



# Expanding Your Business Into the U.S.

CPAs | CONSULTANTS | WEALTH ADVISORS

©2022 CliftonLarsonAllen LLP

# Table of Contents

|  |           |
|--|-----------|
| Key Insights .....   | 3         |
| Start With a Plan When Expanding Into the United States ....                       | 4         |
| When Should You Set Up a U.S. Entity.....  | 5         |
| Where Should You Establish U.S. Operations .....                                   | 6         |
| What Steps Do You Take Next.....   | 7         |
| Select your legal U.S. entity type .....   | 7         |
| Complete initial entity set up tasks .....   | 8         |
| Prepare for U.S. tax compliance .....  | 9         |
| Consider employment needs .....  | 10        |
| Review U.S. privacy and data security requirements.....                            | 11        |
| Consider U.S. trademark registration and intellectual<br>property protection ..... | 11        |
| <b>It Takes Balance .....</b>  | <b>12</b> |



# Key Insights

1.

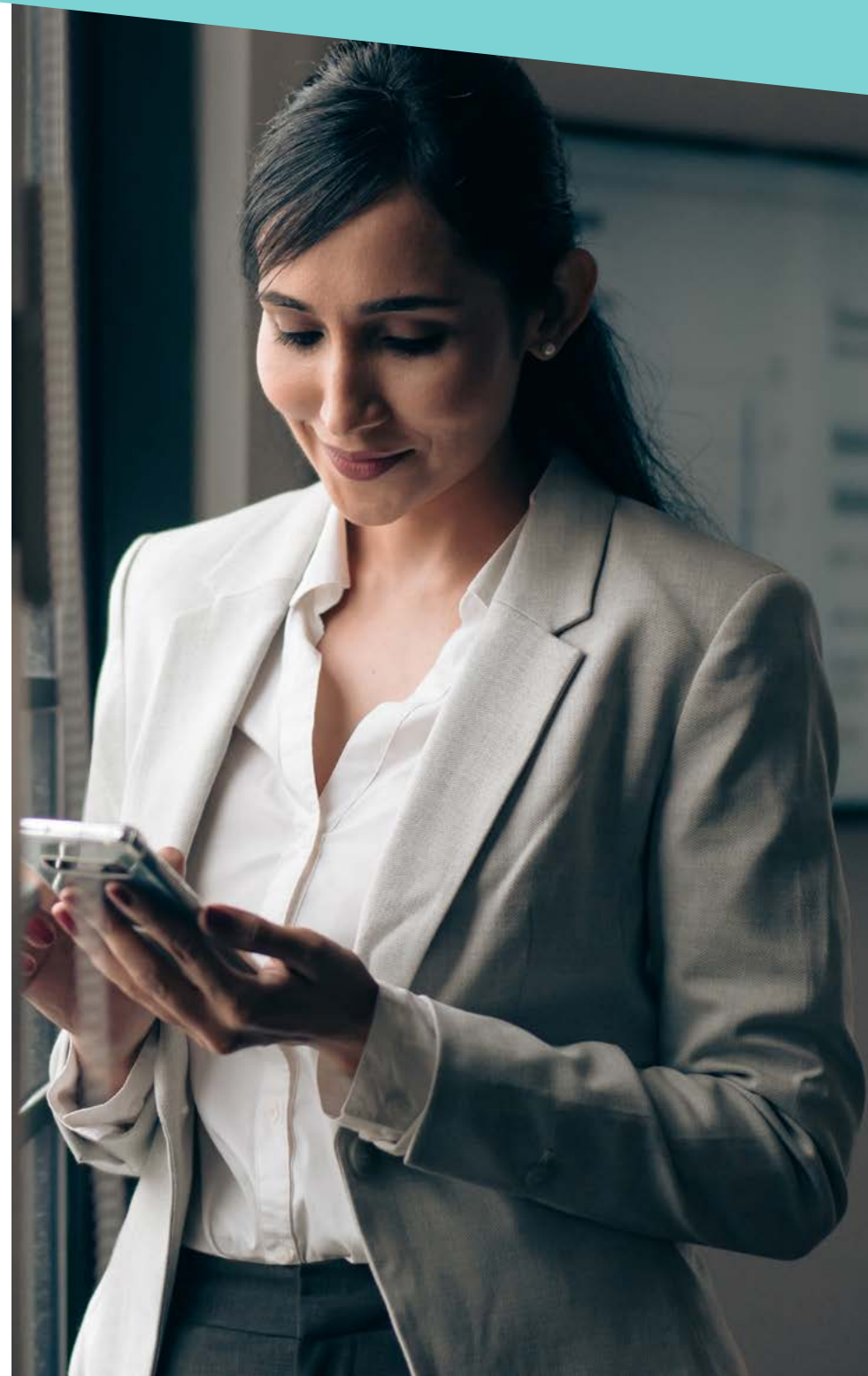
Companies looking to bring operations to the United States may find many reasons the move sounds appealing, but it's important to dig into the details.

