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## INTERNATIONAL LAW & TAX MODULE

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## INTERNATIONAL LAW

### **Compliance**

This section is about explaining how your company’s legal and ethical practices incorporate enough flexibility to allow for international expansion while keeping in line with Canadian law. Every Canadian company planning to export should have international business compliance established. Failing to do so can make your company vulnerable to foreign investigations which can prove extremely costly. Briefly, a proactive compliance plan will save you time and money.

The main areas of international compliance you should be focusing on include:

#### **Immigration laws**

Exporting often involves travelling, employing foreign staff, using the services of foreign partners…. These relationships must be sanctioned by documentation that ranges from visas to contractual agreements.

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***For each of the company staff or foreign agent involved with selling outside the Canadian borders, explain the legal documentation required.***

#### **Import and export laws**

From the moment goods cross the Canadian border, licensing requirements are likely to be mandated. Your compliance plan should include contingencies to protect your company against potential litigation and civil liability. A compliance plan will also minimize the potential for government investigations, which could not only be very costly but also shut your operations in the targeted country.

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***Describe how you are protecting your company from potential litigation in your targeted countries.***

#### **Contractual agreements**

Transactions across borders are legally much more complex and riskier than within Canada. Each partnership must be stabilized and nurtured despite all the potential challenges that inevitably happen when dealing internationally. Issues like commercial terms, dispute resolution, payment terms and many more must be negotiated and finalized to all parties’ satisfaction.

***For each of your foreign partners, whether agents, distributors, partners, suppliers, or staff, indicate what type of written agreement has been established, signed by both parties and legal representation and potential way forward if not done yet.***

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### **Intellectual Property Protection**

Intellectual property is a broad category of intangible assets that companies need to protect against outside use or implementation without the company’s formal consent. Protecting your company’s intellectual property is critical, especially when trading outside of Canada, where laws and cultural standards can differ significantly.

IP protection can take several forms, including copyrights, patents, trademarks, franchises or other and each market or economic zone where your company is trading must be assessed for IP protection. Those must be researched, budgeted and carefully planned.

***Describe the measures you currently have in place to protect your IP and/or the plans you need to expand in new markets.***

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## INTERNATIONAL TAX

The complexities and obligations to follow rules and regulations in foreign jurisdictions can be overwhelming when facing exports to new markets despite the considerable growth opportunities. Decisions regarding legal entities, where to conduct business, and how to finance operations all greatly affect the amount of taxes your company will pay.

### **Structuring your company for international expansion**

As you expand internationally, it is important to pay attention to the tax consequences of your expansion and take advantage of the opportunities attached to a tax-effective international company structure.

Whether you decide to have a permanent establishment in a foreign jurisdiction, operate exclusively from Canada or establish a close partnership like a franchise or a joint venture across borders, it will impact your bottom line.

***Describe how your company is structured to minimize taxes on international transactions***

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### **Tax Filing**

Over the past few years, Canadian and numerous foreign tax departments have sharply increased their demands to report on cross-border situations and transactions. Whether transfer pricing, individual country reporting or separate entity reporting, this trend has put increased pressure on Canadian companies to adopt stricter accounting and reporting processes.

Complying with these demands means that your company and partners must implement policies, procedures and processes that will systematically capture the required transactions details. The complexity of demands can be overwhelming and necessitate an outside tax consultant.

***For each market where you are operating or planning to operate, list the tax requirement demanded by the local jurisdiction***

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### **Exit strategy**

Although leaving your business behind might not be part of your immediate future, failing to plan your succession is likely to result in chaos and a loss in the company value. Any good tax planning should therefore include an exit strategy and should be established at least 2 years before the planned exit date.

The 3 most common exit strategies for entrepreneurs are the passing of the business to a successor, the transfer of ownership to employees or a sale to a third party. According to BDC, over 50% of entrepreneurs intend to sell or transfer their business to someone outside their family, 25% of them prefer a family succession, while just over 20% expect to wind down the business and sell its assets.

### **Transfer of ownership through management or employee buyout**

This solution allows your management team or a group of employees to pool resources to acquire all or a part of the company. The advantages of this solution are significant and include a preservation of the company culture and legacy, a complete separation of the family and potential conflicts, a limited process for due diligence and a great option to rewards long-term employees. The downside is usually linked to a limited access to capital and consequent company valuation.

### **Succession within the family**

Your company can be passed onto family members through either donation or selling of interests, or a mix of both. These hand-outs should be carefully measured, considering tax consequences, revenue needs and the wishes of family members. This solution has the advantage of reducing 3rd party involvement and it gives you the possibility to maintain your involvement and influence in the company. However, it can sometimes be difficult to identify and train the right successor, leading to potential family conflicts.

### **Selling the business to a 3rd party**

The main options for business owners who are looking to sell their small business include:

1. **Initial Public Offering (IPO):** this relates to the sale and/or issuance of shares in a private company on a public stock exchange.
2. **Private equity:** this relates to the sale and/or issuance of shares to a financial investor.
3. **Sale to another business:** the sale and/or issuance of shares to another operating company. This is a good option for shareholders looking for a clean exit and the highest possible value.

***Describe your exit strategy***

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