DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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SEP 8 2000

Uniform Issue List No. 414.08-00

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ATTN.: **********
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Legend:

Church A = **********
Church B = **********
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Congregation C = **********
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Hospital D = **********
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Corporation E = **********
Affiliate E-1 = **********
Hospital F = **********
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Affiliate F-1 = **********
Affiliate F-2 = **********
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Corporation G = **********
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Corporation H = **********
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Affiliate H-1 = **********
Affiliate H-2 = **********
Affiliate H-3 = **********
Subsidiary H-4 = **********
Subsidiary H-5 = **********
Subsidiary H-6 = **********

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Subsidiary H-7 = **********
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State I = **********
State J = **********
City K = **********
Principles = **********
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Plan X = **********
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Plan Y = **********

Dear Sirs/Madams:

This is in response to a letter dated January 12, 2000, supplemented by additional correspondence dated March 29 and April 28, 2000, in which your authorized representative requested rulings on your behalf under section 414(e) of the Internal Revenue Code.

In support of your ruling requests you have submitted the following statements and information:

Hospital D, a not-for-profit corporation chartered under the laws of State I, is an acute care hospital located in City K of State I. Hospital D's sole member and sponsor is Congregation C, an organization established under the auspices of Church A and dedicated to furthering the teachings, tenets, and core values of that Church. In furtherance of its religious mission to minister to the sick, Congregation C and Hospital D adhere to the principles promulgated by the leaders of Church A in the United States for church-affiliated health care organizations.

Hospital F also is an acute care hospital located in City K of State I. It is a not-for-profit corporation established under the laws of State I, and is described as having primarily an historical relationship with Church B. Church B was instrumental in the Hospital F's establishment, and a member of Church B's clergy continues to serve on the Hospital's staff.

Each of Hospital D and Hospital F has established and maintains a qualified retirement plan for the benefit of its employees and their beneficiaries, and for the benefit of employees of affiliated organizations. Hospital D established and maintains Plan X, a defined benefit pension plan. In ****, the Internal Revenue Service ruled that Plan X is a church plan under the rules of section 414(e) of the Code. Hospital F established and maintains Plan Y, also a defined benefit pension plan. Plan Y is subject to all the rules and requirements of the Employees' Retirement Income Security Act of 1974 (ERISA), Pub. L. 93-406, 1974-3 C.B. 1, as amended.

On *******, ****, Hospital D and its affiliate Corporation E signed a letter of intent with Hospital F and Corporation G to enter into a Joint Operating Agreement ("JOA") and to create Corporation H for the purpose of implementing that agreement. Corporation H commenced business under the JOA on *******, ****, when its amended and restated Articles of Incorporation and Bylaws ("Governance Documents") became operational. Corporation H is now a regional health care medical system, located in City K area, that consists of Hospitals D and F and a number of other not-for-profit and for-profit affiliated organizations.

Corporation H's Governance Documents provide that, for the first six years following ********, **** ("Closing Date"), Corporations E and G will be the sole members of Corporation H. From and after the sixth anniversary of the Closing Date, Congregation C will become the sole member of Corporation H. Under the terms of the JOA, Corporation H has the power to appoint and remove the Boards of Trustees at Hospitals D and F, as well as other affiliates of the system. Corporation H's Governance Documents further provide that its Board of Trustees may take certain actions only with prior consent from one or both corporate members (and after Corporation H's sixth anniversary, only with the prior consent of Congregation C). These actions include, among others:

1. Any adoption, amendment or change in the philosophy, purposes, mission, value statement or name of Corporation H or its affiliated organizations;

2. Amendment or restatement of the JOA;

3. Appointment of a new Corporation H chief executive officer;

4. Appointment of trustees to a Corporation E or Corporation G affiliated entity;

5. Addition of new services or deletion of existing services at any of Corporation H's facilities that is inconsistent with the principles promulgated by the leaders of Church A in the United States with regard to health care facilities affiliated or associated with that Church;

6. Amendments altering the relationship between Corporation F and Church B.

For the first six years following the commencement of business, Corporation G may appoint seven members of Corporation H's Board of Trustees ("Board") and Corporation E may appoint six members. In addition, the Board has three additional Trustees who are religious adherents of Church A, appointed and removable by Congregation C.

