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

200230043

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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T:EP:RA:T2

Attention: **********
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Legend:

State A	=	**********
Corporation M	=	**********
Religious Affiliation A	=	**********
Church A	=	**********
Church B	=	**********
Church C	=	**********
Denomination D	=	**********
Plan P	=	**********
Plan Q	=	********** **********
Plan R	=	**********
Plan S	=	********** **********
Plan T	=	********** **********
Committee N	=	**********

Dear **********

This is in response to a ruling request dated August 28, 2000, as supplemented by correspondence dated June 21, 2001, submitted on your behalf by your authorized representative, with respect to the applicability of section 414(e) of the Internal Revenue Code to Plan P, Plan Q, Plan R, Plan S and Plan T.

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

Corporation M is an organization described in section 501(c)(3) of the Code which is exempt from taxation under section 501(a). Corporation M is also a non-profit corporation incorporated in State A for the object to establish, strengthen, perpetuate, and maintain a superior university in which courses and branches in literature, the sciences, the arts, music, the Bible, morals, and all branches of a general education may be taught.

Corporation M's statement of faith and belief is set forth in Section 2 of Article XVI of its Articles of Association, which provides:

> It is hereby expressly declared that Corporation M is, and must forever remain, distinctly a Religious Affiliation A institution. It must conserve, defend, and promote the fundamentals of the Religious Affiliation A faith, and in all its teachings and policies conform to and be in harmony with the established and acknowledged principles and policies of Religious Affiliation A churches affiliated with Church A and Church C.

Corporation M is an institution of Church A and is listed in Church A's directory. Church A was founded in 1834 and has an annual statewide meeting and fellowship of over 625,000 members in over 1900 churches and chapels in State A that cooperate with Denomination D. Church A is an organization described in section 501(c)(3) of the Code, which is tax exempt under section 501(a).

Corporation M receives funding from Church A. The Board of Trustees of Corporation M are nominated and appointed by Church A. All members of Corporation M's Board of Trustees must be members of a Church B church, which is affiliated with Church C. Corporation M's Board of Trustees is authorized to control and direct the management and business of Corporation M, which includes the appointment of Corporation M's President. All executive cabinet members and deans of Corporation M must be members of a Religious Affiliation A church. In addition, all employees of Corporation M are required to sign a principles and expectation statement that outlines Denomination D doctrines and beliefs that should govern the employees' actions.

Corporation M maintains several employee benefit plans, which include Plan P, a Code section 403(b) plan, Plan Q, a Code section 403(b) plan, Plan R, a Code section 125 plan, Plan S and Plan T. Only employees of Corporation M are eligible to participate in the above-mentioned plans.

Plan P, Plan Q, Plan R, Plan S and Plan T are administered by Committee N, a benefits committee of Corporation M. The principal purpose or function of Committee N is the administration of Corporation M's employee benefit plans,

including Plan P, Plan Q, Plan R, Plan S and Plan T. Committee N consists of 16 members appointed as follows:

Six staff members, one of whom shall be the Human Resources Director, who are appointed by the President of Corporation M;

Two retired faculty or staff members who are appointed by the Association of Retired Personnel of Corporation M;

Two ex-officio members who are the Vice-President for Administration of Corporation M and the Administrative Assistant to the Vice-President for Administration of Corporation M. The Vice-President for Administration is appointed by the President of Corporation M. The Administrative Assistant to the Vice-President for Administration is appointed by the Vice-President for Administration of Corporation M;

Six faculty members who are appointed by the Faculty Senate of Corporation M. The Faculty Senate is elected by all faculty of Corporation M. All faculty members are appointed by the provost of Corporation M. The provost is appointed by the President of Corporation M.

All decision made by Committee N are submitted as recommendations to the President of Corporation M or its Board of Trustees (depending on the nature of the decision) who have the final decision making responsibility.

You represent that employees of Corporation M are not employed in connection with one or more unrelated trades or businesses within the meaning of section 513 of the Code.

Based on the aforementioned facts, you have requested a ruling that Plan P, Plan Q, Plan R, Plan S and Plan T are "church plans" within the meaning of section 414(e) of the Code.

Section 414(e)(1) of the Code defines the term "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(a).

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 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 taxation 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 of association of churches if it 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. 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 M is an organization that is associated with Church A, Church B, and Religious Affiliation A as follows:

The members of Corporation M's Board of Trustees are nominated and appointed by Church A and must be members of a Church B church which is affiliated with Church C. Corporation M's Board of Trustees is authorized to control and direct the management and business of Corporation M, including the appointment of Corporation M's President. All executive cabinet members and deans of Corporation M must be members of a Religious Affiliation A church. All employees of Corporation M must sign a principles and expectation statement that outlines Denomination D doctrines and beliefs that govern employees' actions.

Further, Corporation M shares common religious bonds and convictions with Church A, Church C and Religious Affiliation A as evidenced by its Articles of Association, that provide, in part, that Corporation M is and must forever remain distinctively a Religious Affiliation A institution; it must conserve, defend, and

promote the fundamentals of the Religious Affiliation A faith; and it must conform to and be in harmony with the established and acknowledged principles and policies of Religious Affiliation A churches affiliated with Church A and Church C.

In view of the stated purpose of Corporation M, its organization and structure, its actual activities, and its common religious bonds with Church A, Church B, Church C and Religious Affiliation A, we conclude that the employees of Corporation M meet the definition of "employee" in section 414(e)(3)(B) of the Code and are deemed to be employees of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 and is controlled by or associated with a church or a convention or association of churches. Accordingly, pursuant to sections 414(e)(3)(B) and (C) of the Code, employees of Corporation M are deemed to be employees of Church A through Corporation M's affiliation with Church A, Church C and Religious Affiliation A, and Church A is deemed to be the employer of such employees, for purposes of the church plan rules of section 414(e) of the Code.

However, an organization must also establish that its plan is 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 plan and must also be controlled by or associated with a church or a convention or association of churches.

It has been represented that Plan P, Plan Q, Plan R, Plan S and Plan T are administered by Committee N. It has also been represented that the principal purpose or function of Committee N is the administration of Corporation M's employee benefit plans, including these plans. Committee N consists of 16 members who are either directly or indirectly appointed by the President or other official of Corporation M. All decisions made by Committee N are submitted as recommendations to either the President of Corporation M or Corporation M's Board of Trustees. The President of Corporation M and its Board of Trustees have the final decision making responsibility.

Because the principal function of Committee N is the administration of Corporation M's employee benefit plans, including Plan P, Plan Q, Plan R, Plan S and Plan T, Committee N is an organization, the principal purpose or function of which is the administration or funding of plans or programs for the provision of retirement or welfare benefits for employees of Corporation M. Therefore, Committee N qualifies as an organization described in section 414(e)(3)(A) of the Code.

Therefore, we conclude with respect to your ruling request that Plan P, Plan Q, Plan R, Plan S and Plan T are church plans within the meaning of section 414(e) of the Code.

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This ruling express no opinion as to whether Plan P and Plan Q, Code section 403(b) arrangements, satisfy the requirements for a tax sheltered annuity program under section 403(b) of the Code. The determination as to whether such plans constitute qualified programs under section 403(b) requires the issuance of a separate private letter ruling by the Employee Plans Technical Office of Rulings and Agreements, Washington, D.C. See Revenue Procedure 2002-4, 2002-1 I.R.B. 127 (January 7, 2002).

While not crucial to our holding above, we note that, under Code section 403(b)(1)(D), an arrangement intended to qualify under section 403(b) must satisfy the nondiscrimination requirements of section 403(b)(12). These rules do not, however, apply to plans maintained by "churches" of "qualified church-controlled organizations" as defined in sections 3121(w)(3)(A) and (B) of the Code. This ruling expresses no opinion as to whether Corporation M is a "church" or "qualified church-controlled organization" within the meaning of section 3121(w).

Further, this ruling expresses no opinion as to whether Plan R, a Code section 125 plan, constitutes a cafeteria plan within the meaning of section 125. This ruling expresses no opinion as to whether Plan S and Plan T meet the requirements for welfare plans under the Code. This ruling shall not be construed as approving any of these plans under section 125 or any other provision of the Code, except for section 414(e).

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

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

Should you have any questions, please contact ********** T:EP:RA:T:2, at **********

Sincerely yours,

Joyce E. Floyd

Joyce E. Floyd
Manager, Employee Plans
Technical Group 2

Enclosures:
Deleted copy of this ruling
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