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Retirement Plans

Senate Passes Church Retirement Plan Legislation



By Sean Forbes

Dec. 11 — Although retirement plan legislation passed in the Senate doesn't directly address whether plans established by church-affiliated organizations are church plans, it does signal that Congress recognizes they should be, benefits attorneys told Bloomberg BNA.

The Church Plan Clarification Act (S. 2308), passed by the Senate on Dec. 10 by unanimous consent, would clarify how to apply the tax code and retirement laws to church pension plans. The bill was introduced in the Senate on Nov. 19 by Sens. Benjamin L. Cardin (D-Md.) and Rob Portman (R-Ohio), along with companion legislation in the House, which hasn't moved forward (224 DTR G-5, 11/20/15).

The bill "shows Congress's continued support of church plans, including continuing to recognize and accommodate that these plans can include church-related entities," Robert W. Rachal, senior partner in the New Orleans office of Proskauer Rose LLP, told Bloomberg BNA on Dec. 11.

Rep. Pat Tiberi (R-Ohio), who co-sponsored the House legislation (H.R. 4085) with Rep. Richard E. Neal (D-Mass.), "is receiving a positive response about his bill from other members of the House and is working to continue to add cosponsors and move his bill forward in committee," Breann Gonzalez, the congressman's communications director, told Bloomberg BNA in an e-mail Dec. 11.

Affiliated Entities

One of the useful technical fixes is that Congress recognized that church plans can be established by entities affiliated or associated with a church, such as nonprofit hospitals affiliated with the Catholic Church, and so can be included within the retirement plan's control group, Rachal said.

Heather Mehta, an associate in the St. Louis office of Greensfelder, Hemker & Gale PC, concurred with Rachal, and added that while the bill doesn't directly address whether a plan established by an organization affiliated with a church is a church plan—a question that has been at the center of a good deal of litigation—another provision related to plan mergers, as well as the bill's legislative history, lends support to her position on Congress' support for such plans.

"One of the purposes of the provision is to allow plans established by church-related employers to be merged into a denomination's plan," Mehta told Bloomberg BNA in an e-mail Dec. 11. "This purpose is reflected in the Act's language that the term 'church or convention or association of churches' includes organizations controlled by or associated with a church by cross-referencing the relevant provisions of the 'church plan' definition," Mehta said.

To contact the reporter on this story: Sean Forbes in Washington at sforbes@bna.com

To contact the editor responsible for this story: Phil Kushin at pkushin@bna.com

BNA Snapshot

Development: Senate passes bill that includes technical fixes to make certain plan design and administration issues easier for churches, religious orders and tax-exempt religious organizations.

Takeaway: Bill and its companion House legislation also indicate that Congress recognizes that retirement plans established by nonprofit church-affiliated entities and controlled by church can be merged into denomination's plan.

For More Information

Text of S. 2308 is at <http://src.bna.com/bvQ>.