

801.93

**Verne, B. Michael**

---

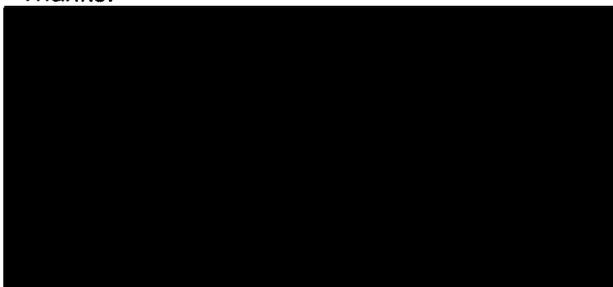
**From:** [REDACTED]  
**Sent:** Monday, March 10, 2008 4:08 PM  
**To:** Verne, B. Michael  
**Subject:** HSR Advice

Mike, I have two questions for you.

1) A Client holds 50% of the voting securities of Company. He has placed 5% of those holdings in a irrevocable grantor retained annuity trust (GRAT), the term of which is 3 years - during those 3 years the Client is paid an annuity amount. Client has the right to remove any trustee at any time for any reason. After the 3 years, the remaining principal and undistributed income of the trust is distributed to a trust for Client's wife and children - Client has no interest in the trust for his wife and children. Am I correct in concluding that the client has no reversionary interest in the GRAT because the remaining principal and undistributed income accrues to Client's wife and kids? So the 5% would not count towards Client's holdings?

2) Client is effecting a simultaneous transaction - transaction A and transaction B. Per the rules, the FTC does not view the transactions as simultaneous, and we must designate one transaction as preceding the other. Under any circumstance, transaction B does not meet the minimum HSR thresholds, so no filing is necessary. Transaction A does require a filing. If we designate transaction B as the preceding transaction, we would be required to include all of the financial information from the acquired party in the filing for transaction A. If we designated transaction A as the preceding transaction, we would not have to include the financial information of the acquired party from transaction B. Would it be considered a 801.90 avoidance device if we designated transaction A as the preceding transaction only to avoid having to include the financial information from the acquired company from transaction B?

Any guidance is helpful.  
Thanks.



---

**IRS CIRCULAR 230 NOTICE**

In compliance with IRS requirements, we inform you that any U.S. tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of avoiding tax penalties or in connection with marketing or promotional materials.

---

**STATEMENT OF CONFIDENTIALITY:**

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, or the person responsible for delivering the e-mail to the intended recipient, be advised you have received this message in error and that any use, dissemination,



1. I agree that there is no reversionary interest in the GRAT, but if Client can remove and replace the trustees for any reason he will control the GRAT and therefore will hold the voting securities in the GRAT.

2. I don't see an 801.90 issue.

BN  
3/21/08