

December 19, 2011

EXPEDITED HANDLING IS REQUESTED

By Hand Delivery

Courier's Desk
Internal Revenue Service
Associate Chief Counsel (Income Tax & Accounting)
Attention: CC:PA:LPD:DRU, Room 5336
1111 Constitution Ave., N.W.
Washington, D.C. 20224

Attn: Mr. Martin Scully, Senior Counsel, CC:ITA:Br. 6, Room 4141
Ms. Natasha Mulleneaux, Attorney, CC:ITA:Br. 6, Room 4138

Re: Law Debenture Trust Company of New York,
as Indenture Trustee; EIN: 01-0622605
Official Committee of Unsecured Creditors of Motors Liquidation Company
Request for Ruling Under Section 468B

Dear Sir or Madam:

On behalf of Law Debenture Trust Company of New York (solely in its capacity as Indenture Trustee, and not in its individual capacity, "Law Debenture"), in its capacity as a claimant to the Motors Liquidation Company GUC Trust and in its capacity as chair of the Official Committee of Unsecured Creditors of Motors Liquidation Company, which committee represents the interests of all claimants to the Motors Liquidation Company GUC Trust and is comprised of, and is authorized to act on behalf of, the claimants to the Motors Liquidation Company GUC Trust, we respectfully request that the Internal Revenue Service (the "Service") rule that pursuant to Treas. Reg. § 1.468B-9(c)(2)(i), the method of taxation applicable to the Motors Liquidation Company GUC Trust will be as provided in the Supplemental PLR (defined below), except that the transfer of New GM Securities (defined below) by the Motors Liquidation Company GUC Trust to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims (all defined below) in the Final Distributions (defined below) will not be treated for United States ("U.S.") federal income tax purposes as a taxable

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exchange of such New GM Securities pursuant to section 1001(a) by the GUC Trust.¹ Hereafter, the Official Committee of Unsecured Creditors of Motors Liquidation Company will be referred to as the “Unsecured Creditors’ Committee,” the Motors Liquidation Company GUC Trust (EIN: 45-6194071) will be referred to as the “GUC Trust,” and the claimants to the GUC Trust will be individually referred to as a “Claimant” and collectively referred to as the “Claimants.”²

Certain issues presented in this request for a private letter ruling were discussed with the following representatives of the Service: Mr. Martin Scully, Jr., Senior Counsel, Office of Associate Chief Counsel (Income Tax & Accounting), Branch 6; Ms. Natasha Mulleneaux, Attorney, Office of Associate Chief Counsel (Income Tax & Accounting), Branch 6; and Ms. Lisa A. Fuller, Branch Chief, Office of Associate Chief Counsel (Corporate), Branch 5.

In accordance with the Motors Liquidation Company Liquidation Plan (defined below), the funding of the GUC Trust by Motors Liquidation Company (EIN: 38-0572515), formerly known as General Motors Corporation (either “MLC” or “Old GM”) must occur no later than December 31, 2011, the date by which Old GM is required to liquidate for U.S. federal income tax purposes. Accordingly, pursuant to section 7.02(4) of Rev. Proc. 2011-1, 2011-1 I.R.B. 1, in order to achieve certainty as to the tax treatment of distributions that will commence shortly thereafter, we are requesting expedited consideration of this request by the Service.

This ruling request letter (the “Request Letter,” together with all Appendices and Exhibits, the “Ruling Request”) consists of five parts:

Part I describes the Prior PLR and Supplemental PLR (both defined below);

Part II discusses the facts and background for the Ruling Request;

Part III sets forth the requested ruling;

Part IV discusses the applicable legal authorities; and

Part V addresses procedural matters.

¹ Unless otherwise indicated, all “section” references are to the Internal Revenue Code of 1986 (the “Code”), and all “Treas. Reg. §” references are to the Treasury regulations promulgated thereunder, both as amended as of the date of this letter.

² The GUC Trust has consented to the submission of this Ruling Request, and has agreed that it will report its income in accordance with the Prior PLR and Supplemental PLR, as modified to the extent required by the ruling requested hereby.

A detailed table of contents for this Ruling Request is included as Appendix A, a list of Exhibits is included as Appendix B, and a glossary of defined terms is included as Appendix C.

I. PRIOR RULINGS AND TRANSACTIONS

A. Prior PLR and Section 363 Exchange

On June 1, 2009 (the “Commencement Date”), Old GM and certain of its affiliates (collectively, the “Debtors”) filed for bankruptcy protection under chapter 11 of title 11 of the U.S. Code (the “Bankruptcy Code”) in the U.S. Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”).³ On July 5, 2009, the Bankruptcy Court approved a series of transactions pursuant to which: (i) General Motors Company (“New GM”) acquired substantially all of the assets of Old GM pursuant to section 363(b) of the Bankruptcy Code in exchange for New GM stock, warrants, and other consideration (the “Section 363 Exchange”); and (ii) Old GM became obligated to liquidate no later than December 31, 2011.⁴

The Service ruled in a prior private letter ruling, PLR-130073-09, dated July 8, 2009 (the “Prior PLR”) issued to MLC that the Section 363 Exchange will be treated as: (i) Old GM transferring substantially all of its assets to New GM in exchange for New GM stock, warrants, cash, and the assumption of certain liabilities; and (ii) Old GM distributing the consideration it received from New GM (including the New GM stock and warrants) to satisfy its creditors’ claims.⁵ In addition, the Service ruled in the Prior PLR that these steps, including the liquidation of Old GM, qualified as a tax-free reorganization under section 368(a)(1)(G) (the “G Reorganization”), pursuant to which

³ The bankruptcy proceedings of Old GM and these affiliates were jointly administered and collectively are referred to herein as the “Bankruptcy Cases.”

⁴ The Master Sale and Purchase Agreement, pursuant to which the Section 363 Exchange was consummated, was entered into by and among General Motors Corporation, Saturn LLC, Saturn Distribution Corporation, and Chevrolet Saturn of Harlem, as sellers, and Vehicle Acquisition Holdings LLC (subsequently renamed NGMCO, Inc., later converted to General Motors, LLC), as purchaser, and dated as of June 1, 2009.

⁵ In connection with the execution of the transaction described in the Prior PLR, General Motors Corporation changed its name from “General Motors Corporation” to “Motors Liquidation Company.” A copy of the Prior PLR is attached as Exhibit 1.

any New GM stock and warrants not immediately distributed were to be held by MLC until distributed to MLC's claimholders prior to December 31, 2011.⁶

On July 10, 2009, the Section 363 Exchange was executed consistent with the steps described in the Prior PLR. The New GM stock and warrants that were not distributed immediately as part of the transaction (collectively, the "New GM Securities") were transferred to and owned by MLC. In particular, the New GM Securities received by MLC consisted of 150 million shares of New GM common stock, 136,363,635 New GM Series A Warrants, and 136,363,635 New GM Series B Warrants.⁷ The New GM Series A and Series B Warrants are immediately exercisable for one share of New GM common stock, par value \$0.01 per share. The New GM Series A Warrants expire seven years after the date of the Section 363 Exchange (*i.e.*, 2016) and each has an exercise price of \$10.00 per warrant, payable in cash, subject to adjustment in certain circumstances. The New GM Series B Warrants expire ten years after the date of the Section 363 Exchange (*i.e.*, 2019) and each has an exercise price of \$18.33 per warrant, payable in cash, subject to adjustment in certain circumstances. MLC retained certain other assets, including stock of certain subsidiaries, and remained subject to liabilities not expressly transferred to or assumed by New GM or otherwise resolved pursuant to the Section 363 Exchange.

B. Supplemental PLR

Following the Section 363 Exchange, MLC requested that the Service supplement the Prior PLR by issuing rulings on the implementation of MLC's Liquidation Plan (discussed and defined further below). In the supplemental private letter ruling, PLR-142024-10, dated March 2, 2011 (the "Supplemental PLR") previously issued to MLC, the Service ruled on the various steps of the proposed transaction to liquidate MLC, including the creation and funding of the GUC Trust to resolve or satisfy general

⁶ For completeness, the Prior PLR also noted that it was possible that MLC might sell some, or all, of the New GM Securities (defined below) prior to its liquidation. At the request of the GUC Trust, MLC sold a small portion of the New GM common stock and warrants in order to provide additional funds for the payment of certain expenses. The sale resulted in cash proceeds of approximately \$5.7 million, which are maintained at MLC and will be transferred by MLC to the GUC Trust along with New GM stock and warrants.

⁷ The New GM Series A Warrants and New GM Series B Warrants are collectively referred to as the "New GM Warrants." On November 1, 2010, the stockholders of New GM unanimously approved an amendment to New GM's Amended and Restated Certificate of Incorporation to effect a three-for-one stock split of the currently outstanding shares of New GM common stock in connection with New GM's initial public offering. The number of shares of New GM common stock held by MLC, the number of shares issuable upon exercise of the New GM Warrants to acquire New GM common stock, and the exercise price of the New GM Warrants were subsequently adjusted to account for the three-for-one stock split. The amount of New GM Securities to which MLC is entitled pursuant to the Section 363 Exchange will be adjusted if the Bankruptcy Court finds that the Debtors' estimated aggregate general unsecured claims exceed \$35 billion.

unsecured claims against the Debtors.⁸ See Part II below for: (i) a detailed description of the creation of, the funding of, and the distributions from the GUC Trust as part of MLC's Liquidation Plan; and (ii) a summary of the rulings previously issued in the Supplemental PLR by the Service in regard to the GUC Trust.

II. FACTS AND BACKGROUND

A. Background

Following the Section 363 Exchange, MLC's liabilities not previously paid, assumed, or otherwise resolved pursuant to the Section 363 Exchange remained outstanding subject to resolution pursuant to the Bankruptcy Cases. The claims remaining against MLC included various general unsecured claims against the Debtors (the "General Unsecured Claims"). The General Unsecured Claims consisted principally of claims for the principal and interest accrued and unpaid through the Commencement Date under various unsecured bonds, as well as: (i) the claims of unions, suppliers and other vendors, and landlords with prepetition rent claims; (ii) claims based on rejection of leases, employment, personal injury, and other litigation to the extent not covered by insurance; (iii) environmental claims subject to discharge under environmental laws to pay money to private and governmental entities for cleanup or remediation of property not owned by the Debtors (including Superfund liabilities); and (iv) the property damage asbestos claims, claims of parties to contracts with the Debtors that were being rejected, and other general unsecured claims.

MLC filed its original liquidation plan and the accompanying bankruptcy disclosure statement with the Bankruptcy Court in August 2010. MLC subsequently filed an amended liquidation plan with the Bankruptcy Court in December 2010. An amended disclosure statement was also filed with the Bankruptcy Court in December 2010 and was approved by the Bankruptcy Court in the same month. As a result, the amended liquidation plan was submitted to the holders of claims against the Debtors for approval and was approved in early March 2011. A second amended liquidation plan (the "Liquidation Plan") was subsequently submitted by MLC to the Bankruptcy Court for approval in March 2011.⁹ All relevant terms of the Liquidation Plan in regard to the GUC Trust are described herein. The Bankruptcy Court issued an order confirming the Liquidation Plan (the "Confirmation Order") in late March 2011 and all of the conditions

⁸ A copy of the Supplemental PLR is attached as Exhibit 2.

