

802.2  
802.5

Verne, B. Michael

From: [REDACTED]  
Sent: Wednesday, April 27, 2005 10:40 AM  
To: Verne, B. Michael  
Subject: 802.2 Real Estate Exemptions

Dear Mike,

Could you give clarification on the application of the 802.2 real estate exemptions as follows?

1. Property A consists of residential property (condominium units) and a garage. A proposed sale by Seller, however, contemplates only the sale of the garage located on Property A to Buyer (the condominium units will be sold separately to the public as individual units for residential purposes). The garage is intended for use - for a fee - by both the residents of the building and the general public. Ownership interests in the LLC which owns the garage will be sold as part of the transaction; a garage business will not be sold as part of the transaction.

\* Would the sale of the garage contained within residential and office property, but sold separately from such residential or office property, qualify for the 802.2(d)(2)(iii) exemption?

2. Property B consists of residential property and qualifies for the 802.2(d) exemption. Property C is situated next to Property B, and has generated total revenues of less than \$5 million during the preceding 36 months. Please assume properties B and C have the same UPE and the Size of Transaction and Party tests would be met.

\* I understand that if C were sold on its own, it would qualify for the 802.2(c) unproductive real property exemption. If both properties are sold in a transaction to the same Acquiring Person, however, could Property C still qualify? Since it is adjacent to Property B (not unproductive real property that is included in the transaction), I presume C can not qualify for the exemption, but wanted to determine if B's exempt status had any effect on the analysis.

Thanks for your help,  
[REDACTED]

1) NOT RESIDENTIAL, BUT IF NO BUSINESS IS BEING ACQUIRED THIS COULD QUALIFY FOR 802.5.  
2) UNPRODUCTIVE REAL PROPERTY THAT IS ADJACENT TO PRODUCTIVE, BUT EXEMPT, REAL PROPERTY CAN STILL QUALIFY FOR THE 802.2(C) EXEMPTION.

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