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# CHURCH ALLIANCE

Acting on Behalf of Church Benefits Programs

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April 12, 2013

The Honorable Pat Tiberi  
Chairman  
Pensions/Retirement Working Group  
Committee on Ways and Means  
U.S. House of Representatives  
106 Cannon House Office Building  
Washington, D.C. 20515

The Honorable Ron Kind  
Vice-Chairman  
Pensions/Retirement Working Group  
Committee on Ways and Means  
U.S. House of Representatives  
1502 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Tiberi and Congressman Kind:

Thank you for your leadership on the House Ways and Means  
Committee Tax Reform Working Group on Pensions/Retirement and your  
work on the important issue of tax reform.

The Church Alliance is a coalition of chief executive officers of thirty-  
eight (38) denominational benefit programs, covering mainline Protestant  
denominations, two branches of Judaism, and Catholic schools and institutions.  
These benefit programs, known as church plans, provide pensions and health  
benefits to more than one million clergy, lay workers, and their family  
members.

As the Working Group on Pensions/Retirement, the House Ways and  
Means Committee, and Congress consider tax reform, we encourage you to  
consider policies that strengthen church retirement plans and protect their  
participants. One immediate issue is the enactment of the "Church Plan  
Clarification Act," which was introduced as S. 3532/S. 143 and as part of H.R.  
4050 in the 112th Congress.

## CHURCH PLANS

Church benefit plans and programs have existed for many years; in  
fact, some were established as far back as the 1700s. Initially, many of these  
benefit programs were akin to benevolence programs in that they provided  
benefits to clergy in need. Over the years, however, the benefit programs  
expanded to more formally and systematically provide retirement and welfare  
benefits for clergy and church lay workers.

Church plans have developed structures and mechanisms that reflect  
the differing church polities (denominational organizational and governance  
structures) that they serve. In recognition of their unique status, most church  
retirement plans are exempt from the Employee Retirement Income Security  
Act of 1974 ("ERISA") and are instead subject to special laws and regulations  
that reflect the distinctive issues that these plans and churches confront.  
Church retirement plans are subject to stringent state and federal laws and

regulations, including state fiduciary standards, state contract law, and Internal Revenue Code (“IRC” or “tax code”) requirements. Church retirement plans ensure the stability of participants’ investments by applying many of the same strong safeguards applied to corporate and public pension funds. Moreover, churches and synagogues have a strong lifelong relationship with employees and are motivated to provide for and serve the clergy and church lay workers who have dedicated their lives to working for religious institutions.

## **THE CHURCH PLAN CLARIFICATION ACT**

Given the unique nature of church retirement plans, legislation and regulations oftentimes have unintended consequences when applied to them, which can result in uncertainty and/or compliance issues. Tax reform is an opportunity to maintain and even strengthen the ability of church retirement plans to operate and serve their participants in a manner that is consistent with the overarching goals of retirement security. In this regard, we strongly urge Congress to enact the “Church Plan Clarification Act,” which, as noted above, was introduced as S. 3532/S. 143 and as part of H.R. 4050 in the 112th Congress.

The Church Plan Clarification Act contains corrections and clarifications to a series of issues impacting church retirement plans.

- **Controlled Group Rules.** Currently, the controlled group rules for tax-exempt employers may require certain church-affiliated employers to be included in one controlled group (i.e., treated as a single employer), even though they have little relation to one another. A modification is necessary to the controlled group rules to ensure that multiple church-affiliated entities – which may be related theologically, but have little or no relation to one another in terms of day-to-day operation – are not inappropriately treated as a single employer under the tax code.
- **Grandfathered Defined Benefit (“DB”) Plans.** IRC § 403(b) church DB plans established before 1982 are called grandfathered DB plans and were intended to be treated and continue to operate as DB plans. However, recent rules subjecting such plans to both DB and defined contribution (“DC”) annual benefit accrual limitations under IRC § 415 have resulted in clergy who are lower-paid and closest to retirement being harmed. A clarification is required to ensure that only the DB limitations apply to these plans.
- **Automatic Enrollment.** Church employers often cross state lines. State wage withholding laws differ from state to state, presenting barriers to offering auto-enrollment into church retirement plans. Federal legislation is needed to preempt these laws so that church retirement plans can include auto-enrollment features in their retirement plans just as non-church corporate plans are allowed to do without the uncertainty arising under the laws of certain states.
- **Transfers Between 403(b) and 401(a) Plans.** Current rules do not allow transfers and mergers between an IRC § 403(b) church retirement plan and an IRC § 401(a) qualified church retirement plan. Legislation is needed to provide for such transfers and mergers, providing a better alternative to terminating or having to maintain

separate legacy plans. Such legislation will also decrease complexity and administrative costs for church employers, as well as confusion for employees.

- **81-100 Trusts.** Church benefits boards are legally allowed to commingle plan and non-plan church-related assets for investment purposes to allow churches the benefit of the board's greater resources, investment skills, and economies of scale. A clarification is required to ensure that a widely used investment vehicle, 81-100 (2011-1) trusts, can accept such funds.

Consistent with the tax reform objectives of simplicity and certainty, the Church Plan Clarification Act contains straightforward clarifications and corrections. It is non-controversial, has bipartisan support, and has not attracted any opposition.

Moreover, although the policy issues addressed by the Church Plan Clarification Act may seem relatively "small," they are extremely critical to the functioning and operation of church plans. The issues addressed by the Church Plan Clarification Act are becoming increasingly urgent. The longer this legislation is pending, the greater the burden is to church plan participants, most of whom are already of modest means.

#### CONCLUSION

The Church Alliance strongly urges that the Church Plan Clarification Act be enacted as part of tax reform or even sooner. It is vital that individuals who dedicate their lives to religious service are not inappropriately disadvantaged.

The Church Alliance greatly appreciates the opportunity to submit these comments. We are pleased to serve as a resource to the Congress and the Committee on these and related matters. We look forward to our continued work together on these important issues. Thank you.

Sincerely,



Barbara A. Boigegrain  
Chair of the Church Alliance