

801.11(e)

Verne, B. Michael

From: [Redacted]
Sent: Tuesday, October 16, 2012 11:29 AM
To: Verne, B. Michael
Subject: Size of Person Q

Hi Mike,

We have a client that is acquiring the shares of a target (Target) through a newly formed entity (UPE). UPE has more than two investors, none of whom control it and does not have a balance sheet. UPE will be funded with approximately \$300 million dollars -- \$250 million for the acquisition of the shares of the Target on a debt free basis and \$50 million is allocated to pay off the Target's debt (it is not yet clear whether the debt will be paid off directly by UPE or if it will go to the Seller (Target's parent) and the Seller will pay off the debt) + potentially some additional cash for other transaction expenses.

I'm assuming the transaction value here is \$250 million, and therefore the size-of-person threshold applies. Would we need to count the \$50 million allocated to the debt pay-off toward the \$13.6 million size-of-person threshold or is the \$50 million considered "cash that will be used for expenses incidental to the acquisition" under 801.11(e)?

Many thanks,

[Redacted Signature]

IRS Circular 230 Disclosure

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Any funds that will be exhausted as a result of the transaction can be excluded under 801.11(e), so the cash to pay off the debt does not count toward the size of person.

B
10/12/12