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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

NOV 26 2002

T:EP:RA:T3

UIL: 414.00-00
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Legend:

Church C =

Order =

Health System A =

Service Corp A =

Medical Center A =

Nursing Home A =

Directory M =

Plan C =

This is in response to a ruling request dated June 20, 2001, as supplemented by additional correspondence dated July 22, 2002, in which your authorized representatives request a ruling on your behalf concerning whether Plan C is a church plan described in section 414(e) of the Internal Revenue Code and has continued to meet the requirements of section 414(e) since its inception.

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

Plan C was established effective January 1, 1995, by Nursing Home A. Plan C is intended to qualify under section 401(a) of the Code. Nursing Home A is exempt from tax under section 501(c)(3) of the Code. Nursing Home A provides nursing services primarily for

the benefit of geriatric and AIDs patients. Its certificate of incorporation states that the nursing facility is under the auspices of Church C and its bylaws provide that it operates in conformity with the Ethical and Religious Directives for [Church C] Health Facilities of the United States Church C Conference as the same may be revised from time to time.

Medical Center A is the sole member of Nursing Home A and appoints its board of trustees. The trustees may also be removed by Medical Center A. Medical Center A is listed in Directory M, the official directory of Church C, and has been so listed since its creation in August 2000. Medical Center A became the sole member of Nursing Home A pursuant to a reorganization on August 23, 2000. Prior thereto, the sole member of Nursing Home A was Service Corp A which became Nursing Home A's sole member in a reorganization in 1998. Service Corp A had been a Code section 501(c)(3) organization continuously since its inception in 1985 until its effective termination as a result of the 2000 merger, including the period since 1995 when Plan C was established and throughout the period Service Corp A was the sole member of Nursing Home A. Service Corp A had the power to appoint and remove Nursing Home A trustees. Pursuant to its certificate of incorporation, the purpose of Service Corp A was "to further any and all benevolent, charitable, scientific and education activities in which the [Order] now are and hereafter may become engaged". The bylaws of Service Corp A provided that its purposes were to be "carried out in conformity with the Ethical and Religious Directives for [Church C] Health Facilities of the United States [Church C] Conference". Individual members of the Order were at all times the members of Service Corp A and, as such, had the power to elect and remove the directors of Service Corp A. The Order is an apostolic congregation of women that is a part of Church C. It has been continuously listed in Directory M at all times during which its members were serving as the members of Service Corp A.

Prior to the 1998 reorganization, Health System A was the sole member of Nursing Home A and had the power to appoint and remove its trustees. Health System A was listed in Directory M at all times during the period it was the sole member of Nursing Home A and continuously since at least 1995, when Plan C was established.

Pursuant to the terms of Plan C, a committee appointed by the board of trustees of Nursing Home A has administered Plan C since its inception. The terms of Plan C also provide that the committee members may be removed by the board of trustees of Nursing Home A. The principal purpose of the committee has been at all times the administration of Plan C.

A ruling is requested that Plan C constitutes a church plan described in section 414(e) of the Code and has been such a church plan since its inception.

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) 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, Pub. L. 96-364, to provide that section 414(e) was effective as of January 1, 1974.

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.

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).

From the time Plan C was established in 1995 until the 1998 reorganization, Nursing Home A was under the control of Health System A, which was listed in Directory M. The Internal Revenue Service has determined that any organization listed in Directory M is an organization described in section 501(c)(3) of the Code, that is exempt from tax under section 501(a). Also, any organization that is listed in Directory M shares common religious bonds and convictions with Church C and is deemed associated with Church C within the meaning of section 414(e)(3)(D) of the Code. Thus, Nursing Home A is deemed indirectly under the control of and associated with Church C from 1995 until the 1998 reorganization. In the 1998 reorganization, Service Corp A gained control of Nursing Home A. Service Corp A is a Code section 501(c)(3) organization that is under the control of the Order, a part of Church C. Service Corp A is also deemed associated with Church C by virtue of its bylaws and certificate of incorporation. Therefore, Nursing Home A was indirectly under the control of Church C from the 1998 reorganization until the 2000 reorganization. In the 2000 reorganization, Medical Center A, which is listed in Directory M, assumed control of Nursing Home A and therefore from the 2000 reorganization onward Nursing Home A is indirectly under the control of and associated with Church C. Accordingly, pursuant to sections 414(e)(3)(B) and (C) of the Code, Nursing Home A employees are deemed to be employees of Church C and Church C is deemed to be the employer of such employees for purposes of the church plan rules.

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.

Since its inception, Plan C has been administered by a committee appointed by the board of trustees of Nursing Home A. Committee members also may be removed by the board of trustees. Thus, the committee is and has been under the control of Nursing Home A. Since the committee is controlled by Nursing Home A, it is also indirectly under the control of Church C. Further, since as represented above, the primary purpose of the committee is the administration of Plan C, the committee constitutes an organization, the principal purpose or function of which is the administration of plans or programs for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches. Therefore, the committee would qualify as an organization described in section 414(e)(3)(A) of the Code for the period beginning with the inception of Plan C and thereafter.

Accordingly, in regard to your ruling request, we conclude that Plan C constitutes a church plan described in section 414(e) of the Code and has been such a church plan since its inception.

This letter expresses no opinion as to whether Plan C 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 office of the Internal Revenue Service.

This letter 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 as precedent.

In accordance with a power of attorney on file in this office, the original of this ruling is being sent to one of your representatives and a copy is being sent to you and a second representative.

This letter was prepared by who may be reached at .

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
Notice 437

cc: