

Considerations when expanding globally

The majority of US companies anticipate an increase in international business activity. Business executives believe that global expansion is significant for maintaining long-term growth and keeping pace with competitors. The most attractive markets for US companies today are Western Europe and China. US companies also consider other emerging markets, such as Mexico, Brazil and India, for future growth.

While international expansion remains at the forefront of the expansion plans of many companies, risks also abound. In particular, regulatory risk has become one of the major concerns associated with international expansion.

Below are some of the issues to consider when scaling your business globally:

Corporate governance

- Many jurisdictions require a local presence for certain business activities in the territory of the country. Sometimes a simple branch or representative office might be sufficient. Other times, countries require a subsidiary to be established, which comes with a very different set of compliance, regulatory risk and tax considerations.
- When establishing a foreign office or subsidiary, one must consider number of directors/officers for the entity, local director requirements, local agents, requirements for shareholder meetings, number of shareholders, etc.

Regulatory compliance

- Many jurisdictions require import/customs or export licenses to move technology or products between the US and the foreign jurisdiction.
- There may also be further regulatory considerations unique to the type of service, product, or facility that will operate within the jurisdiction.

Tax considerations

- There may be different tax implications based on the choice of entity established within a jurisdiction. One entity form could provide a more favorable tax result than another while also serving the required functions within the jurisdiction.
- Activities conducted in a foreign jurisdiction may present issues in the US, through conducting business in a jurisdiction the US is sanctioned against, direct taxation rules or anti-deferral rules.

Employment

- To engage an employee in a new jurisdiction, companies may need to enter into local employment agreements, use local payroll providers and enter into or adhere to applicable collective bargaining agreements.
- There may also be issues in acquiring work permits for non-local nationals.
- Overseas employees may be entitled to a set of benefits and rights not required in the US.
- Company policies regarding security, trade secrets, compliance, privacy and non-compete policies may need to be

revised to comply with the rules of the new jurisdiction.

Global equity

- It is important to consider whether there are securities laws in place in the new jurisdiction that would restrict or cause affirmative requirements to apply to the grant of awards. A new jurisdiction may have unique fund remittance limits, reporting or repatriation requirements that can cause restrictions, or affirmative requirements that apply to equity awards.
- There may be unusual tax benefits or consequences to awarding equity to employees.

Data privacy; intellectual property, technology and information law

- A new jurisdiction may have its own requirements regarding data privacy registration, data transfer obligations, customer/employee notifications, data monitoring and payment obligations.
- Local laws may have different requirements to validate and enforce the intellectual property assignments by employees and independent contractors.
- Local jurisdictions may have unique rules regarding trade secret protection, and local employees may require special training to understand how to effectively protect company secrets. Appropriate intercompany agreements should be in place to permit the use of relevant intellectual property by newly formed subsidiaries or affiliates.
- There may also be an issue of accessing third-party technologies due to territorial restrictions.

To ready more about the issues to consider when expanding globally, take a look at our [Global Expansion Checklist](#). We have also created our [Guide to Going Global](#) series, which reviews business-relevant [corporate](#), [employment](#), [equity](#), [intellectual property and technology](#) and [tax](#) laws in over 40 key jurisdictions around the world.

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