

Sheinberg, Samuel I.

From: [REDACTED]
Sent: Wednesday, October 17, 2018 3:25 PM
To: Walsh, Kathryn E.; Berg, Karen E.; Carson, Timothy; Sheinberg, Samuel I.; Whitehead, Nora
Subject: FW: Item 8 question

From: Shaffer, Kristin
Sent: Wednesday, October 17, 2018 3:24:58 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Item 8 question

[REDACTED]

We agree, except that you would need to look at the fair market value of the assets at the time of acquisition (which may or may not have been the same as the purchase price).

Best regards,
Kristin

[REDACTED]

From: [REDACTED]
Sent: Wednesday, October 17, 2018 1:16:14 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Subject: Item 8 question

Dear Staff,

We are trying to determine whether certain prior acquisitions need to be reported in Item 8. Assume for purposes of this question that the prior acquisitions involve an overlapping NAICS code.

The prior acquisitions were structured as follows:

- Party A would form a new LLC and contribute cash
- Party B would contribute assets (most of a business, but retaining A/R, payables, etc.)
- Party B receives the cash in the LLC, plus a minority interest in the LLC
- Party A retains a majority interest in the LLC that now owns the assets

We are assuming that, for purposes of Item 8, this type of transaction is viewed as an asset acquisition by Party A, and would be included in Party A's current filing only if the purchase price (the cash contributed by A and paid to B) exceeded the HSR threshold at the time of the acquisition.

Is our assumption correct?

Thank you very much for your guidance.

[REDACTED]

[REDACTED]

[REDACTED]

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