



**Part II** Organizational Action *(continued)*

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ [See attached statement](#)

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18 Can any resulting loss be recognized? ▶ [See attached statement](#)

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19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ [See attached statement](#)

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Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

**Sign Here**  
Signature ▶ Matthew T Peters Date ▶ 12/20/2023

Print your name ▶ Matthew T. Peters Title ▶ SVP, Chief Tax Officer & Treasurer

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶	Firm's EIN ▶			
	Firm's address ▶	Phone no.			

**Mallinckrodt International Finance S.A.**  
 EIN: 98-1094609  
 Attachment to Form 8937

**Disclaimer:** The information contained herein is being provided pursuant to the requirements of Section 6045B of the Internal Revenue Code of 1986, as amended (the “Code”), and includes a general summary regarding the application of certain U.S. federal income tax laws and regulations relating to the effects of certain transactions on the tax basis of stock or securities pursuant to the emergence from Chapter 11 bankruptcy of Mallinckrodt plc and certain of its subsidiaries and affiliates (collectively, the “Debtors”) on November 14, 2023 (the “Emergence”). The information contained herein does not constitute tax advice and does not purport to be complete or to describe the tax consequences that may apply to particular persons or categories of persons. You are urged to consult your own tax advisors regarding U.S. tax consequences of the transactions described herein and the impact to tax basis resulting from those transactions.

Form 8937 Lines 9 & 10:

Line 9	Line 10
Classification and Description	CUSIP Numbers
<i>Previously Issued Debt</i>	
Secured term loans due September 2027 (“2017 Replacement Term Loans”)	L6232UAN7
Secured term loans due September 2027 (“2018 Replacement Term Loans”)	L6232UAP2
10.00% first lien senior secured notes due April 2025 (“2025 1L Notes”)	L6233LAF3 & 561233AG2
11.50% first lien senior secured notes due December 2028 (“2028 1L Notes”)	L6233LAJ5 & 561233AM9
10.00% second lien secured notes due April 2025 (“2025 2L Notes”)	L6233LAG1 & 561233AH0
10.00% second lien secured notes due June 2029 (“2029 2L Notes”)	L6233LAH9 & 561233AK3
Debtor-in-Possession Financing due November 2023 (“DIP Loans”)	L6232UAR8 & L6232UAS6
<i>Newly Issued Debt</i>	
Secured term loans due November 2028 (“First-Out Takeback Term Loans”)	L6232UAU1
Secured term loans due November 2028 (“Second-Out Takeback Term Loans”)	L6232UAV9
14.75% first lien senior secured notes due November 2028 (“Takeback Notes”)	L6233LAK2, 561233AN7 & 561233AP2

The 2017 Replacement Term Loans, together with the 2018 Replacement Term Loans (the “First Lien Term Loans”); the First Lien Term Loans, together with the 2025 1L Notes and 2028 1L Notes (the “First Lien Debt”); the 2025 2L Notes, together with the 2029 2L Notes (the “Second Lien Debt”).

Form 8937 Line 14:

*Describe the organizational action and, if applicable, the date of the action or the date against which shareholders' ownership is measured for the action*

On August 28, 2023 (the “Petition Date”), Mallinckrodt plc, an Irish public limited company (“Mallinckrodt”), and certain of its subsidiaries, voluntarily initiated proceedings (the “Bankruptcy Filing”) under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) with a prepackaged chapter 11 plan. On October 10, 2023 (the “Confirmation Date”), the Bankruptcy Court entered an order approving and confirming the First Amended Prepackaged Joint Chapter 11 Plan of Reorganization of Mallinckrodt plc and Its Debtor Affiliates (as amended, supplemented or otherwise modified, the “Plan”). On November 14, 2023 (the “Effective Date” or “Emergence Date”), the Plan became effective and Mallinckrodt emerged from the Chapter 11 proceedings.<sup>1</sup>

