

801.1(a)(2)  
802.50  
802.51

Michael Verne

From: [REDACTED]  
Sent: Thursday, November 14, 2002 11:55 AM  
To: Michael Verne  
Subject: Question

Mike,

I have been asked to advise whether a US filing is necessary under the following conditions. Could you confirm that my nexus analysis is correct as to the following:

Acquiring company is 100% owned by the government of [REDACTED]. In the proposed transaction, Acquiring Company will acquire a line of business from a [REDACTED] company. The transaction involves the acquisition of both stock and assets from a variety of different subsidiaries of the [REDACTED].

1. Acquiring company will acquire 100% of the shares of a [REDACTED] sub of the [REDACTED] sub in turn has certain active subsidiaries, which will become indirectly owned by Acquiring Company.

2. A [REDACTED] subsidiary of the Acquiring Company will acquire a portion of the assets of a [REDACTED] sub of the [REDACTED] and the assets of a [REDACTED] of the [REDACTED].

The Acquiring Company has assets in the US of about 1.65 million representing inventory stock (but no intellectual property rights), and sales in the US of about 4.4 million. (There are other State companies in [REDACTED] that may also own assets and have sales in the US).

My first assumption is that I would look at the stock and assets deals separately and look at whether the nexus test is satisfied with respect to each one separately. (Although not for purposes of determining the value of the transaction, the stock and asset deals would be aggregated).

As to the stock deal, the deal will satisfy the nexus test if there is a change of control, which there is (at least to the direct acquisition) and if the issuer (the [REDACTED] I believe) holds assets in the US with a [REDACTED] over 50 M or made sales in or into the us over 50 mil last year. Please clarify that I only look to the sales of the issuer (the sub) for purposes of the nexus test, not to sales of the [REDACTED] in or into the US.

As to the asset deal, the nexus inquiry is whether as a result of the deal, the Acquiring person will hold assets that generate sales in or into the US exceeding \$50 million. For these purposes, I would think the [REDACTED] is the company, not the state of [REDACTED]. Would I include all of the assets of the [REDACTED] company in determining the US generated sales and combine them with the US generated sales of the assets to be acquired? And, again, I include only the assets to be acquired in the calculation, not all US sales generating assets of the [REDACTED] parent?

Thanks very much for any assistance.

Best wishes,

[REDACTED]

Advised that the analysis is as follows:

1) The acquiring person is the Swedish corporation since the government of [REDACTED] is not an entity.

2) If the sales in or into the U.S. and the assets located in the U.S. of the [REDACTED] whose voting securities will be acquired and all subs it controls do not exceed \$50 MM, the acquisition is exempt under 802.51.

3) If sales into the U.S. of all of the foreign assets to be acquired do not exceed \$50 MM in aggregate, their acquisition is exempt under 802.50.

4) Sales into the U.S. and assets located in the U.S. of the C [REDACTED] other than those attributable to the voting securities and assets to be acquired are irrelevant as are sales into the U.S. and assets located in the U.S. of the [REDACTED] corporation making the acquisition or any other entity controlled by the [REDACTED] government.

B. Michael [REDACTED]  
11/14/02