Finally, the Chief Executive Officer of Corporation H is a member of the Board of Trustees, and the chiefs of medical staff at Hospital D and Hospital F are *ex officio* Board members. During the first six years following Corporation H's commencement of business, a "supermajority" of 13 votes is needed on the Board of Trustees to effect structural or philosophical changes to either Corporation H or its affiliates. After the sixth anniversary of commencement of business the thirteen members of Corporation H's Board of Trustees will choose their own successors and become self-perpetuating. Congregation C will continue appointing the last three Board members.

On ********, ****, the charters of Hospitals D and F, and the charters of several other not-for-profit entities affiliated with Corporations E and G were amended to provide that Corporation H is the sole member of those Hospitals and affiliated entities. Under this arrangement the main organizations have reciprocal corporate memberships: Corporation H is the sole member of Hospitals D and F; and Corporations E and G are the sole members of Corporation H.

Of the remaining organizations within the Corporation H health system, amended and restated bylaws for Affiliates H-1, H-2 and H-3 provide that their sole corporate member is Corporation H; similarly, Subsidiaries H-4, H-5, and H-6 are wholly-owned, for-profit Corporation H subsidiaries. Four other not-for-profit organizations continue to operate with differing corporate memberships. Corporation E is the sole corporate member of Affiliate E-1. Hospital F is the sole corporate member of Affiliates F-1 and F-2. And Corporation G is the sole corporate member of Affiliate G-1.

Corporation H continues to be heavily influenced by, and adhere to, the teachings, tenets, and core values promulgated by the leaders of Church A in the United States for health care facilities affiliated or associated with Church A ("Principles"). These Principles demonstrate that Church A's ethical and religious focus is to be included in the health care mission of Corporation H. Also, the Principles set forth the rule that any partnership affecting the mission or religious and ethical identity of Church A health care institutional services must respect Church A teaching and discipline. To this end, Corporation H's mission statement provides that: "Rooted in God's Love, we treat illness and promote wellness for all people." Hospital D is mandated to adopt and adhere to the Principles and to provide appropriate instruction regarding them for administration, medical, and nursing staff, and other personnel. Because their activities are heavily influenced by them, Hospitals D and F and Corporation G must provide appropriate instruction regarding the Principles for administration, medical and nursing staff, and other personnel, and must require adherence to all provisions applicable to those providers.

Hospitals D and F hold Church A and interdenominational worship services on a regular basis. A member of the Church B clergy continues to serve full time at Hospital F. Corporation H also has begun an outreach program to address unmet health needs, and it has begun a program to provide low-cost housing within the City K community.

Consistent with the Joint Operating Agreement for Hospitals D and F, D's Board of Trustees amended and restated Plan X, effective ******, ****, to provide coverage for all employees of Hospital F, Corporation H, and their beneficiaries, and the employees and beneficiaries of the various affiliates and subsidiaries described above. Under Plan X, Hospital F and Corporation G are considered affiliated employers and their employees are eligible to become participants in Plan X. The Boards of Trustees of Hospital D, Hospital F, and Corporation H have each approved participation by their respective employees in Plan X. To this end the Trustees propose to merge Plan Y into Plan X. With reference to this plan merger, you have represented that, as soon as administratively feasible, Plan X will be amended to provide that, in no event shall the accrued benefit of any former participant in Plan Y be less than the benefit accrued under that Plan by that participant as of June 30, 1998, determined under the provisions of Plan Y. For the Plan year ending June 30, 1999, Plan X had **** participants, of whom **, or about 2.8% are employees of for-profit entities affiliated or associated with Corporation H.

Plan X is administered by a Hospital D Plan Committee, which exercises the employer's administrative powers as Plan Administrator. The Plan Committee consists of two members of Congregation C and one employee of Hospital D. All members of the Plan Committee are subject to approval by, and serve at the pleasure of, Congregation C. The principal responsibility of the administrator is to administer Plan X for the exclusive benefit of its participants and their beneficiaries.

Congregation C and Hospital D are each listed in the official directory of Church A for the United States of America. The Internal Revenue Service has determined that any organization listed or appearing in Church A's official directory is an organization described in section 501(c)(3) of the Code, and exempt from tax under section 501(a). In separate letters dated *********, ****, and **********, **** respectively, the Service determined that Corporation H and Hospital F also are organizations described in section 501(c)(3) of the Code, and exempt from tax under section 501(a).

