200021063

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

W/L: 414.00-00
170.00-00
6033.00-00
501.00-00

Contact Person

Telephone Number

In Reference to:

T:EP:RA:T3

Date:

MAR 3 2000

Legend:

Association A =
Entity G =
Plan X =
Plan Y =
State O =
State M =

Dear

In correspondence dated July 30, 1999, your authorized representatives requested a ruling on your behalf that the employee benefit plans maintained by Entity G qualify as church plans under section 414(e) of the Internal Revenue Code.

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

Entity G is a not-for-profit religious corporation organized and operated under the laws of State O. Entity G received a determination letter in which the Internal Revenue Service recognized Entity G as exempt from federal income taxation under section 501(a) and section 501(c)(3) of the Code, as an integrated auxiliary of an association of churches, Association A, pursuant to section 170(b)(l)(A)(i) and section 1.6033-2(h) of the Income Tax Regulations. Association A is a not-for-profit State M corporation exempt from federal income taxation under section 501(c)(3) as a convention or association of churches. Entity G is exempt from the Form 990 annual filing requirement as an integrated auxiliary of a convention or association of churches under section 6033(a)(2)(A)(i).

The general purposes for which Entity G was formed are to preach the gospel of Jesus Christ, to conduct and extend missionary work, to lead souls to a saving knowledge of our Lord Jesus Christ, to teach the Word of God, and to instruct and edify the body of Christ, by a true and faithful ministry of His precious Word; to train and raise up workers for mission fields, both within the United States of America and abroad, and to establish, maintain and conduct schools for training missionaries; to spread the gospel of Jesus Christ to all of humanity, and to that end to use all methods of communication, including but not limited to public speech, concerts, audio-visual recordings, and the publication, printing, duplication and dissemination of the written word. Entity G has all such powers as may be necessary to carry out its purposes,

304

including the power to pay reasonable compensation to any person or organization for services rendered, and to make distributions in pursuance of its purposes.

Pursuant to Entity G's Articles of Incorporation and Bylaws, Entity G is controlled by and associated with Association A. Section 5.1 of Entity G's Bylaws provides that "when applicable law, the Corporation's articles, or the Corporation's bylaws, as amended from time to time, refer to the 'members' of the Corporation, said term shall be construed to mean the then current members of the Board of Directors of Association A, a State M Religious corporation."

Section 3.3 of Entity G's Bylaws provides that Entity G's Board of Directors shall be elected by the Association A Board of Directors.

Article 1 of Entity G's Bylaws provides that Entity G shares a Statement of Faith in common with Association A.

Section 3.16 of Entity G's Bylaws incorporates the Association A Book of Discipline as the standard for determining whether an Entity G Director may be removed. As explained in Bylaws Section 3.16, an Entity G Director may be removed by the Entity G Board in accordance with the Association A Book of Discipline.

Section 6.4 of Entity G's Bylaws provides that it shall provide the audited financial statements as well as any periodic financial statements to the Board of Directors of Association A for their timely review and consultation.

Section 9.1 of Entity G's Bylaws provides a special process for amending the Bylaws to alter the manner of election of Directors. This process requires, among other things, approval by 75 percent of the then current Directors of Entity G and by 75 percent of the then current Directors of Association A.

Plan X is a defined contribution retirement savings plan described in section 401(k) of the Code, established by Entity G for the benefit of certain Entity G employees. The effective date of Plan X is January 1, 1998.

Entity G is the "Employer" and "Plan Administrator" for Plan X, as those terms are defined in Article I of the Plan X document. Article VIII, Section 8.05, Delegation of Authority, of the Plan X document provides that all or any part of the administrative duties and responsibilities of the Plan Administrator under this article may be delegated by the Plan Administrator to a Retirement Committee. The duties and responsibilities of the Retirement Committee shall be set out in a separate written agreement.

By Board resolution adopted by unanimous written consent on or about May 11, 1999, the Board of Directors of Association A established a Retirement Committee (as that term is defined in the Plan X document) to maintain and administer Plan X and to exercise all of the duties and responsibilities of the Plan Administrator, as delegated and ultimately supervised by the Entity G Board. This Association A Board resolution also (a) appointed all members of this Retirement Committee that serves as Plan Administrator of Plan X. (b) provided that the Retirement

Committee and all members thereof shall serve at the convenience of Association A and may be removed by the Association A Board, and (c) gave Association A the ability to fill all vacancies on the Retirement Committee.

Concurrently, by Board resolution adopted by unanimous written consent on or about May 6, 1999, the Board of Directors of Entity G expressly recognized this Retirement Committee established and appointed by the Board of Directors of Association A and delegated to this Retirement Committee Entity G's administrative duties and responsibilities as Plan Administrator of Plan X pursuant to Article VIII, Section 8.05 of the Plan X document, to the extent permitted by the Plan X document and applicable laws. This Entity G resolution also invested in the Board of Directors of Association A full authority to define the structure and membership of this Retirement Committee and to appoint and remove all members of this Retirement Committee, consistent with the Plan X document and applicable laws. This Retirement Committee established and appointed by the Board of Directors of Association A exercises all of the administrative duties and responsibilities of the Plan Administrator of Plan X in accordance with the Plan X document. The principal purpose or function of the Retirement Committee is the administration of Plan X.

Plan Y is an employee benefits plan (comprised of the Gold, Silver, Comprehensive, and Dental Plans) established by Entity G and Association A to provide certain medical benefits for certain Entity G employees.

Pursuant to a resolution of the Board of Directors of Entity G adopted by unanimous written consent on or about April 16, 1998, the first paragraph of the section of the Plan Y document was amended, effective May 1, 1998, to provide as follows:

> Plan Administrator. Plan Y is the benefit plan of Entity G, an integrated auxiliary controlled by and associated with Association A. It has been established and is maintained by Association A, which has appointed a Plan Administration Committee to serve as the Plan Administrator, also called the Plan Sponsor. It is to be administered by the Plan Administrator in accordance with the provisions of the Employee Retirement Income Security Act of 1974. The Plan Administration Committee shall serve as Plan Administrator at the convenience of Association A. If the Plan Administrator (or any member thereof) resigns, dies, or is otherwise removed from the position, Association A shall appoint a new Plan Administrator (or member thereof) as soon as is reasonably possible.

By Board resolution adopted by unanimous written consent on or about April 17, 1998, the Board of Directors of Association A established a Plan Administration Committee to serve as Plan Administrator (as that term is defined in the Plan Y documents and applicable law) of Plan Y. This Association A Board resolution also appointed all members of this Plan Administration Committee, who serve at the convenience of (and therefore may be removed by) the Association A Board. The principal purpose or function of the Plan Administration Committee is the administration of Plan Y.

Based on the aforementioned facts and representations, your authorized representative requests a ruling that Plans X and Y qualify as "church plans" in accordance with 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)(3)(A) of the Code provides that a plan, otherwise qualified, will qualify 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.

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 a 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 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 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).

You have represented that under Entity G's Bylaws, the members of the Association A Board of Directors serve as the "members" of Entity G, that the Entity G Board of Directors is elected by Association A's Board of Directors, and that Entity G is an integrated auxiliary of Association A, an association of churches dedicated to carrying out a common religious mission. Therefore, the employees of Entity G, under the principles of section 414(e)(3)(B) of the Code, are deemed to be employees of a church or a convention or association of churches.

However, an organization must also establish that its retirement and welfare plans are established and maintained by a church or a convention or association of churches. Since Entity G is not in itself a church, Plans X and Y must be maintained either by Association A 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 plan and must also be controlled by or associated with a church or convention or association of churches.

It has been submitted that Plans X and Y are managed and controlled by a Retirement Committee, and Plan Administration Committee, respectively. Under an Entity G resolution, the Board of Directors of Association A has full authority to define the structure and membership of this Retirement Committee and to appoint and remove all members of this Retirement Committee, consistent with the Plan X document and applicable laws. This Retirement Committee exercises all of the administrative duties and responsibilities of the Plan Administrator of Plan X in accordance with the Plan X document. Also, it has been submitted that Association A appointed a Plan Administration Committee to serve as the Plan Administrator of Plan Y and that the Plan Administration Committee shall serve as Plan Administrator for Plan Y at the convenience of Association A. The principal purpose or function of the Retirement Committee and Plan Administration Committee is the administration of Plans X and Y, respectively. As such, the Retirement Committee and Plan Administration Committee are organizations described in section 414(e)(3)(A) of the Code.

Therefore, we conclude that Plans X and Y are "church plans" within the meaning of section 414(e) of the Code.

These conclusions apply only with respect to the organizations identified in this ruling, and express no opinion with respect to organizations that subsequently adopt Plans X and Y.

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.

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 representatives in accordance with a Power of Attorney on file in this office.

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 this Letter
Notice of Intention to Disclose

308