

802.2
802.4

Verne, B. Michael

From: [REDACTED]
Sent: Tuesday, May 29, 2007 9:05 AM
To: Verne, B. Michael
Subject: RE: Exempt Assets Related to Realty

Hi Mike.

I hope all is well.

Can we set up a time today to talk about the questions below?

Thanks,
[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Friday, May 18, 2007 3:39 PM
To: Verne, B. Michael
Subject: Exempt Assets Related to Realty

Hi Mike.

I hope all is well. It has been some time since I have talked to you.

I do have a few questions for you. X is planning to acquire the voting securities of Y. Y holds exempt realty under 802.2. Y also holds the following.

(1) Y owns parking lots adjacent or near to its exempt realty. I understand that to the extent the parking lots serve tenants in the realty owned by Y, they would be exempt even if the tenants must pay a separate rental fee to park their cars in the lots. Is that correct? YES

I also understand that to the extent some of the parking lots owned by Y lease spaces to

persons who are not tenants of the realty owned by Y, such parking lots would be exempt so long as Y leases the lots to a third party to operate. Do you agree? YES

If a third party operates the lots owned by Y under a management contract (rather than pursuant to a lease), the lots would not be exempt, but only to the extent that some of the lots lease spaces to persons who are not tenants of the realty owned by Y. Is that correct? YES
What if the non-tenants who lease the spaces from the parking lot operator are guests of the tenants of Y's buildings? Could we take the position that such parking lots are exempt even if Y contracts (rather than leases) such lots to a third party to operate? YES

Finally, if a third party parking lot operator (under a contract and not a lease from Y) leases spots primarily to Y's tenants, may we conclude that such parking lots are exempt? (I hope I am not giving you a headache.) YES

(2) Y makes mezzanine loans to third parties. To the extent that such loans are secured 100% by realty, I understand that they would be exempt. What if the loans are secured by equity interests in a real estate owner? Can we conclude that such loans are exempt or would we have to determine whether the real estate owner also holds other types of assets? YES

Are loans that Y has made to persons who hold an equity interest in Y or an entity under common control with Y exempt so long as they are secured by the equity interests in Y or the commonly controlled Y entity? What if they are not secured at all? - NOT EXEMPT IF UNSECURED LOANS

Would personal loans that Y has made to individuals for relocation purposes be exempt even if unsecured? NOT EXEMPT

(3) Y charges insurance rates to joint ventures in which it owns less than 50% of the interests so that such joint ventures are covered by Y's own insurance program. Would these activities be exempt? NOT EXEMPT

(4) Y holds interest rate swaps, foreign currency hedges, and energy swaps (which lock in energy prices for Y's realty for a period of time). I assume that all such swaps and hedges would be exempt. Do you agree? YES

(5) Y also owns fitness centers which serve the tenants of Y's buildings. I assume these would be exempt regardless of whether the tenants pay a separate membership fee. Is that correct? YES
Do we need to confirm that non-tenants may not purchase membership to the fitness facilities? NO

Thanks for your help Mike.

Best regards,
[REDACTED]

[Signature]
5/29/07