



This responds to the letter dated May 14, 2007 and related correspondence, submitted on behalf of X, requesting a ruling that X is treated as a trust for federal income tax purposes under § 301.7701-4 of the Procedure and Administration Regulations of the Internal Revenue Code (Code).

### **FACTS**

The information submitted states that X was organized an Entity under the laws of Country. X was created to provide superannuation benefits to members of X in Country.

X is governed primarily by Act A and Act B and regulated by several government bodies, including Body C, Body D, Body E, and Body F. The trustee for X is Y. The organizing document of X provides that sole purpose of X is to provide superannuation benefits to members of X and their beneficiaries.

X derives its funds from a combination of employee contributions, employer contributions, and income from investments. Under the provisions of the organizing document, Y is obligated to manage the funds of X responsibly in order to protect and conserve the superannuation fund. Y must also provide annually a statement setting forth information of X required by law. X is subject to annual audit by an approved auditor appointed by Y. The members of X cannot unilaterally assign or transfer their benefits under X to another person.

### **LAW AND ANALYSIS**

Section 301.7701-1(b) 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 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 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.

### **CONCLUSION**

Based solely on the facts submitted and 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 herein, no opinion is expressed or implied concerning the federal income tax consequences of the facts 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 Code or the income tax treaty entered into by Country and the United States concerning income derived from the United States.

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

In accordance with the Power of Attorney on file with this office, copies of this letter are being mailed to your authorized representatives.

Sincerely,

Dianna K. Miosi  
Branch Chief, Branch 1  
Office of the Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter  
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cc: