

July 21, 1975

Dear :

This is in reply to your inquiry regarding coverage of the Employee Pension Plan under the Employee Retirement Income Security Act of 1974 (ERISA). You state that the employer is exempt from taxation under section 501(c)(3) of the Code. The literature enclosed with the letter describes as a home for disadvantaged children operated under the auspices of the Church.

ERISA does not contain exemption provisions similar to those in section 501(c)(3) of the Code. While church plans are exempt from the Act, plans of other religious organizations are not.

Thus it does not appear that the pension plan is exempt. However, it is possible that coverage of the plan will be delayed until January 1, 1983, if (as the literature hints might be the case) the plan is a multiemployer plan covering not only employees of the home but also employees of a church or association of churches. In this connection we call your attention to section 3(33)(c) of ERISA.

Once the plan is covered, all pension provisions of the Act apply to it whether or not it has applied for a tax qualification.

Sincerely,