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

ASSISTANT COMMISSIONER
(EMPLOYEE PLANS AND
EXEMPT ORGANIZATIONS)

U.I.L. 414-08-00

SEP 4 2003

T:EP:RA:T4

Legend:

Church A =
Plan X =
State B =
City C =
Hospital D =
Corporation E =
Corporation F =
Organization G =
Committee H =
Official K =
Board L =
Association M =
Book N =
Board P =

Dear

This is in response to your request for a ruling dated **********, as supplemented by correspondence dated *******, ****, **********, ****, *******, ****, and ********, ****, in which your authorized representative requested a ruling on your behalf concerning the status of Plan X under section 414(e) of the Internal Revenue Code. The following facts and representations have been submitted in support of your request.

Corporation E is a nonprofit corporation exempt from tax under section 501(a) of the Code as an organization described in section 501(c)(3) of the Code. Corporation E is organized under the laws of State B. Corporation E sponsors Plan X for the benefit of employees of Corporation E, Hospital D, and Corporation F. Hospital D and Corporation F are wholly owned nonprofit subsidiaries of Corporation E, exempt from tax under section 501(a) of the Code as organizations described in section 501(c)(3) of the Code.

Plan X is a defined benefit plan that was originally established on *********, ****. Plan X is a qualified plan under section 401(a) of the Code. From that date forward, Plan X has had a committee (Committee H) that has been charged with the responsibility of administering Plan X and providing oversight with regard to investments by the Plan fiduciaries. Committee H consists of at least ***** persons who are appointed by and serve at the pleasure of the Board of Directors of Corporation E. The sole purpose of Committee H is to administer Plan X.

Corporation E traces its early beginnings to Organization G established in **** in City C by a group of Church A ladies who held ********* ******** in Church A. Organization G cared for women who were pregnant and not married, widows and orphans. Organization G also provided other kinds of medical care to sick individuals and to those needing surgery procedures. A separate hospital building was constructed and completed in ****. This first hospital became known as the hospital that the ladies of Church A operated, and in **** the hospital was reincorporated under the name of Hospital D with a maternity home department and a hospital department that operated the hospital portion of the business.

Corporation E operates under the guidance and leadership of a Board of Directors that has ********** members. The Bylaws of Corporation E require that a majority of its Board of Directors be members in good standing of Church A. Additionally, a majority of the Executive Committee of Corporation E must be members in good standing with Church A.

Corporation E's Amended and Restated Certificate of Incorporation provides that Corporation E was organized exclusively for charitable, religious, educational and scientific purposes and specifically for the benefit of Hospital D. On *********, ****, the Articles of Incorporation for Corporation E were amended, restated, and filed with State B. The Articles state that the Corporation is voluntarily affiliated with Church A and will operate in a manner consistent with the doctrines and principles of Church A contained in Book N. Official K is responsible for providing ministerial oversight for Church A and its agencies that are accredited by Church A. Church A's human services are organized under Association M. Hospital D and Corporation E are both members of Association M. Members of Association M, including Hospital D and Corporation E, must report to Board P each year in order to maintain their accreditation with Church A as an Association M member. Hospital D and Corporation E are in compliance with these requirements. Association M reports its findings concerning Hospital D and Corporation E to the Budget and Finance Committee of Board L.

The chief executive officer (CEO) of Corporation E reports to Church A at annual Church A conferences regarding the status and activities of Hospital D and Corporation E, and the CEO also provides Board L with annual audited financial statements for review and approval by Board L. This accreditation for both Hospital D and Corporation E and their ministries by Church A, as well as the staffing of

chaplain services at Hospital D and at Corporation E's facilities, allows Hospital D and Corporation E to enter into fund raising and other activities stating to the public their affiliation with Church A. Corporation E often consults with the ****** of Church A to obtain approval prior to implementing changes to ensure that the changes are not contrary to the discipline of Church A. In this case, in summary, Hospital D and Corporation E both are members of the human service agencies of Church A and adhere to the ethical and religious directives of Church A as communicated by Official K and contained in Book N.

Article I of Corporation E's Bylaws provides that Corporation E may form, own, operate and manage other subsidiary operations for the exclusive benefit and support of Hospital D. As indicated in its Bylaws and Articles of Incorporation, Corporation E is a support organization whose sole purpose is to benefit and support Hospital D, and Corporation E is recognized as a Code section 509(a)(3) support organization. Corporation E's dissolution clause provides that in the event of the dissolution of Corporation E, the Board of Directors shall transfer its remaining assets to Hospital D (and in turn, Hospital D's assets are distributable to the State B Conference of Church A upon its dissolution).

Hospital D is recognized as exempt from tax under section 501(a) of the Code as an organization described in section 501(c)(3) of the Code. The Mission Statement of Hospital D provides that the hospital is a ********* institution serving as a ministry of Church A. According to Article I of Hospital D's Certificate of Incorporation, Hospital D was organized and its policy is to carry out its purposes and objects under the auspices of, and consistent with the doctrines and teachings of Church A. The Bylaws provide in its delegation of authority and managing control of Hospital D to the directors that the hospital is to operate in harmony with the tenets of Church A. Hospital D's Bylaws also provide that the Board of Directors consists of ****** *****members, of whom ********** must be members of Church A, in good standing. In addition, Article IX of Hospital D's Certificate of Incorporation provides that Hospital D will have an Executive Committee that consists of between **** and ********* members. A majority of the members of the Executive Committee of Hospital D must be members in good standing of Church A. The Certificate of Incorporation of Hospital D further requires that the President, CEO, and Administrator all be active members in good standing of Church A.

Hospital D's dissolution clause provides that in the event of the dissolution of Hospital D, the Board of Directors shall transfer its remaining assets to State B Conference of Church A (if in existence) or directly to Church A. According to the Official Yearbook of Church A, Hospital D is approved as a social service agency of Church A and, as such, reports annually to the Administrative Committee of Board L and must submit its annual financial report.

Corporation F was organized exclusively for charitable, religious, educational and scientific purposes. It is exempt from tax under section 501(a) of the Code. Article II of the Bylaws of Corporation F provides that a majority of the Board of Directors of Corporation F shall be members of Church A. Corporation F's dissolution clause provides that in the event of the dissolution, the Board of Directors shall transfer remaining assets in the following order: (i) to Corporation E if it is a tax-exempt entity under section 501(c)(3) of the Code; (ii) to Hospital D if it is a tax-exempt entity under section 501(c)(3) of the Code; (iii) if neither Corporation E or Hospital D is a tax-exempt entity under section 501(c)(3) of the Code, the Board of Directors shall transfer the assets to an entity that is exempt under 501(c)(3) of the Code.

Based on the foregoing facts and representations, Corporation E requests a ruling that Plan X is a church plan described in section 414(e) of the Code, and has been a church plan since its inception on October 1, 1972.

Section 414(e)(1) of the Code 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 that is exempt from taxation under section 501 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 controlled by or associated with a church or a convention or association of churches.

In pertinent part, section 414(e)(3)(B) of the Code provides that an "employee" of a church or a convention or association of churches includes 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.

Section 414(e) was added to the Code by section 1015 of the Employee Retirement Income Security Act of 1974 (ERISA), Public Law 93-406, 1974-3 C.B. 1, enacted September 2, 1974. Section 1017(e) of ERISA provides that Code section 414(e) applied as of the date of enactment of ERISA. However, section 414(e) was amended by section 407(b) of the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA), Public Law 96-364, to provide that section 414(e) was effective as of January 1, 1974.

In order for an organization that is not itself a church or a convention or association of churches 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. Employees of an organization maintaining a plan are considered to be church employees if the organization (1) is exempt from tax under section 501(a) of the Code, (2) is controlled by or associated with a church or a 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) of the Code.

In this case, Corporation E is a nonprofit organization described under section 501(c)(3) of the Code and exempt from tax under section 501(a) of the Code. Corporation E's Amended and Restated Certificate of Incorporation states that Corporation E was organized exclusively for charitable, religious, educational and scientific purposes and specifically for the exclusive benefit of Hospital D. Corporation E's Amended and Restated Certificate of Incorporation states that Corporation E is voluntarily affiliated with Church A and will operate in a manner consistent with the doctrines, principles, and ethical and religious directives of Church A contained in Book N. Corporation E is a member of Association M as indicated previously, and members of Association M must report on an annual basis to Board L to maintain accreditation with Church A.

The CEO of Corporation E reports to Church A at annual conferences regarding the status and activities of Corporation E. The CEO also provides Church A with financial statements for review and approval. Article I of the Corporation E Bylaws provides that Corporation E may form, own, operate and manage other subsidiary operations for the exclusive benefit and support of Hospital D. Corporation E's Bylaws also require that a majority of its Board of Directors be members in good standing of Church A, and that a majority of the Executive Committee of Corporation E must be members in good standing with Church A. Corporation E's dissolution clause provides that in the event of a dissolution, the Board of Directors of Corporation E shall transfer all of its remaining assets to Hospital D.

