



COMPLIANCE BULLETIN

HIGHLIGHTS

- The Supreme Court has ruled that employee benefit plans sponsored by church-affiliated employers are not subject to ERISA requirements.
- The decision will not affect most employers but may reduce lawsuits against certain employers.
- The case aligns with long-standing ERISA enforcement policies.

IMPORTANT DATES

June 5, 2017

The Supreme Court issued a decision holding that church-affiliated plans are exempt from ERISA regardless of whether a church established the plan.

Supreme Court Rules Church-affiliated Plans are Exempt from ERISA

OVERVIEW

On June 5, 2017, the U.S. Supreme Court issued a [decision](#) holding that an employee benefit plan may be exempt from the Employee Retirement Income Security Act (ERISA) as a “church plan” even if a church did not establish it. The court held that the ERISA exemption for church plans applies to certain organizations that are affiliated with churches, regardless of how their benefit plans were established.

Because this is consistent with how federal agencies currently interpret and enforce ERISA, the ruling does not change any obligations for most employers. The decision does, however, settle and resolve a recent wave of litigation involving employers with religious affiliations, such as hospitals.

ACTION STEPS

Employers with church affiliations should be aware of the specific criteria an employee benefit plan must meet to qualify for ERISA’s church-plan exemption. All employers that sponsor employee benefit plans should ensure that their plans either meet the criteria for an ERISA exemption or comply with all applicable ERISA requirements.

Provided By:

Touchstone Consulting Group

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Background

ERISA is a federal law that sets minimum standards for employee benefit plans, including retirement plans (for example, 401(k) plans) and welfare benefit plans (for example, group health plans). It applies to virtually all private-sector employers that maintain benefit plans for their employees, regardless of the size of the employer.

However, ERISA specifically exempts church plans from its requirements. ERISA generally defines a church plan as any employee benefit plan “established and maintained” by a church or group of churches. The definition also includes any plan maintained by a “**principal-purpose organization**,” which is an organization that:

- Is controlled by or associates with a church or a convention or association of churches; and
- Has a principal purpose or function of funding or administering benefits to the employees of the church or convention or association of churches.

The three federal agencies that administer and enforce ERISA, which include the Internal Revenue Service (IRS), the Department of Labor (DOL) and the Pension Benefit Guarantee Corporation (PBGC), interpret this definition as an exemption for plans maintained by employers that are not churches themselves but have church affiliations. Since 1983, these agencies have issued numerous written opinions to various church-affiliated employers, including hospitals, orphanages, schools and old-age homes, advising them that their employee benefit plans are exempt from ERISA as church plans.

Nevertheless, employee lawsuits challenging the agencies’ opinions have resulted in three recent federal appellate court decisions holding that a plan does not qualify for the exemption unless a church originally established the plan. These decisions were issued by the [3rd Circuit in December 2015](#), the [7th Circuit in March 2016](#) and the [9th Circuit in July 2016](#).

Advocate Healthcare Network v. Stapleton

The Supreme Court’s decision in [Advocate Healthcare Network v. Stapleton](#), issued on June 5, 2017, overturned all three of the recent appellate court decisions and confirms the IRS, DOL and PBGC’s long-standing interpretation of ERISA’s church-plan exemption.

The case involved lawsuits filed by employees of three church-affiliated organizations that run large hospitals and other health care facilities in several states. The employees argued that the employers’ benefit plans should be subject to ERISA because they were not established by a church. The employers disagreed, arguing that the church-plan exemption applies to all plans maintained by a principal-purpose organization, regardless of who established them.

The Supreme Court sided with the employers, holding that ERISA’s church-plan exemption applies to both:

- ✓ Plans established and maintained by churches; and
- ✓ Plans maintained by principal-purpose organizations.

Considerations for Employers

If an employee benefit plan is exempt from ERISA, the plan's sponsor does not have to comply with certain requirements that are designed to protect plan participants and ensure plan solvency. Specifically, plans that qualify for an ERISA exemption are not subject to the law's minimum standards related to plan funding, vesting and accrual, asset administration, and reporting and disclosure.

On the other hand, an ERISA exemption also means that the plan sponsor does not enjoy certain protections afforded to employers under the law. Most significantly, employers that sponsor ERISA plans are generally protected against lawsuits for punitive and other types of damages under state laws with respect to their benefit plans.

While the Supreme Court confirmed that an employee benefit plan does not have to be established by a church in order to qualify for ERISA's church-plan exemption, employers should be aware that simply being affiliated with a religious organization does not automatically mean that their employee benefit plans are exempt. A plan will not qualify for ERISA's church-plan exemption unless:

- The sponsoring employer is either controlled by or "shares common religious bonds and convictions" with a church or a convention or association of churches; and
- The controlling or associated church or group of churches has tax-exempt status under Section 501 of the Internal Revenue Code.

Because these determinations are fact-specific, and because other detailed criteria must be met for a church-plan exemption, employers that sponsor employee benefit plans should always seek legal counsel before operating a plan outside of ERISA's legal framework. Employers may also ask the IRS to issue a letter ruling or ask the DOL to issue an advisory opinion regarding whether they qualify for the exemption.