

Verne, B. Michael

To: Verne, B. Michael
Subject: 802.21

2 years ago A filed to acquire voting securities of X at the \$50 million threshold. The acquiring entity was A's wholly-owned sub B. Subsequently A spun off B to its shareholders. B still holds the voting securities of X. B now would like to acquire additional shares of X which would not exceed the \$100 million threshold. The question is whether B can rely on 802.21 for its acquisition.

Answer: B is not covered by 802.21, only A. Otherwise there would be two separate UPEs able to rely on the exemption.

MB KW and RJ concur

BM
2/7/12