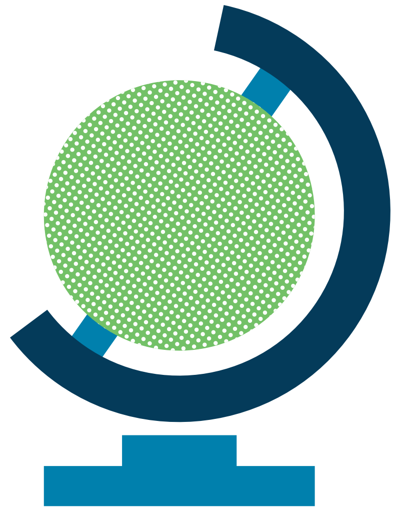

INTERNATIONAL TIDBIT:

Know Before You Go

“Know before you go” has long-been a tag-line for various U.S. government publications and programs aimed at international travelers for everything from understanding restrictions on taking liquids through security at airports to how much alcohol a traveler can bring back to the U.S. duty-free. For companies in the energy services sector, “know before you go” can be a critical part of bidding a job and completing a project on-budget.

On the tax side, the list is extensive but can be summed up based on three key areas.

CASH

For middle market companies, cash flow can be critical, especially when it involves funding the mobilization of engineers and equipment for projects in remote foreign locations. Anticipating cash flow starts in the planning stages for a project, including understanding the tax bite that a foreign country will take from a foreign customer’s payment. For example, a customer in a foreign country may be required to withhold tax from payments to a U.S. contractor even if much of the work is physically performed in the U.S. prior to arrival in the foreign country. Knowing how much that tax will be and how much of it might be creditable against U.S. tax on foreign source income impacts directly the profitability of a project and the cash flow it generates. Similarly, anticipating whether the presence of employees in a country will create a tax liability for them, and a taxable presence for their U.S. employer, are important. Having such a taxable presence can entail not only the obligation to pay income tax but also the expenses to register to do business and to collect other taxes such as value added tax on payments from customers, file tax returns, etc. Tax is a business expense and so it impacts directly both profitability and cash flow. At the seminar, we’ll discuss techniques for gauging foreign tax costs and avoiding foreign tax surprises that hit the bottom line.

COMPLIANCE

While tax people may think of “compliance” only in terms of filing tax returns, international business involves other types of compliance that have a tax impact. For example, operations in certain countries in the Middle East, that participate in the Arab League's boycott of Israel, must be reported even if there is no participation in the boycott or no solicitation of such participation. If there is a violation involving participation, calculation of the "boycott factor" can reduce or eliminate tax benefits that might otherwise be enjoyed. Similarly, a violation involving the Foreign Corrupt Practices Act, in which prohibited payments are made to foreign officials, can result in loss of foreign tax credits or in the inability to defer foreign earnings of a controlled foreign corporation.

SPECIAL RULES TARGETING ENERGY

Many countries tax extractive industries differently from other business enterprises, for example, collecting a royalty at the well for oil extracted under a drilling concession regardless of taxable income. They may also tax differently the businesses that make that extraction possible, for example, those that gather seismic data, construct an offshore rig, and transport personnel to the drilling location. While countries enter into double taxation treaties with the goal of reducing the overall tax burden when two countries tax the same income, when it comes to natural resources there is a clear preference for taxation by the country where those resources are located. For example, the ability of an employee to work for up to 183 days in a foreign country without being subject to personal income tax may be curtailed significantly (e.g., up to 30 days) in a case where the activities involve exploration for, or exploitation of, natural resources. The same goes for the employer, whose ability to operate on a short-term basis without creating a taxable "permanent establishment," is eliminated when work is done at a place of extraction of natural resources.

Knowing the tax rules in the foreign country ahead of time, and taking advantage of any opportunities to reduce tax, are essential components to success in the global energy business. To borrow another tag-line, "don't leave home without us" when venturing overseas on energy-related projects.