

200436013



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

JUN - 9 2004

U.I.L.414.08-00

Legend:

Church A =

State B =

Plan X =

Corporation E =

Committee H =

Directory S =

Organization F =

Dear

This is in response to your request for a ruling dated December 23, 2002, as supplemented by correspondence dated January 17, 2003, March 2, 2004, and April 21, 2004, in which your authorized representative requested a ruling on your behalf concerning the status of Plan X under section 414(e) of the Internal Revenue Code. The following facts and representations have been submitted in support of your request.

Church A established Organization F, which includes ... State B counties within its geographic jurisdiction. Among archdiocesan offices is Corporation E, a separate corporation under the control of Organization F. Corporation E is a nonprofit corporation exempt from tax under section 501(a) of the Code as an organization described in section 501(c)(3) of the Code. Corporation E is organized under the laws of State B. Corporation E and Organization F are listed in Directory S, the official directory of Church A.

Corporation E's Articles of Incorporation describe the organization's purpose as to engage in organized charitable work embracing the total care and physical, mental and spiritual welfare of all persons and families. Corporation E is a nonprofit corporation governed by the provisions of the State B Nonprofit Corporation Act. The members of Corporation E are those persons elected or designated as Directors, its existence is perpetual and in the event of its dissolution, all of its assets revert to Organization F. Corporation E's bylaws provide that certain officers of Organization F are, by virtue of their offices, members of the Board of Directors of Corporation E. The bylaws also provide that all other members of the Board of Directors are appointed by the highest officer of Organization F, who also has the authority to appoint the chair and the chair-elect of the Board and who is named in the bylaws as president of Corporation E.

Corporation E sponsors Plan X for the benefit of employees of Corporation E. Plan X is a defined benefit plan that was originally established or ...
 Plan X is a qualified plan under section 401(a) of the Code. From ... through ..., Plan X was administered by the Board of Directors of Corporation E. From ... through ..., Plan X was administered by Corporation E through its Executive Committee, by delegation of the Board of Directors or ...
 Effective ... Committee H has been charged with the responsibility of administering and maintaining Plan X. Committee H has continuously consisted of certain individuals involved with the direction and management of Corporation E. These are the Chief Operating Officer/Chief Financial Officer, the Director of Human Resources, the Chair of the Board's Finance and Administration Committee and an at-large Board member who is also a member of the Finance and Administration Committee. Committee H members must share common religious bonds and convictions with Church A and are appointed by and serve at the pleasure of the Board of Directors of Corporation E. The sole purpose of Committee H is to administer Plan X.

Based on the foregoing facts and representations, Corporation E requests a ruling that Plan X is a church plan under the provisions of Code section 414(e), because its employees are deemed to be employees of Church A due to the control exercised by Church A over Corporation E and due to the common religious bonds and convictions it shares with Church A, and because Plan X is established and maintained for its employees (or their beneficiaries) by a church

or a convention or association of churches which is exempt from tax under Code section 501, and that it is administered by an organization established by Corporation E solely and effectively for the purpose of administering and maintaining Plan X, effective as of

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 that is exempt from taxation under section 501 of the Code.

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.

In pertinent part, section 414(e)(3)(B) of the Code provides that an "employee" of a church or a convention or association of churches includes 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) of section 414(e)(3).

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 the organization shares common religious bonds and convictions with that church or convention or association of churches.

Section 414(e) was added to the Code by section 1015 of the Employee Retirement Income Security Act of 1974 (ERISA), Public Law 93-406, 1974-3 C.B. 1, enacted September 2, 1974. Section 1017(e) of ERISA provides that Code section 414(e) applied as of the date of enactment of ERISA. However, section 414(e) was amended by section 407(b) of the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA), Public Law 96-364, to provide that section 414(e) was effective as of January 1, 1974.

Section 414(e)(4)(A) of the Code provides that if a plan, intended to be a church plan, fails to meet one or more of the church plan requirements and corrects its failure within the correction period, then that plan shall be deemed to meet the

requirements of this subsection for the year in which the correction was made and for all prior years. Section 414(e)(4)(C)(i) provides, in pertinent part, that the term "correction period" means the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the church plan requirements.

