Internal Revenue Service

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Department of the Treasury
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Contact Person:

Telephone Number:

In Reference to: T:EP:RA:T1

Date:

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Church.....

Corporation A.....

Corporation B.....

Corporation C.....

Corporation D.....

Corporation E.....

Corporation F.....

Corporation G.....

Congregation A.....

Congregation B.....

Organization A.....

Organization B.....

Organization C.....

Subsidiary D.....

Organization E.....

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Plan.....

State A.....

State B.....

State C.....

Dear Mr. :

This is in response to a letter dated March 9, 2000, as supplemented by additional correspondence dated September 22 and October 31, 2000, in which your authorized representative requested rulings on your behalf under section 414(e) of the Internal Revenue Code (the "Code").

You submitted the following facts and representations in support of your request:

Corporation C is a non-stock, not-for-profit corporation organized under the laws of State A. Corporation C has been determined to be an organization described under Code section 501(c)(3) and exempt from tax under section 501(a). Corporation C serves as a joint operating company coordinating the health care activities of a number of hospitals, health centers, clinics and nursing homes in a particular region of State B, including Organizations A, B, C, E, F, and Subsidiary D. The corporate members of Corporation C are Corporation A and Corporation B. Corporation C sponsors the Plan, a defined benefit plan intended to satisfy the requirements of section 401(a).

Corporation A is a State A non-profit organization sponsored by Congregation B. Corporation A was incorporated in 1983 as a member organization of more than 100 health, shelter, and spiritual development services sponsored in five states. Corporation A is dedicated to the empowerment of people, the transformation of consciousness and of systems providing health, shelter and spiritual development which further the commitment of Congregation B to live the gospel. Corporation A is exempt from tax under section 501(a) as an organization described in Code section 501(c)(3).

Congregation A was established by the Church in 1872. Since that time, the general purpose of Congregation A has been to own, maintain and operate hospitals, and homes for the aged and poor, and other benevolent and charitable institutions and to receive gifts, bequests and donations from charitably inclined persons, associations and corporations in acquiring, maintaining and running such institutions. The duties of Congregation A include the ministration of sacerdotal functions and the conduct of religious worship.

Congregation B is an order of approximately 200 religious individuals located in State A dedicated to serving the Church. Congregation B has organized Corporation A on a three-tier

framework in which control is held through board representation. Corporation A's Board of Directors is elected by a group (the "Group") chosen by the governing council of Congregation B The Group exercises authority over the entities within the Corporation A system. The Group is comprised of seven members of Congregation B and has the authority to remove, with or without cause, any and all the directors of Corporation A. Corporation A's Board of Directors is required to consist of not less than 11 and not more than 16 persons of whom at least two are members of Congregation B. Other members of Corporation A's Board shall have an awareness and commitment to the mission and philosophy of Congregation B and the Church. Corporation A is listed in the official directory of the Church. The Service has determined that any organization listed or appearing in the Church's official directory is an organization described in Code section 501(c)(3) and exempt from tax under section 501(a).

Corporation B is a non-stock, non-profit corporation organized under the laws of State B. Corporation D is the sole corporate member of Corporation B. Corporation D is organized under the laws of State C, and its corporate members are Corporation E and Corporation G. Corporation E's sole member is Corporation F. Corporations B, D, E, F, G, and Congregation A are all listed in the official Church directory and are, therefore, organizations described in Code section 501(c)(3), and exempt from tax under section 501(a). As part of Corporation D's health care system, Corporation B participates in the healing mission of the Church and Congregation A. The purposes of Corporation B are to assist Congregation A in its apostolic mission; to provide health care and related education and structures which help direct and coordinate the health care system; to guide and enable the functioning of Gospel values so that resources are developed, focused and extended in ways that promote the mission of Congregation A; and to facilitate planning and cooperation with Corporation E. The duties of Corporation E include the ministration of sacerdotal functions and the conduct of religious worship.

