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CC:PA:LPD:PR (REG–132634–14), Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Comments on Proposed REG-132634-14, Qualifying Income from Activities of Publicly Traded Partnerships With Respect to Minerals or Natural Resources

Dear Ladies and Gentlemen:

On behalf of Foxhill Capital Partners, LLC, Kingstown Capital Partners, LLC, Andalusian Capital Partners, LP and Hawkeye Capital Management, LLC (***"Investors"***), we welcome the opportunity to submit the following comments in response to the request for comments made by the Department of the Treasury (the "***Treasury***") and the Internal Revenue Service (the "***IRS***") in the Notice of Proposed Rulemaking dated May 6, 2015, regarding Proposed Treasury Regulations Section 1.7704-4[1] (the "***Proposed Regulations***") issued under Section 7704 of the Internal Revenue Code of 1986, as amended (the "***Code***").[2] Investors own a significant equity interest in SunCoke Energy Partners, L.P. (***"SunCoke"***) and/or SunCoke Energy, Inc. (the "***Sponsor***"), and is concerned that the Proposed Regulations, as currently drafted, inadvertently introduce uncertainty as to SunCoke's status as a master limited partnership (an "***MLP***"). Such uncertainty has caused a significant reduction in both SunCoke's unit price and Sponsor's stock price which undermines both companies' ability to execute their business strategy and create value for its equity holders.

We note that SunCoke submitted its own comments on June 16, 2015 expressing concerns regarding the Proposed Regulations' definition of "processing" and "refining" with respect to minerals or ores, and we express the same concerns that the Treasury and the IRS misinterpreted "processing" and "refining" under Section 7704. The Proposed Regulations erroneously combined processing and refining as one activity in providing the general definition that an activity constitutes "processing or refining" if it is done to "purify, separate or eliminate impurities." This violates a cardinal rule of statutory construction that separate words in the

[1] REG-132634-14; 80 F.R. 25970-25977 (May 6, 2015).

[2] Unless otherwise indicated, all "Section" references herein are to the Code.

statute must be given separate meanings to avoid rendering a word meaningless or duplicative. Further, contrary to Congressional intent, the Proposed Regulations mistakenly define processing of minerals and ores to include only those activities that qualify for percentage depletion pursuant to Section 613—i.e. "mining processes." In doing so, the Proposed Regulations fail to include as qualifying activities many other types of activities, such as the smelting of aluminum and the coking of coal, that have traditionally been considered as processing or refining of minerals or ores for purposes of Section 7704. As discussed further below, Congress was clear, in enacting Section 7704, that the reference to percentage depletion under Section 613 was only to identify the minerals and natural resource and not as to define the types of activities or income from them as qualifying income for Section 7704 purposes. In addition, even though we believe SunCoke's coking business continues to qualify under the Proposed Regulations' definition of "refining," such term should be broadened based on its plain meaning as any activity that eliminates impurities or foreign matter from minerals or ores.

Since the issuance of the Proposed Regulations, both SunCoke's unit price and the Sponsor's stock price have experienced a sharp decline due to the uncertainty surrounding SunCoke's MLP status. While we commend the Treasury and the IRS for providing a 10-year grandfather period to existing MLPs such as SunCoke, who has been relying on opinions of its counsel in treating its gross income derived from the coking business as qualifying income, such measure proved inadequate to prevent the immediate reduction to SunCoke and the Sponsor's equity value. Neither is the grandfather provision helpful in the interim to investors who have seen the value of their investment adversely impacted. **Thus, we strongly urge the Treasury and the IRS to expedite providing clarification to the Proposed Regulations that basic processing and refining activities, such as the coking of coal, be specifically identified as qualifying activities under Section 7704(d)(1)(E).**

This letter is divided into four parts. Part I provides a description of SunCoke's cokemaking business. Part II discusses the application of "processing" and "refining" to cokemaking under the current law. Part III examines the ambiguities raised by the Proposed Regulations. Finally, Part IV provides detailed recommendations that would help clarify that cokemaking will continue to be a qualifying activity under the final Treasury Regulations consistent with Section 7704(d)(1)(E) as originally enacted by Congress.

I. SunCoke's Cokemaking Business

SunCoke is a publicly traded master limited partnership that was formed under Delaware law in July 2012. It is the coke-producing industry's first publicly traded MLP. Sponsor is the largest independent producer of metallurgical coke in the Americas and owns a 56.1% limited partner interest in SunCoke and indirectly owns and controls the general partner of SunCoke. The common units of SunCoke are traded on the New York Stock Exchange under the symbol "SXCP." The common stock of the Sponsor is traded on the New York Stock Exchange under the symbol "SXC." SunCoke and the Sponsor together have over one thousand dedicated employees in the United States.

SunCoke and the Sponsor have been producing coke for more than 50 years. SunCoke uses an advanced, heat-recovery cokemaking process that produces high-quality coke, generates energy from waste heat and reduces environmental impact. All of SunCoke's production is sold under long-term agreements with some of the largest blast furnace steelmakers in the United States.

Coke is essentially purified coal which is made up primarily of the remains of organic matter which has been partially decomposed and consolidated in the presence of moisture and the absence of air, and subjected to heat and pressure over time. The primary components of coal are carbon, hydrogen, oxygen, nitrogen and sulfur as well as some noncombustible components called ash.[3] Coke is produced by heating a specific type of coal called metallurgical coal (also known as "coking coal") in an oxygen deficient refractory oven to drive off impurities and release certain volatile components from the coal in a process known as coking. The physical properties of coking coal cause the coal to soften, liquefy and then resolidify into hard but porous lumps of almost pure carbon during the coking process. This resulting material is known as metallurgical coke. Generally, the resulting metallurgical coke has as few impurities as possible. It is close to being pure carbon containing between 87-93% fixed carbon and 1% volatile matter.

SunCoke also has a coal logistics operation providing coal handling and blending services at various terminals. In addition, SunCoke continues to explore opportunities to enter additional mineral processing businesses, such as iron ore concentrating and pelletizing and direct reduced iron production, which can be used in conventional blast furnace or electric arc furnace steelmaking processes. SunCoke recently received two favorable private letter rulings from the IRS treating both the concentrating and pelletizing of iron ore as well as direct reduced iron production as qualifying activities.[4]

II. Application of "Processing" or "Refining" under Current Law

An MLP is treated as a partnership for federal income tax purposes if at least 90% of its gross income is "qualifying income."[5] Section 7704(d)(1)(E) of the Code is clear that income derived from the "exploration, development, *mining* or production, *processing*, *refining*, transportation...or the marketing" of any mineral or natural resource constitutes qualifying income.[6] This is commonly referred to as the natural resource exception. Prior to the issuance of the Proposed Regulations, there has been no statutory or regulatory definition provided for purposes of Section 7704 to interpret the list of activities above. However, the Treasury

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[3] *See* Sundholm J.L. et al. Manufacture of metallurgical coke and recovery of coal chemicals. Making, Shaping and Treating of Steel - Ironmaking volume 138 (11th ed., Wakelin. D.H. (ed.). AISE Steel Foundation, Pittsburgh, Pennsylvania (1999)).

[4] *See* PLR 201351009 (Dec. 20, 2013) and PLR 201448019 (Nov. 27, 2014).

[5] Section 7704(c).

[6] Section 7704(d)(1)(E) (emphasis added).

Regulations issued under Section 613 (dealing with percentage depletion) contain a list of definitions that includes "mining," "mining processes," "nonmining processes" and "refining" with respect to minerals or ores and such terms are instructive in describing the various types of activities involved from the extraction of minerals and ores to the production of resulting refined products.

Section 613 and the Treasury Regulations promulgated thereunder provide rules governing the "percentage depletion" that is allowable in each case under Section 613. The percentage depletion deduction is based, in part, on the "gross income from the property," which, in the case of minerals and ores, means the gross income from "mining." Activities with respect to minerals or ores that are not considered to be mining are not eligible for the percentage depletion deduction.[7] Under Section 613, "mining" includes not only the extraction of the ores or minerals from the ground but also other specific activities related to mining (and the treatment processes necessary or incidental thereto) and limited transportation of the ores or minerals. These eligible activities are referred to by the Treasury Regulations issued under Section 613 as "mining processes." In general, "mining processes" are "the ordinary treatment processes normally applied by mine owners or operators in order to obtain the commercially marketable mineral product or products"[8] In the case of coal, cleaning, breaking, sizing, dust allaying, treating to prevent freezing, and loading for shipment are all considered "mining processes," and thus constitute "mining" for purposes of Section 613.[9]

In contrast, activities performed on a mineral or ore that do not qualify as "mining processes"—which the Treasury Regulations issued under Section 613 refer to as "nonmining processes"—are not eligible for the percentage depletion deduction.[10] The following activities are generally considered to be "nonmining processes" under Section 613: electrolytic deposition, roasting, calcining, thermal or electric smelting, refining, polishing, fine pulverization, blending with other materials, treatment effecting a chemical change, thermal action, and molding or shaping.[11]

The legislative history to Section 7704(d)(1)(E) clearly provides that "the reference [...] to products for which a depletion is allowed is intended *only* to identify the minerals or natural resources and *not* to identify what income from them is treated as qualifying income. Consequently, whether income is taken into account in determining percentage depletion under section 613 does not necessarily determine whether such income qualifies as qualifying income."[12] In other words, Congress intended the definitions provided in the Treasury Regulations issued under Section 613 to be instructive in identifying minerals and natural

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[7] Section 613.

[8] Treas. Reg. § 1.613-4(f)(2)(i).

[9] Treas. Reg. § 1.613-4(f)(2)(i)(a).

[10] Treas. Reg. § 1.613-4(a)

[11] Treas. Reg. § 1.613-4(g)(1).

[12] S. Rep. No. 445, 100th Cong., 2d Sess. 424 (1988) (emphasis added).

resources, but not controlling in defining qualifying activities for Section 7704(d) purposes. Thus, even if an activity is considered as a nonmining process for percentage depletion purposes under Section 613, such an activity may nevertheless constitute "processing" and "refining" for purposes of Section 7704. For example, the smelting of alumina into aluminum, the refining of blister copper, the beneficiating and pelletizing of iron ore, and the production of direct reduced iron, while each would be treated as a nonmining process under Section 613, have all been considered by the IRS as an activity constituting "processing" or "refining" for purposes of Section 7704, despite the fact that such processes cause physical and/or chemical change in the minerals or ores.[13] Similarly, the coking of coal is specifically considered in the Treasury Regulations issued under Section 613 as a nonmining process because such treatment effects a chemical change and is a thermal action.[14] Nevertheless, prior to the issuance of the Proposed Regulations, there was little doubt that the coking of coal qualified as "processing" or "refining" of coal for Section 7704 purposes, and thus there was little uncertainty that SunCoke's cokemaking business generates qualifying income.

III. Ambiguities Raised by the Proposed Regulations

a. "Processing" and "Refining" Mean Different Things

The Proposed Regulations provide the first set of regulatory guidance concerning Section 7704(d)(1)(E) and provide a general definition for "processing or refining" as follows:

> Except as otherwise provided in paragraph (c)(5) of this section, an activity is processing or refining if it is done to purify, separate, or eliminate impurities. For an activity to be treated as processing or refining for purposes of this section, the partnership's position that an activity is processing or refining for purposes of this section must be consistent with the partnership's designation of an appropriate Modified Accelerated Cost Recovery System (MACRS) class life for assets used in the activity in accordance with Rev. Proc. 87–56, 1987–2 CB 674 (see § 601.601(d)(2)(ii)(b) of this chapter). For example, for an activity to be processing or refining of crude oil under paragraph (c)(5)(iii) of this section, the assets used in that process must also have a MACRS class life of 13.3, Petroleum Refining. Unless otherwise provided in this paragraph (c)(5), an activity will not qualify as processing or refining if the activity causes a substantial physical or chemical change in a mineral or natural resource, or transforms the extracted mineral or natural resource into new or different mineral products or into manufactured products.[15]

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[13] *See* PLR 9538016 (June 21, 1995), PLR 201351009 (Dec. 20, 2013), and PLR 201448019 (Nov. 27, 2014).

[14] *See* Treas. Reg. § 1.613-4(g)(6)(vii) and (viii).

[15] Prop. Treas. Reg. § 1.7704-4(c)(5)(i).

There are several issues raised by this general definition of "processing or refining." First, the Proposed Regulations erroneously combine "processing" and "refining" as one activity and define such activity as "processing or refining" only if it is done to "purify, separate, or eliminate impurities." This clearly violates a cardinal principle of statutory construction that each term of the statute must be accorded its own meaning.[16] In fact, in enacting Section 7704, Congress unambiguously intended processing and refining to mean different things as evidenced by the comma between "processing" and "refining."[17]

Confusion is further exacerbated when the Proposed Regulations proceed to separately define "processing" and "refining" with respect to minerals or ores. With respect to the processing or refining of ores and minerals, the Proposed Regulations provide that:

> An activity constitutes processing or refining of ores and minerals if it meets the definition of mining processes under Sec. 1.613-4(f)(1)(ii) or refining under Sec. 1.613-4(g)(6)(iii). Generally, refining of ores and minerals is any activity that eliminates impurities or foreign matter from smelted or partially processed metallic and nonmetallic ores and minerals, as for example the refining of blister copper.[18]

In turn, "refining" in Treasury Regulations Section 1.613-4(g)(6)(iii) is defined as follows:

> The term refining refers to processes (other than mining processes designated in section 613(c)(4) or this section) used to eliminate impurities or foreign matter from smelted or partially processed metallic and nonmetallic ores and minerals, as, for example, the refining of blister copper. In general, a refining process is designed to achieve a high degree of purity by removing relatively small amounts of impurities or foreign matter from smelted or partially processed ores or minerals.

By defining "processing" as the same as "mining processes" provided in Treasury Regulations Section 1.613-4(f)(1)(ii) and "refining" as such term is defined in Treasury Regulations Section 1.163-4(g)(6)(iii), the Proposed Regulations left out many activities that

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[16] It is a "cardinal principle of statutory construction' that 'a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant." *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) (quoting *Duncan v. Walker*, 533 U.S. 167, 174 (2001)). *See also*, *Bailey v. United States*, 516 U.S. 137, 146 (1995); *Montclair v. Ramsdell*, 107 U.S. 147, 152 (1883).

[17] The term "processing" was not included in the House version of the legislation when it was first proposed in 1987, and it was mentioned only in the 1987 Conference Report regarding certain oil, gas or products thereof produced by "additional processing beyond that of petroleum refineries or field facilities, such as plastics or similar petroleum activities." *See* H.R. Rep. No. 391, 100th Cong., 1st Sess. 1069 (1987); H.R. Rep. 495, 100th Cong., 1st Sess. 947 (1987). By including "processing" in the final statute, one must infer that Congress recognized there are "processing" activities other than refining of minerals or natural resources that constitute qualifying activities.

[18] Prop. Treas. Reg. § 1.7704-4(c)(5)(iv).

take place between mining and refining, *i.e.*, nonmining processes such as smelting and cokemaking, that have traditionally been considered as constituting "processing" or "refining" for purposes of Section 7704. This is especially puzzling because the preamble to the Proposed Regulations notes that the Proposed Regulations address all activities that occur between the extraction of the minerals and their eventual offering for sale.[19] The exclusion of nonmining processes from the definition of "processing" creates an awkward and unworkable framework. For example, in the context of copper mining and production,[20] the Proposed Regulations treat the first step of copper production involving extracting ores containing copper component from the ground as a qualifying activity.[21] The Proposed Regulations also treat the second step of copper production involving crushing large ores into smaller pieces and beneficiation by concentration that separate copper concentrates from dirt, clay, and other non-copper bearing minerals as a qualifying activity.[22] The resulting concentrated copper, containing approximately 15-35% copper along with various sulfides of copper and iron, plus smaller concentrations of other materials, must be further processed and refined. But the Proposed Regulations appear to treat the third step of copper production—which is the thermal smelting of concentrated copper to remove sulfur, iron and other materials to obtain 98% to 99% pure copper known as "blister copper"—as a nonqualifying activity.[23] Then, the Proposed Regulations proceed to treat the final step of copper production—the refining of blister copper by heat to remove any remaining impurities to obtain copper that is 99.9% pure—as a qualifying activity. The Proposed Regulations produce an illogical result that the smelting of copper, a critical part of the copper production process that removes impurities, is a nonqualifying activity. In short, the Treasury and the IRS misapply the definitions under Section 613 and deviate significantly from the statue and Congressional intent of Section 7704.

Furthermore, we note that while the language of the Proposed Regulations in defining "refining" closely adheres to the first quoted sentence of Treasury Regulations Section 1.613-4(g)(6)(iii), the second quoted sentence of Treasury Regulations Section 1.613-4(g)(6)(iii) containing the limitation that refining must be of a "relatively small amounts of impurities" was not included in the text of Proposed Regulations Section 1.7704-4(c)(5)(iv). Therefore, one is left to wonder, under the Proposed Regulations as currently drafted, whether an activity will constitute refining for qualifying income purposes only if it is performed to eliminate a "relatively small amount" of impurities, or if such activity will be considered as refining as long as it does not cause a substantial physical or chemical change to the mineral or ore under the general principle of "processing or refining" under the Proposed Regulations.

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[19] 80 F.R. 25971 ("Section 7704(d)(1)(E) activities represent different stages in the extraction of minerals or natural resources and the eventual offering of products for sale.").

[20] For a discussion of copper mining and production, see United States Environmental Protection Agency, Metallurgical Industry, AO 42, ch. 12.3, "Primary Copper Smelting" (1986), available at http://www.epa.gov/ttnchie1/ap42/ch12/final/c12s03.pdf.

[21] Prop. Reg. § 1.7704-4(c)(4).

[22] Prop. Reg. § 1.7704-4(c)(5)(iv); Treas. Reg. § 1.613-4(f)(2)(i)(d).

[23] Treas. Reg. § 1.613-4(g)(1). Smelting is treated as a nonmining process.

As evidenced by the discussion above, the Proposed Regulations further obfuscate rather than clarify what constitutes "processing or refining" with respect to minerals or ores. We recommend that the Proposed Regulations be revised as recommended below to provide a clear standard of processing or refining with respect to minerals or ores.

b. "Processing" Should Include "Nonmining Processes"

We recommend that the term "processing" of a mineral or ore should include not only mining processes as defined in Treasury Regulations Section 1.613-4(f)(1)(ii) but should be defined more broadly to also include the nonmining processes provided in Treasury Regulations Section 1.613-4(g)(1). Many activities described in Treasury Regulations Section 1.613-4(g)(1) are consistent with the general principle under the Proposed Regulations that processing or refining is an activity done to purify, separate, or eliminate impurities, regardless of whether such activity causes a substantial physical or chemical change. For example, calcining includes processes used to expel the volatile portions of a mineral by application of heat;[24] thermal smelting refers to processes which reduce, separate, or remove impurities from ores or minerals by the application of heat;[25] refining generally refers to processes used to eliminate impurities or foreign matters from smelted or partially processed metallic and nonmetallic ores and minerals.[26] In addition, we note that the Treasury Regulations under Section 613 recognize certain mining processes, such as sorting and concentrating[27] as activities performed to remove impurities in the minerals or ores, and within such activities, there is no requirement that such processes involve only a relatively small amount of impurities. Thus, for purposes of Section 7704, the final Treasury Regulations should not place such a limitation on the definition of processing or refining.

c. "Refining" Should be Broadly Defined

As discussed above, basic statutory interpretation requires that each word in the statue be given its own definition and significance, and thus, in enacting Section 7704, it is clear that Congress intended "processing" and "refining" to be interpreted as separate terms with separate meanings. The Proposed Regulations provide that an activity constitutes refining if it is listed in Treasury Regulations Section 1.613-4(g)(6)(iii). However, as discussed above, the definition of "refining" under Section 613 fails to account for many types of activities performed to eliminate impurities that have traditionally been considered as "refining" for qualifying income purposes, regardless of whether such activities cause a physical or chemical change to minerals or ores. In addition, if the "nonmining processes" definition (which includes "refining" for purposes of Section 613) is included in the definition of "processing" with respect to a mineral or ore, then the definition of "refining" for Section 7704 purposes must be separately defined from "refining"

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[24] Treas. Reg. § 1.613-4(g)(6)(i).

[25] Treas. Reg. § 1.613-4(g)(6)(ii).

[26] Treas. Reg. § 1.613-4(g)(6)(iii).

[27] Treas. Reg. § 1.613-4(f)(3).

for Section 613 purposes in order to distinguish such term from "processing" in the Proposed Regulations.

While we believe SunCoke's coking business continues to qualify as "refining" under the Proposed Regulations, for the sake of clarity, we recommend that the definition of refining as applied to minerals or ores for purposes of Section 7704 be consistent with the plain meaning of such term. Webster's Dictionary defines "refine" as a verb "to free from impurities or unwanted material" and "to become pure or perfected." Thus, "refining" for Section 7704 purposes should be broadened to include *any* activity performed to eliminate impurities or foreign matter from minerals or ores. This definition would be broader then "refining" as defined in Treasury Regulations Section 1.613-4(g)(6)(iii) because it is not limited to refining of smelted or partially processed minerals or ores, is not limited to removal of a "relatively small amount of impurities" and would include any process performed to eliminate impurities or foreign matters from minerals or ores that is not already included as "processing" as recommended above.

d. No Basis for Substantial Physical or Chemical Change Limitation

We observe that there is no legislative or statutory support for placing a blanket limitation that an activity that causes "substantial physical or chemical change" will not constitute processing or refining for Section 7704 purposes. The preamble to the Proposed Regulations provides that the Treasury and the IRS believe that this rule is consistent with other sections of the Code and the Treasury Regulations, including Treasury Regulation § 1.613-4(g)(5) (defining a "transformation process" as a nonmining process), but offers no authority to support such belief.[28] It is obvious why, for percentage depletion purposes, transformation of a mineral or ore into a new or different mineral product or refined product should not be considered a mining activity eligible for percentage depletion. But it is unclear why an activity that causes a substantial physical or chemical change disqualifies such activity from generating qualifying income under Section 7704. We believe it is inappropriate to place a blanket limitation on the variety of processes that "purify, separate or eliminate impurities" with respect to minerals and ores. The IRS apparently recognizes that this limitation may be inappropriate at times, and thus, this general rule is subject to specific exceptions provided within Proposed Regulations Section 1.7704-4(c)(5). The problem raised by this approach taken by the Proposed Regulations is that the Proposed Regulations fail to provide additional guidance as to what constitutes "substantial physical or chemical change" and the exceptions contained in the Proposed Regulations fail to take into account all activities that are generally considered to qualify as "processing" or "refining" of minerals and ores under current law, such as the smelting of aluminum and the coking of coal.

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[28] 80 F.R. 25972.

e. The MACRS Requirement Should be Removed

Under the Proposed Regulations, even an activity that would otherwise be considered processing or refining would not be considered a qualifying activity if the partnership's position that the activity is processing or refining for purposes of Section 7704 is not consistent with the partnership's designation of an appropriate MACRS class life for assets used in the activity in accordance with Rev. Proc. 87–56. We see no reason for this requirement nor have we found any basis for this requirement in Section 7704 or its legislative history. Indeed, the asset classes in Rev. Proc. 87–56 are not at all helpful in distinguishing between qualifying and non-qualifying activities. For example, asset class 33.4 - Manufacture of Primary Steel Mill Products – includes both assets used in the "refining of iron" (clearly a qualifying activity) and assets used in "the manufacture of nails" (clearly not a qualifying activity). We therefore recommend eliminating the MACRS consistency requirement.

IV. Summary and Recommendation

While we continue to believe that SunCoke's coking business clearly generates qualifying income, the ambiguities raised by the Proposed Regulations effectively deny SunCoke the financial benefits of its MLP status. MLPs offer a unique combination of liquidity and cash flow to investors while serving as a preferred vehicle to access capital markets. Investors of an MLP (known as unitholders) provide capital to the MLP to operate and/or grow the business. In return, unitholders receive cash distributions from the MLP. This structure provides certain tax advantages (e.g., the elimination of entity-level income tax) for accessing capital that are not available to publicly traded corporations. The MLP business model requires MLPs to distribute substantially all of their earnings to unitholders on a quarterly basis (usually referred to as "quarterly distributions"). As a result, MLPs are unable to retain their earnings for future growth, making them heavily dependent on external capital markets to fund growth projects and acquisitions.

When an MLP's tax status is called into question, the market reacts to such uncertainty by assuming the worst case scenario—that is, treating the MLP as a corporation for federal income tax purposes. An MLP treated as a corporation would be subject to an entity-level federal income tax, and therefore reduce the amount of cash available for distributions to its investors. MLP units are valued based on a multiple of cash flow (*i.e.*, the higher the multiple, the more advantageous it is for the MLP to issue equity). Therefore, when cash distributions to unitholders are expected to decrease significantly due to the burden of an entity level income tax, the value of the MLP units will decrease materially. In fact, SunCoke's units were trading as high as $23 per unit prior to the issuance of the Proposed Regulations. After the issuance of the Proposed Regulations, the trading value of SunCoke's units took a deep dive and dropped as low as $14.69 per unit as of July 20, 2015—an astounding 36% decrease, representing a loss of more than $325 million in market capitalization. Similarly, because the Sponsor owns the general partner interest and a significant limited partner interest in SunCoke, its stock price also experienced a dramatic 35% decrease, from as high as $17.51 per share prior to the issuance of

the Proposed Regulations to a low of $11.40 per share subsequent to such event. Current investors of SunCoke and the Sponsor suffered significant loss in the value of their existing investment in both companies. Moreover, the low trading value of its units denies SunCoke from accessing additional public equity in the market, thereby making it substantially more difficult for SunCoke to grow its business and execute its business strategy.

Based on the obvious differences in purpose between Section 613 and Section 7704 and Congressional intent that Section 613 not be controlling for purposes of Section 7704, we recommend that for qualifying income purposes, the final Treasury Regulations should be revised as follows:

1. The definition of "processing" with respect to ores and minerals in Proposed Regulations Section 1.7704-4(c)(5)(iv) should include "nonmining processes" listed in Treasury Regulations Section 1.613-4(g)(1).

2. The definition of "refining" with respect to ores and minerals should not be defined by Treasury Regulations Section 1.613-4(g)(6)(iii) but instead should be broadened for purposes of Section 7704 to give such term its separate meaning and significance. The final Treasury Regulations should define "refining" with respect to minerals or ores as "any activity that eliminates impurities or foreign matter from minerals or ores."

3. The final Treasury Regulations should explicitly provide a nonexclusive list of basic activities that would qualify for "processing or refining" of minerals or ores for purposes of Section 7704(d)(1)(E), such as the coking of coal.

4. The final Regulations should eliminate the MACRS requirement and the limitation on activities that cause a substantial physical or chemical change or the transformation of the mineral into a new and different product.

Given the dramatic impact the Proposed Regulations have on SunCoke's unit price and the Sponsor's stock price, we urge the Treasury and the IRS to take immediate action to clarify the Proposed Regulations as recommended to cure the market's incorrect perception of the Propose Regulations' treatment of the coking of coal. Any further delay is unfair to SunCoke and the Sponsor, and to the Investors and other equity holders who have relied on Section 7704 and current law in making long-term investment decisions in both companies. Our recommendations to the Proposed Regulations provide clear and workable definitions that are consistent with the statute, Congressional intent, and the common usage of the words "processing" and "refining." More importantly, our recommendations clarify that SunCoke's coking business continues to generate qualifying income, and the Investors and other shareholders of both companies can continue to invest with confidence with respect to SunCoke's status as an MLP.

We thank you again for the opportunity to comment on the Proposed Regulations. If you have any questions, please contact the undersigned at (713) 250-2165.

Respectfully submitted,

Akin Gump Strauss Hauer & Feld LLP

By: _____
Alison L. Chen

cc: Fay West (SunCoke Energy, Inc.)