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From: [REDACTED]

Sent: Wednesday, August 01, 2018 8:57:53 AM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: FW: Skype question

I have been asked to address your issue below regarding the computation under section 1.752-2(k) of “net value” of a DRE that holds an intercompany note from its corporate owner. Prefatory to addressing your issue, I wish to note that the rules under section 1.752-2(k) effectively regard a DRE for purposes of determining net value. Thus, your statement in your second to last paragraph below characterizing an intercompany loan as loaning money to oneself does not always hold true under section 1.752-2(k). In a somewhat analogous situation, note that section 1.752-2(k)(2)(A) provides in a parenthetical that a DRE’s enforceable rights to contributions from its owner that are subject to creditor’s claims are includible in computing the DRE’s net value. Outside of section 1.752-2(k), that situation would be considered the owner’s obligation to contribute money to itself, a non-event.

It is my opinion that the intercompany obligation you describe below running between the corporate owner and its DRE would, if enforceable and subject to creditor’s claims under local law (a real question of fact and local law), be includible in computing the DRE’s net value under section 1.752-2(k). I see little difference between your situation and the contribution situation in the regulation in which the DRE has an enforceable right to contributions from its owner.

I’m not sure that I fully understand your discussion about the two tax years involved, but in your second to last paragraph below it sounds as though you are asking us to address only the net value issue. I will be glad to discuss this with you further if you so wish.

Best regards,