801. 50

From:	
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,

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.

[signature]
10/2/12

K. WALSH CONCUR