



SERVICES FOR INTERNATIONAL EDUCATION MARKETING CONFERENCE 2012

Managing Overseas Offices: avoiding common pitfalls

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SERVICES FOR INTERNATIONAL EDUCATION MARKETING CONFERENCE 2012

Considerations when Opening an Office Abroad

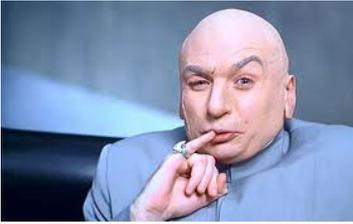
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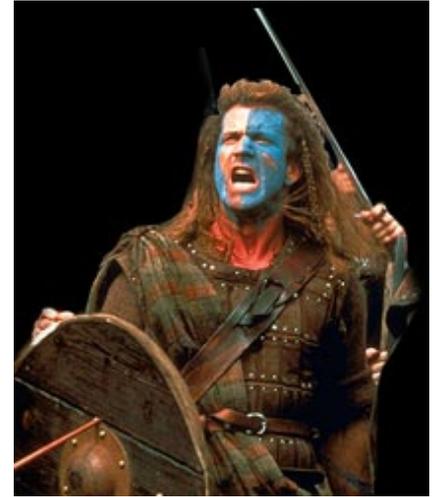


Why do we need to think differently with international?

- Outside the “safe haven” of home campus....
 - No legal structure already established in-country
 - Business functions occur outside of University financial controls
 - Unfamiliar laws and business practices
 - Changing business landscapes
 - Health and Safety considerations different
 - Different time zones, different languages
 - Little to no governance to monitor changes in program risks

The War Stories

- Independent contractors come forward claiming to be employees
 - Settlements in excess of \$500,000
 - 4 recent cases - all study abroad programme contractors
- Foreign partner non-compliance
 - Multi-million dollar tax issue
 - No registration or required filings
 - Illegally paying employees as contractors
- Employee detained in India
 - Stopped at border flying home
 - Prevented from leaving country until visa/tax situation was resolved
- Foreign governments implementing or enforcing strict registration requirements
 - 16 foreign organizations banned in Ecuador in August 2011 for “failure to meet disclosure requirements”; New registration rules in Cambodia
 - Bahrain, Iran, Sudan and Venezuela “tightened grip” on non-profits recently for registration requirements





Common Myths

- ✓ It's just an office for study abroad/research, and that activity is not a compliance issue
- ✓ Our partner has been there, so they must be doing everything right
- ✓ Non-profit status in the UK automatically applies in a foreign country
- ✓ Our foreign “contractors” would never turn on us
- ✓ Compliance issues with international programmes are someone else's issue at the university to deal with

Planning the Office



Basic planning areas

- ✓ Budgeting for office costs
- ✓ Incorporating UK HR practices in the foreign office
 - Performance management, hiring practices, engaging contractors, etc.
- ✓ Cash management
 - Getting money in and out
 - Opening bank accounts
- ✓ Obtaining insurance (health, liability)
- ✓ Engaging initial help on the ground
- ✓ Use of facilities
- ✓ Emergency procedures (e.g., evacuation, etc.)
- ✓ Governance model
- ✓ Ministry of Education considerations (in foreign country)

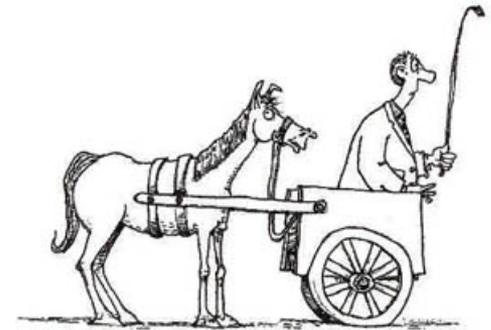


Central admin planning



Policies often required for new foreign office

- Opening and maintaining foreign bank accounts
- Procurement (most common area of fraud!)
- Hiring of independent contractors abroad
- Leasing or purchasing office space
- Global mobility (incl. hiring of employees abroad)
- Transaction/contract authority (cash disbursements)





Vetting partners

If foreign partner.....

- Is carrying out educational activities on your behalf with local students
- Has “local employees” they are paying on your behalf
- Is collecting money on your behalf in the foreign country
- Is paying contractors on your behalf
- Is collecting or maintaining student or human subject information

.....they *almost always* have filing requirements in-country, and it may be your liability too. Ask them about it!

Legal and Tax Considerations



Do you need to register?

As an employer.....

- Those being paid qualify as employees, not contractors
 - ✓ Required withholdings
 - ✓ Required tax payments
 - ✓ Required statutory benefits

Options (vary by country)

- PEO
- NRE
- Legal registration



As an entity.....

- Activities qualify as fixed place of business (permanent establishment)
 - ✓ Required registration
 - ✓ Required tax filings
 - ✓ Required entity filings

Options (vary by country)

- Subsidiary
- Branch
- Representative office



Permanent Establishment

(determination as a “fixed place of business”)

- Often defined in tax treaties
(UK has 127 of them!)
- If no tax treaty, then in local law
- Income generating activities most common trigger
- Other contributing factors
 - ✓ Office or working space
 - ✓ Employment
 - ✓ Duration of program
 - ✓ Decisions being made and executed in-country by contractors



Human resource considerations



Overview of HR issues



Engaging individuals in a foreign country

- Employee vs contractor - #1 compliance issue today
- Do not assume that foreign employee vs contractor classification is foreign country is not as stringent as the U.K.
- An agreement that person is a contractor is not enough!
- Both contractor and local tax authority incentivised to pursue claims/fines
- Fines would far exceed cost of hiring as employee



Faculty and staff working abroad

Compliance issues....

- ✓ Visas and work permits
- ✓ Individual taxation
 - 183 day “rule of thumb”
 - Advances and personal bank accounts
 - Paying taxes to Inland Revenue when working abroad does not satisfy employee’s tax obligations



Local employee considerations

- Employment contracts (often required by law, and in local language)
- Understand termination regulations before hiring
- Compensation and Benefits
 - Local laws and customs relate differently to local nationals, UK expats, third-country nationals, and contractors
 - There should be an understanding of what benefits are mandatory in-country, then what incrementally would be “market norm”
 - Comparison with the UK benefit plan can certainly be a factor in evaluating local benefits, but it shouldn't be the only one

Cash Management and Financial Considerations



Cash management

Issues:

- “Cash in a suitcase”
- Personal bank accounts
- Segregation of duties
- Tax implications for employees



Solutions:

- ✓ Client trust accounts
- ✓ Third party or partner account
- ✓ Authorisation through online banking
- ✓ Bank transfer

U.K. Tax and Regulatory Requirements

There may be domestic compliance and reporting requirements which need special considerations by the opening of an office abroad. Some examples include:

- FCO sanctions list
- Data Protection Act (data privacy)
- UK Bribery Act



Summary of issues that may get you in trouble....

- ✓ Inadequate budgeting up front for legal structure and back-office support
- ✓ Blind reliance on a partner organization and the things they are doing on your behalf
- ✓ Paying individuals as contractors for services they are performing on behalf of the university
- ✓ Employees from home campus in the UK are working in the foreign office for more than a “business trip”
- ✓ Generating income from a foreign source for “services” performed in that country (executive education, consultative agreements, certificate programs, etc.)
- ✓ Collecting personal information for academic or research purposes

A background illustration featuring a group of stylized human silhouettes in various colors (orange, red, blue, green, yellow) arranged in a loose circle, suggesting a meeting or conference. The word "Questions?" is overlaid in the center in a large, bold, black font.

Questions?

Other Considerations

(time permitting)

Immigration



- Applies to UK expats and TCNs
- Visas often require a local host to sponsor
- Without correct visa, employee is illegally in country from DAY ONE
- “Tourist” or “Business” visas typically not legally compliant for employees working in a foreign country
- Employees often in position of having to lie to passport control upon arrival at airport or border
- University will be held responsible since employee is working for university
- Left to their own auspices and due to lack of understanding of immigration laws, employees will frequently not take steps to get correct visa

Exit strategies

- Successful exits begin during planning!
 - Employee termination requirements
 - Lease or property commitments
 - Partner or other contractual commitments
 - “Graceful” exit language in contracts
- Fulfilling financial commitments
- Closing bank accounts
- De-registration of entity

Making Resources Available

- Website for students who may be traveling abroad
 - Opportunities for study abroad and fellowships
 - Forms, waivers, school contacts
 - Links to Foreign and Commonwealth Office (travel warnings), NHS (health, vaccinations info)
 - Emergency evacuation procedures
- Website for faculty and staff
 - Policies and procedural docs or links
 - How office may/may not be used
 - School and central admin contacts



Engaging with alumni, grantees and donors abroad

- Donors (or grantors) to foreign offices may develop expectations or feelings of entitlement related to their donations, such as an ability to influence curricula in certain programs or personal use of office space. The university should therefore set clear expectations with potential donors before accepting any gifts.
- Need to understand foreign country charitable-contribution regulations, withholding-tax regulations related to funds being repatriated to the UK and potential income taxes on gifts
- Funds may not be able to be repatriated
- Donors may expect tax deduction or expect funds to be used locally
- Foreign gifts may require a specific policy to ensure funds are treated in a way that is consistent with home campus gift policy

Examples of ongoing requirements

Planning how ongoing business requirements will be met:

- ✓ Filing of the monthly financial statements with the local authorities
- ✓ Maintaining books and records in accordance with local GAAP
- ✓ Preparation, filing and payment of relevant statutory taxes
- ✓ Preparation, filing and coordinating payment of VAT/GST returns
- ✓ Employee monthly payroll income tax filings
- ✓ Computation of statutory social insurance contributions
- ✓ All books and records are appropriately “available for inspection” by local authorities
- ✓ Audit of the statutory financial statements by a locally authorized professional
- ✓ Filing of the annual corporate tax returns
- ✓ Inspection and renewal of business registration and licenses with government authorities
- ✓ Preparation and filing of annual payroll forms