

“Remove” column and add in its place the language in the “Add” column as set forth below:

Section	Remove	Add
§ 1.170A-12(e)(2) following the formula	Table 90CM in § 20.2031-7	Table 2000CM in § 20.2031-7T.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

■ **Par. 3.** The authority citation for part 20 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 4.** Section 20.2032-1 is amended by revising paragraph (f)(1) to read as follows:

§ 20.2032-1 Alternate valuation.

* * * * *

(f) * * *

(1) [Reserved]. Further guidance, see § 20.2032-1T(f)(1).

* * * * *

Treena V. Garrett,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E9-13241 Filed 6-5-09; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20 and 25

[TD 9448]

RIN 1545-BH96; RIN 1545-BI56

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains a correction to final and temporary regulations (TD 9448, that were published in the *Federal Register* on Thursday, May 7, 2009 (74 FR 21438). This regulation relates to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests.

DATES: This correction is effective on June 8, 2009 and is applicable beginning May 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mayer R. Samuels, (202) 622-3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9448) that are the subject of this correction is under section 2031 of the Internal Revenue Code.

Need for Correction

As published, TD 9448 contains errors that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 9448), that were the subject of FR Doc. E9-10111, is corrected as follows:

1. On page 21439, in the preamble under the paragraph heading “Background”, in the table “CROSS REFERENCE TO REGULATION SECTIONS”, the fourth column under section 2031, the third line, the language “Table S (5/1/99-05/01/99) and Life” is corrected to read “Table S (5/1/99-04/30/09) and Life”.

2. On page 21439, in the preamble under the paragraph heading, “Transitional Rules”, in the first column, nine lines from the bottom, the language, “on or after May 7, 2009, and before July” is corrected to read “on or after May 1, 2009, and before July”.

Treena V. Garrett,

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4001, 4901, and 4902

Disclosure and Amendment of Records Pertaining to Individuals Under the Privacy Act

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: Pension Benefit Guaranty Corporation (PBGC) is amending its Privacy Act regulations to exempt certain records that are maintained in a system of records entitled “PBGC-17,

Office of Inspector General Investigative File System—PBGC” from the access, contest, and certain other provisions of the Privacy Act. The amendment protects the information gathered to carry out the Office of Inspector General’s law enforcement mission to investigate criminal, civil, and administrative matters.

DATES: Effective July 8, 2009.

FOR FURTHER INFORMATION CONTACT:

Margaret E. Drake, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4400 (extension 3228); or James Bloch, Program Analyst, Legislative & Regulatory Department; 202-326-4223 (extension 3530). (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4400 (extension 3228) or 202-326-4223 (extension 3530).)

SUPPLEMENTARY INFORMATION: PBGC’s Office of Inspector General (OIG) conducts criminal, civil and administrative investigations and compiles and maintains case files containing identifying information about potential subjects and sources. On March 30, 2009 (74 FR 14167), PBGC proposed a new system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a (“Privacy Act”), entitled “PBGC-17, Office of Inspector General Investigative File System—PBGC.” PBGC received no comments on the new proposed system of records and the system became effective May 14, 2009. The system of records covers only the files of investigation that identify by name, or other personal identifier, individuals who are subjects or sources of information. The system of records is necessary to the investigative functions performed by the OIG under the authority of the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3. The files may contain information about criminal, civil or administrative wrongdoing, or about fraud, waste or mismanagement, or other violations of law or regulation. This information could be the basis for referrals to appropriate prosecutorial authorities for consideration of criminal or civil prosecution or to PBGC management for administrative corrective action. The collection and maintenance of these

types of records that are subject to this system are not new; however, in the past they have not been retrieved by a name or other personal identifier. OIG is implementing an electronic records management system from which records will be retrieved by name or other personal identifier.

Regulatory Changes

On March 30, 2009 (74 FR 14100), PBGC also published a proposed rule to amend its Privacy Act regulations (29 CFR part 4902) to exempt, under 5 U.S.C. 552a(j) and (k), certain records that will be maintained in PBGC-17 from the access, contest, and certain other provisions of the Privacy Act, and to make other minor changes. PBGC received no comments on the proposed rule and the final regulation is unchanged from the proposed regulation.

Exemptions

The amendments exempting certain records that will be maintained in PBGC-17 from certain provisions of the Privacy Act protect the information gathered to carry out OIG's law enforcement mission to investigate criminal, civil, and administrative matters. The exemptions relate to records maintained by OIG pertaining to the enforcement of criminal laws (*see* 5 U.S.C. 552a(j)(2)) and investigatory material compiled for law enforcement generally (*see* 5 U.S.C. 552a(k)(2)), and for determining individuals' eligibility or qualifications for Federal employment or Federal contracts (*see* 5 U.S.C. 552a(k)(5)).

Other Changes

Section 411 of the Pension Protection Act of 2006, Public Law 109-280, amended section 4002(a) of ERISA to state that PBGC is to be administered by a Director appointed by the President, subject to Senate confirmation. Thus, PBGC is replacing all references to the term "Executive Director" in part 4902 with the term "Director." PBGC also is replacing all references to the term "Deputy Executive Director" in part 4902 with the term "Deputy Director for Operations."

The final rule updates the definition of PBGC's Disclosure Officer, removes the definition of Disclosure Officer from regulation § 4901.2 and § 4902.2, and centralizes the definition in § 4001.2. The rule also directs individuals to PBGC's Web site (<http://www.pbgc.gov>) for information on where an individual can address a request to learn whether PBGC maintains any system of records that contains a record pertaining to the

individual and, if so, how to obtain access to such a record.

Compliance With Rulemaking Guidelines

PBGC has determined that this final rule is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

PBGC certifies under section 605(b) of the Regulatory Flexibility Act that the amendments in this final rule will not have a significant economic impact on a substantial number of small entities. The rule only affects the maintenance and disclosure of information about individuals by PBGC under the Privacy Act and therefore has no economic impact on entities of any size. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

List of Subjects

29 CFR Part 4001

Pension insurance.

29 CFR Part 4901

Freedom of information.

29 CFR Part 4902

Privacy.

■ For the reasons set forth above, PBGC is amending 29 CFR parts 4001, 4901, and 4902 as follows:

PART 4001—TERMINOLOGY

■ 1. The authority citation for Part 4001 continues to read as follows:

Authority: 29 U.S.C. 1301, 1302(b)(3).

■ 2. Section 4001.2 is amended by adding a new definition of *Disclosure officer* in alphabetical order to read as follows:

§ 4001.2 Definitions.

* * * * *

Disclosure officer means the official designated as disclosure officer in the Office of the General Counsel, PBGC.

* * * * *

PART 4901—EXAMINATION AND COPYING OF PENSION BENEFIT GUARANTY CORPORATION RECORDS

■ 3. The authority citation for Part 4901 continues to read as follows:

Authority: 5 U.S.C. 552, 29 U.S.C. 1302(b)(3).

§ 4901.2 [Amended]

■ 4. Section 4901.2 is amended by removing the definition of *Disclosure officer*.

§ 4901.11 [Amended]

■ 5. Section 4901.11 is amended by removing the words "Communications and Public Affairs Department" and adding in their place "Office of the General Counsel"; and removing the number "240" and adding in its place the number "11101".

PART 4902—DISCLOSURE AND AMENDMENT OF RECORDS PERTAINING TO INDIVIDUALS UNDER THE PRIVACY ACT

■ 6. The authority citation for Part 4902 continues to read as follows:

Authority: 5 U.S.C. 552a.

■ 7. Section 4902.1 is revised to read as follows:

§ 4902.1 Purpose and Scope.

(a) *Procedures.* Sections 4902.3 through 4902.7 establish procedures under which—

- (1) An individual may—
 - (i) Determine whether PBGC maintains any system of records that contains a record pertaining to the individual;
 - (ii) Obtain access to the individual's record upon request;
 - (iii) Make a request to amend the individual's record; and
 - (iv) Appeal a denial of a request to amend the individual's record; and
- (2) PBGC will make an initial determination of a request to amend an individual's record.

(b) *Fees.* Section 4902.8 prescribes the fees for making copies of an individual's record.

(c) *Privacy Act provisions.* Section 4902.9 summarizes the Privacy Act (5 U.S.C. 552a) provisions for which PBGC claims an exemption for certain systems of records.

(d) *Exemptions.* Sections 4902.10 through 4902.11 set forth those systems of records that are exempted from certain disclosure and other provisions of the Privacy Act, and the reasons for the exemptions.

§ 4902.2 [Amended]

■ 8. Section 4902.2 is amended by removing the definition of *Disclosure officer*.

