Corporate Inversions

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A multinational corporate group headed by a U.S. parent corporation is often at a competitive disadvantage compared to a multinational corporate group headed by a foreign corporation. While a multinational corporate group headed by a U.S. corporation is generally subject to U.S. taxation on its worldwide income, subject to the potential availability of the foreign tax credit and U.S. tax deferral, a multinational corporate group headed by a foreign corporation is generally subject to U.S. taxation only with respect to (i) taxable income derived by U.S. affiliates, (ii) U.S. "effectively connected income" of foreign affiliates, and (iii) U.S.-source FDAP ("fixed and determinable, annual or periodical") income of foreign affiliates.

To maximize its after-tax net economic return, many U.S. multinationals have engaged in so-called "corporate inversion" transactions. In a typical inversion, a U.S. multinational combines with a foreign corporation and the ultimate parent of the surviving entity is a foreign corporation.

The objectives of a U.S. corporation that engages in an inversion typically include:

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- Accessing trapped cash;
- Leveraging U.S. affiliates to increase U.S. interest tax deductions;
- Transferring assets and activities outside the U.S.;
- Adopting a tax-efficient transfer pricing methodology;
- Structuring future acquisitions outside the U.S. ownership chain; and
- Decontrolling "controlled foreign corporations."

The attached Corporate Inversion Presentation describes applicable rules that limit or eliminate tax benefits arising in connection with a corporate inversion. The presentation also identifies issues that should be considered following a corporate inversion.

If you have any questions, please feel free to contact Jack Miles at jmiles@kelleydrye.com or (212) 808-7574.