

Chair:

Mr. James F. Sanft *
 Concordia Plan Services of
 The Lutheran Church—Missouri Synod
 1333 S. Kirkwood Road
 St. Louis, MO 63122
 (314) 885-6701

Secretary:

Ms. Ann T. Stillman
 Concordia Plan Services of
 The Lutheran Church—Missouri Synod

Treasurer:

Mr. Robert A. Bouché
 Concordia Plan Services of
 The Lutheran Church—Missouri Synod

Vice Chair:

Mr. Louis Barbarin *
 American Baptist Churches
 475 Riverside Drive, Suite 1700
 New York, NY 10115-0049
 (212) 870-8000

Members:

Rev. Dr. Todd Adams
Christian Church (Disciples of Christ)
 Mr. Brian Bodager *
United Church of Christ
 Mr. John H. Bolt
Christian Reformed Church in North America
 Mr. John Brummitt
National Association of Free Will Baptists
 Dr. D. Hance Dilbeck Jr. *
Southern Baptist Convention
 Mr. Scott Dolfi *
Young Men's Christian Association
 Mr. Mark Dowley
Free Methodist Church of North America
 Mr. Nevin Dulabaum
Church of the Brethren
 Dr. Craig A. Dunn
Wesleyan Church
 Mr. Ed Dunnington
Presbyterian Church in America
 Mr. Curtis Farmer
Christian and Missionary Alliance
 Mr. Rob Fox
CBF Church Benefits
 Mr. Bart J. Francescone
Evangelical Presbyterian Church
 Mr. Kevin Gilmore
Church of the Nazarene
 Mr. Andrew Q. Hendren *
United Methodist Church
 Mr. Ken Hochstetler
Mennonite Church
 Mr. Reggie Hundley
Christian Churches Pension Plan
 Mr. Michael Kimmel
Reform Pension Board
 Mr. Steve Klimkowski
Evangelical Covenant Church
 Rev. Richard Nugent
Unitarian Universalist Association
 Rev. Jim M. O'Bold
Board of Pensions of the Church of God (IN)
 Ms. Kelly Oliveira
Reformed Church in America
 Mr. Joshua Peterman
Wisconsin Evangelical Lutheran Synod
 Mr. Jonathan Phillips
International Church of the Foursquare Gospel
 Br. Michael F. Quirk, FSC *
Christian Brothers Services
 Mr. Arthur D. Rhodes
Church of God Benefits Board (TN)
 Mr. Edwin G. Romero
General Conference of Seventh-Day Adventists
 Ms. Rachel Roth
American Conference of Cantors
 Mr. Mitchell J. Smilowitz *
Joint Retirement Board for Conservative Judaism
 Rev. Frank C. Spencer *
Presbyterian Church (U.S.A.) Board of Pensions
 Rev. Ric Stanghelle
Evangelical Free Church of America
 Rev. Bernard E. Tanis
Converge / Baptist General Conference
 Rev. Jeffrey Thiemann *
Evangelical Lutheran Church in America
 Mr. James P. Thomas
Churches of God, General Conference
 Ms. Mary Kate Wold *
Church Pension Group / Episcopal Church

* Steering Committee Members



CHURCH
 ALLIANCE

BENEFITS FOR FAITH LEADERS
 SERVING COMMUNITIES

Counsel:

K&L Gates LLP
 1601 K Street NW
 Washington D.C. 20006
 Tel (202) 778-9000
 Fax (202) 778-9100

May 9, 2022

Submitted by electronic mail

Andres Garcia
 Internal Revenue Service
 1111 Constitution Avenue NW, Room 6526
 Washington, DC 20224

**Re: Notice Regarding Certain Church Plan Clarifications under
 Section 336 of the PATH Act; OMB Control Number 1545-2279**

Dear Mr. Garcia:

On behalf of the Church Alliance, we appreciate the opportunity to submit this comment in response to the Notice Regarding Certain Church Plan Clarifications under Section 336 of the PATH Act (OMB Control Number 1545-2279).

The Church Alliance is a diverse network composed of thirty-seven denominational benefit organizations, covering mainline and evangelical Protestant denominations, conservative and reform Jewish movements, and Catholic orders and schools. Our member benefit programs provide retirement and health benefits to approximately one million clergy, lay workers, and their family members.

**I. Collection of Information Related to Section 336(a) of the
 PATH Act**

First, we would like to thank the Internal Revenue Service (“IRS”) for the helpful guidance released in Notice 2018-81 (“the Notice”) implementing Section 336(a) of Division P of the Protecting Americans from Tax Hikes Act of 2015 (Public Law 114-113 (129 Stat. 2242 (2015))) (“PATH Act”).

Internal Revenue Code (“IRC”) Section 414(c)(2)(C) provides that a church or convention or association of churches (or its designee) may elect to treat church-related organizations that are eligible to participate in a church plan as a single employer.

