Uniform Issue List 414.08-00

Internal Revenue Service

200023055

Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

T:EP:RA:T1

Date:

MAR 15 2000

XXXXX
XXXXX
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ATTN: XXXX

Legend:

Church A = XXXX

Hospital B = XXXXX

Plan X = XXXXXX

Ladies and Gentlemen:

This is in response to a letter dated XXXXXX Supplemented by additional correspondence dated xxxx and XXXX , in which your authorized representative requested a ruling on your behalf under section 414(e) of the Internal Revenue Code.

In support of your ruling requests you have submitted the following statements and information:

Hospital B is a not-for-profit corporation organized in 1990 by Church A under the laws the Commonwealth of Puerto Rico(the "Commonwealth"). The main purposes of Hospital B are to provide medical facilities to persons in need of such services, and to spread the gospel of the Lord and Savior Jesus Christ, as it is understood by Church A. You state that, since its incorporation in 1990, Hospital B has been operated by Church A. You further state that Hospital B will continue to be operated under the auspices of Church A throughout its existence.

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Hospital B's by-laws provide that Church A delegates its responsibility for running Hospital B to Hospital B's Board of Trustees. The Board of Trustees is responsible for Hospital B's policies regarding, among others, maintenance of quality patient care, provision for institutional management and planning, employees' continuing education, and cooperation with community agencies and institutions for the improvement of health care in the community at large. Continued compliance with the teachings and tenets of Church A is guaranteed by the fact that, of the 19 members of the Board of Trustees, 11 also are officers of Church A, or of Church A's various geographic subdivisions within the Commonwealth.

By letter dated January 24, 1996, the Internal Revenue Service has determined that Hospital B is an organization described in section 501(c)(3) of the Code and exempt from federal income tax under section 501(a).

Plan X is a defined benefit pension plan, sponsored and administered by Church A for the benefit of employees of Hospital B residing in the Commonwealth. Hospital B adopted Plan X on July 29, 1983, by execution of a Deed of Trust by Hospital B's Board of Trustees. Plan X has not been submitted for plan qualification with the Internal Revenue Service; however, Plan X received favorable qualification from the Treasury Department of the Commonwealth.

The general administration of Plan X and responsibility for carrying out the Plan's provisions is placed with a Retirement Committee. The principal purposes and functions of the Retirement Committee are to perform any and all acts necessary in connection with the administration of Plan X. Members of the Retirement Committee are appointed by Hospital B's Board of Trustees and may be removed by the Board at any time.

Based on the facts and representations described above, your authorized representative requests a ruling that Plan X, as adopted by Hospital B, is a church plan 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 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.

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 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 convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

Section 1022(i)(1) of the Employee Retirement Income Security Act of 1974 (ERISA), provides that, effective for years beginning after December 31, 1973, for purposes of section 501(a) of the Code, any trust forming part of a pension, profit-sharing, or stock bonus plan all of the participants of which are residents of

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the Commonwealth of Puerto Rico shall be treated as an organization described in section 401(a) of such Code if such trust (A) forms part of a pension, profit-sharing, or stock bonus plan, and (B) is exempt from income tax under the laws of the Commonwealth of Puerto Rico.

In order for an organization that is not itself a church or 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 the 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 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.

In this case, Hospital B is a not-for-profit corporation organized in 1990 under the laws of the Commonwealth of Puerto Rico. Plan X is a defined benefit retirement plan qualified under the rules of the Commonwealth's Treasury Department. Under the rules of section 1022(i)(1) of ERISA, the trust forming part of such a plan is treated as a tax-exempt domestic (United States) trust, if it covers exclusively Puerto Rican residents and is exempt from taxes under Puerto Rican law. If any tax-exempt domestic trust:

(1) is part of a plan qualified under section 401(a) of the Code,
(2) is established and maintained by a church or convention or association of churches or by an organization associated with a church or convention of churches, and
(3) is established and maintained for the exclusive benefit of individuals who are or are deemed to be church employees,

then the church, convention, association, or organization maintaining that plan and trust may seek a ruling that the plan is a church plan under the rules of section 414(e) of the Code. Accordingly, because Plan X is entitled to treatment as a qualified plan under section 401(a) of the Code by virtue of section 1022 of ERISA, Hospital B may seek a ruling that Plan X is a church plan under section 414(e) of the Code.

