

801.10

Verne, B. Michael

From: [REDACTED]
Sent: Wednesday, December 08, 2004 11:31 AM
To: Verne, B. Michael
Cc: [REDACTED]
Subject: hypothetical question

Company A is selling assets to Company B.
Company A is owned 70% by Shareholder #1 and 30% by Shareholder #2

Company B is owned 70% by new shareholder and 30% by shareholder #2. Company B is formed to acquire the assets of Company A.

The assets of A are sold to B for 40 million cash plus 13 million of assumed liabilities.

Of the proceeds of the sale to A, shareholder #2 will receive 12 million and reinvest 6 million in company B for the 30% share.

QUESTION: can the acquisition price be reduced by either the 30% shareholder #2 held in both A and B in common?

Can the acquisition price be reduced by the 6 million cash reinvested in B by shareholder #2?

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NEITHER REDUCTION WOULD BE APPROPRIATE.
SHAREHOLDER 1, THROUGH ITS CONTROL OF B,
HOLDS ASSETS VALUED AT \$53mm AS A
RESULT OF THE ACQUISITION. SHAREHOLDER 2'S
ACQUISITION OF VORN SECURITIES OF B IS
A SEPARATE TRANSACTION. N. OUKA CONCURS.

B. Michael
12/8/04