Setting up your Business in Nicaragua
Issues to consider

Nicaragua is strategically located in the heart of the Americas, which has made it historically attractive to investors and it has now created a secure atmosphere for investments, which resulted in a 91% increase of the Direct Foreign Investment for 2011. It has also been ranked first for the Central American Region in the “2012 Doing Business Report”, published by the World Bank; the indicators were: investor protection, enforcing contracts and closing a business.

However, there are a number of issues which you must consider when you are looking to set up your business in Nicaragua. This document takes you through some of the common questions we come across and gives you practical information about the issues you need to consider.

What type of business structure should we use?

There are advantages and disadvantages to all of them, and there is no correct answer, it’s all dependent on your specific business circumstances and needs. A brief overview of the main structures is below:

Establishment (a branch of your overseas business structure but constituted as one of the below structures)

- A separate legal entity
- Limited liability or ring-fencing of the Nicaraguan operations
- If a permanent establishment in Nicaragua, then profits from this PE are liable to the Nicaraguan Corporate tax
- Must file the books, prepared under the Nicaraguan Law, at the Registry of Commerce to establish the business. All books are private unless one of the partners demands the books to be public in trial.

Anonymous Partnership

- Provides limited liability and ring-fencing to Nicaraguan operations
- Gives a perception of a local business, with longevity
- Corporate tax to be paid on company profits
- May be treated as national despite of it being constituted overseas
- Have to be registered at the Registry of Commerce and Municipality
- Has to have a legal representative within the country

Joint Partnership with Limited Liability

- Usually created by a few members (partners) with high trust in between them
- Members are jointly liable but can limit their liability
- Books are not public

Limited Partnership with a share capital

- The capital of the company is divided into shares.
- All administrating partners are personally and jointly liable.
- Books are not public.
- The company has to be registered at the national Registry of Commerce and the Municipality.

Limited Liability Partnership

- Some partners are personally and equally liable and others are liable up to the amount of their shares.
- All profits are distributed equally.
- A guarantee may be requested to join as a partner to cover the debts of the company if necessary.
- Books are not public.
- The company has to be registered at the national Registry of Commerce and the Municipality.

The requirements to establish the business, despite the type of partnership, are as follows:

1. Create the notarized charter and certificate of incorporation.
2. Pay the inscription fee and register at the Registry of Commerce, presenting the books to be sealed and authorized.
3. Elaboration of notarized Power of Attorney for the legal representation and administration of the company, pay the inscription fee and registry at the Registry of Commerce.
4. Present inscription request before the General Revenue Department.
5. Inspection at the establishment.
6. Inscription as a tax payer before the General Revenue Department.
7. Inscription at the corresponding Municipal Mayor's Office.
8. Registration of Operational Permit
9. Inscription at the Nicaraguan Institute of Social Security and registration of Operation Permit
10. Registration at the Nicaraguan Ministry of labor and inspection to grant opening license.

How much Corporation Tax will the business pay?

As a company the taxes that will apply will be depending on 2 factors: 1) If the company was created under the Nicaraguan laws or if it's a foreigner business and 2) the source of the income the company gets. Based on the source, the type of incomes we are referring to are: capital incomes and incomes from economic activities.

The law defines "capital incomes" as those that come from assets or transfer of rights, whereas economic activities incomes are defined as those that come from providing goods and services. Some of the included economic sectors are: electricity, mining, housing, hotels, construction, commerce, restaurants, transportation, communication services, etc.

In general, the taxation for capital incomes will be a definite retention of 5% of the total incomes. To this taxation, the law also allows companies to not include as income up to 10% of the salaries and bonuses paid to employees, as a way to promote friendly labour laws and the establishment of law abiding businesses.

If the company has been established under the Nicaraguan laws, the taxation for incomes that come from economic activities (defined in a different way than "capital incomes") is 30% over the net income, if the company's gross income exceeds U$D 480,000.

For the companies with gross income that are less or equal to U$D 480,000.00 the below table applies:

Annual Net Income U$D		**Applicable percentage over net income %**
0.01	4,000.00	10.00
4,000.01	8,000.00	15.00
8,000.01	14,000.00	20.00
14,000.01	20,000.00	25.00
20,000.01	more	30.00

If the company has not been established under the Nicaraguan laws, there will be a definite retention where the taxation percentage is dependent on the nature of the economic activity, the range goes from 1.5% up to 15%.

What if we use Nicaragua to set up our holding company?

This type of company doesn't have a regulation of its own, therefore whatever existing regulation that applies will set the guidelines for the operations of this company within the country.

If the holding company is created under the Nicaraguan Laws, it has to be registered as an Anonymous Partnership. In this case the holding company would be administrating the operations of the companies she is investing in and therefore the taxes that will apply are the ones for companies that do an economic activity as a resident within the country.

