

Operating Abroad: Tax Implications and Other Considerations for US Non-Profit Organizations

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Agenda

- ▶ **Doing Charitable Work Abroad**
 - ▶ Directly or indirectly
- ▶ **Complying with Local Laws / Regulations**
- ▶ **US Tax Filings: Information Reporting Requirements**
 - ▶ Forms 5471 / 8865 / 926
 - ▶ FATCA and “Chapter 3” / Form 1042 Filings
 - ▶ Common Reporting Standard (CRS)
 - ▶ Foreign Bank Account Reporting (FBAR)

DOING CHARITABLE WORK ABROAD

HOW?

1. Indirectly through grants or program related investments

- U.S. Organization
- Local Organization

2. Directly by setting up your own office

- Branch
- New Entity



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PRIVATE FOUNDATION GRANTS

Support Work in Other Countries Through Grants to Existing Organizations

- Does the organization have 501(c)(3) status?
- Grants to foreign organizations that have not received 501(c)(3) status require either
 - expenditure responsibility or
 - equivalency determination
- Funding based on USD or local currency? Who bears the FX risk?



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PRIVATE FOUNDATION GRANTS

Expenditure Responsibility – the foundation is responsible for:

- Ensuring a written grant agreement is in place
- Ensuring the grant is spent solely for the purpose for which it was made
- Obtaining complete reports from the grantee on how the funds were spent
- Making full and detailed reports with respect to the expenditures to the IRS

Equivalency Determination – the foundation must:

- Evaluate whether an intended foreign grantee is the equivalent of a U.S. public charity or private foundation
- Collect a set of detailed information, outlined in [IRS Revenue Procedure 92-94](#), about the grantee's operations and finances and make a reasonable determination of its equivalency

FOREIGN CHARITIES – SPECIAL CONSIDERATIONS

Foreign custom and practice

- It may be very different than US custom and practice

Special local rules applicable to foreign charitable organizations

- For example, FCRA in India

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