

Texas has an economy roughly the size of the nation of Canada. We enjoy diverse resources such as oil and gas and vast tracts of land, highly skilled (and friendly!) workers and have diverse industries including software, healthcare, aerospace, telecommunications, private equity, semiconductors and energy. It is no wonder that so many multinational corporations and non-resident investors seek to do business in Texas. Texas offers several major metropolitan areas including Houston, Dallas, Austin, Fort Worth and San Antonio. Houston, in particular, is considered one of the most diverse cities in the US.

Texas regularly claims a top spot in various rankings for ease of doing business. The state has a reputation of being business-friendly, with minimal state taxes and reasonable regulations. In recent years, we have seen many out-of-state multinational companies move facilities and even headquarters to Texas from states and counties with a heavier tax and regulatory burden. For instance, in recent years, companies like Tesla, HP, Oracle and Toyota have moved headquarters or major operations to Texas.

While Texas does have a low-rate (.331-.75%), broad-based gross receipts tax for businesses that earn more than \$1,230,000 revenue annually, Texas does not have a corporate or personal income tax at the state level. Thus, companies operating in Texas enjoy one of the lowest overall tax burdens in the country. Also, the cost of living in Texas is lower than in states like California and New York (which have seen recent net outbound migrations of residents).

Getting Started: Choice of Entity and Domicile

A foreign company entering the US must decide on the form of business entity it will use to conduct its US operations. The most common types of domestic business entities are corporations, limited liability companies (LLCs) and partnerships. Each type of business entity must be formed according to the laws of the state in which the entity is formed. All entity types other than partnerships require organizing documents to be filed with the state government.

- ❖ Branch Office
- ❖ LLC
- ❖ Joint Ventures
- ❖ Corporations
- ❖ Partnerships
- ❖ Acquisitions

Legal System: State and Federal Law

Like Canada, the legal system in the US (except Canada) is based on the English common law. The US has a federal system of government. This means that laws are made at the national (federal), state and local levels. "Local" laws are those made by cities and counties that apply in those geographic regions. All 50 states (along with US territories and the District of Columbia) have their own state and local laws that apply in those jurisdictions. Some areas of law, such as patent and copyright, are governed exclusively by federal law. Many other laws, including laws governing contracts, employment relationships, and sales transactions, are primarily set by individual states. And many other areas of law are governed by both federal and state law. When doing business in the US, foreign companies should be aware that they are subject to these parallel systems of laws which often differ from state to state.

Legal procedure is generally alike to that of the US – Ontario's Rules of Federal Procedure, for example, are modeled on the US Federal Rules of Civil Procedure. In most US jurisdictions, litigants are expected to pay their own way, and losing parties are not generally required to pay more than a nominal amount of the winning party's legal costs. In Canada, the normal practice is that the loser pays the winner's costs.



Scan the QR code to read the full "Doing Business in Texas Legal Summary" and view additional resources.

Doing Business in Texas Checklist

Business Formation and Structure

- Choose an entity for your subsidiary or new entity: Corporation, Limited Partnership, Limited Liability Company.
- Retain attorney and tax advisor to explore best legal and tax structure for the business (considering context of entire corporate group, availability of tax treaty benefits, and other tax strategies).
- Select an available name for the business that is available in Texas.
 - Consider registering a Trademark or Tradename to ensure the exclusive use of the name nationwide.

Obtain an Employer Identification Number

- Necessary for opening bank account, payroll, tax filings and invoicing.

Open a Bank Account with an International Bank

- Select a bank with both local branches and international experience.

Obtain Applicable State Licenses and Permits

- Texas does not require a general license to conduct business, but consider what industry-specific permits and licenses will be necessary for your industry.

Obtain Insurance

- Work with a broker or insurance provider to obtain customary levels of insurance for your given industry.

Visas and Immigration

- If employees from Canada will be working for the new venture, work with an immigration attorney to obtain the necessary visas prior to working in the US.

Site Selection

- Texas offers several major metropolitan areas including Houston, Dallas, Austin, Fort Worth and San Antonio, as well as many mid-size cities with modern infrastructure near these large cities. Consult a commercial real estate broker about which city or cities are best for your operations based on industry, talent pools and infrastructure.
- Inquire about the possibility of local incentives and tax abatements.

Payroll and Human Resources

- Once you hire employees in the US, retain a payroll service provider to ensure compliance with all income and payroll tax withholding and reporting obligations.
- Develop employee handbooks and/or employment agreements to establish guidelines for behavior and culture in the workplace.

Intellectual Property

- Determine if any of your intellectual property should be registered as a patent or protected as a “trade secret” through non-disclosure agreements and confidentiality agreements.

Localize Canadian Contracts, Terms + Condition

- Contract law in Canada and the US is similar but has significant differences beyond our differences in spelling. Retain Texas counsel to review existing contracts, employment agreements, terms and conditions, master service agreements, etc. for compliance with both federal and state laws.

