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*Loyola Marymount Univ*

**IMPORTANT GROUP RULING INFORMATION**

June 11, 1998

FOR THE INFORMATION OF: Most Reverend Archbishops and Bishops, Diocesan Attorneys and Fiscal Managers, and State Conference Directors

SUBJECT: 1998 Group Ruling

FROM: Mark E. Chopko, General Counsel  
(Staff: Deirdre Dessingue Halloran, Associate General Counsel)

*W&O*

Enclosed is a copy of the Group Ruling issued on June 3, 1998 by the Internal Revenue Service ("IRS"), with respect to the federal tax status of Catholic organizations listed in the 1998 edition of the Official Catholic Directory ("OCD"). As explained in greater detail below, this ruling is important for establishing:

- (1) the exemption of such organizations from:
  - (a) federal income tax;
  - (b) federal unemployment tax (but see ¶15 of "Explanation" below); and
- (2) the deductibility, for federal income, gift and estate tax purposes, of contributions to such organizations.

The 1998 Group Ruling is the latest in a series that began with the original determination of March 25, 1946. In the 1946 document, the Treasury Department affirmed the exemption from federal income tax of all Catholic institutions listed in the OCD for that year. Each year since 1946, in a separate letter, the 1946 ruling has been extended to cover the institutions listed in the current OCD. The language of these rulings has remained relatively unchanged, except to reflect intervening modifications in the Internal Revenue Code ("Code"). The 1998 Group Ruling is consistent with the 1997 ruling. The 1998 OCD reflects certain changes that have been made in USCC's administration of the group exemption. Catholic organizations with independent IRS exemption determination letters are listed in the 1998 OCD with an asterisk (\*), which is explained at page A-13 and indicates that such organizations are not covered by the Group Ruling.

Annual group rulings clarify important tax consequences for Catholic institutions listed in the OCD, and should be retained for ready reference. Rulings from earlier years are important to establish the tax consequences of transactions that occurred during those years.

**Responsibilities under Group Ruling.** *Diocesan officials who compile OCD information for transmittal to the OCD publisher are responsible for the accuracy of such information.* This means that they must ensure that only qualified organizations are listed, that organizations that cease to qualify are deleted promptly, and that qualified, newly-created organizations are listed as soon as possible. The current legal and procedural requirements for inclusion in the Group Ruling and OCD, as well as the application form, are contained in the OGC Memo dated January 13, 1995. If you need a copy of this document, please contact OGC.

## **EXPLANATION**

1. **Exemption from Federal Income Tax.** The latest ruling reaffirms the exemption from federal income tax under section 501(c)(3) of the Code of "the agencies and instrumentalities and educational, charitable, and religious institutions operated, supervised or controlled by or in connection with the Roman Catholic Church in the United States, its territories or possessions appearing in the Official Catholic Directory for 1998" (*with the exception of organizations noted with an asterisk and foreign organizations*).
2. **Federal Excise Taxes.** Inclusion in the Group Ruling has no effect on an organization's liability for federal excise taxes. Exemption from these taxes is very limited. Please refer to your attorney any questions you may have about excise taxes.
3. **State/Local Taxes.** Inclusion in the Group Ruling does not automatically establish an organization's exemption from state or local income, sales or property taxes. Typically, separate exemptions must be obtained from the appropriate state or local tax authorities in order to qualify for any applicable exemptions. Please refer to your attorney any questions you may have about state or local tax exemptions.
4. **Deductibility of Contributions.** The Group Ruling assures donors that contributions to the institutions listed in the 1998 OCD and covered by the Group Ruling are deductible for federal income, gift, and estate tax purposes. (See OGC Memo dated December 21, 1993 concerning substantiation and disclosure requirements applicable to contributions over \$250 and quid pro quo contributions over \$75 respectively.)
5. **Unemployment Tax.** The Group Ruling establishes exemption from federal unemployment tax only. Individual states may impose unemployment tax on organizations included in the Group Ruling, even though they are exempt from the federal tax. Please refer to your attorney any questions you may have about state unemployment tax.
6. **Social Security Tax.** All section 501(c)(3) organizations, including churches, are required to pay taxes under the Federal Insurance Contributions Act (FICA) for each employee who is paid \$100 or more in a calendar year.<sup>1</sup> Services performed by diocesan priests in the

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<sup>1</sup> *Section 3121(w) of the Code permits certain church-related organizations to make an irrevocable election to avoid payment of FICA taxes, but only if such organizations are opposed for religious reasons to payment of social security taxes.*

exercise of their ministry are not considered "employment" for FICA (Social Security) purposes,<sup>2/</sup> and FICA should not be withheld from their salaries. For Social Security purposes, diocesan priests are subject to self-employment tax ("SECA") on their salaries as well as on the value of meals and housing or housing allowances provided to them.<sup>3/</sup> Neither FICA nor income tax withholding is required on compensation paid to members of religious institutes who are subject to vows of poverty and obedience and are employed by organizations included in the Official Catholic Directory.<sup>4/</sup>

7. **Form 990.** All organizations included in the OCD must file Form 990, Return of Organization Exempt from Income Tax, unless they are eligible for a mandatory or discretionary exception. ***There is no automatic exemption from the Form 990 filing requirement simply because an organization is listed in the OCD.*** Organizations required to file Form 990 must do so by the 15th day of the fifth month after the close of their fiscal year.<sup>5/</sup> Among the organizations not required to file Form 990 under section 6033 of the Code are: churches; integrated auxiliaries of churches<sup>6/</sup>; the exclusively religious activities of religious orders; schools below college level affiliated with a church or operated by a religious order; organizations with gross receipts normally not in excess of \$25,000;<sup>7/</sup> and certain church-affiliated organizations that finance, fund or manage church assets, or maintain church retirement insurance programs, and organizations controlled by religious orders that finance, fund or manage assets used for

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<sup>2</sup> I.R.C. § 3121(b)(8)(A).

<sup>3</sup> I.R.C. § 1402(a)(8).

<sup>4</sup> Rev. Rul. 77-290, 1977-2 C.B. 26.

<sup>5</sup> The penalty for failure to file the Form 990 is \$20 for each day the failure continues, up to a maximum of \$10,000 or 5 percent of the organization's gross receipts, whichever is less. However, organizations with annual gross receipts in excess of \$1 million are subject to penalties of \$100 per day, up to a maximum of \$50,000. I.R.C. § 6652(c)(1)(A).

<sup>6</sup> I.R.C. § 6033(a)(2)(A)(i); Treas. Reg. § 1.6033-2(h). Effective December 20, 1995, the internal support test formerly contained in Rev. Proc. 86-23, 1986-1 C.B. 564, is the sole test for determining whether an organization qualifies as an integrated auxiliary of a church. To qualify, an organization must be described in section 501(c)(3), qualify as other than a private foundation, be affiliated with a church, and qualify as internally supported. An organization will be considered internally supported unless it both:

- (1) Offers admissions, goods, services, or facilities for sale, other than on an incidental basis, to the general public (except goods, services, or facilities sold at a nominal charge or substantially below cost), and
- (2) normally receives more than 50 percent of its support from a combination of governmental sources; public solicitation of contributions (such as through a community fund drive); and receipts from the sale of admissions, goods, performance of services, or furnishing of facilities in activities that are not unrelated trades or businesses.

<sup>7</sup> Announcement 82-88, 1982-25 I.R.B. 23.

exclusively religious activities.<sup>8/</sup>

Organizations that are required to file Form 990 must upon request make a copy of the form and its schedules and attachments (other than contributor lists) available for public inspection during regular business hours at the organization's principal office and at any regional or district offices having three or more employees. Form 990 for a particular year must be made available for a three year period beginning with the due date of the return.<sup>9/</sup> In addition, organizations that file Form 990 must comply with written or in-person requests for copies of the Form 990. The organization may impose no charge other than a reasonable fee to cover copying and mailing costs. If requested, copies of the Form 990 for the past three years must be provided. In-person requests must be satisfied immediately. Written requests must be satisfied within 30 days.<sup>10/</sup>

8. **Revenue Procedure 75-50.** Rev. Proc. 75-50<sup>11/</sup> sets forth notice, publication, and recordkeeping requirements regarding racially nondiscriminatory policies that must be complied with by private schools, including church-related schools, as a condition of establishing and maintaining exempt status under section 501(c)(3) of the Code. Under Rev. Proc. 75-50 private schools are required to file an annual certification of racial nondiscrimination with the IRS. For private schools not required to file Form 990, the annual certification must be filed on Form 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax. This form may be obtained from your local IRS office. Form 5578 must be filed by the 15th day of the fifth month following the close of the fiscal year. Form 5578 may be filed individually or by the diocese on behalf of all its diocesan schools.

The requirements of Rev. Proc. 75-50 remain in effect and must be complied with by all schools listed in the OCD. ***Diocesan or school officials should insure that the requirements of Rev. Proc. 75-50 are met since failure to do so could jeopardize the exempt status of the school and, in the case of a school operated by a church, the exempt status of the church itself.***

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<sup>8</sup> Rev. Proc. 96-10, 1996-1 C.B. 577.

<sup>9</sup> The penalty for failure to permit public inspection of the Form 990 is \$20 for each day during which such failure continues, up to a maximum of \$10,000. I.R.C. § 6652(c)(1)(C).

<sup>10</sup> I.R.C. § 6104(e). A copy of the organization's exemption application and supporting documents must also be provided on the same basis. However, since Catholic organizations covered under the Group Ruling do not file exemption applications with IRS, this provision does not apply to them. These provisions will become effective 60 days after IRS first issues final regulations under which an organization need not provide copies of its documents. As of the date of this memorandum, final regulations have not been issued. The penalty for willful failure to provide copies will be \$5,000 with respect to each return. I.R.C. § 6685.

<sup>11</sup> 1975-2 C.B. 587.

9. **Lobbying Activities.** Organizations included in the OCD may lobby for changes in the law, provided such lobbying is not more than an insubstantial part of their total activities. Attempts to influence legislation directly and through grassroots lobbying are subject to this restriction. The term "lobbying" includes activities in support of or in opposition to referenda, constitutional amendments, and similar ballot initiatives. There is no distinction between lobbying activity that is related to an organization's exempt purposes and lobbying that is not. There is no fixed percentage that constitutes a safe harbor for "insubstantial" lobbying. Please refer to your attorney any questions you may have about permissible lobbying activities.

10. **Political Activities.** *Organizations included in the Group Ruling may not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office. Violation of the prohibition against political activity can jeopardize the organization's tax-exempt status.* In addition to revoking exempt status, IRS may also impose excise taxes on an exempt organization and its managers on account of political expenditures. Where there has been a flagrant violation, IRS has authority to seek an injunction against the exempt organization and immediate assessment of taxes due. If you have any questions in this regard, please refer them to your attorney. (See OGC Memo dated February 14, 1996).

11. **Private Foundation Status.** The latest Group Ruling affirms that organizations included in the OCD are not private foundations under section 509(a) of the Code. However, the Group Ruling does not identify the subsection of section 509(a) under which a particular organization is covered. Organizations must determine for themselves whether they qualify for such status under the provisions of section 509(a)(1), (a)(2) or (a)(3). Newly-created or newly-affiliated organizations must establish that they are not private foundations as a condition of inclusion in the Group Ruling and OCD.

12. **Group Exemption Number.** The group exemption number assigned to USCC is 928 or 0928. *This number must be included on each Form 990, Form 990-T, and Form 5578 required to be filed by any organization exempt under the Group Ruling.<sup>12/</sup>* We recommend *against* using the group exemption number on Form SS-4, Request for Employer Identification Number, because in the past this has resulted in IRS including USCC as part of the organization's name when it enters the organization in its database.

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If you have questions concerning the Group Ruling or this memorandum, please contact Deirdre Dessingue Halloran at 202-541-3300 or by e-mail at [dhalloran@nccbuscc.org](mailto:dhalloran@nccbuscc.org).

Enclosure

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<sup>12</sup> *IRS has expressed concern about organizations covered under the Group Ruling that fail to include the group exemption number, 0928, on their Form 990 filings, particularly the initial filing.*

Internal Revenue Service

Department of the Treasury

District  
Director

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June 3, 1998

Telephone: (410) 962-6058

Ms. Deidre Halloran  
Associate General Counsel  
United States Catholic Conference  
3211 4th Street, N.E.  
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Dear Ms. Halloran:

In a ruling dated March 25, 1946, we held that the agencies and instrumentalities and all educational, charitable and religious institutions operated, supervised, or controlled by or in connection with the Roman Catholic Church in the United States, its territories or possessions appearing in *The Official Catholic Directory* for 1946, are entitled to exemption from federal income tax under the provision of section 101(6) of the Internal Revenue Code of 1939, which corresponds to section 501(c)(3) of the 1986 Code. This ruling has been updated annually to cover the activities added to or deleted from the Directory.

*The Official Catholic Directory* for 1998 shows the names and addresses of all agencies and instrumentalities and all educational, charitable, and religious institutions operated by the Roman Catholic Church in the United States, its territories and possessions in existence at the time the Directory was published. It is understood that each of these is a non-profit organization, that no part of the net earnings thereof inures to the benefit of any individual, that no substantial part of their activities is for promotion of legislation, and that none are private foundations under section 509(a) of the Code.

Based on all information submitted, we conclude that the agencies and instrumentalities and educational, charitable, and religious institutions operated, supervised or controlled by or in connection with the Roman Catholic Church in the United States, its territories or possessions appearing in the United States, its territories or possessions appearing in *The Official Catholic Directory* for 1998 are exempt from federal income tax under section 501(c)(3) of the Code.

