



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

201350048

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

SEP 16 2013

U.I.L 414.08-00

SE:T:EP:RA:T3

Attn:

Legend:

The Community:

State A:

Foundation B:

District C:

Church D:

Entity E:

Plan A-1:

Plan A-2:

Plan A-3:

Plan A-4:

**201350048**

Plan A-5:

Plan A-6:

Plan A-7:

Plan A-8:

Plan A-9:

Plan A-10:

Dear

This is in response to your letters dated September 17, 2012, February 28, 2013, June 10, 2013, July 16, 2013, August 13, 2013, and August 30, 2013, submitted on your behalf by your authorized representative, in which you request a ruling that health and welfare Plans A-1 through Plan A-10 (collectively "the Plans") are church plans described in section 414(e) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

The Community is a not-for-profit entity established under section 501(c)(3) of the Code in State A. The sole member of the Community is Foundation B. Foundation B also is a not-for-profit entity established under Section 501(c)(3) of the Code.

The Internal Revenue Service has determined that the Community and Foundation B are entities described under Section 501(c)(3) of the Code, and as such are exempt from tax under Section 501(a) of the Code.

The Board of Directors of the Community is comprised of 13 members. Six members of the Board are elected by Foundation B, in its capacity as sole member of the Community. The President of the Community, who also serves as President and CEO of the Foundation, also serves as an ex officio member of the Board of the Community. The remaining Board members are elected by the Board of the Community. The Board is responsible for the operations of the Community. There are approximately 720 individuals employed by the Community.

Foundation B is governed by its own 13 member Board. The members of Foundation B are the members of District C of Church D. The members of District C have the sole voting rights for Foundation B and may also appoint a majority of the Foundation B Board.

District C is one of 23 districts in Church D. The Community operates under Foundation B and Foundation B operates under District C.

The Articles of Incorporation of the Community and Foundation B both provide that one of the purposes of the Community entity is to provide retirement facilities with nursing care services and spiritual influences for aging persons, including members of Church D and others. The Articles of the Community also provide that its purposes are similar to Foundation B. The Community Bylaws further provide that upon dissolution of the Community, its property will go to Foundation B, and if Foundation B does not exist, District C.

The Community offers health-care programs for the elderly and disabled. In addition to its nursing home, the Community's services include: a nonsectarian specialty hospital, comprehensive geriatric medicine and psychiatry programs, adult day programs throughout its service area, and management of senior assisted living complexes. The functions and activities of the Community result in the Community acting as the "face" of Church D in the localities and neighborhoods in which the Community and Church D serve.

The Community is a leader in the development of nursing, medical and social services for the elderly within the Church D community of State A. The Mission Statement and Charter of the Community specify that it will conduct its programs and business while adhering to the values inherent in Church D, including the continuation of its tradition of service to the Church D community. Through the Community, Church D continues its religious commitment to the maintenance of organizations that can relieve human suffering and promote the welfare of others, activities that are important elements of Church D's life and faith. The Community's nursing home is the only religious nursing home in State A with a full-time chaplain. In furtherance of Church D's teachings and tenets, the Community's chaplain conducts religious services daily and on major religious holidays. The Community also observes other religious laws and restrictions. Based on particular religious needs, the Community's policies provide for an admissions preference for adherents of Church D with regard to its nursing home facility.

Church D provides financial support for the Community through contributions and fundraising in its underlying churches throughout the central State A area, from the individual members of those underlying churches, and from members of the Community.

A congregation regularly meets on Community premises to conduct worship services and other activities for residences in the Community.

The Community has established and maintains ten welfare benefit plans, the Plans. Plans A-1, A-2, and A-8 were effective January 1, 2011. Plans A-3, A-4, and A-10 were effective January 1, 2013. Plan A-5 was effective October 4, 2010, and Plan A-6 was effective February 1, 2002. Plan A-7 was effective July 1, 2010, and Plan A-9 was effective August 10, 2010.

Each plan has been established and is maintained by the Community for the benefit of employees of the Community, or in some cases, certain other related entities (such as Foundation B), and their beneficiaries. You have represented that employees of a certain related entity, Entity E, and any other unrelated trade or businesses covered by Plans A-1 through A-10 have always been and will continue to be an insubstantial portion of the overall number of participants covered by the Plans.

The Community represents that the members of the Benefits Committee have been named and that it expects to convene its first meeting in September 2013. The function and principal purpose of the Benefits Committee will be to administer the Plans. The members of the Benefits Committee have been appointed by Foundation B's Board of Directors, which, in turn, is directly appointed by the members of District C. The Committee shall serve at the pleasure of Foundation B.

Based on the above facts and representations, you request a ruling that the Plans are church plans as defined in Code Section 414(e).

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

Section 414(e)(2) of the Code 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 section 513 of the Code); or if less than substantially all of the individuals included in the plan are individuals described in section 414(e)(1) of the Code or section 414(e)(3)(B) of the Code (or their beneficiaries).

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" 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 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 which is exempt from tax under section 501 of the Code 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 the organization shares common religious bonds and convictions with that church or convention or association of churches.

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) of the Code 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.

Treasury Regulation Section 1.414(e)-1(b)(2)(ii) provides that a plan shall be considered maintained primarily for the benefit of employees of a church who are not employed in connection with one or more unrelated trades or businesses if it satisfies the following two-part test in four out of its five most recently completed plan years: (A) less than 50% of the persons participating in the plan (at any time during the plan year) consist of, and in the same year (B) less than 50% of the total compensation paid by the employer during the plan year (if benefits or contributions are a function of compensation) to employees participating in the plan is paid to, employees employed in connection with an unrelated trade or business.

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 convention or association of churches under section 414(e)(3)(B) of the Code by virtue of the organization's control by or affiliation with a 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 section 501 of the Code; and (2) is controlled by or associated with a church or 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 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 or funding of the plan and must also be controlled by or associated with a church or convention or association of churches.

In view of the Foundation's relationship to the Community, the control over the Foundation exercised by the members of District C, and the common religious bonds between Church D, Foundation B, the Community, and District C, we conclude that the Community and the Foundation are associated with a church or convention or association of churches within the meaning of section 414(e)(3)(D) of the Code, and that the employees of the Community and the Foundation 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 section 501 of the Code and which is controlled by or associated with a church or a convention or association of churches.

In light of the control over the Benefits Committee exercised by the Board of Foundation B, and the members of District C's power to appoint a majority of the members of the Board of Foundation B, we conclude that the Benefits Committee will be controlled by or share common religious bonds with Church D. The Benefits Committee would accordingly constitute an organization described in Section 414(e)(2)(A) whose principal purpose or function is the administration or funding of a plan or program for the provision of retirement or welfare benefits for the employees of a church or a convention or association of churches, and which is controlled by or associated with a church or convention or association of churches.

The Benefits Committee, which is essential to satisfaction of the church plan requirements, has been formally established in September 2013. As provided under section 414(e)(4)(A) 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) of the Code for the year in which the correction is made and for all prior years. The formal establishment of the Benefits Committee to administer the Plans in September 2013 is within the correction period for the Plans.

Accordingly, in regard to your ruling request we conclude the Plans are church plans as defined in section 414(e) of the Code.

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.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

201350048

If you have any questions regarding this letter, please contact  
Please address all correspondence to  
SE:T:EP:RA:T3.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Laura B. Warshawsky".

Laura B. Warshawsky, Manager  
Employee Plans Technical Group 3

Enclosures:

Deleted Copy of Ruling Letter  
Notice of Intention to Disclose

cc: