Significant Index #1414.08-00

Internal Revenue Service

Department of the Treasury

200125095

Washington, DC 20224

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Date:
MAR 29 2000

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Attention: ********** **********

Legend:

Church A = **********
Association C = ********** ********** **********
Corporation M = **********
Covenant Y = ********** ********** ********** ********** **********
Organization O = **********
Organization P = ********** **********
Organization Q = **********
Plan X = **********
Committee N = **********
State A = **********

Dear M**********

This is in response to a ruling request dated November 23, 1999, submitted on your behalf by your authorized representative, with respect to the applicability of section 414(e) of the Internal Revenue Code to Plan X.

The following facts and representations have been submitted on your behalf:

Corporation M is a State A nonprofit corporation which is exempt from tax under section 501(c)(3) of the Code.

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Corporation M is organized and operated to conduct and maintain an institution of higher education under the auspices of Association C and Church A. The members of Corporation M are its Board of Directors, also known as the Board of Trustees ("Board"). The Board is composed of a minimum of 37 members and a maximum of 40 members with equal voting rights. Ex-officio members are: (1) a Bishop of Region of Church A selected by the Board; (2) the President of Corporation M; and, (3) the President of Association C. Remaining members of the Board are elected by Association C. There is also an advisory director who is the executive director of the Division for Education of Church A or the executive director's appointee.

Corporation M's by-laws acknowledge the intention of Church A to strengthen Corporation M spiritually and academically and to provide oversight and financial assistance. Further, Corporation M in its by-laws declares its intention, in pursuing its educational function, to reflect the faith of the Christian Church. The by-laws also provide that Corporation M acknowledges the intention of Association C to strengthen Corporation M spiritually and academically and to provide oversight and financial assistance.

Association C, an association of congregations of Church A, is a tax-exempt nonprofit corporation. As stated in Association C's by-laws, Association C was formed to elect persons to serve on the Corporation M Board; to strengthen Corporation M spiritually and academically; to support the Church A tradition of academic freedom; and to provide oversight and whatever financial assistance it may find feasible and appropriate. The members of Association C consist of the members of the Board of Corporation M and of the congregations of Church A that elect members according to the procedures in Association C's by-laws. According to the Association C's by-laws, any congregation of Church A is eligible for membership by electing or appointing delegates to the annual convention of Association C. Voting members are the Board of Corporation M, the Board of Directors of Association C, the pastors of each member congregation, and one lay delegate per 500 baptized members. The Board of Directors of Association C consists of the President of Corporation M and a Bishop of the regional unit of Church A in which Corporation M is located. Additional members are nominated by the Board of

Directors of Association C and elected at each annual meeting of Association C. The nominating committee for the Board of Directors of Association C is the Board of Corporation M.

In 1992, Corporation M, Association C and Church A adopted Covenant Y confirming the continuing relationship between Corporation M, Association C and Church A. Covenant Y shows the Church A involvement in and support for the higher education mission of Corporation M and the support and interaction between Church A and Corporation M.

Corporation M employs a number of employees, including faculty and administrative personnel and other staff members, and offers Plan X as an employee benefit. Until June 1, 1999, a benefit that Corporation M offered that was similar to that of Plan X was a single employer self-funded plan administered by Organization 0. Corporation M also offered retiree medical coverage to certain faculty and other employees who retired on or after age 60 with at least 20 years of service with Corporation M. The medical benefits available to the retirees are generally the same as the medical benefits available to active employees of Corporation M.

In order to manage the costs of Plan X, Corporation M has explored options for delivery of its health care program to employees. One such option is the participation by Corporation M in a health plan sponsored by Organization P, a medical insurance pool sponsored by Organization Q. Organization Q is a service cooperative organized under State A statutes to perform planning on a regional basis and to assist participating government units and other members in meeting their needs, including purchasing needs and the establishment of insurance pools for the benefit of government units located within their region. Some such service cooperatives also permit certain non-governmental entities to join the insurance pool. Organization Q permits non-governmental entities that are exempt from coverage under the Employee Retirement Income Security Act of 1974 to participate in the insurance pool as non-voting members.

The insurance pool sponsored by Organization Q provides a major medical plan for which Organization O is the third party administrator. The benefits under this

plan are established by separate contract between Organization O and each participating member, such as Corporation M. Corporation M expects that the medical benefits it will offer under Plan X with Organization O will be basically the same as the benefits it offered under its single employer self-funded plan. Corporation M does not intend to reduce levels of medical benefits to its employees under the new arrangement, and will continue to offer health care continuation benefits to participants. Plan X will continue to cover active employees and retirees of Corporation M. No other persons are eligible Plan X participants.

One of the eligible employees and retirees is employed in connection with an unrelated trade or business of Corporation M. The unrelated business is Corporation M's summer programs. Corporation M employees approximately 638 employees, 545 of whom participate in Plan X.

Plan X was adopted June 1, 1999 and is administered by Committee N. Pursuant to Article IV of Plan X, Committee N consists of Corporation M's president, six Corporation M vice presidents and the members of the Corporation M compensation committee. Committee N, among other various powers and duties, may determine the rights of eligibility to participate in Plan X, adopt rules of procedure and regulations necessary for the proper and efficient administration of Plan X, construe and enforce the terms of Plan X, and review and render decisions respecting a claim for or denial of the claim for a benefit under Plan X.

Based upon the aforementioned facts, you have requested a ruling that Plan X is a "church plan" within the meaning of section 414(e) of the Code.

Section 414(e)(1) of the Code 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 of the Code.

In accordance with section 414(e)(2) of the Code, the term "church plan" does not include a plan that is established and maintained primarily for the benefit of employees (or their beneficiaries) of a church or a convention or association of churches who are employed in

connection with one or more unrelated trades or businesses (within the meaning of section 513); or if less than substantially all of the individuals included in the plan are church employees, as described in section 414(e)(1) or section 414(e)(3)(B).

Section 414(e)(3)(A) of the Code provides that a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan 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.

Section 414(e)(3)(B) of the Code defines "employee" to include a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry, regardless of the source of his or her compensation, and 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.

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

In order for an organization to have a qualified church plan, it 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) of the Code by virtue of the organization's affiliation with

the church or convention or association of churches and that the plan will be administered by an organization of the type described in section 414(e)(3)(A).

In this case, Corporation M is an organization that is associated with Church A as follows: Corporation M shares religious bonds and convictions with Church A as evidenced by Covenant Y confirming the interrelationships among Corporation M, Church A and Association C, whereby Corporation M conducts and maintains an institution of higher education under the auspices of Association C and Church A. The Association C by-laws provide that it shall strengthen Corporation M spiritually and academically by providing oversight and financial assistance. In addition, a Bishop of Church A and the President of Association C are members of the Board of Corporation M, and the remaining members of the Board are elected by Association C. Corporation M is an organization described under section 501(c)(3) of the Code.

In view of the stated purposes of Corporation M, its organization and structure, its actual activities, and its common religious bonds with Church A through its association with Association C, we conclude that the employees of Corporation M meet the definition of employee in section 414(e)(3)(B) of the Code and are deemed to be employees of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 and is controlled by or associated with a church or a convention or association of churches. Accordingly, pursuant to sections 414(e)(3)(B) and (C) of the Code, employees of Corporation M are deemed to be employees of Church A through Corporation M's affiliation with Church A, and Church A is deemed to be the employer of such employees, for purposes of the church plan rules.

However, an organization must also establish that its plan is established and maintained by a church or a convention or association of churches, or by an organization described in section 414(e)(3)(A) of the Code. To be described in section 414(e)(3)(A) of the Code, an organization must have as its principal purpose the administration of the plan and must also be controlled by or associated with a church or a convention or association of churches.

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It has been submitted that Plan X is administered by Committee N. Committee N consists of Corporation M employees and the Committee has broad powers to determine rights of eligibility to participate in Plan X, to adopt rules, construe and enforce the terms of Plan X, and to review and render decisions involving benefit claims under Plan X.

Further, because the principal function of Committee N is the administration of Plan X, Committee N constitutes an organization, the principal purpose or function of which is the administration or funding of plans or programs for the provision of welfare benefits for employees of Corporation M. Therefore, Committee N qualifies as an organization described in section 414(e)(3)(A) of the Code.

Pursuant to section 414(e)(2) of the Code Plan X is not maintained primarily for the benefit of employees employed in connection with one or more unrelated trades or businesses within the meaning of section 513 of the Code. As of November 23, 1999, Plan X covered 545 employees; the one employee engaged in an unrelated trade or business comprised approximately .018 percent of employees covered by Plan X, and such percentage is deemed insubstantial. Therefore, Plan X is not maintained primarily for employees who are engaged in unrelated trades or businesses within the meaning of section 513 of the Code.

Therefore, with respect to your ruling request, we conclude that Plan X is a church plan within the meaning of section 414(e) of the Code.

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

This letter expresses no opinion as to the status of Plan X as a welfare plan.

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

Sincerely yours,

(Signed) JOYCE E. FLOYD

Joyce E. Floyd, Manager
Employee Plans Technical Group 2
Tax Exempt and Government
Entities Division

Enclosures:
Deleted Copy of this Letter
Notice of Intention to Disclose

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