

**Internal Revenue Service**

Department of the Treasury  
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Person To Contact:

Telephone Number:

Refer Reply To:

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Date:

November 10, 2004

X =

Entity =

Country A =

Covered Employees =

Act B =

Act C =

Body D =

Act E =

Dear

This responds to your letter dated March 29, 2004, submitted on behalf of X, in which you requested a ruling that X is treated as a trust for federal income tax purposes under § 301.7701-4 of the Procedure and Administration Regulations.

The information submitted states that X was organized as an Entity under the laws of Country A. X was created to provide disability, old age and/or death benefits to Covered Employees and their surviving relatives in Country A. X is exempt from tax under the laws of Country A.

X is governed by Act B and Act C and regulated by Body D. Body D is the official government body established under Act C and Act E to supervise insurance companies and pension funds in Country A. X's organizing document provides that X's purpose is to pay benefits with regard to disablement, old age and/or death to Covered Employees and their surviving relatives. X has the power to engage in any activity that conforms to Act C and that serves to protect the benefits accumulated by the parties.

X derives its funds from a combination of employee contributions, employer contributions, and income from investments. X must invest its available funds responsibly, based on an investment plan adopted annually. X must submit to Body D annually an audited report of its financial position showing that the provisions of Act C are satisfied and that the interests of Covered Employees and their surviving relatives are guaranteed. X must also submit to Body D an actuarial report concerning X with a signed statement of the actuary, if X needs to explain any actuarial measures taken. The members of X cannot unilaterally assign or transfer their pension benefits to another person.

Section 301.7701-1(b) of the Administration and Procedure Regulations provides that the classification of organizations that are recognized as separate entities is determined under § 301.7701-2, § 301.7701-3, and § 301.7701-4 unless a provision of the Internal Revenue Code provides for special treatment of that organization.

Section 301.7701-4(a) provides that, in general, an arrangement will be treated as a trust if it can be shown that the purpose of the arrangement is to vest in trustees responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit. If an entity has both associates and a business purpose, it cannot be classified as a trust for federal income tax purposes.

Based solely on the facts submitted and the representations made, we conclude that X is classified as a trust for federal income tax purposes under § 301.7701-4(a).

Except as expressly provided, no opinion is expressed concerning the federal income tax consequences of the facts described above under any other provision of the Code. Specifically, we make no determination concerning whether X or its beneficiaries are entitled to any benefits under the Internal Revenue Code or the income tax treaty entered into by Country A and the United States concerning income derived from the United States.

This ruling is directed only to X. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to X.

Sincerely,

J. Thomas Hines  
Chief, Branch 2  
Office of the Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures: 2  
Copy of this letter  
Copy for § 6110 purposes