

# DRAFT

## Tax Receivable Agreement Letter

**Circulated on November xx, 2008 to the Holders.**

This Tax Receivable Agreement Letter is not tax advice, tax analysis or a "tax opinion" concerning any issue arising in connection with any of the business operations or transactions, involving Apollo Global Management, LLC and its subsidiaries. Any statements contained in this Tax Receivable Agreement Letter are not intended or written to be used and cannot be used by any party, for purposes of avoiding penalties that may be imposed under the Internal Revenue Code, as amended, or applicable State and Local income tax provisions.

### **The Transaction**

On July 13, 2007, Apollo Global Management, LLC contributed to APO Corp., a corporation for US income tax purposes, and APO Asset Co., an entity that has elected to be disregarded for US income tax purposes, (collectively, the "Intermediate Holding Companies") \$1.2 billion in proceeds from the sale of convertible securities. The Intermediate Holding Companies used these proceeds to purchase a 20% interest in Apollo Management Holdings, L.P., Apollo Principal Holdings I, L.P., Apollo Principal Holdings II, L.P., Apollo Principal Holdings III, L.P., and Apollo Principal Holdings IV, L.P. (collectively, the "Apollo Operating Group"). The Apollo Operating Group through underlying partnership interests operate the business.

### **Increase to the tax basis of the tangible and intangible assets of the applicable Apollo Operating Group**

As a result of the Transaction (as described above), Apollo Management Holdings, L.P. and its underlying partnership investments (hereinafter referred to as the "Electing Section 754 Entities") made an election under Section 754 of the U.S. Internal Revenue Code ("IRC"), as amended, which resulted in an adjustment to the tax basis of the assets owned by the Electing Section 754 Entities.

As the Electing Section 754 Entities have made valid IRC Section 754 elections for the taxable years ending during 2007, APO Corp. has recorded a tax basis adjustment under IRC Section 743(b) of \$972,725,890 ("the Step Up"). See Appendix A for the IRC Section 743(b) calculation.

The Step Up results in additional tax deductions which reduce the amount of tax that APO Corp. will otherwise be required to pay. Additionally, each Payment (as defined in Section 3.01 of the Tax Receivable Agreement) made with respect to the Transaction results in additional future tax deductions. A further Exchange (as defined in Section 1.01 of the Tax Receivable Agreement) of interests by the Holders (as defined in Section 1.01 of the Tax Receivable Agreement) may also result in additional tax basis in the APO Corp. assets, resulting in additional future tax deductions that will reduce the amount of tax that APO Corp. will otherwise be required to pay.

### **Tax Receivable Agreement**

On July 13, 2007, APO Corp., Apollo Principal Holdings II, LP, Apollo Principal Holdings IV, LP and Apollo Management Holdings, LP entered into a Tax Receivable Agreement with the Holders. The Tax Receivable Agreement provides to the Holders a Payment by APO Corp. of 85% of the amount of actual cash savings, if any, in U.S. Federal, state, local and foreign income tax that APO Corp. realizes, or is deemed to realize in the case of an Early Termination (as defined in Section 4.02 of the Tax Receivable Agreement) or a Change of Control (as defined in Section 1.01 of the Tax Receivable Agreement), as a result of the increases in tax basis and corresponding tax deductions (described above), and any income tax benefits realized from the Payment, including imputed interest, resulting from the Tax Receivable Agreement.

APO Corp. expects to benefit from the remaining 15% of actual cash savings, if any, in income tax that it realizes. For purposes of the Tax Receivable Agreement, cash savings in income tax will be computed by

Unless/otherwise indicated, all "Code" or "Section" references are to the Internal Revenue Code of 1986, as amended, and applicable Treasury Regulations.

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comparing the actual income tax liability to the amount of income taxes that APO Corp. would have been required to pay had (i) there been no increase to the tax basis of the tangible and intangible assets of the Electing Section 754 Entities as a result of the Transaction and had (ii) APO Corp. not entered into the Tax Receivable Agreement. The term of the Tax Receivable Agreement will continue until all such tax benefits have been utilized or expired, unless APO Corp. exercises the right to terminate the Tax Receivable Agreement by paying an Early Termination Payment (as defined in Section 4.03 of the Tax Receivable Agreement).

Section 2.02 of the Tax Receivable Agreement requires APO Corp. to compute an Exchange Basis Schedule, which includes the following four data elements in relation to the Transaction, (i) the actual unadjusted tax basis of the original assets as of each applicable exchange date, (ii) the basis adjustment with respect to the original assets as a result of the exchanges occurring in each taxable year, (iii) the period, or periods, if any, over which the original assets are amortizable and/or depreciable, and (iv) the period or periods, if any, over which each basis adjustment is amortizable and/or depreciable. The detail for the Exchange Basis Schedule can be found in Appendix B.

### **Tax Benefit Schedule and Payment for 2007**

Section 2.03 of the Tax Receivable Agreement requires APO Corp. to calculate the realized tax benefit for each tax year. The realized tax benefit compares the non stepped-up tax liability (without amortization deductions arising out of the Transaction) against the actual tax liability (with such amortization deductions). The amortization deduction arising from the Transaction for 2007 was \$32,424,196. The taxable income for the 2007 tax year, prior to the amortization deduction, was \$12,206,484. As a consequence, the realized tax benefit related to the amortization deduction was limited due to taxable income. In 2007, the realized tax benefit related to APO Corp. is \$4,264,918, as shown in Appendix C. The total tax benefit to be distributed (at 85%) related to the 2007 tax year is \$3,625,180.

The Transaction is treated as an installment sale for tax purposes. Under the installment sale rules, a portion of each payment is in fact interest, as there is a present value "detriment" to the Holders resulting from the fact that they did not receive full payment for the sale of their interests in 2007. In such a situation, the tax rules require APO Corp. to calculate the "imputed interest" amount related to the portion of the Payment that is deferred (i.e., the present value of the future Payments to be made with respect to the current year tax return). In 2007, the imputed interest amount is \$240,680. This amount was calculated using the Applicable Federal Rate ("AFR") which applied to the term of the installment sale on the date of the sale (July 13, 2007). The AFR rate was 5.15%.

### **Other Considerations**

The Internal Revenue Service (IRS) could challenge any additional tax depreciation and amortization deductions or other tax benefits (including deductions for imputed interest expense associated with payments made under the tax receivable agreement) that are being claimed as a result of, or in connection with, such increases in the tax basis of such assets. If the IRS were to successfully challenge a tax basis increase or tax benefits previously claimed pursuant to a Section 754 election, the Holders would not be obligated under the tax receivable agreement to reimburse APO Corp. for any payments previously made to them. IRS adjustments impacting future years' tax benefits realized (and not previously paid out) will impact the calculation of future payments.

**APO Corp.**

**Appendix A**

**Section 743(b) Basis Adjustment Attributable to the Transaction (1)**

Purchase Price for Strategic:	\$	1,200,000,000
% Allocable to AMH		64.3859%
Purchase Price for AMH	\$	772,630,800
AMH Liabilities	\$	1,072,709,232
AMH Tax Basis		
PPE	\$	11,148,445
RDUs	\$	61,085,339
total tax basis	\$	72,233,784
Gain on liquidation:		

**APO Corp's Basis in AMH:**

Price paid	\$	772,630,800
Assumption of liabilities:	\$	214,541,846
Total Basis	\$	987,172,646

**APO Corp's share of AMH's Basis (A) + (B)**

(A) Interest in Previously Taxed Capital:		
Share of cash upon hyp liq	\$	772,630,800
tax gain upon hyp liq	\$	972,725,890
Total:	\$	(200,095,090)
(B) Share of Liabilities:	\$	214,541,846
Total	\$	14,446,757

743(b) Step Up: **\$ 972,725,890**

**Notes:**

(1) Prepared by the Apollo Tax Department with advice from external counsel.

APO Corp.  
Appendix B  
Exchange Basis Schedule  
Calculations for the 2007 Tax Year of APO Corp.

Tax Receivable Agreement (TRA) Reference (Article II)	Description	Amount	Notes
2.02 (i)	Actual unadjusted tax basis of original assets as of Exchange date.	\$72,233,784	(1)
2.02 (ii)	Basis Adjustment with respect to original assets as a result of the Exchange.	\$972,725,890	(1)
2.02 (iii)	Period for which original assets are amortizable and/or depreciable.	0-15	
2.02 (iv)	Period for which the Basis Adjustment with respect to the original assets is amortizable and/or depreciable.	15	(2)

**Notes:**

- (1) Per 743(b) "Step-Up" calculation.
- (2) Amortized over 15 years as a Section 197 intangible.

APO Corp.  
Appendix C  
Tax Benefits Schedule  
Calculations for the 2007 Tax Year of APO Corp.

Tax Receivable Agreement (TRA) Reference (Article III)	Description	Amount	Notes
3.01(b)(1),(3)	APO Corp. 2007 Tax Year Realized Tax Benefit (Detriment)	\$ 4,264,918	
3.01(b)(2),(4)	Excess Realized Tax Benefit (Detriment)	-	
3.01(b)	Adjusted Realized Tax Benefit	4,264,918	
3.01(b)	85% Per TRA	85%	
3.01(b)	Tax Benefit Payment (includes Imputed Interest under IRC Section 483)	<u>\$ 3,625,180</u>	
	IRC Section 483 Imputed Interest (installment sale rules) 2007 Section 483 Interest Rate (5.15%) Present Value of Tax Benefit Payment from November 30, 2008 to July 13, 2007 = Total Sales Proceeds	\$ 240,234	(1)
		\$ 3,384,946	(2)
3.01(b)	Interest Amount Per TRA (Through November 30, 2008)	95,901	(3)(4)
3.01(b)	Total Net Tax Benefit - i.e. Tax Benefit Payment related to 2007 Tax Return	<u>\$ 3,721,081</u>	

Notes:

(1) To calculate the amount of imputed installment sale interest that is taxable on the tax return the Applicable Federal Rate (AFR) that applies to the term of the installment sale on the date of the sale (July 13, 2007) was used. The AFR was 5.15%.

(2) The present value of the Tax Benefit Payment is calculated using the following formula:

Amount of Future Payment	
$1 + (1 \text{ year} + \# \text{ of days July 15, 2008 to November 30, 2008})/365 \times \text{Annual Interest Rate}$	
Amount of Future Payment	\$ 3,625,180
Annual Interest Rate (Long term AFR for July 2007)	5.15%
1 Year (July 14, 2007 through July 14, 2008)	1 Year
# of Days (July 15, 2008 through November 30, 2008)	138 Days

(3) Interest is calculated from the due date of the 2007 Tax Return (without extensions), using LIBOR.

# of Days (March 15, 2008 through November 30, 2008)	260 Days
LIBOR (assumed that the TRA refers to 6 Month LIBOR).	
Rate used as of November 18, 2008	2.71%
+ 100 Basis Points	1.00%
<b>LIBOR Interest Rate for the Interest Amount</b>	<u><b>3.71%</b></u>

**LIBOR Rates as of 11/18 (Informational Purposes Only)**

One Month LIBOR	1.47%
Three Month LIBOR	2.24%
Six Month LIBOR	2.71%
One Year LIBOR	2.88%