

## **Checklist – taxation matters when establishing in an overseas location**

### **(A) Corporate matters**

1. Is there a requirement for a company in the overseas country in order to do business i.e. win and contract with the customer? This is particularly the case in relation to government contracts, tendering and establishing a presence in the particular country. If a local company is required, any requirement to have a sponsor/local shareholder or JV party?
2. In the absence of a local company, would a permanent establishment (i.e. a presence for corporation tax purposes) arise?

A local presence for corporation tax purposes tends to be where there is a fixed place of business generating sales or employees concluding sales contracts in the overseas location.

3. In what jurisdiction is the intellectual property recorded? Merit from an Irish tax perspective in recording in Ireland.
4. A policy in place in relation to the recharge of costs between the overseas and Irish activities. Agreements are required (buy and sell agreements, licencing agreements) to support the analysis.

### **(B) Employee matters**

5. Are any employees subject to tax in the overseas jurisdiction? This would involve assessing:
  - The minimum number of days before overseas tax requires consideration.
  - Does the position vary if a local company is involved?
  - Are there particular rules in relation to the taxation of business expenses and reimbursement of personal expenses (medical, education etc.) in that country?
  - Who is liable for the income tax – the employer or the employee?
6. Is there an employee policy in place for each country? This would include all taxation matters, such as who bears the cost of higher local tax rates/benefit of lower local tax rates, and non-tax costs (health, insurance etc.).

7. Does the employee remain subject to Irish taxation? –
- Is there a procedure for recording employees that are subject to Irish income tax?
  - If tax applies in Ireland and the overseas location, is there a procedure in place in order to obtain the refund of the overseas taxation?
  - Does cross-border relief apply?
  - Does the relief that applies for business trips to the BRICS countries apply?

8. Will the employees remain on Irish social security and retain their pension entitlements while abroad?

If the individual transfers to local security, what are the relevant local rates, benefits and transferability of benefits on a return to Ireland?

**(C) Other taxes**

9. Rules in relation to overseas VAT and at what point overseas VAT applies.
10. Any local withholding taxes that apply on sales and expenses, including procedures for reimbursement?
11. Are there different tax regimes within the overseas country e.g. sales taxes in the US, tax-free zones in some countries?
12. All tax are considered e.g. customs.
13. Do other financial matters (such as exchange controls and foreign exchange policy) consider the taxation effect?
- Tax needs to facilitate the most effective manner in doing business in that particular location and generating sales.
  - All financial projects need to reflect the **after-tax** cash-flow position including remission of funds back in Ireland. All taxes are relevant here and not just VAT.
  - Complex tax-avoidance structures in tax havens are avoided. Start with a simple streamlined corporate structure.
  - Overseas tax risks are identified and managed particularly in relation to employees.