Hospital D is a nonprofit organization described under section 501(c)(3) of the Code and exempt from tax under section 501(a) of the Code. Hospital D is a wholly owned subsidiary of Corporation E. Hospital D's Certificate of Incorporation

provides that Hospital D was organized and its policy is to carry out its purposes and objects under the auspices of, and consistent with the doctrines and teachings of Church A. Hospital D's Bylaws provide that its Board of Directors consists of ********** members, of whom ********** must be members of Church A, in good standing. Article IX of Hospital D's Certificate of Incorporation provides that Hospital D will have an Executive Committee that consists of between **** and ********* members, a majority of whom must be members in good standing of Church A. The Administrator, President, and CEO of Hospital D are also required by the Certificate of Incorporation to be members of Church A in good standing. Further, Hospital D's dissolution clause provides that in the event of dissolution, the Board of Directors shall transfer remaining assets either to the State B conference of Church A or to Church A itself. Hospital D is also approved as a social service agency of Church A and, as such, reports annually to the Administrative Committee of Board L.

Corporation F is a nonprofit organization exempt from tax under section 501(a) of the Code. Corporation F is a wholly owned subsidiary of Corporation E. Corporation F was organized exclusively for charitable, religious, educational and scientific purposes. The Bylaws of Corporation F provide that a majority of its Board of Directors shall be members of Church A. Corporation F's dissolution clause provides that in the event of a dissolution of Corporation F, its Board of Directors shall transfer the remaining assets of Corporation F to either Corporation E, Hospital D, or another tax-exempt entity described under section 501(c)(3) of the Code.

If an organization is associated with Church A, and shares common religious bonds with Church A, that organization's employees are deemed to be Church A employees. In view of the common religious bonds between Church A and Corporation E, Corporation F, and Hospital D, and the association of all these entities with Church A, it is concluded that the employees of Hospital D, Corporation E, and Corporation F meet the definition of "employee" under section 414(e)(3)(B) of the Code. Accordingly, these individuals are deemed to be employees of Church A for purposes of section 414(e) of the Code. In addition, under the rules of section 414(e)(3)(C), Church A is deemed to be the employer of employees of Hospital D, Corporation E and Corporation F for purposes of the church plan rules.

Having established that the above organizations' employees are Church A employees, the remaining issue is whether Committee H, which administers Plan X, is an organization controlled by or associated with a church or a convention or association of churches and has as its principal purpose or function the administration or funding of a plan within the meaning of section 414(e)(3)(A) of the Code.

Plan X is currently administered by Committee H, a retirement committee. The sole purpose or function of Committee H is to administer Plan X. Committee H

consists of at least ***** persons who are appointed by and serve at the pleasure of the Board of Directors of Corporation E. Thus, due to Corporation E's association with Hospital D and Church A, and Committee H's control by Corporation E, Committee H is an organization controlled by or associated with a church or a convention or association of churches and has as its sole purpose or function the administration or funding of a plan for the provision of retirement benefits for individuals (and their beneficiaries) who are deemed to be employees of a church or a convention or association of churches. It is concluded, therefore, that Plan X, as administered by Committee H, is a plan administered by an organization described in section 414(e)(3)(A) of the Code.

Plan X was originally established *********, ****. From that date forward, Committee H has administered Plan X. However, pursuant to the rules of section 407(b) of MPPAA, section 414(e) of the Code was effective as of January 1, 1974.

Accordingly, we conclude that Plan X is a church plan within the meaning of section 414(e) of the Code, and has been a church plan within the meaning of section 414(e) of the Code retroactive to January 1, 1974.

This ruling is directed solely 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 whether Plan X continues to be a qualified plan under section 401(a) of the Code. The determination as to whether a plan remains qualified under section 401(a) is within the jurisdiction of the appropriate office of the Internal Revenue Service.

In accordance with a power of attorney on file with this office, this letter is being sent to your authorized representative. If you have any questions regarding this ruling, you may contact , , at

Sincerely yours,

Adu Perry
for Alan Pipkin, Manager
Employee Plans Technical Group 4
Tax Exempt and Government
Entities Division

Enclosures:

Notice of Intention to Disclose
Deleted copy of letter