

801.2

Verne, B. Michael

From: [REDACTED]
Sent: Monday, October 22, 2007 12:19 PM
To: Verne, B. Michael
Subject: Acquiring Person

Dear Mr. Verne,

I am trying to figure out who the acquiring person or persons are for the following acquisition of voting securities. All of the entities in this scenario are foreign. You can assume that the exemption in 802.51 does not apply and that the filing thresholds are otherwise satisfied.

X is an unincorporated entity in which A & B (who are not their own UPEs) each have 50% interests. X will acquire all of the voting securities of Y, a wholly owned subsidiary of corporation C (who is not its own UPE). In exchange, C will acquire a 33.3% interest in X, resulting in A, B, and C each having a 33.3% interest in X. (As a side note, C's acquisition of the non-corporate interests in X would not be reportable because none of the interest holders will control X.) My question is, with respect to X's acquisition of Y's voting securities, who are the acquiring persons? 801.2(a) states, "Any person which, as a result of an acquisition, will hold voting securities or assets, either directly or indirectly, or through fiduciaries, agents, or other entities acting on behalf of such person, is an acquiring person." Because after the transaction is completed X will not be controlled by A, B, or C, neither A, B, nor C will hold Y's voting securities. Thus, 801.2(a) can be interpreted to mean that in the above situation only X (and not A's and B's UPEs) is the acquiring person. Is this interpretation correct?

Thank you for your assistance. Please let me know if you have any question or would like to discuss over the phone.

Best regards,
[REDACTED]

Correct
10/22/07
BM

[REDACTED]