



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

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Uniform Issue List: 414.08-00

T:EP:RA:TI
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Legend:

Health System.....
Hospital System.....
Hospital Corporation
Medical Professionals.....
Health Foundation.....
Hospital A.....
Hospital B.....
Hospital C.....
State M.....
Plan X.....
Plan Y.....
Plan Z.....
Church A.....
Church B.....

Dear :

This is in response to a request for a ruling submitted on your behalf by your authorized representative dated June 13, 2001 as 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 submitted in

connection with your request.

Health System is the sole member of Hospital System, which is the sole member of Hospital Corporation. Hospital Corporation wholly owns and operates three hospitals, Hospital A, Hospital B, and Hospital C. Hospital System is also the sole member of Health Foundation. Health System, Hospital System, and Hospital Corporation are non-profit, non-stock corporations organized under State M law, and each is an organization described in Code section 501(c)(3) and exempt from tax under section 501(a) (a "501(c)(3) organization"). Health Foundation is also a 501(c)(3) organization. Medical Professionals is a for-profit limited liability company whose sole member is Hospital System.

Hospital Corporation was formed on November 22, 1993 through a merger of Hospital A and Hospital B and includes three major hospitals, Hospitals A, B and C (a division of Hospital A). Hospital Corporation owns and operates the facilities known as Hospitals A, B and C, none of which are separately incorporated entities. Hospital Corporation is governed by its Board of Directors (the "Board"). Under Hospital Corporation's Bylaws, the Board must consist of no less than five ecclesiastical representatives which include the Bishop of the State M Annual Conference of Church A (the "Annual Conference"), the Bishop of the Southeastern State M Synod of Church B (the "Synod") and three additional members of Church B. The Bishops are ex-officio members of the Board with full voting rights. The Bishops are required to serve on the Board as long as the names of their respective churches are used by Hospital Corporation or an affiliate of Hospital Corporation, and any change in its Bylaws regarding the religious composition of the Board requires the approval of the Bishops of the respective churches. These Church A and Church B officials on Hospital Corporation's Board serve to infuse the Board with the philosophies and interests of Churches A and B. The Bishop of Church B also maintains an office at Hospital B. The Annual Conference and Synod are the basic organizational bodies of Churches A and B, respectively.

Hospital Corporation has strong chaplaincy programs and has six Church A and Church B chaplains and parish nurses on its staff to offer pastoral care. Hospital Corporation's five ordained ministers provide liturgical services for its staff, patients and their families.

Both Hospitals A and B have religious chapels and Sunday liturgies are provided at each hospital with special services offered during holy days. All patients of Hospitals A and B are visited by a chaplain within 24 hours of admission. The chaplains are also heavily involved in ethics in health care and the Director of Pastoral Care Services is a member of Hospital Corporation's clinical ethics committee. The Director of Pastoral Care Services heads the chaplaincy program of Hospital Corporation's member hospitals and reports on the program and mission activities at the annual meeting of the Synod.

Hospitals A and B are listed as official agencies of Churches A and B, respectively, in the official Church A and Church B directories. The hospitals are also listed in the State M Annual Conference Journal which lists organizations that have traditionally

been associated with the Annual Conference and have close ties to Church A. A covenant book lists the hospitals of Hospital Corporation as institutions that perform the missions of Church A and which are funded through local churches. In recent years, Hospital Corporation has received substantial financial contributions from Church A and Church B congregations and from the State M Annual Conference of Church A. Significant individual donations by members of Churches A and B are also provided to Hospital Corporation.

Hospital Corporation also sponsors an accredited Clinical Pastoral Education program which provides training for ministers to become experienced in pastoral care in a hospital setting. Volunteers at both hospitals contact Churches A and B to notify them of church members who are hospitalized, and members of the Churches participate in a phone reassurance program for the homebound elderly. Hospital B hosts an annual celebration to commemorate the religious founding of the hospital. A church representative program distributes information to the congregations of Churches A and B about each hospital's programs and services.

Plan X was established on January 1, 1995, by a merger of Plan Y and Plan Z. You represent that Plan Y and Plan Z were both church plans within the meaning of Code section 414(e) on the date of the merger. The participants in Plan X are current and former employees of Health System, Hospital Corporation, Medical Professionals and Health Foundation. As of January 1, 2001, Hospital Corporation employed 91.2 percent of the participants in Plan X, with the employees of Health System, Medical Professionals and Health Foundation comprising 8.8 percent of Plan participation. Plan X received its most recent determination letter from the Internal Revenue Service on June 2, 1999. You represent that Plan X will be amended to provide that the "Plan Administrator" will be the Retirement Committee formed by Hospital Corporation and that the principal purpose or function of the Plan Administrator is the administration of Plan X. The Retirement Committee will be established, organized and maintained by Hospital Corporation.

Based on the above facts and representations, you request rulings that Plan X is a church plan under Code section 414(e) and is deemed to be a church plan as of January 1, 1995 pursuant to 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)(2) provides that the term "church plan" does not include a plan (A) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of a church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses or, (B) if less than substantially all of the individuals included in the plan are church employees (as described in section 414(e)(1) or 414(e)(3)(B)).

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).

In this case, substantially all of the participants in Plan X are current and former employees of Hospital Corporation. Hospital Corporation is closely linked to Church A and Church B. Hospitals A and B are listed in the official church directories of Church A and Church B, and in the State M Annual Conference Journal as organizations associated with the State M Annual Conference, the basic organizational unit of Church A. Hospital Corporation has six Church A and Church B chaplains on its staff who are involved in ethics in health care by representation on Hospital Corporation's clinical ethics committee and who provide many pastoral care services for Hospital Corporation. The director of Hospital Corporation's pastoral care programs reports on the program to the Synod of Church B. Hospital Corporation's Board includes the Bishops of Church A and Church B, in addition to other members of Church B. For these reasons, we conclude that Hospital Corporation 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 Hospital Corporation 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., Church A and Church 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 Hospital Corporation under section 414(e)(3)(C).

Furthermore, substantially all of the participants in Plan X are employees of Hospital Corporation. Thus, Plan X is not maintained primarily for the benefit of employees who are employed in connection with one or more unrelated trades or businesses, and substantially all of the individuals included in Plan X are considered to be church employees, as defined in section 414(e)(3)(B).

In addition, Plan X will be amended to provide that the Plan Administrator will be a Retirement Committee established by Hospital Corporation and that the principal purpose and function of the Retirement Committee is to administer Plan X. Because Hospital Corporation is "associated" with Church A and Church B within the meaning of Code section 414(e)(3)(D), the Retirement Committee therefore will be considered to be associated with or controlled by a church or a convention or association of churches within the meaning of section 414(e)(3)(A). Once executed, the proposed amendment to Plan X establishing the Retirement Committee will be treated as adopted only as of the date of this private letter ruling. Thus, any failure by Plan X to satisfy the requirements of Code section 414(e)(3)(A) for years prior to 2003 will be corrected within the correction period defined in section 414(e)(4)(C)(i) by execution of the

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proposed amendment. Therefore, Plan X will be deemed to meet the requirements of section 414(e)(3)(A) for the year in which the correction was made and for all prior years back to, and including, 1995.

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, 1995.

This ruling is conditioned on execution of the above amendment. 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,



Madan Dua, Acting Manager
Employee Plans Technical Group 1

Enclosures:

Copy of deleted letter
Notice 437

cc: