

# SETTING UP BUSINESS IN THE UNITED STATES OF AMERICA



## General Aspect

The United States of America, commonly referred to as the United States (U.S.) is a constitutional federal republic, composed of 50 states, a federal district, and various possessions. Forty – eight of the fifty states and the federal district are contiguous and located in North America, between Canada and Mexico. It covers an area of 9,8 million square kilometers and English is the main language. The total population is around 324 million people.

## Business Entities

Topic	Feature
<b>Business Formation</b>	<ul style="list-style-type: none"><li>• There is no federal or national law on forming a business in the United States of America.</li><li>• New businesses are created under one of the fifty states or the District of Columbia.</li><li>• The choices regarding jurisdiction and business entity type are up to the party forming the business, but should be reviewed to achieve the most advantages jurisdiction based upon the facts and circumstances of the formation (Entity choice).</li></ul>
<b>Entity choice</b>	<p>There are wide array of business entity forms in America. These choices included:</p> <ul style="list-style-type: none"><li>• U.S. Corporation</li><li>• Foreign Corporation (doing Business in America)</li><li>• Branch of a Foreign Corporation</li><li>• Partnership</li><li>• Limited liability Company (LLC)</li><li>• Sole Proprietorship</li></ul> <p>Most foreign companies set up in America as a corporation or an LLC.</p>
<b>Where to form a business</b>	<p>A company can incorporate in any state, whether it has business operations there or not. Companies usually incorporate in one of a number of states that have friendly corporation rules and qualify to do business in the state or states where the business has operations. The states of Delaware, Nevada and Wyoming are the most popular of these states, with corporate laws viewed as, generally tax and corporate laws are friendly to business.</p> <p>The decisions on entity choice and jurisdiction choice are best made with the joint advice of an American tax expert, whom is aware and knowledgeable of international tax law and a corporate lawyer, both experienced at working with companies head-quartered abroad and within America to achieve Managements desired results.</p>

# Requirements of forming a corporation

The requirements for incorporation can vary from state to state, but incorporation is usually simple, fast and relatively inexpensive in the United States. The following principles generally apply:

Topic	Feature
<b>Principles</b>	<ul style="list-style-type: none"><li>• Incorporation can be accomplished very quickly, including LLC formation. If needed, expedited service can result in incorporation in as little as one day.</li><li>• The filing fees and taxes charged for incorporation vary from state to state, but generally are not excessive.</li><li>• Corporation can have just one shareholder and this can be an individual or another legal entity. An LLC must have two members to be recognized as a Partnership.</li><li>• Corporations (as well as LLC, have a Managing Member and officers) have a board of directors and officers. In most states, corporations can have as few as one director.</li><li>• Shareholders, directors and officers can all be foreign citizens and residents in most instances, but foreign citizens should be reviewed for consequences, if any.</li><li>• Corporations (LLC's) must have a registered agent located in the state of incorporation. This can be a resident manager (foreign or U.S. citizen), a accountant, lawyer or a corporate service company with offices in the state.</li><li>• Corporations (and generally LLC's) are required to file an annual report and pay franchise fees or possibly income tax in most states. The information on the annual report is usually limited to the name and address of the corporation, the name and address of the registered agent, and the names and addresses of directors and officers (Registered agent or Accountant/Lawyers address may be used for directors and officers address). This is filed with the Secretary of State of the state of incorporation, and is public information.</li><li>• Except in the case of listed companies and companies in certain regulated industries like banking, there is no statutory audit requirement and no public filing of company financial information</li></ul>



# Taxation

Tax	Feature
<b>Tax registration</b>	<ul style="list-style-type: none"> <li>• New companies are required to register with the Internal Revenue Service (IRS) and with the tax authorities of the states (and local jurisdictions) in which the company is incorporated or doing business.</li> <li>• The IRS issues the corporation a Federal Employer Identification Number (FEIN), which is used for both federal, state and local tax purposes. This process can usually be accomplished electronically in a day or less.</li> <li>• Depending on the state or local jurisdiction in which operations are located, other registrations may also be required.</li> </ul>
<b>Federal Taxes</b>	<ul style="list-style-type: none"> <li>• Companies operating in the United States and may be subject to U.S. income tax, and payments to the foreign parent may be subject to withholding requirements. Foreign parent should be reviewed for the tax and withholding consequences, including Tax Treaties.</li> <li>• Companies with employees will also be subject to federal, state and local tax withholding requirements relating to the wages of those employees. Direct employment taxes for Social Security and Medicare will also arise, including certain other tax, etc. obligations may arise based upon the jurisdiction.</li> <li>• The effect of U.S. federal taxes on a company's global taxation may depend on whether a tax treaty exists between the parent country and the United States. Also, a review of the new United States tax law P.L. 115-97, commonly referred to as the 2017 Tax Reform Act (the "Act")</li> </ul>
<b>State taxes and regulations</b>	<p>There is little consistency among state and local taxes, in general.</p> <p>These taxes take three primary forms (real estate, income (Personal and Corporate) and sales &amp; use) and can vary significantly from one state to another.</p>
<b>Real estate tax</b>	<p>This tax is levied against the owners of real estate and is used to finance public schools and local government operations. In some jurisdictions, the tax is very high and can have an important impact on company/LLC's expenses irrespective of whether the company/LLC owns or leases.</p>
<b>Personal and corporate income tax</b>	<p>Many states have some form of personal and corporate income tax and rates can vary substantially. A few states have no state income tax and may represent attractive choices.</p>
<b>Sales tax</b>	<p>Many states impose a tax on the sale of goods at retail (Sales or Use). Unlike value-added taxes known in much of the world, sales tax does not usually apply to the exchange of goods prior to the final sale. The tax is levied to the end user, in general.</p>



## Other topics

Tax	Feature
<b>Social Security and employee benefits</b>	<ul style="list-style-type: none"><li>• Social Security in the United States is very unlike social programs in most other countries. The program does not provide health or other similar benefits to employees. Instead, it is a retirement income and health benefits program for the elderly and disabled funded by mandatory employer and employee contributions.</li><li>• Most states have employer-funded unemployment and worker injury compensation programs. Unlike many other countries, there are no requirements for health care (in general) or disability protection or for paid vacation. However, most employers fund voluntary programs to provide employees with these common benefits.</li></ul>
<b>Foreign investment incentives</b>	There are no national incentive programs to attract direct foreign investment, but foreign investors are not subject to a Capital Gains Tax on the sale of capital assets within America and may not be subject to withholding taxes dependent upon Tax Treaty provisions, in general. Many states offer incentives for major investments that will create jobs and add to the tax base. These take the form of real estate tax holidays, infrastructure improvements, job training and other similar items. Noting, there are Federal Incentives for hiring certain groups within America and other incentives that should be reviewed for their benefit.



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