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

199937047

JUN 21 1999

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited by others as precedent.

Uniform Issue List Number: 414.08-00

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ATTN: **********
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Legend:
Church A = **********
Church B = **********
Congregation C = **********
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Corporation D = **********
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Corporation E = **********
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Corporation F = **********
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Hospital G = **********
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Hospital H	=	**********
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		**********
City I		**********
State J	=	**********
Plan W	=	**********
Plan X	=	**********
Plan Y	=	**********
		**********
Plan Z	=	**********
		**********

Ladies and Gentlemen:

This is in response to a letter dated June 30, 1998, as supplemented by additional correspondence dated July 2, 1998, and May 24, and June 14, 1999, in which your authorized representative requested rulings 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:

Corporation F is a not-for-profit corporation chartered under the laws of State J as a cooperative health-care venture between Corporations D and E. Corporations D and E also are State J not-for-profit corporations which, prior to the establishment of Corporation F, separately operated church-affiliated health care organizations in City I of State J.

Corporation D originally was established under the auspices of Congregation C of Church A. Congregation C originally was established under the authority of the head of Church A, and subsequently was chartered as a State J not-for-profit corporation. Congregation C's articles of incorporation describe its purposes to include:

> "emphasizing the promotion of human dignity and education for social justice, especially through the provision of health care, . . . and other forms of ministerial activity and establishment and maintenance of health care, education or other institutions supportive of such service. Also . . . dispensing aid to . . . others in sickness and distress, or at death, without regard to the economic status of the recipient."

In furtherance of the teachings and tenets of Church A, and in furtherance of its health care ministry, Congregation C established Corporation D to operate a chain of hospitals, nursing homes, and other health care facilities, including Hospital H in City I. The members of Corporation D consist of the head and the General Council of Congregation C. In a private letter ruling issued on **********, the Internal Revenue Service concluded that Congregation C, Corporation D, and Hospital H were organizations that shared common religious bonds, and were associated, with Church A. It was further noted that Congregation C, Corporation D, and Hospital H were organizations that are listed in the Official Directory of Church A in the United States. The Internal Revenue Service has determined that any organization listed or appearing in the Church A Official Directory is an organization that is described in § 501(c)(3) of the Code and exempt from tax under § 501(a).

Corporation E is a State J not-for-profit corporation that is exempt from tax under § 501 of the Code. Corporation E is a Church B affiliated health services organization whose Articles of Incorporation state its purposes to be:

> "to acquire, erect, equip, conduct, develop, maintain, and oversee on the broadest humanitarian principles (either directly, through affiliates and subsidiaries, or otherwise indirectly), one or more health care facilities to care for the sick and injured, and to engage in any other exclusively religious, charitable, scientific, or educational purposes and undertakings which may be authorized by . . .[Church B] . . . or the Executive Board thereof."

Church B, which controls Corporation E, is a non-hierarchical association of congregations located throughout State J. The individual member congregations are autonomous churches and related entities that elect to participate in, and support, Church B. Church B holds an annual convention that determines general goals for the community of churches comprising its membership. Each church sends a delegate to the convention, at which time the policies, philosophy, and religious mission of Church B is established by majority vote. While no member congregation is bound by the decisions of the annual convention, most, if not all, member congregations voluntarily abide by its dictates and help support its service programs. Church B, in convention, appoints all members of Corporation E's Board of Trustees. Prior to the start of its cooperative health-care

venture with Corporation D, Corporation E was the sole corporate member of Hospital G. Corporation E is listed in the current yearbook of Church B.

Thus, prior to the launch of Corporation F, Hospital G was affiliated with Church B through Corporation E; and Hospital H was affiliated with Church A through Corporation D. Hospital H continues to be listed in the Official Directory of Church A in the United States and is, therefore, considered by the Service to be an organization described in § 501(c)(3) of the Code and exempt from tax under § 501(a). Hospital G continues to be affiliated with Church B through Corporation E. Corporation E's classification as a tax-exempt organization under §§ 501(c)(3) and 501(a) of the Code continues to rely on the general "group exemption granted to . . . [Church B]."