§ 4902.3 [Amended]

■ 9. Section 4902.3(a) is amended by removing the words "on any working day in the Communications and Public Affairs Department, PBGC, 1200 K Street, NW., Suite 240, Washington, DC 20005-4026." and adding in their place "on any working day. Current information on how to make a request, including the Disclosure Officer's

mailing address and location, can be obtained on PBGC's Web site, <http://www.pbgc.gov>."

■ 10. Section 4902.4(a) is amended by removing the words "Communications and Public Affairs Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026" and adding in their place "PBGC"; and by adding a new sentence to the end of paragraph (a) to read as follows:

§ 4902.4 Disclosure of record to an individual.

(a) * * * Current information on where the records may be inspected and copied can be obtained on PBGC's Web site, <http://www.pbgc.gov>.

* * * * *

§ 4902.6 [Amended]

■ 11. Section 4902.6(a) is amended by removing the word "Executive".

§ 4902.7 [Amended]

■ 12. Section 4902.7 is amended:

■ a. In paragraph (a), by removing the words "Deputy Executive Director" and adding in their place "Deputy Director for Operations"; and

■ b. In paragraph (b) by removing the words "the Executive Director" and adding in their place "the Director", and by removing the words "Deputy Executive Director" wherever they appear, and adding in their place "Deputy Director for Operations".

§§ 4902.9 and 4902.10 [Redesignated as §§ 4902.10 and 4902.12]

■ 13. Sections 4902.9 and 4902.10 are redesignated as §§ 4902.10 and 4902.12, respectively, and the newly redesignated § 4902.10 is revised to read as follows:

§ 4902.10 Specific exemption: Personnel Security Investigation Records.

(a) *Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(5), PBGC hereby exempts the system of records entitled "PBGC-12, Personnel Security Investigation Records—PBGC" from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), to the extent that the disclosure of such material would reveal the identity of a source who furnished information to PBGC under an express promise of confidentiality or, before September 27, 1975, under an implied promise of confidentiality.

(b) *Reasons for Exemption.* The reasons for asserting this exemption are to insure the gaining of information essential to determining suitability and fitness for PBGC employment or for work for PBGC as a contractor or as an

employee of a contractor, access to information, and security clearances, to insure that full and candid disclosures are obtained in making such determinations, to prevent subjects of such determinations from thwarting the completion of such determinations, and to avoid revealing the identities of persons who furnish information to PBGC in confidence.

■ 14. New §§ 4902.9 and 4902.11 are added to read as follows:

§ 4902.9 Privacy Act provisions for which PBGC claims an exemption.

Subsections 552a(j) and (k) of title 5, U.S.C., authorize PBGC to exempt systems of records meeting certain criteria from various other subsections of section 552a. This section contains a summary of the Privacy Act provisions for which PBGC claims an exemption for the systems of records discussed in this part pursuant to, and to the extent permitted by, subsections 552a(j) and (k):

(a) Subsection (c)(3) of 5 U.S.C. 552a requires an agency to make available to the individual named in the records an accounting of each disclosure of records.

(b) Subsection (c)(4) of 5 U.S.C. 552a requires an agency to inform any person or other agency to which a record has been disclosed of any correction or notation of dispute the agency has made to the record in accordance with subsection (d) of the Privacy Act.

(c) Subsections (d)(1) through (4) of 5 U.S.C. 552a require an agency to permit an individual to gain access to records about the individual, to request amendment of such records, to request a review of an agency decision not to amend such records, and to provide a statement of disagreement about a disputed record to be filed and disclosed with the disputed record.

(d) Subsection (e)(1) of 5 U.S.C. 552a requires an agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose required by statute or executive order of the President.

(e) Subsection (e)(2) of 5 U.S.C. 552a requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under federal programs.

(f) Subsection (e)(3) of 5 U.S.C. 552a requires an agency to inform each person whom it asks to supply information of the authority under which the information is sought, whether disclosure is mandatory or

voluntary, the principal purpose(s) for which the information will be used, the routine uses that may be made of the information, and the effects of not providing the information.

(g) Subsection (e)(4)(G) and (H) of 5 U.S.C. 552a requires an agency to publish a **Federal Register** notice of its procedures whereby an individual can be notified upon request whether the system of records contains information about the individual, how to gain access to any record about the individual contained in the system, and how to contest its content.

(h) Subsection (e)(5) of 5 U.S.C. 552a requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in making any determination about the individual.

