is advisable to consult with an attorney in the United States.

(e) If the documents are delivered under paragraph (c)(1) of this section, the Embassy of the United States shall promptly transmit by diplomatic pouch, to the Managing Director for Overseas Citizen Service, a certified copy of the diplomatic note of transmittal. If the documents are delivered under paragraph (c) (2) or (3) of this section, the Managing Director for Overseas Citizen Service shall prepare a certified copy of the diplomatic note of transmittal. In each case, the certification shall state the date and place the documents were delivered. The Managing Director for Overseas Citizen Service shall then promptly send the certified copy to the clerk of the court concerned.

(Sec. 1608(a), Foreign Sovereign Immunities Act of 1976, Pub. L. 94-583 (28 U.S.C. 1608(a)); sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658))

[42 FR 6367, Feb. 2, 1977, as amended at 63 FR 16687, Apr. 6, 1998]

§ 93.2 Notice of suit (or of default judgment).

(a) A Notice of Suit prescribed in section 1608(a) of title 28, United States Code, shall be prepared in the form that appears in the Annex to this section.

(b) In preparing a Notice of Suit, a party shall in every instance supply the information specified in items 1 through 5 of the form appearing in the Annex to this section. A party shall also supply information specified in item 6, if notice of a default judgment is being served.

(c) In supplying the information specified in item 5, a party shall in simplified language summarize the nature and purpose of the proceeding (including principal allegations and claimed bases of liability), the reasons why the foreign state or political subdivision

has been named as a party in the proceeding, and the nature and amount of relief sought. The purpose of item 5 is to enable foreign officials unfamiliar with American legal documents to ascertain the above information.

(d) A party may attach additional pages to the Notice of Suit to complete information under any item.

(e) A party shall attach, as part of the Notice of Suit, a copy of the Foreign State Immunities Act of 1976 (Pub. L. 94-583; 90 Stat. 2891).

ANNEX

NOTICE OF SUIT (OR OF DEFAULT JUDGMENT¹)

1. Title of legal proceeding; full name of court; case or docket number.
2. Name of foreign state (or political subdivision) concerned:
3. Identity of the other Parties:

JUDICIAL DOCUMENTS

4. Nature of documents served (e.g., Summons and Complaint; Default Judgment):
5. Nature and purpose of the proceedings; why the foreign state (or political subdivision) has been named; relief requested:
6. Date of default judgment (if any):
7. A response to a "Summons" and "Complaint" is required to be submitted to the court, not later than 60 days after these documents are received. The response may present jurisdictional defenses (including defenses relating to state immunity).
8. The failure to submit a timely response with the court can result in a Default Judgment and a request for execution to satisfy the judgment. If a default judgment has been entered, a procedure may be available to vacate or open that judgment.
9. Questions relating to state immunities and to the jurisdiction of United States courts over foreign states are governed by the Foreign Sovereign Immunities Act of 1976, which appears in sections 1330, 1391(f), 1441(d), and 1602 through 1611, of Title 28, United States Code (Pub. L. 94-583; 90 Stat. 2891).

(Sec. 1608(a), Foreign Sovereign Immunities Act of 1976, Pub. L. 94-583 (28 U.S.C. 1608(a)); sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658))

[42 FR 6367, Feb. 2, 1977]

¹Relevant only if items 4 and 6 indicate that a default judgment has occurred.