

Verne, B. Michael

Item 7

From: [REDACTED]
Sent: Wednesday, January 25, 2012 6:11 PM
To: Verne, B. Michael
Subject: Joint Ventures

Mike,

When reporting a joint venture formation under 801.40 or 801.50, are 6-digit NAICS overlaps between two venturers still relevant to Item 7? The SBP of July 31, 1978 at 33532 states that they are relevant but I do not know whether this is still the PNO's view.

How would a reporting person respond to Item 7 in connection with a joint venture formation in the following scenarios?

1. There is a 6-digit NAICS overlap between assets of the reporting person (not to be contributed to JV) and assets (not to be contributed to JV) of another acquiring person not required to file. There is **no** overlap between the reporting person and the 6-digit NAICS codes in which the JV is expected to derive revenues. Would a response to Item 7 be required? The 2011 Form instructions suggest that no response Item 7 would be required.
2. There is a 6-digit NAICS overlap among (a) assets of the reporting person (not to be contributed to JV), (b) assets (not to be contributed to JV) of another acquiring person not required to file **and** (c) the NAICS codes in which the JV is expected to derive revenues. In that case, I assume the reporting person would respond to Item 7. Would they also need to list the other venturer in 7(b)(i) since it is a "party to the acquisition."
3. There is a 6-digit NAICS overlap between (a) assets of the reporting person (not to be contributed to JV), and (b) the NAICS codes in which the JV is expected to derive revenues. There is also a separate 6-digit NAICS overlap between (a) assets (not to be contributed to JV) of another acquiring person not required to file and (b) the NAICS codes in which the JV is expected to derive revenues. In this case, the reporting person would respond to Item 7 with respect to its own overlap. Would it also have to disclose the other overlap?

Many thanks,

[REDACTED]

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1. Correct – no response
2. The acquiring person would report its overlap with the JV, but does not need to report the other venture because it is not an **acquired** entity that is a party to the acquisition
3. It would not have to disclose the other overlap (see 2)

BW
1/25/12