

Johnson, Janice C.

From: [REDACTED]
Sent: Monday, December 17, 2007 5:13 PM
To: Johnson, Janice C.
Subject: Capital leases are treated as debt when buyer assumes them in stock deal

Dear Ms. Johnson,

Thank you for speaking with me earlier today about how to treat capital leases in calculating the HSR notification threshold. This is to confirm your answer on that. In stock deals, the acquisition price is the value of the voting securities being acquired. Thus, when part of the buyer's consideration in an acquisition of voting securities is to go toward assuming the seller's capital leases, the capital leases can be treated as debt and the entire outstanding amount of the leases can be excluded in determining if the notification threshold is met.

With regard,

[REDACTED]

This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

[REDACTED]

The analysis is correct. Do not include the capital leases in valuing the voting stock.

]]

I AGREE -
Ben