

**Gillis, Diana L.**

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**From:** Walsh, Kathryn E.  
**Sent:** Thursday, January 08, 2015 1:40 PM  
**To:** [REDACTED]  
**Cc:** Gillis, Diana L.; Pope, Susan H.; Whitehead, Nora  
**Subject:** RE: Request for informal interpretation

Paul – we agree with your take.

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**From:** [REDACTED]  
**Sent:** Thursday, January 08, 2015 12:42 PM  
**To:** Walsh, Kathryn E.  
**Subject:** Request for informal interpretation

Dear Kate:

We would like your advice regarding the following transaction between persons X and Y:

X is a REIT that does not hold more than \$75.9 million of non-exempt assets. X will acquire from Y (not a REIT) more than \$75.9 million of non-exempt assets. As consideration Y will receive cash plus voting securities of X that, when aggregated with the voting securities of X currently held by Y, would result in Y holding X voting securities valued at more than \$75.9 million.

X's acquisition from Y is reportable. However, the question on which we seek your advice is whether Y's acquisition of X's voting securities as consideration is also reportable. Our belief is that the acquisition should not be reportable because, under 16 C.F.R. §802.4, X does not hold non-exempt assets valued at more than \$75.9 million. While it is true that X will be acquiring a reportable amount of non-exempt assets from Y in this transaction, we believe that these assets to be acquired from Y should not be attributed to X as if they were held at the time of Y's acquisition of X's stock. We have been unable to find any prior interpretations addressing this exact situation, but we note that § 802.4(c) does embrace a somewhat similar principle.

Please let us know if you agree that Y's acquisition of X's voting securities in this transaction is not a reportable transaction.

Thank you for your consideration and please call if it would be helpful to discuss.