

(b) Preconditions for attachment of prohibition; prima facie evidence for nonapplication of prohibition

Subsection (a) of this section shall not apply to cases commenced before the effective date of this Act unless the defendant establishes and the court determines, in light of all the circumstances, including the stage of litigation and the availability of alternative relief under the Clayton Act, that it would be inequitable not to apply this subsection to a pending case. In consideration of this section, existence of a jury verdict, district court judgment, or any stage of litigation subsequent thereto, shall be deemed to be prima facie evidence that subsection (a) of this section shall not apply.

(Pub. L. 98-544, §3, Oct. 24, 1984, 98 Stat. 2750.)

REFERENCES IN TEXT

For the effective date of this Act, referred to in subsec. (b), see Effective Date note below.

The Clayton Act, referred to in subsecs. (a) and (b), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of this title and to sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of this title and Tables.

EFFECTIVE DATE

Section effective thirty days before Oct. 24, 1984, see section 6 of Pub. L. 98-544, set out as a note under section 34 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 34 of this title.

§ 36. Recovery of damages, etc., for antitrust violations on claim against person based on official action directed by local government, or official or employee thereof acting in an official capacity

(a) Prohibition in general

No damages, interest on damages, costs or attorney's fees may be recovered under section 4, 4A, or 4C of the Clayton Act (15 U.S.C. 15, 15a, or 15c) in any claim against a person based on any official action directed by a local government, or official or employee thereof acting in an official capacity.

(b) Nonapplication of prohibition for cases commenced before effective date of provisions

Subsection (a) of this section shall not apply with respect to cases commenced before the effective date of this Act.

(Pub. L. 98-544, §4, Oct. 24, 1984, 98 Stat. 2750.)

REFERENCES IN TEXT

For effective date of this Act, referred to in subsec. (b), see Effective Date note below.

EFFECTIVE DATE

Section effective thirty days before Oct. 24, 1984, see section 6 of Pub. L. 98-544, set out as a note under section 34 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 34 of this title.

§ 37. Modification of antitrust laws

(a) Exempt conduct

Except as provided in subsection (b) of this section, it shall not be unlawful under any of the

antitrust laws, or under a State law similar to any of the antitrust laws, for 2 or more persons described in section 501(c)(3) of title 26 that are exempt from taxation under section 501(a) of title 26 to use, or to agree to use, the same annuity rate for the purpose of issuing 1 or more charitable gift annuities.

(b) Limitation

Subsection (a) of this section shall not apply with respect to the enforcement of a State law similar to any of the antitrust laws, with respect to conduct described in subsection (a) of this section occurring after the State enacts a statute, not later than 3 years after December 8, 1995, that expressly provides that subsection (a) of this section shall not apply with respect to such conduct.

(Pub. L. 104-63, §2, Dec. 8, 1995, 109 Stat. 687.)

REFERENCES IN TEXT

For definition of "antitrust laws", referred to in text, see section 37a(2) of this title.

EFFECTIVE DATE

Section 4 of Pub. L. 104-63 provided that: "This Act [enacting this section, section 37a of this title, and provisions set out as a note under section 1 of this title] shall apply with respect to conduct occurring before, on, or after the date of the enactment of this Act [Dec. 8, 1995]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 37a of this title.

§ 37a. Definitions

For purposes of this section and section 37 of this title:

(1) Annuity rate

The term "annuity rate" means the percentage of the fair market value of a gift (determined as of the date of the gift) given in exchange for a charitable gift annuity, that represents the amount of the annual payment to be made to 1 or 2 annuitants over the life of either or both under the terms of the agreement to give such gift in exchange for such annuity.

(2) Antitrust laws

The term "antitrust laws" has the meaning given it in subsection (a) of section 12 of this title, except that such term includes section 45 of this title to the extent that such section 45 applies to unfair methods of competition.

(3) Charitable gift annuity

The term "charitable gift annuity" has the meaning given it in section 501(m)(5) of title 26.

(4) Person

The term "person" has the meaning given it in subsection (a) of section 12 of this title.

(5) State

The term "State" has the meaning given it in section 15g(2) of this title.

(Pub. L. 104-63, §3, Dec. 8, 1995, 109 Stat. 687.)

EFFECTIVE DATE

Section applicable with respect to conduct occurring before, on, or after Dec. 8, 1995, see section 4 of Pub. L. 104-63, set out as a note under section 37 of this title.