COMPREHENSIVE PLANNING TO PROVIDE THE MOST TAX-EFFICIENT STRUCTURE

CFOs and General Counsel of multinational corporations (non-U.S. parent) with operations in the United States face complex tax implications that must be planned for on a global basis and not make decisions solely based on the U.S. tax implications. Too often, the U.S. advisor will ignore the tax implications from other relevant jurisdictions to the financial detriment of the multinational corporation. Through our associated networks and our team, we are able to plan for the tax strategy of the multinational corporation to provide a global framework by continually evaluating the multinational group's operational and tax position and provide solutions that address key considerations.

By way of illustration, we worked in conjunction with a big law firm on the inbound structuring of a multinational corporation beginning operations in the United States. The tax partner at the big law firm (the "Tax Partner") continuously removed us from emails and meeting invites, but since we had the trust of the client, we were inserted into the conversation. As we have seen increasingly with big firms, it would take the client months to get appointments to speak with the Tax Partner and then it was a 30-minute conversation with the Tax Partner fielding questions with no organization to the discussion or comprehensive solution.

The Tax Partner made certain incorrect statements on the implications of the Foreign Investment in Real Property Tax Act ("FIRPTA"), of certain tax treaties on the branch profits tax, and the implications of certain non-U.S. corporations with branches in the U.S. having 25% or more of its gross income effectively connected to a U.S. trade or business being subject to dividend taxation in the United States. Putting those issues to the side, the Tax Partner's

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structuring analysis focused solely on reducing the federal income tax in the United States rather than including global tax considerations.

The Tax Partner provided the multinational corporation with several tax planning and structuring options, from equipment leasing to ownership of property for purposes of FIRPTA, and incorporated a number of treaty options. Each option had a number of caveats and certain options contained warnings that if done wrong, the multinational corporation could face serious tax consequences. The options were left for the multinational corporation to decide without any indication of the monetary savings of the risky positions or if there would even be any tax savings after consideration of taxes in the other relevant jurisdictions.

We acknowledge that the Tax Partner provided good options, but the analysis was incomplete without determining whether other relevant jurisdictions actually tax at higher rates or if more overall tax would result from the planning. The Tax Partner responded to the multinational corporation that they could complete such analysis, but it would cost a lot of money to prepare.

Essentially, the big law firm provided an extensive and expensive tax planning analysis solely based on U.S. federal income taxation, presented certain options listed as risky, and did not know whether there would be any tax savings. It goes without saying, without the complete tax picture from the other relevant jurisdictions, federal income tax, and state and local tax, the analysis was not beneficial to the multinational corporation.

Our approach is not to silo our solutions for clients to the areas we are comfortable handling, but to put together the needed team on a global and local basis to provide the client with an actual tax efficient structure. Our approach is to have deep knowledge of the multinational corporation's situation and to be responsive at the time they need to make key decisions.

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