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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Uniform Issue List No.: 414.08-00

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JUN 23 2003
T:EP:RA:T1

ATTN: **********
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Legend:
Church A = **********
Congregation B = **********
Corporation C = **********
Corporation D = **********
****
State E = **********
City F = **********
Plan = **********
****

Ladies and Gentlemen:

This is in response to a letter dated November 6, 2002, supplemented by additional correspondence dated April 8, April 16, and May 13, 2003, in which your authorized representative requested a ruling on your behalf under § 414(e) of the Internal Revenue Code ("Code").

In support of your ruling request you have submitted the following information and representations:

Corporation D is a not-for-profit corporation chartered in **** under the laws of State E. It is organized and operated under the auspices of Congregation B, a regional subdivision of Church A located in City F. The Bylaws of Corporation D provide that its activities are to be in conformity with the teachings, tenets, and moral practice of Church A. Corporation D's Certificate of Incorporation states that it is organized to express solidarity of Congregation B's Church A members with all men by providing

human social services in a manner that reflects the love of God for His people and the congregants' love for all men as brothers. As further stated in Corporation D's Bylaws, the basic mission of Corporation D is to continue the ministry of Jesus Christ expressed in the Gospel by the provision of a broad spectrum of services and assistance to persons in need.

The sole member of Corporation D is Corporation C, also a not-for-profit corporation. The Board of Trustees of Corporation C is composed of five members, including four highly ranked church officials of Congregation B. Corporation C has the power to appoint the members of Corporation D's Board of Trustees, and its purpose in exercising that power is to maintain the mission of Corporation D. In addition to the religious authority wielded by Church A and Congregation B, the inclusion of Corporation C as the sole corporate member of Corporation D creates a legal structure for Corporation D's control and governance. The creation of a not-for-profit civil corporation also enables Corporation D to engage as many laypersons as needed to fulfill its mission and maintain business operations.

Congregation B, Corporation C, and social services agency Corporation D all are listed in the official directory of Church A in the United States. The Internal Revenue Service has determined that an organization either listed or appearing in the Church A Official

Directory is an organization described in Code § 501(c)(3), and exempt from tax under Code § 501(a).

The Plan, currently described as a cash balance plan and trust, is a retirement plan established effective **********, for the exclusive benefit of employees of Corporation D and their beneficiaries. You have represented that the Plan is qualified under Code § 401(a), and that the Plan's "Administrator" consists of a "Committee" of three individuals including Corporation D's Director of Human Resources, Chief Operating Officer, and Executive Director ("Administrative Committee"). You further represent that the Administrative Committee has acted as Administrator of this Plan without a break since *********, ****. The Administrative Committee serves at the pleasure of Corporation D's Board of Trustees, and has broad, discretionary authority to interpret the Plan and to make factual determinations in connection with the administration, interpretation and application of the Plan. The Administrative Committee designates the actuary to be employed in fixing the rate of contributions payable to the Plan and in making actuarial valuations. The sole purpose of the Administrative Committee is to administer the Plan for the exclusive benefit of participants and their beneficiaries.

Based on the statements and representations submitted, you request a ruling that the Plan is a church plan within the meaning of § 414(e) of the Code, and has been a church plan since its **** effective date.

To qualify under section 401(a) of the Code, 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 Code sections 410(c)(1)(B), 411(e)(1)(B) and 412(h)(4).

Further, only the employer or administrator of a plan subject to ERISA is required to file Form 5500 or Form 5500C (Annual Return/Report of Employee Benefit Plan); church pension benefit plans, and various welfare benefit plans that are church plans are excused from the filing. See Announcement 82-146, 1982-47 I.R.B. 53, and sections 1A and 2B of the instructions to Form 5500.

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.

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, Corporation C and Corporation D are not-for-profit corporations, chartered in 1976 under the laws of State E for the purpose of organizing and operating a social services agency in City F. Corporation C is the sole member of Corporation D, and four of the five members of Corporation C's Board of Trustees are church officials in Congregation B. Corporation C appoints Corporation D's Board of Trustees; and Corporation C's purpose in exercising that power is to maintain the mission of Corporation D. The Bylaws of Corporation D provide that its activities are to be in conformity with the teachings, tenets, and moral practice of Church A. Further, Corporation D's certificate of Incorporation states that it is organized to express solidarity of Congregation B's Church A members with all men, by providing human services in a manner that reflects the love of God for His people and the congregants' love for all men as brothers.

As a service arm of Congregation B, Corporation D is listed in Church A's Official Directory for the United States. The Internal Revenue Service has determined that any organization listed or appearing in the Official Directory is an organization described in Code § 501(c)(3), and exempt from tax under § 501(a). Further, it is the position of the Service that any organization listed or appearing in the Church A Directory shares common religious bonds and convictions with Church A and is, therefore "associated" with Church A for purposes of Code § 414(e)(3)(D) and the church plan rules. Accordingly, it is concluded that Corporation D shares common religious bonds and convictions with Church A, and is, therefore, associated with Church A within the meaning of Code § 414 (e)(3)(D).

Because Corporation D is associated with Church A, it is further concluded that Corporation D's employees are employees of an organization which is exempt from tax under Code § 501, and which is associated with a church or a convention or association of churches. Therefore, Corporation D's employees are considered employees of Church A under the rules of Code § 414(e)(3)(B). Conversely, under the rules of Code § 414(e)(3)(C), Church A is considered to be the employer of Corporation D's employees.

Having established that the employees of Corporation D are deemed to be employees of Corporation A, it remains to be established whether the Plan is maintained by an organization, 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 this case, you have represented that the Plan's Administrator consists of an Administrative Committee of three individuals, including Corporation D's Director of Human Resources, Chief Operating Officer, and Executive Director. The Administrative Committee serves at the pleasure of Corporation D's Board of Trustees, and has broad discretionary authority to interpret the Plan and to make factual determinations in connection with the administration, interpretation and application of the Plan. The Administrator designates the actuary to be employed in fixing the rate of contributions payable to the Plan and in making actuarial valuations. Based on these representations, it is concluded that the Plan meets the requirements of Code § 414(e)(3)(A), in that it is, and has since 1988 been, maintained by an organization the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits for individuals considered to be employees of a church or a convention or association of churches.

Accordingly, it is ruled that the Plan is, and has since ******* ****, been a church plan under the rules of section 414(e) of the Code.

This letter expresses no opinion as to whether the Plan satisfies the requirements for qualification under Code § 401(a). The determination as to whether a plan is qualified under § 401(a) is within the jurisdiction of the Manager, Employee Plans Determinations Programs, and the appropriate Area Office of the Employee Plans Examination Division.

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.

Copies of this letter and related documents have been sent to your authorized representative in accordance with a power of attorney on file in this office. If you have any questions pertaining to the ruling, please contact ********** (**********) of this office at ***-***-**** for further information.

Sincerely,

Andrew E. Zuckerman, Manager
Employee Plans Technical Group 1
T:EP:RA:T1

Enclosures:

- Deleted Copy of Ruling Letter
- Notice of Intention to Disclose (Notice 437)
- Copy of Cover Letter to Authorized Representative