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Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Person to Contact:

Telephone Number:

Refer Reply to: OP:E:EP:T:3

Date:

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Legend:

Church C =

Order O =

Corporation L =

Corporation M =

Plan X =

Committee C =

Directory M =

State S =

This is in response to a ruling request dated October 27, 1998, as supplemented by additional correspondence dated December 8 and 23, 1998, and January 26 and 29, 1999, in which you request a ruling concerning whether Plan X qualifies as a church plan under section 414(e) of the Internal Revenue Code.

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

Corporation M is a hospital that was founded in 1895 under the auspices of Order O. It is a State S nonprofit corporation. It presently functions as a subsidiary of Corporation L.

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Corporation L is the sole corporate member and owner of Corporation M. Both Corporation L and Corporation M are organizations described in section 501(c)(3) of the Code which are exempt from federal income tax under section 501(a) of the Code. Both Corporations are also listed in Directory M. Corporation M has been listed in Directory M since at least 1974.

The bylaws of Corporation M provide that its activities are to be consistent with and guided by the teachings of Church C, the Ethical and Religious Directives for Church C Health Facilities and the mission of Order O. The governance of Corporation M is vested in a board of trustees of not less than 11 nor more than 17 trustees whose principal qualification is a commitment to the mission of Corporation M.

Corporation M adopted Plan X effective March 1, 1964, to provide retirement benefits to its employees. Plan X has been amended from time to time and was restated as of January 1, 1989. Plan X meets the qualification requirements of section 401(a) of the Code and its related trust is exempt from tax under section 501(a) of the Code.

Plan X is administered by Committee C. Committee C's primary purpose is to administer Plan X, with authority to construe and interpret Plan X, to determine benefits thereunder and to perform those other functions generally considered the duties of a plan administrator. Committee C members are selected by Corporation M and may be removed at any time with or without cause in accordance with the provisions of Corporation M's bylaws. Committee C consists of at least three trustees which are selected by the chairperson of the board of trustees of Corporation M. In addition to the three members of the board of trustees, Committee C has several members from Corporation M's management team that serve as administrative support. All Committee C members are appointed for a one year term of service. At the present time, Committee C is comprised of four board of trustee members and three management employees of Corporation M. The three management employees are the chief financial officer, the chief human resource officer and the chief professional and general services officer. Committee C is a standing committee of Corporation M. The composition of Committee C has been consistent from 1974 through the the present time.

Based on the foregoing facts and representations, a ruling is requested that Plan X qualifies as a church plan within the meaning of section 414(e) of the Code and has so qualified since January 1, 1974, the effective date of section 414(e) of the Code.

Section 414(e)(1) of the Code 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 secton 501 of the Code.

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 section 414(e) applied as of the date of ERISA's enactment. However, section 414(e) was amended by section 407(b) of the Multiemployer Pension Plan Amendments Act of 1980, Public Law 96-364, to provide that section 414(e) was effective as of January 1, 1974.

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.

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 his or her 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 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 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 by virtue of the

organization's affiliation with the church or convention or association of churches and that the plan will be administered by an organization of the type described in section 414(e)(3)(A).

Corporation M is listed in Directory M which is the official directory of Church C and has been so listed since at least 1974. The Internal Revenue Service has determined that any organization listed in Directory M is an organization described in section 501(c)(3) of the Code, that is exempt from tax under section 501(a). Also, any organization that is listed in Directory M shares common religious bonds and convictions with Church C and is deemed associated with Church C within the meaning of section 414(e)(3)(D) of the Code.

Accordingly, Corporation M is exempt from taxation under section 501(a) and is also associated with Church C. Therefore, pursuant to section 414(e)(3)(B) and (C) of the Code, employees of Corporation M are deemed to be employees of Church C and Church C is deemed to be the employer of such employees for purposes of the church plan rules since January 1, 1974.

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 of the plan and must also be controlled by or associated with a church or a convention or association of churches.

The members of Committee C are selected by Corporation M and may be removed at any time with or without cause. Thus, Committee C is controlled by Corporation M. Since Committee C is controlled by Corporation M, it is indirectly associated with Church C. Further, since as represented above, the primary purpose of Committee C is the administration of Plan X, Committee C constitutes an organization, the principal purpose or function of which is the administration of plans or programs for the provision of retirement benefits or welfare benefits, or both, for the employees of Corporation M. The composition of Commmittee C has been consistent from 1974 through the present time. Therefore, Committee C qualifies as an organization described in section 414(e)(3)(A) of the Code and has so qualified since January 1, 1974.

Accordingly, in regard to your ruling request, we conclude that Plan X qualifies as a church plan within the meaning of section 414(e) of the Code and has so qualified since January 1, 1974, the effective date of section 414(e).

This letter expresses no opinion as to whether Plan X satisfies the requirements for qualification 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 Key District Director's office of the Internal Revenue Service.

Sincerely yours,

/s/ Frances V. Sloan

Frances V. Sloan
Chief, Employee Plans
Technical Branch 3

Enclosures:
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