



Doing Business Internationally

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Top Ten Considerations for International Expansion

1. Create an international strategic plan
2. Consider business relationships
3. Get firm ownership buy-in
4. Understand labor and staffing issues
5. Set a realistic budget
6. Engage competent outside advisors
7. Consider U.S. tax implications
8. Understand U.S. tax issues for sending U.S. employees abroad
9. Research in-country tax issues
10. Educating foreign students on the U.S. tax issues related to their presence in the U.S.

Strategic Plan Considerations

- Base the expansion structure on business needs and layer on tax considerations
- Model financial and tax implications of international structure
 - Consider all startup and ongoing costs to maintain structure
- Create a step plan for implementation
- Commit to a timeline

Leveraging Business Relationships

- Consult with businesses who have previously expanded internationally
- Consider partnering with a foreign partner in country
 - Already established network
 - Can easily navigate the business environment
- Can recommend “trusted advisors” in the foreign country

Commitment from Ownership

- Model financial implications of foreign expansion
- Understand U.S. and foreign compliance considerations
- Understand financial commitment related to foreign operations
- Assemble the right internal and external team to implement the strategy

Labor and Staffing Issues

- Language
- Culture
- Social insurance requirements
- Pensions
- Compensation requirements
- Leave policy
- Termination issues
- Payroll reporting and filing

Costs to Consider

- U.S. advisors
- Foreign advisors
- Minimum capital requirements
- Ongoing funding of operations
- Ongoing compliance costs
- Funding through:
 - Debt
 - Equity
 - Intercompany charge

Outside Advisors

- U.S. advisors
 - Attorney/CPA
 - Experience helping clients expand internationally
- Foreign advisors
 - Attorney/Tax advisor
 - Experience assisting U.S. companies expand into their jurisdiction
 - Language skills
 - Responsiveness
 - Type of assistance needed
- International attorney and CPA networks

Tax Issue - Independent Contractor

- No separate legal entity
- Generally does not cause any foreign filing issues for U.S. company
- Should be independent in appearance and form
 - Consider local country independent contractor rules
 - Consider formal independent contractor agreement
- Should not be able to conclude contracts on behalf of U.S. company

Tax Issue - Branch Office

- No separate legal entity
- Immediate U.S. taxation of profits and losses
- Income allocation and transfer pricing issues
- Foreign currency issues
- Foreign tax issues
 - U.S. corporation would file and pay the tax related to net foreign source income
 - Foreign taxes available as a credit on U.S. return

Tax Issue - Foreign Subsidiary

- Separate legal entity
- Potential U.S. tax implications on any outbound transfer to the subsidiary of appreciated property
- No current U.S. taxation unless one of the anti-deferral rules apply
- Transfer pricing issues
- Check-the-Box election to treat as a flow-through business
 - Current U.S. taxation

Assignment of Employees-*Company* Issues

- Employment package considerations:
 - Compensation, benefits and insurance
 - Housing
 - Travel and moving costs
 - Home leave
 - Tax equalization or protection policy
- Foreign payroll and reporting
 - Totalization agreements
- Visa and work permitting

Assignment of Employees-*Employee* Issues

- Employees' taxed in U.S. on worldwide income
- Double-tax mitigated by treaty and/or other U.S. tax mechanisms
- Subject to foreign residency rules, tax returns generally required in both jurisdictions
 - Different reporting and rules
 - Engage competent advisors (planning and structuring)
- Social Security-like coverage
- Tax equalization or protection
- Foreign tax credit and Foreign Earned Income Exclusion

Carrying on Business in a Foreign Jurisdiction

- Tax filing requirement in a foreign jurisdiction is based on statutory requirements, court cases, or administrative authority
- What level of activity in a foreign jurisdiction will give rise to a filing requirement
 - Most of the time the threshold is based on facts and circumstances
 - Threshold is usually very low
 - Engage local advisor to make determination

Income Tax Treaties

- Mitigates international double taxation by allocating taxing rights between countries
- Prevents evasion of income tax
- Defines arbitration process for tax authorities if there is a dispute
- Treaty benefits are generally available to tax residents as defined under the treaty
- Issues with claiming treaty benefits may arise for:
 - S corporations
 - Limited liability companies
 - Partnerships

Foreign Tax and Financial Reporting

- Functional currency requirement
- Need for in-country accounting and reporting
 - VAT
 - Payroll
 - Indirect taxes
 - Expertise of accounting standards
- Impact on and coordination with U.S. financial and tax reporting
 - Exchange gain/loss
 - Process and timing

Foreign Tax and Financial Reporting (continued)

- Basis of accounting differences
 - Accrual vs. Cash
- Statutory audits
- Tax returns and tax audits
- Service agreements
- Transfer pricing study
 - Often required to be submitted to tax authorities
 - Transfer pricing means related party agreements must be at arms' length
 - Covers all types of related party transactions

Foreign Students - U.S. Tax Considerations

- U.S. residents and citizens are taxed on their worldwide income
 - Substantial presence test (183 days)
 - Green Card test
- Non-residents are only taxed on their U.S. source income
 - Annual tax return required to report just U.S. earnings

Foreign Student - U.S. Tax Considerations

- Exception to substantial presence test for students:
 - Does not intend to reside permanently in the United States;
 - Has substantially complied with the immigration laws and requirements relating to his student nonimmigrant status;
 - Has not taken any steps to change his nonimmigrant status in the United States toward becoming a permanent resident of the United States; and
 - Has a closer connection to a foreign country than to the United States
- File Form 8843 annually to support this claim

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