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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Uniform Issue List: 414.08-00

T:EP:RA:T1

Attn:

Legend:

SEP 17 2003

Medical Center.....

Hospital System.....

Health System.....

Church A.....

Church B.....

State M.....

Plan X.....

Dear :

This is in response to a request for a ruling submitted on your behalf by your authorized representative dated June 13, 2001 and supplemented by letters dated December 3, 2002, December 6, 2002, December 9, 2002, March 10, 2003, April 15, 2003, April 16, 2003, May 28, 2003, and September 4, 2003, under section 414(e) of the Internal Revenue Code (the "Code"). The following facts and representations were made in connection with your request.

Medical Center is a non-profit, non-stock corporation organized under the laws of State M. Medical Center is also an organization described in Code section 501(c)(3) and exempt from federal income tax under section 501(a) (a "501(c)(3) organization"). Medical Center has one member, Hospital System, which is also a 501(c)(3) organization. Medical Center's employees participate in Plan X, and no other employer's employees participate in Plan X. Plan X was first established in 1967 and is maintained by Health System, a 501(c)(3) organization whose sole member is also Hospital System. Hospital System and Health System are both non-profit, non-stock

corporations organized under the laws of State M. Plan X is intended to be a plan described in Code section 401(a).

Medical Center manifests an enduring heritage of Christian health ministry. This ministry is headed by a minister of Church A who is the Manager of Chaplaincy Services at the Medical Center. The Manager is responsible for supervising the various chaplaincy missions and the Manager's work is reviewed by a Church A official. Medical Center's Chaplaincy Services has a staff of one full-time clergy of Church A and two part-time clergy, one of Church A and one of Church B. The office of Chaplaincy Services also supports a staff of 12 volunteer chaplains, nine of whom are from Churches A and B. Chaplaincy Services visits each patient daily and also before surgery, and leads liturgical services including regularly scheduled chapel services. Sacraments of Baptism and Holy Communion are also offered to patients of Medical Center.

A chaplain participates in the interdisciplinary conferences related to patient care that are held by the different medical units of the hospital. The Medical Center includes its Church A chaplain and another clergyman of Church A on one of its ethics committees. Two Medical Center chaplains, one of Church A and another of Church B, are on another hospital ethics committee. The input of the chaplains is based on the principles and ethics as upheld by their respective churches, and their presence on the committees serves to infuse them with a faith-based perspective in medical situations, thereby adhering to certain long-held core principles of the Church A and Church B denominations.

The Medical Center also sponsors an accredited Clinical Pastoral Education program which is directed by a minister of Church A. This program provides training for ministers to become well grounded in pastoral care in the hospital setting. The curriculum includes weekly basic and advanced seminars, including worship, pastoral care didactics, and interpersonal relations seminars. Students are assigned as chaplains to the hospital's nursing units and provide on call coverage for evenings and weekends. Through its chaplains, pastoral care students, volunteers and area clergy, the Medical Center also sponsors a church notification program, which notifies local churches of church members who are hospitalized. The program is nondenominational and churches of all faiths are contacted at the patient's request. This nondenominational approach is consistent with Church A's and Church B's ecumenical commitment of respecting the faith of others and assists clergy in ministering to parish members when they are hospitalized.

The State M Annual Conference is the basic organizational body of Church A. The Medical Center is listed in the State M Annual Conference Journal of Church A (the "Journal"). This listing signifies that the Medical Center is an "associate organization" of Church A, which the Journal defines as an organization that traditionally has been associated with the current State M Annual Conference and its predecessor Conferences. The Journal lists five hospitals as "associate organizations" of Church A,

including the Medical Center. All of the listed hospitals are included within Hospital System. A covenant book lists the Medical Center as an institution that performs the mission of Church A and which is funded through local churches. The Medical Center also receives ongoing financial support from Church A's and Church B's congregations and clergymen.

The business and affairs of the Medical Center are managed by its Board of Directors, the members of which must be nominated for election by Health System, subject to approval by Hospital System, in order to be elected by a majority vote of the Medical Center Directors. Health System is governed by its Board of Directors which includes two members of Church A and three members of Church B. These members constitute a significant Church representation (33 percent) on Health System's Board, which must be composed of at least 27 percent and so much as 36 percent of members of Churches A and B based on the number of Board members authorized under the Bylaws of Health System. The purpose of Health System, as expressed in its Articles of Incorporation, is to carry out the purposes of the Medical Center in a manner consistent with the traditional and ongoing health care mission of the State M Annual Conference and a Church B organization. Health System also has a chaplaincy services program, sponsors an accredited Clinical Pastoral Education program, and receives direct financial support from the Annual Conference. Health System is listed in the Journal and as such is identified by Church A as an organization traditionally associated with the State M Annual Conference.

Section 9.1(b) of Plan X, as amended effective July 1, 1999, provides that Plan X is administered by a committee comprised of individuals appointed by Health System's Board of Directors (the "Committee"). You represent that the principal purpose and function of the Committee is the administration of Plan X.

Based on the above facts and representations, you request rulings that Plan X is a church plan under Code section 414(e) and that Plan X is deemed to have been a church plan since January 1, 1975, pursuant to the relief provided by Code section 414(e)(4).

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 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.

Code section 414(e)(4)(A) provides that if a plan established or maintained for its employees by a church or convention or association of churches which is exempt from tax under section 501 fails to satisfy one or more of the requirements of section 414(e) and corrects the failure within the correction period, the plan is deemed to meet the requirements of section 414(e) for the year in which correction was made and for all prior years.

Code section 414(e)(4)(C)(i) provides that the term "correction period" means the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the church plan requirements.

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).

As indicated above, Medical Center is strongly linked to Church A and Church B. Medical Center is listed as an "associate organization" of Church A in the Journal of the State M Annual Conference which is the basic organizational unit of Church A.

Medical Center's Chaplaincy Services is managed by one full-time clergy, two part-time clergy, and 12 volunteer chaplains, nine of whom are from Churches A and B. Church A and Church B officials serve on Medical Center's ethics committees, and Medical Center sponsors the church notification program and an accredited Clinical Pastoral Education program. In addition, Medical Center's Board members are nominated by Health System's Board, which has among its members representatives from Church A and Church B. For these reasons, we conclude that Medical Center shares common religious bonds and convictions with Churches A and B, and is therefore considered to be "associated" with Church A and Church B under the church plan rules. Accordingly, because the employees of Medical Center 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., Churches A and B), these employees are deemed to be Church A and Church B employees under section 414(e)(3)(B). Conversely, Churches A and B are considered to be the employer of the employees of Medical Center under section 414(e)(3)(C).

In addition, Plan X is administered by a Committee appointed by Health System, and the principal purpose and function of the Committee is to administer Plan X. Because Health System is "associated" with Churches A and B within the meaning of Code section 414(e)(3)(D), the Committee therefore is associated with or controlled by a church or a convention or association of churches within the meaning of section 414(e)(3)(A). The Committee has administered Plan X since July 1, 1999, the effective date of Section 9.1(b) of Plan X establishing the Committee. Thus, any failure by Plan X to satisfy the requirements of Code section 414(e)(3)(A) for years prior to 1999 was corrected within the correction period defined in section 414(e)(4)(C)(i). Thus, Plan X is deemed to meet the requirements of section 414(e)(3)(A) for the year in which t he correction was made and for all prior years pursuant to section 414(e)(4)(A).

Accordingly, we conclude that, with respect to your ruling requests, Plan X constitutes a church plan described under Code section 414(e), and has constituted a church plan described under section 414(e) since January 1, 1975.

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 Employee Plans Area Manager, Central Mountain Area.

This ruling is directed only to the taxpayer that 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,

Donzell H. Littlejohn

Donzell H. Littlejohn, Acting Manager
Employee Plans Technical Group 1

Enclosures:
Copy of deleted letter
Notice 437

cc: