

Verne, B. Michael

802.4

From: [REDACTED]  
Sent: Thursday, May 11, 2006 6:31 PM  
To: Verne, B. Michael  
Subject: Article/Exemption on Formation of LLC

Mr. Verne: Having reread the Article and parts of 802, I believe that I now understand. Below is an example of a transaction that I believe would be exempt under 802.4. Please let me know if I am correct. Thanks. [REDACTED]

Corporation X and Corporation Y want to form a joint venture that will be a limited liability company ("LLC"). Corporation X will contribute certain stock and assets to LLC in exchange for a 75% interest in LLC. The value of the stock and assets contributed and the value of the LLC interest are each assumed to be \$180 million. Corporation Y will contribute certain stock and assets to LLC in exchange for a 25% interest in LLC. The value of the stock and assets contributed and the value of the LLC interest are each assumed to be \$60 million. It is also assumed that the size-of-the-parties test has been satisfied. In determining whether or not the transaction is exempt under 802.4, the stock and assets are excluded pursuant to 802.30. In addition, the contribution of Corporation Y includes a minority interest in a foreign corporation the acquisition of which would be exempt under 802.51 [the minority interest would also be exempt under the last sentence of 802.4(a)], the value of which is approximately \$25 million, and foreign assets the acquisition of which would be exempt under 802.50, the value of which is approximately \$5 million. Accordingly, the value of the transaction for purposes of the size-of-the-transaction test is \$30 million (\$60 million contributed by Corporation Y, less \$25 million for the minority interest in the foreign corporation and less \$5 million for the foreign assets), and therefore the transaction is not reportable.

-----Original Message-----

From: Verne, B. Michael [mailto:MVERNE@ftc.gov]  
Sent: Monday, May 08, 2006 7:24 AM  
To: [REDACTED]  
Subject: RE: Article

The size-of-transaction is the value of the non-corporate interest received, not less anything. When analyzing the possibility of the acquisition being exempt under Section 802.4, you can exclude the value of what you are contributing to the formation from the \$56.7 MM limitation on non-exempt assets in that exemption pursuant to Section 802.30(c). Give me a call if you want to discuss.

*Bruce*  
5/10/06

-----Original Message-----

From: [REDACTED]  
Sent: Friday, May 05, 2006 5:00 PM  
To: Verne, B. Michael