200316044

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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JAN 16 2003

Uniform Issue List: 414.08-00

T:EP:RA:T4

Attention:

Legend:

Church =

Official Directory of
the Church =

Hospital A =

Corporation B =

Corporation C =

Corporation D =

Individual E =

Individual F =

Individual G =

Committee M =

Committee N =

State S =

Plan X =

Plan Y =

Plan Z =

Date 1 =

Dear :

This is in response to a letter dated January 2, 2002, in which your authorized representative requested rulings on your behalf under section 414(e) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted in support of the rulings requested:

Hospital A is a not-for-profit corporation organized under the laws of State S. Hospital A is exempt from tax under section 501(c)(3) of the Code. The sole and controlling member of Hospital A is Corporation B, a State S not-for-profit corporation. Although Hospital A is governed by a board of trustees consisting of 15 trustees, Corporation B effectively has complete control over Hospital A as its sole member. Pursuant to Hospital A's Certificate of Incorporation and Hospital A's By-Laws, Corporation B has the power to determine the number of trustees, approve their election, remove any of the trustees with or without cause and approve the election and appointment of all officers of Hospital A. In addition, Corporation B has the power to approve and monitor the annual capital and operating budgets of Hospital A.

Effective as of January 16, 1998, Hospital A and Corporation B became affiliated with Corporation C. At such time, Corporation D, a State S not-for-profit corporation, became the sole and controlling member of Corporation B. Although Corporation B is governed by a board of trustees consisting of 15 trustees, Corporation D effectively has complete control over Corporation B as its sole member. Pursuant to Corporation B's By-Laws, Corporation D has the power to determine the number of trustees on the board, approve their election, remove any of the trustees with or without cause, and approve the election and appointment of all officers of Corporation B. In addition, Corporation D has the power to approve and monitor the annual capital and operation budgets of Corporation B.

Corporation D has no members. Pursuant to Corporation D's By-Laws, Corporation D is governed by a board of trustees consisting of (i) the Chairman of the Board of Governors of Corporation C, (ii) the President/Chief Executive Officer of Corporation C, and (iii) the Chief Financial Officer of Corporation C. Each trustee serves for the duration of his tenure in the aforesaid capacity. The board of trustees is responsible for the overall governance of Corporation D. The board of trustees has the power to fill any vacancies on the board as well as remove any officer of Corporation D.

Individual E and two other individuals appointed by Individual E are the sole members of Corporation C. Effective as of January 27, 1999, the two appointed members are Individual F and Individual G. Although Corporation C is governed by a board of governors, Individual E effectively has the ability to control Corporation C by controlling which individuals are appointed as the remaining members of Corporation C and which individuals are appointed to the board of governors. Pursuant to Corporation C's By-Laws, the members have the power to elect the governors, to fill any vacancy on the board of governors, as well as to remove any elected governor, with or without cause.

As a result, Individual E effectively has control over Corporation C, Corporation D, Corporation B, and Hospital A (collectively referred to hereafter as the "Group"). Each member of the Group is listed in the Official Directory of the Church.

The purpose of Hospital A, as provided in its Certificate of Incorporation, is to own, operate, and maintain Church hospitals and healthcare facilities for scientific, charitable, and educational purposes.

The Bylaws of each member of the Group, including Hospital A, provide that each corporation shall operate in conformity with the law, teachings, and moral practices of the Church and in accord with Church directives, as promulgated by Individual E.

Plan X is a defined benefit plan established by Hospital A to provide retirement benefits to employees of Hospital A and their beneficiaries. Prior to and after its affiliation with Corporation C, Plan X has covered only employees of Hospital A. The Internal Revenue Service has determined by a letter dated Date 1 that Plan X is qualified within the meaning of Section 401(a) of the Code. Plan X was frozen in October 1999.

Plan Y is intended to meet the requirements of section 403(b) of the Code. Hospital A established Plan Y in order to provide further retirement benefits to employees of Hospital A and their beneficiaries. Since its inception, Plan Y has only covered employees of Hospital A. Plan Y was established on September 1, 2000.

