

Setting up a Branch office in Canada

If you are planning to set up a branch office in Canada, there are many things to review with your Immigration lawyers and other professional advisors. Here are a few of the basic ones:

1. **Corporate Tax Planning:** You may set up either a Branch office, subsidiary, or affiliate to do business in Canada. Each of these will affect your tax position differently, both in Canada and in your home country, and you should review this with your tax advisors.
2. **Setting up the Canadian company:** You may incorporate a company under Federal law or under the laws of Canada's 13 provinces or territories. There are pros and cons to each of these jurisdictions which you may want to review with your tax and corporate advisors. For example, most of these provinces have restrictions on residency of directors of the company, while the BC Corporations Act does not have any such restrictions.
3. **Business Visitor:** You may be able to come to Canada as a Business visitor prior to being transferred to Canada. This would facilitate your entry, although you would be limited in what you could do and whom you could be paid by.
4. **Intra Company Transferee:** You can then transfer key personnel to Canada to work for the company in Canada. These transferees must have worked with your company for at least 1 year in the past 3 years, and are subject to other qualifications.
5. **Other Foreign Workers:** You may need to bring other foreign workers who may not qualify as Intra Company Transferees. They may be able to qualify under the North American Free Trade Agreement, or other provisions of the Immigration Regulations.
6. **Personal Tax Planning:** The foreign workers should consult with tax advisors to ensure that their tax position is minimized. If they are living in Canada for more than 183 days in a year, they may be subject to tax on their world wide income, so careful planning is recommended.
7. **Employment Law:** You will want to have an Employment contract between the Intra Company Transferee and your company, which sets out clearly the rights and obligations of each. Some of the issues which you would want to cover would be trade secrets; ownership of business contacts and opportunities generated; rights on termination of employment; severance and moving expenses; and other matters. You should review this with your corporate or labor lawyers.

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