Additionally, IRC Section 414(c)(2)(D) provides that an employer may elect to treat churches and entities that are not churches as separate employers. Both elections, once made, apply to all succeeding plan years unless revoked with notice provided to the Secretary of the Treasury.

After the PATH Act was enacted, the Church Alliance submitted comments to the Treasury and IRS regarding implementation of the church plan provisions contained in the Act. In that letter, which was submitted in August 2016, the Church Alliance requested that any guidance with respect to these Sections clarify that such an election may be made in any reasonable manner and that revocation of such an election can be done by providing notice to the Secretary of the Treasury.

In this regard, Notice 2018-81 has been helpful guidance to the church benefits community. It provides guidance on how entities may provide notice to the IRS of revocation of an election to aggregate or disaggregate certain church-related organizations under Sections 414(c)(2)(C) and (D). The Church Alliance's December 21, 2018 comment letter expressed our gratitude and support for the Notice.

The Church Alliance strongly supports keeping Notice 2018-81 in place in its current form. In the years since issuance of the Notice, members of the Church Alliance have found the process outlined under the Notice to be effective and not burdensome. We agree that the collection of information is necessary, based on the wording of Sections 414(c)(2)(C) and (D). The approach taken by the guidance provides for the proper function of the agency with respect to Section 336(a) of the PATH Act. We do not have data regarding the accuracy of the IRS's estimate of the burden of the collection of information, because in our experience the elections described in Sections 414(c)(2)(C) and (D) are rarely made. Due to the expected infrequency of revocation of such elections, we do not think automated collection techniques would be beneficial for either the IRS or respondents. Taken together, the Church Alliance strongly supports keeping Notice 2018-81 in place in its current form.

II. Request for Revised Guidance with Respect to Section 336(e) of the PATH Act

While we continue to be grateful for the IRS's guidance related to Section 336(a) of the PATH Act, the Church Alliance also is hopeful that the IRS will consider updating IRS Revenue Ruling 2011-1 in light of Section 336(e) of the PATH Act. This Section clarifies that the assets of a church plan or an organization described in IRC Section 414(e)(3)(A) that has as its principal purpose or function the administration of a church plan may be commingled and invested in a group trust described in IRS Revenue Ruling 81-100 (as modified by IRS Revenue Rulings 2004-67, 2011-1, and 2014-24), or any subsequent revenue ruling that supersedes or modifies such revenue ruling. The Church Alliance previously discussed with the IRS the need to update Revenue Ruling 2011-1 to reflect the changes made by the PATH Act and to make clear that, consistent with the statutory amendments made by Congress's enactment of the PATH Act, assets that can be permissibly commingled with church plan assets (such as assets exclusively devoted to church purposes) need not be subject to the exclusive benefit requirement that was applicable to group trusts under Revenue Ruling 2011-1.

Church Alliance member organizations have experienced challenges investing in a collective investment trust (CIT) as a result of the perceived uncertainty created by an outdated Revenue Ruling 2011-1. In one instance, a denominational entity asked a church benefits organization to

invest denominational endowment funds in a stable value fund created under the Church Plan Exemption (Section 3(c)(14) of the Investment Company Act). Since the parameters of the permissive commingling of assets is germane to the Church Plan Exemption, the request was declined due to the requirement in IRS Revenue Ruling 2011-1 that assets invested in a CIT covered by that ruling must be held for the exclusive benefit of employees investing in the arrangement. Similarly, two other smaller organizations were denied the opportunity by a money manager to participate in a CIT operating under the Section 3(c)(11) Company Act exemption for CITs operated by banks and insurance companies due to this exclusive benefit requirement.

The Church Alliance provided a more detailed discussion of this issue in a June 2021 letter to Treasury and the IRS. We respectfully request that the IRS update Revenue Ruling 2011-1 to reflect the changes made in the PATH Act and update the language in any relevant determination letters.

III. Conclusion

On behalf of the Church Alliance, thank you again for the guidance that has been provided under Notice 2018-81 – we appreciate and support the Notice’s guidance. We also would greatly appreciate your consideration with respect to updating IRS Revenue Ruling 2011-1 to ensure that Section 336(e) of the PATH Act can be utilized as intended by Congress. Please do not hesitate to contact us if you have questions or if we may be helpful in any way. We are grateful for your work on these issues of significant importance to the church benefits community.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Karishma Shah Page', with a long, sweeping horizontal stroke extending to the right.

Karishma Shah Page
Partner
K&L Gates LLP
On behalf of the Church Alliance

CC: Ms. Carol Weiser, Deputy Benefits Tax Counsel, U.S. Department of the Treasury;
Ms. Rachel Leiser Levy, Associate Chief Counsel, Employee Benefits, Exempt Organizations
and Employment Taxes, Internal Revenue Service