2.

The American government structure is complex, and you may need professional guidance to navigate the many layers of jurisdictions and regulations successfully.

3.

Creating a plan early in the process is critical, as there are many considerations to factor in when making decisions.





# Start With a Plan When Expanding Into the U.S.

With its entrepreneurial culture, favorable economic environment, and government incentives, entering new markets in the United States (and accessing U.S. capital) can be appealing.

But it may not be as easy as it seems on the surface.

The American government structure is layered and complex. With laws and regulations that cross the federal government, 50 state governments, cities, and counties, statutes are nuanced and may differ depending on your location. Even more complex is the sales tax jurisdictions — a system of financial regulation that creates a web of requirements and compliance needs.

Here's where having a plan and experienced advisors is critical. Learn the key points you should keep in mind as you move forward, including when, where, and on what you should focus your efforts.



# When Should You Set Up a U.S. Entity?

How you decide to establish your U.S. operations depends on your business model. First, determine whether you actually need to form a U.S. company. If you only plan to sell goods, perhaps through the internet or wholesaling to U.S. companies, it may not be necessary.

However, if you plan to have a physical presence in the United States, you must set up a U.S. entity.

Consider the advice of your U.S. lawyers, your U.S. accounting firm, and your parent company tax advisors when making this decision. In many situations, there may be other tax, liability, or commercial reasons to form a U.S. entity.

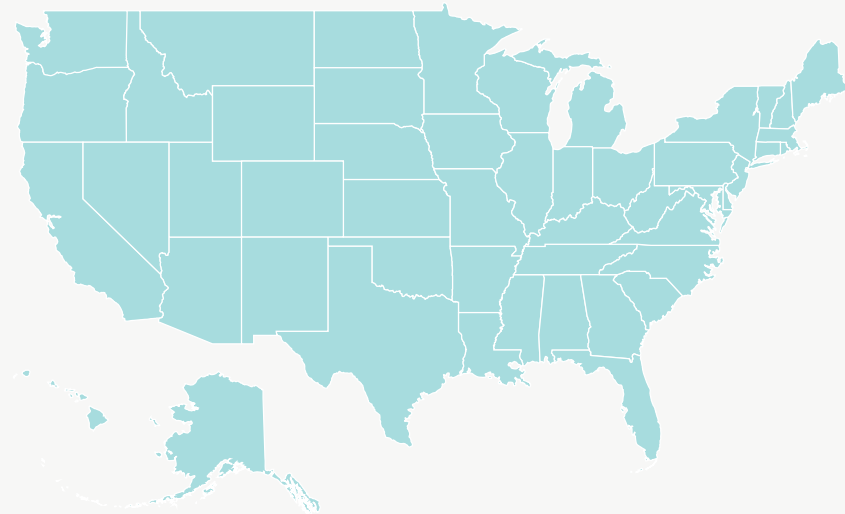
## What constitutes a physical presence?



# Where Should You Establish U.S. Operations?

The state you choose impacts your taxes, incorporation requirements, and more. You may also be eligible for tax and economic development incentives in connection with establishing U.S. operations. The site selection process is critical and should begin early.

- Financial incentives may be available at both the local and state levels and could include job creation incentives.
- Incentives may come in the form of cash grants, significant property tax reductions, employee-related tax credits, infrastructure improvement grants, utility cost reductions, and more.
- Determine what economic development incentives may be available — before your real estate site selection process is complete and ideally when it is still underway in more than one state.
- Incorporating your company in the United States happens at the state level and varies by state. Once you're ready to incorporate, you'll need a valid, physical address in the state.



## Additional considerations

Once you've selected a location, there are additional decisions to make.

- Will you purchase or lease real property?
- Are you planning to construct or upfit manufacturing, warehouse, or office space?
- Have you addressed real estate and environmental matters, including compliance with federal and state environmental laws?





# What Steps Do You Take Next?

## Select your legal U.S. entity type

You may form your legal entity in any state, and it may be different from the state(s) in which your U.S. entity conducts business. Your legal entity is governed by the laws of the state where it is formed. The most common types of entities are corporations, limited liability companies, and partnerships. Each type has its benefits, and your choice may depend on case-specific legal and business factors. A C corporation is a common entity type for foreign ownership, but other possibilities exist.

The legal and liability protection of established corporate laws and the tax savings provided to Delaware companies has earned Delaware the reputation of the “Incorporation Capital of the U.S.” However, you must consult your U.S. advisors before deciding in which state to incorporate.



## Complete initial entity setup tasks

Review this list of considerations before you begin operating in the United States:

- Capitalize the U.S. entity with either debt or equity, which can include raising capital
- Determine your accounting year-end
- Obtain a Federal Employer Identification Number (FEIN)
- Obtain state and local tax identification numbers
- Register in the states where you will be doing business
- Open a U.S. bank account
- Register with the Electronic Federal Payment System
- Obtain business licenses and permits
- Plan for U.S. import and export requirements and security compliance
- Review your worldwide insurance policy to determine gaps for operating in the United States
- Determine your legal U.S. address as you cannot use the registered agent address
- Prepare U.S. terms and conditions and commercial agreements
- Determine reporting and bookkeeping needs, software solutions, and accounting processes and procedures







## Prepare for U.S. tax compliance

Your U.S. operations likely will be subject to federal income tax along with state and local tax — and these can be complex. Remember that state and local taxes are generally not covered by or preempted by international tax treaties.

Most states have both industry-specific taxes along with those that apply to all industries. Address the following relative to tax planning.

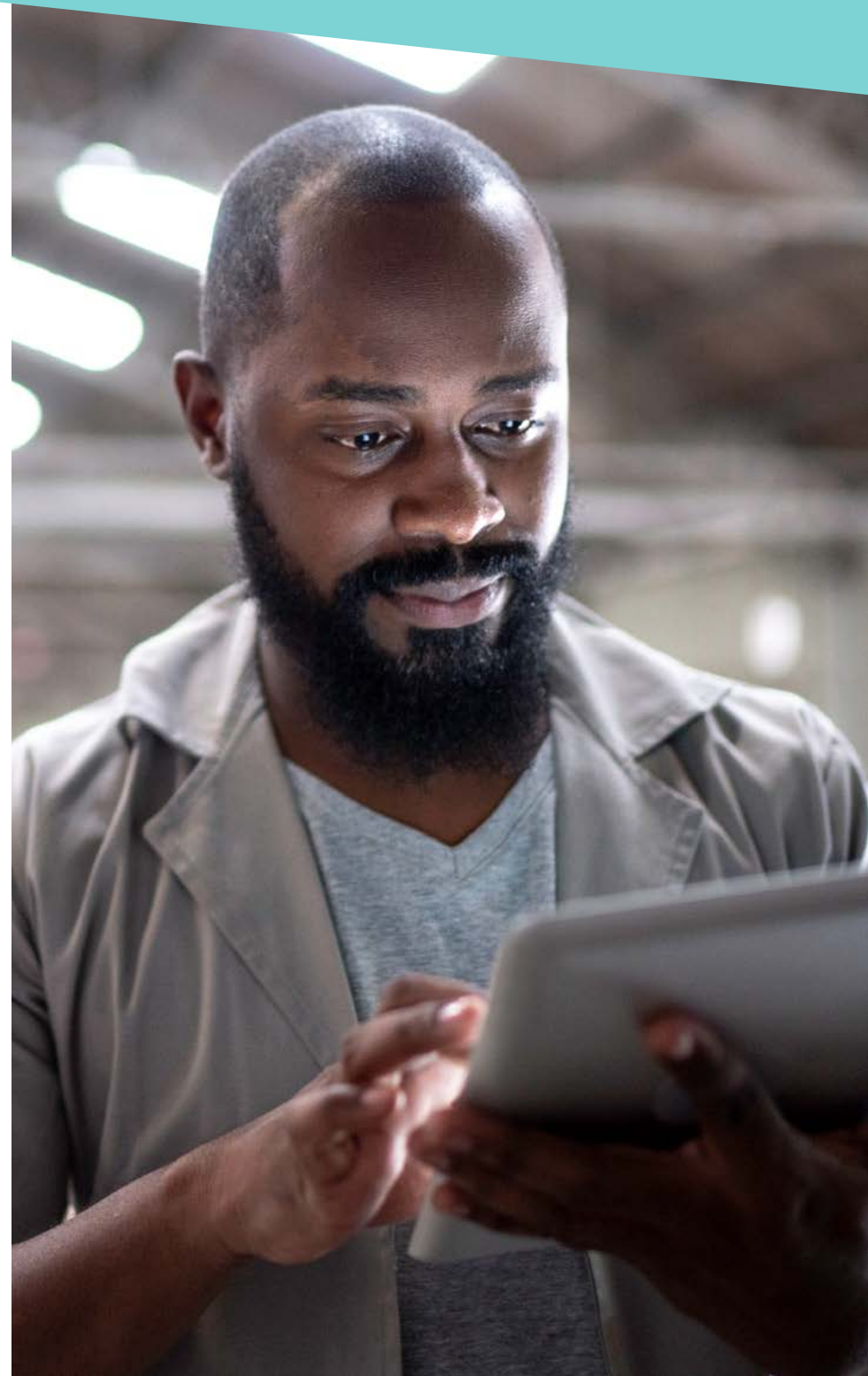
- Consider the taxes imposed by multiple states and local jurisdictions.
- Identify the tax implications of transacting a multistate business and how it could be impacted by how and where your U.S. entity owns or leases property, employs workers, stores assets, and sells goods and services.
- Review anticipated intercompany transactions to determine withholding tax and transfer pricing considerations. Withholding requirements may apply to dividends and distributions to the foreign parent company.



