

801.90

Verne, B. Michael

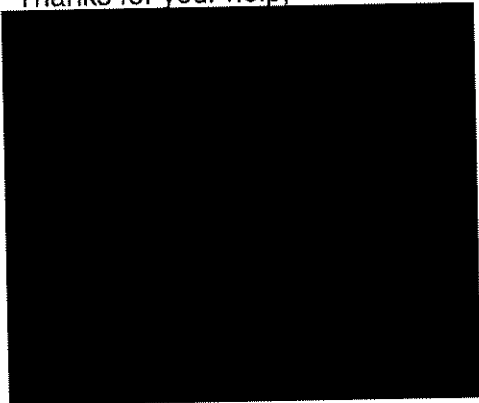
From: [Redacted]  
Sent: Wednesday, October 25, 2006 6:02 PM  
To: Verne, B. Michael  
Subject: HSR issue

Mike,

This is to confirm our phone conversation today regarding the following proposed transaction. Company A intends to purchase \$75 million in voting securities of Company B. Currently, Company A's UPE is a natural person (Investor X) who meets the size-of-person threshold. Prior to the transaction, the shares of Company A would be transferred to an irrevocable trust that is not controlled by any other person or entity. The trust and all entities it controls, including Company A, do not meet the size-of-person test and therefore, a filing would not be required for the acquisition of the Company B shares. The trust would have three protectors. Two of the three protectors are currently officers of companies controlled by Investor X. Investor X is currently a director and officer of Company A.

According to Informal Interpretation 189, change of UPE prior to a transaction could be considered a potential transaction or device for avoidance if it is determined to be a sham (e.g., beneficial ownership does not transfer) or if the transfer is undone shortly after the acquisition. Neither of these are applicable here. Although the structure of the proposed transaction will provide estate planning benefits to Investor X, an additional rationale for adopting this structure would be to eliminate the need to include information about Investor X's other holdings in response to Item 6 of the Form. We understand that as long as the transaction structure is not a sham, the reasons for adopting the structure do not result in the creation of a transaction or device for avoidance. Therefore, as we discussed, the transfer of the shares to the trust would not be considered a transaction or device for avoidance pursuant to Section 801.90.

Thanks for your help,



Agree -  
B. Michael  
10/25/06

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IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS and other taxing authorities, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties that may be imposed on any taxpayer or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.