Corporation F has been created to combine two competing church-affiliated health services organizations in City I into a single, unified health services organization. As a not-for-profit State J corporation, Corporation F is organized exclusively for charitable, scientific, religious and educational purposes, and has been determined by the Internal Revenue Service to be an organization described in § 501(c)(3) of the Code that is exempt from tax under § 501(a). Corporation F's specific purposes include owning, controlling and/or operating health care, hospital, medical, clinical research and nursing facilities, systems and organizations for training and education of physicians, nurses and specialists in allied fields for health care delivery, and for other services or items desirable in order to promote public health, including servicing the medically under served. Corporation F is listed in Church A's directory for the United States.

Corporation F is controlled equally by its two members, Corporations D and E. Any action (other than the appointment of trustees) which requires approval of the corporate membership may be taken only if both members approve the action. Neither Hospital G nor H can cease operations without the concurrence of both corporate members. Day-to-day oversight of Corporation F is in the hands of a **-person Board of Trustees, with equal numbers of trustees (*****) appointed by F's two corporate members, Corporations D and E. Each corporate member retains the power to remove, without cause, any trustee appointed by that member to Corporation F's Board of Trustees. At present, two members of the Congregation C and one member of the Church B clergy are members of Corporation F's Board of Trustees.

Corporation F's principal health care responsibilities are the "general supervision and control" of Hospitals G and H (the Hospitals"). The Boards of Trustees of the two Hospitals are prohibited by their corporate charters and bylaws from undertaking numerous activities without Corporation F's prior approval; e.g., the Bylaws of Hospital G may not be amended without the prior consent of Corporation F. The Boards of Trustees of Hospitals G and H are appointed by, and serve at the pleasure of, the Board of Trustees of Corporation F. Certain appointments to the Board of Trustees of Hospital G also must be confirmed by the annual meeting of Church B.

In addition, to the health care functions listed above, Corporation F is empowered to engage in related charitable, scientific, religious, educational, or medical research activities as may be authorized from time to time.

Corporation F's mission statement, as found in its Bylaws, is:

> "to serve individuals' health care needs in a holistic manner within an atmosphere of Christian love, compassion and dignity. This commitment, founded on the teachings and example of Jesus Christ, is fulfilled by providing high quality care in a cost effective way without regard to a person's ability to pay. . . . [Corporation F] is dedicated to collaborating with others in creating and promoting access for all, especially the poor and disadvantaged."

Corporation F's Articles of Incorporation also restate the organization's continuing commitment to the "religious heritage and charitable purposes" of its members (Corporations D and E), and its sponsors (Church A and Church B). And, Corporation F's Bylaws reaffirm the corporation's continuing commitment to following ethical and religious directives for health care organizations affiliated with Church A, as established by the leaders of Church A in the United States.

As part of the Corporation D health system, effective *********, ****, employees of Hospital H and its affiliated organizations participated in Plan W, a defined benefit pension plan maintained by Corporation D. The Service has determined that Plan W is qualified under § 401(a) of the Code, and has ruled that it is a church plan under the rules of § 414(e). As a result of the cooperative venture between Corporations D and E, Hospital H established Plan X and withdrew from participation in

Plan W, effective August 30, 1996. Corporation F now sponsors Plan X, which is identical to Plan W, except that participation is limited to individuals working for Hospital H. (Plan W will be terminated in the near future.)

Effective *********, ****, Corporation F also established Plans Y and Z for the benefit of employees of the Hospitals, and their beneficiaries. You represent that Plan Y is a non-electing, qualified money purchase pension plan. Plan Z is a non-electing, qualified defined contribution plan providing for elective deferrals pursuant to a cash or deferred arrangement under § 401(k) of the Code.