## Consider employment needs

Employment laws in the United States are highly technical and governed by federal law as well as state and local law.

- **Set up local payroll tax accounts.** Register with any state where you have employees living or working. Each state has different agencies and a different registration process.
- **Obtain workers' compensation insurance.** In most states, companies are required to carry workers' compensation insurance. This protects your business against claims for injuries, death, or illness that occur as a direct result of the work done while your employees are on the job.
- **Set up employee health benefits.** The United States relies extensively on employer-provided insurance. If you do not provide health benefits, your employees may be forced to purchase insurance themselves, which could be a significant disadvantage when recruiting new talent.
- **Consider immigration needs.** U.S. immigration law offers several visa options. The best option may depend on timing, availability, job type, and employee education and experience. Make sure you understand immigration law requirements, along with the short- and long-term immigration benefits available to foreign national employees and their family members.
- **Review global mobility.** Regulatory requirements related to salary payments for foreign nationals coming to the United States require additional compliance and filing.





## Review U.S. privacy and data security requirements

In many countries, personal data is governed by a single, comprehensive data protection law. However, the United States has a patchwork of state and federal laws that govern the privacy and security of personal information.

## Consider U.S. trademark registration and intellectual property protection

Clear the name for your legal entity to confirm it does not infringe on the rights of other parties. Then consider filing U.S. trademark registrations for marks registered in foreign jurisdictions or for other marks used in connection with your U.S. operations. This prevents third parties from using your mark on similar goods or services.

- Conduct a trademark clearance search for your company name and proposed product and service brands to uncover potential conflicts with existing U.S. marks or unregistered marks.
- Consider how your U.S. operations, manufacturing (if applicable), and sales may affect third-party intellectual property rights. Evaluate your own intellectual property rights, including patents, copyrights, and trade secrets, in consultation with your U.S. lawyers and advisors.
- File a trademark application before you have sales of products or services within the United States.





# It Takes Balance

Expanding your company into the United States can be a great way to create opportunities, but many are surprised by the complexity of the regulatory environment. To have a smooth expansion into the United States, you need a solid plan and team.

With CliftonLarsonAllen, you have a team familiar with the challenges of growing your business internationally and can help you navigate business challenges across the spectrum. The [global advisory and outsourcing team](#) is experienced in helping you understand the implications of your decisions and collaborating with other advisors to move your global expansion dream forward.

*We'll get you there.*

*The information contained herein is general in nature and is not intended, and should not be construed, as legal, accounting, investment or tax advice or opinion provided by CliftonLarsonAllen LLP (CliftonLarsonAllen) to the reader. The reader also is cautioned that this material may not be applicable to, or suitable for, the reader's specific circumstances or needs, and may require consideration of nontax and other tax factors if any action is to be contemplated. The reader should contact his or her CliftonLarsonAllen or other tax professional prior to taking any action based upon this information. CliftonLarsonAllen assumes no obligation to inform the reader of any changes in tax laws or other factors that could affect the information contained herein.*







**CLAconnect.com**

CPAs | CONSULTANTS | WEALTH ADVISORS

©2022 CliftonLarsonAllen LLP. CLA (CliftonLarsonAllen LLP) is a network member of CLA Global. See [CLAglobal.com/disclaimer](https://claglobal.com/disclaimer).  
Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor.