

Jeffrey,

Here is a ~~strawman candidate proposal~~ proposal for potentially dealing with the negative basis capital accounts that the ~~3 principals~~ Principals have in their limited partnership ~~interests~~ interests in AMH (through their ownership of BRH and AP Professional). The ~~strawman is a basis for further discussion and refinement. There is at least one variation that I am still working through, but it is based on the same fundamental features and designs as set forth in the strawman plan is only effective if all 3 Principals participate fully.~~

Strawman Proposed Plan

1. Each principal would form a wholly-owned Delaware LLC (each, an "SPV").
2. Each SPV would be funded with cash equity contributions from the principal and each SPV would borrow from one or more lenders an amount such that the total capital in the SPV would bear the same proportion of \$800m as the proportions in which the principals currently own BRH. The total capital of all the SPVs would be no less than \$800m. The proportion of total equity to borrowings will depend primarily upon non-tax factors. The SPV borrowing would be secured by the preferred AMH interest interests in BRH discussed in paragraph 3, and could be guaranteed as to their respective SPV by the principals owner/Principal if necessary.

Tax Effects: Each SPV would be disregarded for federal income tax purposes. Thus, an SPV borrowing would be considered to be a borrowing by the owner/Principal of the SPV.

3. (a) Each SPV would invest all of its capital in a new preferred class of equity of BRH, which; (b) BRH would invest in a new preferred class of equity of AP Professional, which; and (c) AP Professional would invest in a new preferred class of equity of AMH.
4. The preferred AMH equity interest (and each new preferred class of equity of BRH and AP Professional, so the terms of the preferred are mirrored up the chain) would have an aggregate liquidation preference of \$800m, would be limited in participation to a coupon that reflects a market rate of return and would not be exchangeable with APO Corp for equity Class A Shares of AGM based upon the trading price of AGM Class A Shares at the time of the exchange. The coupon rate on the preferred would be no less than, and presumably would be greater than, the rate of interest on the SPVs' borrowings. Cash distributions on the preferred would be required to be made in the amounts and at the time that corresponds to payments required to be made by the SPVs on the borrowings. {On death of a principal, the preferred interests would be required to be redeemed at their then liquidation value.} (Each new preferred class of equity of BRH and AP Professional would have the same terms as the AMH preferred equity, so the terms of the preferred are mirrored up the chain, except that the preferred class of equity of BRH and AP Professional would not be exchangeable for AGM Class A Shares.)

Tax Effects: ~~the tax basis in the preferred interest at each level of investment would be~~ Immediately following the contribution on the equity capital, each Principal would have tax basis in BRH, and BRH would have a tax basis in AP Professional and AP Professional would have a tax basis in AMH equal to the cost of the preferred – in the aggregate at each level, \$800m. Allocations of taxable income on the preferred AMH interest would be allocated to AP Professional and then to BRH and then up the chain to the principals, but interest on the SPV borrowing should be deductible by the principals against such allocations.

5. AMH would use the \$800m of contributed capital to repay the outstanding balance of the debt held by the public.

Tax Effects: ~~the~~ The repayment of the debt would result in a deemed distribution to AP Professional and then BRH and then the ~~principals~~ Principals in respect of the common partnership interests in AMH (held through BRH and AP Professional). Since a taxpayer has a single partnership basis, and since the ~~principals~~ Principals are considered to be the owners of the ~~AMH common~~ AMH common interests for federal income tax purposes, the deemed distribution would not exceed the tax basis the ~~principals~~ Principals have in their AMH interests (indirectly) and thus should not give rise to taxable income to the ~~principals~~ Principals. The tax basis that the ~~principals~~ Principals have in BRH, and that BRH has in AP Professional, and that AP Professional has in AMH initially would be increased by \$800m (for the newly-contributed amounts) but would be reduced by \$800m (for the repayment of the outstanding indebtedness), so that the tax basis at each such level would be zero but would not be negative.

6. The ~~SPVs/~~BRH preferred interests owned by each SPV would be held directly by the ~~principals~~ Principals individually so that at death the value of the preferred interests would be includible in their estates for estate tax purposes.

Tax Effects: ~~at~~ At death, the tax basis in the preferred BRH interest would be stepped up to its fair market value (and, via a section 754 election made by each of BRH and AP Professional, a corresponding step up in tax basis would be obtained in the preferred interests held by such entities). As a result, assuming a fair market value equal to the accreted amount of the preferred interests, no gain should be recognized by the estate on the redemption of the preferred interests. Since the {net} value of the preferred interests held by a decedent principal would be includible in the estate of the principal and thus subject to estate tax, appropriate consideration would need to be given to estate planning to eliminate any such estate tax, for example, a contribution of the “net” preferred interest (or cash received on redemption net of amounts used to repay debt) to a charity or a private foundation established by the principal either during his life or at death pursuant to his will.

7. On death of a Principal, the AMH preferred interests would be exchangeable with APO Corp for Class A Shares of AGM having a value equal to the then liquidation value of the AMH preferred interests. In order to effect the exchange by the estate of the Principal, AP Professional would be required to distribute the AMH preferred interest attributable to

the decedent Principal to BRH, and BRH in turn would be required to distribute that AMH preferred interest to the decedent Principal's estate.

Tax Effects: The distribution of the AMH preferred interest by AP Professional to BRH and then by BRH to the decedent Principal's estate should be tax neutral to all parties at each level of the distribution chain. The exchange of the AMH preferred interests with APO Corp for AGM Class A Shares should permit a basis step up for the fair market value of the preferred interest in the assets of AMH that should be allocable to APO Corp for TRA purposes. That is, as result of the exchange, APO Corp will derive additional amortization deductions that should give rise to an obligation to make a payment to the decedent's Principal's estate pursuant to the existing TRA.

Overall Effect

The overall effect of this plan should be the elimination of any Tufts gain [(including upon an interim exchange of AOG Units for AGM Class A Shares, except for any non-recourse debt remaining as a result of the ~~intergroup-held/intragroup-held~~ AMH debt not repaid under this plan and allocable to AP Professional/BRH/principals)], without the loss of a step up in basis for TRA purposes.

Issues to be considered further:

1. Ability of AMH to issue preferred interests under the plan – SEC and related considerations. (The deleveraging of AMH and issuance of the preferred effectively would leave AGM in the same relative position.)
2. Ability of AP Professional to issue preferred interests under the plan – impact on Contributing Partners of AP Professional. (The current position of the Contributing Partners should be unaffected other than to shift some portion of the remaining non-recourse debt of AMH held intragroup that is not repaid under this plan.)
3. Further review of impact of exchanges of AOG Units for AGM Class A interests -- a portion of the original AMH non-recourse debt that is held intergroup would be shifted to AP Professional and hence BRH and the principals and would be recognized on an exchange.
- ~~4. Economic consequences of a loss of basis step up on an AOG Unit exchange for Tufts-gain—comparative after-tax benefit of the additional TRA payment versus the permanent-avoidance of tax on the Tufts gain.~~
- ~~5. Impact of the investment in the BRH preferred by the SPV/principals on “horizontal slice” considerations for gift tax purposes.~~
5. The preferred equity interests should be respected as equity for federal income tax purposes (should be distinguishable from the preferred equity that was reviewed and held to be debt for federal income tax purposes in Castle Harbor.

6. Calculation of the value of the preferred interests held by the SPV/principal for estate tax purposes—confirmation that the borrowing by the SPV reduces the value of the estate for estate tax purposes such that only the net value of the preferred interest is effectively subject to estate tax.
7. Impact on the tax effects if the preferred interests were treated as debt for federal income tax purposes (ala Castle Harbor decision).
8. Would the tax effects on basis/step-up at death/estate tax considerations/non-tax considerations be the same if the SPV/principals acquired the AMH debt that is currently held by the public instead of investing in the preferred interests.

Summary Report:	
Litéra® Change-Pro TDC 7.0.0.360 Document Comparison done on 6/19/2013 12:24:37 PM	
Style Name: Default Style	
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Modified DMS: iw://EASTDMS/EAST/104773603/10	
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<u>Add</u>	56
<u>Delete-</u>	39
<u>Move From</u>	4
<u>Move To</u>	4
<u>Table Insert</u>	0
<u>Table Delete</u>	0
<u>Embedded Graphics (Visio, ChemDraw, Images etc.)</u>	0
<u>Embedded Excel</u>	0
<u>Format Changes</u>	0
Total Changes:	103