

ITEM 5

Verne, B. Michael

From: [REDACTED]
Sent: Tuesday, February 08, 2011 3:43 PM
To: Verne, B. Michael
Subject: Item 5 - U.S. or Foreign Revenue

Please confirm proposed treatment of revenue described below for Item 5 of the HSR Form, or advise as to how we should treat same.

1. Company is a U.S. person and arranges for the manufacture of products in China by independent suppliers. Company enters into sales contracts in the United States with U.S. wholesale customers. Company takes delivery of the products in China from the suppliers, and title and risk of loss passes in China to the U.S. customers, who arrange for shipment of the products from China. Company does not control where the products are shipped, but believes that most or all of the products are shipped to the United States for resale at U.S. retail stores operated by the customers. We presume based on guidance in paragraph five at the link copied below (include revenue from sales by a U.S. entity regardless of the location of customers), that revenue from the sales described above should be included in Item 5, but please confirm same.
2. Company has a controlled subsidiary in China that is a foreign entity. If the foreign subsidiary rather than the U.S. parent company enters into the sales contracts with U.S. customers, and assuming other facts remain the same, we presume based on guidance in paragraph two at the link copied below (exclude revenue from sales by a foreign entity directly to customers in the U.S., where orders are placed with the foreign entity and title and risk of loss passes to customers outside the U.S.), that revenue from the sales described above should be excluded from Item 5, but please confirm same.
3. Company enters into sales contracts in the United States with other U.S. customers for products made in China by independent suppliers. Company takes delivery of the products in China, arranges for shipment and importation of the products from China to the United States, and sells the products from its U.S. warehouse to U.S. wholesale customers. We presume based on guidance at paragraph five at the link copied below (include revenue from sales by a U.S. entity regardless of the location of customers), that revenue from these sales is included in Item 5, but please confirm same.

[REDACTED]

[REDACTED]

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1. Sales should be included in Item 5 as wholesale codes (same under new proposed rules)
2. Sales should be excluded from Item 5 (under new proposed rules these sales would be reported in Item 5 as manufacturing codes)
3. Sales should be included in Item 5 as wholesale codes (same under new proposed rules)

BW
2/9/11