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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

AUG 19 2002

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Attn: **********
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Legend:

Church A = **********

Congregation A = **********
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Congregation B = **********
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Congregation C = **********
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Corporation B = **********

Health System = **********

Subsidiary A = **********

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Subsidiary B = **********

Division D = **********

Division E = **********

Division F = **********

Subsidiary C = **********

Predecessor Plans:

Plan P 1 = **********
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Plan P 2 = **********
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Plan P 3 = **********
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Plan P 4 = **********
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Plan P 5 = **********
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Plan P 6 = **********
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Plan P 7 = **********
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Plan P 8 = **********
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Current Plans:

Plan Y = **********

Plan X = **********

Committee E = **********
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State L = ********

Directory D = **********

Ladies and Gentlemen:

This is in response to a ruling request dated December 6, 1999, as supplemented by letters dated September 13, 2000, May 7, 2001, July 12, 2001, December 3, 2001, and July 9, 2002, submitted on your behalf by your authorized representative concerning whether certain plans qualify as church plans under section 414(e) of the Internal Revenue Code (the "Code").

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

Congregation A, Congregation B and Congregation C are religious groups of women identified with Church A, and these Congregations are listed in Directory D.

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Congregation A is a congregation of Church A women that originated in Europe in 1867, and later incorporated in State L as a non-profit corporation. The Articles of Incorporation of Congregation A provide that its mission includes caring for the sick, injured and infirm, the distressed and unfortunate and providing for the physical, intellectual, educational and spiritual needs of its members.

During the 1970's Congregation A established a State L not-for-profit health care corporation, and Congregation A controlled this health care corporation because the Corporation's Board of Directors were comprised exclusively of members of Congregation A. The health care corporation was devoted to furthering the religious mission of Congregation A, through providing care for the spiritual, psychological, social, and physical needs of the sick, injured, aged, infirm, distressed and unfortunate.

Congregation C is a not-for-profit corporation organized and existing under the laws of State L. The purpose of Congregation C is to conduct the apostolic, business and temporal affairs of a Church A institute.

Congregation B was incorporated on March 8, 1932, and is operated exclusively for non-profit purposes. The purposes of Congregation B and the business or objects to be carried on and promoted by Congregation B include the fulfillment of its characteristic works: (a) the education of the young, (b) the visitation of the sick in homes, and the care of the sick in hospitals, and (c) the care of girls and women, of the aged, of orphans and the exercise of all other corporal and spiritual works of mercy.

Health System is identified with Church A and was created during the reorganization of the three regional health systems of Congregations A, B and C with the intent to serve their combined health care ministries in a collaborative manner. Although Health System was originally incorporated as Corporation B, the Articles of Incorporation were amended and restated to rename Corporation B as Health System effective

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******** **, ****. According to Article III of its Articles of Incorporation and its by-laws, Health System, as successor to Corporation B, operates exclusively for religious, charitable, educational and scientific purposes within the meaning of section 501(c)(3) of the Code. In all instances, Health System acts in accordance with Church A tradition in all matters of operations and in the discharge of governance and will abide by the Ethical and Religious Directives for Church A's healthcare services as approved by the National Conference of Bishops and as promulgated by the local Bishop. Under Article III of its amended and restated Articles of Incorporation, one of the purposes of Health System is to establish, develop, own, sponsor, manage, promote and/or conduct the affairs of an integrated system including hospitals, nursing homes, housing centers and such other ancillary facilities including but not limited to rehabilitation centers, behavioral health centers, home health programs, hospices, pharmacies, laboratories, human service programs, and related services, all of which are to be used to enhance the health of the community and to foster other spiritual, pastoral, religious, and charitable work.

The three religious sponsors of Health System (Congregation A, Congregation B, and Congregation C) or their representatives comprise the classes of membership of Health System: (i) the General Superior, the General Secretary, the General Treasurer and the Councilors of Congregation A, (ii) Congregation B, and (iii) Congregation C. A fourth class of membership of Health System is a member body comprised of six representatives, two representatives being appointed annually by each of the three religious sponsors. Each of the sponsor members has significant reserved powers that are enumerated in the Articles of Incorporation.

Health System was determined to be tax-exempt under section 501(c)(3) of the Code in a group ruling dated June 5, 2000, as an agency or instrumentality that is operated, supervised or controlled in connection with Church A. Health System is also listed in the current edition of Directory D.

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Health System has three subsidiaries, Subsidiary A, Subsidiary B and Subsidiary C. Health System is the sole corporate member of Subsidiary A, Subsidiary B and Subsidiary C. The by-laws of Subsidiary A and Subsidiary B reserve to Health System significant powers, including the power to elect and remove, with or without cause, the Subsidiaries' Directors.

Subsidiary A is a State L not-for-profit corporation that was formed contemporaneously with the creation of Health System in order to own and operate all of the hospitals of Congregation A, Congregation B and Congregation C. The Service issued a letter dated January 16, 1998, that determined that Subsidiary A is exempt from tax as an organization described in section 501(c)(3) of the Code. Subsidiary A's activities are conducted through seven unincorporated hospitals, called Divisions. Health System has substantial reserved powers including the power to amend the articles of consolidation and by-laws of Subsidiary A. In the event of dissolution, the assets will be distributed to the religious sponsors. Subsidiary A is listed in the current edition of Directory D.

Subsidiary B, is a State L not-for-profit corporation formed during the reorganization to operate all of its long-term care and independent senior living institutions. In all instances, Subsidiary B acts in accordance with the Church A tradition in all matters of operations and in the discharge of governance and abides by the Ethical and Religious Directives of the Church A healthcare services. Health System has important and significant reserved powers over Subsidiary B. Subsidiary B is organized and operates for religious, charitable, educational and scientific purposes within the meaning of section 501(c)(3) of the Code. Subsidiary B's activities are conducted through fourteen unincorporated Divisions. Health System has substantial reserved powers including the power to amend the articles of consolidation and by-laws of Subsidiary B. In the event of dissolution, the assets will be distributed to the religious sponsors. Prior to ******** **, ****, 3 Divisions of Subsidiary B, Division D,

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Division E and Division F, were tax-exempt organizations under section 501(c)(3) and were listed in Directory D. On ******** **, ****, Divisions D, E and F were folded into Subsidiary B, a tax-exempt organization under section 501(c)(3) of the Code that is listed in Directory D.

Subsidiary C is a for-profit subsidiary with fewer than 100 employees. Between ******** **, **** and December 31, 1998, certain employees of Subsidiary C participated in Plan P 2 and Plan P 8, and such employees constituted less than 3 percent of the employees in such plans. Between January 1, 1999 and December 31, 1999, less than 3 percent of the participants in Plan Y were employees of the for-profit affiliates of Health System. During 2000, Subsidiary C grew to more than 100 employees. In anticipation of this growth, the portion of Plan Y employees attributable to employees of Subsidiary C were transferred to another plan of Health System to limit the number of employees of for-profit entities from participating in Plan Y and protect Plan Y's church plan status. Since January 1, 2000, only employees of tax-exempt entities of Health System have been allowed to participate in Plan Y. No employees of Health System's for-profit entities ever participated in Plan P 4 or Plan P 6. No employees of any for-profit entities affiliated with Health System were eligible to participate in Plan X.

Prior to the reorganization, certain predecessor plans, Plans P 1 through P 8, were maintained by entities controlled by and associated with Congregation A, Congregation B and Congregation C, as follows:

Health System was originally incorporated as Corporation B. Pursuant to the reorganization, Health System is the named successor to Corporation B, the entity previously affiliated with the health system of Congregation B. Under its Articles of Incorporation, Health System operates exclusively for religious, charitable, educational and scientific purposes within the meaning of section 501(c)(3) of the Code.

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Corporation B, the predecessor to Health System, maintained Plan P 2, a pension plan for the benefit of the employees of its health care system. In a letter dated September 29, 1994, the Service issued a ruling holding that Plan P 2 met the requirements as a church plan under section 414(e) of the Code, and that Congregation B's health care subsidiary, Corporation B, was controlled by Church A through Congregation B.

Congregation A maintained a pension plan, Plan P 8, for the benefit of the employees of its health care system. In a letter dated January 18, 1985, the Service issued a ruling holding that Plan P 8 met the requirements for a church plan under section 414(e) of the Code, and that the plan was maintained and controlled by Church A through Congregation A.

Congregation C maintained a pension plan, Plan P 1, for the benefit of the employees of its health care subsidiary. In a letter dated March 9, 1995, the Service issued a ruling to the health care subsidiary of Congregation C that concluded that Plan P 1 met the requirements as a church plan under section 414(e) of the Code, and that Plan P 1 was maintained and controlled by Church A through Congregation C.

Health System controls Subsidiary A, Subsidiary B and Subsidiary C. In addition, during the period of reorganization through December 31, 1998, Health System adopted and was the sponsor and administrator of Plans P 1 through P 7, which covered employees of Health System, Subsidiary A, Subsidiary B and Subsidiary C. As the parent company for the entire health system, Health System controls each of the employers and their employees who participated in the Predecessor Plans. Health System, Subsidiary A, Subsidiary B, or Subsidiary C employed all the employees participating in the Predecessor Plans and the Current Plans.

During the period of reorganization, the retirement program existed as follows: those employees who had been employed by the health care subsidiary of Congregation C prior to the reorganization continued to participate in Plan P 1;

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those employees originally employed by Corporation B, the health care subsidiary of Congregation B, continued to participate in Plan P 2 maintained by its successor, Health System; those employees who had been employed by Division D prior to the reorganization continued to participate in Plan P 3 and Plan P 4; those employees who had been employed by Division E prior to the reorganization continued to participate in Plan P 5 and Plan P 6; those employees who had been employed by Division F prior to the reorganization continued to participate in Plan P 7; and those employees who had been employed by the heath care subsidiary of Congregation A continue to participate in Plan P 8. In short, the employees of Corporation B, Congregation C, Division D, Division E and Division F became employees of Health System, Subsidiary A or Subsidiary B effective at the time of the reorganization, and they did not become participants in the Current Plans until January 1, 1999, when the employees became participants in Plan Y and Plan X, and the other Plans were frozen.

Effective January 1, 1999, Health System's Plan P 2 and Congregation A's health care system's Plan P 8 were merged and restated to form Plan Y. Also, effective January 1, 1999, Health System established Plan X, an annuity purchase arrangement described in section 403(b) of the Code. From that date forward, all eligible employees of Health System, Subsidiary A and Subsidiary B commenced to participate in Plan Y or Plan X. Since January 1, 2000, only employees of tax-exempt entities of Health System have been allowed to participate in either Plan Y or Plan X. Except for Plan Y and Plan X, the Predecessor Plans in effect prior to implementation of the new Health System retirement program effective January 1, 1999, remained part of the current Health System retirement program. Except for Plan P 2 and Plan P 8, which were merged to form Plan Y, no new contributions were made to any of the accounts of the Predecessor Plans effective January 1, 1999, and they have been "frozen" since that date. However, Health System is in the process of preparing determination letter requests for those Plans which are not section 403(b) plans.

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No employees from any for-profit entities affiliated with Health System are eligible to participate in the Current Plans because Plan Y and Plan X require that affiliated employers be exempt from tax under section 501 of the Code.

Health System's Board of Directors convened a meeting to establish Committee E, and the Board adopted operating rules and procedures governing the Committee. Committee E was effective ******** **, ****. The principal purpose of Committee E is the management and administration of the Predecessor Plans, Plan P 1 through Plan P 8, and the Current Plans, Plan Y and Plan X. Committee E has a minimum of five and a maximum of eleven members and must have at least one representative from Congregations A, B or C. Health System's Board of Directors appoints each member of Committee E and this Board must appoint a successor to fill any vacancies.

Based on the foregoing, you request a letter ruling that (i) Plans P 1 through P 7, as structured from ******** **, **** through December 31, 1998, and (ii) Plan Y and Plan X on and after January 1, 1999, constitute church plans under Code section 414(e).

To qualify under section 401(a) of the Code, an employees' plan generally must 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 of the Code.

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Section 414(e)(2)(B) of the Code provides, in pertinent part, that the term "church plan" does not include a plan 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 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.

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) of section 414(e)(3).

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.

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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 a church or a convention or association of churches. In addition, a "church plan" must be established and maintained for its employees by a "church or by a convention or association of churches which is exempt from tax under section 501" as provided in section 414(e)(1), or by an organization described in section 414(e)(3)(A) of the Code.

In this case, Congregation A, Congregation B and Congregation C are religious orders that are an integral part of Church A and are engaged in carrying out the health care mission of Church A. Congregation A, Congregation B and Congregation C are not-for-profit corporations, exempt from tax under section 501(c)(3) of the Code, share common religious bonds and convictions with the Church, and are listed in Directory D.

Beginning with the period of reorganization, Congregation A, Congregation B and Congregation C commenced to control Health System because the representatives of the Congregations comprise the membership of Health System, and as sponsors, they serve as members and appoint other members to the membership body of Health System. The member body has significant reserved powers. Health System is a not-for-profit corporation that operates exclusively for religious, charitable, educational and scientific purposes within the meaning of section 501(c)(3) of the Code, and is listed in Directory D.

Health System controls Subsidiary A, Subsidiary B and Subsidiary C, because Health System is the sole member of each of these Subsidiaries, and has powers of appointment and removal of their Directors. Subsidiary A and Subsidiary B are not-for-profit corporations that operate exclusively for religious, charitable, educational and scientific purposes

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within the meaning of section 501(c)(3) of the Code. Subsidiary A and Subsidiary B are listed in Directory D.

Any organization listed in Directory D is considered associated with Church A within the meaning of section 414(e)(3)(D) of the Code, and their employees are deemed to be employees of Church A within the meaning of section 414(e)(3)(B) of the Code. Health System and its subsidiaries, Subsidiary A and Subsidiary B, are associated with Church A by reason of sharing common religious bonds and convictions as evidenced by their listing in Directory D.

In view of the control of the Boards of Directors of Subsidiary A and Subsidiary B by Health System and their relationship to Church A, through Congregation A, Congregation B and Congregations C, the employees of Health System and Subsidiary A and Subsidiary B are deemed employees of Church A under section 414(e)(3)(B) of the Code for the church plan rules. Additionally, under the principles of section 414(e)(3)(C) of the Code, Church A is deemed to be the employer of the employees of Health System, Subsidiary A, and Subsidiary B for purposes of the church plan rules of section 414(e) of the Code.

Prior to January 1, 2000, Subsidiary C, a for-profit entity owned by Health System had fewer than 100 employees participating in Plan Y, or its predecessor Plans, Plan P 2 and Plan P 8, which was less than 3 percent of the total participants in Plan Y and less than 3 percent of the total participants in either Plan P 2 or Plan P 8. Therefore, we conclude that Plan Y, Plan P 2 and Plan P 8 satisfied the requirements of section 414(e)(2)(B) of the Code because substantially all of the individuals included in Plan Y, Plan P 2 and Plan P 8 are individuals described in section 414(e)(1) or section 414(e)(3)(B) of the Code.

Having established that the employees of Health System and Subsidiaries A and B are deemed to be employees of Church A, the remaining issue is whether Committee E which administers the Predecessor Plans and Current Plans is

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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 within the meaning of section 414(e)(3)(A) of the Code.

The principal purpose of Committee E is the management and administration of the Predecessor Plans, Plan P 1 through Plan P 8, and the Current Plans, Plan Y and Plan X. Health System's Board of Directors appoints each member of Committee E, and its members must include at least one representative from Congregations A, B or C. Church A through Congregation A, Congregation B and Congregation C controls Health System. Thus, Plan P 1 through Plan P 8, and Plan Y and Plan X are maintained by an organization described in section 414(e)(3)(A) of the Code.

Accordingly, based on these facts and representations we conclude as follows: (i) Plans P 1 through P 7, as structured from ******** **, **** through December 31, 1998, and (ii) Plan Y and Plan X on and after January 1, 1999, constitute church plans under Code section 414(e).

This letter expresses no opinion whether any of the Predecessor Plans or the Current Plans are qualified under section 401(a) of the Code. Requests for determination letters are to be addressed to EP Determinations, Internal Revenue Service, Covington, KY in accordance with the instructions in Rev. Proc. 2002-6, Internal Revenue Bulletin 2002-1, 203. Similarly, this letter expresses no opinion as to whether any of the plans meet the requirement of section 403(b) of the Code.

This ruling is directed only to the taxpayer that 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 this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

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If you have any questions please contact **** ******, I.D. #**-*****, at (***) ***-****.

Sincerely yours,

/s/ Alan Pipkin

Alan C. Pipkin, Manager
Employee Plans Technical Group 4

Enclosures:
Deleted copy of this letter
Notice of Intention to Disclose, Notice 437