

Internal Revenue Service

199942053
Department of the Treasury

Washington, DC 20224

◊ UIC: 9999.98-00

Person to Contact:

Telephone Number:

Refer Reply to: OP:E:EP:T:3

Date:

JUL 29 1999

Legend:

Hospital H =

City C =

Religion R =

Churches =

Organization O =

Plan X =

Plan Y =

This is in response to a ruling request dated September 29, 1998, as supplemented by additional correspondence dated April 8, 1999, June 21, 1999, and June 23, 1999, in which your authorized representative requested a ruling on Hospital H's behalf regarding the church plan status of Plans X and Y under section 414(e) of the Internal Revenue Code.

The following facts and representations have been submitted on your behalf:

The Churches referred to in this ruling are specifically listed in EXHIBIT J attached to this ruling. They are all Churches of Religion R. In general, the Churches are located in the City C metropolitan Area. Each of the Churches is an

311

organization described in section 170(b)(1)(A)(i) of the Code. The Churches are exempt from taxation under section 501(a) of the Code as entities described in section 501(c)(3) of the Code.

Hospital H is a constituent agency of Organization O, a communal welfare organization founded by and promoting the values of Religion R and the Churches. The Churches and their members participate in, contribute to and assist in maintaining Hospital H both directly and through Organization O. Hospital H is an organization described in section 501(c)(3) of the Code that is exempt from taxation under section 501(a) of the Code.

Hospital H is dedicated to carrying out its healthcare mission in keeping with Religion R life and tradition as taught and promoted by the Churches. In support thereof, Hospital H's Charter specifies that one of its purposes is "to continue its traditions of service to the Religion R community." Its Mission Statement includes the following language: "As an organization founded and supported by the Religion R community, it carries out its mission with sensitivity to the needs of Religion R patients and staff, and asserts traditional Religion R values of excellence, compassion and community concern for all." Hospital H's Vision Statement also includes references to Hospital H's Religion R heritage, and includes in its aims that it will be "the hospital of choice of the Religion R community." The Mission and Vision Statements are intended to express Hospital H's intention to operate in accordance with the customs, teachings and laws of the Churches.

Hospital H's Charter requires that at least two-thirds of the members of the board of directors be members of the Religion R community. All current and past members of the board of directors have, with de minimis exceptions, been affiliated with the Churches. Hospital H and its parent corporation have a close association with the Churches as well as with Organization O. Officers of Organization O, who themselves represent members of the Religion R community and the Churches, serve as officers of Hospital H and its parent corporation. Hospital H depends extensively on private philanthropy for funding. Through Organization O, Hospital H raises the bulk of its funds in meetings held at or under the auspices of the Churches and through mailings, telephone and in-person solicitations directed at members of the Churches and members of the Religion R community.

Programmatically, Hospital H works in furtherance of the customs, teachings and laws of the Churches and the special needs of individuals of Religion R origin. For example, there is a chapel at Hospital H with an ordained Religion R clergy member who conducts organized services at least four times per week in keeping with the customs, teachings and laws of the Churches. The

clergy member is employed full-time by Hospital H and, in addition to leading religious services, performs pastoral counseling and other religious duties, all for the purpose of preserving and promoting Religion R life and values as espoused by the Churches. Hospital H has a dining facility that complies with certain Religion R dietary laws and a gift shop, which includes items specific to Religion R. Hospital H observes two Religion R holidays that are celebrated in the Churches by designating such days as holidays for all non-union employees. Other Religion R holidays that are observed by the Churches are observed with appropriate ceremony and with religious services in the chapel in accordance with the customs, teachings and laws of the Churches. Special, targeted services are an important part of Hospital H's programs, including genetic testing and screening programs for diseases found disproportionately within the Religion R community and the members of the Churches, a special in-vitro fertilization program specially designed to be sensitive to the concerns of religiously observant members of the Religion R community and members of the Churches and a residency program designed to accommodate observant physicians-in-training. In addition, Hospital H works closely with other Religion R organizations which have common bonds with the Churches.

Hospital H maintains two defined benefit pension plans for its employees, Plan X and Plan Y. The Plans are qualified under section 401(a) of the Code. The Plans are administered by the Benefits Committee consisting of four officers of Hospital H approved by Hospital H's board of directors. The primary purpose of the Benefits Committee is to oversee the administration and funding of the Plans.

Based on the foregoing facts and representations, a ruling is requested that Plans X and Y are church plans within the meaning of section 414(e) of the Code.

To qualify under section 401(a) of the Code, an employees' plan generally must, among other requirements, 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 taxation under section 501 of the

Code. Section 1.170A-9(a) of the Income Tax Regulations provides that an organization is described in section 170(b)(1)(A)(i) of the Code if it is a church or a convention or association of churches.

Section 414(e)(3)(A) of the Code 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.

In pertinent part, section 414(e)(3)(B) of the Code provides that an "employee" of a church or a 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 of the Code, 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 the organization 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 a 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). Employees of any organization maintaining a plan are considered to be church employees if the organization: (1) is described in section 501(c)(3) of the Code and is exempt from tax under section 501(a) and (2) is controlled by or associated with a church or a convention or association of churches.

Hospital H and the Churches are organizations described in section 501(c)(3) of the Code which are exempt from tax under section 501(a) of the Code. Each of the Churches is an organization described in section 170(b)(1)(A)(i) of the Code,

that is, in this case, a church. Hospital H is associated with the Churches by sharing common religious bonds and convictions as evidenced by the following:

All current and past members of the board of directors have, with de minimis exceptions, been affiliated with the Churches. The Churches and their members participate in, contribute to and assist in maintaining Hospital H both directly and through Organization O, a communal welfare agency of the Churches and the Religion R community. It is represented that Hospital H's Mission Statement and its Vision Statement are intended to express Hospital H's intention to operate in accordance with the customs, teachings and laws of the Churches.

Through Organization O, Hospital H raises the bulk of its funds in meetings held at or under the auspices of the Churches and through solicitation directed at members of the Churches and the Religion R community. Hospital H's sharing of common religious bonds and convictions with the Churches is further evidenced by its full-time clergy member, observance of Religion R holidays, dietary laws, chapel services and pastoral counseling, all for the purpose of facilitating and supporting religious life as understood and taught by the Churches.

Accordingly, under section 414(e)(3)(D) of the Code, Hospital H shares common religious bonds and convictions with the Churches and is therefore associated with the Churches. Pursuant to section 414(e)(3)(B) and (C) of the Code, the employees of Hospital H are deemed to be employees of the Churches and the Churches are deemed to be the employer of such employees for purposes of the church plan rules.

Having established that employees of Hospital H are considered to be employees of the Churches, the remaining issue is whether the Benefits Committee established by Hospital H to administer Plans X and Y is an organization controlled by or associated with a church or a convention or association of churches, that has as its principal purpose or function the administration or funding of a plan or plans within the meaning of section 414(e)(3)(A) of the Code.

The Benefits Committee consists of four officers of Hospital H who are approved by the board of directors of Hospital H. The officers of Hospital H are under its control and therefore, so is the Benefits Committee. Since Hospital H is associated with the Churches by virtue of sharing common religious bonds and convictions, the Benefits Committee is indirectly associated with the Churches by virtue of the fact it is controlled by Hospital H. Since the primary purpose of the Benefits Committee is the administration of Plans X and Y, the Benefits Committee qualifies as an organization described in section 414(e)(3)(A) of the Code.

199942053

Accordingly, based on the foregoing facts and representations, it is concluded that Plans X and Y are church plans within the meaning of section 414(e) of the Code.

This letter expresses no opinion as to whether Plans X and Y, as described herein, continue to satisfy the requirements for qualification under section 401(a) of the Code. The determination of whether a plan is qualified under section 401(a) is within the jurisdiction of the appropriate Key District Office of the Internal Revenue Service.

This ruling is directed only to the taxpayer who requested it. Section 6110(k) of the Code provides that it may not be used or cited by others as precedent.

In accordance with a power of attorney on file in this office, this letter is being sent to your authorized representative and a copy is being sent to you.

Sincerely yours,

/s/ Frances V. Sloan

Frances V. Sloan
Chief, Employee Plans
Technical Branch 3

Enclosures:

Deleted Copy of this Letter
Notice of Intention to Disclose, Notice 437