In order for an organization that is not itself a church or a convention or association of churches to have a church plan under section 414(e) of the Code, it must establish that its employees are employees or deemed employees of a church or a convention or association of churches under section 414(e)(3)(B) of the Code. Employees of an 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 a convention or association of churches, and (3) provides for administration or funding of the plan by an organization described in section 414(e)(3)(A) of the Code.

In this case, Corporation E is a nonprofit organization described under section 501(c)(3) of the Code and exempt from tax under section 501(a) of the Code. Corporation E was organized exclusively for charitable and religious purposes and is included in Directory S. Corporation E is under the control of Organization F, which was established by Church A and is listed in Directory S. Corporation E's bylaws provide that certain officers of Organization F are members of Corporation E's Board of Directors. The highest officer of Organization F is the president of Corporation E.

In view of the common religious bonds between Church A and Corporation E, the inclusion of Corporation E in Directory S, and the indirect control of Corporation E by Church A through Organization F, it is concluded that the employees of Corporation E meet the definition of "employee" under section 414(e)(3)(B) of the Code. Accordingly, these individuals are deemed to be employees of Church A for purposes of section 414(e) of the Code. In addition, under the rules of section 414(e)(3)(C), Church A is deemed to be the employer of employees of Corporation E for purposes of the church plan rules.

Having established that Corporation E's employees are Church A employees, the remaining issue is whether Committee H, which administers Plan X, is an organization controlled by or associated with a church or a convention or association of churches and has as its principal purpose or function the administration or funding of a plan within the meaning of section 414(e)(3)(A) of the Code.

Effective . . . Plan X has been administered by Committee H, the retirement plan committee. The sole purpose or function of Committee H is to administer Plan X. Committee H consists of certain individuals involved with the direction and management of Corporation E. These are the Chief Operating Officer/Chief Financial Officer, the Director of Human Resources, the Chair of the

Board's Finance and Administration Committee and an at-large Board member who is also a member of the Finance and Administration Committee. Committee H members must share common religious bonds and convictions with Church A and are appointed by and serve at the pleasure of the Board of Directors of Corporation E. Thus, due to Corporation E's direct, and thereby Church A's indirect control of Committee H, Committee H is an organization controlled by or associated with a church or a convention or association of churches and has as its sole purpose or function the administration or funding of a plan for the provision of retirement benefits for individuals (and their beneficiaries) who are deemed to be employees of a church or a convention or association of churches. It is concluded, therefore, that Plan X, as administered by Committee H, is a plan administered by an organization described in section 414(e)(3)(A) of the Code as of

Also, as provided under section 414(e)(4) of the Code, where a plan fails to meet one or more of the church plan requirements and corrects its failure within the correction period, then that plan shall be deemed to meet the requirements of section 414(e) for the year in which the correction is made and for all prior years. Committee H was established to administer Plan X on

Therefore, the administration of Plan X satisfies the requirements regarding church plan administration under section 414(e)(3)(A) of the Code. Accordingly, Plan X is maintained by an organization that is controlled by or associated with a church or convention or association of churches, and the principal purpose or function of which is the administration of Plan X for the provision of retirement benefits for the employees of Corporation E.

Accordingly, we conclude that Plan X is a church plan within the meaning of section 414(e) of the Code, and has been a church plan within the meaning of section 414(e) of the Code retroactive to

This ruling is directed solely 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 continues to be a qualified plan under section 401(a) of the Code. The determination as to whether a plan remains qualified under section 401(a) is within the jurisdiction of the appropriate office of the Internal Revenue Service.

In accordance with a power of attorney on file with this office, a copy of this letter is being sent to your authorized representative. If you have any questions regarding this ruling, you may contact.....

Sincerely yours,

for *Ada Perry*
Donzel Littlejohn, Manager
Employee Plans Technical Group 4