

Sheinberg, Samuel I.

From: Sheinberg, Samuel I.
Sent: Friday, May 25, 2018 1:13 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Control of LLC

[REDACTED]

We agree with your analysis. Have a nice weekend.

Sam

From: [REDACTED]
Sent: Friday, May 25, 2018 12:50 PM
To: Walsh, Kathryn E.; Berg, Karen E.; Carson, Timothy; Shaffer, Kristin; Sheinberg, Samuel I.; Whitehead, Nora
Subject: FW: Control of LLC

From: [REDACTED]
Sent: Friday, May 25, 2018 12:48:41 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Subject: Control of LLC

I have a question relating to determining control of a target entity (T) that is also an LLC. Assume that a wholly-owned subsidiary of T issues options to certain of its executives. In connection with the sale of T, the owners of T may elect to direct a certain portion of the consideration for the T units being acquired toward payments to such optionholders/executives treating such payments as a transaction expense reducing the equity value of T. Such optionholders do not hold any interests in T.

Could you please confirm that, for purposes of determining the UPE of T, the optionholders do not need to be taken into account? My sense is that the payments to the optionholders should be treated the same as discretionary employee bonuses, and therefore a transaction-related expense that does not need to be part of the control analysis.

[REDACTED]

[REDACTED]

[REDACTED]