⁹ A copy of the Liquidation Plan is attached as Exhibit A to the Confirmation Order issued by the Bankruptcy Court. A copy of the Confirmation Order, including the Liquidation Plan, is attached as Exhibit 3.

to the effectiveness of the Liquidation Plan were met or waived as of March 31, 2011 (the “Effective Date”).¹⁰

The Liquidation Plan provided for the formation of four trusts on or about the Effective Date to facilitate the completion of the Bankruptcy Cases notwithstanding that certain claims would take an extended time period to resolve. The GUC Trust was established by MLC for the benefit of holders of allowed General Unsecured Claims against the Debtors.

B. Purpose of the GUC Trust

The GUC Trust was formed primarily to resolve and satisfy certain General Unsecured Claims that remain in dispute as of the date that the GUC Trust is funded with the New GM Securities, which will be on or after December 15, 2011 but no later than December 29, 2011 (the “Funding Date”).

C. Formation and Administration of the GUC Trust

The GUC Trust was formed on March 30, 2011, pursuant to the terms of the Motors Liquidation Company GUC Trust Agreement (the “GUC Trust Agreement”), the Liquidation Plan, and the Confirmation Order.¹¹

The Unsecured Creditors’ Committee, with the consent of the Debtors and the U.S. Treasury Department (the “UST”), has designated Wilmington Trust Company as the trust administrator of the GUC Trust (the “GUC Trust Administrator”). The GUC Trust Administrator has the authority and powers, among others, to: (i) hold, manage, sell, invest, and distribute to the holders of allowed General Unsecured Claims the GUC Trust assets; (ii) prosecute and resolve objections to disputed General Unsecured Claims; (iii) take all necessary actions to administer the wind-down of the affairs of the Debtors upon their dissolution; and (iv) prosecute, resolve objections to, and satisfy any remaining disputed administrative expenses, disputed priority tax claims, disputed priority non-tax claims, and disputed secured claims.

Prior to the Funding Date, the GUC Trust has performed and will continue to perform a limited number of administrative functions. For administrative convenience

¹⁰ A copy of the Confirmation Order is attached as Exhibit 3.

¹¹ A copy of the GUC Trust Agreement is attached as Exhibit D to the Confirmation Order which is attached to the Request Letter as Exhibit 3. On July 8, 2011, the Debtors, the GUC Trust Administrator (defined below), and the GUC Trust Monitor (defined below) executed an amendment to the GUC Trust Agreement that revised some of the terms and conditions governing the issuance of beneficial ownership interests in the GUC Trust. A copy of the amendment to the GUC Trust Agreement is attached as Exhibit 4.

only, prior to the Funding Date, the GUC Trust facilitates the resolution of disputed General Unsecured Claims and the distribution of New GM Securities from MLC to holders of allowed General Unsecured Claims.

The Unsecured Creditors' Committee, with the consent of the Debtors and the UST, has also designated FTI Consulting, Inc. as the trust monitor (the "GUC Trust Monitor"). In furtherance of and consistent with the purpose of the GUC Trust and the Liquidation Plan, the GUC Trust Monitor is responsible for reviewing and approving material matters and decisions brought to its attention by the GUC Trust Administrator as set forth in the GUC Trust Agreement.

D. Beneficiaries of the GUC Trust

The beneficiaries of the GUC Trust are the holders of allowed and disputed General Unsecured Claims (including the Asbestos Trust).¹² Beneficial ownership interests in the GUC Trust are represented by units (the "GUC Trust Units") that have been and will be distributed to holders of allowed General Unsecured Claims, including claims that were allowed as of the Effective Date (the "Initial Allowed Claims"), claims that were allowed after the Effective Date but on or prior to the Funding Date (the "Interim Allowed Claims"), and claims that are allowed following the Funding Date ("Resolved General Unsecured Claims"). These GUC Trust Units represent the contingent right to receive, on a pro rata basis, New GM Securities that are not required for satisfaction of disputed General Unsecured Claims. The GUC Trust Units are not transferable.¹³

E. Administrative Funding of the GUC Trust

Pursuant to the Liquidation Plan, on March 31, 2011, the GUC Trust was funded by MLC with cash in the amount of \$52.7 million to fund administrative expenses of the GUC Trust and, if necessary, to fund the payment of disputed priority claims or secured claims.

¹² As described in the prior supplemental ruling request, the "Asbestos Trust" was formed pursuant to the Liquidation Plan and funded by MLC for the benefit of holders of allowed personal injury asbestos claims for the purpose of resolving and satisfying such claims. Pursuant to the Supplemental PLR, the Asbestos Trust is treated as a qualified settlement fund under Treas. Reg. § 1.468B-1(c).

¹³ The Liquidation Plan provides that the GUC Trust Units could be issued by the GUC Trust in transferable form. The conditions required for issuance of such transferable units have not been met. Therefore, the GUC Trust has not issued any transferable GUC Trust Units.

F. Initial Distribution to Claimants

On April 21, 2011, the GUC Trust announced that it had requested that MLC make an initial distribution of more than 75 percent of the New GM Securities to the GUC Trust in order to permit the GUC Trust to distribute such securities on MLC's behalf to satisfy Initial Allowed Claims. The GUC Trust received the New GM Securities from MLC and on or about April 21, 2011 and supplemented by a second distribution on May 26, 2011, the GUC Trust then transferred to each holder of an Initial Allowed Claim its pro rata share of New GM Securities. On or about July 8, 2011, the GUC Trust transferred to each holder of an Initial Allowed Claim its pro rata share of GUC Trust Units in accordance with the terms of the GUC Trust and the GUC Trust Agreement (combined with the transfers of New GM Securities on or about April 21, 2011 and May 26, 2011, the "Initial Distribution"). The holders of Initial Allowed Claims received 113,194,172 shares of New GM common stock, 102,903,821 New GM Series A Warrants, and 102,903,821 New GM Series B Warrants. The GUC Trust issued 29,770,826 GUC Trust Units to holders of Initial Allowed Claims as part of the Initial Distribution.¹⁴ Certain holders of Initial Allowed Claims failed to provide the GUC Trust with a completed W-9 or W-8 (as applicable) and other necessary information on a timely basis. As a result, a small portion of the New GM Securities received from MLC on April 21, 2011 is held by Wilmington Trust Company in a separate account for the benefit of these holders until they provide the information required to make the transfer. A small portion of the New GM Securities received from MLC for the Interim Distributions (discussed in more detail below) is also held by Wilmington Trust Company in this separate account for the benefit of certain holders of Interim Allowed Claims until these holders provide the information required to make the transfer.¹⁵

The number of New GM Securities distributed to holders of Initial Allowed Claims from the GUC Trust was determined as prescribed in the Liquidation Plan and the GUC Trust Agreement. Section 5.2(a) of the GUC Trust Agreement provides that the GUC Trust shall deliver to each holder of an Initial Allowed Claim an amount of the New GM Securities in proportion to the amount of such Initial Allowed Claim, as prescribed by the Liquidation Plan. Section 4.3(a) of the Liquidation Plan establishes the amount to be distributed to each holder of an allowed General Unsecured Claim. It provides that each holder of an allowed General Unsecured Claim as of the date that the Liquidation Plan was confirmed by the Bankruptcy Court shall receive from the GUC Trust its "Pro Rata Share" of the New GM Securities or the proceeds thereof. For purposes of the Liquidation Plan, "Pro Rata Share" is defined as the ratio of (i) the amount of any

¹⁴ A copy of the Motors Liquidation Company GUC Trust Quarterly GUC Trust Reports as of September 30, 2011 is attached as Exhibit 5.

¹⁵ The separate account is treated as owned by these holders of Initial Allowed Claims and Interim Allowed Claims.

allowed claim in a particular class to (ii) the sum of the aggregate amount of all claims in such class, whether allowed or disputed.¹⁶

G. Interim Distributions to Claimants

As the Interim Allowed Claims are periodically allowed after the Effective Date but on or prior to the Funding Date, MLC transfers New GM Securities to satisfy such claims.¹⁷ The GUC Trust transfers to each holder of an Interim Allowed Claim its pro rata share of New GM Securities and GUC Trust Units and to the holders of Initial Allowed Claims any additional New GM Securities and GUC Trust Units in accordance with the terms of the GUC Trust and the GUC Trust Agreement (each an “Interim Distribution,” collectively referred to as “Interim Distributions”). The number of New GM Securities and GUC Trust Units distributed in each Interim Distribution is determined as prescribed in the Liquidation Plan and the GUC Trust Agreement. The transfer of the New GM Securities to the GUC Trust followed shortly thereafter by the transfer of such securities in the Interim Distributions, rather than a direct transfer by MLC to holders of Initial Allowed Claims and Interim Allowed Claims, is for administrative convenience only.

Subsequent to June 30, 2011, the GUC Trust requested that MLC transfer New GM Securities to the GUC Trust in order to permit the GUC Trust to distribute such securities on MLC’s behalf to satisfy General Unsecured Claims allowed subsequent to the Initial Distribution and on or before June 30, 2011. The GUC Trust received the New GM Securities from MLC and on July 28, 2011, the GUC Trust distributed to holders of Interim Allowed Claims and Initial Allowed Claims their pro rata share of New GM Securities and GUC Trust Units. The holders of Initial Allowed Claims and Interim Allowed Claims received 3,342,580 shares of New GM common stock, 3,038,672 New GM Series A Warrants, and 3,038,672 New GM Series B Warrants. The GUC Trust also issued 64,393 GUC Trust Units to holders of Initial Allowed Claims and Interim Allowed Claims.

Subsequent to September 30, 2011, the GUC Trust requested that MLC transfer New GM Securities to the GUC Trust in order to permit the GUC Trust to distribute such securities on MLC’s behalf to satisfy General Unsecured Claims allowed subsequent to June 30, 2011 and on or before September 30, 2011. The GUC Trust received the New GM Securities from MLC and on or about October 28, 2011, the GUC Trust distributed

¹⁶ See section 1.112 of the Liquidation Plan.

¹⁷ As described above, for administrative convenience, MLC effects such transfers by transferring the New GM Securities to the GUC Trust and directing the GUC Trust to promptly distribute such securities to holders of Initial Allowed Claims and Interim Allowed Claims. The distribution record dates for the Interim Distributions are March 31, June 30, September 30 and December 31. Interim Distributions to holders of Interim Allowed Claims and Initial Allowed Claims will occur for each fiscal quarter as promptly as practicable after the first day of the subsequent fiscal quarter.

to holders of Interim Allowed Claims and Initial Allowed Claims their pro rata share of New GM Securities and GUC Trust Units. The holders of Initial Allowed Claims and Interim Allowed Claims received 2,478,805 shares of New GM common stock, 2,253,487 New GM Series A Warrants, and 2,253,487 New GM Series B Warrants. The GUC Trust also issued 41,349 GUC Trust Units to holders of Initial Allowed Claims and Interim Allowed Claims.

The last Interim Distribution will be for the period beginning October 1, 2011, and ending on the Funding Date.

H. Funding of the GUC Trust

On the Funding Date, the GUC Trust will be funded with New GM Securities that have not been previously transferred by MLC and the GUC Trust will continue to hold the remaining cash available to fund administrative expenses (collectively, the “GUC Trust Assets”). The GUC Trust will effectuate the orderly satisfaction of Resolved General Unsecured Claims that become allowed claims following the Funding Date through the distribution of New GM Securities and GUC Trust Units to the holders of such claims in accordance with the terms of the Liquidation Plan approved by the Bankruptcy Court. On the Funding Date, the GUC Trust will assume all liability and responsibility for all General Unsecured Claims against the Debtors.

Upon the dissolution of the Debtors, the GUC Trust will also be responsible for resolving and satisfying all remaining disputed administrative claims, priority tax claims, priority non-tax claims, and secured claims. On the date of dissolution, MLC will transfer cash necessary to fund the resolution of such disputed claims to the GUC Trust and the GUC Trust will administer the resolution of such disputed claims. The GUC Trust will have no objective to continue or engage in the conduct of a trade or business.

I. Final Distributions to Claimants

After the Funding Date, the GUC Trust will continue to make distributions of New GM Securities and GUC Trust Units to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims. The GUC Trust will transfer to each holder of a Resolved General Unsecured Claim its pro rata share of New GM Securities and GUC Trust Units and to holders of Initial Allowed Claims and Interim Allowed Claims any additional New GM Securities and GUC Trust Units in accordance with the terms of the GUC Trust and the GUC Trust Agreement (each a “Final Distribution,” collectively referred to as the “Final Distributions”). The number of New GM Securities and GUC Trust Units to be distributed in the Final Distributions will be determined as prescribed in the Liquidation Plan and the GUC Trust Agreement.

To the extent that the GUC Trust owns property (other than cash designated for administrative expenses) after the resolution of all disputed General Unsecured Claims, such property will be distributed to all holders of allowed General Unsecured Claims.

J. Termination of the GUC Trust

The GUC Trust will terminate on the earlier of (i) the date on which (a) all disputed General Unsecured Claims have been resolved, (b) all of the New GM Securities and other GUC Trust Assets have been distributed by the GUC Trust, and (c) all priority claims have been resolved and the respective amounts distributed or (ii) five years after the Effective Date or such shorter or longer period authorized by the Bankruptcy Court in order to resolve all disputed claims.

Upon termination, any cash designated for administrative expenses that is not used for administrative expenses during the resolution of all disputed General Unsecured Claims will be distributed to the UST and the Canadian government in respect of their funding of the wind-down of MLC, except for any funds remaining from the approximately \$5.7 million referred to in footnote 6, which funds will be distributed to holders of allowed General Unsecured Claims.

K. Prior rulings issued with respect to the GUC Trust

In the Supplemental PLR, the Service ruled that:

1. With respect to the G Reorganization, (i) the transfer of New GM Securities by MLC to the GUC Trust, followed by the transfer of the New GM Securities by the GUC Trust to holders of Initial Allowed Claims in the Initial Distribution and (ii) the transfer of New GM Securities by MLC to the GUC Trust, followed by the transfer of the New GM Securities to holders of Interim Allowed Claims in the Interim Distributions, is treated for federal income tax purposes as direct transfers by MLC of New GM Securities to the holders of Initial Allowed Claims and to holders of Interim Allowed Claims. No gain or loss is recognized by MLC upon the transfers of such New GM Securities to holders of Initial Allowed Claims and holders of Interim Allowed Claims.
2. If an Initial Allowed Claim or an Interim Allowed Claim qualifies as a security of MLC for Federal income tax purposes, no gain or loss will be recognized by a holder of such claim upon the receipt of solely New GM Securities in exchange therefor, except that the holder may recognize ordinary income to the extent that the consideration received is attributable to accrued but unpaid interest. If a holder of an Initial Allowed Claim or an Interim Allowed Claim that qualifies as a security of MLC for Federal income tax purposes also receives money or other property in exchange therefor, the holder will recognize gain in an amount not in excess of the fair market value of such money or other property on the relevant transfer date. No loss will be recognized by such MLC security holder.

3. If an Initial Allowed Claim or an Interim Allowed Claim qualifies as a security of MLC for Federal income tax purposes, the adjusted basis of the New GM Securities received by a holder of such claim will equal the adjusted basis of such allowed claim in the hands of the holder immediately before the receipt of the New GM Securities, less the fair market value of any money or other property transferred to the holder, plus any gain recognized by the holder. The basis of money or other property received by a holder of an Initial Allowed Claim or an Interim Allowed Claim will be the fair market value of such money or other property.
4. If an Initial Allowed Claim or an Interim Allowed Claim qualifies as a security of MLC for Federal income tax purposes, the holding period of the New GM Securities received by a holder of such claim will include the period during which the holder has held the allowed claim exchanged therefor, provided such allowed claim was a capital asset in the hands of the holder.
5. Effective as of the Funding Date, the GUC Trust will constitute a “disputed ownership fund” within the meaning of Treas. Reg. § 1.468B-9.
6. The GUC Trust will be subject to taxation as a qualified settlement fund for federal income tax purposes (except for purposes of subtitle F) as of the Funding Date.
7. The GUC Trust will not recognize taxable income, gain, or loss upon the transfer of property by MLC on the Funding Date, including the New GM Securities transferred to the GUC Trust.
8. The adjusted basis of all property (other than cash) received by the GUC Trust from MLC on the Funding Date under the Liquidation Plan will be the fair market value of that property on the date transferred.

III. REQUESTED RULING

Based on the analysis in Part IV below, we respectfully request the following ruling:

1. The transfer of New GM Securities by the GUC Trust to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims in the Final Distributions will not be treated for U.S. federal income tax purposes as a taxable exchange of such New GM Securities pursuant to section 1001(a) by the GUC Trust.

IV. DISCUSSION

We respectfully submit that the requested ruling should be granted based on the facts set forth above and the technical authorities discussed below. In particular, the regulations provide an exception by which the claimants to a disputed ownership fund (“DOF”) may submit a private letter ruling request proposing a method of taxation different from the method provided in Treas. Reg. § 1.468B-9(c)(1).¹⁸ The Unsecured Creditors Committee is hereby submitting this private letter ruling request on behalf of the Claimants pursuant to this provision. The following analysis describes the proposed method of U.S. federal income taxation of the distribution of New GM Securities by the GUC Trust to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims in the Final Distributions and the reason such method is more appropriate than the rules contained in Treas. Reg. § 1.468B-9(c)(1).

MLC will transfer cash and New GM Securities to the GUC Trust. The holders of allowed General Unsecured Claims, as beneficiaries of the GUC Trust, will in turn receive distributions of New GM Securities in satisfaction of their claims. The distributions from the GUC Trust fall into three categories: (i) the Initial Distribution made shortly after the Effective Date to holders of Initial Allowed Claims; (ii) the Interim Distributions made to holders of Initial Allowed Claims and Interim Allowed Claims; and (iii) the Final Distributions made after the Funding Date to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims. In the Supplemental PLR, the Service ruled that the transfer of New GM Securities by MLC to the GUC Trust, followed by the transfer of the New GM Securities by the GUC Trust to holders of Initial Allowed Claims in the Initial Distribution and holders of Interim Allowed Claims in the Interim Distributions, will be treated for U.S. federal income tax purposes as direct transfers by MLC of New GM Securities to holders of Initial Allowed Claims and Interim Allowed Claims. For the reasons described below, we respectfully request that the Service rule that, pursuant to Treas. Reg. § 1.468B-9(c)(2)(i), the method of U.S. federal income taxation applicable to the GUC Trust will be as provided in the Supplemental PLR and Treas. Reg. § 1.468B-9 except that the transfer of New GM Securities by the GUC Trust to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims in the Final Distributions will not be treated for U.S. federal income tax purposes as a taxable exchange of such New GM Securities pursuant to section 1001(a) by the GUC Trust.

A. Background

Section 468B provides special rules for the U.S. federal income tax treatment of designated settlement funds and certain other funds, including DOFs. In general, section 468B(g) provides that “nothing in any provision of law shall be construed as providing

¹⁸ Treas. Reg. § 1.468B-9(c)(2) and NPRM REG-209619-93, 64 Fed. Reg. 4801 (Feb. 1, 1999).

that an escrow account, settlement fund, or similar fund is not subject to current income tax” and grants the Service and Treasury the authority to prescribe regulations providing for the taxation of any such account or fund.¹⁹ As described in the legislative history of section 468B, the purpose of this provision was to ensure that the income earned on amounts transferred to an account or fund is subject to income tax notwithstanding any other provision of law.²⁰

While other funds subject to section 468B, such as a designated settlement fund or qualified settlement fund, hold assets for distribution to claimholders in settlement of a dispute, a DOF holds assets that are themselves the subject of disputed ownership (*i.e.*, the owners of the property transferred to the fund have not been determined). In particular, a DOF is an escrow account, trust, or fund that is established to hold money or property subject to conflicting claims of ownership until such conflict is resolved.²¹ In most circumstances, a DOF holds money or property while the conflicting claims of ownership are resolved and then subsequently distributes the money or property to the appropriate party. As a result, the DOF serves as the bridge between the transferor and the ultimate owners of the property and permits the transferor to conclude its portion of the transfer prior to the resolution of the dispute over the ownership of the property.

The Service has exercised the regulatory authority granted in section 468B(g) with respect to certain types of accounts and funds, including DOFs. In relevant part, the tax treatment of a DOF is prescribed in Treas. Reg. § 1.468B-9. In general, pursuant to such regulations, for U.S. federal income tax purposes, a DOF is treated as the owner of all the assets it holds and is treated as a C corporation for purposes of subtitle F of the Code.²² A DOF is generally taxable as a C corporation, unless all of the assets transferred to the fund by or on behalf of transferors are passive investment assets.²³ For this purpose, passive investment assets are assets of the type that generate portfolio income within the meaning of Treas. Reg. § 1.469-2T(c)(3)(i).²⁴ If all of the assets

¹⁹ Section 468B(g)(1). An exception to the general rule that is not relevant to this Ruling Request is provided in section 468B(g)(2).

²⁰ See Joint Committee on Taxation, *Explanation of Technical Corrections to the Tax Reform Act of 1984 and Other Recent Legislation* 42 (May 13, 1987); S. Rep. No. 445, 100th Cong., 2d Sess. 398 (1988); and H. Rep. No. 795, 100th Cong. 2d Sess. 377-378 (1988).

²¹ Treas. Reg. § 1.468B-9(b)(1)(i).

²² Treas. Reg. § 1.468B-9(c)(1). Subtitle F (sections 6001 through 7874) contains provisions related to procedure and administration.

²³ Treas. Reg. § 1.468B-9(c)(1)(i).

²⁴ Treas. Reg. § 1.468B-9(c)(1)(i). Treas. Reg. § 1.469-2T(c)(3)(i) provides that portfolio income includes all gross income, other than income derived in the ordinary course of a trade or business, that is attributable to, *inter alia*, interest, royalties, dividends on C corporation stock, the disposition of property that produces dividend income, and the disposition of property held for investment. See also PLR 200714009 (January 8, 2007) (shares of stock and accrued but unpaid dividends thereon constituted passive investment assets within the meaning of Prop. Treas. Reg. § 1.468B-9(c)(1)).

transferred to the DOF by or on behalf of transferors are passive investment assets, then the DOF is generally taxable as a qualified settlement fund (“QSF”) under the provisions of Treas. Reg. § 1.468B-2, with specified exceptions.²⁵

In general, a transferor must treat the transfer of property to a DOF as a sale or other disposition of that property for purposes of section 1001(a).²⁶ In computing the gain or loss on the disposition, the amount realized by the transferor is the fair market value of the property on the date the transfer is made to the DOF.²⁷ A DOF does not include an amount in income on account of a transfer of disputed property to the DOF.²⁸ In general, the initial basis of property transferred by, or on behalf of, a transferor to a DOF is the fair market value of the property on the date of the transfer to the fund and the fund’s holding period begins on the date of the transfer.²⁹

As described above, if all of the assets transferred to the DOF by or on behalf of transferors are passive investment assets, then the DOF is generally taxable as a QSF under the provisions of Treas. Reg. § 1.468B-2, with specified exceptions.³⁰ One of these specified exceptions relates to the treatment of property distributions by a DOF to its claimants. In particular, Treas. Reg. § 1.468B-9(c)(1)(ii) provides that, notwithstanding the general application of the rules applicable to the taxation of QSFs, the tax treatment of a property distribution by a DOF to its claimants is governed by the rules in Treas. Reg. § 1.468B-9(c)(4) rather than those applicable to QSFs, which are found in Treas. Reg. § 1.468B-2(f). In relevant part, though, both provisions provide the same treatment. Specifically, both provisions provide that a fund must treat a distribution of property as a sale or exchange of that property for purposes of section 1001(a).³¹ Treas. Reg. §

²⁵ Treas. Reg. § 1.468B-9(c)(1)(ii). The rules contained in Treas. Reg. § 1.468B-9(c)(3), (4), and (5)(i) apply in lieu of the QSF rules in Treas. Reg. § 1.468B-2(b)(1), (d), (e), (f), and (j). The preamble to the final regulations further explains that “a DOF holding exclusively passive assets is taxable under § 1.468B-2 as if it were a qualified settlement fund, but is not subject to all of the rules applicable to qualified settlement funds.” T.D. 9249, 71 FR 6197, 6199 (February 3, 2006).

²⁶ Treas. Reg. § 1.468B-9(d)(1). Section 1001(a) provides, generally, that gain or loss from the sale or other disposition of property is the difference between the amount realized and the basis of the property. Section 1001(c) further provides that the entire amount of gain or loss determined under section 1001(a) on the sale or exchange of property shall be recognized, except as otherwise provided in the Code.

²⁷ *Id.*

²⁸ Treas. Reg. § 1.468B-9(c)(3)(i).

²⁹ Treas. Reg. § 1.468B-9(c)(3)(ii).

³⁰ Treas. Reg. § 1.468B-9(c)(1)(ii).

³¹ Treas. Reg. § 1.468B-2(f) provides that: “a qualified settlement fund must treat a distribution of property as a sale or exchange of that property for purposes of section 1001(a).” Treas. Reg. § 1.468B-9(c)(4)(i) also provides that: “a disputed ownership fund must treat a distribution of disputed property as a sale or exchange of that property for purposes of section 1001(a). In computing the gain or loss, the amount realized by the disputed ownership fund is the fair market value of that property on the date of

1.468B-9(c)(2)(i), however, provides that the claimants to a DOF may submit a private letter ruling request proposing a method of taxation different than the method provided in Treas. Reg. § 1.468B-9(c)(1). The preamble to that regulation indicates that the ability to request an alternative method of taxation is designed to provide taxpayers with “additional flexibility...if that method is more appropriate than QSF or C corporation treatment as provided under the general rule.”³²

With respect to the above-described treatment of property distributions by QSFs and DOFs, Treas. Reg. § 1.468B-2(f) was the first of the two provisions promulgated by the Service. The preamble to that regulation explained that:

Under the proposed regulations, the inclusion of a distribution in the claimant's gross income is determined by reference to the claim for which the distribution is made and as if the distribution were made directly by the transferor. Several commentators stated that, to avoid double taxation, a claimant should not be taxed on a distribution to the extent it is attributable to income earned by and taxed to a qualified settlement fund. As shown by the following examples, the Service and the Treasury Department believe that the proposed regulations do not generally impose double taxation.

Facts. Corporation X, a defendant in a class action alleging tort liabilities, is subject to a 34% tax rate. The claimants and the qualified settlement fund are subject to a 31% tax rate. Corporation X and the qualified settlement fund it establishes earn a 10% rate of return on investments.

Example 1. On January 1, 1993, Corporation X establishes a qualified settlement fund and transfers \$93.55 to the fund. The qualified settlement fund earns \$9.35 of interest during 1993 and pays \$2.90 of tax. On January 1, 1994, the fund makes a taxable distribution of the remaining \$100 to the claimants.

Example 2. On January 1, 1993, Corporation X establishes a reserve and deposits \$93.55 in a separate bank account. The account is neither ordered nor approved by a governmental authority and, therefore, is not a qualified settlement fund. Corporation X earns \$9.35 of interest

distribution.” In addition, a DOF is not allowed a deduction for a distribution of disputed property by the DOF to a claimant. *See* Treas. Reg. § 1.468B-9(c)(4)(ii).

³² NPRM REG-209619-93, 64 Fed. Reg. 4801 (Feb. 1, 1999).

during 1993 and pays \$3.18 of tax. On January 1, 1994, Corporation X makes a taxable distribution of the remaining \$99.72 to the claimants.

Thus, under the rule in the proposed regulations, not only is there no double taxation but, if the transferor is subject to tax at the maximum corporate tax rate, the overall combined tax with respect to the earnings component of distributions to claimants could be slightly less if the fund is a qualified settlement fund rather than an account that is the transferor's property. In addition, as shown in Example 3 below, the result in Example 1 is the same (on an after-tax basis) as if the defendant pays the claimant directly on January 1, 1993, instead of either depositing money in a bank account or transferring money to a qualified settlement fund. The final regulations, therefore, retain the rule in the proposed regulations.

Example 3. On January 1, 1993, Corporation X makes a taxable settlement payment of \$93.55 directly to a claimant. The claimant deposits \$64.55 (\$93.55 less \$29 of tax) in a bank account. The claimant earns \$6.46 of interest during 1993 and pays \$2 of tax. On January 1, 1994, the claimant has \$69.01. Thus, on January 1, 1994, the claimant has the same amount on an after-tax basis (approximately \$69) as the claimant in Example 1 does after it pays \$31 of tax on the \$100 distribution it receives from Corporation X.³³

This passage from the preamble to the final regulations, which included Treas. Reg. § 1.468B-2, illustrates that the Service intended the rules applicable to QSFs, and later made applicable to DOFs, not only ensure that a DOF's income is subject to tax, but also avoid "double taxation" and approximate the results that would have been obtained had the transferor to the DOF retained the property and transferred such property directly to the claimants.

B. Conclusions in the Supplemental PLR

The Service previously ruled in the Supplemental PLR that, since all of the assets transferred to the GUC Trust will be passive investment assets, effective as of the Funding Date, the GUC Trust will be classified as a DOF subject to taxation as a QSF for U.S. federal income tax purposes (except for purposes of subtitle F and the exceptions enumerated in Treas. Reg. § 1.468B-9(c)(1)(ii)). In addition, the Service ruled in the

³³ T. D. 8459, 1993-1 C. B. 68 (Jan. 1993).

Supplemental Ruling that, pursuant to section 361, no gain or loss will be recognized by MLC on the transfer of New GM Securities to the GUC Trust.³⁴

Prior to the creation of the GUC Trust to resolve disputed General Unsecured Claims, the Service ruled in the Prior PLR that, pursuant to section 354, no gain or loss will be recognized by the claimholders of Old GM upon the receipt of New GM Securities in exchange for Old GM securities. The Service also ruled in the Prior PLR that, pursuant to section 358(a)(1), the adjusted basis of the New GM Securities received by an Old GM claimholder will equal the adjusted basis of the Old GM securities in the hands of the claimholder immediately before the distribution, less the fair market value of any money or other property distributed to the holder, plus any gain recognized by the claimholder.

Treas. Reg. § 1.468B-9(f) provides that the claimants' tax treatment on the receipt of money or property distributed from a DOF is generally determined by reference to the claim in respect of which the distribution is made. As a result, the tax treatment of a holder of an Initial Allowed Claim, an Interim Allowed Claim, or a Resolved General Unsecured Claim that receives New GM Securities with respect to Old GM securities pursuant to the G Reorganization will be determined pursuant to sections 354, 356, and 358 – the holder will not recognize gain on such receipt except to the extent of boot received and will have a basis in the New GM Securities equal to its basis in the Old GM securities.

C. Application of Treas. Reg. § 1.468B-9(c)(4) to the GUC Trust

As described above, in the instant case the transfer of New GM Securities to the GUC Trust will be a non-taxable event to both MLC and the GUC Trust. Pursuant to section 354, the transfer by the GUC Trust to a holder of an Initial Allowed Claim, an Interim Allowed Claim, or a Resolved General Unsecured Claim in the Final Distributions will not be a taxable event to the holder of such claim to the extent that such holder receives New GM Securities with respect to the holder's Old GM securities. To the extent that a holder of an Initial Allowed Claim, an Interim Allowed Claim, or a Resolved General Unsecured Claim receives New GM Securities with respect to a claim that does not qualify as a security of Old GM, such holder will not be entitled to tax-free treatment under section 354. As a result, such holder would recognize gain or loss equal to the difference between the holder's basis in the claim and the fair market value of the New GM Securities received. However, under the general rules of Treas. Reg. § 1.468B-9, the transfer of the New GM Securities from the GUC Trust to a holder of an Initial

³⁴ In the Prior PLR, the Service previously ruled that, pursuant to section 361(c), there would be no gain or loss recognized by Old GM upon the distribution of New GM Securities directly to its claimholders. In the Supplemental PLR, the Service also ruled that, pursuant to Treas. Reg. § 1.468B-9(c)(3)(ii), the adjusted basis of all property (other than cash) received by the GUC Trust from MLC on the Funding Date will be the fair market value of that property on the transfer date.

Allowed Claim, an Interim Allowed Claim, or a Resolved General Unsecured Claim in a Final Distribution would be a taxable event to the GUC Trust, regardless of whether such claim was a security.

We respectfully submit that treating the GUC Trust's transfer of the New GM Securities to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims in a Final Distribution as a taxable event to the GUC Trust would result in double taxation of the appreciation in the fair market value of the New GM Securities upon each transfer, which is inconsistent with the purposes of the regulations regarding the taxation of DOFs. Furthermore, this treatment in this circumstance would create a significant difference between the treatment of a situation where the transferor delays the transfer of the property to the claimant until the dispute is resolved and where the transferor transfers the property to a DOF until the dispute is resolved. As illustrated below, this inconsistent treatment would result in inappropriate taxation in the instant situation.

By contrast, in a situation in which the transferor to a DOF claims ownership of the property immediately before and immediately after that property is transferred to the DOF (*i.e.*, the transferor is a "transferor-claimant"), the transfer of property to the DOF is not treated as a sale or other disposition of the property for purposes of section 1001(a).³⁵ If the DOF subsequently makes a distribution of money or property to a claimant, the distribution is deemed made by the fund to the transferor-claimant and the transferor-claimant is deemed to make a payment to the actual recipient.³⁶ The distribution or deemed distribution by the DOF to the transferor-claimant is also not treated as a sale or exchange for purposes of section 1001(a) and no gain or loss is recognized by the DOF on the transfer.³⁷ As a result, in the case of a transferor-claimant, the same tax treatment applies to transfers made directly by the transferor to a claimant and transfers made through the interposition of a DOF. If the transfer is made through a DOF, neither the transfer to the DOF nor the transfer from the DOF is treated as a sale or other disposition of the property for purposes of section 1001(a).

While the lack of symmetry in the application of the general rule in Treas. Reg. § 1.468B-9(c)(4) may not cause anomalies in situations where a direct transfer from the transferor to the claimant would otherwise be a taxable transfer to both parties, this result is inappropriate in the context of a reorganization pursuant to section 368. In particular, in the Final Distributions the GUC Trust will transfer New GM Securities received from MLC to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims as disputed claims are resolved. To impose a tax on the GUC

³⁵ Treas. Reg. § 1.468B-9(e)(1).

³⁶ Treas. Reg. § 1.468B-9(e)(3)(ii).

³⁷ Treas. Reg. § 1.468B-9(c)(4).

Trust's transfer of New GM Securities where that transfer would have been non-taxable pursuant to section 361 if made directly by MLC is inappropriate. The mere interposition of a DOF to facilitate such distributions from MLC to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims subsequent to the liquidation of MLC should not convert an otherwise non-taxable distribution to claimholders pursuant to the G Reorganization into a taxable transaction.

D. Section 361(c)

The treatment we are requesting is consistent with other sections of the Code that provide that the recognition provisions of section 1001(a) are not appropriate in certain circumstances due to the overall structure of a transaction, including section 361. Sections 361(c)(1) and 361(c)(3) generally provide that no gain or loss is recognized to a corporation a party to a reorganization on the distribution to its shareholders or creditors of property in pursuance of the plan of reorganization. However, pursuant to section 361(c)(2)(A), if such corporation distributes appreciated property to its shareholders or creditors that is not "qualified property," then gain is recognized to the corporation as if the property were sold to the distributee at its fair market value. For this purpose, "qualified property" means any stock in (or right to acquire stock in) a party to the reorganization, or an obligation of a party to the reorganization, if such stock (or stock right) or obligation is received by the distributing corporation in the exchange.³⁸

In the Prior PLR, the Service ruled that no gain or loss would be recognized by Old GM on the distribution of New GM stock or New GM obligations to its claimholders. The New GM Securities constitute "qualified property" for purposes of section 361(c) because they are stock (or rights to acquire stock) of New GM, a party to the G Reorganization. Furthermore, the holders of allowed claims are creditors of MLC. Therefore, MLC would not recognize gain or loss on the distribution of New GM Securities if it made such distribution directly to the holders of allowed General Unsecured Claims.

In this instance, we submit that MLC's transfer of the New GM Securities to the GUC Trust for subsequent distribution to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims in the Final Distributions should be accorded the same treatment as direct transfers of qualified property to MLC's creditors in connection with the G Reorganization since the GUC Trust has "stepped into the shoes" of MLC for this purpose. This treatment of the GUC Trust is borne out by the fact that MLC's transfers to the GUC Trust will discharge MLC's obligations to its claimholders (*i.e.*, the beneficiaries of the GUC Trust). MLC's claimholders approved, and the Bankruptcy Court confirmed, the Liquidation Plan, an important element of which is the subsequent transfers by MLC to the GUC Trust. Such transfers discharged

³⁸ Section 361(c)(2)(B).

MLC's obligations to the claimholders. The parties have in effect agreed that the GUC Trust stands in the place of MLC with respect to the claimholders. Therefore, MLC's transfer of New GM Securities to the GUC Trust for subsequent distribution to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims in the Final Distributions should be treated in the same way as a direct transfer from MLC to its claimholders.³⁹

E. Examples of Similar Transactions With and Without an Intervening Trust

The following examples illustrate the potential for disparate tax treatment between taxpayers subject to section 361 when securities are distributed directly to claimholders as compared with an initial transfer of the securities to a DOF followed by a subsequent distribution by the fund to the claimholders. As these examples illustrate, treating a distribution by the GUC Trust as a taxable exchange will result in "double taxation" (*i.e.*, taxation of the appreciation in fair market value of the New GM Securities while held by the GUC Trust). This is inconsistent with the purposes of the regulations as reflected in the portions of the preamble and notice of proposed rulemaking quoted above and is not necessary to ensure that income earned on amounts transferred to an account or fund is subject to income tax notwithstanding any other provision of law. Accordingly, we submit that the mere interposition of a DOF to facilitate distributions pursuant to a tax-free reorganization should not convert an otherwise non-taxable distribution to claimholders pursuant to the G Reorganization into a taxable transaction.

Example #1 – Taxable Transfer of Property Directly to Claimholder

Taxpayer transfers property to a claimholder in a taxable transaction in satisfaction of a liability on Date 2. Taxpayer's basis in the property is \$2X and the property has a fair market value of \$10X on Date 2. Taxpayer recognizes gain of \$8X on the transfer of the property to the claimholder under section 1001. The claimholder has a \$3X basis in its claim. The claimholder reflects its tax consequences on Date 2 with respect to its receipt of the property under the origin of the claim and takes a basis in the property of \$10X.

Example #2 – Taxable Transfer of Property to Settlement Fund

Taxpayer transfers property to a settlement fund (*i.e.*, a disputed ownership fund) in a taxable transaction in satisfaction of a liability on Date 1 and the settlement fund transfers the property to a claimholder on Date 2. Taxpayer's basis in the property is \$2X. The property has a fair market value of \$4X on Date 1 and \$10X on Date 2.

³⁹ The same treatment should apply if, alternatively, the GUC Trust is viewed as having "stepped into the shoes" of the Claimants.

Taxpayer recognizes gain of \$2X on the transfer of the property to the settlement fund under Treas. Reg. § 1.468B-3(a) and the settlement fund takes a basis in the property of \$4X under Treas. Reg. § 1.468B-2(e). The settlement fund recognizes gain of \$6X on the transfer of the property to the claimholder on Date 2 under Treas. Reg. § 1.468B-2(f). The claimholder has a \$3X basis in its claim. The claimholder takes a basis in the property of \$10X and its treatment of receipt of the property is determined under origin of the claim. As a result, the QSF rules produce the same result as if the taxpayer transferred the property directly to the claimholder on Date 2 (the result in Example #1), *i.e.*, the appreciation on the property during the period held by the settlement fund (between Date 1 and Date 2) is taxed consistent with the statutory mandate of section 468B.⁴⁰

Example #3 – Taxpayer Transfer of Stock Directly to Security Claimholder in Tax-Free Reorganization Subject to Section 361

Taxpayer transfers stock of the acquirer received in a tax-free reorganization to a claimholder in exchange for the claimholder's security on Date 2 in a transaction subject to section 361. The stock has a fair market value of \$10X on Date 2 and the claimholder has a tax basis in the security of \$3X. Taxpayer recognizes no gain or loss on the transfer of the stock of the acquirer to the claimholder under section 361(c)(3) (*i.e.*, the non-recognition provisions of section 361 apply). The claimholder takes a basis in the stock of \$3X (*i.e.*, a substituted basis under section 358). When the claimholder disposes of the stock of the acquirer, it will recognize gain of \$7X, plus or minus any change in the value of stock after Date 2.

Example #4 – Taxpayer Transfer of Stock to Settlement Fund in Tax-Free Reorganization Subject to Section 361, Settlement Fund Transfers Stock to Security Claimholder

Taxpayer transfers stock of the acquirer received in a tax-free reorganization to a settlement fund (*i.e.*, a disputed ownership fund) in satisfaction of a liability on Date 1 and the settlement fund transfers the stock to the security claimholder on Date 2. The stock has a fair market value of \$4X on Date 1 and \$10X on Date 2 and the claimholder has a tax basis in the security of \$3X. Taxpayer recognizes no gain or loss on the transfer of the stock of the acquirer to the settlement fund under section 361(c)(3). The settlement fund, however, recognizes gain of \$6X on the transfer of the property to the claimholder on Date 2 under Treas. Reg. § 1.468B-2(f). The claimholder takes a basis in the securities of \$3X pursuant to section 358. When the claimholder disposes of the stock of the acquirer, it will recognize gain of \$7X, plus or minus any change in the value of the stock after Date 2. The QSF rules fail to produce the same result as if the taxpayer transferred the stock directly to the claimholder on Date 2 (the result in Example #3), *i.e.*,

⁴⁰ Prior to the enactment of section 468B, the \$6X of appreciation on the property while the property was held by the settlement fund would have escaped taxation. *See* Rev. Rul. 71-119, 1971-1 C.B. 163.

the appreciation on the stock during the period held by the settlement fund (between Date 1 and Date 2) is subject to tax and is taxed a second time to the claimholder.

Example #5 – Taxpayer Transfer of Stock Directly to Non-Security Claimholder in Tax-Free Reorganization Subject to Section 361

Taxpayer transfers stock of the acquirer received in a tax-free reorganization to a claimholder in exchange for the claimholder's non-security claim on Date 2 in a transaction subject to section 361. The stock has a fair market value of \$10X on Date 2 and the claimholder has a tax basis in the security of \$3X. Taxpayer recognizes no gain or loss on the transfer of the stock to the claimholder under section 361(c)(3) (*i.e.*, the non-recognition provisions of section 361 apply). The claimholder recognizes gain on Date 2 of \$7X (tax-free treatment pursuant to section 354 is inapplicable) and has a basis in the stock equal to \$10X.

Example #6 – Taxpayer Transfers of Stock Received in a Tax-Free Reorganization Subject to Section 361 to Settlement Fund, Settlement Fund Transfers Stock to Non-Security Claimholder

Taxpayer transfers stock of the acquirer received in a tax-free reorganization to a settlement fund (*i.e.*, a disputed ownership fund) in satisfaction of a liability on Date 1 and the settlement fund transfers the stock to the non-security claimholder on Date 2. The stock has a fair market value of \$4X on Date 1 and \$10X on Date 2 and the claimholder has a tax basis in the security of \$3X. Taxpayer recognizes no gain or loss on the transfer of the stock of the acquirer to the settlement fund under section 361(c)(3). The settlement fund, however, recognizes gain of \$6X on the transfer of the stock to the claimholder on Date 2 under Treas. Reg. § 1.468B-2(f). The claimholder recognizes gain on Date 2 of \$7X (tax-free treatment pursuant to section 354 is inapplicable) and has a basis in the stock equal to \$10X. The QSF rules fail to produce the same result as if the taxpayer transferred the stock directly to the claimholder on Date 2 (the result in Example #5), *i.e.*, the appreciation on the stock during the period held by the settlement fund (between Date 1 and Date 2) is subject to tax and is taxed a second time to the claimholder.

Example #7 – Taxpayer Transfer of Stock Directly to Non-Security Claimholder as Compensation for Personal Injury or Sickness in Tax-Free Reorganization Subject to Section 361

Taxpayer transfers stock of the acquirer in a tax-free reorganization to a non-security claimholder in exchange for the claimholder's claim for compensation for personal injury or sickness on Date 2 in a transaction subject to section 361. The stock has a fair market value of \$10X on Date 2. Taxpayer recognizes no gain or loss on the transfer of the stock to the claimholder under section 361(c)(3) (*i.e.*, the non-recognition

provisions of section 361 apply). The claimholder recognizes no gain or loss on the receipt of the stock under section 104 and has a basis in the stock equal to \$10X.

Example #8 – Taxpayer Transfer of Stock Received in a Tax-Free Reorganization Subject to Section 361 to Settlement Fund, Settlement Fund Transfers Stock to Non-Security Claimholder as Compensation for Personal Injury or Sickness

Taxpayer transfers stock of the acquirer in a tax-free reorganization to a settlement fund (*i.e.*, a disputed ownership fund) in satisfaction of a liability on Date 1 and the settlement fund transfers the stock to a non-security claimholder as compensation for personal injury or sickness on Date 2. The stock has a fair market value of \$4X on Date 1 and \$10X on Date 2. Taxpayer recognizes no gain or loss on the transfer of the stock of the acquirer to the settlement fund under section 361(c)(3). The settlement fund, however, recognizes gain of \$6X on the transfer of the property to the claimholder on Date 2 under Treas. Reg. § 1.468B-2(f). The claimholder recognizes no gain or loss on the receipt of the stock under section 104 and has a basis in the stock equal to \$10X. The QSF rules fail to produce the same result as if the taxpayer transferred the stock directly to the claimholder on Date 2 (the result in Example #7), *i.e.*, the appreciation on the stock during the period held by the settlement fund (between Date 1 and Date 2) is subject to tax.

The following is a summary of the eight examples discussed above:

Party Bearing Tax on Appreciation

	<u>Taxpayer</u>	<u>Settlement Fund</u>	<u>Claimholder</u>
Example #1 - Transfer of Securities Directly to Claimholder	\$8X	--	\$7X ⁴¹
Example #2 – Transfer of Securities to DOF	\$2X	\$6X	\$7X ⁴²
Example #3 – Transfer of Acquirer Stock Directly to Security Holder in Transaction Subject to I.R.C. § 361	\$0X	--	\$7X
Example #4 – Transfer of Acquirer Stock to DOF in Transaction Subject to I.R.C. § 361; Settlement Fund Transfer to Security Holder	\$0X	\$6X	\$7X
Example #5 -- Transfer of Acquirer Stock Directly to Non-Security Holder in Transaction Subject to I.R.C. § 361 on Date 2	\$0X	--	\$7X
Example #6 -- Transfer of Acquirer Stock to Settlement Fund in Transaction Subject to I.R.C. § 361; DOF Transfer to Non-Security Holder	\$0X	\$6X	\$7X
Example #7 – Transfer of Acquirer Stock Directly to Claimholder as Compensation for Personal Injury in Transaction Subject to I.R.C. § 361 on Date 2	\$0X	--	\$0X
Example #8 – Transfer of Acquirer Stock to DOF in Transaction Subject to I.R.C. § 361; DOF Transfer to Claimholder as Compensation for Personal Injury	\$0X	\$6X	\$0X

⁴¹ Assume claimholder recognizes \$7X of gain on Date 2 upon receipt of the property under the origin of the claim.

⁴² Assume claimholder recognizes \$7X of gain on Date 2 upon receipt of the property under the origin of the claim.

We submit that an alternative method of taxation should apply to the GUC Trust to provide non-recognition treatment for the transfer of New GM Securities to holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims in the Final Distributions.

F. Disparate Treatment of Similarly Situated Taxpayers

Example #3 discussed above is consistent with the Service's rulings in the Supplemental PLR that (i) the transfer of New GM Securities by MLC to the GUC Trust, followed by the transfer of the New GM Securities by the GUC Trust to holders of Initial Allowed Claims in the Initial Distribution and holders of Interim Allowed Claims in the Interim Distributions, will be treated for U.S. federal income tax purposes as direct transfers by MLC of New GM Securities to holders of Initial Allowed Claims and Interim Allowed Claims and (ii) no gain or loss will be recognized by MLC upon the transfers of such New GM Securities to holders of Initial Allowed Claims and holders of Interim Allowed Claims. Similar to Example #3, the holders of Initial Allowed Claims and Interim Allowed Claims that are securities will recognize gain or loss based on the basis in their claim against MLC and the fair market value of the New GM Securities on the date on which the claimholders dispose of the New GM Securities. In Example #3, the total gain recognized on the securities transferred to claimholders is \$7X.

We submit that it is inappropriate for the distribution of New GM Securities to claimholders in the Final Distributions to be taxed as described in Example #4 above. Such result subjects the parties to "double taxation" because of the interposition of a DOF between MLC and the holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims. Under the proposed method of taxation, no appreciation on the New GM Securities will escape taxation. The holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims that constitute securities under section 354 will take a carryover basis in the New GM Securities and will be taxed on the spread between the basis of their original claim and the fair market value of the New GM Securities at the time the New GM Securities are eventually sold. Similarly, holders of Initial Allowed Claims, Interim Allowed Claims, and Resolved General Unsecured Claims that do not constitute securities will be taxed upon the receipt of the New GM Securities based on the spread between the basis of their original claim and the fair market value of the New GM Securities received.

Substantially all of the disputed General Unsecured Claims will be resolved prior to the Funding Date and satisfied by the Initial Distribution and the Interim Distributions. The Initial Distribution satisfied approximately 75% of the General Unsecured Claims. It is expected that by the time the Interim Distributions are completed approximately 80% of the General Unsecured Claims will have been resolved and satisfied. We submit that it is inappropriate for the distribution of New GM Securities in the Final Distributions made in respect of those General Unsecured Claims that are resolved after the Funding Date to

be subject to additional gain or loss recognition compared to the distributions made in respect of those General Unsecured Claims that were resolved prior to the Funding Date.

V. PROCEDURAL MATTERS

1. To the best of the knowledge of the taxpayer and its representatives, the same issues in this Ruling Request are not in an earlier return of MLC or the GUC Trust (or in a return for any year of a related taxpayer within the meaning of section 267, or of a member of an affiliated group of which MLC is also a member within the meaning of section 1504).
2. To the best of the knowledge of the taxpayer and its representatives, other than as set forth in the Prior PLR and the Supplemental PLR: the Service has not previously ruled on the same or similar issues for the GUC Trust, the Unsecured Creditors' Committee, or any Claimant (or a related taxpayer within the meaning of section 267 or a predecessor, other than in the Prior PLR and the Supplemental PLR); the GUC Trust, the Unsecured Creditors' Committee, a related taxpayer, a predecessor, or any representatives have not previously submitted a request (including an application for a change in accounting method) involving the same or similar issues to the Service where no letter ruling or determination letter was issued; a related party, a predecessor, or any representatives have not previously submitted a request (including an application for a change in accounting method) involving the same or similar issues that is currently pending with the Service; and the GUC Trust, the Unsecured Creditors' Committee, a Claimant, a related taxpayer, a predecessor, or any representatives are not presently submitting another request (including an application for a change in accounting method) involving the same or similar issues to the Service.
3. The law in connection with this request is uncertain and the issues are not adequately addressed by relevant authorities.
4. There is no authority contrary to the positions advanced in this Ruling Request.
5. There is no pending legislation that may affect the positions advanced in this Ruling Request.
6. The Penalties of Perjury statement required by Revenue Procedure 2011-1 is attached to this Ruling Request as Appendix D.
7. The Deletions Statement required by Revenue Procedure 2011-1 is attached to this Ruling Request as Appendix E.

8. Form 2848, Power of Attorney and Declaration of Representative, is attached to this Ruling Request as Appendix F.
9. The checklist for letter ruling requests required by Revenue Procedure 2011-1 (Ruling Request Checklist) is attached to this Ruling Request as Appendix G.
10. The taxpayer requests that, in accordance with the procedures set forth in section 7.02(5) of Revenue Procedure 2011-1, a copy of any document related to this Ruling Request, including the Service's ruling on this Ruling Request, be sent via facsimile transmission to Bryan Collins at (202) 661-1975.
11. The taxpayer requests a conference if the Service proposes not to rule or to rule adversely on any aspect of this Ruling Request.
12. The user fee of \$14,000 is attached to this Ruling Request.
13. A "two-part" draft letter ruling will be submitted under separate cover.

* * * * *

If you have any questions, please call me at (202) 378-5228.

Sincerely,

Bryan P. Collins

Deloitte Tax LLP

cc: Barry Herzog, Kramer Levin Naftalis & Frankel LLP
Michael Smith, Law Debenture Trust Company of New York
David Retter, Kelley, Drye & Warren LLP

APPENDIX A
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APPENDIX B: LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION
1.	Prior PLR
2.	Supplemental PLR
3.	Confirmation Order, including Liquidation Plan and GUC Trust Agreement
4.	Amendment to the GUC Trust Agreement
5.	Motors Liquidation Company GUC Trust Quarterly GUC Trust Reports as of September 30, 2011

APPENDIX C

INDEX OF DEFINED TERMS

DEFINED TERM	DESCRIPTION	PAGE
Asbestos Trust	A trust formed pursuant to the Liquidation Plan and funded by MLC for the benefit of holders of allowed personal injury asbestos claims	7
Bankruptcy Cases	Collectively, the Debtors' bankruptcy proceedings	3
Bankruptcy Code	Title 11 of the United States Code	3
Bankruptcy Court	The United States Bankruptcy Court for the Southern District of New York	3
Claimant	Individually, a claimant to the GUC Trust, each of which is a beneficiary of such trust	2
Claimants	Collectively, the claimants to the GUC Trust, each of which is a beneficiary of such trust	2
Code	Internal Revenue Code of 1986, as amended	2
Commencement Date	June 1, 2009, the date on which Old GM and certain of its affiliates filed for bankruptcy protection	3
Confirmation Order	Order issued by the Bankruptcy Court confirming the Liquidation Plan	5
Debtors	Old GM and certain of its affiliates	3
DOF	Disputed ownership fund	13
Effective Date	March 31, 2011, the date by which all of conditions to the effectiveness of the Liquidation Plan were met or waived	6
Final Distribution	Individually, each periodic transfer after the Funding Date to each holder of a Resolved General Unsecured Claim its pro rata share of New GM Securities and GUC Trust Units and to holders of Initial Allowed Claims and Interim Allowed Claims any additional New GM Securities and GUC Trust Units	10
Final Distributions	Collectively, the periodic transfers after the Funding Date to each holder of a Resolved General Unsecured Claim its pro rata share of New GM Securities and GUC Trust Units and to holders of Initial Allowed Claims and Interim Allowed Claims any additional New GM Securities and GUC Trust Units	10

Funding Date	Date on which the GUC Trust is funded with New GM Securities by MLC, which will be on or after December 15, 2011 but no later than December 29, 2011	6
G Reorganization	Collectively, the Section 363 Exchange and subsequent liquidation of Old GM, which was ruled by the Service in the Prior PLR as qualifying as a tax-free reorganization under section 368(a)(1)(G)	3
General Unsecured Claims	Various general unsecured claims against the Debtors consisting principally of claims for the principal and interest accrued and unpaid through the Commencement Date under various unsecured bonds, as well as: (i) the claims of unions, suppliers and other vendors, landlords with prepetition rent claims; (ii) claims based on rejection of leases, employment, personal injury, and other litigation to the extent not covered by insurance; (iii) environmental claims subject to discharge under environmental laws to pay money to private and governmental entities for cleanup or remediation of property not owned by the Debtors (including Superfund liabilities); and (iv) the property damage asbestos claims, claims of parties to contracts with the Debtors that were being rejected, and other general unsecured claims.	5
GUC Trust	Motors Liquidation Company GUC Trust, a trust established by MLC for the benefit of holders of allowed general unsecured claims against the Debtors	2
GUC Trust Administrator	Wilmington Trust Company, as designated by the Unsecured Creditors' Committee with the consent of the Debtors and the UST	6
GUC Trust Agreement	The governing document for the GUC Trust	6
GUC Trust Assets	The New GM Securities that have not been previously distributed by MLC and the remaining GUC Trust cash available as of the Funding Date to fund administrative expenses	10
GUC Trust Monitor	FTI Consulting, Inc., as designated by the Unsecured Creditors' Committee with the consent of the Debtors and the UST	7
GUC Trust Units	Beneficial ownership interests in the GUC Trust	7
Initial Allowed Claims	General Unsecured Claims that were allowed as of the Effective Date	7

Initial Distribution	Transfer from the GUC Trust to each holders of an Initial Allowed Claims its pro rata share of New GM Securities on or about April 21, 2011 and May 26, 2011 and its pro rata share of GUC Trust Units subsequent to June 30, 2011	8
Interim Allowed Claims	General Unsecured Claims that are allowed after the Effective Date but on or prior to the Funding Date	7
Interim Distribution	Individually, each periodic transfer from the GUC Trust to each holder of an Interim Allowed Claim its pro rata share of New GM Securities and GUC Trust Units and to holders of Initial Allowed Claims any additional New GM Securities and GUC Trust Units	9
Interim Distributions	Collectively, the periodic transfers from the GUC Trust to holders of Interim Allowed Claim their pro rata share of New GM Securities and GUC Trust Units and to holders of Initial Allowed Claims any additional New GM Securities and GUC Trust Units	9
Law Debenture	Law Debenture Trust Company of New York (solely in its capacity as Indenture Trustee, and not in its individual capacity), a claimant to the GUC Trust and chair of the Unsecured Creditor's Committee	1
Liquidation Plan	Amended liquidation plan submitted by MLC to the Bankruptcy Court for approval and confirmed in March 2011	5
LLC	Limited liability company	3
MLC	Motors Liquidation Company, formerly known as General Motors Corporation	2
New GM	General Motors Company	3
New GM Securities	New GM stock and warrants that were not distributed immediately as part of the Section 363 Exchange	4
New GM Warrants	New GM Series A warrants and New GM Series B warrants	4
Old GM	Motors Liquidation Company, formerly known as General Motors Corporation	2
Prior PLR	PLR-130073-09 dated July 8, 2009	3

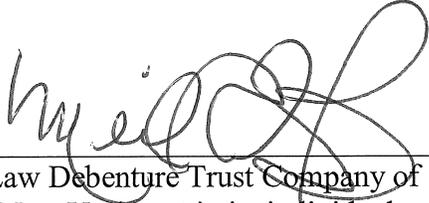
Pro Rata Share	The ratio of (i) the amount of any allowed claim in a particular class to (ii) the sum of the aggregate amount of all claims in such class, whether allowed or disputed	8
QSF	Qualified settlement fund	15
Request Letter	The Claimants to the Motors Liquidation Company GUC Trust ruling request letter dated December 19, 2011	2
Resolved General Unsecured Claims	General Unsecured Claims that become allowed claims after the Funding Date	7
Ruling Request	Request Letter including all Appendices and Exhibits	2
Section 363 Exchange	Exchange provided for in the Master Sale and Purchase Agreement in which New GM acquired substantially all of the assets of Old GM pursuant to section 363(b) of the Bankruptcy Code in exchange for New GM stock, warrants, and other consideration	3
Service	Internal Revenue Service	1
Supplemental PLR	PLR-142024-10, dated March 2, 2011	4
Treas. Reg. §	The Treasury regulations promulgated under the Internal Revenue Code of 1986, as amended	2
U.S.	United States	1
Unsecured Creditors' Committee	An official committee of unsecured creditors that represent the interests of MLC's general unsecured creditors	2
UST	U.S. Treasury Department	6

APPENDIX D

**Law Debenture Trust Company of New York, as Indenture Trustee
EIN: 01-0622605**

DECLARATION UNDER PENALTIES OF PERJURY

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, (i) the request contains all the relevant facts relating to the request, and (ii) such facts are true, correct, and complete.



Law Debenture Trust Company of
New York, not in its individual capacity, but
solely in its capacity as Indenture Trustee
Claimant and Chair,
Official Committee of Unsecured Creditors of Motors Liquidation Company

12/15/2011

Date

APPENDIX E

**Law Debenture Trust Company of New York, as Indenture Trustee
EIN: 01-0622605**

DELETIONS STATEMENT

Pursuant to Section 6110(c)(1), Law Debenture Trust Company of New York, as Indenture Trustee requests that all names, addresses, and other identifying information in the Ruling Request (or any supplemental correspondence) be deleted from the written determination of background file document prior to any written determination or background file document is made open or available for public inspection.

Mr. Bryan P. Collins
Authorized Representative
Deloitte Tax LLP

Date

Power of Attorney and Declaration of Representative

OMB No. 1545-0150

For IRS Use Only

Received by:

Name _____

Telephone _____

Function _____

Date / /

▶ Type or print. ▶ See the separate instructions.

Part I Power of Attorney

Caution: Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer information. Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address Law Debenture Trust Company of New York, not in its individual capacity, but solely in its capacity as Indenture Trustee 409 Madison Avenue, Suite 4D New York, NY 10017	Identifying number <div style="text-align: right; padding-right: 20px;">01-0622605</div> Daytime telephone number _____ Plan number (if applicable) _____
---	--

hereby appoints the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address SEE STATEMENT 1 Check if to be sent notices and communications <input checked="" type="checkbox"/>	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
Name and address Check if to be sent notices and communications <input checked="" type="checkbox"/>	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
Name and address 	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

to represent the taxpayer before the Internal Revenue Service for the following matters:

3 Matters

Description of Matter (Income, Employment, Excise, Whistleblower, PLR, FOIA, Civil Penalty, etc.) (see the instructions for line 3)	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see the instructions for line 3)
PRIVATE LETTER RULING REQUEST	N/A	TYE 201203 & 201303

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for Line 4. **Specific Uses Not Recorded on CAF**

5 Acts authorized. Unless otherwise provided below, the representatives generally are authorized to receive and inspect confidential tax information and to perform any and all acts that I can perform with respect to the tax matters described on line 3, for example, the authority to sign any agreements, consents, or other documents. The representative(s), however, is (are) not authorized to receive or negotiate any amounts paid to the client in connection with this representation (including refunds by either electronic means or paper checks). Additionally, unless the appropriate box(es) below are checked, the representative(s) are not authorized to substitute another representative or add additional representatives, to sign certain returns, or to execute a request for disclosure of tax returns or return information to a third party. See the line 5 instructions for more information.

- Disclosure to third parties;
 Signing a return;
 Substitute or add representatives;
 Other _____ (see instructions for more information)

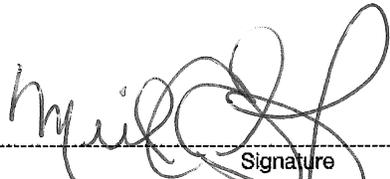
Exceptions. An unenrolled return preparer cannot sign any document for a taxpayer and may only represent taxpayers in limited situations. An enrolled actuary may only represent taxpayers to the extent provided in section 10.3(d) of Treasury Department Circular No. 230 (Circular 230). An enrolled retirement plan agent may only represent taxpayers to the extent provided in section 10.3(e) of Circular 230. A registered tax return preparer may only represent taxpayers to the extent provided in section 10.3(f) of Circular 230. See the line 5 instructions for restrictions on tax matters partners. In most cases, the student practitioner's (level k) authority is limited (for example, they may only practice under the supervision of another practitioner).

List any specific deletions to the acts otherwise authorized in this power of attorney: _____

6 Retention/revocation of prior power(s) of attorney. The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this document. If you do not want to revoke a prior power of attorney, check here **YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.**

7 Signature of taxpayer. If a tax matter concerns a year in which a joint return was filed, the husband and wife must each file a separate power of attorney even if the same representative(s) is (are) being appointed. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.

▶ IF NOT SIGNED AND DATED, THIS POWER OF ATTORNEY WILL BE RETURNED TO THE TAXPAYER.


 Signature
 Date: 12/15/2011
 Title (if applicable): Vice President
 Michael A. Smith
 Print Name

 PIN Number
 Law Debenture Trust Company of New York, not in its individual capacity, but solely in its capacity as Indenture Trustee
 Print name of taxpayer from line 1 if other than individual

Part II Declaration of Representative

Under penalties of perjury, I declare that:

- I am not currently under suspension or disbarment from practice before the Internal Revenue Service;
- I am aware of regulations contained in Circular 230 (31 CFR, Part 10), as amended, concerning practice before the Internal Revenue Service;
- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:
 - a Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
 - b Certified Public Accountant—duly qualified to practice as a certified public accountant in the jurisdiction shown below.
 - c Enrolled Agent—enrolled as an agent under the requirements of Circular 230.
 - d Officer—a bona fide officer of the taxpayer's organization.
 - e Full-Time Employee—a full-time employee of the taxpayer.
 - f Family Member—a member of the taxpayer's immediate family (for example, spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister).
 - g Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230).
 - h Unenrolled Return Preparer - Your authority to practice before the Internal Revenue Service is limited. You must have been eligible to sign the return under examination and have signed the return. **See Notice 2011-6 and Special rules for registered tax return preparers and unenrolled return preparers in the instructions.**
 - i Registered Tax Return Preparer—registered as a tax return preparer under the requirements of section 10.4 of Circular 230. Your authority to practice before the Internal Revenue Service is limited. You must have been eligible to sign the return under examination and have signed the return. **See Notice 2011-6 and Special rules for registered tax return preparers and unenrolled return preparers in the instructions.**
 - k Student Attorney or CPA—receives permission to practice before the IRS by virtue of his/her status as a law, business, or accounting student working in LITC or STCP under section 10.7(d) of Circular 230. See instructions for Part II for additional information and requirements.
 - r Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).

▶ IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED. REPRESENTATIVES MUST SIGN IN THE ORDER LISTED IN LINE 2 ABOVE. See the instructions for Part II.

Note: For designations d-f, enter your title, position, or relationship to the taxpayer in the "Licensing jurisdiction" column. See the instructions for Part II for more information.

Designation—Insert above letter (a-r)	Licensing jurisdiction (state) or other licensing authority (if applicable)	License/Bar or Enrollment Number (if applicable)	Signature	Date
	SEE STATEMENT 1			

Law Debenture Trust Company of New York, as Indenture Trustee
EIN: 01-0622605
POWER OF ATTORNEY AND DECLARATION OF REPRESENTATIVE

STATEMENT 1

(1) NAME: BRYAN P. COLLINS
 DESIGNATION: A
FIRM: DELOITTE TAX LLP JURISDICTION: TX, DC
ADDRESS: 555 12TH STREET NW, SUITE 500
 WASHINGTON, D.C. 20004-1207
PHONE: (202) 378-5228
FAX: (202) 661-1975


SIGNATURE

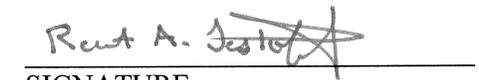
REPRESENTATIVE TO BE SENT NOTICES AND COMMUNICATIONS

(2) NAME: HEATHER A. HARMAN
 DESIGNATION: B
FIRM: DELOITTE TAX LLP JURISDICTION: DC, IL, IA
ADDRESS: 555 12TH STREET NW, SUITE 500 DC LICENSE #: CPA9023566
 WASHINGTON, D.C. 20004-1207
PHONE: (202) 370-2263
FAX: (202) 354-5093

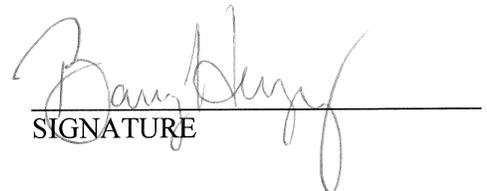

SIGNATURE

REPRESENTATIVE TO BE SENT NOTICES AND COMMUNICATIONS

(3) NAME: ROBERT A. TESTOFF
 DESIGNATION: A
FIRM: DELOITTE TAX LLP JURISDICTION: MD
ADDRESS: 555 12TH STREET NW, SUITE 500
 WASHINGTON, D.C. 20004-1207
PHONE: (202) 879-4978
FAX: (202) 638-7319


SIGNATURE

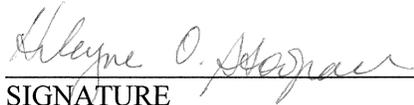
(4) NAME: BARRY HERZOG
 DESIGNATION: A
FIRM: KRAMER LEVIN NAFTALIS JURISDICTION: NY
 & FRANKEL LLP
ADDRESS: 1177 AVENUE OF THE AMERICAS
 NEW YORK, NY 10036
PHONE: (212) 715-9130
FAX: (212) 715-8130


SIGNATURE

(5)

NAME:
DESIGNATION:
FIRM: KRAMER LEVIN NAFTALIS
& FRANKEL LLP
ADDRESS: 1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10036
PHONE: (212) 715-9214
FAX: (212) 715-8214

HELAYNE O. STOOPACK
A
JURISDICTION: NY


SIGNATURE

APPENDIX G

**CHECKLIST TO BE INCLUDED IN REQUESTS FOR RULINGS PURSUANT TO
REVENUE PROCEDURE 2011-1 – APPENDIX C**

TAXPAYER’S NAME: Law Debenture Trust Company of New York,
as Indenture Trustee
TAXPAYER’S I.D. NO.: 01-0622605
ATTORNEY/P.O.A.: Bryan P. Collins, Deloitte Tax LLP
PRIMARY CODE SECTION: Section 468B

CHECK ONE

ITEM

Yes / No

1. Does your request involve an issue under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), or the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities)? See section 3 of Rev. Proc. 2011-1, 2011-1 I.R.B. 111. For issues under the jurisdiction of other offices, see section 4 of Rev. Proc. 2011-1. (Hereafter, all references are to Rev. Proc. 2011-1 unless otherwise noted.)

Yes / No

2. Have you read Rev. Proc. 2011-3, 2011-1 I.R.B. 111, and Rev. Proc. 2011-7, 2011-1 I.R.B. 233, to see if part or all of the request involves a matter on which letter rulings are not issued or are ordinarily not issued?

Yes / No / N/A

3. If your request involves a matter on which letter rulings are not ordinarily issued, have you given compelling reasons to justify the issuance of a letter ruling? Before preparing your request, you may want to call the branch in the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (International), the Office of Associate Chief Counsel (Passthroughs and Special Industries), the Office of Associate Chief Counsel (Procedure and Administration), or the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) responsible for substantive interpretations of the principal Internal Revenue Code section on which you are seeking a letter ruling to discuss the likelihood of an exception. For matters under the jurisdiction of--

CHECK ONE

ITEM

(a) the Office of Associate Chief Counsel (Corporate), the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of Associate Chief Counsel (Passthroughs and Special Industries), or the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), the Office of the Associate Chief Counsel (Procedure and Administration), the appropriate branch to call may be obtained by calling (202) 622-7280 (not a toll-free call);

(b) the Office of the Associate Chief Counsel (International), the appropriate branch to call may be obtained by calling (202) 622-3800 (not a toll-free call).

Yes / No / N/A
Page(s) _____

4. If the request deals with a completed transaction, have you filed the return for the year in which the transaction was completed? See section 5.01.

Yes / No

5. Are you requesting the letter ruling on a hypothetical situation or question? See section 6.12.

Yes / No

6. Are you requesting the letter ruling on alternative plans of a proposed transaction? See section 6.12.

Yes / No

7. Are you requesting the letter ruling for only part of an integrated transaction? See section 6.03.

Yes / No

8. Are you requesting the letter ruling for a business, trade, industrial association, or similar group concerning the application of tax law to its members? See section 6.05.

Yes / No

9. Are you requesting the letter ruling for a foreign government or its political subdivision? See section 6.07.

Yes / No
Pages 3-12

10. Have you included a complete statement of all the facts relevant to the transaction? See section 7.01(1).

Yes / No / N/A

11. Have you submitted with the request true copies of all wills, deeds, and other documents relevant to the transaction, and labeled and attached them in alphabetical sequence? See section 7.01(2).

Yes / No / N/A

12. Have you submitted with the request a copy of all applicable foreign laws, and certified English translations of documents that are in a language other than English or of foreign laws in cases where English is not the official

CHECK ONE

Yes / No
Page 13-27

Yes / No
Page 27

Yes / No / N/A
Page(s) _____

ITEM

language of the foreign country involved? See section 7.01(2).

13. Have you included an analysis of facts and their bearing on the issues? Have you included, rather than merely incorporated by reference, all material facts from the documents in the request? See section 7.01(3).

14. Have you included the required statement regarding whether any return of the taxpayer (or any return of a related taxpayer within the meaning of § 267 or of a member of an affiliated group of which the taxpayer is also a member within the meaning of § 1504) who would be affected by the requested letter ruling or determination letter is under examination, before Appeals, or before a Federal court? See section 7.01(4).

15. Have you included the required statement regarding whether the Service previously ruled on the same or similar issue for the taxpayer, a related taxpayer, or a predecessor? See section 7.01(5)(a).

16. Have you included the required statement regarding whether the taxpayer, a related taxpayer, a predecessor, or any representatives previously submitted a request (including an application for change in method of accounting) involving the same or similar issue but withdrew the request before the letter ruling or determination letter was issued? See section 7.01(5)(b).

17. Have you included the required statement regarding whether the taxpayer, a related taxpayer, or a predecessor previously submitted a request (including an application for change in accounting method) involving the same or similar issue that is currently pending with the Service? See section 7.01(5)(c).

18. Have you included the required statement regarding whether, at the same time as this request, the taxpayer or a related taxpayer is presently submitting another request (including an application for change in method of accounting) involving the same or similar issue to the Service? See section 7.01(5)(d).

19. If your request involves the interpretation of a substantive provision of an income or estate tax treaty, have you included the required statement regarding whether the tax authority of the treaty jurisdiction has issued a ruling on the same or similar issue for the taxpayer, a related

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taxpayer, or a predecessor; whether the same or similar issue is being examined, or has been settled, by the tax authority of the treaty jurisdiction or is otherwise the subject of a closing agreement in that jurisdiction; and whether the same or similar issue is being considered by the competent authority of the treaty jurisdiction? See section 7.01(6).

Yes / No / N/A
Page(s) _____

20. If your request is for recognition of Indian tribal government status or status as a political subdivision of an Indian tribal government, does your request contain a letter from the Bureau of Indian Affairs regarding the tribe's status? See section 7.01(7), which states that taxpayers are encouraged to submit this letter with the request and provides the address for the Bureau of Indian Affairs.

Yes / No
Pages 13-27

21. Have you included the required statement of relevant authorities in support of your views? See section 7.01(8).

Yes / No
Page 27

22. Have you included the required statement regarding whether the law in connection with the request is uncertain and whether the issue is adequately addressed by relevant authorities? See section 7.01(8).

Yes / No
Page(s) _____

23. Does your request discuss the implications of any legislation, tax treaties, court decisions, regulations, notices, revenue rulings, or revenue procedures that you determined to be contrary to the position advanced? See section 7.01(9), which states that taxpayers are encouraged to inform the Service of such authorities.

Yes / No / N/A
Page 27

24. If you determined that there are no contrary authorities, have you included a statement to this effect in your request? See section 7.01(9).

Yes / No / N/A

25. Have you included in your request a statement identifying any pending legislation that may affect the proposed transaction? See section 7.01(10).

Yes / No
Appendix E

26. Is the request accompanied by the deletion statement required by § 6110? See section 7.01(11).

Yes / No
Page 28

27. Have you (or your authorized representative) signed and dated the request? See section 7.01(12).

Yes / No / N/A
Appendix F

28. If the request is signed by your representative or if your representative will appear before the Service in connection with the request, is the request accompanied by a properly

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Yes / No
Appendix D

Yes / No / N/A

Yes / No / N/A
Page(s) _____

Yes / No / N/A
Page 28

Yes / No / N/A

Yes / No / N/A

Yes / No / N/A
Page 2

Yes / No / N/A
Page 28

Yes / No / N/A
Page 28

Yes / No

prepared and signed power of attorney with the signatory's name typed or printed? See section 7.01(14).

29. Have you included, signed, and dated the penalties of perjury statement in the format required by section 7.01(15)?

30. Are you submitting your request in duplicate if necessary? See section 7.01(16).

31. If you are requesting separate letter rulings on different issues involving one factual situation, have you included a statement to that effect in each request? See section 7.02(1).

32. If you want copies of the letter ruling sent to a representative, does the power of attorney contain a statement to that effect? See section 7.02(2).

33. If you do not want a copy of the letter ruling to be sent to any representative, does the power of attorney contain a statement to that effect? See section 7.02(2).

34. If you are making a two-part letter ruling request, have you included a summary statement of the facts you believe to be controlling? See section 7.02(3).

35. If you want your letter ruling request to be processed ahead of the regular order or by a specific date, have you requested expedited handling in the manner required by section 7.02(4) and stated a compelling need for such action in the request? Note that certain requests under the jurisdiction of the Associate Chief Counsel (Corporate) may receive expedited treatment without stating a compelling need. See section 7.02(4) of this revenue procedure.

36. If you are requesting a copy of any document related to the letter ruling request to be sent by facsimile (fax) transmission, have you included a statement to that effect? See section 7.02(5).

37. If you want to have a conference on the issues involved in the request, have you included a request for conference in the letter ruling request? See section 7.02(6).

38. Have you included the correct user fee with the request and is your check or money order in U.S. dollars and payable to the Internal Revenue Service? See section 15 and Appendix A to determine the correct amount.

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Yes / No / N/A
Page(s) _____

39. If your request involves a personal tax issue and you qualify for the reduced user fee because your gross income is less than \$ 250,000, have you included the required certification? See paragraphs (A)(4)(a) and (B)(1) of Appendix A.

Yes / No / N/A
Page(s) _____

40. If your request involves a business-related tax issue and you qualify for the reduced user fee because your gross income is less than \$ 1 million, have you included the required certification? See paragraphs (A)(4)(b) and (B)(1) of Appendix A.

Yes / No / N/A
Page(s) _____

41. If you qualify for the user fee for substantially identical letter rulings, have you included the required information? See section 15.07(2) and paragraph (A)(5)(a) of Appendix A.

Yes / No / N/A
Page(s) _____

42. If you qualify for the user fee for a § 301.9100 request to extend the time for filing an identical change in method of accounting on a single Form 3115, have you included the required information? See section 15.07(4) and paragraph (A)(5)(d) of Appendix A.

Yes / No / N/A

43. If your request is covered by any of the checklists, guideline revenue procedures, notices, safe harbor revenue procedures, or other special requirements listed in Appendix E, have you complied with all of the requirements of the applicable revenue procedure or notice?

List other applicable revenue procedures or notices, including checklists, used or relied upon in the preparation of this letter ruling request (Cumulative Bulletin or Internal Revenue Bulletin citation not required).

Yes / No / N/A
Page(s) _____

44. If you are requesting relief under § 7805(b) (regarding retroactive effect), have you complied with all of the requirements in section 11.11?

Yes / No / N/A

45. If you are requesting relief under § 301.9100 for a late entity classification election, have you included a statement that complies with section 4.04 of Rev. Proc. 2009-41, 2009-39 I.R.B. 439? See section 5.03 (5) of this revenue procedure.

Yes / No

46. Have you addressed your request to the attention of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief

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Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), or the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), as appropriate? The mailing address is:

Internal Revenue Service
Attn: CC:PA:LPD:DRU
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

If a private delivery service is used, the address is:

Internal Revenue Service
Attn: CC:PA:LPD:DRU, Room 5336
1111 Constitution Ave., NW
Washington, DC 20224

The package should be marked: RULING REQUEST SUBMISSION. Improperly addressed requests may be delayed (sometimes for over a week) in reaching CC:PA:LPD:DRU for initial processing.

Signature

Authorized Representative
Title or Authority

Date

Bryan P. Collins
Deloitte Tax LLP