



TAX TRAPS FOR THE UNWARY IN EXPANDING OVERSEAS OPERATIONS

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October 24, 2012



US BUSINESSES EXPANDING GLOBAL OPERATIONS

Agenda

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Presentation Objectives

At the end of this presentation, participants will (be able to)

- Describe potential US tax issues for US businesses expanding global operations
- Recognize potential Chinese tax issues
- Recognize potential Indian tax issues
- Recognize potential Mexican tax issues



Potential US tax issues

US tax issues to consider

- Branch?
 - Will there be losses?
 - Transfer pricing
 - Branch Loss Recapture rules
 - Overall Foreign Loss and recapture
 - Dual Consolidated Loss rules
 - Actual branch or disregarded entity
 - Reporting
 - Form 8858 (disregarded entity)

US tax issues to consider

- Corporation?
 - Ownership
 - One shareholder or more than one shareholder?
 - Checked or unchecked?
 - Type of operations?
 - Transfer pricing
 - Reporting
 - Form 5471 (Foreign Corporation)
 - Form 8865 (Foreign Partnership)

US tax issues to consider

- US Foreign Tax Credit
 - Is the foreign tax a creditable tax?
 - Did you pay “volunteer” to pay the tax – IRS views
 - Is it possible to claim an indirect tax credit?
 - US person needs to be a corporation
 - CFC, no more than 6 tiers down
 - Other ownership requirements



Potential Chinese Tax Issues

Chinese tax issues to consider

- PE
 - Is there a tax treaty?
 - Circulars
 - Local tax bureaus
- Income tax
 - Income tax rate
 - Tax incentives
- Transfer pricing
 - Pre-approval of policies

Chinese tax issues to consider

- Business tax
 - 5.5%
- VAT
 - 17%
 - VAT leakage on exports
 - New developments
- Service agreements
 - Potential service PE
 - Impact to employees



Potential Indian Tax Issues

Indian tax issues to consider

- PE
 - Is there a tax treaty?
 - Case law
 - Toll manufacturing vs contract manufacturing
- Income tax
 - Income tax rate
 - Distribution tax
 - Tax holidays
- Transfer pricing
 - Do not follow the OECD model

Indian tax issues to consider

- Indirect taxes
 - Sales taxes
 - Service taxes
- Indirect share transfers
 - Vodafone case
- Secondments
 - Bank accounts
 - Retirement system



Potential Mexican Tax Issues

Mexican tax issues to consider

- Permanent Establishment (“PE”)
 - Is there a tax treaty?
 - Local law requirements?
- Income tax
 - Regular tax
 - Flat tax
- Required number of shareholders
 - If more than two, how to get US DE treatment?

Mexican tax issues to consider

- Transfer pricing requirements
 - Report
 - Adjustments
- Indirect taxes
 - Customs duties
 - NAFTA
 - IVA
 - Creditable vs refundable
- Employment taxes
 - Profit sharing

Presentation Objectives Review

At the end of this presentation, participants will (be able to)

- Describe potential US tax issues when expanding overseas operations
- Recognize potential Chinese tax issues
- Recognize potential Indian tax issues
- Recognize potential Mexican tax issues



QUESTIONS?

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Narelle MacKenzie CPA

Narelle is a well known international tax consultant, located in San Diego. She has over 30 years experience in business with over 20 years experience in international taxes. She lectures in US International Tax at San Diego State University.



Narelle seeks to understand the business operations and drivers to ensure that the global tax planning and compliance works in synergy with the business, and maximize the returns to shareholders, whilst ensuring such tax planning is done to the highest ethical standards.

She has worked in both public accounting and industry for employers such as United Technologies (which acquired Goodrich Corporation), PricewaterhouseCoopers LLP, and Toyota Australia. Her business experience has covered diverse industries and activities, including supply chain activities and initiatives, identification and implementation of new manufacturing facilities, establishing representative offices, secondment arrangements, customer sales and support initiatives and general cross-border issues.

Narelle has advised on cross-border activities in many and diverse countries and works with tax advisors in those countries to identify optimal, strategic tax solutions for you and your clients. Some of the various countries she works with are: US (federal and state), Mexico, Brazil, Singapore, China, Scotland, India, Turkey, Japan, Germany, South Korea, Netherlands, Canada, Luxembourg, Chile, Sweden, Norway, Russia, Australia, UK and France.

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