

801.50

Verne, B. Michael

From: [REDACTED]
Sent: Monday, October 01, 2012 3:16 PM
To: Verne, B. Michael
Subject: 801.50 Question

Mike -

I have a question about a 801.50 joint venture transaction. My client, Contributor A, plans to enter into Contribution Agreement with Contributor B and create Newco LLC. B will contribute non-exempt assets worth \$134 million to Newco LLC and receive 50% of Newco LLC. A will contribute \$67 million to Newco LLC in exchange for 50% of Newco LLC. Under the Agreement, A & B will both be required to make cash calls in the future, which will be used to make capital improvements to the LLC assets. With respect to Contributor A, I understand the 802.4 and 802.30(c) exemptions do not apply. In calculating the acquisition price in accordance with 801.10(d), does Contributor A need to take into account the future cash calls it will make to Newco LLC? It would seem strange that capital improvement funding would be taken into account.

Thanks,
[REDACTED]

[REDACTED]

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Future commitments to contribute cash are only taken into account in determining the size of person for the Newco. They would not be considered in determining the size of transaction.

B

10/2/12

K. WALSH CONCUR