

Tax & Employee Benefits Department

PR SUPREME COURT HOLDS THAT CURRENT SPOUSE (AND NOT FORMER SPOUSE) HAS RIGHT TO RECEIVE DECEASED PARTICIPANT'S ERISA RETIREMENT BENEFIT

In August 2018, the Supreme Court of Puerto Rico (the "Court") ruled that the surviving spouse of a deceased participant in a retirement plan governed by the federal Employee Retirement Income Security Act of 1974, as amended ("ERISA"), has the right to receive pension payments when the plan participant remarries and does not revoke a prior beneficiary designation form in favor of his prior spouse.

FACTS:

In December 1997, the participant in the plan ("Decedent"), signed a beneficiary designation form under his employer's retirement Plan benefit (the "Plan") and appointed his then wife ("Former Wife") as beneficiary of the Plan. The couple subsequently divorced in 2004. The Court of First Instance of Puerto Rico approved an agreement of division of property ("Division Agreement"), in which Decedent and Former Wife agreed to distribute the assets of the extinct legal community of joint property. Regarding the Plan assets, the Division Agreement stated that the total value of the account in the name of Decedent in this plan will be divided equally.

In November 2008, Decedent married his second wife ("Widow"). Seven months later, Decedent passed away. Former Wife requested the administrator of the Plan to deliver the participation corresponding to her according to the Division Agreement (which had not been enforced up to such date). The Administrator of the Plan refused, under the understanding that the Division Agreement did not constitute a qualified domestic relations order that, under ERISA, allowed a former spouse to be treated as a beneficiary of the Plan. The administrator distributed the benefits under the Plan in favor of the Widow. On June 2011, Former Wife filed claim with the Court of First Instance against the Widow.

Former Wife claimed her participation in the Plan, as stipulated in the Division Agreement. Once the process related to the litigation began, Former Wife became aware that Decedent had not revoked the form for the designation of beneficiaries written while they were married, and in turn requested 100% of the benefit under the Plan. The Court of First Instance issued a partial summary judgment in favor of Former Wife. In doing so, determined that she was the beneficiary of the full benefits under the Plan, since Decedent had not revoked the beneficiary designation form under the Plan. The Widow appealed, and the Court of Appeals upheld the determination of the Court of First Instance. The Widow appealed to the Supreme Court of Puerto Rico.

HOLDING:

In an opinion, the Court explained that pursuant to the approval of the Retirement Equity Act of 1984 ("REA"), ERISA requires that the surviving spouse of a participant decedent be treated as the default beneficiary for retirement benefits such as those under the Plan. In addition, it clarified that ERISA requires consent from the participant's spouse to assign a different beneficiary.

The Court reiterated that ERISA also contains an "assignment and antialienation provision" that prohibits the payment, transfer, assignment or transfer of benefits of a retirement plan to a person other than the beneficiary or participant thereof. However, ERISA provides as an exception that a person who obtains rights to the benefits of a retirement plan through a qualified domestic relations order can be treated as a beneficiary without violating the provisions of ERISA. The federal statute expresses that a qualified domestic relations order is an order that creates or recognizes the existence of a right of an alternate beneficiary to receive part or all the benefits.

According to the rules of the Plan in this case, the participant may designate as a beneficiary under the Plan a person other than his or her spouse if: (1) the spouse has waived his or her benefits; (2) is legally separated or has been abandoned by the spouse without a qualified domestic relations order; (3) the participant does not have a spouse; or (4) the spouse cannot be located.

In the present case, when Decedent married the Widow, she automatically became his beneficiary under the Plan regardless of the Division Agreement and the prior beneficiary assignment. The Plan clearly stipulated that the beneficiary of the Plan must be the participant's spouse. Accordingly, if the participant died while married, the Widow became the beneficiary of the Plan, unless otherwise indicated by written consent of said Widow.

KEY TAKEAWAYS: (i) Plan Administrators are encouraged to remind participants to update their retirement plan beneficiary designation in cases of life events (i.e. marriage and divorce); (ii) Plan sponsors are encouraged to include as default designation in their plans that upon the occurrence of a life event (i.e. marriage and divorce) the existing beneficiary designation on file is deemed revoked and void.

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