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Internal Revenue Service

Department of the Treasury

Uniform Issue List 414.08-00

Washington, DC 20224

Person to Contact:

Telephone Number:

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

Date:

MAR 14 1999

Attention:

Legend:

Church A =

Organization B =

Directory D =

Committee N =

Plan X =

Dear :

This letter is in response to a ruling request dated August 5, 1998, as supplemented by correspondence dated October 15, 1998, submitted on your behalf by your authorized representative, concerning whether an employee benefit plan maintained by Organization B qualifies as a church plan under section 414(e) of the Internal Revenue Code ("Code"). In support of your ruling request, you have submitted the following statements and representations:

Organization B is an organization described in section 501(c)(3) of the Code which is exempt from income taxation under section 501(a) of the Code. Organization B is associated with Church A in that it shares common religious bonds and convictions with Church A, and is officially recognized as part of Church A. In addition, Organization B is listed in Directory D. Organization B established and sponsors Plan X. Plan X is a pension plan that provides retirement benefits to the employees of certain organizations officially recognized as part of Church A which are listed or eligible for listing in Directory D, exempt from federal income tax under section 501(c)(3), and have adopted Plan X. Directory D lists agencies, instrumentalities, and

276

institutions officially recognized as part of Church A in the United States.

Plan X was established in 1960 by Organization B so that Organization B and entities affiliated with it could provide retirement benefits to their employees. The purpose of Plan X has never been to make a profit for Committee N, the participating employers, or anyone else connected with Plan X.

Employers eligible to participate in Plan X are nonprofit corporations that are: (1) exempt from taxation pursuant to section 501(c)(3) of the Code, (2) operated under the auspices of Church A, in good standing thereof, and currently listed or approved for listing in Directory D, and (3) affiliated with Organization B.

Plan X is administered on behalf of participating employer's employees by Committee N, whose primary responsibility is to administer Plan X. Committee N has the power and discretion to construe the terms of Plan X, to determine benefits under Plan X, to determine all questions arising in connection with the administration, interpretation, and application of Plan X, and to perform all other functions generally considered to be the duties of the plan administrator. Organization B appoints and controls the members of Committee N. Committee N was established effective June 1, 1994.

Based on the foregoing facts and representations, a ruling is requested that the Plan is a church plan within the meaning of section 414(e) of the Code as of January 1, 1974.

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 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 his or her 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 provides that if a plan, intended to be a church plan, fails to meet one or more of the church plan requirements and corrects its failure within the correction period, then that 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) provides, in pertinent part, that the term "correction period" means the period ending 270 days after the date of 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.

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

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).

Organization B is associated with Church A because it shares common religious bonds and convictions with Church A, as evidenced by its listing in Directory D, and is officially recognized as part of Church A. Any organization listed in Directory D is considered associated with Church A and its employees are deemed to be employees of Church A. Thus, Organization B is associated with Church A. Therefore, pursuant to section 414(e)(3)(B) and (C) of the Code, employees of Organization B are deemed to be employees of Church A, and Church A is deemed to be the employer of such employees for purposes of the church plan rules.

However, an organization must also establish that its plans are established and maintained by a church or a convention or association of churches or by an organization described in section 414(e)(3)(A) of the Code. To be described in section 414(e)(3)(A) of the Code, an organization must have as its principal purpose the administration of the plans and must also be controlled by or associated with a church or a convention or association of churches.

Committee N's primary purpose is the administration of Plan X. Committee N is controlled by Church A indirectly through Organization B. Committee N is appointed and controlled by Organization B. Since Organization B shares common religious bonds and convictions with Church A, is officially recognized as part of Church A, and is listed in Directory D, Committee N qualifies as an organization described in section 414(e)(3)(A) of the Code.

Also, as provided under section 414(e)(4) 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 that 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. In 1994, Committee N was established to administer the Plan.

Organization B is a Code section 501(c)(3) organization that shares common religious bonds and convictions with Church A. Plan X is maintained by an organization, the primary purpose of which is the administration of the Plan. Committee N is controlled by or associated with Church A through Organization B. Accordingly, in regard to your ruling request, we conclude that Plan X is a church plan within the meaning of section 414(e) of the Code as of January 1, 1974.

This letter expresses no opinion as to whether Plan X 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 appropriate Key District Director's office of the Internal Revenue Service.

A copy of this letter has been sent to your authorized representative in accordance with the power of attorney submitted with the ruling request.

Sincerely yours,

/s/ Frances V. Sloan

Frances V. Sloan
Chief, Employee Plans
Technical Branch 3

Enclosures:
Deleted copy of letter
Notice 437

cc:

280