Based on the foregoing statements and representations, you request a ruling that, effective ******, ****, Plan X, as amended and restated and merged with Plan Y, is and continues to be a church plan under the rules of section 414(e) of the Code.

To qualify under section 401(a) of the Code, an employee' plan generally must, among other requirements, 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 exception for a "church plan" as defined in section 414(e), unless an election has been made in accordance with section 410(d). See sections 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 their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under section 501.

Section 414(e)(2)(B) of the Code provides, in pertinent part, that the term "church plan" does not include a plan if less than substantially all of the individuals included in the plan are individuals described in section 414(e)(1) or section 414(e)(3)(B), or their beneficiaries.

Section 414(e)(3)(A) of the Code provides that a plan will be treated as a church plan if it is maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is 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 shall include an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Code, and which is controlled by or associated with a church or a 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 subparagraph (B).

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 convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

In order for an organization that is not itself a church or convention or association of churches to have a church plan under section 414(e) of the Code, that organization must establish that its employees are employees or deemed employees of the church or convention or association of churches under section 414(e)(3)(B). Employees of any organization maintaining a plan are considered to be church employees if the organization: (1) is exempt from tax under section 501 of the Code (2) is controlled by or associated with a church or convention or association of churches; and (3) provides for administration or funding (or both) of the plan by an organization described in section 414(e)(3)(A) of the Code.

In this case, Congregation C of Church A, and Church B established separate health care facilities in City K of State I, in affirmation of the respective churches' teachings, tenets, and core values that call for ministering to and comforting those who are ill or suffering. Church A and Church B thus have shared values regarding the healing arts, and common concerns over the plight of persons needing medical services. These shared values and concerns enabled Hospital D and its affiliate, Corporation E, to enter into the JOA with Hospital F and Corporation G, and to collaborate in creating Corporation H as a regional health care delivery system.

Corporation H is now the sole member of not-for-profit Corporations Hospital D, Hospital F, and Affiliates H-1, H-2, and H-3; in addition, Corporation H is the sole shareholder of for-profit Subsidiaries H-4, H-5, and H-6. Of the four remaining affiliates, E-1 and G-1 have one of the same corporate members as Corporation H; the corporate member of F-1 and F-2 is Hospital F (which, as stated above, is controlled by Corporation H). Further, under the present reciprocal arrangement, Corporations E and G are the members of Corporation H and appoint the majority of H's Board of Trustees. (Congregation C also appoints three members of the Board.)

Under the terms of the JOA, Corporation H has the power to appoint and remove members of the Board of Trustees at Hospitals D and F, as well as Trustees of the affiliates and subsidiaries, designated above, that are under its organizational control. However, certain actions (described above) taken by the Corporation H Board of Trustees require the prior consent of one or both of its current corporate members, Corporation E or Corporation G. From and after the sixth anniversary of the Closing Date, Congregation C will continue as the sole member of Corporation H, and will have the authority, in perpetuity, to continue appointing three members of the Corporation H Board.

Although it is possible to establish an association for purposes of section 414(e) of the Code between Corporation H and either Church A or Church B, the overall transaction in this case is oriented more toward a long-term relationship between Corporation H, and Congregation C and Church A. Congregation C and Hospital D continue

to be listed in the official directory of Church A for the United States of America. The Internal Revenue Service has determined that any organization listed or appearing in Church A's official directory is an organization described in section 501(c)(3) of the Code, and exempt from tax under section 501(a). Any organization that is listed, or that appears in Church A's official directory also is considered to be associated with Church A for purposes of section 414(e) of the Code.

Corporation H and Hospital F have each received separate determination letters from the Internal Revenue Service, finding them to be organizations described in section 501(c)(3) of the Code and exempt from tax under section 501(a). As the controlling entity, Corporation H has taken steps to assure that all parts and employees of its regional health care delivery system are familiar with the teachings, tenets, and core values of Church A. As discussed above, Congregation C's permanent presence on the Corporation H Board of Trustees guarantees continuing consideration of Church A concerns, and of the ethical Principles applicable to health care facilities affiliated with church A in the United States. These Principles show that Church A's ethical and religious focus must be included in the health care mission of Corporation H, and they emphasize the rule that any partnership affecting the mission or religious and ethical identity of Church A health care institutions must respect Church A teaching and discipline. Corporation H's mission statement provides that: "Rooted in God's Love, we treat illness and promote wellness for all people." Hospital D is mandated to adopt and adhere to the Principles and to provide appropriate instruction regarding them for administration, medical, and nursing staff, and other personnel. Because their activities are heavily influenced by them, Hospitals D and F and Corporation G must provide appropriate instruction regarding the Principles for administration, medical, and nursing staff, and other personnel and must require adherence to all provisions applicable to those providers.

