internal Revenue Service

Department of the Treasury

Washington, DC 20224

SIN: 414.08-00

Person to contact:

Telephone Number:

Refer Reply to:

Date: APR - 4 2000

T:EP:RA:T/2

Legend:

Church C =

Hospital H =

Corporation P =

Plan X =

Directory D =

This is in response to a letter dated December 27, 1999, in which your authorized representative requested a ruling on your behalf that coverage of employees of Corporation P, an unrelated trade or business, will not adversely affect the status of Plan x as a church plan within the meaning of section 414(e) of the Internal Revenue Code.

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

Hospital H established Plan X for the benefit of its employees on October 1, 1956. Plan X is a defined benefit pension plan and most recently has been determined to be qualified under section 401(a) of the Code in a determination letter dated March 11, 1997.

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The National Office of the Internal Revenue Service determined that Plan X is a church plan within the meaning of section 414(e) of the Code in a private letter ruling dated November 4, 1993. In a subsequent private letter ruling dated December 31, 1996, the National Office determined that Plan X continued to qualify as a church plan following a plan merger that was incidental to the merger of another hospital with and into Hospital H.

It is represented that, except for the coverage of the employees of Corporation P, the facts underlying Plan X's church plan status are unchanged from those on which the above letter rulings were based. That is, Hospital H continues as a teaching and general acute care community hospital. It is exempt from federal income taxes under section 501(a) of the Code as an organization described under section 501(c) (3). Hospital H is listed in Directory D, the official directory of Church C and is classified as a public charity under sections 509(a)(l) and 170(b)(1)(A)(iii) of the Code as an organization whose primary purpose or function is to provide medical care. Hospital H continues to be controlled by and associated with Church C. The Plan X administrator remains an organization described in section 414(e)(3)(A) of the Code.

Hospital H owns 50 percent of the stock of Corporation P and the remaining 50 percent is owned by Hospital H physicians. As a result, Corporation P is not part of the Hospital H controlled group under section 414(b) and (c) of the Code. Corporation P was created to assist Hospital H in carrying out its mission by negotiating health provider contracts on behalf of Hospital H and its physicians. From the time of its incorporation until recently, Corporation P had no employees. All Corporation P functions were performed exclusively by employees of Hospital H. Effective January 1, 1999, Hospital H altered this arrangement and nine Hospital H employees performing Corporation P-related services actually became employees of Corporation P. Eight of the nine employees were participating in Plan X at the time of their transfer because prior to the transfer they were Hospital H employees. Hospital H now proposes to allow Corporation P to adopt Plan X so these individuals can continue to participate in Plan X and so new Corporation P employees can also participate in Plan X. Since Corporation P is not a part of the Hospital H controlled group, Plan X will become a multiple employer plan upon its adoption by Corporation P.

Plan X currently has 5,496 participants, all of whom currently qualify as Church C employees under section 414(e) (3)(B) (ii) of the Code or did qualify as Church C employees under section 414(e)(3)(B)(ii) at the time they were active

participants. If Corporation P adopts Plan X, the nine participating Corporation P employees would represent less than 0.2 percent of the total number of employees covered by Plan X.

Based on the foregoing facts and representations, a ruling is requested that the proposed adoption of Plan X by Corporation P, converting Plan X to a multiple employer plan within the meaning of section 413(c) of the Code that covers the employees of Corporation P, does not adversely affect the status of Plan X as a church plan within the meaning of section 414(e) of the Code.

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) (2) provides that the term "church plan" does not include a plan (A) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of a church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513); or (B) if less than substantially all of the individuals included in the plan are individuals described in paragraph (1) or (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.

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.

Prior to its repeal by section 407(b) of the Multiemployer Pension Plan Amendments Act of 1980, section 414(e)(2)(B) provided that a church plan did not include a plan "maintained by more than one employer, if one or more of the employers in the plan is not a church (or a convention or association of churches) which is exempt from tax under section 501."

Section 413(c) of the Code and section 1.413-2(a)(2) of the Income Tax Regulations provide that a non-collectively bargained plan is a multiple employer plan if the plan is maintained by more that one employer. For this purpose, employers maintaining a plan are separate employers if they are not members of a controlled group under the principles of section 414(b) or (c) of the Code.

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).

Hospital H is in receipt of two private letter rulings concluding that Plan X qualifies as a church plan. It is represented that the facts on which these letter rulings were based have not changed and that therefore Plan X continues to qualify as a church plan under section 414(e) of Code. The issue under consideration is whether permitting Corporation P to adopt Plan X and extend coverage to its employees will affect Plan X's church plan status.

In this regard, pursuant to the amendments made to section 414(e) of the Code by the Multiemployer Pension Plan Amendments Act of 1980, the fact that Plan X will become a multiple employer plan when it is adopted by Corporation P will not affect Plan X's church plan status if Plan X otherwise meets the requirements of section 414(e). Further, based on the facts submitted the nine employees of Corporation P will constitute an insubstantial portion of the participants of Plan X and therefore substantially

all participants in Plan X will continue to be considered church employees. Plan X will therefore continue to meet the requirements of section 414(e) (2) of the Code after it is adopted by Corporation P.

Accordingly, it is concluded that the proposed adoption of Plan X by Corporation P, converting Plan X to a multiple employer plan within the meaning of section 413(c) of the Code that covers the employees of Corporation P, does not adversely affect the status of Plan X as a church plan within the meaning of section 414(e) of the Code.

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.

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.

In accordance with a power of attorney submitted with this ruling request, a copy of this letter has been sent to your authorized representative.

Sincerely yours,

/s/ Frances V. Sloan

Frances V. Sloan, Manager
Employee Plans Technical Group 3
Tax Exempt and Government
Entities Division

Enclosures:
Deleted copy of letter
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