



Office of the General Counsel

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July 9, 2007

TO: Most Reverend Archbishops and Bishops, Diocesan
Attorneys and State Conference Directors

SUBJECT: 2007 Group Ruling

FROM: Jeffrey Moon, General Counsel (Acting) 
(Staff: Deirdre Dessingue, Associate General Counsel)

Attached is a copy of the Group Ruling issued to the United States Conference of Catholic Bishops on July 1, 2007 by the Internal Revenue Service ("IRS"), with respect to the federal tax status of Catholic organizations listed in the 2007 edition of the Official Catholic Directory ("OCD")^{1/}. 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* ¶4 of "Explanation" below); and
- (2) the deductibility, for federal income, gift and estate tax purposes, of contributions to such organizations.

The 2007 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^{2/}. The 2007 Group Ruling is consistent with the 2006 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.

¹ A copy of the Group Ruling and this memo may be found on the USCCB website at www.usccb.org/ogc.

² Catholic organizations with independent IRS exemption determination letters are listed in the 2007 OCD with an asterisk (*), which is explained at page A-6 and indicates that such organizations are *not* covered by the Group Ruling.

Responsibilities under Group Ruling. *Diocesan officials who compile OCD information to send to the OCD publisher are responsible for the accuracy of such information. They must ensure that only qualified organizations are listed, that organizations are listed under their correct legal names, that organizations that cease to qualify are deleted promptly, and that newly-qualified organizations are listed as soon as possible.*

EXPLANATION

1. **Exemption from Federal Income Tax.** The latest ruling reaffirms the exemption from federal income tax under section 501(c)(3) of the Internal Revenue 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 2007" (*with the exception of organizations designated in the OCD with an asterisk and foreign organizations*).

New for 2007: Organizations exempt under the Group Ruling generally are not included in IRS Publication 78, IRS Exempt Organization Business Master File ("EOBMF"), or online databases that are derived from these sources. This does not mean that organizations included in the Group Ruling are not tax-exempt, that contributions to them are not deductible, or that they are not eligible for grant funding from private foundations. Organizations included in the Group Ruling that encounter difficulties verifying their tax-exempt status under the Group Ruling should refer private foundations or other donors to IRS Publication 4573, *Group Exemptions*, available on the IRS website at www.irs.gov. Publication 4573 explains that IRS does not determine which organizations are included in a group exemption, indicates how to verify that an organization is included in a group exemption, and clarifies that it is not necessary for an organization included in a group exemption to be listed in Publication 78 or the EOBMF.

2. **Public Charity Status.** The latest Group Ruling affirms that organizations included in the OCD are not private foundations under section 509(a) of the Code. 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.

New for 2007: The Group Ruling states that organizations covered under its provisions are public charities under section 509(a), but does not specify the subsection of section 509(a) under which they are classified because all covered organizations are not classified under the same subsection. Although USCCB

is classified as a public charity under sections 509(a)(1) and 170(b)(1)(A)(i), that classification does not extend to organizations covered under the Group Ruling. Each organization must establish its own public charity classification under sections 509(a)(1), 509(a)(2) or 509(a)(3).

As a result of new requirements imposed by the Pension Protection Act of 2006 with respect to private foundation grants to section 509(a)(3) supporting organizations, private foundations may no longer be willing to rely solely on the Group Ruling in their grantmaking decisions. Private foundations are likely to request more specific documentation of public charity status under sections 509(a)(1), 509(a)(2), 509(a)(3)-Type I, 509(a)(3)-Type II, or 509(a)(3)-Type III-functionally integrated.

Certain types of organizations included in the Group Ruling qualify as public charities by definition under the statute:

- churches and conventions and associations of churches under sections 509(a)(1) and 170(b)(1)(A)(i) [this category generally is limited to dioceses, parishes, religious orders, and state Catholic conferences];
- elementary and secondary schools, colleges and universities under sections 509(a)(1) and 170(b)(1)(A)(ii); and
- hospitals under sections 509(a)(1) and 170(b)(1)(A)(iii).

Other organizations covered under the Group Ruling may qualify under the public support tests of either sections 509(a)(1) and 170(b)(1)(A)(vi) or section 509(a)(2). Verification of public charity classification under either of the support tests generally can be established by providing a written declaration of the appropriate classification signed by an officer of the organization, along with a reasoned written opinion of counsel and a copy of the support test portion of Form 990, if applicable. A section 509(a)(3) organization included in the Group Ruling also may be able to rely upon a written declaration of the applicable supporting organization classification signed by an officer of the organization, along with a reasoned written opinion of counsel and Form 990, if applicable, to satisfy foundation grantors of their Type I, Type II, or functionally integrated Type III supporting organization status.

3. **Deductibility of Contributions.** The Group Ruling assures donors that contributions to the institutions listed in the 2007 OCD and covered by the Group Ruling are deductible for federal income, gift, and estate tax purposes.

4. **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.

5. **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.^{3/} Services performed by diocesan priests in the exercise of their ministry are not considered "employment" for FICA (Social Security) purposes,^{4/} 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.^{5/} Neither FICA nor income tax withholding is required on remuneration paid to religious institutes for members who are subject to vows of poverty and obedience and are employed by organizations included in the Official Catholic Directory.^{6/}

6. **Federal Excise Tax.** 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.

7. **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.

8. **Form 990.** All organizations included in the OCD must file Form 990, Return of Organization Exempt from Income Tax, *unless* they are eligible

³ 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.

⁴ I.R.C. § 3121(b)(8)(A).

⁵ I.R.C. § 1402(a)(8). See also, Compensation of Priests, at <http://www.usccb.org/bishops/dfi/dualtax.htm>.

⁶ Rev. Rul. 77-290, 1977-2 C.B. 26. See also, OGC/LRCR Memorandum on Compensation of Religions, <http://www.usccb.org/ogc/RelComp2006.pdf> (September 11, 2006).

for a mandatory or discretionary exception. ***There is no automatic exemption from the Form 990 filing requirement simply because an organization is included in the Group Ruling or 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.^{7/} Among the organizations not required to file Form 990 under section 6033 of the Code are: (i) churches; (ii) integrated auxiliaries of churches^{8/}; (iii) the exclusively religious activities of religious orders; (iv) schools below college level affiliated with a church or operated by a religious order; (v) organizations with gross receipts normally not in excess of \$25,000;^{9/} and (vi) 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 exclusively religious activities.^{10/}

New for 2007: The Pension Protection Act of 2006 eliminated the discretionary exceptions to the Form 990 filing requirement with respect to section 509(a)(3) supporting organizations. The discretionary exceptions likely to be affected by this new provision are exceptions (v) and (vi) above. If an organization exempt under the Group Ruling is classified as a section 509(a)(3) supporting organization, it may no longer rely on exceptions (v) or (vi) above as the basis for not filing Form 990. However, a section 509(a)(3) supporting organization that qualifies as an integrated auxiliary of a church may rely on that exception as a basis for not filing Form 990. As a statutory exception, the integrated auxiliary of the church exception was not affected by the Pension

⁷ 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).

⁸ I.R.C. § 6033(a)(2)(A)(i); Treas. Reg. § 1.6033-2(h). To qualify as an integrated auxiliary of a church, 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.

⁹ Rev. Proc. 83-23, 1983-1 C.B. 687.

¹⁰ Rev. Proc. 96-10, 1996-1 C.B. 577.

Protection Act.

New for 2007: Under the Pension Protection Act of 2006, an organization exempt under the Group Ruling that claims exception (v) above (gross receipts normally not in excess of \$25,000) as its basis for not filing Form 990 must file an annual electronic form ("e-postcard") as required by IRS, setting forth the following information: (1) the legal name of the organization; (2) any name under which the organization operates or does business; (3) the organization's mailing address and Internet website address; (4) the organization's EIN; (5) the name and address of a principal officer; (6) evidence of the organization's continued qualification for exemption from the Form 990 filing requirement; and (7) notification of termination, if applicable. If an organization fails to file the annual e-postcard for three consecutive years, its tax-exempt status will be considered revoked. Reapplication to IRS (not the Group Ruling process) will be required in order to reinstate exemption.