(i) Subsection (e)(8) of 5 U.S.C. 552a requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record.

(j) Subsection (f) of 5 U.S.C. 552a requires an agency to establish procedures whereby an individual can be notified upon request if any system of records named by the individual contains a record pertaining to the individual, obtain access to the record, and request amendment.

(k) Subsection (g) of 5 U.S.C. 552a provides for civil remedies if an agency fails to comply with the access and amendment provisions of subsections (d)(1) and (d)(3), and with other provisions of the Privacy Act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual.

§ 4902.11 Specific exemptions: Office of Inspector General Investigative File System.

(a) *Criminal Law Enforcement.* (1) *Exemption.* Under the authority granted by 5 U.S.C. 552a(j)(2), PBGC hereby exempts the system of records entitled "PBGC-17, Office of Inspector General Investigative File System—PBGC" from the provisions of 5 U.S.C. 552a (c)(3), (c)(4), (d)(1) through (4), (e)(1) through (3), (e)(4)(G) and (H), (e)(5), (e)(8), (f), and (g) because the system contains information pertaining to the enforcement of criminal laws.

(2) *Reasons for exemption.* The reasons for asserting this exemption are:

(i) Disclosure to the individual named in the record pursuant to subsections (c)(3), (c)(4), or (d)(1) through (4) could seriously impede or compromise the investigation by alerting the target(s),

subjecting a potential witness or witnesses to intimidation or improper influence, and leading to destruction of evidence.

(ii) Application of subsection (e)(1) is impractical because the relevance of specific information might be established only after considerable analysis and as the investigation progresses. Effective law enforcement requires the Office of Inspector General to keep information that may not be relevant to a specific Office of Inspector General investigation, but which may provide leads for appropriate law enforcement and to establish patterns of activity that might relate to the jurisdiction of the Office of Inspector General and/or other agencies.

(iii) Application of subsection (e)(2) would be counterproductive to performance of a criminal investigation because it would alert the individual to the existence of an investigation.

(iv) Application of subsection (e)(3) could discourage the free flow of information in a criminal law enforcement inquiry.

(v) The requirements of subsections (e)(4)(G) and (H), and (f) do not apply because this system is exempt from the provisions of subsection (d). Nevertheless, PBGC has published notice of its notification, access, and contest procedures because access is appropriate in some cases.

(vi) Although the Office of Inspector General endeavors to maintain accurate records, application of subsection (e)(5) is impractical because maintaining only

those records that are accurate, relevant, timely, and complete and that assure fairness in determination is contrary to established investigative techniques. Information that may initially appear inaccurate, irrelevant, untimely, or incomplete may, when collated and analyzed with other available information, become more pertinent as an investigation progresses.

(vii) Application of subsection (e)(8) could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(viii) The provisions of subsection (g) do not apply to this system if an exemption otherwise applies.

(b) *Other Law Enforcement.* (1) *Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(2), PBGC hereby exempts the system of records entitled "PBGC-17, Office of Inspector General Investigative File System—PBGC" from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) and (H), and (f) for the same reasons as stated in paragraph (a)(2) of this section, that is, because the system contains investigatory material compiled for law enforcement purposes other than material within the scope of subsection 552a(j)(2).

(2) *Reasons for exemption.* The reasons for asserting this exemption are because the disclosure and other requirements of the Privacy Act could substantially compromise the efficacy and integrity of the Office of Inspector General operations. Disclosure could invade the privacy of other individuals

and disclose their identity when they were expressly promised confidentiality. Disclosure could interfere with the integrity of information which would otherwise be subject to privileges (see, e.g., 5 U.S.C. 552(b)(5)), and which could interfere with other important law enforcement concerns (see, e.g., 5 U.S.C. 552(b)(7)).

(c) *Federal Civilian or Contract Employment.* (1) *Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(5), PBGC hereby exempts the system of records entitled "PBGC-17, Office of Inspector General Investigative File System—PBGC" from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) and (H), and (f) because the system contains investigatory material compiled for the purpose of determining eligibility or qualifications for federal civilian or contract employment.

(2) *Reason for exemption.* The reason for asserting this exemption is to protect from disclosure the identity of a confidential source when an express promise of confidentiality has been given to obtain information from sources who would otherwise be unwilling to provide necessary information.

Issued in Washington, DC, this 1st day of June 2009.

Vincent K. Snowbarger,
Acting Director, Pension Benefit Guaranty Corporation.

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