

802.51

Verne, B. Michael

From: [REDACTED]
Sent: Friday, July 29, 2005 12:35 PM
To: Verne, B. Michael
Cc: Peay, Sandra M.
Subject: Section 802.51 question

Section 802.51(c) (2) of the HSR Regulations provides that if aggregate sales of the acquiring and acquired persons in or into the US are less than \$110 in their respective most recent fiscal years, a transaction would be exempt. In my situation, the Acquiring Person had no revenues in the US in its 2004 fiscal year. In 2005 it acquired a company ("NEWCO") that had revenues in the US. Presumably we don't look at the 2005 revenues since that is not its most recent fiscal year, but do we look at the 2004 revenues that NEWCO generated for its former owner for purposes of this determination?

Also, with regard to Section 802.51(c) (3), at what point of time is the valuation of the assets looked at? Most recently prepared balance sheet? Date of filing? End of prior fiscal year?

If you could let me know it would be appreciated. If you would like to speak over the phone, I can be reached at [REDACTED]

[REDACTED]

Pursuant to Treasury Regulations, any U.S. federal tax advice contained in this communication, unless otherwise stated, is not intended and cannot be used for the purpose of avoiding tax-related penalties.

The information contained in this E-mail message is privileged, confidential, and may be protected from disclosure; please be aware that any other use, printing, copying, disclosure or dissemination of this communication may be subject to legal restriction or sanction. If you think that you have received this E-mail message in error, please reply to the sender.

This E-mail message and any attachments have been scanned for viruses and are believed to be free of any virus or other defect that might affect any computer system into which it is received and opened. However, it is the responsibility of the recipient to ensure that it is virus free and no responsibility is accepted by [REDACTED] for any loss or damage arising in any way from its use.

THE 2004 REVENUES FOR NEWCO WOULD BE INCLUDED.

ASSETS ARE VALUED AT THE TIME OF FILING (IF REPORTABLE) OR CLOSING (IF NOT).

B. Michael

7/29/05