

802.50

Verne, B. Michael

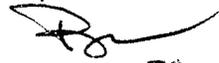
From: [REDACTED]
Sent: Saturday, July 28, 2007 4:58 PM
To: Verne, B. Michael
Subject: 802.50

Dear Mike:

I am writing to confirm your advice through our exchange of voicemails this past week. In this transaction, Acquiring Person has made a tender offer for all of the voting securities of Acquired Issuer. Both companies are incorporated outside the U.S., but Acquired Issuer has its principal place of business inside the U.S., so the 802.51 "foreign issuer" exemption is not available. Nevertheless, the bulk of the Acquired Issuer's assets are located outside the U.S., and its non-exempt U.S. assets have a fair market value of less than \$59.8 million. We therefore considered whether the direct acquisition of these non-U.S. assets would be exempt, because if so, then 802.4, if the non-U.S. assets qualify

The issue under 802.50 is whether the non-U.S. assets generated sales into the U.S. in excess of \$59.8 million. The non-U.S. assets are precious-metal mines, mining equipment, and other mining/exploration assets. The Acquired Issuer mines the metals, melts the metal into bars, and ships the bars to a refiner, who separates the metals to produce pure-metal bars (e.g., pure gold). According to its annual report, during its most recent fiscal year the Acquired Issuer did not deliver any metal bars to a refiner in the U.S. The refiner works on a toll-refining basis and does not take title. The Acquired Issuer sells its metals to or through trading desks, including one located in the U.S. The Acquired Issuer does not necessarily know the identity or the location of the actual buyer of the metal. We believe that when the trading desk has made a sale or group of sales, it notifies the Acquiring Issuer, who in turn notifies the refiner to release specified amounts of specified metals to the order of the trader. (It is possible that the Acquired Issuer has less involvement, and that it simply instructs the refiner to release up to a certain amount as directed by the trader, with the Acquiring Issuer not learning or transmitting the identities of the recipients.) As between the Acquired Issuer and the trader, the metals are sold FOB the refinery.

I understand from your voicemail that you agree with our conclusion that the activity described above does not constitute sales into the U.S. by the Acquired Issuer. Please let me know if this is not correct. Many thanks.

AGREE

7/30/07

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