

U.S. DEPARTMENT OF LABOR
LABOR-MANAGEMENT SERVICES ADMINISTRATION
Pension and Welfare Benefit Programs
Washington, D.C. 20216



May 14 1979

OPINION 79-30 A

Mr. Charles Dolci, Jr.
Corporate Counsel
Fairchild Camera and
Instrument Corporation
464 Ellis Street
Mountain View, California 94042

514(a)
1032

Dear Mr. Dolci:

This is in response to your request for an advisory opinion regarding preemption of state laws under the Employee Retirement Income Security Act of 1974 (ERISA). Specifically you ask whether the State of California Unclaimed Property Law (the California law) is preempted under ERISA section 514.

The California law provides in section 1521(a) that employee benefit trust distributions escheat to the state if the owner has not, within 7 years after the distribution becomes payable, accepted the distribution, written regarding the distribution, or otherwise indicated an interest on file with the fiduciary or plan administrator. Thereafter, the owner may at any time claim the distribution from the state. In a letter dated May 25, 1977, which you submitted with your request, L. E. Gercovich Administrative Adviser to the Controller of the State of California, asserted that there is no conflict between ERISA and the California law because the State merely "stands in the shoes" of the participants and there is neither statutory limitation of time for the participant/beneficiary to claim the benefits from the State nor a charge or assessment of costs by the State.

Section 514(a) of ERISA provides that titles I and IV supersede any and all state laws insofar as they may now or hereafter relate to any employee benefit plan established or maintained by an employer or employee organization engaged in commerce or in any industry or activity affecting commerce, with specified exceptions. The exceptions preserve state laws which regulate governmental plans, church plans, plans maintained solely for the purpose of complying with applicable workmen's or unemployment compensation or disability insurance laws, plans maintained outside the United States primarily for non-resident aliens, excess benefit plans, and death benefit plans.

Notwithstanding, Mr. Gercovich's arguments to the contrary, section 514(a) does not merely preempt state laws which conflict with ERISA but all state laws related to employee benefit plans. The reasons for broad

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preemption of state laws under ERISA were succinctly stated by Senator Williams, a major sponsor and floor manager of the bill, during final consideration.

Both House and Senate bills provided for preemption of State law, but -- with one major exception appearing in the House bill -- defined the perimeters of preemption in relation to the areas regulated by the bill. Such a formulation raised the possibility of endless litigation over the validity of State action that might impinge on Federal regulation, as well as opening the door to multiple and potentially conflicting State laws hastily contrived to deal with some particular aspect of private welfare or pension plans not clearly connected to the Federal regulatory scheme.

Although the desirability of further regulation -- at either the State or Federal level -- undoubtedly warrants further attention, on balance, the emergence of a comprehensive and pervasive Federal interest and the interests of uniformity with respect to interstate plans required -- but for certain exceptions -- the displacement of State action in the field of private employee benefit programs. 120 Cong. Rec. §15751 (daily ed. Aug. 22, 1974).

Accordingly, it is the position of the Department of Labor that, to the extent the State of California's Unclaimed Property Law relates to employee benefit plans covered by title I of ERISA, it is preempted under section 514(a). It is also noted that the method of notifying plan participants of deferred vested benefits to which they are entitled prescribed by section 1032 of ERISA is not the method of notification used in the State of California's Unclaimed Property Law.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, this letter is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Ian D. Lanoff
Administrator
of Pension and Welfare
Benefit Programs