Uniform Issue List #414.08-00
**Internal Revenue Service**

Department of the Treasury

199948035

Washington, DC 20224

Person to Contact:

Telephone Number:
OP:E:EP:T:1
Refer Reply to:

Date:
SEP 7 1999

XXXXXX
XXXXXX

ATTN: XXXXXXX

**Legend:**

| | | |
|---|---|---|
| Church A | = | XXXX |
| Congregation B | = | XXXX |
| Corporation C | = | XXXXXX |
| Organization D | = | XXXXXXX |
| Corporation E | = | XXXXX |
| Corporation F | = | XXXXX |
| Directory P | = | XXXXX |
| Plan X | = | XXXXX |
| State K | = | XXXXX |

Ladies and Gentlemen:

This is in response to your letter dated XXXXXX, 1998, as supplemented by a letter dated XXXXXX, 1999, in which your authorized representative requested a ruling on your behalf under section 414(e) of the Internal Revenue Code (the "Code").

In support of your ruling request, the following representations and information have been submitted:

You represent that, under Church A's religious laws, Congregation B is an integral part of Church A. You further state that Congregation B's members agree to devote their lives in service to Church A, also in accordance with Church A's Code of Canon Laws. In furtherance of Church A's healing ministry, Congregation B has a long history of involvement in the care of

the sick with special concerns for the health care needs of the sick and poor.

In furtherance of Church A's health care ministry, Congregation B established and sponsors Corporations C, E, and F, and Organization D. Organization D, formerly known as Corporation C, is an acute care hospital facility created in 1900 under the sponsorship of Congregation B. In 1974 Organization D was created to reflect the development of a continuing care retirement community with health-related activities in addition to, but separate from, an acute care hospital. As a "health system," Organization D is designed as an extension of Church A's healing ministry, and is designed to foster collaborative efforts among religious institutions desirous of continuing to sponsor health care institutions grounded in the tradition and values of Church A.

Organization D, and Corporations E, and F are not-for-profit corporations chartered under the laws of State K. Organization D is a membership corporation with Congregation B as its sole member and religious sponsor. Organization D is, in turn, the sole member of two operating divisions, Corporation E and Corporation F. Corporation E is a psychiatric facility and Corporation F is an assisted living residential facility. Ultimate responsibility for the direction and decisions of Congregation B's corporate health care ministry resides with Congregation B's General Council and individuals holding religious leadership positions within Congregation B.

The General Council is made up of eight congregants that are all members of Congregation B. Congregation B has full jurisdiction over the performance of certain functions of Organization D and Corporations E and F, subject to some control by authorities of Church A. Included in the authority reserved for the congregant member is control of the philosophy and mission of Organization D, and the election of members of the Board of Directors of Organization D and Corporations E and F. The General Council designates Congregation B representatives to serve on the Boards of Directors of Organization D and Corporations E and F. Organization D's Board of Directors consists of eleven individuals, of which five are members of Congregation B.

Congregation B, Organization D, Corporations E and F all are organizations listed in Directory P; the Internal Revenue Service has determined that any organization listed or appearing in Directory P is an organization described in Code section 501(c)(3) and is exempt from tax under section 501(a).

Plan X is a defined benefit pension plan that was originally established and maintained by Corporation C, effective July 1, 1968. Plan X was amended and restated in its entirety, effective

May 1, 1989, and is currently maintained by Organization D, on behalf of its employees and their beneficiaries, and on behalf the employees and their beneficiaries of Corporations E and F who have adopted Plan X. Plan X is administered by a Retirement Committee whose sole purpose is the administration of Plan X. The Retirement Committee has been in existence since the inception of Plan X. Members of the Retirement Committee are appointed by, and subject to the direction and control of, Organization D's Board of Directors.

Based on the facts and representation described above, your authorized representative requests the following rulings:

(1) that Plan X as amended and restated effective May 1, 1989, is a church plan within the meaning of section 414(e) of the Code; and,

(2) that Plan X from January 1, 1974, until its amendment and restatement effective May 1, 1989, was a church plan within the meaning of section 414(e) of the Code.

To qualify under section 401(a) of the Code, an employees' plan generally must meet the minimum participation standards of section 410 and the minimum vesting standards of section 411. Qualified pension plans also must meet the minimum funding standards of section 412. Each of these sections, however, contains an exception for a church plan as defined in section 414(e), unless an election has been made in accordance with section 410(d). See sections 410(c)(1)(B), 411(e)(1)(B), and 412(h)(4).

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 tax under section 501 of the Code.

Section 414(e) was added to the Code by section 1015 of the ERISA, Public Law 93-406, 1974-3 C.B. 1. Section 1017(e) of ERISA provided that section 414(e) applied as of the date of ERISA enactment. However, section 414(e) was subsequently 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.

Code section 414(e)(3)(A) provides that a plan, otherwise qualified, will qualify 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 defines the term "employee" to include a duly ordained, commissioned, or licensed minister of a church in the exercise of a 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 section 414(e)(3)(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 that is not itself a church or convention or association of churches to have a church plan under section 414(e) of the Code, 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) of the Code by virtue of the organization's affiliation with the church or convention or association of churches. Employees of any organization maintaining a plan are considered to be church employees if the organization: (1) is exempt from tax under section 501 of the Code, (2) is controlled by or associated with a church or convention or association of churches, and (3) provides for administration or funding (or both) of the plan by an organization described in section 414(e)(3)(A) of the Code.

In this case, Organization D is operated and controlled by Congregation B. Congregation B has full jurisdiction over the performance of certain functions of Organization D, and Corporations E and F, subject to some control by authorities of Church A. Included in the authority reserved for the congregant member is control of the philosophy and mission of Organization D, and the election of members of the Board of Directors of Organization D, and Corporations E and F. Congregation B is an intregal part of Church A in accordance with Church A's Code of Canon Laws. Members of Congregation B take vows of poverty, chastity, and obedience in accordance with the requirements set forth in Church A's Code of Cannon Laws. Congregation B has a

long history of involvement in the care of the sick with special concerns for the health care needs of the sick and poor. Organization D, and Corporations E and F are part of a health system sponsored by Congregation B. As such, Organization D, and Corporations E and F are committed to involvement in health care as an extension of Church A. Ultimate responsibility for the direction and decisions of Organization D, and Corporations E and F resides with the General Council of Congregation B. Based on these facts, Congregation B, Organization D, and Corporations E and F are associated with Church A and share common dedication to the teachings, tenets, and core values of Church A through its health care ministry.

Therefore, it is concluded that Church A, Organization D, and Corporations E and F share common religious bonds and convictions. Organization D, and Corporations E and F are therefore associated with Church A within the meaning of section 414(e)(3)(D) of the Code for purposes of the church plan rules. Further, Congregation B, Organization D, and Corporations E and F are listed in Directory P. Any organization that is listed or appears in Directory P shares common religious bonds and convictions with Church A and is considered associated with a church or convention or association of churches within the meaning of section 414(e) of the Code, for purposes of the church plan rules.

Accordingly, for all the reasons given above, it is concluded, under the rules of section 414(e)(3)(B) of the Code, that employees of Organization D and Corporations E and F are considered employees of an organization that is associated with a church or convention or association of churches, and are deemed to be employees of that church or convention or association of churches. In this case, the employees of Organization D are deemed to be employees of Church A for purposes of the church plan rules. Conversely, under the rules of section 414(e)(3)(C), Church A is considered to be the employer of Organization D's employees for purposes of the church plan rules.

Having established that the employees of Organization D are deemed to be church employees, it still must be established that Plan X is maintained by an organization, the principal purpose or function of which is the administration or funding of a plan pursuant to section 414(e)(3)(A) of the Code.

Plan X is administered by a Retirement Committee, whose sole purpose is the administration of Plan X. The Retirement Committee is indirectly controlled by and associated with Church A since its members are appointed by Organization D's Board of Directors, which is appointed by Congregation B.

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Accordingly, we have determined that Plan X is maintained by an organization that is associated with or controlled by a church or convention or association of churches, the principal purpose or function of which is the administration or funding of a plan for the provision of retirement benefits or welfare benefits, or both, for the individuals deemed to be employees of a church or convention or association of churches within the meaning of section 414(e)(3)(A) of the Code.

Therefore, with respect to your ruling request, we rule that Plan X as amended and restated effective May 1, 1989, is a church plan within the meaning of section 414(e) of the Code. We further rule that Plan X was a church plan within the meaning of section 414(e) of the Code from January 1, 1974, until it was amended and restated on May 1,1989.

This letter expresses no opinion as to whether Plan X satisfies the requirements for qualification under Code section 401(a) of the Code. The determination as to whether a plan is qualified under Code section 401(a) is within the jurisdiction of the appropriate Key District Director's Office of the Internal Revenue Service.

This ruling 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 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.

Sincerely yours,

John Swieca

John Swieca
Chief, Employee Plans
Technical Branch 1

Enclosures:
Copy of this letter
Deleted Copy of this letter
Notice of Intention to Disclose, Notice 437