

802.51
801.15

Verne, B. Michael

From: [REDACTED]
Sent: Thursday, September 22, 2005 4:53 PM
To: Verne, B. Michael
Cc: [REDACTED]
Subject: question

Mike –

I'm hoping to get your thoughts on the following:

Assets of Company A, a US issuer, and voting securities of Company B, a foreign issuer controlled by A are being acquired by Company C, a foreign person, in a single transaction. The aggregate value of the assets and the shares is more than US\$53.1 million, but the value of the US assets is less than US\$53.1 million. Under Rule 801.14 we must aggregate the value of the assets and the voting securities but 801.15(d) provides that voting securities exempted under Rule 802.51(b) may be excluded from the calculation. Do we need to aggregate the sales in the US generated by the US assets of Company A with the sales in or into the US made by Company B to determine if 802.51(b) applies?

Examples to 802.51 and 801.15 lead me to differing conclusions!

Thanks!

No - DO NOT INCLUDE SALES BY THE U.S. ASSETS TOWARD THE LIMITATION IN 802.51.

*B. Michael
9/22/05*

IRS Circular 230 Notice (R&G)

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication is not intended or written to be used, and cannot be used by any taxpayer, for the purpose of avoiding U.S. tax penalties.

This message and any attachments may be protected by the attorney/client privilege. If you believe that it has been sent to you in error, do not read, copy or distribute it. Please reply to the sender that you have received the message in error and then delete it. Thank you.