On the Effective Date, in a series of transactions pursuant to the Plan (the “Transaction”), the Debtors distributed Cash, new debt and new Mallinckrodt common stock (the “New Common Equity”) to holders of certain claims (the “Allowed Claims”) as described below, in exchange for such holders’ cancellation of such claims. Concurrently, all of the existing common stock of Mallinckrodt (i.e., the shares of common stock of Mallinckrodt

<sup>1</sup> Unless otherwise noted, capitalized terms herein have the same meaning as used in the Plan or in the Disclosure Statement for Prepackaged Joint Plan of Reorganization of Mallinckrodt plc and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code (together with all schedules and exhibits thereto, and as modified, amended, and supplemented, the “Disclosure Statement”).

that were issued and outstanding prior to the Effective Date) and all rights attaching or relating thereto were cancelled and extinguished.

On the Effective Date and pursuant to the Plan, Mallinckrodt International Finance S.A. (“MIFSA”) and Mallinckrodt CB LLC (“MCB” and together with MIFSA, the “Issuers”), each of which is a subsidiary of Mallinckrodt, (i) entered into a new senior secured first lien term loan facility with an aggregate principal amount of approximately \$871.4 million (the “Takeback Term Loans”), consisting of approximately \$229.4 million of “first-out” Takeback Term Loans (the “First-Out Takeback Term Loans”) and approximately \$642.0 million of “second-out” Takeback Term Loans (the “Second-Out Takeback Term Loans”) and (ii) issued approximately \$778.6 million in aggregate principal amount of “second-out” 14.75% senior secured first lien notes due 2028 (the “Takeback Notes” and, together with the Second-Out Takeback Term Loans, the “Second-Out Takeback Debt” and, the Takeback Notes together with the Takeback Term Loans, the “Takeback Debt”).

#### *DIP Facility Claims*

Pursuant to the Plan, on the Effective Date, lenders holding claims related to the DIP Loans received their pro rata share of a \$50.6 million cash payment and the First-Out Takeback Term Loans in satisfaction thereof (the “DIP Debt Exchange”).

#### *First Lien Debt*

Pursuant to the Plan, on the Effective Date, each holder of an Allowed Claim related to the First Lien Debt received its pro rata share of (A) 92.3% of the New Common Equity (subject to dilution by Mallinckrodt’s MIP and the CVRs, if equity settled) issued on the Effective Date (the “First Lien Debt/Equity Exchange”); (B) Cash in an amount equivalent to the accrued and unpaid interest on the First Lien Debt; and (C) the Second-Out Takeback Debt in satisfaction thereof (the “First Lien Debt/Debt Exchange”, together with the DIP Debt Exchange, the “Debt/Debt Exchanges”). Each holder of an Allowed Claim related to the First Lien Debt elected to receive such Second-Out Takeback Debt either in the form of Second-Out Takeback Term Loans or Takeback Notes.

#### *Second Lien Debt*

Pursuant to the Plan, on the Effective Date, each holder of an Allowed Claim related to the Second Lien Debt received its pro rata share of 7.7% of the New Common Equity (subject to dilution by Mallinckrodt’s MIP and the CVRs, if equity settled) in satisfaction thereof (the “Second Lien Debt/Equity Exchange”, together with the First Lien Debt/Equity Exchange, the “Debt/Equity Exchanges”).

Form 8937 Line 15:

*Describe the quantitative effect of the organizational action on the basis of the security in the hands of a U. S. taxpayer as an adjustment per share or as a percentage of old basis*

The following summary of certain U.S. federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon your individual circumstances. All holders of Allowed Claims are urged to consult their own tax advisors for the U.S. federal, state, local and other tax consequences applicable under the Plan. For more information regarding the Transaction, please visit the website for Mallinckrodt’s Bankruptcy Filing with links to the Plan and Disclosure Statement filed with the Bankruptcy Court, available at <https://restructuring.ra.kroll.com/mallinckrodt2023>.

