FACT FINDER

INTERNATIONAL TAX PLANNING

FOR MULTI-NATIONAL COMPANIES

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BUSINESS ENTITIES

1. How should the business activities and the functions of each operation or service entity within the group be distributed globally?
2. What is the most appropriate business form for each entity within the group?
3. What are the likely tax and non-tax risk factors affecting the transaction flows in each structure?
4. Does it meet the business and organization objectives?
5. What should be the form of the entity? Should it be a branch or subsidiary?
6. Who should own it?
7. Would tax treaties reduce the holding rates?
8. Should one use an intermediary company as a holding company?
9. Do you have any intellectual property—patents, logos, trademarks and know how which should be used by the business?
10. Once the business shows a profit, what do you intend to do with the proceeds? *(Use them for personal expenditures or to leverage other investments).*
11. Are there any problems with partners, creditors or customers?
12. Is there a need for expertise in the industry?
13. Is movement a real concern? (i.e. transfer of domicile to be of the same corporate personality).
14. What is the profit motive?
15. To what extent do you plan to rely on the resources of the expansion locations?
16. Who are the business partners, what are their credentials and are they in favor of the expansion?
17. Where are you planning to expand and have you done a business marketing plan?
18. How do your present business financials compare with your projections?

19. What is the nature of the operation and the products or services?

20. What is the size and market share of the existing and potential penetrations per country?

21. What is the projected before-tax rate of return and cash flow (per market)?

22. What are the projected non-tax costs (per market)?

23. Is the project expected to be long or short term?

24. Is the project expected to be run under centralized *management (foreign markets division, foreign representative office or branch or under decentralized management via foreign subsidiaries?).*

25. What are all of the objectives of the client?

26. What is the expected size of the proposed operations and the expected tax issues at operational levels?

27. What is the flow of inbound and outbound cash, (i.e., to what extent does the client want the profits to be repatriated home or left abroad for expansion?

28. Prepare a tax flowchart on major income flows, envisaged from host to home country and identify the key points of tax incidence on each of them.

29. What manufacturing and marketing intangibles does the company own and how mature are they?

30. What funding resources/facilities the company have available?

31. What distribution networks have you considered?

32. Does the company plan to establish a presence in the country or will the marketing and service operations be conducted through independent agents?

33. Will it be necessary to send people to the foreign country to support the service arm of the operations and the manufacturing operations when they commence?

34. In what country do you prefer the management to be in?

35. Would control be direct or advisory?

36. What percentage of local directors will form part of the management team?

37. What nominee directors will be considered?

38. Where would the meetings be held?

39. What formation and recurring costs do you expect?

40. Do you wish to transfer funds or change domicile quickly?

41. Have you considered exchange rates and regulations affecting accumulated funds?

42. What are the exchange controls and currency restrictions?

43. What type of law protection do you require, (i.e. tax treaties)?

44. Are there any financial incentives to locate the manufacturing facility in that country?

45. What is the level of risk of expropriation, political instability or currency restriction that is acceptable to the U.S. company for making direct investments into the foreign country?

46. Would you consider using an intermediary company set up overseas?

47. What are your concerns in avoiding future estate taxes?

48. What distribution networks have you considered?

NON TAX ISSUES

1. Will the laws of the country allow this type of investment?

2. Is the business legal in that country?

3. Are raw materials, other materials and technology available in that country?

4. What are the profit potentials?

5. What is the location and is it convenient?

6. What is its relationship with other countries?

7. Where are the intended markets?

8. Do they have ample and economic work forces?

9. What is the capital investment required?

10. What is the size of the market and can the products or services be used in other countries?

11. What is the sophistication of the society?

12. What is the system and stability of the government?

13. What is the international perception of the government?

14. What is the financial system of the region?

BUSINESS FINANCE

1. How should the foreign investment or creations be financed?

2. Should it be debt or equity, both and in what ratio?

3. Should it be financed by the parent company, locally or from third country sources? Is borrowing funds necessary?

4. Can the funds be retained or used abroad or are they required to be repatriated to the home country?

5. How do you minimize the exchange risks in borrowing?

6. Do you intend to set it up independently or with local partners?

7. What is the business plan of the investor or taxpayer?

8. What return does he expect from the project and when? (i.e. Does he wish to repatriate the profits home as soon as they are earned abroad, or does he wish to keep them abroad for re-investment?).

9. Are there any unusual considerations in the loans you are seeking?

10. Have you investigated the cost of loans from other parties?

11. How much should be financed?

12. Should the assets be actively or passively managed?

13. What is the repatriation and investment policy?

14. Will the investment strategy consist of actively or passively managed assets?

BUSINESS ACQUISITION

1. Should the foreign operations be formed through acquisitions of an existing entity or through the acquisitions of an existing entity or through the incorporation of a new legal entity?

2. Should the acquisition be based on the purchase of shares or assets?

3. When do you plan to implement the plan?

JURISDICTION TAX SYSTEM

1. How does the tax system in the host country interact with the tax system in the home country?

2. Can tax residence in the host country be avoided?

3. Should an intermediary jurisdiction be used for tax purposes?

4. How can we minimize the tax liability or maximize the post-tax profits (return on investment) when the project is fully operational? The assumption is that either the post-tax profits are to be repatriated to the parent company or retained in the subsidiary for expansion abroad or both. Please specify.

5. How can domestic tax law, tax treaties or use of intermediate entities be used to minimize the overall taxability and still meet the business objectives? (It is important to consider that tax liability is a combination of taxable income or tax base and the tax rate, the liability can be reduced if either of the two are reduced).

6. Is the U.S. business expected to be profit or loss generated?

7. What are the marginal tax rates for the past 5 years?

8. Does the group file a consolidated tax return?

9. What past, existing and pending litigation exists with the IRS and any other tax jurisdiction?

TAX TREATIES

1. How are tax treaties interpreted in the contracting states involved?
2. What terms follow the meaning under the domestic law?
3. What are the source and characterization rules?
4. Are tax treaties under renegotiation?
5. Are they likely to be amended in the foreseeable future?

HOME COUNTRY QUESTIONS

1. With which countries does the home country have a double treaty agreement?
2. Does the home country have transfer pricing rules?
3. Does the home country have anti-avoidance or CFC legislation?
4. Does the home country have thin capitalization rules?
5. Will the home country foreign operation have start-up losses? If so, for how long?
6. How will the foreign operation be capitalized?
7. What is the group attitude toward risk?

HOST COUNTRY QUESTIONS

1. Does the host country have a double taxation treaty with the U.S.?
2. Does the host country have any special tax advantages for forming a manufacturing facility?
3. Does the host country have transfer pricing regulations?
4. Does the host country have any applicable customs duties on imports of raw materials for manufacturing the product?
5. What is the direct and indirect cost of labor and how does it compare with other countries?
6. Does the host country have any free-trade zones?

7. Does the host country charge value added tax?

INTERMEDIATE COUNTRY QUESTIONS

1. With which third counties do the home and host countries have double treaty agreements?

2. What level of activity is required for the third country intermediary to have a permanent establishment where sales will be made?

3. Does the intermediary country have accumulated income tax?