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March 31, 2009

Legend

X =

Trust =

Date A =

Date B =

\$Y =

n =

Dear :

This responds to your letter dated September 29, 2008, submitted on behalf of X and Trust, requesting rulings on several issues arising from the establishment, funding, and potential termination of Trust under § 646 of the Internal Revenue Code and other provisions.

**BACKGROUND**

In 1971, the Alaska Native Claims Settlement Act of 1971 ("ANCSA"), 43 U.S.C. 1601 et seq., settled the Alaska natives' claims to land and resources. The ANCSA implements the settlement of native Alaskans' aboriginal land claims by providing for the conveyance of certain lands and money (Alaska Native Fund, or "ANF") to Alaska Native Corporations ("ANCs") established by qualified Alaska natives as compensation.

The ANCSA provides that U.S. citizens with 1/4 or more of Alaska Indian, Eskimo, or Aleut blood, who were living on December 18, 1971, were qualified to participate in the settlement. The natives who qualified to participate in the settlement were allowed to enroll as stockholders and receive stock ("Settlement Common Stock") in one of the twelve regional corporations and in one local village corporation created under the act to receive assets.

The ANCSA, as originally enacted, provided that for a period of 20 years after December 18, 1971, the stock, inchoate rights thereto, and any dividends paid or distributions made with respect thereto may not be sold, pledged, subjected to a lien or judgment execution, assigned in present or future, or otherwise alienated. This limitation, however, did not apply to transfers of stock pursuant to a court decree of separation, divorce, or child support; by a stockholder who is a member of a professional organization, association, or board that limits the ability of that stockholder to practice his profession because of holding such stock; or by inter vivos gift to certain family members. The ANCSA also provided that upon the death of any stockholder, ownership of such stock shall be transferred to any person in accordance with the last will and testament of the deceased or under the applicable laws of intestacy, except that during the 20-year period after December 18, 1971, such stock shall carry voting rights only if the holder thereof through inheritance is also an Alaska native.

Subsequent amendments to the ANCSA generally extend beyond December 18, 1991, the alienability restrictions on the Settlement Common Stock of an ANC unless and until the shareholders of the corporation decide to terminate them. 43 U.S.C. § 1629c. If the shareholders vote to terminate the alienation restrictions on the stock, all Settlement Common Stock is canceled as a matter of law and is replaced with unrestricted Replacement Common Stock. 43 U.S.C. § 1606(h)(3). Thereupon, the special character of the corporation as an ANC created under the ANCSA ceases and the corporation becomes a regular domestic corporation subject to regulation under securities laws.

To accommodate the desire of certain ANCs to transfer a portion of their assets out of the corporate form, the Alaska Native Claims Settlement Act Amendment of 1987 authorizes the conveyance of certain assets of an ANC to a state-chartered Settlement Trust. 43 U.S.C. § 1629e. The general purpose of a Settlement Trust is to preserve native heritage and culture and to promote the health, education, and economic welfare of its beneficiaries, the shareholders of the transferor ANC, and their lawful successors. The trust is to be used to insulate permanently land, as well as other assets transferred to it, from the business risks undertaken by the corporation. Such trusts may not

operate as a business nor may they make a subsequent transfer of land or interests therein except for a reconveyance to the transferor corporation, if such reconveyance is authorized in the trust instrument. 43 U.S.C. § 1629e.

If the board of directors of an ANC adopts a resolution to establish a Settlement Trust, the resolution to establish the trust must be submitted to a vote of the corporation's shareholders for approval. 43 U.S.C. §§ 1629(a)(3) and 1629b(b). The shareholders, however, are not required to approve the conveyance of any assets by the corporation to the trust unless all or substantially all of the assets of the corporation are to be conveyed. 43 U.S.C. § 1629e(a)(1)(B).

Section 646 was enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). Section 646 addresses several aspects concerning the tax treatment of Alaska Native Settlement Trusts.

## FACTS

The information submitted states that X was incorporated as an ANC pursuant to the ANCSA and Alaska state law. As of Date A, X's board of directors signed a Trust agreement and contributed \$Y to Trust. On Date B, X's shareholders approved Trust as a Settlement Trust under the ANCSA.

Further contributions to Trust will come from X's existing assets and/or a portion of the ongoing corporate profits, as determined by X's Board of Directors from time to time. No maximum amount has been established for Trust.

X or any other person or entity may make additional contributions to Trust at any time. Any such contributions shall be governed by the Trust agreement.

The beneficiaries of the Trust are the holders of X's Settlement Common Stock. The beneficiaries will hold the same number of Trust units in the Trust as they hold shares of X's Settlement Common Stock. The Trust units are not transferable without also transferring the corresponding shares of X.

There are Class A and Class B Trust units in the Trust, corresponding to Class A and Class B shares of Settlement Common Stock in X. Both are entitled to receive equal distributions. Pursuant to ANCSA, under certain circumstances, the Class A and Class B Trust units may become non-voting. In the event X no longer has Class A and Class B shares of Settlement Common Stock, then rules similar to those presently used to determine Class A and Class B status for X's Settlement Common Stock would apply to the Trust units. If X's shareholders vote in the future whether to issue additional Settlement Common Stock under ANCSA, such as to "left outs" or the "Elders," then additional Trust units will be automatically issued to those who would received the additional Settlement Common Stock.

If X is merged or consolidated, or if X's shareholders vote to terminate the ANCSA alienation restrictions presently applicable to X's Settlement Common Stock, then there will be a contemporaneous vote as to whether to issue additional Trust units in such situation. If the vote is successful, then additional Trust units will be issued. If the vote is unsuccessful, then: (i) the beneficiaries of the Trust would be X's stockholders on the day prior to such event; (ii) the Trust units in the Trust are transferable only in the same circumstances that X's Settlement Common Stock could have been transferred before the alienation restrictions were lifted; (iii) no additional Trust units in the Trust would be issued if X issues additional stock; and (iv) the trustees for Trust would be elected each year by the holders of the Class A and Class B Trust units. Similar rules apply if X is dissolved.

Distributions will begin from Trust at the discretion of the trustees. The trustees have annual discretion to distribute none, all or some of Trust's income determined on an annual basis. Unless Trust is modified or terminated, the trustees are not permitted to distribute principal. If Trust is modified or terminated and principal is distributed, it will be distributed to the beneficiaries pro rata based on the number of Trust units each beneficiary owns at the time of distribution.

The duration of Trust is indefinite unless affirmative action is taken as follows. After Trust has been in existence for n years, the trustees have the power to decide, with the concurrence of the holders of the Class A and Class B Trust units, whether to do any of the following: (1) modify the income distribution provisions; (2) modify the principal distribution provisions; or (3) terminate Trust and distribute all principal and accrued income to the beneficiaries. Any such decision by the trustees would require the affirmative vote of two-thirds of the trustees and the affirmative vote of the holders of a majority of a quorum of the Class A and Class B Trust units. Under the Trust agreement, Trust could also be modified upon petition by the trustees at any time to a local state court with proper jurisdiction to the extent necessary due to an external event that has a "Material Adverse Effect" on Trust.

The assets of Trust will never revert back to the grantor, X, but will either remain in trust, be distributed to another Settlement Trust, or be distributed pro-rata to the beneficiaries based on Trust units owned. In addition, generally the assets of Trust are not available to X's creditors or to the creditors of the beneficiaries. In general, assets transferred from X to Trust are not subject to claims of X's creditors unless those specific assets are subject to the claims of the creditors prior to the transfer or unless the contribution is in fraud of X's existing creditors. Those who become creditors of X after assets are transferred to Trust will not be able to reach trust assets. X represents that at the time of each transfer to Trust, sufficient assets will be retained in X so that X can conduct its operations and pay all its debts and obligations following any contributions into Trust.

Shareholder approval is required only to transfer all or substantially all of X's assets to a

Settlement Trust. The amount, timing, and nature of the actual contributions are in the sole discretion of the board of directors. The anticipated transfers to Trust will be made by a majority vote of X's board of directors without a further shareholder vote, unless the transfer is all or substantially all of X's assets.

Finally, the trustees of Trust have the discretion to obtain administrative services for Trust, to hire such employees or independent contractors as may be necessary, and to pay for such services from Trust assets. The trustees' discretion includes entering into contractual relations with X for such services. To the extent that Trust needs physical facilities, it will occupy space within X's facilities. Certain administrative functions associated with Trust (e.g., maintenance and updating of the list of Trust beneficiaries, and interfacing with those beneficiaries) will be performed by employees of X rather than by direct employees of Trust. It is anticipated that X and Trust may enter into one or more service agreements by which Trust will reimburse X for a reasonable share of X's overhead costs given Trust's activities and the amount of assets of Trust.

## LAW AND DISCUSSION

Section 301.7701-4(a) of the Procedure and Administration Regulations provides that, in general, an arrangement will be treated as a trust under the Code if the purpose of the arrangement is to vest in trustees responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit.

Based on the facts and circumstances of this case, and in light of the Congressional purpose expressed in the governing federal statute concerning Settlement Trusts, Trust is properly classified as a trust described in § 301.7701-4(a).

Section 646(a) provides that if a § 646(c) election is in effect with respect to any Settlement Trust, the provisions of § 646 shall apply in determining the income tax treatment of the Settlement Trust and its beneficiaries with respect to the Settlement Trust. Provided that Trust meets all the requirements to be a Settlement Trust, including making the necessary election under § 646(c), we conclude that § 646 governs the income tax treatment of Trust. Accordingly, subpart E of part 1 of subchapter J of chapter 1 of the Code (the grantor trust provisions) will not govern the income tax treatment of Trust during any period that Trust has a § 646(c) election in effect.

Additionally, X requests a ruling that Trust is not a grantor trust under subpart E for any period during which the § 646(c) election is not in effect for Trust. Section 646 will sunset on December 10, 2010, if not extended; thus, it is necessary to determine whether Trust would be a grantor trust under subpart E after the sunset of § 646. The following analysis and conclusions are based on current provisions of the Code, which provisions may or may not be applicable after the sunset of § 646.

Section 671 provides, in general, that if the grantor of a trust or another person is treated as the owner of any portion of the trust, that person's taxable income and credits shall include the income, deductions, and credits of the trust attributable to that portion of the trust to the extent that such items would be considered in computing the taxable income or credits of an individual.

Sections 673 through 678 specify circumstances under which the grantor or another person will be regarded as the owner of a portion of the trust. The Trust agreement, as currently drafted, reveals none of the circumstances that would cause the grantor or any other person to be treated as the owner of any portion of Trust under §§ 673, 674, 676, or 678.

Under § 675 and applicable regulations, the grantor is treated as the owner of any portion of a trust if under the terms of the trust agreement or circumstances attendant on its operation, administrative control is exercised primarily for the benefit of the grantor rather than the beneficiary of the trust.

Our examination of the Trust reveals none of the circumstances that cause administrative controls to be considered exercisable primarily for the benefit of the grantor under § 675. Thus, the circumstances attendant on the operation of the Trust will determine whether the grantor will be treated as the owner of any portion of the Trust under § 675. This is a question of fact, the determination of which must be made by the Director, Field Operations, with which the parties file their tax returns.

Section 677 provides that the grantor shall be treated as the owner of any portion of a trust, whether or not the grantor is treated as the owner under § 674, the income of which is, or, in the discretion of the grantor or a nonadverse party, or both, may be distributed to the grantor or held or accumulated for future distribution to the grantor, without the approval or consent of any adverse party.

Section 1.677(a)-1(d) provides that a grantor shall be treated as the owner of a portion of a trust whose income is, or in the discretion of the grantor or a nonadverse party, or both, may be applied in discharge of a legal obligation of the grantor.

Assets held by a Settlement Trust may not be used to satisfy the debts of an ANC unless those assets were encumbered before their conveyance to the Settlement Trust, or their conveyance rendered the corporation insolvent or occurred when the corporation was insolvent. 43 U.S.C. § 1629e(c)(5). X represents that in all events it will retain sufficient assets following each contribution to Trust so that the claims of all existing creditors of X can be satisfied from corporate assets without resorting to trust assets. Therefore, based on all the facts and circumstances, including X's representations, X will not be treated as the owner of any portion of Trust under § 677.

Section 301(a) provides, in general, that except as otherwise provided in chapter 1 of

the Code, a distribution of property (as defined in § 317(a)) made by a corporation to a shareholder with respect to its stock shall be treated in the manner provided in § 301(c). Under §§ 301(c) and 316, the distribution shall be taxable as a dividend to the extent of the earnings and profits of the distributing corporation.

Section 301(d) provides that the basis of property received in a distribution to which § 301(a) applies shall be the fair market value of such property.

Section 311(b)(1) provides that if a corporation distributes property (other than an obligation of the corporation) to a shareholder in a distribution to which subpart A applies, and the fair market value of the property exceeds its adjusted basis (in the hands of the distributing corporation), then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

Section 646(d)(1) provides that in the case of an electing Settlement Trust, no amount shall be includible in the gross income of a beneficiary of such trust by reason of a contribution to the trust.

Section 646(d)(2) provides that the earnings and profits of the sponsoring Native Corporation shall not be reduced on account of any contribution to such Settlement Trust.

Section 646(g) provides that for purposes of title 26, the taxable income of an electing Settlement Trust shall be determined under § 641(b) without regard to any deduction under § 651 or § 661.

Section 1015(b) provides that if property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a gift, bequest, or devise), the basis shall be the same as it would be in the hands of the grantor increased in the amount of gain or decreased in the amount of loss recognized to the grantor on such transfer under the law applicable to the year in which the transfer was made.

Section 1.1015-2(a)(1) provides that in the case of property acquired after December 31, 1920, by transfer in trust (other than by transfer in trust by a gift, bequest, or devise) the basis of property so acquired is the same as it would be in the hands of the grantor increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon the transfer under the law applicable to the year in which the transfer was made. If the taxpayer acquired the property by transfer in trust, this basis applies whether the property be in the hands of the trustee, or the beneficiary, and whether acquired prior to termination of the trust and distribution of the property, or thereafter.

Section 1223(2) provides that, in determining the period for which the taxpayer has held property however acquired, there shall be included the period for which the property was held by any other person, if under chapter 1 of the Code such property has, for the

purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

Provided that Trust meets all the requirements to be a Settlement Trust, including making the necessary election under § 646(c), we conclude that no amount shall be included in the gross income of X's shareholders or Trust's beneficiaries when X contributes property (including cash) to Trust. Section 646(d)(1). The shareholders will receive no basis in their respective Trust units, with respect to contributions by X to Trust during years in which Trust has a § 646(c) election in effect. Under § 646(d)(2), such contributions do not reduce X's earnings and profits. In addition, X's contributions to Trust do not constitute gross income to Trust. Moreover, whether or not Trust has a § 646(c) election in effect, X is not entitled to a deduction for any amounts contributed to Trust.

X must recognize gain on any property (including ANCSA land) contributed to Trust that has a fair market value in excess of its basis, in an amount equal to the excess of its fair market value over its adjusted basis. Section 311(b). The basis of such property in the hands of Trust shall be equal to its fair market value on the day the property is contributed to Trust. Section 301(d). Trust's holding period for this property begins on the day Trust receives the property. Cf. § 1223(2).

Property contributed to Trust that is not subject to § 311(b), as provided above, must be treated as property transferred to Trust subject to § 1015(b), so that X's basis in such property carries over to Trust. Section 1015(b). Additionally, the Trust's holding period shall include the period for which X held those assets. Section 1223(2).

Section 646(i) provides that any loss that would otherwise be recognized by a shareholder upon the disposition of a share of stock of a sponsoring Native Corporation shall be reduced (but not below zero) by the per share loss adjustment factor. The per share loss adjustment factor shall be the aggregate of all contributions to all electing Settlement Trusts sponsored by such Native Corporation made on or after the first day each trust is treated as an electing Settlement Trust expressed on a per share basis and determined as of the day of each such contribution.

Since any loss allowed on the distribution of ANC stock must be reduced by the aggregate of all contributions, expressed on a per share basis, a reduction of basis in X stock at the time X makes contributions to Trust is not appropriate. Therefore, an X shareholder's basis in X stock will not be reduced by reason of contributions made to Trust. Section 646(i).

Relative to years in which Trust does not have a § 646(c) election in effect, the facts submitted indicate that there will be no actual receipt by the shareholders of the funds transferred by X prior to the distributions made by Trust pursuant to the Trust Agreement. Thus, the issue becomes whether X's funding of Trust provides the



shareholders with either constructive receipt of the funds or an economic benefit that must be treated as a distribution from X.

Section 1.451-2(a) provides that income although not actually reduced to a taxpayer's possession is constructively received by him in the taxable year during which it is credited to his account, set apart for him, or otherwise made available so that he may draw upon it at any time, or so that he could have drawn upon it during the taxable year if notice of intention to withdraw had been given. However, income is not constructively received if the taxpayer's control of its receipt is subject to substantial limitations or restrictions.

In this case, the cash to be transferred to Trust will not be credited to any shareholder's account or set apart for the shareholder at the time of transfer from X to Trust. No shareholder will have any right to demand payment ahead of the scheduled distributions. Moreover, no shareholder may assign the Trust units to a creditor, or attempt to create a security interest in the Trust unit itself, in any underlying asset of Trust or in any distribution (present or future) by Trust. Furthermore, a shareholder may not assign a Trust unit apart from the related share of the Settlement Common Stock, which is itself restricted as to transfers. The shareholder's right to payment, moreover, is subject to claims of existing creditors of X as provided in 43 USC §§ 1629e(a)(1)(B) and 1629e(c). Thus, the shareholder's control and ultimate receipt of the funds are subject to substantial limitations and restrictions. Accordingly, the shareholders are not in constructive receipt of the funds.

Nevertheless, in regard to contributions by X to Trust during years in which Trust has no § 646(c) election in effect, those transfers may be treated as distributions to the shareholders of X if the shareholders derive some economic benefit from the transfers. Under the economic benefit doctrine, a taxpayer has current income from an economic or financial benefit received, even though it is not reduced to the taxpayer's immediate control. *Sproull v. Commissioner*, 16 T.C. 244 (1951); Rev. Rul. 67-203, 1967-1 C.B. 105. That such a benefit is not assignable does not preclude economic benefit, but rather affects valuation. *United States v. Drescher*, 179 F.2d 863 (2d Cir. 1950).

Trust is subject to the claims of X's existing creditors pursuant to 43 USC 1629e(c). However, the legislative history indicates that the purpose of the Settlement Trust is to insulate assets from the business risks undertaken by the corporation and that the creditor's rights are no greater than they would be under state law, i.e., fraudulent conveyance law. 133 Cong. Rec. H-11933 (December 21, 1987).

Thus, X's creditors have no greater rights than the creditors in Sproull. Accordingly, we conclude that the shareholders have received a currently taxable economic benefit. The amount of the benefit conferred upon each shareholder depends on the economic value of the shareholder-beneficiary's interest in Trust and any other factors that affect value. Thus, a shareholder's receipt of the deemed distribution is subject to treatment under §§

301 and 312.

Accordingly, in regard to contributions by X to Trust during years in which Trust has no § 646(c) election in effect, X's shareholders will receive basis in their respective beneficial interests or Trust units (representing their beneficial interests) equal to the amount of each respective distribution to the shareholders (cash plus the fair market value of property transferred) by X to Trust. Section 301(d). In addition, such contributions by X to a Settlement Trust constitute constructive dividends to X's shareholders. Accordingly, such contributions do reduce X's earnings and profits. Sections 301(c)(1) and 312.

The initial conveyance of ANF assets (lands and cash) to the ANCs has been characterized by the Service as payment to the natives to participate in the settlement. These natives are deemed to have contributed the ANF assets to native corporations in exchange for ANC stock in a transaction qualifying under § 351. The shareholders' basis in stock is determined according to § 358, which provides generally that the basis of the stock shall be the same as that of the property exchanged. Under § 21(c) of the ANCSA, the basis of the property exchanged is the fair market value of the property at the time of receipt from the government, subject to certain modifications.

Section 901(a) of EGTRRA provides a "sunset" provision that all provisions, and amendments thereto, of EGTRRA shall not apply (1) to taxable, plan, or limitation years beginning after December 31, 2010, or (2) in the case of title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010. The legislative history states that for such taxable years beginning after December 31, 2010, the tax consequences of any election previously made under § 646, and any right to make a future election, shall be terminated. Furthermore, any electing trust then in existence, its beneficiaries, and the sponsoring ANC shall be taxed under provisions of law in effect immediately prior to the enactment of § 646. H.R. Conf. Rep. No. 107-84, at 305 (2001). Therefore, we conclude that the sunset provision of § 646 will not be treated as causing a taxable distribution from X to Trust or its beneficiaries, or to X's shareholders, with respect to any contributions made by X to Trust during any years for which Trust has a § 646 election in effect.

## CONCLUSIONS

Accordingly, based solely on the facts submitted and the representations made in this ruling request, and viewed in light of the applicable law and regulations, we rule as follows:

1. Trust will be classified as a trust for federal tax purposes and is not an association or a partnership and is a separate entity for federal tax purposes. Section 301.7701-4(a).
2. The income tax treatment of Trust will be governed by § 646 for any taxable years for

which Trust has a § 646 election in effect. Section 646(a).

3. Neither X nor any other person will be treated for federal income tax purposes as the owner of Trust or any portion of Trust under current §§ 673 through 678 for any taxable years for which Trust does not have a § 646(c) election in effect. (e.g., after the sunset of § 646).
4. For any taxable years in which Trust has a § 646(c) election in effect, no amount will be included in the gross income of X's shareholders or Trust's beneficiaries when X contributes property (including cash) to the Trust. Section 646(d)(1).
5. X's contributions to Trust, in establishing Trust and thereafter, will not constitute gross income to Trust.
6. X is not entitled to any deduction for any amounts contributed to Trust.
7. With regard to contributions by X to Trust during any taxable years in which Trust has a § 646(c) election in effect, the shareholders of X will receive no basis in their respective Trust units
8. For any taxable years in which Trust has a § 646(c) election in effect, any contributions by X to Trust will not reduce X's earnings and profits.
9. X will recognize gain on any property (including ANCSA land) contributed to Trust that has a fair market value in excess of its basis, in an amount equal to the excess of the property's fair market value over its adjusted basis for X. Section 311(b). The basis of such property in the hands of Trust will be equal to its fair market value on the day the property is contributed to Trust. Section 301(d). Trust's holding period for the property will begin on the day Trust receives the property. Cf. § 1223(2).
10. Except as provided above in Ruling 9, property transferred to Trust will be treated as property transferred to Trust subject to § 1015(b), so that X's basis in such property will carry over to Trust. Section 1015(b). Additionally, Trust's holding period will include the period for which X held those assets. Section 1223(2).
11. A shareholder's basis in X stock will not be reduced by reason of the contributions made to Trust. Section 646(i).
12. For any taxable years in which Trust does not have a § 646(c) election in effect, contributions by X to Trust will constitute constructive distributions to the shareholders of X.
13. With regard to contributions by X to Trust during any taxable years for which Trust does not have a § 646(c) election in effect, the shareholders of X will receive basis in

their respective Trust units equal to the amount of each respective distribution (cash plus fair market value of property transferred) to Trust.

14. For any taxable years in which Trust does not have a § 646(c) election in effect, any contributions by X to Trust will reduce X's earnings and profits.

15. Each shareholder's basis of Settlement Common Stock in X will be as follows:

a. The native shareholder's ratable portion of ANF proceeds received by X pursuant to the ANCSA, minus the amount of ANF proceeds transferred by X pursuant to 43 USC 1606(j) (to the extent applicable); plus

b. The native shareholder's ratable portion of X's basis, as determined by 43 USC § 1620(c), in the land and interests in land received by X pursuant to the ANCSA, minus the shareholder's ratable share of X's basis in land and interests the ANCSA required (or requires) X to transfer pursuant to 43 USC § 1613 and 43 USC § 1611 (to the extent applicable); minus

c. X's basis in land distributed to the native shareholder under 43 USC § 1620(j); and

d. Any other adjustment to the shareholder's basis in stock required by the Code, including adjustments under § 301(c)(2).

16. The sunset of § 646 will not be treated as causing a taxable distribution from X to Trust or its beneficiaries, or to X's shareholders, with respect to any contributions made by X to Trust during any years for which Trust has a valid § 646(c) election in effect.

Except as specifically set forth above, we express or imply no opinion as to the federal tax consequences of the transaction described above under any other provisions of the Code. Additionally, with the exception of Rulings 1, 3, 12, 13, 14, and 16, the above rulings are conditioned upon an election under § 646(c) having been properly made with respect to the Trust and such election remaining in effect and not ceasing to apply.

Under a power of attorney on file with this office, we are sending a copy of this letter to X's authorized representative.

This ruling is directed only to the taxpayer who requested it. According to § 6110(k)(3), this ruling may not be used or cited as precedent.

Sincerely,

*David R. Haglund*

David R. Haglund  
Acting Branch Chief, Branch 1  
Office of the Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter

Copy for section 6110 purposes

cc: