

802.30
801.90

Verne, B. Michael

From: [REDACTED]
Sent: Tuesday, September 27, 2005 11:52 AM
To: Verne, B. Michael
Subject: 802.30/801.90 with respect to an LLC

Hi Mike,

I am writing to you to request your guidance with respect to a redemption transaction. Our client (Company A) is one of five members in an LLC. The LLC (pursuant to redemption agreements between the LLC and three exiting members) is redeeming the membership interests of three of the five members of the LLC. Company A and one other member will remain as members of the LLC.

My understanding is that the LLC's acquisition of its own membership interests from three of the five members of the LLC is exempt under 802.30 assuming that the transaction has a legitimate business reason for being structured as a redemption. I want to confirm that, provided that the two members remaining after the redemption are not instrumental in causing the redemption, the transaction would not be considered an 801.90 avoidance scheme.

If, after the redemption, Company A has a controlling interest in the LLC then I don't believe that Company A would have any filing requirements under the HSR Act for future purchases of membership interests in the LLC as Company A will already hold a controlling interest in the LLC. However, if, after the redemption, Company A has a minority interest in the LLC, then I believe that Company A would have a filing obligation under the HSR Act in the event that Company A purchases a controlling interest in the LLC that otherwise meets the size of transaction and person thresholds. Could you confirm that my understandings are correct.

Thank you as always for your assistance. I hope you are doing well.

AGREE -
B. Michael
9/27/05

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