

Supreme Court to Address Church Plan Definition

In recent years, participants and beneficiaries in retirement plans maintained by certain church-affiliated, tax-exempt entities (such as hospitals) have sued to enforce their ERISA rights, asserting that ERISA's church plan exemption does not apply. The three federal appeals courts that have considered ERISA's church plan exemption disregarded long-standing IRS private letter rulings and found that these pension plans do not qualify as church plans because they were not initially established by a church. On December 2, 2016, the Supreme Court agreed to consider these three cases and will determine whether the exemption applies only if that condition is satisfied.

Background

ERISA requires employee pension benefit plans to meet certain standards such as minimum funding, vesting, reporting and disclosure, and fiduciary responsibility. ERISA also requires defined benefit plans to be covered by PBGC plan termination insurance, which guarantees plan benefits up to certain limits. However, ERISA provides an exemption from these requirements for "church plans" that do not opt into ERISA coverage.

When originally enacted, ERISA defined a "church plan" as a plan established and maintained by a tax-exempt church (which includes a convention or association of churches) for its employees. Plans in existence on January 1, 1974 were temporarily allowed to cover employees of church-related, tax-exempt agencies. In 1980, before the temporary rule expired, Congress permanently expanded the definition of church plan to include plans that covered such employees. In addition, the definition of church plan was modified to include plans maintained by a tax-exempt organization that is either controlled by or associated with a church, with the principal purpose or function of administering or funding a plan to provide retirement and/or welfare benefits for the employees of a church.



In the Courts

Participants have filed a number of class action lawsuits against church-controlled or associated entities that have established employee benefit plans and claimed church plan status. They allege that such plans are not church

plans because they were not initially established by a church, and are therefore subject to ERISA — despite a 1983 IRS General Counsel Memorandum and having individually received IRS private letter rulings to the contrary. They seek to force the plan sponsors and fiduciaries to remedy ERISA violations and obtain PBGC coverage.

The three federal appeals courts that have considered these issues — [Rollins v. Dignity Health](#), [Kaplan v. Saint Peter's Healthcare System](#) and [Stapleton v. Advocate Health Care Network](#) — have found in favor of the participants, ruling that the plans were not established by a church within the meaning of ERISA's church plan exemption. These courts stated that a plain reading of the statute requires that a church plan be established by a church but that the definition of who may maintain a church plan is broader. The courts looked at the legislative history of the expanded definition, concluding that it was added to ERISA in response to very specific concerns about pension plans that were established by a church but whose maintenance was delegated to outside pension boards. The courts further stated that the IRS private letter rulings and 1983 General Counsel Memorandum concluding that the plans were church plans were not dispositive and not entitled to deference. See our *For Your Information* publications from [January 12, 2016](#) and [May 4, 2015](#).

As Expected, Supreme Court to Hear Church-Affiliated Entities' Objections

On December 2, 2016, the Supreme Court agreed to rule on the church-affiliated tax exempt entities' challenges — as many court watchers expected it to do. Accepting and consolidating all three cases, the Court will determine whether ERISA's church plan exemption applies where a pension plan is maintained by an otherwise qualifying church-affiliated organization, or whether the exemption applies only if, in addition, a church initially established the plan. Oral arguments will take place in spring 2017 with a ruling by June 2017.

In Closing

After years of litigation, the Supreme Court will finally consider the requirements for church plan status. Should the Court rule in the participants' favor, it is unclear how the decision will apply to the hundreds of entities that have received letter rulings from the IRS; what is clear is that mandatory compliance with ERISA would be a game-changer for many church-affiliated entities.

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