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Supreme Court Holds that Plan Administrator Must Follow Plan Document

One of the more difficult aspects of the administration of tax-qualified plans is the processing of qualified domestic relations orders, or QDROs.

Since 1984, courts have divided over two related issues:

- whether a federal common law waiver in a divorce decree conflicts with the Internal Revenue Code's anti-assignment provision; and
- assuming that a federal common law waiver of benefits does not violate the anti-assignment provisions, is the waiver effective if it is inconsistent with plan documents.

The United States Supreme Court recently resolved these issues in Kennedy v. Plan Administrator for Dupont Savings and Investment Plan.

The court held that a waiver of an interest in a pension plan pursuant to a property settlement is not an assignment or alienation of benefits, and was therefore unaffected by the Code's anti-alienation provision. The Court agreed with the position of the Treasury Department, that a waiver of benefits is not an assignment of benefits, and therefore a QDRO cannot be used to implement a waiver of benefits.

The second ruling may be of even more importance to plan administrators, because it addresses a common fact pattern. A plan participant is divorced and his or her former spouse waived his or her right to any benefits under the plan in a divorce decree but (1) the participant does not change the designation of beneficiary form which continues to name the former spouse as a beneficiary and (2) the former spouse did not waive his or her benefits. In this situation, the Supreme Court determined that the designation of beneficiary form on file must be followed because ERISA requires a plan to be administered in accordance with its terms.

If you have any questions, please do not hesitate to call us.

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