Donors may deduct contributions to the agencies, instrumentalities and institutions referred to above, as provided by section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to them or for their use are deductible for federal estate and gift tax purposes under sections 2055, 2106, and 2522 of the Code.

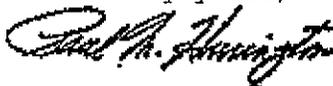
Beginning January 1, 1984, unless specifically excepted, you and your subordinates must pay tax under the Federal Insurance Contributions Act (Social Security taxes) for each employee who is paid \$100 or more in a calendar year. You and your subordinates are not liable for tax under the Federal Unemployment Tax Act

(FUTA).

Next year, within 90 days before the close of your annual accounting period or by May 21, the date established by our letter of April 28, 1975, which gave an extension of time to file the information, please send one copy of *The Official Catholic Directory* of 1999 to the IRS EP/EO Division in Cincinnati, two copies to the IRS EP/EO Division in Baltimore, Brooklyn, Dallas and Los Angeles, six copies to the IRS National Office, and one copy to this office.

The conditions concerning the retention of your group exemption as set forth in our previous determination letter of August 17, 1983 remain in full force and effect.

Sincerely yours,



Paul M. Harrington  
District Director

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Archdiocese of Mobile

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4000 Dauphin St.  
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BETH HOENNINGER, Dir., Development  
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SHARON CASEY, Dir., Campus Ministry  
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Sr. DEBORAH CHURCH, S.N.J.M.  
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Sr. CHRISTINE PATRINGS, S.N.J.M.  
Sr. ETHEL MARY TINNEMANN, S.N.J.M.  
Sr. FRANCESCA CARRINI WEBER, S.N.J.M.

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▷ JUL 20 1994

*Loyola University of Chicago*

Ms. Deirdre Halloran  
Associate General Counsel  
United States Catholic Conference  
3211 4th Street, N.E.  
Washington, D.C. 20017-1194

Entered in PCG

Dear Ms. Halloran:

In a ruling dated March 25, 1946, we held that the agencies and instrumentalities and all educational, charitable and religious institutions operated, supervised, or controlled by or in connection with the Roman Catholic Church in the United States, its territories or possessions appearing in the Official Catholic Directory for 1946, are entitled to exemption from federal income tax under the provisions of section 101(6) of the Internal Revenue Code of 1939, which corresponds to section 501(c)(3) of the 1986 Code. This ruling has been updated annually to cover the activities added to or deleted from the Directory.

The Official Catholic Directory for 1994 shows the names or addresses of all agencies and instrumentalities and all educational, charitable, and religious institutions operated by the Roman Catholic Church in the United States, its territories and possessions in existence at the time the Directory was published. It is understood that each of these is a non-profit organization, that no part of the net earnings thereof inures to the benefit of any individual, that no substantial part of their activities is for promotion of legislation, and that none are private foundations under section 509(a) of the Code.

Based on all information submitted, we conclude that the agencies and instrumentalities and educational, charitable, and religious institutions operated, supervised or controlled by or in connection with the Roman Catholic Church in the United States, its territories or possessions appearing in the Official Catholic Directory for 1994 are exempt from federal income tax under section 501(c)(3) of the Code.

Donors may deduct contributions to the agencies, instrumentalities and institutions referred to above, as provided by section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to them or for their use are deductible for federal estate and gift tax purposes under sections 2055, 2106, and 2522 of the Code.

Beginning January 1, 1984, unless specifically excepted, you and your subordinates must pay tax under the Federal Insurance Contributions Act (Social Security taxes) for each employee who is paid \$100 or more in a calendar year. You and your subordinates are not liable for tax under the Federal Unemployment Tax Act (FUTA).

Next year, within 90 days before the close of your annual accounting period, or by May 31, the date established by our letter of April 28, 1975, which gave an extension of time to file the information, please send one copy of the Official Catholic Directory of 1994 for each Internal Revenue District in which one or more of your subordinates are located, with four additional copies to this office.

The conditions concerning the retention of your group exemption as set forth in our previous determination letter of August 17, 1983 remain in full force and effect.

Sincerely yours,



Paul M. Harrington  
District Director

CERTIFICATION

I, Ellen Kane Munro, do hereby certify that I am the duly elected and acting Secretary of Loyola University of Chicago, a corporation organized and existing under the laws of the State of Illinois, and that Loyola University of Chicago is listed in the 1994 edition of the *The Official Catholic Directory* on page 1321.

Date Oct 30, 1995

Ellen Kane Munro (SEAL)  
Secretary