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May 24, 2002

Honorable Pamela F. Olson
Acting Assistant Secretary (Tax Policy)
Department of the Treasury
Room 1334 MT
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

Honorable Charles O. Rossotti
Commissioner
Internal Revenue Service
Room 3000 IR
1111 Constitution Avenue, N.W.
Washington, DC 20224

Dear Ms. Olson and Mr. Rossotti:

I am pleased to enclose the New York State Bar Association Tax Section Report No. 1014 which discusses some of the tax considerations relating to the recent series of "inversion" transactions and also comments on pending proposed legislation regarding these transactions.

We are of the view that some of the recent publicly announced outbound transactions which involve largely formalistic restructurings and are initiated to reduce U.S. tax are inappropriate. These transactions erode the U.S. corporate tax base and also diminish public perception of the fairness of the U.S. tax system, which is essential to our current voluntary compliance regime. Accordingly, even though we do not usually favor targeted legislative responses to specific transactions, we believe that a legislative response shutting down these transactions is appropriate.

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We also think the inversion phenomenon highlights the need to examine certain aspects of our current tax system, particularly the rules for determining U.S. tax residency, the taxation of multi-national corporations and the rules relating to inbound and outbound investments. We believe a proper long-term response to the current troublesome transactions would involve a thorough review and some revision of these rules.

A thorough review will take time. We believe some of the recently announced public transactions are sufficiently troubling, however, that an immediate legislative solution is appropriate as an interim measure. Accordingly, we are generally supportive of S. 2119 introduced by Senators Baucus and Grassley on April 11, at least insofar as it deals with corporations which are more than 80% owned by their former shareholders. With respect to the portion of the legislation dealing with situations where former shareholders own between 50% and 80% we have some concerns, which are expressed in the Report.

We have serious doubts, however, whether the current proposed legislation is necessarily an appropriate permanent solution. For this reason, we recommend that any legislation enacted have a three-year sunset. This would provide sufficient time for a thoughtful consideration of the current system of U.S. taxation of multinationals, which we believe could result in more comprehensive legislation that would subsume the current proposed legislation.

We commend the Treasury for its thoughtful May 20 report on corporate inversion transactions, with due note that it was presented as a "Preliminary Report". We recommend that any legislation should be accompanied by a directive to the Secretary that the Treasury continue its study and reach some specific conclusions or alternative recommendations relating to the matters covered in the Preliminary

Report. As always, the New York State Bar Association Tax Section is prepared to assist this effort any way it can.

Respectfully submitted,

A handwritten signature in blue ink that reads "A. N. Berg". The signature is written in a cursive style with a large initial "A" and "B".

Andrew N. Berg
First Vice Chair

cc:: Honorable B. John Williams, Jr.
Honorable Eric Solomon
Dale Collinson
Robert P. Hanson

Enclosure

