



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

This letter responds to your request for general information relating to the U.S. federal income tax treatment of the _____ and its commercial affiliates and partners (including _____) that may be temporarily present in the United States in connection with the application by _____ to stage the _____ in _____ in _____.

A foreign entity that does not have exempt status under section 501(a) of the Internal Revenue Code (Code) generally will be subject to a net basis federal income tax on income that is effectively connected with the conduct of a trade or business within the United States. Code § 882(a)(1). The determination of whether a foreign entity conducts a trade or business within the United States is based on all the facts and circumstances. Code § 864(b); Treas. Reg. § 1.864-2(e). The determination of how much income is effectively connected with the conduct of such trade or business is generally based on the rules in section 864(c) of the Code.

If a particular foreign entity is eligible for benefits under an income tax treaty to which the United States is a party, the entity may be exempt from U.S. federal income tax on business profits that are not attributable to a permanent establishment in the United States.¹ In all cases, the foreign entity may be subject to a gross basis withholding tax on certain U.S.-source income of a passive nature, e.g., dividends or royalties. The withholding rate is 30 percent unless reduced by treaty.

The _____ is established as an association under the laws of Monaco. The United States does not have an income tax treaty with _____. Thus, the _____ is not eligible for treaty benefits such as an exemption from _____.

¹ For the texts of most U.S. income tax treaties currently in force, see <http://www.irs.treas.gov/businesses/international/article/0,,id=96739,00.html>.

U.S. federal income tax on business profits that are not attributable to a permanent establishment in the United States.

This letter has called your attention to certain general principles of the current law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2011-1, §2.04, 2011-1 I.R.B. 1 (Jan. 3, 2011).

If you have any additional questions, please contact _____ or
at _____ .

Sincerely,

Richard D. Fultz
Deputy Associate Chief Counsel
(International)