#### **Debt/Debt Exchanges**

While not free from doubt, the Debtors intend to take the position that the First Lien Debt/Debt Exchange will be treated as an exchange separate from the First Lien Debt/Equity Exchange. Specifically, the Debtors intend to take the position that for each First Lien Debt, a) if exchanged for Second-Out Takeback Term Loans, 58.61% was exchanged in the First Lien Debt/Debt Exchange and 41.39% was exchanged in the First Lien Debt/Equity

Exchange and b) if exchanged for Takeback Notes, 59.96% was exchanged in the First Lien Debt/Debt Exchange and 40.04% was exchanged in the First Lien Debt/Equity Exchange.<sup>2</sup>

An actual exchange of debt instruments is treated as an exchange, rather than as a continuation of the old debt instrument, for U.S. federal income tax purposes if the differences between the old and new debt instrument constitute a “significant modification” of the old debt instrument under applicable Treasury Regulations. A “significant modification” occurs if, based on all the facts and circumstances and taking into account all modifications of the debt instrument collectively, the legal rights or obligations that are altered and the degree to which they are altered is “economically significant.”

Based on these Treasury Regulations, the Debtors intend to take the position that the Debt/Debt Exchanges result in a “significant modification” of the First Lien Debt and DIP Loans and thus an exchange for U.S. federal income tax purposes of the First Lien Debt and DIP Loans for the Takeback Debt. In addition, the Debtors were all jointly and severally liable on the First Lien Debt and DIP Loans as well as the Takeback Debt. However, for U.S. federal income tax purposes, all of the First Lien Debt and DIP Loans were characterized as obligations of MIFSA, a non-U.S. subsidiary of Mallinckrodt, except for 61.02% of the 2017 Replacement Term Loans which were characterized as obligations of MEH, Inc. (“MEH”), a U.S. subsidiary of Mallinckrodt. As of the Effective Date, the Takeback Debt was characterized for U.S. federal income tax purposes as obligations of MIFSA and MEH as follows<sup>3</sup>:

<b>Takeback Debt</b>	<b>MIFSA</b>	<b>MEH</b>
First-Out Takeback Term Loans	100.00%	0.00%
Second-Out Takeback Term Loans	33.05%	66.95%
Takeback Notes	68.13%	31.87%

Treatment of the Debt/Debt Exchanges will depend, in part, on whether the DIP Loans, First Lien Debt and/or the Takeback Debt constitute “securities” for purposes of the provisions of the Code relating to tax-free transactions. The test of whether a debt obligation is a security involves an overall evaluation of the nature of the obligation, with the term of the obligation usually regarded as one of the most significant factors. Debt obligations with a term of five years or less generally have not qualified as securities, whereas debt obligations with a term of ten years or more generally have qualified as securities. The DIP Loans had an original term of less than five years. As such, the Debtors believe that the DIP Loans do not constitute securities for U.S. federal income tax purposes and, therefore, the DIP Debt Exchange will be a taxable exchange. Although the matter is not free from doubt, the Debtors intend to take the position that the First Lien Debt, which all had original terms of between five and seven years, constitute securities for U.S. federal income tax purposes.<sup>4</sup> It is unclear whether the Takeback Debt will constitute securities for U.S. federal income tax purposes because of their five-year term. If the First Lien Debt and Takeback Debt are each securities, the First Lien Debt/Debt Exchange will be a non-taxable exchange for U.S. federal income tax purposes. However, if the First Lien Debt are not securities, the First Lien Debt/Debt Exchange with respect to the relevant First Lien Debt that are not securities will be a taxable exchange for U.S. federal income tax purposes. Furthermore, if the Takeback Debt are not securities, the First Lien Debt/Debt Exchange will be a taxable exchange for U.S. federal income tax purposes regardless of whether the First Lien Debt are securities.