Accordingly, it is concluded that Corporation H, Hospitals D and F, Corporations E and G, and the affiliates and subsidiaries listed in this ruling are all part of an organization that share common religious bonds and convictions with a church or convention or association of churches. We further conclude that the Corporation H, Hospitals D and F, Corporations E and G, and the aforementioned affiliates and subsidiaries are associated with Church A within the meaning of section 414(e)(3)(D) of the Code and for purposes of the church plan rules.

Because Corporation H's entire regional health care delivery system is associated with Church A, it is further concluded that substantially all the employees of that system are employees of organizations that are exempt from tax under section 501 of the Code and associated with a church or convention or association of churches

within the meaning of section 414(e)(3)(B). Accordingly, employees of Corporations H, E, and G, Hospitals D and F, and the affiliates and subsidiaries listed herein are considered to be employees of Church A under section 414(e)(3)(B) of the Code and for purposes of the church plan rules. Conversely, under the rule of section 414(e)(3)(C) Church A is deemed the employer of those employees employed in the Corporation H regional health care delivery system.

You have previously represented that, of the **** participants in Plan X during the plan year ending June 30, 1999, **, or about 2.8 percent, of those participants are employees of for-profit entities affiliated with Corporation H. It is concluded, based on these representations, that substantially all Plan X participants are employees of organizations described in section 501(c)(3) of the Code and exempt from tax under section 501(a). Accordingly it is concluded that Plan X satisfies the requirements of section 414(e)(2)(B) of the Code for purposes of the church plan rules.

Having established that employees of Corporations H, E, and G, Hospitals D and F, and the affiliates and subsidiaries are considered to be employees of Church A, the remaining question is whether the Hospital D Retirement Plan Committee is an organization, controlled by or associated with a church or convention or association of churches, that has as its principal purpose or function the administration or funding of a plan or plans for the provision of retirement benefits or welfare benefits, or both, within the meaning of section 414(e)(3)(A) of the Code.

Plan X is administered by the Hospital D Plan Committee, which exercises the employer's administrative powers as Plan Administrator. The Plan Committee consists of two members of Congregation C and one employee of Hospital D. All members of the Plan Committee are subject to approval by, and serve at the pleasure of Congregation C. The principal responsibility of the Administrator is to administer Plan X for the exclusive benefit of its participants and their beneficiaries. Based on these facts and representations, it is concluded that the Hospital D Plan Committee is an organization that is associated with a church or convention or association of churches, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits for individuals deemed to be employees of that church or convention or association of churches. In this case, the Hospital D Plan Committee is an organization, associated with Church A, the principal purpose or function of which is administration of a plan or program for the provision of retirement benefits for individuals deemed to be employees of Church A. Therefore, the Hospital D Plan Committee satisfies the requirements of section 414(e)(3)(A) of the Code for purposes of the church plan rules.

Accordingly, it is ruled that, effective July 1, 1998, Plan X, as amended and merged with Plan Y, is and continues to be a church plan under the rules of section 414(e) of the Code.

This ruling is directed only to the applicants requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent. Also, this ruling expresses no opinion as to whether Plan X, as described herein, continues to satisfy the requirements of qualification under section 401(a) of the Code. The determination as to whether a plan is qualified under section 401(a) is within the jurisdiction of the Manager, Employee Plans Determinations Programs, Cincinnati, Ohio, and the Employee Plans Examination Area Manager, Gulf Coast, Dallas, Texas. Should you have questions regarding the content of this ruling, please contact ********** (government identification number ********) of this office at **********.

A copy of this ruling has been sent to your authorized representatives in accordance with a power of attorney on file in this office.

Sincerely,

John Swieca

John Swieca, Manager
Employee Plans Technical Group 1
Tax Exempt and Government
Entities Division

Attachments:

- Deleted Copy of this Letter Ruling
- Copy of Cover Letter to Authorized Representative
- Notice 437, Notice of Intent to Disclose