

## Internal Revenue Service

Number: **201803007**  
Release Date: 1/19/2018  
414.00-00, 414.08-00

Department of the Treasury  
Washington, DC 20224

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:

Telephone Number:

Refer Reply To:  
CC:TEGE:EB:QP2  
PLR-124338-17

Date:  
October 20, 2017

In Re:

Order A            =  
  
Church C           =  
Directory D       =  
City E             =  
State F            =  
Hospital H        =  
Entity N           =  
Committee R      =  
Plan 1             =  
Plan 2             =  
Plan 3             =

Dear                :

This letter is in response to your request, submitted on your behalf by your authorized representative, regarding the status of Plan 1, Plan 2, and Plan 3 (collectively “the Plans”) as church plans within the meaning of § 414(e) of the Internal Revenue Code (Code).

The following facts and representations have been submitted under penalty of perjury on your behalf:

Order A is a religious order within Church C. Order A is organized within and shares common bonds with Church C. Order A is listed in Directory D and is an organization described in § 501(c)(3) of the Code and exempt from tax under Code § 501(a).

One of the Order A’s ministries is to provide healthcare. A branch of Order A has been active in City E, State F for more than        years. In        , Order A began work to

provide a healthcare facility in City E, which is now present-day Hospital H. Hospital H is a nonprofit corporation under State F law. Hospital H is listed in Directory D as a hospital associated with Church C. Hospital H is exempt from tax under Code § 501(a) as an organization described in § 501(c)(3) pursuant to a group exemption letter applicable to organizations listed in Directory D.

Hospital H was incorporated in \_\_\_\_\_ pursuant to Articles of Incorporation, which have been amended from time to time. Hospital H's Articles of Incorporation provide that if Hospital H ever dissolves, any assets remaining after the payment of obligations shall return to Order A. Hospital H's Bylaws provide it is to operate exclusively for the benefit of and carry out the purposes of Hospital H, under the sponsorship of Order A. The Bylaws provide that Hospital H is governed by a Board of Trustees consisting of at least 20 and not more than 32 voting members, at least six of whom must be members of Order A.

Hospital H's Articles of Incorporation and Bylaws provide that the sole member of Hospital H is Entity N, a State F nonprofit corporation. Entity N was incorporated in \_\_\_\_\_. Entity N is listed in Directory D as the parent of Hospital H. Entity N is exempt from tax under Code § 501(a) as an organization described in § 501(c)(3) pursuant to a group exemption letter applicable to organizations listed in Directory D.

Entity N's Articles of Incorporation and Bylaws specify it is to operate exclusively for the benefit of and to carry out the purposes of Hospital H, under the sponsorship of Order A. Entity N's Articles of Incorporation provide that if Entity N ever dissolves, any assets remaining after the payment of obligations shall return to Order A. The Bylaws specify that Entity N is governed by a Board of Trustees, six of whom must be members of Order A. A minimum of two-thirds of the members of Order A serving on the Board of Trustees must vote to approve of any matter that relates directly to the religious principles, moral philosophy, and mission of Order A. The same percentage of the Order A Trustees must also approve any changes to the Entity N Articles of Incorporation or Bylaws, as well as any proposed sale, merger, consolidation, or dissolution of Entity N.

Hospital H's Bylaws specify that the sole member (Entity N, whose Board of Trustees includes at least six members of Order A) must approve of, among other things, any matter that relates directly to the religious principles, moral philosophy, and mission of Hospital H; any changes to the Hospital H Articles of Incorporation or Bylaws; and any proposed sale, merger, consolidation, or dissolution of Hospital H.

Hospital H sponsors the Plans, which cover the employees of Hospital H. Plan 1 is intended to meet the requirements of a defined benefit plan under § 401(a) of the Code. Plan 2 is intended to meet the requirements of a defined contribution plan under § 401(a) of the Code. Plan 3 is intended to meet the requirements under § 403(b) of the Code. None of the employees covered by the Plans are considered employed in

connection with one or more unrelated trades or businesses within the meaning of § 513, and none are employed by for-profit entities.

Committee R is the administrator of the Plans. Committee R was established by resolution of the Board of Trustees of Entity N, pursuant to Entity N's Bylaws. The principal purpose of Committee R is the administration of the Plans. Committee R's charter requires that Committee R act in accordance with the mission, vision and values of Order A and with the religious identity of Hospital H. In addition, the charter provides that members of Church C must make up the majority of the five members of Committee R. Also, one or two members of Order A must serve on Committee R and will be selected by the members of Order A who serve on the Board of Trustees. A member of Order A serves as Chair of the committee, and the Chair is selected by the members of Order A who serve on the Board of Trustees of Entity N.

In accordance with Revenue Procedure 2011-44, 2011-39 I.R.B. 446, a notice to plan participants and other interested persons with respect to each of the Plans was provided. This notice explained the consequences of church plan status.

Hospital H is requesting a private letter ruling that the Plans are church plans under § 414(e).

Section 414(e)(1) 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 § 501.

Section 414(e)(2) 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 a convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of § 513); or if less than substantially all of the individuals included in the plan are individuals described in § 414(e)(1) or § 414(e)(3)(B) (or their beneficiaries).

Section 414(e)(3)(A) 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 of churches, if such organization is controlled by or associated with a church or a convention or association of churches. See *Advocate Healthcare Network v. Stapleton*, 581 U.S. \_\_\_\_ (2017), holding that a plan that is maintained by an organization described in § 414(e)(3)(A) may be a church plan under § 414(e) even if it was not established by a church or a convention or association of churches.

Section 414(e)(3)(B) 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 § 501, and which is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(C) provides that a church or a convention or association of churches which is exempt from tax under § 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

Section 414(e)(3)(D) 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 a convention or association of churches.

Revenue Procedure 2011-44, 2011-39 IRB 446, supplements the procedures for requesting a letter ruling under § 414(e) relating to church plans. The revenue procedure: (1) requires that plan participants and other interested persons receive a notice in connection with a letter ruling request under § 414(e) for a qualified plan; (2) requires that a copy of the notice be submitted to the IRS as part of the ruling request; and, (3) 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 a convention or association of churches to have a church plan under § 414(e), it must establish that its employees are employees or deemed employees of a church or a convention or association of churches under § 414(e)(3)(B) by virtue of the organization's control by or association with the church or a 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 § 501; and (2) is controlled by or associated with a church or a convention or association of churches. In addition, in order to be a church plan, the administration or funding (or both) of the plan must be by an organization described in § 414(e)(3)(A). To be described in § 414(e)(3)(A), 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 a convention or association of churches.

Under the facts you have represented, Order A is a religious order of women within Church C. At least six members of Order A serve on the Board of Trustees of Entity N. As the sole member of Hospital H, Entity N has control over certain matters involving Hospital H's governance, and two-thirds of the members of Order A who serve on Entity N's Board of Trustees must approve of changes to the governance of Entity N (and in effect to Hospital H). Hospital H's Bylaws provide that it is to operate under the

sponsorship of Order A and in accord with the Order A ideals. Entity N and Hospital H are listed in Directory D, and upon dissolution their assets revert to Order A.

Prayers are read twice daily over the Hospital H public address system, and a member of the Church C clergy resides in the Hospital H building in order to perform Church C services in the Hospital H chapel and to attend to the spiritual needs of Hospital H residents. You represent that none of Hospital H's employees are employed in connection with one or more unrelated trades or businesses within the meaning of § 513 and no Plan participants are employed by for-profit entities.

We conclude that Hospital H is associated with Church C for purposes of § 414(e). We further conclude that the employees of Hospital H are deemed to be employees of a church or a convention or association of churches by virtue of being employees of an organization which is exempt from tax under § 501 and which is controlled by or associated with a church or a convention or association of churches.

Committee R is the administrator of the Plans, and its sole purpose and function is the administration of the Plans. Committee R's charter provides that it will act in accordance with the mission, vision and values of Order A, and with the Church A identity of Hospital H. Committee R consists of five members, the majority of whom must be members of Church C. A member of Order A acts as the chair of Committee R and is selected (and can be removed) by the members of Order A who also serve on the Board of Trustees of Hospital H. We conclude that Committee R is associated with Church C. Accordingly, the Plans are maintained by an organization that is associated with a church or a convention or association of churches, the principal purpose or function of which is the administration of the Plans for the provision of retirement benefits for the deemed employees of a church or a convention or association of churches.

We conclude that the Plans are church plans within the meaning of § 414(e).

This letter expresses no opinion as to whether the Plans satisfy the requirements of §§ 401(a) or 403(b).

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code

provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Lauson Green  
Branch Chief, Qualified Plans Branch 2 (Acting Special Counsel)  
(Tax Exempt & Government Entities)

cc: