

Business Relocation Top Considerations

If you are thinking of moving your business, there are numerous factors to consider. Every business is different, and the needs of a specific business moving from a legacy state to the new state will vary from business to business.

WHAT KIND OF MOVE IS THE BUSINESS CONSIDERING?

1. The entire business – a complete move from one state to another
2. A partial move
 - o Just the headquarters is moving to a new state
 - o Some operations will move to the new state while some operations remain behind in the legacy state

ENTITY FORMATION AND BUSINESS REGISTRATION

1. If an entity is formed pursuant to the laws of a state or registered to do business in a state, it is required to file annual income tax returns in that state and pay franchise (or minimum taxes) regardless of whether it actually does business in the state.
2. Was the business formed/incorporated pursuant to the laws of the legacy state?
 - o If so, it may need to consider reincorporating in another state (i.e., an “F” reorganization). “F” reorganization needs to be accomplished in a way to leave carryover tax attributes intact
 - o The business needs to consider where its new state of formation should be – the new state or a third state (e.g., Delaware)
 - o If the entity is changing its state of formation, it may also want to consider changing its entity type (e.g., C Corp to LLC)
3. If the business was only registered to do business in the legacy state, does the business need to rescind those registrations.
4. The business will need to register to do business in the new state.

HOW MANY EMPLOYEES WILL THE BUSINESS BRING TO THE NEW STATE?

1. Does the business need to offer relocation packages to employees?
 - o Does the business need to offer severance packages to employees who decline to relocate, or will the business allow these employees to work remotely from the legacy state (or elsewhere)?
2. Does the number of employees the business plans to bring to the new state warrant asking the state for economic development incentives?

WHAT ARE THE FACILITIES NEEDS OF THE BUSINESS IN THE NEW STATE?

1. How much office space will the business need in the new state in a post-COVID work environment?
 - o Will the business still need substantial office space?
 - o We-Work office arrangements
2. What are the business’ plans regarding remote work going forward?
 - o Does the business need to register to do business in additional states as a result of a change in remote work policies?
3. How much capital investment is the business making in the new state?
4. If there is a significant capital investment in new facilities, does this warrant approaching the state for incentives (e.g., sales tax exemptions)?
5. Are your physical records hard copies or in the cloud? (digital stored?)

NOTIFICATIONS

1. What sort of notifications is the business obligated to give to vendors and customers regarding the move?
 - o If the business will retain its office in the legacy state, this may not be so much of an issue. If the business is leaving its office in the legacy state, vendors and customers will need to be provided a new address to contact the business.
 - o What sort of public notification is required from a business perspective regarding the move?

EMPLOYMENT AND BENEFIT ISSUES

1. How many employees are moving to the new state?
2. Does the business need to change its benefit plan offerings to make sure that employees have adequate access to in-network healthcare providers?

PHYSICAL MOVE ISSUES

1. What sort of FF&E and intangible assets does the business plan to move to the new state?
 - o Does any of this FF&E require special handling?
 - o Any of the FF&E seasonally affected? (e.g., some items will only be shipped in late fall through early spring to keep them temperature controlled)
 - o Sales Tax issues

CERTIFICATIONS AND LICENSES

1. Does the business need to obtain any new industry or professional certifications/licenses to operate from the new location?
2. Does the business need to obtain new vendors related to certification/license issues?
 - o New outside counsel



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