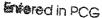
St. Catherine Residence





Office of the General Counsel

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June 26, 1992

FOR THE INFORMATION OF: The Most Reverend Archbishops and

Bishops, Superiors of Religious Orders and Institutions, Diocesan Attorneys and Fiscal Managers, and

State Conference Directors

SUBJECT:

1992 Group Ruling

FROM:

Mark E. Chopko, General Counsel

(Staff: Deirdre Halloran,

Associate General Counsel)

Enclosed is a copy of the group ruling issued on June 1, 1992 by the Internal Revenue Service ("IRS"), with respect to the federal tax status of organizations listed in the 1992 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 ¶3
 of "Explanation" below); and
- (2) the deductibility, for federal income, gift and estate tax purposes, of contributions to such organizations.

The 1992 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, in a single group ruling, 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

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 1992 group ruling is consistent with the 1991 ruling. It incorporates by reference the conditions set forth in the 1983 ruling that USCC must meet to maintain the group exemption.

The 1992 OCD reflects certain changes that have been made in USCC's administration of the group exemption. Certain Catholic organizations with independent IRS exemption determination letters are listed in the 1992 OCD with an asterisk (*), which is explained at page A-42, and which indicates that the organization has an independent IRS exemption determination and is not covered by the group ruling.

The 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.

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 1992" (with the exception of organizations noted with an asterisk).
- 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 has no effect on an organization's liability for 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. <u>Deductibility of Contributions</u>. The group ruling assures donors that contributions to the institutions listed in the 1992 OCD and covered by the group ruling are deductible for federal income, gift, and estate tax purposes.

- 5. Unemployment Tax. The group ruling establishes exemption from federal unemployment tax only. Individual states may impose an 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. Services performed by diocesan priests in the exercise of their ministry are not considered "employment" for FICA (social security) purposes, 2/ and FICA should not be withheld from their salaries.
- 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 exemption from the Form 990 filing requirement merely because an organization is listed in the OCD. Organizations required to file must do so by the 15th day of the fifth month after the close of their fiscal year. Among the organizations not required to file Form 990 under section 6033 of the Code are: churches; integrated auxiliaries of churches; the exclusively religious activities of religious orders; schools below college level affiliated with a church or operated by a religious order; church-controlled organizations

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.

^{2/} I.R.C. §3121(b)(8)(A).

^{3/} For taxable years 1970 through 1975, organizations listed in the OCD were excused from filing Form 990 because the Treasury Department had not clarified the meaning of the term "integrated auxiliaries of a church." In January 1977, the Treasury Department promulgated final regulations defining that term. Under those regulations, organizations that are considered integrated auxiliaries include men's and women's organizations that are a part of the church structure, seminaries, mission societies, or youth groups. The following organizations are not considered integrated auxiliaries: hospitals, colleges and universities, orphanages that have a separate identity from a church, and homes for the aged.

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 exclusively religious purposes; 4 and organizations with gross receipts normally not in excess of \$25,000.5 In addition, IRS has excused certain internally-supported church affiliates from the Form 990 filing requirement. Organizations that are required to file must make available for public inspection upon request a copy of the Form 990 and all required schedules and attachments (other than the list of contributors) during regular business hours at the organization's principal office and at any regional or district office with 3 or more employees. The Form 990 for a particular year must be made available for three years beginning with the due date of the return.

8. Revenue Procedure 75-50. Rev. Proc. 75-50⁷ sets forth guidelines and recordkeeping requirements regarding racially nondiscriminatory policies that must be complied with by private schools, including church-related schools, to establish and maintain 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. Form 5578 must be filed by the 15th day of the fifth month following the close of the fiscal year.

The requirements of Rev. Proc. 75-50 remain in effect and must be complied with by all schools listed in the OCD. This may be done individually or by the diocese for all diocesan schools. 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.

9. Lobbying Activities. Organizations included in the group ruling may lobby for changes in the law, provided such lobbying is not more than an insubstantial part of their total activities.

^{4/} Notice 84-2, 1984-1 C.B. 331.

<u>5</u>/ Announcement 82-88, 1982-25 I.R.B. 23.

^{6/} Rev. Proc. 86-23, 1986-1 C.B. 564.

^{7/ 1975-2} C.B. 587.

Attempts to influence legislation both directly and through grassroots lobbying are affected by this restriction. There is no distinction between lobbying activity that is related to an organization's exempt purposes and lobbying that is not. There is no definitive answer regarding what percentage constitutes "insubstantial" lobbying. Please refer to your attorney any questions you may have about permissible lobbying activities.

- 10. Political Activities. Section 501(c)(3) of the Code states that organizations exempt under its provisions must 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. Additional sanctions for violation of the political activity restrictions were imposed by the Revenue Act of 1987. In addition to revoking exempt status, IRS may impose excise taxes on an exempt organization and its managers for violation of the political activity restriction. 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 June 26, 1992).
- 11. Private Foundation Status. Another important ruling is the Treasury determination letter issued to USCC on December 11, 1970. It affirms the non-private foundation status of organizations listed in the OCD. Unlike the group ruling, this letter is not reissued because its applicability is not limited to a particular edition of the OCD. Since organizations listed in the OCD are not private foundations, they are exempt from the restrictions imposed on such organizations by the Tax Reform Act of 1969. The December 11, 1970 determination letter also assures private foundations that they may make tax-free grants and terminal distributions to organizations listed in the OCD and included in the group ruling.
- 12. Distribution of OCD. Copies of the OCD have been made available by USCC to the IRS National Office and the IRS district offices to facilitate administration of the group ruling.
- 13. Group Exemption Number. The group exemption number assigned to USCC is 928 or 0928. The number must be included on each Form 990, Form 990-T, and Form 5578 required to be filed by any organization or institution exempt under the group ruling. The group exemption number should not be used on Form SS-4, Request for Employer Identification Number, because IRS may include USCC as part of the organization's name when it enters the organization in its computer.

14. Responsibilities under Group Ruling. The 1992 group ruling incorporates by reference procedures outlined in the 1983 ruling that are the responsibility of the USCC Office of General Counsel. However, diocesan officials who compile OCD information for transmittal to P.J. Kenedy & Sons are responsible for the accuracy of such information.

The USCC Office of General Counsel will be pleased to respond to inquiries about the group ruling, and to make available on request single copies of the ruling or this memorandum.

Enclosure

Internal Revenue Service

Department of the Treasury

District Director **Baltimore District**

31 Hopkins Plaza, Baltimore, Md. 21201

Telephone: (410) 962-6058

JUN 01 1992

Mr. Mark E. Chopko General Counsel United States Catholic Conference 3211 4th Street, N.E. Washington, D.C. 20017-1194

Dear Mr. Chopko:

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 1992 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 1992 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.

Mr. Hark E. Chopko

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 Hay 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 1993 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,

H. J. Lightower

Bistrict Director

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St. Francis Chapel, 1609 Yout St. 5301 4424. Revs. Martin Pable, O.F.M.Cap., ney, O.F.M.Cap.; Michael Sullivan, O.F.M.Cap. Center for Evangelization. Priests &

St. Francis Health Care Corporation of Rein Spring St., 53405. 4 414-636-4011. Edward St. lenaere, Pres. Franciscan Sistem, Danger Sacred Hearts of Jesus and Mary, Wheele

St. Mary's Health Care Charitable Founded cine, Inc., 3801 Spring St., 53405, John P. Acting Pres. Franciscan Sisters, Deuthin Sacred Hearts of Jeaus and Mary, Whether

St. Mary's Homecare, Inc. of Racine, 40 P.O. Box 4045, 53404, Debra A. Land can Sisters, Daughters of the Sacred and Mary of Wheaton, IL.

Senior Companion Program (Outreach & Lorine's Infirmary, Inc.) 5635 Erie St. 1841 (639-4100. Sr. Brenda Walsh, O.P., Dir. Banda Dominic, Racine.

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WAUKESHA. Waukesha Catholic School System.
N. Moreland Blvd., 53188. (414-542-5181. leen Swain, System Admin. (414-542 2011

AUNATOSA, Franciscan Shared Laborator, be. W. Plank Ct., Suite 100, 53226. Earl C Bed. Sponsored by Franciscan Sisters, Daughee Sacred Hearts of Jesus and Mary, Wheeler

St. Camillus Institute, Inc., 1010 W. Blumber 53226. Very Rev. Richard J. O'Donnel, O'Pres.: Donald G. Klein, Sec. Management Company of the tion. Order of the Servants of the Sick Or Camillus).

RELIGIOUS INSTITUTES OF THE REPRESENTED IN THE ARCHBIOGRAPHICS

For further details refer to the corresponding number in the Religious Institutes of section.

[0120]—Alexian Brothers. (Immsculst-Prov.).—C.F.A. [0140]—The Augustinians. (Mother of

Prov.).--O.S.A. [0200] Benedictine Monks, O.S.B. [0240] Order of St. Camillus-Camillian

[0260] -Discalced Carmelite Friars. (Prov.

ulate Heart of Mary, -O.C.D. 104201—Society of the Divine Word, (Northern C. V.) S.VD.