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200022057

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Contact Person:

Telephone Number:

Refer reply to: T:EP:RA:T5

Date:February 23, 2000

Attention

Legend:

Church =

Hospital A=

Corporation B=

Corporation C=

Committee D =

Congregation S=

State E =

Plan=

Dear Ms.

This is in response to a letter dated , 1999, in which your authorized representative requested rulings on your behalf under section 414(e) of the Internal Revenue Code.

In support of your letter ruling request, your authorized representative has submitted the following facts and representations:

Hospital A, a State E corporation, is a subsidiary of Corporation B, which is owned by Corporation C. Corporation C is owned by Congregation S. The bylaws of Hospital A and Corporation B provide that the sponsoring congregation of the corporation shall be Congregation S and its activities shall be carried on

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subject to the moral and ethical principles of the Church. The governance of Hospital A is vested in a board of trustees of not less than 5 nor more than 19 trustees who are selected by Corporation B based upon the charitable and religious objectives of Hospital A and on the appropriateness of skills.

Both Hospital A and Corporation B are organizations described under 501(c)(3) of the Internal Revenue Code and are listed in the Official Directory of the Church ("the Directory"). Hospital A has been listed in the Directory since 1974. The Directory is the official directory of the Church, which lists all charitable organizations of the Church exempt from taxation pursuant to section 501(c)(3) of the Code.

Hospital A adopted the Plan effective, to provide retirement benefits to its employees. The Plan has been amended from time to time and was restated as of , 1985. The Plan satisfies the qualification requirements of section 401(a) of the Code and its related trust is exempt from tax under section 501(a) of the Code. Hospital A has never made an irrevocable election under section 410(d) of the Code to make the plan subject to all of the section 401(a) qualification requirements, Title I of ERISA and coverage by PBGC termination insurance.

Since January 1, 1974, the Plan has been administered by the Committee D, whose primary purpose is to administer the Plan, with authority to construe and interpret the Plan, to determine benefits thereunder and to perform other functions generally considered the duties of a plan administrator. Committee D consists of at least two members of the board of trustees in addition to several members of the Hospital A's management team. The members are selected by the chairperson of the board of trustees of the Hospital A, approved by the Board of Trustees and may be removed at any time with or without cause in accordance with the provisions of Hospital A's bylaws.

Based on the foregoing statements and representations, you request a ruling that the Plan qualifies as a church plan within the meaning of section 414(e) of the Code and has so qualified since January 1, 1974, the effective date of section 414(e) of the Code.

To qualify under section 401(a) of the Code, an employee's retirement plan generally must meet the minimum participation standards of section 410 and the minimum vesting standards of section 411. Qualified pension plans also must meet the minimum funding standards of section 412. Each of these sections, however, contains an exemption for a "church plan" as that term is defined in section 414(e), unless an election has been made in accordance with section 410(d). See section 410(c)(1)(B), 411(e)(1)(B) and 412(h)(4).

Section 414(e)(1) of the Code generally defines a church plan as a plan established and maintained for its employees (or beneficiaries) by a church or by

a convention or association of churches which is exempt from taxation under section 501 of the Code.

In the case of a plan established by an organization that is not itself a church or a convention or association of churches but is associated with such a church etc. as described in section 414(e)(3)(D), the plan must be established by an organization described in section 414(e)(3)(A) of the Code, which requires that:

1. an organization must have as its principal purpose the administration of the plan and

2. the organization must be controlled by or associated with a church or a convention or association of churches.

In pertinent part, section 414(e)(3)(B) of the Code provides that an "employee" of a church or convention or association of churches includes an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501, and which is controlled by or associated with a church or convention or association of churches.

Section 414(e)(3)(C) of the Code provides that a church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under section 414(e)(3)(B) of the Code.

Section 414(e)(3)(D) of the Code provides that an organization, whether a civil law corporation or otherwise, is "associated" with a church or a convention or association of churches if the organization if the organization shares common religious bonds and convictions with that church or convention or association of churches.

Thus, in order to have a (qualified) church plan, an organization must establish that:

1. its employees are employees or deemed employees of the church or convention or association of churches under section 414(e)(3)(B) of the Code by virtue of the organization's affiliation with the church or convention or association of churches and

2. its plan is administered by an organization of the type described in section 414(e)(3)(A).

Hospital A and Corporation B are all listed in the Directory, which is the official directory of the Church. The Internal Revenue Service has determined that any organization listed in the Directory is an organization described in

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section 501(c)(3) of the Code, that is exempt from tax under section 501(a). Also, any organization that is listed in the Directory shares common religious bonds and convictions with the Church and is deemed associated with the Church within the meaning of section 414(e)(3)(D).

Accordingly, Hospital A is exempt from taxation under section 501(a) and is also associated with the Church. Therefore, pursuant to section 414(e)(3)(B) and (C) of the Code, employees of Hospital A are deemed to be employees of the Church and the Church is deemed to be the employer of such employees for purposes of the church plan rules.

The members of Committee D are controlled by Hospital A. These members are selected by the Chairperson of Hospital A, approved by the Hospital A board of trustees who may remove these members at any time with or without cause in accordance with the provisions of Hospital A's bylaws. Since Committee D is controlled by Hospital A, it is indirectly associated with the Church. Further, since, as represented above, the principal purpose of Committee D is the administration of the Plan, Committee D constitutes an organization described in section 414(e)(3)(A).

Accordingly, in regard to your ruling request, we conclude that the Plan qualifies as a church plan within the meaning of section 414(e) of the Code.

This letter expresses no opinion as to whether the Plan continues to be a qualified plan under section 401(a) of the Code. The determination as to whether a plan remains qualified under section 401(a) is within the jurisdiction of the appropriate Key District Director's office of the Internal Revenue Service.

In accordance with a power of attorney on file in this office, a copy of this ruling is being sent to you and the original ruling and another copy of the ruling are being sent to your authorized representatives.

Sincerely

Chief, Technical Group 5
Employee Plans, TE/GE Division

CC:

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