Crossing The Border: How To Move Your Business Abroad

■ By Alexia Terzopoulos
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As the stability of the U.S economy grows increasingly dependent on the export of domestic goods and services, it seems to be a good time for U.S. companies to take their business abroad.

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"With 95 percent of the world's consumers outside the United States, the incentive for companies to look at export markets [is] stronger than ever," says John Murphy, vice president of international affairs at the U.S. Chamber of Commerce. "The U.S. marketplace is the most competitive in the world, so, often, entering another market . . . businesses find a competitive environment that's actually easier in some ways than what they face back home."

And according to a recent Pricewaterhouse Coopers report, the trend is quickly catching on. Of 291 fast-growth company CEOs surveyed during the second quarter of 2007, 45 percent said they currently do business abroad and expect their revenue to increase by 24.2 percent over the next 12 months. Companies that only market domestically, meanwhile, reported lower gross margins and anticipate an 18.3 percent increase in revenue.

While the benefits may be significant and the prospects enticing, companies must proceed with vigilance, industry experts warn, noting the value of meticulous planning and research.

Blake Christian, a certified public accountant (CPA) and partner at Holthouse Carlin & Van Trigt LLP, says company owners seeking to take their business overseas should first determine the reasons for developing their presence in another country.

Then, asking questions such as, "What makes the most sense from a business standpoint?" helps owners identify appropriate organizational structures, ranging from creating a branch operation or holding company to establishing an incorporation or partnership. He also recommends assessing other options – such as using a company already located in that foreign jurisdiction as an agent – to help mitigate the risks of going abroad.

After examining the business aspect of going abroad, Christian suggests "backtracking as to what the legal and tax ramifications are." Doing so is essential to selecting the right country, he says, and some of these factors could eventually dissuade an owner from expanding. Noting that many people lack a comprehensive understanding of the various intricacies and implications of foreign taxation and legalities, he also recommends having a CPA firm and attorney that "are conversant in those foreign issues."

"A lot of people have this misconception that they should go and set up in a country that has some huge tax advantage," he says. "But because of the complexity of the U.S.-foreign or international tax laws, it's very difficult in most cases.

"The international tax rules will generally not allow you to gain a significant advantage by setting up your holding company in some tax-favored nation if you're not actually operating there," he explains. For example, establishing a company on the Isle of Man, which is considered a "tax haven," while operating out of Dubai is unlikely to yield rewards, he says.

Business owners should also be aware of Value Added Tax (VAT)/Goods and Services Tax and other indirect tax obligations when they take their product overseas.

According to the European Commission's Taxation and Customs Union Directorate-General, VAT is levied on "all commercial activities involving the production and distribution of goods and the provision of services." VAT-registered businesses, however, can deduct other taxes from their VAT and, if their annual turnover is below a particular threshold, they may be exempt from the charges entirely. Nevertheless, Christian cautions, VAT rates and product assessments differ in every jurisdiction and are constantly changing.

U.S. companies should expect to incur taxes back home too, he says. "You can defer [your worldwide] income for a period of time, but you're generally not going to escape U.S. taxation forever," he warns. "At some point when you bring money onshore, or often much sooner, you're going to get taxed."

On the other hand, some countries offer incentives to lure foreign businesses. Duties and customs may be waived for a U.S. company that manufactures abroad, for example. Other countries, meanwhile, may offer a "tax holiday" – temporarily setting aside taxes – to a company that spends a certain amount of money and hires a certain number of locals. Moreover, these countries often offer the additional benefit of supplying cheap labor, land and raw materials, Christian says.

Foreign Trade Zones (FTZs) within the United States can similarly prove advantageous to a U.S. company importing or purchasing goods from a foreign subsidiary or partner, he says. As designated areas without taxes or duties, FTZs offer immediate cash-flow benefits to goods brought onshore.

After assessing the consequences of the relevant tax laws, Christian suggests learning more about the cultural and ethical issues of operating a business in a foreign country, which may run counter to U.S. business ethics. For example, acquiring the appropriate licenses to start operations could force

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owners "to jump through a lot of hoops," and paying off authorities or waiting up to six months for a go-ahead is not uncommon. Labor laws and the general labor mindset, he adds, can be equally complex.

Finally, business owners should deliberate the political stability of their target jurisdictions, which can influence the type of organization set up abroad. Establishing a branch in an unstable environment is not advisable, he says, because removing employees and dismantling operations during periods of intense turmoil can be extremely difficult.

After formulating a plan, Christian says owners should locate a contact in the target country; consulting with an advisor – such as an accountant or attorney – or getting referrals from a customer or vendor can help locate one. "Each country has its own rules and regulations, and the rules are changing all the time," he says, adding that a contact abroad is the "most knowledgeable" on such issues.

Other valuable resources include the U.S. Chamber of Commerce, which also has 104 affiliated American Chambers of Commerce Abroad (AmChams) in 91 countries; liaisons, trade representatives, consulates or chambers of commerce from the target country; larger banks with experience in international banking laws and rankings (available through www.doingbusiness.org/EconomyRankings/).

The next step before setting up a physical presence overseas is to undergo a six-month trial period. Given the "complexities of cultures and regulations and logistics . . . it's probably a 50-50 [chance] as to whether that's going to work in the long run," Christian explains. "Rather than putting the cart before the horse, putting a bunch of money and employees and infrastructure in place . . . just working through some local people on the ground that would act as an agent . . . would be a lower-risk way to enter that market."

And if the trial pans out, he concludes, only then should a company actually take its business abroad.