News



The entrance to the Wisconsin Supreme Court chambers in the state Capitol in Madison, Wis. The court on Thursday, March 14, 2024 ruled that religious exemptions to the state's unemployment tax don't apply to a Superior-based Catholic charities ministry. (AP/Todd Richmond)

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Exemptions that allow religious organizations to avoid paying Wisconsin's unemployment tax don't apply to a Catholic charitable organization because its on-the-ground operations aren't primarily religious, a divided state Supreme Court ruled Thursday.

The outcome of the case, which drew attention and concern from religious groups around the country, raises the bar for all religions to show that their charity arms deserve such exemptions in the state. The Catholic organization's attorneys immediately promised to appeal directly to the U.S. Supreme Court. If that court agrees to hear the case, any ruling could have broad national implications.

The Wisconsin court ruled 4-3 that the Superior-based Catholic Charities Bureau and its subentities' motivation to help older, disabled and low-income people stems from Catholic teachings but that its actual work is secular.

"In other words, they offer services that would be the same regardless of the motivation of the provider, a strong indication that the sub-entities do not 'operate primarily for religious purposes,'" Justice Ann Walsh Bradley wrote for the majority.

Religious groups around the country are watching the case, including Catholic Conferences in Illinois, Iowa, Michigan and Minnesota, the American Islamic Congress, the Church of Jesus Christ of Latter-day Saints, the International Society for Krishna Consciousness, the Sikh Coalition, and the Jewish Coalition for Religious Liberty.

"The Wisconsin Supreme Court got this case dead wrong," said Eric Rassbach, vice president and senior counsel at the Becket Fund for Religious Liberty, a law firm that is representing Catholic Charities and its subentities. "CCB is religious, whether Wisconsin recognizes that fact or not."

The firm will appeal to the U.S. Supreme Court, said Sarah Buckley, a Becket spokesperson.

U.S. religious institutions enjoy tax exemptions, most notably from property taxes. Debate has raged for decades over whether the exemptions are fair.

Supporters say that the exemptions rightfully extend from the constitutional separation of church and state and that religious institutions would struggle without them. Opponents counter they amount to government support for religion and unfairly shift tax burdens to others. They also maintain that churches have grown increasingly political in violation of their tax-exempt status.

The dispute over Wisconsin unemployment tax exemptions is the first of its kind, said Patrick Elliott, an attorney for the Freedom From Religion Foundation. But challenges to religious property tax exemptions have been fairly common, with most judges finding that the organizations must use the land for religious purposes, not just own it, to qualify for exemptions.

Wisconsin law requires employers to pay an unemployment tax that is used to fund benefits for workers who lose their jobs. The law exempts religious organizations from the tax.

Every Catholic diocese in Wisconsin has a Catholic Charities entity that serves as that diocese's social ministry arm.

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The Catholic Charities Bureau is the Superior diocese's entity. The bureau manages nonprofit organizations that run more than 60 programs designed to help older or disabled people, children with special needs, low-income families, and people suffering from disasters, regardless of their religion, according to court documents.

The bureau and four of its subentities have been arguing in court for five years that the religious exemption from the unemployment tax should apply to them because they're motivated by Catholic teachings that call for helping others.

A state appeals court in February 2023 decided the subentities failed to show their activities are motivated by religion. Judge Lisa Stark wrote that the subentities' mission statements call for serving everyone, regardless of their religions.

As for the bureau itself, it has a clear religious motivation but isn't directly involved in any religiously oriented activities, she wrote. The outcome might have been different, Stark added, if the church actually ran the bureau and its subentities. Their workers would then be considered church employees, she said.

The bureau and the subentities asked the Wisconsin Supreme Court to review that decision. But the court's four-justice liberal majority upheld the appellate ruling on almost the same rationale.

"The record demonstrates that CCB and the sub-entities, which are organized as separate corporations apart from the church itself, neither attempt to imbue program participants with the Catholic faith nor supply any religious materials to program participants or employees," Ann Walsh Bradley wrote.

She rejected the bureau's arguments that evaluating a religious organization's motivations and whether its activities are sufficiently religious amounts to an excessive state entanglement with religion that violates the constitutional separation of church and state. That separation doesn't prohibit all government inquiries into a religious organization, and tax-exemption decisions require investigation, she wrote.

Justice Rebecca Bradley, one of the court's three conservative justices, began her dissent by quoting a Bible verse that calls for rendering unto God the things that are God's. She accused the majority of rewriting the exemption statutes to deprive Catholic Charities of the exemption, "rendering unto the state that which the law says belongs to the church."

"The majority’s misinterpretation also excessively entangles the government in spiritual affairs, requiring courts to determine what religious practices are sufficiently religious under the majority’s unconstitutional test," Rebecca Bradley wrote. "The majority says secular entities provide charitable services, so such activities aren’t religious at all, even when performed by Catholic Charities."

Elliott, the Freedom From Religion Foundation attorney, called the ruling a win. If the charity groups had prevailed, the next step would be arguments to exempt religious hospitals and colleges, such as Marquette University, from paying the unemployment tax, he said.

"It’s really a win for employees who work for religious organizations," Elliott said. "They get coverage under the Wisconsin unemployment system."

Buckley, the spokesperson for the law firm representing the bureau, said the constitutional issue will be the basis for the U.S. Supreme Court appeal. Typically, litigants appeal rulings from states' highest courts invoking federal questions directly to the U.S. Supreme Court.