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Taxation With Representation: MoFo, Davis Polk, Cooley

By **Vidya Kauri**

Law360, New York (July 22, 2016, 10:57 PM ET) -- This week's Taxation With Representation sees Japanese companies expanding into the U.K. and the U.S. while two drug companies team up to develop and market cancer treatments.

SoftBank Heads to U.K. for $32B Purchase

SoftBank Group Corp. will buy semiconductor company ARM Holdings PLC in a £24.3 billion ($32.15 billion) cash deal, as the Japanese internet and telecommunications giant looks to the U.K. for new technology that will strengthen its role in the so-called "internet of things," the companies announced on July 18.

Tax partner Trevor James is part of the Morrison & Foerster LLP team advising SoftBank.

Tax partner John D. Paton and tax counsel Alon Gurfinkel are part of the Davis Polk & Wardwell LLP team representing ARM.

SoftBank called the deal one of the most important acquisitions it has made, contending that with the addition of ARM it will become a stronger player in the growing field of network connectivity of everyday items, known as the "internet of things."

Under the terms of the deal, SoftBank will pay 1,700 pence per ARM share, according to a statement. The offer marks a 43 percent premium to ARM's closing price in London on Friday and a 42.9 percent premium to the closing price of the company's American depositary shares.

SoftBank also pledged to preserve ARM's existing senior management team, its brand, partnership-based business model and culture. The Japanese tech company also said it would maintain ARM's headquarters in Cambridge, at least double its employee headcount in the U.K. over the next five years and increase its staff outside the U.K.

SoftBank plans to finance the transaction with its existing cash resources and cash drawn down from a term-loan facility with Mizuho Bank Ltd., the company said.

The deal is subject to a vote by ARM shareholders, but it is not subject to antitrust or other regulatory conditions, according to a statement. The deal is expected to close during the third quarter of 2016.

Japanese Mining Firm Picks Wisconsin for Expansion

Japanese construction and mining equipment giant Komatsu Ltd. announced on July 21 that it will strengthen its core mining business and expand on its current offerings with the $3.7 billion purchase, including debt, of Wisconsin-based Joy Global Inc.

Arnold & Porter LLP's Cynthia Mann advised Komatsu on the tax aspects of the deal.

Currently, the Tokyo-based company offers neither super-large-size loading equipment for the surface mining of copper and other minerals and ores, nor underground mining equipment for coal and other mineral extraction — both areas in which Joy excels, according to a statement.

The deal comes as part of Komatsu's recently announced strategic plan, which includes a growth strategy centered on strengthening the company's core mining business over the next three years.

Under the deal's terms, Komatsu will acquire 100 percent of the U.S. company for $28.30 per share, a near 20 percent premium to its closing price on July 20, valuing Joy at about $2.9 billion. Financing for the deal, which is subject to Joy shareholder approval and expected to close in mid-2017, will come from a combination of cash on hand and bank loans, Komatsu said in a statement.

Joy cited challenging market conditions as part of the reasoning behind the sale. In its second quarter earnings report, released in May, the company said it expects the challenging conditions to persist.

The deal is also subject to customary closing conditions and regulatory approvals in various jurisdictions. Joy's shareholders are expected to convene for their global meeting, where they will vote on the transaction, between October and December of this year, according to a statement.

Unilever Buys A Billion Shaves

Global consumer goods giant Unilever PLC announced on July 19 that it will purchase privately held men's grooming products maker Dollar Shave Club in a deal worth $1 billion, according to multiple news reports.

Dollar Shave Club was advised on the tax matters in the deal by Cooley LLP's Mark Windfeld-Hansen and Jon Rivinus.

Although terms of the deal were not discussed, unnamed sources cited in numerous reports including an article by The Wall Street Journal said Unilever was buying California-based Dollar Shave Club for $1 billion in cash.

A Unilever spokesman declined to comment on the deal and a Dollar Shave Club spokesperson could not be reached for comment.

Dollar Shave Club, which sells modestly priced razors and other male grooming accessories through a mail-order service boasting 3.2 million members, reported revenue of $152 million in 2015 and is on pace to exceed $200 million in sales this year, the companies said in a release.

The deal is subject to customary regulatory approval and is expected to be consummated in the third quarter, according to the companies.

Celgene and Jounce Therapeutics Collaborate to Fight Cancer

Biopharmaceutical company Celgene Corp. is infusing privately held Jounce Therapeutics Inc. with an upfront payment of $225 million, a $36 million equity investment and up to an additional $2.3 billion in future payments to jointly develop and commercialize immuno-oncology treatments for patients with cancer, according to a July 19 announcement.

Jounce was advised on the tax matters in the transaction by Jonathan Talansky of King & Spalding LLP.

Josh Milgrim and Jay Buchman are part of the Dechert LLP team giving tax advice to Celgene.

Jounce, a Cambridge, Massachusetts-based developer of therapies intended to enable the immune system to attack tumors, said it has teamed up with Celgene, headquartered in Summit, New Jersey, as part of a "global strategic collaboration."

In exchange for providing Jounce with the upfront payment, equity investment and up to an additional $2.3 billion in future milestone payments, Celgene is to receive options to jointly develop and commercialize Jounce's lead product candidate, JTX-2011, and additional innovative immunotherapies, Jounce said in a news release.

As part of the deal, Jounce will receive regulatory, development and net sales milestone payments and tiered royalties on sales outside of the U.S., the company said. Aggregate payments for development, regulatory and commercial milestones could potentially be $2.3 billion in total across all programs reaching commercialization.

Celgene has the option to opt in at defined stages of development across up to four of Jounce's other early-stage programs, and following any opt-in, the companies will share U.S. profits and losses on all programs, the release stated.

Jounce's JTX-2011, which is being developed to treat solid tumors as a single agent and in combination with other therapies, is an antibody that binds to and activates a protein on the surface of certain T cells that is believed to stimulate an immune response against a patient's cancer, the company said. It is expected to enter the clinic later this year.

--Additional reporting by Fola Akinnibi, Y. Peter Kang, Alex Wolf and Chelsea Naso. Editing by Mark Lebetkin.
