

F.I. 15

From: [REDACTED]
To: "Mike Verne (E-mail)" <mverne@ttc.gov>
Date: 3/26/02 11:15AM
Subject: Question

Mike:

Could I run the following transaction by you:

The deal involves ultimately, Investor A's investment of new funds into Company A and the creation of an new LLC that will hold all stock of Company A, and will distribute membership interests in the LLCs to Company's A current few shareholders.

The deal will be carried out in several steps as follows:

First, Investor A will inject \$50 million of new capital into Company a in exchange for common voting stock. This is transaction 1.

Second, Investor B will sell \$27 million of Company A stock to Investor A. This is transaction 2.

Third, Investor A will transfer its entire holding in Company A (which totals about \$70 m, when combined with a preexisting holding, giving Investor A approximately 72% controlling interesting in Company A) to NewCo LLC (a newly formed LLC) in exchange for controlling membership interest in Newco. (Transaction 3)

The several other entities which also hold stock in Company A will do the same so that all Company A stock will be held by New Co. This steps consists of the following transactions: Investor B will contribute the Company A stock it held (following the sale of \$27 million worth to Investor A) to Newco in exchange for an 18% membership interest in Newco. This transaction is valued at approximately \$20 Million. This is transaction 4.

A newly formed management vehicle, Investor C, will contribute \$7 million to Company A in exchange for Company A stock and will then exchange that \$7 million common Company A stock to NewCo in exchange for membership interests in Newco. Transaction 5.

Clearly, Transaction 1 is reportable. My question is whether the transfers of Company A stock to NewCo (only 1 of which exceeds \$50 M) would also be reportable; each Investor will receive membership interests in NewCo in exchange for Company A stock. Investor A will end up a 72% shareholder in Newco, which will hold 100% of Company A stock. I assume that Transactions 2, 4 and 5 are not reportable.

Thank you for your assistance.

[REDACTED]

THE ONLY REPORTABLE TRANSACTION IS INVESTOR A'S ACQUISITION OF COMPANY A VOTING STOCK. THE FORMATION OF NEWCO LLC IS NON-REPORTABLE

(ONLY ONE BUSINESS IS BEING CONTRIBUTED TO THE FORMATION)

B. Michael Verne
3/27/02 -