

**DOING BUSINESS IN THE UNITED STATES**

**by Roy D. Pinsky**

I am often asked by my Canadian friends if they can own and operate businesses in the United States. When I respond with a simple affirmative answer, the next question that inevitably follows is “What do I need to know in order to do so?”. The answer to this question could fill volumes but I will endeavor here to touch upon some of the issues.

To do business in the United States it is necessary to deal with the federal government, the state government and typically some local governments. Some businesses require licenses with which to operate; all businesses will have tax reporting requirements; and most businesses will have to deal with a multiplicity of local, state and federal laws and regulations.

To do business one must first choose the form of entity in which they wish to do business. The availability of the form of entity and the laws that effect it are typically laws at the state level. New York State is fairly typical. Corporations, limited and general partnerships, limited liability companies and sole proprietorships are all available business entities. An entity can do business under an assumed name. Corporate name clearance is typically required at the state level but can also be pursued at the federal level.

New York does not prohibit Canadian citizens from owning New York corporations, and there is no requirement that a New York corporation have a New York resident or a U.S. citizen as a shareholder, officer or director. The corporation will be expected to have an office for the transaction of business within the State of New York, however.

Regardless of the choice of form of entity, taxes to the federal and state governments will be incurred. Most states charge a franchise tax to corporations doing business in their states. A minimum franchise tax is also common even when corporations are doing little to no business.

For a corporation or limited liability company to do business in one or more additional states, it will most typically be required to register with those states.

Some businesses such as motor carriers of freight or passengers require licenses to operate from either the federal or state government, or both. Companies that create or deal with hazardous waste or materials are similarly regulated. Employment agencies and establishments that serve wine or alcohol are regulated at the state level. Broadcasters and exporters are regulated at the federal level.

Most businesses are employers. The state and federal governments require employers to withhold taxes from employees, to pay employment taxes and to carry insurance for the benefit of their employees who may be injured on the job. These requirements vary from state to state with the exception of the federal requirements that apply throughout the country.

A Canadian citizen doing business in the United States is not assured of unlimited access to his business for himself and other Canadians. Access to the United States is an immigration issue. Most Canadians, however, would find it beneficial towards obtaining authority to work in the United States if it were to manage their U.S. business.

The message to carry away from this article is to realize that regardless of the apparent simplicity of the business, you would be well advised to seek competent guides to walk you through the maze of laws and regulations which will apply to all business ventures operating in the United States. These guides should include at the minimum, a lawyer, a certified public accountant and a licensed insurance agent. The costs of complying with the rules and regulations are always far less than the costs of failing to comply.

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