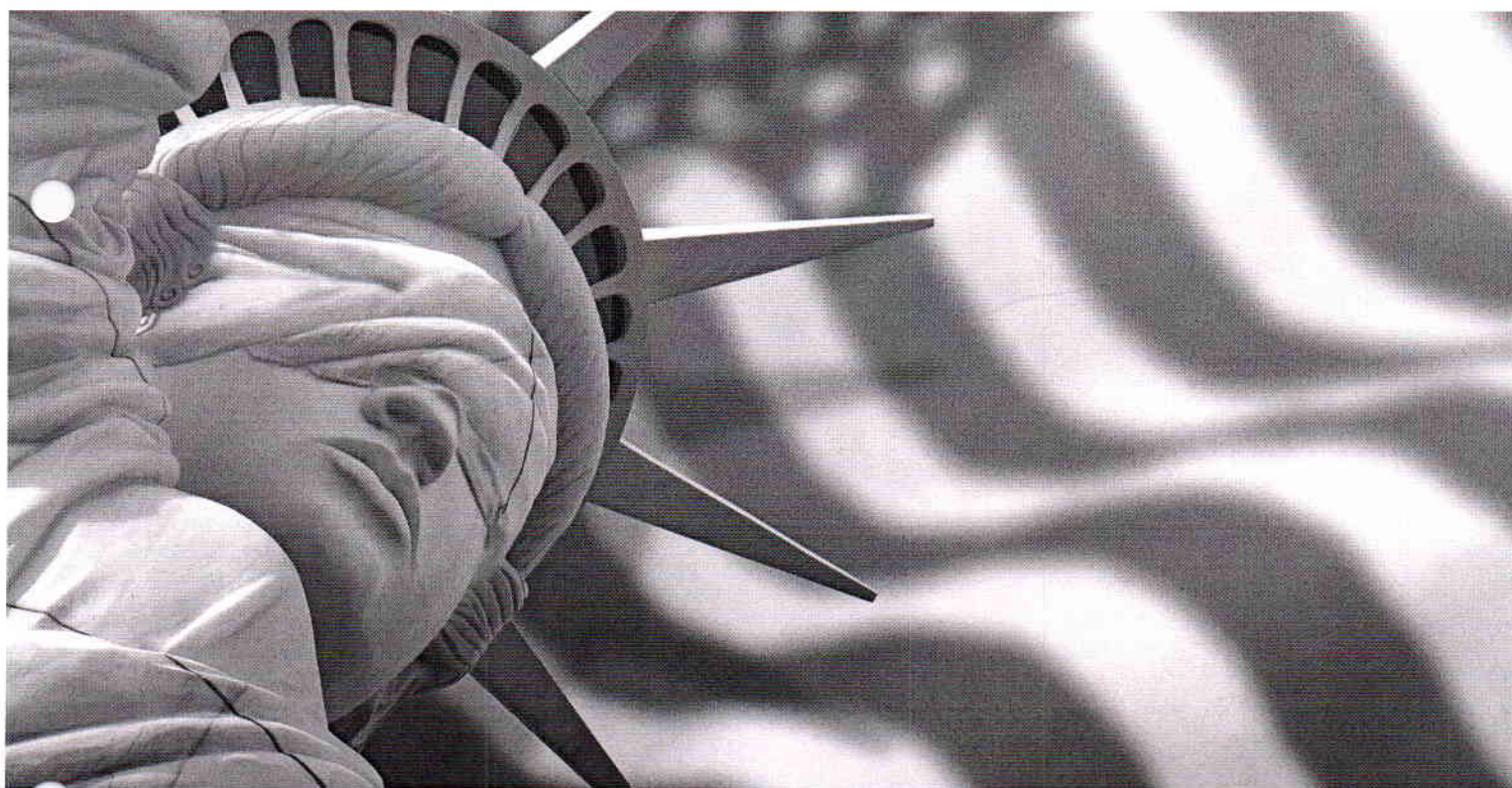


# LEGAL & TAX NEWSLETTER

GERMAN AMERICAN CHAMBER OF COMMERCE, INC. • NEW YORK

VOL. 3 • 2010



German American  
Chambers of Commerce  
Deutsch-Amerikanische  
Handelskammern



The German Chamber Network



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## Red Flags when doing business with the U.S.

When doing business in or with the United States, whether with U.S. partners or through your own subsidiary or some other intermediary or just being the consultant located outside the U.S. but assisting a U.S. citizen, you must be aware of the far reach of U.S. jurisdiction. The following samples shall serve as red flags and a reminder for having foreign corporate management and compliance consultants do their homework. Extraterritoriality (applicability of U.S. laws to facts and circumstances, persons and companies outside the U.S.) is an issue your company must be willing to cope with when doing business on a U.S. and global scale.

### Sample 1:

Germany will assist the U.S. Department of Justice in a request for extradition in cases of alleged infringement of the Foreign Corrupt Practices Act. See Official Statement of the DOJ, July 2010: An Italian citizen, a former executive of a Californian based valve company has been extradited to the United States from Germany in connection with his alleged participation in a conspiracy to secure contracts by paying bribes to officials of foreign state-owned companies as well as officers and employees of foreign and domestic private companies.

### Sample 2:

U.S. sanctions against foreign companies when delivering blacklisted products to Iran. See Official Statement of the DOJ, July 7, 2010: A federal grand jury in Washington, D.C., has charged an Irish trading company, and its Irish officers in Ireland, in a superseding indictment with purchasing F-5 fighter aircraft parts, helicopter engines and other aircraft components from U.S. firms and illegally exporting them (via Malaysia) to (not officially mentioned to the U.S. party) Iran. Apart from the order, the defendants had no contact to the United States. Thus, get the necessary information first from the U.S. Office of Foreign Assets Control (OFAC). Be aware that your company is even then subject to OFAC's reach if not doing business in the United States but having a German Management Board to which a U.S. Citizen is a member to.

### Sample 3:

Swiss Lawyer Indicted for Helping to Hide Swiss Bank Accounts and Monies Returned to U.S. Clients. See Official Statement of the DOJ, July 15, 2010: A federal grand jury in Alexandria, Va., returned an indictment charging an attorney practicing in Zürich, Switzerland, with conspiring to defraud the United States and structuring the importation of currency into this country. If convicted, he faces a maximum sentence of 25 years in prison.



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### *M&A' Red Flags for the United States*

and a maximum fine of \$1.25 million. Thus, watch out not to forget to file FinCen Form 105, Report of International Transportation of Currency or Monetary Instruments, with the Bureau of Customs and Border Protection when you intend to physically transport, mail or ship, or cause to be physically transported, mailed, shipped or received, currency, traveler's checks, and certain other monetary instruments in an aggregate amount exceeding \$10,000 into the United States.

Blog USA: [www.usa-recht.de](http://www.usa-recht.de) [www.gerichtsreporter.us](http://www.gerichtsreporter.us)



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