

Delaware

- Low start-up and maintenance costs
- Excellent professional infrastructure
- Most popular US jurisdiction, with user-friendly corporate laws and court system

Introduction

The State of Delaware, situated on the east coast, is the second smallest state in the United States. Approximately 900,000 people populate this English-speaking democratic state.

Delaware is the leading jurisdiction for the incorporation of companies in the US.

Law and Taxation

One frequently-cited advantage is that the state's internationally renowned Court of Chancery deals exclusively with corporate matters. Judges of this court are appointed on merit alone, rather than being elected.

The corporate laws of Delaware are user-friendly and often adopted by other states as a standard for testing corporate laws. As a result, the corporate laws of Delaware are familiar to many lawyers both in the US and internationally.

Companies of primary interest to offshore investors are the corporation and the limited liability company (LLC). LLCs are a hybrid of a corporation and a partnership: they share the legal features of a corporation but may choose to be taxed as a corporation, partnership, or trust.

The minimum annual franchise tax for a corporation with the standard minimum share capital is USD175, plus an additional USD50 filing fee for the annual franchise tax report. For a LLC, the franchise tax is USD300.

We recommend that you obtain appropriate US tax advice on the proposed activities and business location of any Delaware company. There are numerous US tax reporting requirements for US corporations and LLCs, and penalties for failure to comply. Please refer to the website of the US Internal Revenue Service (www.irs.gov/Businesses) for details.

Corporate Requirements

A corporation needs at least one director and one shareholder. Corporate directors are not permitted. A president, treasurer, and secretary must be appointed, although one person can hold all these offices. There are no residency requirements, however, the corporation's registered office and registered agent must be situated in Delaware. Registered office and agent details are included in the corporation's Certificate of Incorporation, and details of all directors and officers must be filed with the annual franchise tax. There are no minimum capital requirements. The law permits shareholders and directors to act by written unanimous consent, meaning that shareholders and directors do not need to hold meetings unless required by the corporation's Certificate of Incorporation or its bylaws.

Corporate governance for LLCs is managed by a written agreement between its members.

There are no restrictions on the type of business a corporation can carry out. Delaware permits a general purpose clause for any legal business activity for which a corporation is incorporated. LLCs may not take on the business of insurance or banking for which licences are required.

Local Infrastructure

The legal infrastructure in Delaware is regarded the best in the US, due largely to the Chancery Court's 200 years of legal precedent. Banking and accounting services are also readily available.

Our Services

Vistra can incorporate a company with your choice of name and confirm the availability of names in advance. All companies are provided with a complete company kit, including share certificates for a corporation or membership certificates for an LLC, four copies of the bylaws, a copy of the operating agreement for an LLC, statutory registers, a company chop, a common seal, and a Certificate of Guarantee of Quality. In addition, we can assist you in obtaining Certificates of Good Standing and other certificates of corporate existence as well as other relevant post-incorporation services.