Uniform Issue List Number 414.08-00

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Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

OP:E:EP:T:1

Date: SEP 30 1999

XXXXX

Legend:

Church A = XXXXX

Corporation B = XXXXX

Congregation C = XXXXX

Hospital D = XXXXX

Corporation E = XXXXX

Corporation F = XXXXX

State J = XXXXX

State K = XXXXX

City Y = XXXXX

Plan L = XXXXX

Plan M = XXXXX

Plan N = XXXXX

Plan O = XXXXX

Plan P = XXXXX

Ladies and Gentlemen:

This is in response to a letter dated November 20, 1998, in which your authorized representative requested rulings on your behalf under section 414(e) of the Internal Revenue Code (the "Code").

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

Corporation B was incorporated on February 1, 1989, as a not-for-profit corporation chartered under the laws of State J. Corporation B is listed in the Official Directory of Church A. The Internal Revenue Service has determined that any organization listed or appearing in the Church A Official Directory is an organization described in section 501(c)(3) of the Code and is exempt from tax under section 501(a). All voting members of Corporation B are perpetually professed congregants.

Corporation B's Articles of Incorporation state its purpose to be:

> "the performance of religious, benevolent, charitable and educational activities in accordance with the teachings, discipline, laws and traditions of Church A. . . . "

Hospital D is a not-for-profit institution that was incorporated on July 25, 1963, under the laws of State K. Hospital D is licensed as a hospital and certified as a rehabilitation hospital and skilled care facility by the Department of Health of State K. Hospital D has tax exempt status under the group exemption granted to Church A and is listed in the Official Directory of Church A in the United States. Hospital D's specific and primary purpose as stated in its Articles of Incorporation are as follows:

> to care for the sick, injured and disabled; to promote, build, establish, own, conduct and supervise one or more general hospitals, medical centers, institutions or other places for the reception and care of the sick, injured and disabled; .... to provide associated services, including without limitation, skilled nursing care, outpatient care and home care; to promote and carry on educational activities and scientific research related to the care of the sick, injured and disabled . . .

You represent that you envision Hospital D as an essential component of an integrated delivery network whose purpose is to improve the health status of the residents of City Y and surrounding communities. You further represent that you envision Hospital D's Board, medical staff and employees, in conjunction with Corporations B, E, and F, working jointly to facilitate the development of the integrated delivery network in a manner consistent with Hospital D's mission and core. On February 1, 1998, control of Hospital D was transferred from Congregation E to Corporation B.

The sole classes of members of Hospital D are those members of Corporation B who officially serve on the Convent Council of Corporation B. The Directors of Hospital D are appointed by the Convent Council and must include at least one member of Corporation B's Board of Directors. Article II, section 2.2 of Hospital D's bylaws restrict the general powers granted to the directors and requires that certain activities of Hospital D must either be approved or reviewed by the Convent Council. Under the bylaws, the Convent Council must:

- establish and approve the statements of philosophy, mission, purpose and objectives;
- appoint the Board of Directors and remove a Director anytime, with or without cause;
- approve amendments to the Articles of Incorporation and initial and approve the Bylaws;
- review the annual report and financial audit;
- appoint and remove the President/Chief Executive Officer.

Corporation B sponsors Plan L, a qualified profit sharing plan established for the benefit of the employees of Hospital D. Plan L is administered by an Advisory Committee whose principal purpose and function are the administration of Plan L. The Advisory Committee is appointed by the directors of Hospital D and is comprised of three members-- the President/CEO, Chief Financial Officer and Director of Nursing of Hospital D. Plans M, N, O, and P are welfare and fringe benefit plans sponsored by

Hospital D for the benefit of its employees. On December 18, 1998, the Board of Directors of Hospital D passed a resolution creating the Benefits Committee, the principal function and purpose of which is the administration of Plans M, N, O, and P. The Benefits Committee is appointed by the directors of Hospital D and is comprised of three members-- the President/CEO, Chief Financial Officer and Director of Nursing of Hospital D.

Based on the facts and representations described above, your authorized representative requests a ruling that Plans L, M, N, O, and P are church plans within the meaning 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 tax under section 501 of the Code.

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 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. 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, Corporation B is listed in the Official Directory of Church A and is an intregal part of Church A in accordance with its Articles of Incorporation and with Church A's Canon of Laws. Hospital D is also listed in the current Official Directory of Church A and is a State K not-for-profit organization, exempt from federal taxation under section 501(c)(3) of the Code. The Internal Revenue Service has determined that any organization listed or appearing in the Church A Official Directory is an organization described in section 501(c)(3) of the Code and is exempt from tax under section 501(a). Any organization listed in Church A Official Directory also shares common religious bonds with Church A, and is, therefore, associated with a church or convention or association of churches within the meaning of section 414(e)(3)(D) of the Code. Based on these facts, Corporation B and Hospital D are associated with Church A and share common dedication to the teachings, tenets, and core values of Church A.

Accordingly, for all the reasons given above, it is concluded, under the rules of section 414(e)(3)(B) of the Code, that the employees of Corporation B and Hospital D are employees of an organization 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 Corporation B and Hospital 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 Corporation B's and Hospital D's employees.

Having established that the employees of Corporation B and Hospital D are deemed to be Church A employees, it still must be established that Plans L, M, N, O, and P are maintained by an organization, the principal purpose or function of which is the administration or funding a plan or plans for the provision of retirement benefits or welfare benefits, or both, within the meaning of section 414(e)(3)(A) of the Code.

Plan L is administered by an Advisory Committee whose principal function and purpose are the administration of Plan L. The Advisory Committee is appointed and controlled by the Board of Directors of Hospital D. Plans M, N, O, and P are administered by a Benefits Committee whose principal function and purpose are the administration of Plans M, N, O, and P. The Benefits Committee is appointed by the Board of Directors of Hospital D. We have already determined that Hospital D is associated with Church A.

Based on the above description and representations, we conclude that the Advisory Committee and the Benefits Committee are organizations, 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 convention or association of churches. We further conclude that the Advisory Committee and the Benefits Committee satisfy the requirements of section 414(e)(3)(A) of the Code and the church plan rules.

Accordingly, we conclude that Plans L, M, N, O, and P are church plans within the meaning of section 414(e) of the Code. We are not ruling, directly or indirectly, on whether Plan L as described herein, 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) of the Code is within the jurisdiction of the appropriate Key District Office of the Internal Revenue Service. Also this ruling expresses no opinion as to whether Plan M, N, O, or P constitutes a cafeteria plan within the meaning of section 125 of the Code. This ruling shall not be construed as approving any of the plans referred to herein under section 125 or any other provision of the Code except section 414(e).

This ruling expresses no opinion as to the status of the Corporations E or F, nor does it express an opinion as to the status of the employees of these corporations.

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.

John Swieca
Chief, Employee Plans
Technical Branch 1

Enclosures:
Copy of this letter
Deleted Copy of this letter
Notice 437

cc: XXXXXX