

200444046



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

Uniform Issue List: 414.00-00

AUG - 2 2004

T:EP:RA:T3

Attention:

Legend:

- Hospital A =
- University B =
- Denomination C =
- Board D =
- Convention E =
- Foundation F =
- Affiliated Health
Care Provider G =
- Affiliated Health
Care Provider H =
- Affiliated Health
Care Provider I =
- Affiliated Health
Care Provider J =
- Affiliated Health
Care Provider L =
- Affiliated Health
Care Provider M =

Page 2

Affiliated Health
Care Provider N =

Affiliated Health
Care Provider O =

Affiliated Health
Care Provider P =

Affiliated Health
Care Provider Q =

Hospital Z =

Directory S =

Plan X =

Plan Y =

State AA =

Convention BB =

Country CC =

Country DD =

Dear

This is in response to your request for a letter ruling dated November 11, 2003, submitted by your authorized representative, that certain plans of Hospital A constitute church plans within the meaning of section 414(e) of the Internal Revenue Code. A letter dated March 3, 2004 supplemented the request.

Hospital A, a charitable hospital that is tax-exempt under section 501(c)(3) of the Code, sponsors Plan X and Plan Y for the benefit of its employees and employees of certain of its affiliated health care providers. Hospital A is listed in Directory S, the official directory of Denomination C. Hospital A has sponsored Plan X since September 20, , and Plan Y since January 1,

From its inception, all members of the board of trustees of Hospital A have been required to be members in good standing of registered Denomination C churches. Hospital A has made annual reports to Convention E as a Denomination C entity since . Convention E is made up of Denomination C member churches.

Page 3

In _____, Hospital A (then known as Hospital Z) and University B asked Convention E to place both entities under one governing board. In _____ University B reorganized the nomination of its board by changing from a board appointed by Convention E to a Board of Regents of which 25 percent was appointed by Convention E, and all were required to be members of Denomination C. University B obtained a ruling that its tax-deferred annuity plan under section 403(b) of the Code continued to be a church plan after the reorganization.

On May 9, _____, Hospital A separated from University B by amending its articles and bylaws to delete University B's power to appoint the members of Hospital A's board and replacing it with the requirement that all board members must be members in good standing of a Denomination C church.

Hospital A, as an entity of Denomination C, reports to Convention E. Convention E is a tax-exempt corporation organized under the laws of State AA and its members are members of Denomination C churches located in State AA. Convention E is a convention or association of churches, which is organized for purposes which are purely religious, missionary, educational and beneficent, the carrying on of missionary work, the support of public worship, and the spread of the gospel of Jesus Christ throughout the world, the education, training and enlistment of the people, and ministering to the needs of the sick, helpless, aged or infirm. Hospital A is closely tied to and supports Convention E. In addition, Hospital A further supports the furtherance of the training of ministers for Denomination C churches through its chaplaincy program which is headed by a Denomination C minister and which helps train seminary students to be Denomination C chaplains. All of Hospital A's chaplains are currently certified to provide volunteer chaplain training. Hospital A's chaplaincy program has supported furthering the ministry of Jesus Christ by presenting _____ Bibles to parents of newborn infants in Hospital A in _____ and _____ to parents of newborns in _____. The chaplaincy program conducted _____ worship services in _____. The chaplaincy program visited _____ patients in Hospital A in _____. Thus, Hospital A and its chaplaincy program are actively involved in furthering the religious mission of Denomination C. Also, Hospital A wrote _____ of the chapters in a chaplain training program of Convention E.

Hospital A's bylaws states that it was founded and continues to carry out a ministry of healing within the humanitarian, charitable and religious aims and ideals of Denomination C. Hospital A's bylaws also state that a major objective of Hospital A is to have a Christian emphasis throughout its work.

Hospital A, as an entity of Denomination C, has followed Denomination C principles and teachings regarding euthanasia and abortion. Hospital A's affiliated hospitals adhere to the ethical policies and the guidelines for care that Hospital A and Denomination C provide as they pursue furthering the healing ministry of Jesus Christ.

Hospital A receives financial support from Foundation F, which is governed and controlled by a board of trustees, which has 100 percent of its members being members of Denomination C churches. All of the contributions received by Hospital A are received through Foundation F. The funds held or invested by Foundation F are invested and used to support Hospital A in its furtherance of its mission to fulfill the healing ministry of Jesus Christ.

Upon dissolution, the assets of Hospital A pursuant to its agreement with University B, will be allocated as follows: 60 percent towards continuation of health care services in the same community, 30 percent to University B, and 10 percent to Convention E. The assets would be distributed to continue to further the Denomination C principle of furthering the healing ministry of Jesus Christ and to further other Denomination C entities and their Denomination C ideals and principles.

Hospital A has a number of affiliated health care providers (Affiliates). They are Affiliated Health Care Providers G, H, I, J, L, M, N, O, P, and Q, and Foundation F. Hospital A controls the appointment of the boards of directors of each of the affiliated health care providers. All participating affiliated health care providers are listed in Directory S. All of the affiliated health care providers are tax-exempt under section 501(c)(3) of the Code. Each of the boards of the affiliated health care providers is appointed by Hospital A's board of trustees, which is composed solely of members of Denomination C.

Hospital A, at all times while it has sponsored Plan X and Plan Y, has been listed in Directory S. An entity that is listed in Directory S is considered to be associated with Denomination C. The only entities that participate in Plan X are Hospital A and Affiliated Health Care Providers G, H, I, and J. The only entities that participate in Plan Y are Hospital A, Foundation F, and Affiliated Health Care Providers G, H, I, J, L, M, N, O, P, and Q. A total of _____ persons are employed by Hospital A and a total of _____ persons participated in Plan Y, and _____ persons are participants in Plan X as of December 31, _____. No employees eligible to participate in Plan Y are providing services in an unrelated trade or business and none of them perform services solely for an unrelated business. No employees participating in Plan X provide services in an unrelated trade or business.

Hospital A adheres to Denomination C principles in its operations in that it does not permit any alcoholic beverages at any Hospital A sponsored event, and it participates in medical missions including those in Country CC and Country DD. It uses Convention E assistance in resolving issues where medical care and Denomination C theology, teachings or ethics overlap. Hospital A's chief executive officer participates in the annual meeting of chief executive officers of Denomination C hospitals and Hospital A has established an endowment for health related educational programs and for a student health center at University B.

The administration of Plan X and Plan Y will be the responsibility of their respective Administrative Committees that are appointed by the board of trustees of Hospital A, or, if the board approves, by the President of Hospital A. The President of Hospital A is appointed by the board of trustees of Hospital A, all of whom are members in good standing of Denomination C churches, and can be removed by the board. The administrative committees for Plan X and Plan Y have as their primary function the administration of Plan X and Plan Y, respectively.

Pursuant to the terms of Article VII of Plan X, Plan X is administered by the Plan X Administration Committee. Sections 7.1 and 7.6 of Plan X provide that the Plan X Administration Committee shall have the full power, authority and responsibility to construe and interpret Plan X, to determine benefits thereunder, and to perform those other functions generally considered the duties of a Plan Administrator. Plan X is a defined benefit plan intended to qualify under section 401(a) of the Code. The Administrative Committee of Plan X has been the administrator since prior to January 1, _____.

Pursuant to the terms of Article IX of Plan Y, Plan Y is administered by the Plan Y Administration Committee commencing on and after January 1, . Section 9.5 of Plan Y provides that the Plan Y Administrative Committee is authorized to take actions necessary to carry out the provisions and purposes of Plan Y and has the discretionary authority to control and manage the operation and administration of the Plan.

Plan Y is a tax-deferred annuity plan intended to qualify under section 403(b) of the Code. Plan Y originally was invested only in a church retirement income account under section 403(b)(9), and was administered by Board D. Effective as of January 1, , the participants in Plan Y have the option to choose between investments in church retirement income accounts and regulated investment companies held in a custodial account under section 401(f)(2) of the Code in compliance with section 403(b)(7). Plan Y, effective as of January 1, 2002, is administered by an Administrative Committee appointed by and removable by the board of trustees of Hospital A, and is no longer administered by Board D. Plan Y, as originally adopted was only offered by Board D to entities affiliated with Convention BB. Hospital A still qualifies to participate in the section 403(b)(9) accounts offered by Board D, and in fact will continue to offer some of those funds along with the other investments that are now available.

Based on the foregoing, you request rulings that:

1. Plan X is a church plan as defined in section 414(e) of the Code, effective on and after January 1, .
2. Plan Y, after Plan Y's funds are diversified to include investment in regulated investment companies under a custodial agreement and trust, is a church plan as defined in section 414(e) of the Code, effective on and after January 1, ..