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.^{11/} 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 on the same day. Written requests must be satisfied within 30 days.^{12/}

New for 2007: Under the Pension Protection Act of 2006, the tax-exempt status of an organization, including an organization exempt under the Group Ruling, that is required to file Form 990 but that fails to do so for three consecutive years will be considered revoked. Reapplication to IRS (not the Group Ruling process) will be required in order to reinstate exemption.

¹¹ 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).

¹² I.R.C. § 6104(d). Generally, a copy of an organization's exemption application and supporting documents must also be provided on the same basis. However, since Catholic organizations covered under the Group Ruling did not file exemption applications with IRS, nor did USCCB, organizations covered under the Group Ruling should respond to requests for public inspection and written or in-person requests for copies by providing a copy of the page of the current OCD on which they are listed. If a covered organization does not have a copy of the current OCD, it has two weeks within which to make it available for inspection and to comply with in-person requests for copies. Written requests must be satisfied within the general time limits.

9. **Revenue Procedure 75-50.** Rev. Proc. 75-50^{13/} 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 is available at www.irs.gov. 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 by an individual school or by the diocese on behalf of all schools operated under diocesan auspices. 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 tax-exempt status of the school and, in the case of a school operated by a church, the tax-exempt status of the church itself.***

10. **Lobbying Activities.** Organizations exempt under the Group Ruling 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 both 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.

11. **Political Activities.** ***Organizations exempt under 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 campaign intervention can jeopardize the organization's tax-exempt status.*** In addition to revoking tax-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. The Office of General Counsel memorandum, *Political Campaign Activity Guidance for Catholic Organizations*, available at www.usccb.org/ogc, contains detailed information

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1975-2 C.B. 587.

regarding the prohibition against political campaign intervention. If you have any questions in this regard, please refer them to your attorney.

12. **Group Exemption Number.** The group exemption number assigned to the USCCB Group Ruling is 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.***^{14/} We advise *against* using the group exemption number on Form SS-4, Request for Employer Identification Number, because in the past this has resulted in IRS improperly including USCCB as part of the organization's name when it enters the organization in its database.

New for 2007: Under the Pension Protection Act of 2006, Form 990-T is subject to public inspection and copying on the same basis as Form 990 (see ¶ 8 above).

¹⁴ *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
District Director**

Department of the Treasury

**P. O. Box 2508
Cincinnati, OH 45201**

Date: July 1, 2007

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Ms. Deirdre Dessingue
Associate General Counsel
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Dear Ms. Dessingue:

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* 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 2007 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 Official Catholic Directory* for 2007 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.

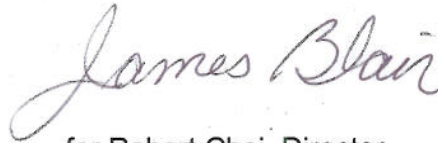
Ms. Deirdre Dessingue

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, as indexed for inflation. You and your subordinates are not liable for the tax under the Federal Unemployment Tax Act (FUTA).

By May 31, 2008, please send three (3) copies of *The Official Catholic Directory* for 2008 to IRS TE/GE in Cincinnati; one copy to the Processing Campus in Ogden; two copies each to the EO Area Managers in Newark, Brooklyn, Chicago, St. Paul, Atlanta, Los Angeles, the IRS National Headquarters and the Director, EO Examinations, Dallas.

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,

A handwritten signature in dark ink, reading "James Blair". The signature is written in a cursive style with a large, flowing "J" and a long, sweeping underline.

for Robert Choi, Director,
Exempt Organizations Rulings & Agreements