

Anchin's U.S. Expansion Playbook: Expanding Business Operations to the US? What Needs to be Considered

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Anchin's U.S. Expansion Playbook is a bi-weekly article series that will provide insight into the tax, accounting, operational and practical considerations for non-U.S. businesses looking to expand their operations into the U.S.

The Anchin [International Tax](#) group has significant expertise and experience in assisting overseas businesses seeking entry into the U.S. market. Working closely with our industry specialists, we provide tailored support to ensure a seamless transition and successful integration into the U.S.

This series of articles will look to draw on our experience and address many of the questions and issues that foreign businesses need to be aware of ahead of such an expansion. It will also provide guidance to ensure these businesses are fully compliant with the myriad of federal, state, and local tax and accounting laws associated with U.S. expansion. The topics we will be covering include:

- Considerations when expanding to the U.S.

- When to set-up a separate U.S. entity and basic considerations?
- Why Delaware and other potential states?
- Nexus and sales tax
- Operations issues
- Funding operations
- Founder considerations
- Stock options
- Transfer pricing
- Corporate tax filing requirements and liabilities
- Tax treaties
- Third party investments

Expanding Business Operations to the US?

What Needs to be Considered?

The first question many businesses ask is:

“When should I consider expanding to the US?”

The U.S. is one of the largest recipients of foreign direct investment (FDI), reflecting the global economy and markets confidence in the country's economy and stability. With this continued influx of FDI in the U.S., more and more foreign businesses are looking to take advantage of the many opportunities that await them stateside.

Customer/Consumer Base

A key consideration when looking to expand to the U.S. is whether the foreign business has a planned customer or consumer base they can target to support their growth in the U.S., or can they leverage current customer relationships to do so. Most businesses would have assessed the demand for their product or services in the U.S. and identified their target customers, so the challenge becomes how to access that customer base with their current structure or business model, and whether any adjustments should be made.

Selling to the U.S. & the Potential Tax Obligations

Selling goods from a foreign jurisdiction to the U.S. can create additional logistical concerns and potentially increase the cost of the goods being sold. Remote selling to the U.S. comes with additional logistical and operational costs, and potentially additional tax obligations for that foreign entity, dependent on the goods being sold. Service-based businesses must also carefully consider where their services are being performed to determine if there are any additional potential compliance obligations.

Many businesses look to avoid establishing a U.S. entity due to the common misconception that not doing so alleviates the compliance burden that is required of a U.S. entity. However, foreign businesses already selling into the U.S., particularly those selling goods, likely have an existing tax filing obligation, and simply continuing operations without addressing compliance may not be the best approach.

Identifying Potential Tax Obligations

Given the above, it's important to always look to have businesses answer various questions with regard to their U.S. expansion plans. This enables the identification of the compliance obligations that may have already been triggered and helps determine the best solution to enter the U.S. market. The questions include:

- What services or goods are being sold in the U.S.?
- Are the goods and services being sold to U.S. customers?
- Are employees traveling to the U.S. to generate and service current business?
- How will the U.S. operations be funded?
- Will the business have a physical presence (building, office, warehouse) in the U.S.?
- Where in the U.S. will the business likely operate from and why?
- What is the current ownership structure and business entity in its home jurisdiction?
- Has any third-party funding been received to support the expansion into the U.S.?

Turning Compliance Issues into a Positive

Expanding to the U.S. involves various accounting considerations, primarily tax-

related. Some businesses become concerned with navigating the country's complex, multi-layered tax system and its burdensome compliance reporting issues. While these concerns hold some truth, strategic advice and guidance, and well-structured processes and procedures can help manage these challenges and even turn them into a positive by enhancing efficiency, strengthening internal management controls, and fostering growth.

For businesses seriously considering entry into the U.S. market, establishing a separate U.S. entity to transact with a U.S. customer base may be the preferred approach. This structure allows for better management of operational and financial needs while simplifying compliance requirements.

For more information on what to consider when expanding business operations to the U.S., please reach out to [Kevin Brown](#) or [Gwayne Lai](#) of Anchin's [International Tax Group](#) or your Anchin Relationship Partner. Stay tuned for the next installment of our U.S. Expansion Playbook series, which will explore when and why a business might establish a separate U.S. entity, how to do so, and the associated filing obligations.