

Establishing operations abroad

Mary Nyhan, Founder, Nyhan Tax Advisers

Corporate Structure – initial

- Initially marketing and business development
- No fixed place of business
- No corporation tax or VAT presence
- If not broken, don't fix

Corporate Structure – establishing a presence

- An office or warehouse
 - Corporation tax or VAT presence?
- Remote servicing
 - VAT
 - Especially if private customers
- Branch
 - Registration required
 - Use of losses against Irish corporation tax

Corporate Structure – establishing a presence

- New company
 - local shareholder required ?
 - Tax residence
 - Board of directors
 - Strategic presence
 - Tendering process
 - Reporting obligations

Corporate Structure – establishing a presence

- JV with local partner
 - Agreement is key
- Acquiring a local business
 - Due diligence
 - Historic matters

Corporate Structure

- Russia: company, local shareholder
- Bahrain: company (only allowed for specific ventures)
- Qatar: branch (local sponsor)
- UK: company
- Morocco: branch

International HR issues

- Importance of a written policy
- Gives consistency
- Manages employer risk
- Greatest “risk” area

Overseas income tax

- > 183 days and costs borne by local entity
- Who is responsible for the taxes – employee or employer
- Corporate governance perspective
- Local payroll providers

Overseas income tax

- Due to modern commuting and shorter-term projects, risk of Irish tax continuing to remain.
- Clear communication.
- Employee agreement
- Critical to have a procedure to collect the second layer of taxation applying and ensuring that this amount is refunded back to the company

Illustrative example

- Joe works for an Irish company but works from the company's UK branch.
- He leaves Ireland every Monday morning and returns to Ireland on Friday evening to spend the weekend with his family.
- On average, Joe is in Ireland for 160 days each year.
- Joe's salary will be subject to Irish tax given that he is Irish tax resident. An individual is Irish tax resident if he spends more than 183 days in Ireland in a tax year or 280 days between the current and previous tax year.
- Joe will be subject to UK tax as he is working in the UK

Illustrative example

• Irish Salary	100
• Irish Tax	45
• UK tax	35
• Individual receives	55
• Company pays	45
• Income tax return required to claim refund	35

Illustrative example – solution?

- Change employer to UK company
- Irish PAYE does not apply
- No double withholding
- Cash-flow position improved

Employee position can influence corporate structure

HR Policy

- Policy on equalisation:
 - Same as never left Ireland?
 - Company gets benefit of overseas tax rates?
 - Individual gets benefit of lower tax rates

Social Security

- Irish Social security
- E101 procedure to remain on the Irish system : Irish employer
- Factor when deciding on a branch or a subsidiary
- Transferability of benefits between EU only but subject to restrictions

Reimbursement of expenses

- Local rules
- Some local rules do not reimburse temporary expenses e.g. Poland
- Need to factor into package to the employee
- Expenditure travelling to and from temporary place of work:
 - Affects decision on a company-v-branch

Financing structures

- Keep it simple
- Dutch financing structures are not for everyone!
- One tax relief for interest sufficient

International holding companies

- Benefits of the Irish regime
- Avoid unnecessary layers of taxation
- Match companies to country of trading
- Separate group for international operations – to manage risk?

International allocation of profits

- Keep it simple
- Arms' length
- Risk linked to profit
- Transfer pricing reports – benchmarking requirements

Other taxes

- Customs
- Withholding tax on payments and receipts
- Contractual terms

Beware!

- Foreign exchange risk to the extent we cannot match
- Contract terms
- Arrangements with local agents – read the small print
- Tax: Keep it simple
- Written advice – matching of company and local objectives

Contact Details

Mary Nyhan

Tel: 01 5240294

mary.nyhan@nyhantaxadvisers.com

Thank you