As corporate members and collaborators in the ongoing administration and operation of Corporation C's health system, Corporations A and B each nominate one-half of the individuals who serve on Corporation C's Board of Directors. All directors must be approved, however, by both Corporations A and B, and may be removed with or without cause by the joint action thereof. Corporations A and B reserve authority over certain matters which must first be reviewed by a committee consisting of four to six individuals representing Corporations A and B, including at least two sisters representing Congregations A and B. The reserved powers fall into three categories, those reserved over Corporation C, Organization F, and Subsidiary D; those reserved over Organization A, Organization B and Organization C; and those reserved over other Corporation C system entities. Reserved powers in all three categories include approval and modification of an organization's Articles of Incorporation and Bylaws and election and removal of members of the organization's board of directors.

As provided by section 1.6 of its Bylaws, Corporation C participates in the mission of the Church by assisting in carrying out its mission; furthering the mission of Corporations A and B and their affiliated organizations; promoting, supporting and engaging in any and all religious, charitable, educational, and scientific ministries which are now conducted by these organizations;

promoting and conducting religious programs and providing access to resources aimed at promoting life, health and personal well-being; and encouraging private and public participation in services and programs which are charitable, scientific, educational or religious and which address the physical, mental, social or spiritual needs of people.

Organizations A and B are State B non-stock, non-profit corporations that operate two hospitals, respectively, in State B. Organizations A and B participate in joint operating arrangements under which Organization A has two members, Corporation A and Corporation C, and Organization B has two members, Corporations B and C. Organizations A and B, listed in the official Church directory, are exempt from tax under Code section 501(a) pursuant to section 501(c)(3). Organizations A and B have adopted the Plan.

Organization C is a non-stock, non-profit corporation that operates a nursing facility in State B. Organization C has two members, Corporations A and C, and is exempt from tax under Code sections 501(c)(3) and 501(a). Organization C has adopted the Plan.

Organization F is a State non-stock, non-profit corporation that provides health care services through employed physicians at various practice settings located in State B. Corporation C is the sole corporate member of Organization F, and Organization F is exempt from federal income tax pursuant to Code sections 501(a) and 501(c)(3). Organization F has adopted the Plan.

Organization F holds all of the stock of Organization D, which is a for-profit insurance company. Organization D is the only for-profit entity that has adopted the Plan. 3.5 percent of the participants in the Plan are employees of Subsidiary D.

Organizations A and F equally hold the membership interests in Organization E, a 501(c)(3) organization that provides occupational health services throughout a particular region in State B. Organization E has adopted the Plan.

The Plan is administered by a "Plan Administrator," which is defined in Section 6.01 of the Plan to mean a Pension Committee appointed by the Board of Directors of Corporation C. The Plan Administrator has the power and duty to prepare and retain records of its meetings and actions; determine issues of eligibility for Plan participation; determine the amount, time and manner of benefits; prescribe procedures for requesting benefits under the Plan; prepare and distribute information regarding the Plan; review periodic valuations of Plan assets by the Plan's actuary; process legal actions against the Plan; receive reports from managers investing Plan assets; and employ or appoint individuals to assist in Plan administration. You represent that the principal purpose and function of the Plan Administrator is to administer the Plan.

Based on the above facts and representations, you request a ruling that the Plan is a "church plan" within the meaning of Code section 414(e).

To qualify under Code section 401(a), an employees' plan must meet certain requirements,

including the minimum participation rules under section 410 and the minimum vesting requirements under section 411. A qualified plan may be subject to an excise tax under section 4971 if it does not comply with minimum funding standards under section 412. A church plan described in section 414(e), however, is excepted from these requirements unless an election is made in accordance with section 410(d). See sections 410(c)(1)(B), 411(a)(1)(B), 412(h)(4) and 4971(a). Further, church plans not filing a 410(d) election are not subject to Form 5500 (Annual Return/Report of Employee Benefit Plan) series filing requirements.

Code section 414(e)(1) generally defines a church plan as a plan established and maintained for its employee (or their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under section 501.

Code section 414(e)(3)(A) 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.

Code section 414(e)(3)(B) 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, and which is controlled by or associated with a church or a convention or association of churches.

Code section 414(e)(3)(C) 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).

Code section 414(e)(3)(D) 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.

Code section 414(e)(2)(B) excepts from the definition of "church plan" a plan if less than substantially all of the individuals included in the plan are individuals described in paragraph (1) or (3)(B) (or their beneficiaries).

In order for an organization that is not itself a church or convention or association of churches to have a church plan under Code section 414(e), that organization must establish that its employees are employees or deemed employees of a 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, (2) is controlled by or associated with a church or convention or association of churches, and (3)

provides for administration or funding of the plan by an organization described in section 414(e)(3)(A).

In this case, all of the organizations participating in the Plan are organizations described in Code section 501(c)(3), except Subsidiary D. The sole members of Corporation C are Corporations A and B, both of which are listed in the Church's directory. Any organization that is listed in the Church's official directory shares common religious bonds and convictions with the Church and is associated with the Church within the meaning of section 414(e)(3)(D) and section 414(e) as a whole. Corporation A, sponsored by Congregation B, is dedicated to Congregation B's mission of providing health care and fostering spiritual development. Corporation A's Board of Directors are elected by the Group, which is comprised of members of Congregation B.

Corporation B has as its sole member Corporation D, and Corporation D's corporate members are Corporations E and G. Corporation E's sole member is Corporation F. Corporations D, E and F are all listed in the Church's directory. Corporation B's purposes are to assist Congregation A in providing health care and implementing Gospel values.

Corporations A and B by mutual agreement appoint the members of Corporation C's Board of Directors. Corporations A and B reserve the powers to elect and remove directors and approve or modify the bylaws of Corporation C and Organizations A, B, and F. The employees of Subsidiary D constitute 3.5 percent of all employees participating in the Plan.

If an organization is exempt from tax un der Code section 501(a) and is controlled by or associated with a church or convention or association of churches by virtue of sharing common religious bonds and convictions, then that organization's employees are deemed to be Church employees. Corporation C and the non-profit corporations listed above are associated with or controlled by the Church through their affiliation with Corporations A and B, as described above. Accordingly, since Corporation C and Organizations A, B, C E, and F are controlled by or associated with the Church, the employees of these organizations are deemed to be employees of the Church under section 414(e)(3)(B). Conversely, the Church is deemed to be the employer of these organizations' employees under section 414(e)(3)(C). Because these employees constitute 96.5 percent of total Plan participation, substantially all of the Plan's participants are employees who are deemed to be employees of the Church.

Having established that the employees of Corporation C and the non-profit organizations are considered church employees, the remaining issue is whether the Plan is administered by a committee that is controlled by or associated with a church or and association or convention of churches the principal function or purpose of which is the administration or funding of a plan, as required by Code section 414(e)(4)(A).

Section 6.01 of the Plan provides that Corporation C's Board of Directors will appoint the Pension Committee that serves as the Plan Administrator. Corporation C's Board of Directors is

associated with or controlled by the Church since its members are appointed by Corporations A and B. Corporation C is an organization described in Code section 501(c)(3) that shares common religious bonds and convictions with the Church. In addition, the principal purpose or function of the Plan Administrator is to administer the Plan. Thus, the Plan Administrator qualifies as an organization described in section 414(e)(3)(A) because it is controlled by or associated with the Church, and its principal purpose or function will be the administration of the Plan maintained for Church employees. Accordingly, we rule that the Plan is a church plan within the meaning of section 414(e)(3)(A).

This letter expresses no opinion as to whether the Plan satisfies the requirements for qualification under Code section 401(a). 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 appropriate Area Office of the Employee Plans Examination Division.

This ruling is directed only to the taxpayer who requested it. Code section 6110(k)(3) provides that it may not be used or cited by others as precedent.

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

Sincerely yours,

John Swieca

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

Enclosures:
Copy of letter ruling
Copy of deleted letter ruling
Notice 437

cc: