



Expanding into new markets

Northern Irish Businesses

How KPMG's Tax Team can help





Are you looking to expand internationally? Many businesses in Northern Ireland are developing growth opportunities overseas. This booklet is designed to help you assess many of the key tax issues to bear in mind when expanding your business in new markets.

We understand the pressures and challenges when setting up a business in a foreign country. Our international teams in Northern Ireland and abroad can help you focus on what matters, avoid the tax pitfalls and ensure that your project starts to deliver a measurable return in the shortest possible time frame.

Our team in Northern Ireland will act as your point of contact and will link you to the overseas tax teams to provide the support and advice you need.

We also provide a range of useful information through our portal 'Expanding into New Markets' dealing with country specific issues.

www.kpmg.ie/newmarkets

We look forward to hearing from you.



Some key considerations

Expanding into a new market triggers a range of issues and we can help you manage these to the best advantage of your business.

These include:

- How should I structure my business?
- How do I decide the tax residence of subsidiaries?
- Do I need a holding company?
- How should I finance my business?
- What is transfer pricing?
- What employment issues will I face?
- What taxes do I need to be aware of?
- What local reporting issues should I be aware of?

How should I structure my business?

Initial marketing and business development

Do you need to have a local presence? You may provide services or goods to a new market from your existing business base. You might need to send people locally to develop business relationships or engage local agents. But what constitutes a business presence for local purposes? The threshold for creating a presence for local purposes can be surprisingly low!

Remote servicing

The provision of goods and services from your home base to a new market may form a starting point while assessing the market opportunity – but this can result in a taxable presence in a host country and can also trigger local registration and regulatory requirements. We can help inform your decision.

Establishing a presence

Some of the issues to consider in deciding on set up include the costs of set up and maintenance, local regulatory and reporting and/or audit requirements, local incentives and local business culture. We can advise on the best approach.

What is the best way to structure a local presence?

Representative Office

Depending on the specific role and responsibilities of employees, local activities may not create a branch for corporate income tax purposes even though the obligation to register as an employer and operate payroll taxes may arise.

Branch

The creation of a branch of an existing company can be the most straightforward start up operation to establish. Local legal requirements should be considered including the need for local branch signatories, branch registrations and audit requirements. Companies often establish a branch in the loss making early stages so that the branch losses can be absorbed by the headquarter company. The UK taxes Northern Irish based companies on their worldwide income including foreign branch profits and allows offset of foreign branch losses against UK profits. Once the branch becomes profitable, the UK's regime for relief for foreign taxes borne on branch profits means that the Northern Irish company's overall corporate tax rate would usually be the result of the combination of UK tax on headquarter profits and the higher of UK tax or branch country tax on branch profits, unless the foreign branch election is made.

A UK company may elect for the profits attributable to its foreign branch to be left out of account for UK corporation tax purposes, effectively exempting such profits from UK corporation tax. This is mainly a tax efficient option only where the foreign branch is profitable and where it is situated in a lower tax jurisdiction.

Acquiring a local business

If a local country target is identified, do you buy the business or the shares? In either case, due diligence may be needed to establish the potential commercial, legal and tax issues arising. We can also advise on local rules in respect of foreign ownership of assets.

Incorporating a new company locally

If you start a new local company, we can help you to decide upon the most appropriate form of legal entity. Considerations may include the level of capitalisation, the degree of control and flexibility, limitation of liability and the tax regime applicable to the chosen entity for UK purposes and locally. You may also need to consider local rules in respect of foreign ownership of assets.

Assuming that the local company is managed locally so that it is not regarded as tax resident in the UK, it will also be necessary to consider certain UK anti-avoidance provisions within the UK tax code that seek to ensure a company's UK tax base is not reduced by what would be regarded as 'artificial arrangements'. Examples of such provisions would be the Controlled Foreign Company regime and Transfer Pricing rules.



Joint venture with a local partner

It is often helpful (or mandatory in some countries), to conduct business in a new market with the assistance of an established local name or brand. This may mean entering into a joint venture agreement.

There are often a variety of potential structures for such an arrangement.

How do I decide the tax residence of subsidiaries?

The profits of a foreign subsidiary are taxable in the UK if the subsidiary is centrally managed and controlled in the UK. This can give rise to tax on the subsidiary's profits both in the UK and the local country if the central management of the subsidiary is carried out in Northern Ireland or elsewhere in the UK. Alternatively, if the foreign subsidiary is more autonomous and is managed and controlled in the local country, it may not be tax resident in the UK.

You will need to consider the extent to which the Northern Irish parent oversees the activities of its subsidiary usually by the appointment of Northern Irish and/or other UK based directors to the board and the actual exercise locally of the management and control of the subsidiary. Care is needed to balance local requirements for governance and management of the local entity with appropriate operating guidelines to ensure the local activities are aligned with group policy. We can advise on tax and legal compliance requirements that can arise for individuals appointed to local boards and exercising decision making locally.

You will also need to establish how much time an assignee can spend in a country before becoming subject to local employment and tax rules. Your employees will need to monitor the exact time they spend in each location.

We can advise on the availability of incentives both in Northern Ireland and in the host country for foreign assignees travelling to work in the host country. We can also advise if it is possible to reward employees with remuneration in a form that avails of tax incentives in the local country.

Local visa requirements should also be considered as they can be time consuming to obtain.

What taxes do I need to be aware of? **Employment taxes**

Each country may operate different types of employment taxes on national and non national employees and/or secondees. Typically, local employment taxes include an employer's contribution based on salary levels and the collection of employee taxes and social insurance. They can also include

state mandated pension provision. Separate taxes can operate at federal, state and municipal levels.

Withholding taxes

Often a cross border operation will trigger withholding taxes in respect of various payments including interest, dividends, rents, royalties and payments for services. Withholding taxes can operate within a country's borders but more commonly on payments between countries.

You also need to consider if there is tax which will operate on the repatriation of any cash flows and also on a subsequent exit of a business.

Withholding taxes can have cash flow and increased cost implications for a business. Often with careful structuring these costs can be reduced or eliminated. The UK's system for granting relief against UK tax for foreign withholding taxes generally looks to each separate source of income and generally gives the greatest measure of relief where there is a tax treaty between the UK and the source country of the payment.

Direct taxes

Direct taxes are generally levied on the profits or gains of an entity – whether of a local company or on the branch profits of a foreign company. These are usually equivalent to UK corporation tax on income and capital gains. In some cases, taxes are levied at several levels e.g. federal, state, municipal, local authority. Often, different approaches apply in determining the tax base for different taxes. For example, the tax base may be calculated on the basis of gross income without deductions or there may be a minimum tax.

Indirect taxes

Various versions of Goods and Sales Taxes and Value Added Taxes and customs duties may be levied in each country. Where goods or services originate in Northern Ireland, it may be necessary to consider both UK VAT requirements and local country requirements for the same supply.

Different sales tax regimes may apply to the movements of goods and provision of services within countries e.g. between different local states. Some of these taxes are creditable and operate like the UK VAT system and are borne ultimately by the end user. Others are a tax cost to the company.

The obligation to register and comply with local sales taxes and customs requirements is often one of the first tax issues encountered when conducting business with local customers. Severe penalties can apply in case of failure to comply. KPMG's team of indirect tax specialists can assist you in identifying the range of operational requirements that will need to be addressed to comply with local country sales

tax, VAT and customs tax payment, reporting and invoicing requirements.

Other taxes

There are a range of other taxes that can arise including registration taxes, stamp and capital duties, notary fees, wealth taxes, inheritance taxes and property taxes. It is important to seek advice regarding the taxes that apply in each location. It is not just the rate of tax which may vary but the tax base on which the tax is levied.

What are my local reporting and other requirements?

Local reporting requirements need to be considered even if no new entity is established. These may vary depending on whether the foreign expansion is through a branch or subsidiary and from location to location. This is particularly important where the intention is to operate in multiple locations.

In addition, the expansion may bring about additional home country reporting which should also be considered.

Do I need a holding company?

A holding company can provide many benefits including risk diversification especially when operating in more than one market. It may also have access to tax treaty protection and improved withholding tax rates on source country income and on capital gains. Certain holding company regimes also give the potential to repatriate income or capital gains at little or no tax cost (above the local taxes on the operating profits).

The UK's holding company regime provides for a tax exemption on capital gains arising on the disposal of a subsidiary (domestic or foreign) if certain conditions are met e.g. the UK holding company must be a trading company or the holding company of a trading group and must hold at least a 10% shareholding in the trading subsidiary. If the conditions pertaining to this exemption are not met, the capital gain arising on such a disposal will be subject to UK corporation tax. There may also be local country tax on capital gains to consider.

Dividends received by UK tax resident companies are in practice mainly exempt from UK corporation tax irrespective of the source (i.e. domestic or foreign).

We understand the pressures and challenges when setting up a business in a foreign country.



How should I finance my business?

You will need to consider how to finance the business. If funds are raised in Northern Ireland, or elsewhere in the UK, there are no UK restrictions on the transfer of those funds abroad.

We can advise on whether local country exchange controls arise, as it may be necessary to consider if such controls affect the business and its ability to repatriate cash to service debt cash flows. The availability of local funding generally and specifically to non residents should be considered.

You will also need to consider the mix of equity and debt funding and the tax relief for funding costs in the UK and locally. Many countries have minimum capital rules and rules which restrict tax relief for interest on intra group debt depending on a range of factors. Countries may also impose withholding tax on interest payments to non residents.

Even from the outset, you should consider how it will be possible to repatriate any capital introduced.

What is transfer pricing?

Invariably operating across borders involves the challenge of allocating profits between different areas of the business.

Transfer pricing is concerned with the pricing of transactions between connected companies and is a key issue for most jurisdictions to ensure that they get their fair share of a company's taxable profits.

Steps need to be taken to ensure that the level of profit attributable to foreign operations can be justified under transfer pricing rules. We can advise on all transfer pricing issues.

Transfer pricing principles generally support the attribution of profits to the country where entrepreneurial risk and value added functions are located. The UK follows OECD guidelines in respect of transfer pricing requirements but these may not always match local country transfer pricing rules.

What employment issues will my business face?

People are key to success in international expansion. Achieving this success is likely to involve a combination of skilled mobile employees and local work force.

KPMG's network of teams providing advice on International Expatriate Services can assist you in managing the issues and complexities that can arise on the deployment of mobile employees as well as helping you identify in a timely manner local country employee related compliance obligations.

Local employees

Local payroll taxes will have to be operated on local employees and this will bring with it further local reporting requirements. Often it will be the employment of local staff that will drive the availability of local tax or grant incentives.

Some countries operate quotas where there is a minimum requirement of local employees so this should be considered. Local employment laws may vary considerably from UK laws and local tax and legal advice should be taken.

Mobile assignees

When operating across borders you need to consider the legal issues which may affect your employees such as whether moving will affect their entitlements and whether existing employment contracts deal with issues faced by mobile employees. This can include developing policies on assignments.

How can KPMG help?

Each location may have its own complexities in relation to business operations, regulation and taxation and we can help identify the issues for you once you have identified where you wish to expand.

Your KPMG contact in Northern Ireland can connect you with our international colleagues best placed to help your business succeed in an overseas marketplace. Amongst the issues upon which we can provide advice and support are:

- Indepth knowledge on local rules in respect of foreign ownership of assets
- The scope of application of the new Northern Ireland 12.5% rate of corporation tax (expected April 2018)
- Guidance on tax and legal compliance requirements for individuals appointed to local boards of management and exercising decision making locally
- Best approach if the local country does not yet have a tax treaty with the UK
- Financing the business and related considerations
- Transfer pricing issues
- Managing the issues and complexities that go with mobile employees
- Local reporting requirements.



Contact us

To find out more on how we can help your business succeed please do get in touch.



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Produced by: KPMG's Creative Services. Publication Date: May 2016. (1824)