Pension Benefit Guaranty Corporation

82-3

February 2, 1982

REFERENCE:
 [*1] 414(e) (IRC) Definitions & Special Rules. Church Plans
4021(b)(3) Plans Covered. Church Plans

OPINION:

   This is in response to your request on behalf of the above-referenced plan (the "Plan") for a refund of premiums paid to the Pension Benefit Guranty Corporation ("PBGC") by the Plan. You state that the premiums should be refunded because the Plan is a church plan within the meaning of § 414(e) of the Internal Revenue Code of 1954 and thus not covered by Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA").

   In support of your position you have made the following representations in a telephone conversation with * * * of my staff. The Plan covers all personnel of the Diocese of * * * (the "Diocese"), except employees of church schools. There are approximately 370 participants in the Plan. The Diocese is exempt under § 501(c) of the Internal Revenue Code. The Plan covers employees of about 100 local parishes, three or four resale shops and a newspaper. The resale shops sell used goods, and are owned and controlled by the Diocese. They are not separately incorporated, and are not separately exempt under § 501(c). The newspaper publishes church news and is sent to [*2] the parishioners free of charge. The resale shops and newspaper employ between five and ten of the participants. Although these businesses are unrelated trades or businesses within the meaning of Section 513 of the Internal Revenue Code, the Plan is not maintained primarily for the benefit of employees (or their beneficiaries) of these unrelated trades or businesses.

   Based on the information you have submitted to us, it appears that the Plan is a church plan within the meaning of § 414(e) of the Internal Revenue Code. Accordingly, the Plan was not required to pay premiums to the PBGC, and we will notify our Office of Financial Operations that a refund is due.

   I trust this has responded to your inquiry.

   Henry Rose
General Counsel