Overseas Campuses: Collective Bargaining, Labor Relations, and Tax Compliance

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Tax compliance considerations for universities operating abroad

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International business trends

- OECD influence (e.g., BEPS)
- Permanent establishment (PE)
- Independent contractor vs employee classification
- VAT/GST (India, GCC)
- U.S. reporting (of foreign activity)
Primary risk areas

1) Are you violating laws or regulations or a foreign country?
   - Does your activity need to be approved by a local governing body? (MOE, MOH, etc.)
   - Permanent Establishment (PE) – do you have a “fixed place of business”, and report your activities?
   - Employer obligations – do you have reporting and labor responsibilities for individuals working locally on your behalf?

2) Collaborative/Partner – “blind reliance” with legal and regulatory responsibilities

3) Discovery - the potential that regulatory violations will be discovered by local officials.
Common assumptions

► “We’ve been doing this for a long time and never been in trouble”

► “Our foreign partners take care of everything and are responsible for issues, not us”

► “Educational or research activities don’t require registration and are non-profit abroad too”

► “Our foreign “contractors” would never turn on us”

► “Employees on U.S. payroll don’t have to pay taxes abroad”

► “Other schools are doing it this way….they must be doing it right”
Going global – some potential considerations

As an employer …

► Those paid as contractors may qualify as employees
► Employees traveling abroad have immigration, tax and social security obligations
► Local labor and employment laws for those hired locally

As a reporting entity …

► Activities qualify as fixed place of business in foreign country, which may lead to creating PE
► Required registration
► Required tax filings
► VAT and other statutory reporting
► US reporting obligations
Summary – items to consider

► Regulatory considerations:
  ► Necessary approvals
  ► PE and legal registration
  ► Taxes (both direct and indirect taxes)
  ► Reporting requirements
  ► Labor law and immigration requirements

► Consult with advisors with local country expertise