ATI CAPITAL GROUP OF COLORADO, LLC

Timing the Funding of a Family Limited Partnership

In order to address the considerations associated with two very complex sets of rules under "Chapter 14" of the Internal Revenue Code, specifically the "applicable restriction" rules in IRC Sec 2703, and the "control" rules of IRC Sec 2704. IRS Technical Advice Memorandum (TAM #9723009 regarding the case of Hirsch v. IRS Commissioner) exemplifies the importance of being able to carefully document compliance with above-mentioned rules.

In our experience, the following process should result in a well reasoned and well documented record with respect to the creation, capitalization and funding of the Corporate General Partner (CGP) and the Family Limited Partnership (FLP):

EVENT #1

A) CORPORATE GENERAL PARTNER:

1) Founding shareholders sign the corporate documents to create the CGP.

2) Founding shareholders capitalize the CGP with $1,000 cash and receive 1,000 shares ($1 per share) of stock in the CGP.

3) CGP documents are filed with the Secretary of State in which the CGP is domiciled.

4) Founding shareholders of the CGP sign a Shareholders' Agreement that governs voting and control on all major issues.

B) FAMILY LIMITED PARTNERSHIP

1) CGP patriarch and matriarch sign the Partnership Agreement and other documents to create the FLP.

2) FLP documents are filed with the Secretary of State in which the FLP is domiciled.

EVENT #2 (at least 1 day following Event #1)

A) Founding shareholders of the CGP gift 1% of the issued and outstanding shares of the CGP to a charitable organization. (Filing of IRS Form 709 and a valuation of the CGP are avoided).

B) Charitable organization signs the CGP's Shareholders' Agreement, thus removing absolute control of partnership from family (IRC §2704).

EVENT #3 (at least 1 day following Event #2)

A) Patriarch and matriarch exchange 99% of their desired assets with the FLP and receive a 99% limited partnership interest in the FLP.

B) Patriarch and matriarch contribute 1% of their desired assets to the CGP. These are the assets that will later be used to purchase the CGP's 1% limited partnership interest in the FLP. The 1% contribution is credited as additional paid in capital and debited to assets.

EVENT #4 (at least 1 day following Event #3)

A) CGP exchanges its additional paid in capital with the FLP and receives a 1% limited partnership interest. (Hereinafter referred to as the General Partner Interest).

B) Patriarch and matriarch gift 1% to 2% of their FLP interests to a charitable organization. This additional gift to charities is <u>not required</u>; however, two very important benefits result:

1) The resulting tax deduction could produce income tax savings sufficient to cover the consulting, legal, valuation and accounting costs expended in the implementation of the FLP and CGP.

2) This structure has greater credibility and merit with the IRS.

C) Gifting of limited partnership interest can take place now or later.

NOTE

ATI Capital Group of Colorado, LLC (ATICG) is a business valuation and financial consulting firm. ATICG is not a law firm and, as such, does not engage in the practice of law. The above process represents suggestions derived from our considerable experience with FLP's and should not be relied upon without seeking advice from independent counsel.