200023057

**Internal Revenue Service**

Department of the Treasury

Washington, DC 20224

S.I.N.: 414.08-00

Contact Person:

Telephone Number:

In Reference to:

T:EP:RA:T2

Date: MAR 20

Legend:

Church A =
Corporation B =
Corporation M =
Corporation N =
Order C =
Order D =
Order E =

Order F =
Order G =
Order H =
Order I =
Order J =
Order K =
Directives L =
Law O =
Directory P =
Committee Q =
Plan X =
Plan Y =

Dear :

This letter is in response to a letter dated October 29, 1999, as supplemented by letters dated December 9, 1999, and January 19, 2000, in which a ruling was requested on your behalf with respect to the applicability of section 414(e) of the Internal Revenue Code ("Code") to Plan Y. Your authorized representative submitted the following facts and representations:

Corporation B is a nonprofit public benefit corporation organized for charitable purposes under Law O. Corporation B is an organization described in section 501(c)(3) of the Code which is exempt from taxation under section 501(a) of the Code and is listed in Directory P. It was formed in 1986 to oversee the Church A health care system co-sponsored by Orders C and D.

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Corporation B was joined in 1988 by Order E, in 1995 by Order F, in 1996 by Orders G, H, and I, and in 1997 by Orders J and K. [The foregoing religious sponsors of Corporation B are herein collectively referred to as the "Orders".] Each of the Orders is exempt from taxation under section 501(a) and is listed in Directory P.

Corporation B is involved in health care as an extension of Church A's healing ministry, and its formation and operation represents a decision by the Orders to foster collaborative efforts, within their sponsorship of health care institutions, that are grounded in the traditions and values of Church A. Consistent with the beliefs of the Orders, the missions and beliefs of Corporation B are as follows: (i) the healing ministry of Church A as an essential part of Church A's mission in contemporary society; (ii) the collaboration with others who support Judeo-Christian values in developing a creative response to health care need; and (iii) the values and principles of Directives L.

Ultimate responsibility for the direction and decisions of Corporation B's health care ministry resides with its ten corporate members, each of whom hold a religious leadership position within one of the Orders. Pursuant to Corporation B's restated Articles of Incorporation, Orders C, D, E, and F each appoint two corporate members, and Orders G and H each appoint one corporate member. For these member positions, the head of the particular Order or a designee is appointed to serve. The individual Orders that receive additional corporate member positions select the remaining member from that Order's governing counsel or from its general membership. Each of the ten corporate members of Corporation B share equal voting rights. The corporate members also have certain reserved powers over Corporation B, including the power to approve any change or amendment of Corporation B's philosophy and mission. In addition, pursuant to Corporation B's restated Articles of Incorporation and restated Bylaws, Corporation B's corporate members elect the Board of Directors of Corporation B. The Board of Directors also retains certain powers and authorities over the corporate activities of Corporation B and its subsidiaries.

Corporation B operates and controls approximately 46 general acute care hospitals. Each of these hospitals is part of a subordinate corporation to Corporation B that groups the hospitals together in a manner that is characterized as a region or division of Corporation B. Corporation B is the sole corporate member of each subordinate corporation that is a region or division, and the Bylaws of each such corporation require that at least one member of that division's or region's Board of Directors be a member of an Order.

Corporation M is a division of Corporation B and is a nonprofit public benefit corporation organized for charitable purposes under Law O, specifically to carry out the health care ministry of Church A. Corporation M is operated as a part of the health care system controlled,

coordinated, directed and supervised by Corporation B. Corporation B is the sole corporate member of Corporation M and, as such, has the sole power to appoint and elect members of Corporation M's Board of Directors. Corporation M is listed in Directory P and is exempt from taxation under section 501(a) of the Code.

Corporation N is a nonprofit public benefit corporation organized for charitable purposes under Law O and is exempt from taxation under section 501(a) of the Code. Prior to December 3, 1998, Corporation N operated and controlled the operation of eight health care facilities. Corporation N was the sole corporate member of each of the facilities.

