From: Walsh, Kathryn E.
Sent: Tuesday, April 12, 2016 12:02 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Proper revenues to use for 802.2(c) analysis

[redacted]

You use the LogCo net revenues (which are gross revenue minus returns, discounts and allowances, but not minus costs – see informal interp 1509005) because Logco (the entity with third party sales) is being acquired. This differs from 1205002 where the entity making the third party sales (C) was not part of the acquisition.

Thanks,
Kate

From: [redacted]
Sent: Monday, April 04, 2016 11:29 AM
To: Storm, Evan
Cc: [redacted]
Subject: RE: Proper revenues to use for 802.2(c) analysis

Hello Evan,

We are finalizing our analysis of the 802.2(c) unproductive real property exemption for a transaction involving the sale of timberland, and we want to confirm the revenues that we should be using for the 36 month calculation.

The acquired entity is a REIT, which owns timberlands in a number of physically separate tracts. Assume the acquiring entity is not a REIT for our purposes here. The acquired REIT also has two taxable REIT subsidiaries. Revenues are generated by the REIT through IRC §631(b) stumpage agreements, as well as through cell tower leases. The stumpage agreements are with the taxable subsidiaries (collectively called "LogCo"), which in turn sell timber to third parties on a mill delivered basis (which includes the stumpage price plus the costs of cutting, loading and transporting the trees to the mills). LogCo does not have its own logging personnel, so they contract out the logging and hauling activities to unrelated third party contractors.

In the current transaction, the REIT is being acquired along with LogCo. We need to determine how to properly calculate the REIT's revenue in compliance with 802.2(c). There are two options for calculation: we can use the transfer revenue, which is the revenue received by the REIT from stumpage sales to LogCo under the timber harvest agreement, or we can use LogCo's net revenue, which is the gross revenue received by LogCo from sales to third parties, less the cost of cutting, loading, OBT and haul.

Based on Informal Interpretation 1205002, would you agree that we should use the transfer revenue method? Or, because LogCo is being acquired along with the REIT, should we focus solely on the net revenue, i.e., gross revenue less cutting, loading, OBT and haul?

Thank you for your assistance. Please call or e-mail if you need any additional information.

Best regards,

[redacted]

[redacted]

[redacted]

[redacted]