If the holding company is not constituted as a business in Nicaragua, the applicable tax will be the one for legal entities with capital income since the source of the incomes are its stocks.

The taxation will be the same definite retention of 5% of the total incomes that result from the sale of one of the subsidiaries. When it comes to withholding tax, the applicable regulation is the same as for corporations that we referred to before and it is relevant to mention that the law promotes investment on specific economic sectors allowing no taxation for up to 10 years.

What if we make cross-border transactions between group companies?

Nicaragua has a regime for transfer pricing, and it is set to start operating the Organization for Economic Co-operation and Development from 2016 when the 5 methods to determine transfer prices will apply.

The arms-length principle of transfer pricing is the one that sets the parameter for this type of regulation. This principle states that the amount charged by one related party to another for a given product must be the same as if the parties were not related. An arms-length price for a transaction is therefore what the price of that transaction would be on the open market. For commodities, determining the arm's-length price can sometimes be a simple matter as looking up comparable pricing from non-related party transactions, but when dealing with proprietary goods and services or intangibles, arriving at an arms-length price can be a much more complicated matter.

However, even if an entity is exempt from the Nicaraguan transfer pricing regime it may fall under the scrutiny of the other international tax jurisdictions where it transacts. There may also be other tax regulations which ensure transactions are undertaken at a commercial value.

What Employment Taxes and Social Security will need to be paid?

If an individual is resident in Nicaragua then they are subject to the Nicaraguan tax laws. Residency for tax purposes is defined by the law as the person whom: a) Stays in the country for 180 days within a year, even when they are not continuous; b) has its principal economic interest or activities within the country; c) nationals living overseas due to diplomatic responsibilities, d) foreigners that reside in the country despite executing diplomatic responsibilities if there is no agreement between the countries; e) legal entities created, established in Nicaragua or with its head office in Nicaragua f) legal entities that have Nicaragua as its taxation or social residence.

We would advise any new entrant to Nicaragua or person who spends time working in Nicaragua to take professional advice to determine whether they are a Nicaraguan tax resident.

Current Personal Income Tax rates in Nicaragua are (1U$D= C$25.00):

Band of Annual Net Income U$D	Applicable percentage
0.01 - 4,000.00	0.00%
4,000.01 - 8,000.00	15.00%
8,000.01 - 14,000.00	20.00%
14,000.01 - 20,000.00	25.00%
20.000.01 – and more	30.00%

Employers and employees also have to pay Nicaragua social security, which is called "Social Security".

Current Social Security rates are:

	Disablement, Old age and Death	Professional risks	Illness and maternity	War victims	Total
Employer	6.00%	1.5%	6.00%	1.5%	15.00%
Employee	4.00%		2.25%		6.25%
State			0.25%		0.25%
Total	10.00%	1.5%	8.5%	1.5%	21.5%

It is the employers' legal responsibility to pay over employee's tax and social security withholding to the Nicaraguan tax authorities. The retention is made by the employer directly from the employee's salary and reports it to the Social Security Institute.

What is Value Added Tax (VAT) and should the business be registered?

VAT is a "goods and services tax" on supplies made, the standard rate of which is 15%. If a business makes taxable supplies, then it MUST be registered for VAT.

There are three types of supplies:

- Taxable – must charge VAT on supplies, can reclaim input VAT
- Exempt – cannot charge VAT nor reclaim input VAT
- Outside the scope – not in the Nicaraguan VAT system

The supply of most types of goods and services in Nicaragua would be classed as Taxable supplies. However when these supplies are made to companies which are outside of Nicaragua advice needs to be sought as to what rate of VAT, if any, to use.

The entity that is selling the goods and services is the one that has to withhold the VAT at the moment of the sale and then report it to the General Revenue Department.

Can we provide Share option plans to our staff?

Many companies see Share Option plans as being an important way of attracting, motivating and retaining key staff.

Nicaragua allows the Share Option plan which give tax benefits to employees and employers alike (5% income tax instead of 30%) and it is often possible to adapt an overseas stock option plan to fit locally.

However this is a very technically complex area and careful planning needs to be undertaken as soon as share option plans are being considered for implementation in Nicaragua.

How else can we compensate our employees?

Nicaragua has a very comprehensive range of compensation and benefit options available for companies to offer their employees. The benefits are usually agreed in between the employers and the employees if these are organized.

Pensions, private medical insurance, life and disability cover are now commonplace benefits provided by many Nicaraguan businesses to their workforce. Discounts at stores, company's convenience stores with lower prices than the regular market, transportation and meal benefits are also being implemented.

To discuss your requirements please contact the International Office on +44 (0) 1245 449266 or email us directly.

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The information in this document was prepared as at 30 November 2013.