Four tax questions for U.S. companies going overseas

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U.S. companies often can find new markets, lower costs and less regulation overseas. But here are four international tax questions they should answer first.

1. Do you have a permanent establishment?
A company with a taxable presence (a permanent establishment or P.E.) in another country faces foreign filing and tax-paying obligations. Without a P.E., tax treaties may limit the foreign country's ability to tax the company.

2. To defer or not to defer?
The profits of a foreign corporation are generally not taxed in the United States until they are repatriated. However, the earnings of S corporations, partnerships or other flow-through entities are taxed currently to their U.S. owners. In general terms, deferring U.S. tax is desirable if low foreign taxes leave more earnings available to reinvest in foreign operations. Most companies establish operations in European countries to obtain deferral benefits. Recent legislation may allow companies to achieve significant federal tax benefits from moving certain operations to Puerto Rico, which is still in the United States for legal and regulatory purposes but is treated as a foreign country for federal tax purposes.

3. Does a DISC make sense?
The United States provides incentives to boost exports of some domestic goods. Taxpayers may exclude from taxable income commissions paid to a domestic international sales company (DISC) for supporting overseas sales. DISC commissions are ultimately taxable at a 20 percent rate when paid to individual shareholders of the DISC, instead of at much higher corporate or individual rates that apply to ordinary business income. DISCs involve little cost but require a new legal entity, a timely election, and compliance with certain other requirements.

4. What about transfer pricing?
U. S. and foreign tax authorities often assert that related-party transactions improperly understate income. Companies new to international taxes often don't understand the

complexities involved with developing a defensible transfer pricing policy. Failure to maintain documentation that proves intercompany transactions are conducted at arm's length could result in substantial penalties. These are just some of the issues to consider when doing business offshore. With careful planning, companies can control the tax costs that could otherwise erode the benefits of moving overseas

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