

Reimbursement of Retiree Telephone Expenses is not a Pension Plan Under ERISA

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A group of retirees sued AT&T claiming that the practice of reimbursing the telephone expenses of retirees who live outside of the AT&T's service area constitutes a pension plan under ERISA on the grounds that (i) ERISA defines an employee pension plan as one that "results in a deferral of income for periods extending to the termination of...employment or beyond" and (ii) the reimbursements were taxable income to the retirees. The Fifth Circuit Court of Appeals upheld the federal district court's decision that it is not an employee pension plan. Both parties agreed that the reimbursement arrangement was not a welfare benefit plan. The Fifth Circuit determined that it is also not a pension plan because (i) those retirees who were inside AT&T's service area did not have taxable income from the services they received (it was a "no-additional-cost" service under the fringe benefit regulations), and (ii) while taxable income, the payments were not deferred income but were reimbursements, contingent upon the retiree first incurring an expense.