Uniform Issue List No 414.08-00

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

200307097

NOV 22 2002

Legend:

Church A =

Directory B =

Committee C =

State D =

Corporation L =

Corporation M =

System P =

System R =

Plan S =

Plan T =

Plan U =

Plan X =

Plan Y =

Plan Z =

Ladies and Gentlemen:

This letter is in response to your ruling request dated July 18, 2001 concerning whether Plans X, Y, and Z qualify as church plans under section 414(e) of the Internal Revenue Code ("Code"). The following facts and representations have been submitted:

Corporation L is a hospital and health care provider. Corporation L was incorporated in **** as a State D nonprofit corporation. At all times, Corporation L has been affiliated with the Church A and is listed in Directory B. The Internal Revenue Service has determined that an organization listed or appearing in Directory B is an organization described in Code section 501(c)(3) and exempt from tax under section 501(a).

Corporation L's Articles of Incorporation and Bylaws provide that the corporation shall at all times be operated as a Church A medical center in conformance with the ethical and religious directives of Church A as promulgated and published by the leaders of Church A in the United States of America. In addition, according to Corporation L's Bylaws Article V Section 4, all members of the medical staff of Corporation L are required to verify in writing their acceptance and agreement to abide by the ethical and religious directives for Church A affiliated heath care facilities.

Corporation L and its affiliate, Corporation M, operate two hospitals in State D. In ****, Corporation L and Corporation M joined with another hospital and health care system to form System P, an affiliate of System R. The employees of System P participated in three retirement plans maintained by System R, Plans S, T, and U. The Internal Revenue Service has ruled that, Plans S, T, and U are church plans within the meaning of Code section 414(e).

Effective ****, Corporation L and Corporation M separated from System P. The portions of Plans S, T, and U attributable to the employees of Corporation L and Corporation M were spun off and named Plans X, Y, and Z.

Article VIII of Corporation L's Articles of Incorporation provides the number and composition of Corporation L's Board of Directors. Under Article VIII, Corporation L's

Board of Directors shall consist of no less than 10 and no more than 15 members and is self-perpetuating. While no member is appointed directly by a church official or organization, the Articles of Incorporation provide that a majority of board members must be members of Church A. Plans X, Y, and Z are currently administered by Committee C, which serves at the pleasure of the Plans' Sponsor. The sole function of Committee C is the administration of Corporation L's plans. The Board of Directors of Corporation L appoints members to Committee C. Committee C has the sole responsibility and discretionary power and authority necessary to administer Plans X, Y, and Z for Corporation L.

Based on the foregoing facts, Corporation L requests a ruling that its Plans X, Y, and Z are "church plans" within the meaning of section 414(e) of the Code and have been church plan within the meaning of 414(e) from, ****, the date Corporation L was spun-off from System P.

To qualify under section 401(a) of the Code, an employees' 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 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.

Section 414(e)(3)(A) of the Code provides that a plan, otherwise qualified, will qualify 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.

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 a 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) of section 414(e)(3). 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 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, Corporation L and its subsidiary Corporation M that participate in Plans X, Y, and Z are listed in Directory B. The Internal Revenue Service has determined that any organization listed in Directory B is an organization listed or described in section 501(c)(3) of the Code, and is exempt from tax under section 501(a) of the Code. An organization listed in Directory B shares common religious bonds and convictions with the Church A and is considered associated with the Church A within the meaning of section 414(e)(3)(D) of the Code. Corporation L and Corporation M are dedicated to carrying out their health care mission in keeping with beliefs, traditions, and moral practices of Church A. Therefore, under the principles of section 414(e)(3)(B) of the Code, an employee of Corporation L or Corporation M are considered employees of Church A for purposes of the church plan rules. Additionally, under the principles of section 414(e)(3)(C), Church A is treated as the employer of any employee who is employed by Corporation L or Corporation M.

However, an organization must also establish that its retirement 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.

In this case, Plans X, Y, and Z are administered by Committee C which serves at the pleasure of the Plans' Sponsor and which has sole discretionary authority to administer the plans. It is concluded, therefore, that Committee C is an organization of the type described in section 414(e)(3)(A) of the Code. Specifically, the primary purpose of Committee C is the administration of Plans X, Y, and Z sponsored by Corporation L. The Board of Directors of Corporation L appoints members to Committee C. Consequently, Committee C has been shown to be associated with or controlled by Church A.

Accordingly, with regard to your ruling request, we rule that Plans X, Y, and Z are church plans within the meaning of Code section 414(e)(3)(A). This letter expresses no

opinion as to whether Plans X and Y satisfy the requirements for plan qualification found in Code section 401(a) and section 401(k). Such determinations are under the jurisdiction of the Manager, Employee Plans Determinations in Cincinnati, Ohio. Also, no opinion is expressed as to whether Plan Z satisfies the requirements to be an arrangement under code section 403(b). Such a determination would entail another private ruling request for the Director of Employee plans Rulings and Agreements, Washington, D.C.

This letter 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 as precedent.

Pursuant to the power of attorney on file with this office, a copy of this ruling letter is being sent to your authorized representatives.

Should you have any concerns with this letter, please contact

Sincerely yours,

Andrew E. Zuckerman, Manager
Employee Plans Technical Group 1

Enclosures:
Deleted Copy of this Letter
Notice of Intention to Disclose, Notice 437
Copy of Notification Letter (Form 1155) to Authorized Representative