

October 17, 1975

Dear :

This is in reply to your letter addressed to of our Area Office requesting a determination as to whether the Cemeteries Association of the Diocese Revised Pension Plan (Plan) is covered under the Employee Retirement Income Security Act of 1974 (ERISA). The Plan has been adopted by the Cemeteries Association of the Diocese of (the employer) and a Trust Agreement has been entered into between the Employer and the Trustee or Trustees.

Section 3(33) defines a church plan (exempt under section 4(b)(2) of the ERISA) as a plan established and maintained for its employees by a church or by a convention or association or churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 or a plan in existence on January 1, 1974, established and maintained by a church or convention or association of churches for its employees and employees of one or more agencies of such church (or convention or association) if such church (or convention or association) and each such agency is exempt from tax under section 501 of the Internal Revenue Code of 1954. From the document submitted it appears that the Plan was adopted and is maintained by the Cemeteries Association of the Diocese of the employer. This appears to be an agency of a church or convention or association of churches.

Since the plan was not established and is not maintained by a church or convention or association of churches it does not come within the definition of a church plan as contemplated by section 3(33) of the ERISA and therefore, is not exempt under section 4(b)(2).

Sincerely,