Plans X, Y, and Z provide that Corporation F's Board of Trustees may appoint, in writing, (1) one or more persons to serve as Administrator; however, if the corporation does not appoint any individual or individuals under this provision, then Corporation F shall be the Administrator. In this case, you represent that Corporation F's Board of Trustees has exercised its discretion to appoint an Administrative Committee for Plans X, Y, and Z, thus making activation of the Plans' default provisions naming Corporation F as the Administrator inoperative. You further represent and have proposed that the plans will be amended in the near future to provide that an Administrative Committee named by Corporation F's Board of Trustees will operate at all times.

Finally you represent that certain participants in Plans X, Y, and Z are common law employees of other organizations affiliated with either Hospital G or H (and, therefore, affiliated with either Church A or B); however, these other organizations are not exempt from tax under § 501(a) of the Code. You further represent that, as of the date of your ruling request, employees of such affiliated for-profit trades or businesses number ** out of a total of *****, or approximately 2.3 percent all employees.

Based on the previous statements and representations, you request a ruling that Plans X, Y, and Z are church plans within the meaning of § 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)(2) 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 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, the employees of both Hospitals, and their related trades or businesses, are employees of organizations that are now under the general supervision and control of Corporation F. Through Corporation F, the Hospitals are associated with Corporation D, Congregation C and Church A; and through Corporation F, the same Hospitals also are associated with Corporation E and Church B.

With regard to Church A, Congregation C was established under the auspices of the head of Church A, and furthers the teachings and tenets of Church A by the establishment and maintenance of health care and educational institutions. In furtherance of its health care ministry, Congregation C established and operated acute care hospitals in State J, including Hospital H in City I. The head and general council of Congregation C are the sole members of Corporation D, a not-for-profit corporation established by Congregation C for the purpose of overseeing its health services institutions. The Service has previously concluded that Congregation C and Corporation D are associated with Church A.

Corporation D is one of the two members of Corporation F, appointing one-half of Corporation F's Board of Trustees. Moreover, of the ***** Corporation F trustees appointed by Corporation D, at least two are members of Congregation C. Corporation F continues to adhere to the ethical and religious directives for health care organizations affiliated with Church A, as established by the leaders of Church A in the United States. And Corporation F continues to further both the teachings and tenets of Church A and the health care ministry of Congregation C by acting to serve individuals' health care needs within an atmosphere of Christian love, compassion and dignity. Corporation F thus retains its relationship with Church A through Corporation D and Congregation C.

Based on the facts presented herein, it is concluded that Corporation F and the Hospitals under its general supervision and control share common religious bonds and convictions with Church A and, therefore, is associated with Church A within the meaning of § 414(e)(3)(D) of the Code. Moreover, because Corporation F and the Hospitals are associated with Church A under the church plan rules, and because Corporation F is exempt from tax under § 501(a), it is further concluded that employees of Corporation F are considered to be employees of a church or convention or association of churches under the rules of section 414(e)(3)(B). Conversely, under § 414(e)(3)(C) of the Code, a church or convention or association of churches is considered to be the employer of individuals deemed to be employees under § 414(e)(3)(B). Accordingly, it is concluded that the employees of Corporation F and the Hospitals are considered to be employees of Church A for purposes of the church plan rules.

With regard to Church B, the facts and representations of the case indicate that it is a non-hierarchical association of congregations. The individual member congregations are autonomous churches and related entities that elect to participate in, and support, Church B. Church B holds an annual convention that determines general goals for the community of churches comprising its membership. Each church sends a delegate to the convention, and the policies, philosophy, and religious mission of Church B is established by majority vote.

In furtherance of its teachings and tenets, Church B has established health care facilities, and chartered Corporation E and Hospital G to acquire, erect, equip, conduct, develop, maintain, and oversee on the broadest humanitarian principles, one or more health care facilities to care for the sick and injured, and to engage in other exclusively religious, charitable, scientific, or educational undertakings. All of Corporation E's members are appointed by Church B's annual convention, and the convention makes and approves all appointments to Corporation E's Board of Trustees. Church B, Corporation E, and Hospital G are exempt from tax under Code § 501(a), and are listed in Church B's Yearbook as affiliated institutions.

As a result of the cooperative venture between Church B and Congregation C, Corporation E is now one of the two members of Corporation F (along with Corporation D). Like its counterpart, Corporation E appoints ***** members of Corporation F's Board of Board of Trustees. Of the seats available to Corporation E on the Corporation F Board of Trustees, one is presently occupied by

a member of the Church B clergy. By provision of its corporate charter actions taken by Corporation F that affect its basic organizational structure may only proceed with the prior written approval of the corporate members.

Corporation F exercises "general supervision and control" over Hospital G, appointing the members of Hospital G's Board of Trustees, some of which appointments are then approved by Church B at its annual convention. Of the members of Hospital G's Board of Trustees two are Church B clergymen. Actions affecting Hospital G's basic organizational structure must be approved by Corporation F.

Based on the facts presented herein, it is concluded that Corporation F and the Hospitals share common religious bonds and convictions with Church B; they are, therefore, "associated" with Church B within the meaning of § 414(e)(3)(D) of the Code. Moreover, because Corporation F and the Hospitals are associated with Church B under the church plan rules, and because Corporation F is exempt from tax under § 501(a), it is further concluded that employees of Corporation F are considered to be employees of a church or convention or association of churches under the rules of section 414(e)(3)(B). Conversely, under § 414(e)(3)(C) of the Code, a church or convention or association of churches is considered to be the employer of individuals deemed to be employees under § 414(e)(3)(B). Accordingly, it is concluded that the employees of Corporation F and the Hospitals are considered to be employees of Church B for purposes of the church plan rules.

Finally, you have represented that, as of the time your ruling request was filed, the number of plan participants who are employed by "for-profit" trades or businesses associated with Corporation F number ** out of a total of ****, or approximately 2.3 percent of the total number of employees. Based on these representations, we conclude that substantially all the employees participating in Plans X, Y, and Z are individuals described in section 414(e)(3)(B) of the Code.

Having established that substantially all the employees of Corporation F and the Hospitals may be deemed to be Church A or Church B employees, the remaining issue is whether the Administrative Committee is an organization controlled by or associated with a church or a convention or association of

churches, that has as its principal purpose or function the administration or funding of a plan or plans for the provision of retirement benefits or welfare benefits, or both, within the meaning of section 414(e)(3)(A) of the Code.

Plans X, Y, and Z provide that Corporation F may appoint, in writing, one or more persons to serve as a plan "Administrator"; the sole purpose and function of the Administrator or Administrative Committee is to administer Plans X, Y, or Z according to its terms. The members of the Administrative Committee are chosen by Corporation F's Board of Trustees and may be removed by a vote of the Board, with or without cause. Because an Administrative Committee is functioning at this time, the default provisions naming Corporation F as Plan Administrator are inoperative, and you have represented that Plans X, Y, and Z will be amended in the near future to require that such an Administrative Committee or Administrator will operate independent of Corporation F at all times during the existence of Plans X, Y, and Z.

Based on the above description and representations, we conclude that the Administrative Committee or Administrator is an organization, the principal purpose of 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 convention or association of churches. We further conclude that the Administrator or Administrative Committee satisfies the requirements of § 414(e)(3)(A) of the Code and the church plan rules.

Accordingly, we conclude that Plans X, Y, and Z are church plans within the meaning of § 414(e) of the Code.

The conclusions reached in this ruling letter assume the adoption of a plan amendment to require that an Administrative Committee or Administrator will operate independent of Corporation F at all times during the existence of Plans X, Y, and Z. Also, this letter expresses no opinion as to whether Plans X, Y, and Z, as described herein, satisfy 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 Office of the Internal Revenue Service.

A copy of this letter has been sent to your authorized representatives in accordance with a power of attorney on file in this office. Should you need additional information regarding this private letter ruling, please contact ********** [the Employee Plans Division National Office Information Line at (202) 622-6074.] ********** **********

Sincerely,

John Swieca
Chief, Employee Plans
Technical Branch 1

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