



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

201442072

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUL 21 2014

SET:EP:RA:T3

U.I.L 414.08-00

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Attention: xxxxxxxxxxxx

LEGEND:

Religious Order A = xxxxxxxxxxxx

Leader B = xxxxxxxxxxxx

Church C = xxxxxxxxxxxx

Board D = xxxxxxxxxxxx

Entity E = xxxxxxxxxxxx

State F = xxxxxxxxxxxx

Plan X = xxxxxxxxxxxx

Directory Z = xxxxxxxxxxxx

Dear xxxxxxxxxxx:

This is in response to your request dated September 30, 2013, as supplemented by correspondence dated February 4, 2014, April 14, 2014, and May 7, 2014, submitted on behalf of Entity E by its authorized representative, concerning whether Plan X qualifies as a church plan under section 414(e) of the Internal Revenue Code (Code).

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Entity E is a non-profit corporation organized under the laws of State F. Entity E is a ministry of Religious Order A and maintains a residential center for girls. Religious Order A is a pontifical/apostolic order directly under the jurisdiction of the highest levels of authority of Church C. Religious Order A's constitution is filed with the highest level of authority of Church C, and the organization serves in a diocese at the pleasure of the local bishop of Church C. The primary apostolate of Religious Order A is to work with women in need. As such, its ministries include providing shelter to victims of domestic abuse; counseling for troubled teenaged girls; day care for children and adults; nursing and rehabilitative care for the ill, elderly, and people with AIDS. It also provides teaching and religious education in English and Spanish-speaking parishes.

Entity E is exempt from federal income tax under section 501(a) of the Code as an organization described in section 501(c)(3). Entity E is listed in Directory Z, the directory for Church C.

Entity E was founded by Religious Order A. Under its Articles of Incorporation, the sole member of Entity E is Leader B, a top official of Religious Order A. Entity E has a two-tier management structure. It's board of directors is elected by Religious Order A, and consists only of members of Religious Order A. Entity E also has a local board of trustees which oversees Entity E's daily operations. Entity E's board of trustees, Board D, is either appointed or approved by Leader B, with any vacancies filled by the board itself from a pool of potential trustees approved by Leader B. Leader B also has the authority to remove members of Board D. Leader B has the authority to adopt the bylaws of Entity E, and to establish and change the purposes, mission statement and other values statements of Entity E. Leader B also has the authority to approve various types of corporate actions, including the budget, expenditures over a certain amount, and the purchase, sale, lease, or encumbrance of real estate.

Effective November 1, 1987, Board D of Entity E established Plan X, a retirement plan. Plan X has been amended and restated from time to time thereafter. All benefit accruals under the Plan were frozen effective February 1, 2005. Entity E is the only participating employer and it is the administrator of Plan X. You represented that Entity E currently funds Plan X but Religious Order A may also fund if necessary.

You represented that no election has been made at any time under Section 410(d) of the Code. You also represented that none of the employees of Entity E are or can be considered employed in connection with one or more unrelated trades or businesses within the meaning of Section 513 of the Code.

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On April 2, 2014, Board D established a Pension Committee to administer Plan X and to serve as trustee of the plan. The Pension Committee is appointed by Board D, and consists primarily of members of Religious Order A. The Pension Committee's principal purpose is the administration of Plan X.

In accordance with Revenue Procedure 2011-44, 2011-39 I.R.B. 446, notice to Plan participants and other interested persons with reference to Plan X was provided on July 26, 2013. This notice explained to participants of Plan X and other interested persons the consequences of church plan status.

Based on the above facts and representations, you request a ruling that Plan X qualifies as a church plan under section 414(e) of the Code.

Section 414(e)(1) of the Code generally defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or a convention or association of churches which is exempt from taxation under section 501 of the Code.

Section 414(e)(2) of the Code provides, in part, that the term "church plan" does not include a plan that is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513); or if less than substantially all of the individuals included in the plan are individuals described in section 414(e)(1) or section 414(e)(3)(B) (or their beneficiaries).

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 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 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 generally defines "employee" of a church or a convention or association of churches 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.

Section 414(e)(4)(A) of the Code provides that if a plan, intended to be a church plan, fails to meet one or more of the church plan requirements and corrects its failure within the correction period, then that plan shall be deemed to meet the requirements of this subsection for the year in which the correction was made and for all prior years. Section 414(e)(4)(C)(i) of the Code provides, in pertinent part, 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.

Revenue Procedure 2011-44, 2011-39 I.R.B. 446, supplements the procedures for requesting a letter ruling under section 414(e) of the Code relating to church plans. The revenue procedure requires that plan participants and other interested persons receive a notice in connection with a letter ruling request under section 414(e) for a qualified plan, requires that a copy of the notice be submitted to the Internal Revenue Service (IRS) as part of the ruling request, and provides procedures for the IRS to receive and consider comments relating to the ruling request from interested persons.

In order for an organization that is not itself a church or convention or association of churches to have a qualified church plan, it 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 control by or association 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. To be described in section 414(e)(3)(A) of the Code, an organization must have as its principal purpose the administration or funding of the plan and must also be controlled by or associated with a church or convention or association of churches.

Entity E is a section 501(c)(3) organization established by Religious Order A. Religious Order A is a religious order directly under the jurisdiction of the highest level of authority of Church C. Religious Order A's constitution is filed with the highest levels of authority of Church C, and it serves in a diocese at the pleasure of the local bishop of Church C.

The leader of Religious Order A (Leader B) is the sole member of Entity E. The board of directors of Entity E is elected by Religious Order A, and the members of such board are all members of Religious Order A. Leader B retains control of Entity E's purposes and mission statement. The members of Board D, which oversees Entity E's daily operations, are either appointed or approved by Leader B, and Leader B must approve certain actions by Entity E, including its budget and expenditures over a certain amount. Entity E is a sponsored ministry of Religious Order A, and is committed to accepting and implementing the teachings of Church C. Entity E's staff and board members must conform to Church C's standards of ethics. Entity E is listed in Directory Z, the directory of Church C.

We therefore conclude that Entity E shares common religious bonds and convictions with Church C, and is thus associated with Church C. Entity E's employees are thus deemed to be employees of Church C for purposes of section 414(e).

Plan X is administered by a Pension Committee, which consists primarily of members of Religious Order A. The Pension Committee's principal purpose and function is the administration of Plan X. The members of the Pension Committee are appointed by Board D, whose members are either appointed or approved by Leader B, the head of Religious Order A. Religious Order A is a pontifical/apostolic order directly under the jurisdiction of the highest levels of authority of Church C, and which serves in the relevant diocese at the pleasure of the local bishop of Church C. Board D reports annually to Leader B and Leader B has the power to remove the members of Board D.

We therefore conclude that the Pension Committee is an organization associated with Church C, whose principal purpose or function is the administration of Plan X for the provision of retirement benefits for the deemed employees of a church or convention or association of churches. The Pension Committee thus constitutes an organization described in section 414(e)(3)(A) of the Code.

The Pension Committee was formally established on April 2, 2014. As provided under section 414(e)(4)(A) of the Code, where a plan fails to meet one or more of the church plan requirements and corrects its failure within the correction period, then that plan shall be deemed to meet the requirements of section 414(e) of the Code for the year in which the correction is made and for all prior years. The formal establishment of the Pension Committee to administer the Plan on April 2, 2014 was within the correction period of Plan X.

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Therefore, with respect to your ruling request, we conclude that Plan X, is maintained by an Entity described in section 414(e)(3)(A) for the deemed employees of a church or convention or association of churches. Plan X thus qualifies as a church plan pursuant to section 414(e) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter 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 as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative. If you have any questions regarding this letter, please contact xxxxxxxxxxxxxxxxx, SE:T:EP:RA:T3, at xxxxxxxxxxxxxxxx.

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

Cc:

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