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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEC 13 2002

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

Legend:

State A = **********
Corporation M = **********
Corporation N = **********
Corporation O = **********
Corporation P = **********
Conference D = **********
Church A = **********
Order B = **********
Individual A = **********
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Plan X = **********
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Plan Y = **********
Committee M = **********
Directory P = **********

Dear **********

This is in response to a ruling request dated November 30, 2000, as supplemented by correspondence dated May 30, 2002, August 15, 2002, and September 18, 2002, submitted on your behalf by your authorized representative, concerning whether Plan X qualifies as a church plan within the meaning of section 414(e) of the Internal Revenue Code.

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

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Corporation M was founded in and was incorporated in by Order B, a religious congregation that was founded under the auspices of Church A. In , after over a century of service, sponsorship of Corporation M was changed from Order B to Individual A (an official of Church A). Four years later Corporation M changed its name to Corporation N.

Corporation N is an organization described in section 501(c)(3) of the Code, which is exempt from taxation under section 501(a). Corporation N is also a nonprofit corporation incorporated in State A as a general care hospital whose primary purpose is to provide medical care in the northern State A area. Corporation N is listed in Directory P as a Church A organization, and as such, will at all times uphold, embrace and be subject to the traditions, teachings and of Church A, the spirit and tradition of its Sponsors, and the Ethical and Religious Directives for Church A Health Care Services promulgated by Conference D. In addition, Corporation N receives funding from Church A. Pursuant to Article I, Section 4(j) of Corporation N's Bylaws, Individual A must approve the appointment or removal of any member of Corporation N's governing board.

Corporation O is a nonprofit State A corporation whose purpose is to participate in the integrated system for the delivery of health care services established by Corporation N. Corporation O's sole member and sponsor since its inception has been Corporation N. Since 1996, Corporation O has purchased a number of physician private practice assets and has employed a significant number of area physicians and support staff to assist Corporation N in the furtherance of its health care purpose and religious mission.

On October 1, 1990, Corporation N adopted Plan X. Plan X is a fully funded defined benefit pension plan, which was established by Corporation N for the benefit of its employees. Article 7.01(a) of Plan X provides that Individual A shall appoint an Administrative Committee, Committee M, to manage and administer Plan X. Committee M shall be the plan administrator and named fiduciary of Plan X. Committee M shall consist of not fewer than three members who believe in and follow the tenets of Church A. The members of Committee M may be removed, with or without cause, by Individual A at any time. Upon the death or resignation, removal, or inability to serve by any member of Committee M, Individual A shall name the successor of such member. Plan X has received a Determination Letter and is recognized as a qualified plan under section 401(a) of the Code.

Corporation N's Board is directly controlled by Church A since Individual A, as a Church official, must approve all Board members. Individual A must also approve certain aspects of Corporation N's operations, such as major loans and

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expenditures; dissolution, merger or sale of substantially all assets; and changes in the governing documents and mission statement.

Since June 1, 1996, Corporation O has maintained Plan Y, a fully funded defined benefit plan for the benefit of its employees. Plan Y has received a Determination Letter and is recognized as a qualified plan under section 401(a) of the Code.

As of January 1, 2000, (Effective Date) Corporation N and Corporation O merged Plan Y into Plan X. As of the Effective Date, all persons who, at the time, were participants and beneficiaries of Plan Y became participants and beneficiaries of Plan X. Plan X continues to provide to those participants and beneficiaries all benefits that accrued under Plan Y prior to the Effective Date (January 1, 2000).

A portion of Corporation N's laboratory, pharmacy, dietary and first aid services are considered for-profit unrelated business activities. Plan X has 2,538 participants. Of that amount, 42 participants, or 1.7 percent of the total, engage in these unrelated activities. None of the former participants of Plan Y who are now covered by Plan X engage in unrelated businesses.

Based on 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 the term "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) of the Code provides that the term “church plan” does not include a plan (A) which 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 (B) if less than substantially all of the individuals included in the plan are individuals described in section 414(e)(1) or 414(e)(3)(B) of the Code.

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

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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 taxation 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 section 414(e)(3)(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. 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 N is an organization that is tax exempt under section 501 of the Code and is controlled by and associated with Church A as follows:

Corporation N's Board is directly controlled by Church A since Individual A, as a Church official, must approve all Board members. Individual A must also approve certain aspects of Corporation N's operations, such as major loans and expenditures; dissolution, merger or sale of substantially all assets; and changes in the governing documents and mission statement.

Further, Corporation N shares common religious bonds and convictions with Church A as evidenced by its listing in Directory P as a Church A organization, and as such, will at all times uphold, embrace and be subject to the traditions, teachings and Canon Law of Church A, the spirit and tradition of its Sponsors, and the Ethical and Religious Directives for Church A Health Care

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Services promulgated by Conference D. In addition, Corporation N receives funding from Church A. Pursuant to Article I, Section 4(j) of Corporation N's Bylaws, Individual A must approve the appointment or removal of any member of Corporation N's governing board.

In view of the stated purpose of Corporation N, its organization and structure, its actual activities, and its common religious bonds with Church A, we conclude that the employees of Corporation N 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 N are deemed to be employees of Church A through Corporation N's affiliation with Church A, and Church A is deemed to be the employer of such employees, for purposes of the church plan rules of section 414(e) of the Code.

Although Plan X covers eligible employees of for-profit entities which are involved in unrelated trades or businesses, it is anticipated that on an ongoing basis, the participation of such employees will not constitute more than an insubstantial portion of the total Plan X participants. You have previously represented that, of the 2,538 participants in Plan X, 42 participants, or about 1.7 percent of those participants are employees of for-profit entities affiliated with Corporation N. 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). Therefore, in accordance with section 414(e)(2) of the Code, substantially all of the individuals included in Plan X are church employees, as described in section 414(e)(3)(B) of the Code 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 or funding of the plan and must also be controlled by or associated with a church or a convention or association of churches.

It has been represented that Plan X is administered by Committee M, an advisory committee whose members are appointed by Individual A. It has also been represented that the principal purpose or function of Committee M is the administration of Plan X. Committee M is the plan administrator and named fiduciary of Plan X. Individual A has the authority to remove members of Committee M and to appoint successors to Committee M. Members of Committee M must believe in and follow the tenets of Church A.

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Because the principal function of Committee M is the administration of Plan X, Committee M is an organization, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement or welfare benefits for employees of Corporation N. Therefore, Committee M qualifies as an organization described in section 414(e)(3)(A) of the Code.

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

This ruling expresses no opinion as to whether Plan X satisfies the requirements of a qualified plan under section 401(a) of the Code. The determination as to whether a plan constitutes a qualified program under section 401(a) is within the jurisdiction of the Manager, Employee Plans Determinations Programs, Cincinnati, Ohio.

These rules do not apply to plans maintained by "churches" of "qualified church-controlled organizations" as defined in sections 3121(w)(3)(A) and (B) of the Code. This ruling expresses no opinion as to whether Corporation N is a "church" or "qualified church-controlled organization" within the meaning of section 3121(w).

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

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office. Should you have any questions, please contact **********, T:EP:RA:T:2, at ***** ********.

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 ruling
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