200317030

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

NOV 04 2002

T:EP:RA:T1

Uniform Issue List: 414.08-00

Attn:

Church K.....

Corporation A.....

Organization B.....

Corporation C.....

State M.....

Plan X.....

Country Z.....

Province Y.....

Dear Sister :

This is in response to a letter dated February 19, 2002, as supplemented by additional correspondence dated July 17, 2002, August 23, 2002, and September 13, 2002, in which your authorized representative requested a ruling 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 A is a non-stock, membership corporation organized under the laws of State M as a non-profit corporation. Corporation A has established and operates six hospitals. Corporation A's mission, as provided in Section 1.2 of Corporation A's By Laws, is to continue the healing ministry of Christ in accordance with teachings of Church K to provide health care services according to the directives for health care services as promulgated by Church K. Corporation A is listed in the official directory of

Church K and is exempt from tax under Code section 501(a) as an organization described in section 501(c)(3).

Organization B was founded in 1863. In 1886, it was split into two provinces, the Country Z Province and Y Province. Organization B is under the direct control and spiritual guidance of Church K, and its governing document ("Constitution") must receive approval from Church K. This approval commissions the members of Organization B to participate in Church K's ministries of healing and teaching. Organization B is also governed by the code, law, rules and directives developed by Church K. All members of Organization B must abide by its Constitution and adhere to vows that are inextricably tied with the principles and objectives of Church K. Organization B operates through legal entities appropriate to the country in which it is operating. Organization B is listed in the official directory of Church K.

Corporation A is one of the entities through which Organization B operates. Corporation A has only one class of members, which are members of Organization B who hold specified leadership positions within the organization and six additional individuals appointed by these members. Pursuant to Section 3.2 of the By Laws, the members of Corporation A are entitled to vote with respect to amendments to the Corporation A's Articles of Incorporation, corporate mission and philosophy, and election and removal of trustees and certain officers of Corporation A. Section 4.1 of the By Laws identifies the Board of Trustees as the governing body of Corporation A. The Board of Trustees consists of 15 persons, the majority of whom are required to be members of Organization B. Corporation A is comprised of regional divisions, which operate and manage health care facilities within a particular region. These regional divisions are managed by a regional board pursuant to the authority granted by Corporation A's Board of Trustees.

In 1998, Corporation A established Corporation C, a not for profit organization formed under the laws of State M. The purpose of Corporation C was to provide laboratory services for the hospitals owned and operated by Corporation A. Corporation C is listed in the official directory of Church K and is exempt from tax under section 501(a) as an organization described in section 501(c)(3). The sole member of Corporation C is Corporation A. Under Corporation C's By Laws, Corporation A appoints Corporation C's Board of Directors, and has the authority to remove any director of Corporation C with or without cause. Currently, Corporation A's Executive Committee serves as Corporation C's Board of Directors.

Corporation A maintains a defined benefit plan ("Plan X") intended to be described in Code section 401(a). Only the employees of Corporation C participate in Plan X. Plan X is administered by a retirement committee whose members are appointed by Corporation A's Board of Trustees. A majority of the persons on the committee are required to be members of Organization B. The principal purpose of the Committee is to manage, administer and operate Plan X.

Based on the above facts and representations, you request a ruling that Plan X constitutes a church plan as described in 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) to have such requirements apply. Where no election is made under section 410(d), a church plan described in section 414(e) shall be treated as a qualified plan for purposes of section 401(a) if such plan meets the participation, vesting and funding requirements of the Code as in effect on September 1, 1974.

Code section 414(e) generally 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.

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.

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 such an organization maintaining a plan are considered to be a church employee 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, Corporation A, Organization B and Corporation C are all listed in Church K's official directory. The Service has ruled that any organization listed or appearing in the Church K's official directory is an organization described in Code section 501(c)(3) and exempt from tax under section 501(a). Corporation A was established by Organization B and has as its purpose the provision of health services in accordance with the ethical and religious directives of Church K. In addition, Corporation A's Board is elected and removed by the members of Organization B. Corporation A established Corporation C to provide laboratory services for Corporation A's hospitals. Because Corporation A, Organization B, and Corporation C are all listed in Church K's official directory, these organizations share religious bonds and convictions with Church K, and are therefore considered to be "associated" with Church K under the church plan rules. Accordingly, because the employees of Corporation C are employed by an organization that is exempt from tax under Code section 501(a) and associated with a church or convention or association of churches (i.e., Church K), these employees are deemed to be Church K employees under section 414(e)(3)(B). Conversely, Church K is considered to be the employer of the employees of Corporation C under section 414(e)(3)(C).

In addition, Plan X is administered by a Committee appointed by Corporation A, and the principal purpose and function of the Committee is to administer Plan X. Thus, the Committee is associated with or controlled by a church or a convention or association of churches. Accordingly, we rule that, with respect to your ruling request, Plan X constitutes a church plan described under Code section 414(e).

This letter expresses no opinion as to whether Plan X 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.

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 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 or concerns,

please contact

Sincerely yours,

(Signed)

Andrew E. Zuckerman, Manager
Employee Plans Technical Group 1

cc:

Enclosures:
Copy of deleted ruling
Notice 437