From: Richard Kahn <[redacted]>
Sent: Tuesday, January 23, 2018 8:43 PM
To: Jeffrey
Subject: Fwd: TRA

Richard Kahn
HBRK Associates Inc.
575 =exington Avenue 4th Floor
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Begin forwarded message:

From: =/b>lawrence delson <[redacted]>

Subject: =/b>TRA

Date: =/b>July 28, 2014 at 3:30:22 PM =DT

To: =/b>"[redacted]" <[redacted]>

Reply-To: =/b>lawrence delson <[redacted]>

Rich

From Rich Joslin

Founders own partnerships that generate management fees (MFP) and partnerships =that generate incentive allocations of PE fund profits =IAP). Founders wish to sell a portion of their MFP and IAP interests to the =ublic.

A purchaser of a partnership interest will have a tax basis in the partnership equal to the consideration provided to the founders. =Founders will recognize tax gain to the extent that the consideration received exceeds their tax basis in the MFP and IAP.

There can be a substantial difference in the tax basis of the purchaser'= tax basis in MFP and IAP and the tax basis of the assets held by MFP and IAP, particularly if there is a premium placed on the intangible value =of the management team in place, ie goodwill. If MFP and IAP make the Section =54 election whereby the basis of the purchaser's partnership =nterest is assigned to the purchaser's proportionate share of assets held =y MFP and IAP, thereby giving rise to a tax basis adjustment to all partnership assets. This basis adjustment will apply =olely with respect to purchaser, and will have no effect on the remaining interests held by the Founders. . The consideration is =pplied to each asset to adjust asset tax basis to equal fair market value. To the extent that consideration exceeds the fair value of =he assets, the excess may be considered goodwill under Section 197 which may be amortized over 15 years by MFP (there is no goodwill created by =IAP). Amortization of Section 197 intangibles will give rise to tax deductions by MFP allocable solely to the purchaser and will reduce the aforementioned inside/outside disparity and give rise to tax savings at ordinary income tax rates to the purchaser.

The public in the case of Apollo is Apollo Global Management (AGM) which is a publicly trade partnership. AGM holds an interest in IAP =hrough a partnership interest and holds MFP interest through a corporate blocker. The blocker ensures that any management company income is taxed to the corporation and that the public owners of AGM receive a dividend on any profits earned and =distributed by the blocker. Given the 754 election by Apollo, the =acquisition of a portion of the Founder's interest in MFP to gives rise to a Section 197 intangible that provides future =tax benefits of amortization deductions.

The generation and subsequent use of this valuable tax attribute is central to a Tax Receivable Agreement. As the purchaser =eceives a tax benefit for the use of the tax attribute, i.e. the Section 197 amortization, the purchaser is obligated to pay to the Founder's 85% of said tax =enefit. The measurement of tax benefit is based on a "with or without"=approach whereby corporate tax is calculated with and without the Section 197 amortization. Apollo make a payment under the TRA on or around April 15 following year end.

Given that the TRA payment arises from the original sale by the founders to =the public, the treatment of the TRA payment is considered additional consideration paid by the purchaser to the founder. This gives =ise to an iterative calculation that the assets of MFP are stepped up to fair value and any amount of =consideration in excess of fair value generates a Section 197 intangible. This additional Section 197 intangible is a tax =ttribute that is then subject to the Tax Receivable Agreement. Since payments of consideration are made over two or more tax years, the purchase is an installment purchase/ sale that gives rise to the application of Section 483 which treats a portion of an installment payment, ie consideration, to be treated as interest income, ie time value approach. While this interest may be =educted currently, it is not treated as consideration which gives rise to a basis step-up and thus is not impact the tax receivable agreement.

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Given that there was no basis in the Apollo entities by the Founders in 2007 =when the original sale took place, there was no purpose to elect installment treatment. The founders have adopted the "open =ransaction" approach whereby recognition applies when payments are received or fixed given that the fair market =value of the stream of TRA payment obligation cannot be reasonably ascertained at the date of sale. If a "closed =ransaction" approach was asserted, there would need to be a valuation of the value of the TRA and immediate income recognition by the Founders. In such a scenario, the value of the TRA payments =ould be treated as consideration by Apollo and thereby give rise to a portion to be treated as a Section 197 intangible.

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