

801.50

Verne, B. Michael

From: [REDACTED]
Sent: Friday, June 27, 2008 6:01 PM
To: Verne, B. Michael
Subject: Joint Venture -- 801.50 question CORRECTION to previous email

Hi Mike,

I had a small correction to my previous email, so please disregard and apologies for the multiple emails.

We had a question regarding joint ventures. This transaction is an asset purchase of certain assets of Company X whereby a newly formed LLC ("Newco") will receive cash, borrowed funds, and assets as follows:

Fund A, Fund B, and Fund C, each of which is its own UPE, will contribute cash to Newco. Funds A, B and C will receive 25%, 25%, and 5%, respectively, of the membership interests/voting stock in Newco. Company X, which is also its own UPE, will contribute a portion of its assets from a division and will borrow additional funds to purchase the remaining assets of this division in exchange for 40% of the membership interests/voting stock in Newco. The total value of the transaction is \$400 million.

Notwithstanding that the parties are characterizing this as an asset purchase, it seems that this transaction would be evaluated under C.F.R. § 801.50 as a joint venture because the seller is retaining an interest in the non-corporate Newco. Therefore, as the value of the assets is irrelevant and the fact that no one controls Newco, the transaction as non-reportable.

Do you agree?

Thanks very much,

[REDACTED]

[REDACTED]

AGREE -
[Signature]
6/30/08

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6/30/2008