Church A established Hospital B to provide medical facilities for persons in need, and to spread the gospel of the Lord and Savior Jesus Christ, as understood by Church A. Hospital B has been determined by the United States Internal Revenue Service to be an organization that is described in section 501(c)(3) of the Code and exempt from tax under section 501(a). You stated that, since Hospital B's incorporation in 1990, it has been in operation under the auspices of Church A, and will continue under Church A's auspices throughout its existence.

Hospital B's by-laws delegate responsibility for running Hospital B to its Board of Trustees. The Board of Trustees is responsible for Hospital B's policies regarding, among others, maintenance of quality patient care, provision for institutional management and planning, employees' continuing education, and cooperation with community agencies and institutions for the improvement of health care in the community at large. In addition, Hospital B's by-laws ensure the appointment of individuals who share a commitment to the teachings and tenets of Church A. Of the 19 members of the Board of Trustees, 11 are officers of Church A or of the various geographic subdivisions of Church A within the Commonwealth. The Board of Directors reports directly to Church A.

Thus, for the reasons cited above, Hospital B is affiliated with Church A, and shares common dedications to the teachings, tenets, and core values of Church A through its health care ministry. Therefore, it is concluded that Church A and Hospital B share common religious bonds and convictions. Hospital B is therefore "associated" with Church A within the meaning of section 414(e)(3)(D) of the Code and for purposes of church plan rules.

Further, employees of Hospital B are employees of an organization which is exempt from tax under section 501 and associated with a church or convention or association of churches. Therefore, under the rules of section 414(e)(3)(B), the employees of Hospital B are considered to be employees of Church A for purposes of the church plan rules. Conversely, under the rules of section 414(e)(3)(C), Church A is considered the employer of Hospital B's employees.

Having established that the employees of Hospital B are deemed to be church employees, it still must be established that Plan X is maintained by an organization, the principal purpose or function of which is the administration or funding of a plan for the exclusive benefit of individuals who are, or are considered to be church employees, pursuant to section 414(e)(3)(A) of the Code.

Plan X is established and maintained for the benefit of Hospital B's employees. Pursuant to the provisions of Plan X, the Retirement Committee controls plan administration, and is vested with all the powers necessary to enable it to carry out its duties. The exclusive purpose or function of the Retirement Committee is to perform any and all acts necessary in connection with the administration of Plan X. Members of the Retirement Committee are appointed by the Board of Trustees of Hospital B and may be removed at any time by the Board of Trustees. We conclude therefore, that Plan X is maintained by an organization associated with Church A, the principal purpose or function of which is the administration or funding of Plan X, pursuant to the requirements of section 414(e)(3)(A) of the Code.

Accordingly, we rule that Plan X is a Church Plan within the meaning of section 414(e) of the Code.

This ruling reaches no conclusions, either directly or indirectly, on whether Plan X as described herein, satisfies the requirements for qualification under section 401(a) of the Code. The determination as to whether a plan is qualified under section 401(a) is within the jurisdiction of the Employee Plans Determinations Office,

This ruling assumes that Plan X participation is limited to Church A employees who are residents of the Commonwealth of Puerto Rico.

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.

A copy of the letter has been sent to your authorized representative in accordance with a Power of Attorney on file in this Office.

Sincerely,

(Signed) John Swieca

John Swieca, Manager
Employee Plans Technical Group 1
Tax Exempt and Government
Entities Division

Enclosures:
Copy of this letter
Deleted Copy of this Letter
Notice of Intention to Disclose, Notice 437
Copy of Cover Letter to Authorized Representative