KPMG

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U.S. Supreme Court: "Church plan" exemption from ERISA applies regardless who established it

The U.S. Supreme Court today issued an opinion concluding that a "church plan" maintained by a principal-purpose organization (affiliated with the church) qualifies as a "church plan" for ERISA purposes, regardless of who established it.

The case is: *Advocate Health Care Network v. Stapleton*, No. 16-74 (S. Ct. June 4, 2017). Read the Court's **decision** [PDF 124 KB]

Summary

The Employee Retirement Income Security Act of 1974 (ERISA) generally requires private companies' defined benefit pension plans to satisfy "funding" rules. Typically, the plan must be at least 80% funded to avoid special penalties and limitations. These rules do not apply to state or local governments or churches. In 1980, Congress added language to pull certain church affiliated organizations into the definition of "church" for funding purposes.

However, "church plans" are exempt from the regulations. ERISA historically defined a "church plan" as "a plan established and maintained . . . employees . . . by a church." Congress then amended the statute to expand that definition, adding a new provision:

> *"A plan established and maintained for its employees . . . by a church . . . includes a plan maintained by an organization . . . the principal purpose . . . of which is the administration or funding of [such] plan . . . for the employees of a church . . . , if such organization is controlled by or associated with a church."*

In this case, the petitioners identified themselves as three church-affiliated non-profits that run hospitals and other healthcare facilities and offered their employees defined-benefit pension plans. The plans were established by the hospitals themselves, and were managed by internal employee-benefits committees. The respondents are

current and former hospital employees that filed class actions alleging that the hospitals' pension plans do not fall within ERISA's church-plan exemption because they were not established by a church. The federal district courts and then, on appeal, the U.S. circuit courts of appeals held that a plan must be established by a church to qualify as a church plan. The U.S. Supreme Court today reversed, in a unanimous decision written by Justice Kagan (Justice Gorsuch did not participate).

Based on grammatical construction and court doctrine, the Court found that Congress deemed the category of plans "established and maintained by a church" to "include" plans "maintained by" principal-purpose organizations. Thus, these plans are exempt from ERISA's funding rules and Pension Benefit Guaranty Corporation (PBGC) premium requirements.

KPMG observation

Many of the older church-affiliated entities have been considered exempt from pension funding (and PBGC premiums and protection) since the 1980s and have not always been able to significantly fund their pension plans. Thus, some of the pension plans, like some of the pension plans of the state and local governments, are noticeably less funded than private company plans. Employees have been claiming that these entities are not exempt from the funding rules and the plans are protected under the PBGC plan guarantee rules.

This unanimous Supreme Court holding firmly supports the IRS position that the plans of many church-affiliated hospitals and other church-affiliated entities are "church plans," which means they do not have to pay PBGC premiums or bring their plans up to the standard funding levels for private company plans. However, the publicity and interest surrounding the court cases suggests that there could still be some pressure on these employers to fund their plans to higher levels.