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

Section 414(e)(2) of the Code 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 church employees (as described in section 414(e)(1) or 414(e)(3)(B)).

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).

Hospital A and its Affiliates are organizations described in section 501(c)(3) of the Code that are exempt from tax under section 501(a). Hospital A and its Affiliates are associated with Denomination C by virtue of sharing common religious bonds and convictions as evidenced by the following:

Hospital A at all times while it sponsored Plans X and Y, was listed in Directory S and Hospital A's bylaws provide that Hospital A is required to operate in a manner consistent with the philosophy, teachings and practices of Denomination C. Members of the board of trustees of Hospital A must be members of Denomination C churches. From and after the date of the inception of Plan X and Plan Y, Hospital A has been an organization which has been associated with Denomination C.

In addition, Hospital A is associated with Convention E, a convention or association of churches. Hospital A, as an entity of Denomination C, reports to Convention E. Convention E's members are members of Denomination C churches. Convention E is organized for purposes which are purely religious, missionary, educational and beneficent, the carrying on of missionary work, the support of public worship, and the spread of the gospel of Jesus Christ throughout the world, the education, training and enlistment of the people, and ministering to the needs of the sick, helpless, aged or infirm. Hospital A is closely tied to and supports Convention E.

Furthermore, based on the facts you submitted concerning the participants in Plan X and Plan Y, Plan X and Plan Y are not maintained primarily for the benefits of employees who

Page 7

are employed in connection with one or more unrelated trades or businesses, and substantially all of the individuals included in Plan X and Plan Y are considered to be church employees, as defined in section 414(e)(3)(B) of the Code.

Also, in the case of a plan established by an organization that is not itself a church or a convention or association of churches, but is associated with a church or convention or association of churches as described in section 414(e)(3)(D), the organization must 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. Since Hospital A is not in itself a church or a convention or association of churches, Plans X and Y must be maintained 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.

As represented above, the administration of Plan X and Plan Y will be the responsibility of their respective Administrative Committees which are appointed by the board of trustees of Hospital A, or, if the board approves, by the President of Hospital A. The Administrative Committee of Plan X has been the administrator since prior to January 1, and the Administrator of Plan Y has been the administrator since January 1, . Thus, the Administrative Committees of Plan X and Plan Y are fully controlled by Hospital A through its board of trustees, which is composed of members in good standing of Denomination C churches. The Administrative Committees thus share common religious bonds and convictions with Denomination C, and therefore, are considered associated with Denomination C for purposes of the church plan rules. Since the primary purpose of the Administrative Committees is the administration of Plan X and Plan Y, the Administrative Committees constitute organizations described in section 414(e)(3)(A) of the Code.

Accordingly, with respect to your first ruling request, we conclude that Plan X is a church plan as defined in section 414(e) of the Code, effective on and after January 1,

Regarding ruling request number two, a plan which would otherwise meet the definition of a "church plan" under section 414(e) of the Code will not be considered other than a church plan due to the diversification of assets as described in this ruling.

Accordingly, with respect to your second ruling request, we conclude that Plan Y, after Plan Y's funds are diversified to include investment in regulated investment companies under a custodial agreement and trust, is a church plan as defined in section 414(e) of the Code, effective on and after January 1,

The above rulings are based on the assumption that Plan X will be otherwise qualified under section 401(a) of the Code, and the related trusts will be tax exempt under section 501(a) at the time the above transaction takes place.

The above rulings are based on the assumption that Plan Y will otherwise meet the requirements of section 403(b) at the time that the above transaction takes place.

No opinion is expressed as to the federal tax consequences of the transaction described above under any other provisions of the Code.

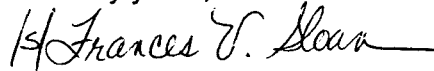
200444046

Page 8

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.

A copy of this letter is being sent to your authorized representative in accordance with a power of attorney on file in this office. If you have any questions concerning this letter ruling, please contact ***** (ID **-****) at (***) ***-**** (not a toll-free number).

Sincerely yours,



Frances V. Sloan, Manager
Employee Plans Technical Group 3

Enclosures:

Notice of Intention to Disclose
Deleted Copy of Ruling

CC: