

U.S. Department of Labor

Pension and Welfare Benefits Administration
Washington, D.C. 20210



JUN 10 1986

86-18A
Sec.

Mr. James D. Kemper
Ice Miller Donadio & Ryan
One American Square
Box 82001
Indianapolis, Indiana 46282-0002

Dear Mr. Kemper:

This is in reply to your letters requesting an advisory opinion regarding coverage under title I of the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask whether employee benefit plans established and maintained for the employees of St. Francis Hospital, Beech Grove, Indiana (the Hospital), by the Eastern Province of the Congregation of the Sisters of St. Francis of Perpetual Adoration (the Order) constitute church plans within the meaning of section 3(33) of title I of ERISA.

You advise that the Congregation of the Sisters of St. Francis of Perpetual Adoration (The Congregation) was established in Olpe, Germany, and received ecclesiastical approval on July 20, 1863. In the 1870's, the Congregation established a provincial house in Indiana which became the headquarters of the Order. In 1906, the Order was authorized by Bishop F.S. Chatard of the Roman Catholic Church to found a Catholic hospital in Beech Grove, Indiana. Since its dedication in 1914, the Hospital has continued to provide Catholic health services to the sick, aged, and needy.

In 1974, the Order incorporated its hospitals as Sisters of St. Francis Health Services, Inc. (Health Services). The Hospital is part of the property of Health Services. All members of the Order are members of Health Services and all members of the Health Services' Board of Directors are members of the Order. In 1977, the Order established Alverno Administrative Services, Inc. (Alverno), to provide certain administrative and computer services for the Hospital. The Health Services' Board of Directors are the members of Alverno and the articles of incorporation provide for a majority of the Alverno's Board of Directors to be members of the Order.

In 1969, the Internal Revenue Service (IRS) held that the Order, using the style of the Hospital, was part or subordinate of the Roman Catholic Church and exempt from Federal income tax. With her letter dated July 12, 1983, Ms. Mary Beth Braitman of your firm enclosed a copy of a

letter from IRS dated April 1, 1983, holding that the St. Francis Hospital Center Pension Plan (the Pension Plan) was a church plan described in section 414(e) of the Internal Revenue Code. The facts upon which this ruling was based include that at least two of three members of the Administrative Committee administering the Pension Plan are considered to be employees of the Roman Catholic Church and that the Administrative Committee shares common religious bonds and convictions with that church.

You also represent that there were several employee benefit plans in existence on January 1, 1974, for employees of the Hospital. These plans are established and maintained by the Hospital or Health Services for the benefit of the employees. Employees of Alverno were permitted to participate in some of these plans after Alverno was established. The employee benefit plans include the Saint Francis Hospital Center Pension Plan, tax-deferred annuity plans for Health Services, Inc., St. Francis Hospital, and Alverno Administrative Services, Inc., health and dental benefits through Blue Cross-Blue Shield of Indiana, and various welfare benefits provided through "payroll practices" of St. Francis Hospital Center for short-term disability, discounted health care, tuition reimbursement, vacations, and sick pay.

Section 3(33) of ERISA defines the term "church plan," in pertinent part, as:

(33)(A) The term "church plan" means a plan established and maintained (to the extent required in clause (ii) of subparagraph (B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954.

* * *

(C) For purposes of this paragraph--

(i) 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.

(ii) The term employee of a church or a convention or association of churches includes --

* * *

(II) an employee or an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches;

* * *

(iii) A church or a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 shall be deemed the employer of any individual included as an employee under clause (ii).

(iv) 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

Based on your representations and the information you submitted, it is the position of the Department of Labor that employee benefit plans established and maintained for employees of the Hospital by the Order are church plans described in section 3(33) of ERISA. Accordingly such plans would be exempt from coverage under title I of ERISA pursuant to section 4(b)(2) of ERISA.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, it is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Elliot I. Daniel
Assistant Administrator for Regulations and Interpretations