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Internal Revenue Service

SIN 414.08-00

Department of the Treasury

Washington, DC 20224

Contact Person:

Telephone Number:

OP:E:EP:T:2/5002313

DEC 7

Attn:

Legend:
Church C =
Entity D =
Entity E =
Entity F =
Individual R =
Committee D =
Directory B =
Plan X =
Jurisdiction R =
Province A =
Society B =
State A =
Entity G =

Dear

This letter is in response to a ruling request dated July 27, 1999, as supplemented by correspondence dated October 28, 1999, submitted on your behalf by your authorized representative, concerning whether Plan X qualifies as a church plan within the meaning of section 414(e) of the Internal Revenue Code ("Code").

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

Entity F is a nonprofit corporation organized and operated under the laws of State A. Entity F is located in Jurisdiction R and is sponsored by Province A, which is a province of Society B. Entity F was incorporated in 1959 as Entity D. In 1969, its name was changed to Entity E, and in 1980, its name was changed to Entity F. Entity F's Articles of Incorporation state that it is organized exclusively for charitable purposes and that it was organized specifically to operate an organization for the collection of money for the support of seminaries conducted, maintained and operated by Entity G.

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Article I, Section I of Entity F's Bylaws state that the management and control of Entity F shall be vested solely in its Board of Directors. Article I, Section 2, of the Bylaws state that the Board of Directors shall be permanently composed of members of the Provincial Council of Province A and the Provincial Treasurer. An individual who is not a member of the Provincial Council or the Provincial Treasurer may be appointed to fill a vacancy on the Board but must be replaced by a qualified individual as soon as an individual qualifies in such capacity. Article II, Section 1 of the Bylaws provides that the president, vice president, secretary and treasurer of Entity F shall be elected by the Board of Directors.

The ultimate control of Entity F by Church C is exercised as follows: Each member of Society B is obligated to give religious obedience to his superior. This means that, if a member of Society B fails to follow the strongly expressed desires of Individual R, he would be removed from his post on the Provincial Council and as director of Entity F. Individual R, in turn, can be removed by the head of Church C.

Entity G, Entity F, Province A and Society B are listed in Directory B for 1999.

Plan X, which was established by Entity F in 1969, is intended to be a qualified plan under section 401(a) of the Code. Plan X was designed to provide retirement benefits for employees of Entity F. From its inception until December 31, 1998, Entity F was the plan administrator for Plan X. Effective January 1, 1999, Committee D began to administer Plan X. Pursuant to Article XI of the Plan X document, Committee D has the authority to: (1) resolve and determine all disputes or questions arising under Plan X, including claims for benefits, (2) adopt any rules and procedures that it deems necessary to administer Plan X, and (3) establish and carry out Plan X's funding policy. Committee D consists of one or more members who are appointed for an indefinite term by Entity F's Board of Directors and who are subject to removal by Entity F's Board of Directors with or without cause. The sole function of Committee D is the administration of Plan X.

Based on the foregoing facts and representations, you request a ruling that Plan X is a church plan within the meaning of section 414(e) of the Code, and has been a church plan at all times since 1974.

Section 414(e)(1) of the Code defines the term "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 414(e) was added to the Code by section 1015 of the Employee Retirement Income Security Act of 1974 (ERISA), Public Law 93-406, 1974-3 C.B. 1, enacted September 2, 1974. Section 1017(e) of ERISA provides that section 414(e) applied as of the date of ERISA's enactment. However, section 414(e) was amended by section 407(b) of the Multiemployer Pension Plan Amendments Act of 1980, Public Law 96-364, to provide that section 414(e) was effective as of January 1, 1974.

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 by 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.

Section 414(e)(3)(B) of the Code defines "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 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 states that if 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 fails to meet one or more of the requirements of this subsection and corrects its failure to meet such requirements within the correction period, the 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), in pertinent part, defines the term "correction period" as the period ending 270 days after the date of the 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 to have a qualified church plan, it 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 and that the plan will be administered by an organization of the type described in section 414(e)(3)(A) of the Code.

Entity F is associated with Church C by reason of sharing common religious bonds and convictions as evidenced by its listing in Directory B. The Internal Revenue Service has determined that any organization listed in Directory B is an organization described in section 501(c)(3) of the Code, that is exempt from tax under section 501(a). Also, any organization that is listed in Directory B shares common religious bonds and convictions with Church C and is deemed associated with Church C within the meaning of section 414(e)(3)(D) of the Code.

If an organization is associated with Church C by virtue of sharing religious bonds with Church C, that organization's employees are deemed to be Church C employees. In this case, in view of the common religious bonds between Church C and Entity F and Entity F's inclusion in Directory B, the employees of Entity F meet the definition of "employee" in section 414(e)(3)(B) of the Code and are deemed to be employees of a church or a convention or association of churches by virtue of being employees 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. Accordingly, pursuant to sections 414(e)(3)(B) and (C) of the Code, employees of Entity F are deemed to be employees of Church C, and Church C is deemed to be the employer of such employees, for purposes of the church plan rules.

Having established that the employees of Entity F are church employees, the remaining issue is whether Committee D is an organization controlled by or associated with a church or a convention or association of churches the principal purpose or function of which is the administration or funding of a plan within the meaning of section 414(e)(3)(A) of the Code.

From its inception in 1969 until December 31, 1998, Entity F was the plan administrator of Plan X. Entity F's principal purpose was not the administration and funding of Plan X. However, beginning January 1, 1999, Committee D began to administer Plan X. As stated above, Committee D's sole function is to administer Plan

X. Committee D is indirectly associated with Church C by virtue of the association of Church C with Entity F. Since January 1, 1999, Committee D has consisted of one or more members who are appointed by Entity F's Board of Directors, all of whom are required to be members of the Provincial Council of Province A. Thus, Committee D is controlled by Entity F, which is associated with Church C.

In this regard, it has been submitted that Plan X has been administered by Committee D since January 1, 1999. Committee D has the full range of authority typically exercised by administrators of retirement plans. Entity F's Board of Directors controls Committee D through its power to appoint and remove the members of Committee D with or without cause. Because Committee D is controlled by Entity F, which is associated with Church C, it too, is indirectly associated with Church C. The sole purpose of Committee D is the administration of Plan X. Accordingly, Committee D is considered controlled by or associated with a church or a convention or association of churches the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits for employees of Entity F. Therefore, Committee D qualifies as an organization described in section 414(e)(3)(A) of the Code.

Prior to January 1, 1999, Plan X was not administered by an organization whose principal purpose was the administration of a plan of an organization controlled by or associated with a church or a convention or association of churches. However, 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 the plan shall be deemed to meet the requirements of section 414(e) for the year in which the correction is made and for all prior years. Because Committee D was established by Plan X effective January 1, 1999, and meets the requirements of section 414(e)(3)(A), Plan X is deemed to meet the requirements of section 414(e)(3)(A) for all years since January 1, 1974.

Based on the foregoing facts and representations, we conclude that Plan X qualifies as a church plan within the meaning of section 414(e) of the Code and has been a church plan since 1974.

This letter expresses no opinion whether Plan X satisfies the requirements for qualification under section 401(a) of the Code. The determination 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)(3) 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, a copy of this ruling is being sent to your authorized representative.

Sincerely yours,

(signed) JOYCE E. FLOYD

Joyce E. Floyd
Chief, Employee Plans
Technical Branch 2

Enclosures:
Deleted Copy of this Letter
Notice of Intention to Disclose