



sacerdotal functions within Church C. Entity A is listed in Directory D, the directory for Church C.

Entity A is a non-profit corporation. Entity A is exempt from federal income tax under § 501(a) of the Code as an organization described in § 501(c)(3) pursuant to a group exemption letter applicable to organizations listed in Directory D.

Entity A's bylaws specify that the members of Entity A consist of the individuals who serve as members of Council E of Order B. While the authority to manage Entity A generally rests with its Board of Directors, Entity A's members have the power to approve the election of the Board, and no individual may be elected a Board member without their approval. Entity A's bylaws also reserve certain other powers to the members, including the power to appoint the President/Director of Entity A (who must be a member of Order B), and to approve a number of significant corporate actions, including the philosophy according to which Entity A operates, any proposed amendment to Entity A's articles of incorporation and/or bylaws, any lease, sale, or encumbrance of any real estate of Entity A, and any merger, consolidation, dissolution or other change in the corporate structure of Entity A. The members of Entity A's Board of Directors are all members of Order B.

Entity A's articles of incorporation provide that, upon Entity A's dissolution, its assets are to be distributed to Order B or its successor under the canon law of Church C, or, in certain circumstances, to another tax-exempt organization controlled by, associated with, or otherwise a part of Church C. The assets may be distributed differently only if there are no § 501(c)(3) entities controlled by or associated with Church C.

Entity A adopted Plan X, a defined benefit plan qualified under § 401(a), for its employees effective . . . . While Entity A filed Form 5500s for a number of years, the plan administrator of Plan X never made an election under § 1.410(d)-1 of the Federal Income Tax Regulations with respect to Plan X.

None of the employees covered by Plan X are considered employed in connection with one or more unrelated trades or businesses within the meaning of § 513 of the Code, and none are employed by for-profit entities.

Plan X is administered by the Pension Committee, which consists of two members of the clergy of Church C, both of whom are members of Order B. The Pension Committee's sole purpose and function is the administration of Plan X. The members of the Pension Committee are appointed (and can be removed) by the Board of Directors of Entity A.

In accordance with Revenue Procedure 2011-44, 2011-39 I.R.B. 446, a notice to plan participants and other interested persons regarding Plan X was provided on . . . . This notice explained the consequences of church plan status.

Based on the foregoing, you request a ruling that Plan X is a church plan within the meaning of § 414(e) of the Code.

Section 414(e)(1) generally defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or a convention or association of churches which is exempt from taxation under § 501.

Section 414(e)(2) provides, in part, that the term "church plan" does not include a plan that is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of § 513); or if less than substantially all of the individuals included in the plan are individuals described in § 414(e)(1) or § 414(e)(3)(B) (or their beneficiaries).

Section 414(e)(3)(A) provides that a plan established and maintained for its employees (or their beneficiaries) by a church or 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) generally defines "employee" of a church or a convention or association of churches 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 § 501, and which is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(C) provides that a church or a convention or association of churches which is exempt from tax under § 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

Section 414(e)(3)(D) 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.

Revenue Procedure 2011-44, 2011-39 I.R.B. 446, supplements the procedures for requesting a letter ruling under § 414(e) relating to church plans. The revenue procedure: (1) requires that plan participants and other interested persons receive a notice in connection with a letter ruling request under § 414(e) for a qualified plan; (2) requires that a copy of the notice be submitted to the IRS as part of the ruling request;

and (3) provides procedures for the IRS to receive and consider comments relating to the ruling request from interested persons.

In order for an organization that is not itself a church or a convention or association of churches to have a qualified church plan, it must establish that its employees are employees or deemed employees of a church or a convention or association of churches under § 414(e)(3)(B) by virtue of the organization's control by or association with the church or convention or association of churches. Employees of any organization maintaining a plan are considered to be church employees if the organization: (1) is exempt from tax under § 501; and (2) is controlled by or associated with a church or a convention or association of churches. In addition, in order to be a church plan, the administration or funding (or both) of the plan must be by an organization described in § 414(e)(3)(A). To be described in § 414(e)(3)(A), an organization must have as its principal purpose the administration or funding of the plan and must also be controlled by or associated with a church or a convention or association of churches.

Under the facts you have represented, Entity A is an elder care facility for elderly and infirm members of Order B, and is exempt from tax under § 501 of the Code. Order B is an integral part of Church C, and its clergy members perform sacerdotal functions within Church C. The members of Entity A are those individuals who serve on Council E of Order B. As the sole members of Entity A, Council E has control over certain matters involving Entity A's governance, including approval of the members of Entity A's Board of Directors, the power to appoint Entity A's President/Director, and the philosophy under which Entity A operates. Entity A's Board of Directors are all members of Order B, and the President/Director must be a member of Order B. Entity A is listed in Directory D, and upon its dissolution the assets of Entity A are to revert to Order B or, in some circumstances, to one or more organizations controlled by, associated with, or otherwise a part of Church C.

You represent that none of Entity A's employees have been employed in connection with one or more unrelated trades or businesses within the meaning of § 513 and no plan participants are employed by for-profit entities.

Based on these facts, we conclude that Entity A is associated with Church C for purposes of § 414(e). We further conclude that the employees of Entity A are deemed to be employees of a church or a convention or association of churches by virtue of being employees of an organization which is exempt from tax under § 501 and which is controlled by or associated with a church or a convention or association of churches.

The Pension Committee is the administrator of Plan X, and its sole purpose and function is the administration of Plan X. The Pension Committee consists of two members of the clergy of Church C, both of whom are members of Order B. The members of the Pension Committee are appointed (and can be removed) by the Board

of Directors of Entity A. The members of the Board of Directors of Entity A are all members of Order B and may serve on the Board only with the approval of the members of Council E. We thus conclude that the Pension Committee is associated with Order B and Church C. Accordingly, Plan X is maintained by an organization that is associated with a church or a convention or association of churches, the principal purpose or function of which is the administration of Plan X for the provision of retirement benefits for the deemed employees of a church or a convention or association of churches.

Based on the foregoing facts and representations, we conclude that Plan X is a church plan as defined in § 414(e) of the Code, and has been a church plan since its inception on

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Lauson Green  
Branch Chief, Qualified Plans  
Branch 2 (Employee Benefits)  
(Tax Exempt & Government Entities)

cc:

EP Classification  
TEGE Headquarters