In a taxable exchange, a U.S. Holder should recognize gain or loss equal to the difference between (i) the sum of the fair market value of the portion of the Takeback Debt and any Cash received in the taxable exchange (other than the amount of Cash allocable to unpaid accrued interest) and (ii) the U.S. Holder’s adjusted tax basis in the DIP Loans or in the portion of the First Lien Debt, as the case may be, surrendered in the Debt/Debt Exchanges. A U.S. Holder’s tax basis in the portion of the Takeback Debt received in a taxable exchange (other than the Takeback Debt, if any, allocable to unpaid unaccrued interest) should equal the fair market value of such Takeback Debt on the Effective Date. A U.S. Holder’s holding period for the portion of the Takeback Debt received in a taxable exchange should begin on the day following the Effective Date.

<sup>2</sup> Percentages are based on (i) the fair market value of the Takeback Debt (as disclosed later in this Form 8937), on the one hand, relative to the (ii) the fair market value of the New Common Equity (based on the estimate disclosed in the Valuation Analysis included as Exhibit F in the Disclosure Statement), on the other hand, in each respective exchange. To the extent assumptions and/or estimates regarding the fair market values of either the Takeback Debt or the New Common Equity as of the Effective Date change in the future, it is expected that a corrected Form 8937 will be made available.

<sup>3</sup> The allocation of Takeback Debt between MIFSA and MEH is subject to change. If the allocation changes and a corrected Form 8937 is necessary, the updated allocation will also be included in the corrected Form 8937.

<sup>4</sup> The 2025 1L Notes may qualify as securities because they had an original term of more than five years and were reinstated in the 2020-2022 Plan (as defined in the Disclosure Statement).

In a non-taxable exchange, a U.S. Holder should not recognize income, gain or loss except to the extent a) Cash received in the non-taxable exchange is allocable to unpaid accrued interest and b) gain (but not loss) is recognized in an amount equal to the lesser of the remaining Cash received (i.e., any Cash not allocable to unpaid accrued interest) in the non-taxable exchange and the amount of gain, if any, realized in the non-taxable exchange. A U.S. Holder's tax basis in the portion of the Takeback Debt received in a non-taxable exchange should generally be equal to the adjusted tax basis the U.S. Holder had in the relevant portion of the First Lien Debt surrendered therefor on the Effective Date increased by any gain recognized in such exchange and decreased by any Cash received in such exchange not allocable to unpaid accrued interest. A U.S. Holder's holding period for the portion of the Takeback Debt received in a non-taxable exchange should be the same as their holding period for the portion of the First Lien Debt exchanged therefor.

The Plan provides that Cash will be paid in an amount equal to the Accrued and Unpaid Interest of the First Lien Debt. Notwithstanding that, the Plan provides that all distributions in full or partial satisfaction of Allowed Claims shall be allocated first to the principal amount of Allowed Claims, with any excess allocated to unpaid interest that accrued on such Allowed Claims (in each case as determined for U.S. federal income tax purposes). Notwithstanding the Plan provision, there is general uncertainty regarding the extent to which the receipt of cash or other property with respect to a debt instrument should be treated as attributable to unpaid accrued interest. To the extent any property received pursuant to the Plan is considered attributable to unpaid accrued interest (including but not limited to the Cash paid in respect of the Accrued and Unpaid Interest of the First Lien Debt), a U.S. Holder will recognize ordinary income to the extent the value of the property exceeds the amount of unpaid accrued interest previously included in gross income by the U.S. Holder. A U.S. Holder's tax basis in such property should be equal to the amount of interest income treated as satisfied by the receipt of the property, and its holding period in the property should begin on the day after the Effective Date. A U.S. Holder generally will be entitled to recognize a loss to the extent any accrued interest previously included in its gross income is not paid in full. Although not entirely clear, such a loss may be treated as an ordinary loss rather than a capital loss. U.S. Holders should consult their own tax advisors regarding the extent to which consideration received under the Plan should be treated as attributed to unpaid accrued interest.

*Information Required by Treasury Regulations Section 1.1273-2(f)(9).* As required by Treasury Regulations Section 1.1273-2(f)(9), the Debtors have determined that the First Lien Debt and the Takeback Debt are publicly traded. As such, for U.S. federal income tax purposes, the "issue price" of the Takeback Debt will be the fair market value of the Takeback Debt as of their issue date. Based on pricing obtained from independent sources<sup>5</sup>, the Debtors have determined that the fair market value of the Takeback Debt as of the date of the Debt/Debt Exchanges (as a percentage of outstanding principal amount) is:

- First-Out Takeback Term Loans – 101.750%
- Second-Out Takeback Term Loans – 102.125%
- Takeback Notes – 107.994%

### **Debt/Equity Exchanges**

The Debtors intend to take the position that the Debt/Equity Exchanges meet the requirements of Section 351 of the Code, and therefore are subject to Section 367 of the Code in light of Mallinckrodt being a non-U.S. corporation. As such, a U.S. Holder of First Lien Debt or Second Lien Debt should be treated as receiving New Common Equity in a transaction governed by Section 351 of the Code. Section 351 of the Code, when applicable, generally prevents recognition of both gains (subject to the rules regarding unpaid accrued interest and market discount as further discussed in the Disclosure Statement) and losses. However, because Mallinckrodt is not a U.S. corporation, Section 367 of the Code will override the gain (but not the loss) deferral provisions of Section 351 of the Code with respect to the Debt/Equity Exchanges (i) for all U.S. Holders, if the First Lien Debt or Second Lien Debt are not "securities" (discussed above and in the Disclosure Statement)<sup>6</sup> or (ii) solely with respect to U.S. Holders who will own (directly, indirectly or constructively) more than five percent of the New Common Equity at the time of the Debt/Equity Exchanges, except to the extent such U.S. Holder enters into a "gain recognition agreement" in accordance with the Treasury Regulations under Section 367 of the Code, as further described in

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<sup>5</sup> The pricing of the Takeback Term Loans is based on an average of bid and ask quotes obtained from Bloomberg and the pricing of the Takeback Notes is based on an average of actual trading activity occurring during the 15 days after the Effective Date.

<sup>6</sup> The 2025 2L Notes may qualify as securities because the issuance of the 2025 2L Notes may not have given rise to a "significant modification" of the debt exchanged therefor in the 2020-2022 Plan. It is unclear whether the 2029 2L Notes constitute securities because the 2029 Second Lien Notes had an original term of seven years.

the Disclosure Statement. U.S. Holders are strongly urged to consult their own tax advisors regarding the application of Section 367 of the Code.

A U.S. Holder's tax basis in the New Common Equity should equal the adjusted tax basis the U.S. Holder had in the portion of First Lien Debt and Second Lien Debt that were deemed exchanged for the New Common Equity on the Effective Date increased by the amount of gain, if any, recognized on the Debt/Equity Exchanges. A U.S. Holder's holding period for the New Common Equity should be the same as their holding period for the First Lien Debt or Second Lien Debt exchanged therefor.

Form 8937 Line 16:

*Describe the calculation of the change in basis and the data that supports the calculation, such as the market values of securities and the valuation dates*

See Line 15.

Form 8937 Line 17:

*List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based*

Sections 351, 354, 356, 358, 367, 368, 1001, 1012 and 1273.

Form 8937 Line 18:

*Can any resulting loss be recognized?*

See Line 15. In addition, due to the inherently factual nature of determining whether a loss is allowable for U.S. federal income tax purposes, U.S. Holders are urged to consult the Disclosure Statement and their own tax advisors regarding such determination.

Form 8937 Line 19:

*Provide any other information necessary to implement the adjustment, such as the reportable tax year*

Any income, gain or loss or adjustments to basis would be taken into account in the tax year of the U.S. Holder during which the Effective Date (November 14, 2023) occurred.