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September 4, 2003

The Honorable Pamela F. Olson
Assistant Secretary (Tax Policy)
Department of the Treasury
Room 3120 MT
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Mark W. Everson
Commissioner
Internal Revenue Service
Room 3000 IR
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Assistant Secretary Olson and Commissioner Everson

I am pleased to enclose New York State Bar Association Tax Section Report No. 1036 concerning the Dividends Provisions of the Jobs and Growth Tax Relief Reconciliation Act of 2003. The Act provides that certain dividends received by individual taxpayers will be taxed at long-term capital gain rates. These dividends include those paid by almost all domestic corporations and foreign corporations which meet the definition of a "qualified foreign corporation" ("QFC"). The Report comments on guidance to be provided by the Treasury Department and the Internal Revenue Service about the implementation of this new legislation.

We observe that the Act will have a broad impact on a large number of U.S. taxpayers, including many individuals. While simplification is an important objective of any regulation, we believe that its importance in this context cannot be understated. Accordingly, when issues of technical accuracy are balanced against the benefits of simplicity, we think even greater weight than usual should be accorded to simplicity.

Part I of the Report summarizes the Dividends Provisions of the Act. In Part II, the Report briefly describes the recommendations we are making. Part III discusses a number of issues generally relevant to the implementation of the new legislation, including the holding period requirement and the revision of current information reporting obligations.

Part IV, the longest portion of the Report, deals with many issues related to the definition of a QFC. After exploring the breadth of the term "readily tradable on an established securities market," Part IV goes on to discuss the requirements for a foreign corporation to be classified as a QFC by virtue of being "eligible for the benefits of a comprehensive income tax treaty." Aside from seeking clarification on exactly what these requirements are, the report offers suggestions on how to administer this portion of the legislation.

Please feel free to contact the undersigned if you wish to discuss any of our suggestions or any other issues relating to the Report.

Respectfully submitted,

Andrew N. Berg
Chair

cc: Barbara M. Angus
Eric Solomon
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