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[Third Party Communication:

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From:

Sent: January 28, 2015 2:21 PM

To:

Cc:

Bcc:

Subject: Analysis of primary issue

Hello,

Please see the attached document for what I think should be the analysis of the primary issue. Of course, the facts of need to be appropriately incorporated into this (somewhat generic analysis). As I mentioned, I went through the section 199 reg file. I found nothing in the file that provides any additional insight into each element under the third party comparable exception. One thing has become even clearer for me, however, is that these exceptions were not intended to apply to (and such similar taxpayers). It was clearly intended that under the final regs, and such – would not be entitled to section 199 benefits.

After the reg file review and completing this analysis, I am questioning the need for the secondary position, beyond explaining that even if has any gross receipts from providing access to computer software online, it does not meet each element of the exception and explaining why and distinguishing the CCA.

I think we may want to re-visit the merits of taking a secondary position at all. I will circulate my take on the analysis for the secondary position in separately.

Once we have the facts and this analysis is incorporated, we need to run the document by the NO. In the meantime, I will share a generic version of this analysis with the NO and the Division Counsel. There is absolutely nothing in my analysis of the primary position that should be subject to a dispute between and our office (and really, should not be disputed by taxpayers). I stuck to the language of the regs and to the explanations in the preamble. But we will find out for sure soon.

Attachment:

(primary argument).docx