Plan Z is a defined contribution plan intended to be qualified under section 401(a) of the Code. Plan Z was established by Hospital A to provide retirement benefits to

employees of Hospital A and their beneficiaries. Since its inception, Plan Z has only covered employees of Hospital A. Plan Z was established on September 1, 2000.

Plan X, Plan Y, and Plan Z are administered by Committee M. Committee M is a sub-committee of the Finance Committee of Hospital A. The principal purpose and function of Committee M is the management and administration of Plan X, Plan Y, and Plan Z.

In 2003, the administration and management of Plan X, Plan Y, and Plan Z will be transferred to Committee N. Committee N is a committee of the Board of Governors of Corporation C.

Based on the above facts and representations, you request rulings that, effective as of January 16, 1998 (the date of Hospital A's affiliation with Corporation C) with respect to Plan X, and September 1, 2000 (the date of establishment of Plan Y and Plan Z) with respect to Plan Y and Plan Z, such plans (collectively, the "Plans") are "church plans" within the meaning of section 414(e) of the Code.

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

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, 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 to have a church plan under section 414(e) of the Code, it

must establish that its employees are employees or deemed employees of a church or a convention or association of churches under section 414(e)(3)(B) of the Code by virtue of the organization's affiliation with a church or a convention or association of churches. In addition, in the case of a plan established by an organization that is not itself a church or a convention or association of churches, the plan must be maintained by an organization described in section 414(e)(3)(A) of the Code.

In this case, Hospital A, Corporation B, Corporation C, and Corporation D are listed in the Official Directory of the Church. The Internal Revenue Service has determined that any organization listed in the Official Directory of the Church is an organization 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 the Official Directory of the Church shares common religious bonds and convictions with the Church and is considered associated with the Church within the meaning of section 414(e)(3)(D) of the Code. Accordingly, pursuant to sections 414(e)(3)(B) and (C) of the Code, employees of Hospital A are deemed to be employees of the Church through Hospital A's affiliation with the Church and the Church is deemed to be the employer of such employees, for purposes of the church plan rules of section 414(e) of the Code.

Having established that the employees of Hospital A are considered church employees, the remaining issue is whether the Plans are administered by a committee that is controlled by or associated with a church or an association or convention of churches the principal function or purpose of which is the administration or funding of a plan, as required by section 414(e)(3)(A) of the Code. You have represented that Plan X, Plan Y, and Plan Z are administered by Committee M. Members of Committee M are appointed by the Board of Trustees of Hospital A, whose members are ultimately appointed by the Church. You have further represented that the principal purpose or function of Committee M is the administration and management of Plan X, Plan Y, and Plan Z. Thus, Committee M 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 is the administration or funding of plans maintained for Church employees.

Effective in 2003, Plan X, Plan Y, and Plan Z will be administered by Committee N. Members of Committee N are appointed by the Board of Governors of Corporation C, whose members are ultimately appointed by the Church. You have represented that the principal purpose of Committee N shall be the administration and funding of Plan X, Plan Y, Plan Z, and other retirement plans maintained on behalf of Corporation C.

Therefore, we conclude that, effective as of January 16, 1998 (the date of Hospital A's affiliation with Corporation C) with respect to Plan X, and September 1, 2000 (the date of establishment of Plan Y and Plan Z) with respect to Plan Y and Plan Z, such plans are "church plans" within the meaning of section 414(e) of the Code.

This letter expresses no opinion as to whether Plan X and Plan Z are qualified 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 appropriate Area Manager's Office of the Internal Revenue Service. Similarly, this letter expresses no opinion as to whether Plan Y meets the requirements of section 403(b) of the Code.

This letter expresses no opinion as to whether any organization referred to above is a "church" or a "qualified church-controlled organization within" the meaning of section 3121(w) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations that may be applicable thereto.

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.

This ruling letter was prepared by of this Group. He may be contacted at

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

Sincerely yours,

Alan C. Pipkin
Manager, Technical Group 4
Employee Plans

Enclosures:
Deleted copy of ruling letter
Notice of Intention to Disclose