Corporation N maintained Plan X for its employees and those of the facilities. Plan X is qualified under section 401(a) of the Code and received a favorable determination letter.

Corporation M entered into an Asset Purchase Agreement and Plan of Merger with Corporation N on September 28, 1998, which called for the facilities to terminate their affiliation with Corporation N. The facilities as separate corporations were to merge with Corporation M. Upon the merger, the separate corporate existence of the facilities was to cease to exist, and Corporation M would continue as the surviving corporation. On December 3, 1998, Corporation N's affiliation with the facilities terminated and the facilities became owned and operated by Corporation M and a part of Corporation B.

Effective December 3, 1998, Corporation B became the plan sponsor and sole contributing sponsor of Plan X. Corporation B changed the name of Plan X to Plan Y. After Corporation B became the plan sponsor, Plan Y covered solely the employees of the eight health care facilities. There are no employees of for-profit entities who have accrued benefits under Plan Y after Corporation B became the plan sponsor in December of 1998.

Following the merger, Corporation B's Board of Directors acquired the power to appoint the Plan Y administrator and appointed Committee Q to be the plan administrator of Plan Y on December 3, 1998. Committee Q is an organization the principal purpose or function of which is the administration of Plan Y and other Corporation B retirement plans. Committee Q has seventeen members, all of whom are appointed by Corporation B's Board of Directors.

Based on the foregoing facts and representations, you request a ruling that Plan Y is, and has been since December 3, 1998, a "church plan" within the meaning of section 414(e) of the Code.

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

that 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 provided that section 414(e) applied as 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, Public Law 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, otherwise qualified, will qualify as a church plan if it is 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 tax under section 501 of the Code, 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 that is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under section 414(e)(3)(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 the organization shares common religious bonds and convictions with that church or convention or association of churches.

To have or participate in a qualified church plan, an organization must establish that its employees are employees or deemed employees of a 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). If an organization's name appears in Directory P, that organization is considered to share common bonds and convictions with Church A, and therefore is considered to be associated with Church A for church plan purposes. Its employees are deemed to be employees of Church A.

The information submitted shows that the health care facilities that were previously operated and controlled by Corporation N were sold and became owned and operated by Corporation M and a part of Corporation B. Corporations B and M are listed in Directory P. Further, Corporation B controls Corporation M as Corporation M's sole corporate member. Moreover, Corporation B's corporate members are appointed by Orders C, D, E, F, G, and H, each of whom is also listed in Directory P. Therefore, under the principles of section 414(e)(3)(B) and (C) of the Code, the employees of the health care facilities eligible to participate in Plan Y, who became employees of Corporation M by the merger dated December 3, 1998, are considered to be employees of Church A and Church A is considered to be the employer of such employees for purposes of the church plan rules since December 3, 1998.

Having established that the employees of the health care facilities that participate in Plan Y are "church" employees, the remaining issue is whether Committee Q is an organization controlled by or associated with a church or convention or association of churches, the principal purpose or function of which is the administration or funding of a plan within the meaning of section 414(e)(3)(A) of the Code.

Because Committee Q's principal function is the administration of Plan Y and other retirement plans of Corporation B, Committee Q constitutes an organization the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits for the employees participating in Plan Y. Further, Committee Q is associated with Church A because Corporation B's Board of Directors appoints its members and Corporation B is associated with Church A. Therefore, Committee Q is deemed to be an organization described in section 414(e)(3)(A) of the Code.

Therefore, we conclude that Plan Y is, and has been since December 3, 1998, a "church plan" within the meaning of section 414(e) of the Code.

This letter expresses no opinion as to the qualified status of Plan Y 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 Key District Director's office of the Internal Revenue Service.

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

Sincerely yours,

(signed) JOYCE E. FLOYD

Joyce E. Floyd, Manager
Employee Plans Technical Group 2
Tax Exempt and Government
Entitites Division

Enclosures:
Deleted Copy of this Letter
Notice of Intention to Disclose