



Lawrie
INSURANCE GROUP

Guide to Establishing Operations in

CANADA

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Executive Summary

Establishing operations in a new country can be complex and time consuming. You already know many of the items you need to address, but you also have a sense that business and government processes are different from country to country. Whether your understanding is a product of experience in your home country or in a variety of countries where you may have worked or previously established operations, you will find a number of differences in Canada.

You may be asking yourself about how to incorporate a company in Canada, how to open a bank account, what you need to do to register with the Canadian tax authorities (Canada Revenue Agency) or what the standard practices are from a Human Resources perspective. All of these likely have some similarities to your home country. However, efficiently answering these questions requires a quick education on Canadian systems and being introduced to the right people.

Setting up operations in Canada in a systematic, organized fashion will enable you to start doing business here more quickly and cost effectively. Once you are aware of the steps you need to take, as well as the timing and sequencing of these steps, the process becomes much more comfortable, familiar and easier to manage.

This guide is intended to provide you with many of these essentials, so that you can focus on what needs to get done to be able to sell and deliver your products and services in Canada. This guide covers:

- Incorporation
- Registration with Canada Revenue Agency
- Banking in Canada
- Finding premises
- Setup of your Canadian accounting function
- Setup of your Canadian HR function and
- A variety of other functions required to get you started quickly and efficiently.

Lawrie Insurance Group is happy to help you establish your operations in Canada and we welcome working with you!

[CONTACT US TODAY](#)



Welcome to Canada!

The following guide will assist your entry into the Canadian market.

Toronto is the economic and business capital of Canada, and a great place to establish Canadian operations.

You will hear the term “Toronto” and the “Greater Toronto Area” or “GTA”. The City of Toronto is home to about 2.8 million people and covers about 640 km². The GTA includes the City of Toronto as well as surrounding regional municipalities of Durham, Halton, Peel and York. Covering 7,125 km², it has a population of roughly 6.1 million people. Toronto is a wonderful cultural melting pot, where people from all parts of the planet get along probably as well or better than anywhere else.

There are many steps to take to get a company properly established in Canada. If you are new to the country and have no one to guide you, navigating these steps can be costly and time consuming. Fortunately, many other internationally based organizations have preceded you. Drawing on their experiences, the following guide will assist your own entry into the Canadian market.

Of course, your organization may have its own specific requirements outside the scope of this guide. Nevertheless, we have provided an overview of many of the areas you need to address and will provide advice for finding more information on those topics that are covered with less specificity.



Incorporated

1

Incorporation in Canada

More information about incorporating in Canada can be found at the [Government of Canada website](#).

When considering whether or not to incorporate in Canada, you will need to answer a number of questions:

- Do we need to incorporate in Canada to conduct business activities in Canada?
- Should we incorporate at the federal level or at the provincial level?
- What are the corporate structure options in Canada?

The answers to these and other related questions can be found on the [Government of Canada website](#).

While you can incorporate your own company directly through government websites for a few hundred dollars, it's a very good idea to engage a lawyer to help you figure out what is right for your organization. Incorporation is more than just submitting articles of incorporation with the government as it also includes properly organizing the entity, including issuing shares, electing directors, establishing share classes and complying with governmental filing requirements. In Canada, most Corporate and Commercial lawyers can assist you with this. They can provide advice on the type and number of shares to be issued, and help to determine in which jurisdiction you should incorporate (i.e. Canada or one of the provinces). There are benefits to incorporating in one or the other, so it is worthwhile going into detail with your lawyer about:

- Who will own the company
- Who the directors of the company will be (In some cases there are requirements to have Canadian resident directors)
- How you intend to fund the company
- How you seek to repatriate profits
- Transfer pricing, and
- Your intended operations, products, services

You will have a choice of using a named company or a numbered company. To obtain a named company at the federal level, a NUANS name search will be required. Generally, your lawyer will do this search for you. Your lawyer will advise on what name will be more likely to be approved, as the government pays specific attention to this aspect of incorporation.

Shareholder Agreement

If you have multiple shareholders for the new business or are going to work with a Canadian partner, it is highly advisable to enter into a shareholder agreement at or shortly after incorporation. A shareholder agreement is like a partnership agreement and serves to address two important matters: (1) Defines control of the business, for example, between the directors and shareholders and (2) Sets out the terms on which shareholders may sell their interests in the business.

Shareholder agreements are very flexible, and can be customized to apply to your particular business, relationships with your partners and your specific concerns. Shareholder agreements are also key in setting out the way in which one partner may exit the business, and to clearly establish a procedure for doing so – similar to a “corporate divorce”. Most shareholder agreements include terms with some restrictions on the issuance of shares and how existing shareholders can transfer their shares. These terms are important for a privately owned company as they provide the shareholders with a significant degree of comfort that they will be able to predictably control the business. And while shareholder agreements cannot prevent disagreement among the shareholders in the business, they help to avoid costly disputes by clearly setting out roles and responsibilities, and how disputes will be resolved.

It is possible for you to be the sole shareholder, director and officer of a corporation (subject to the residency requirements), and in this case there would be no need to enter into a shareholder agreement. However, if there are multiple business partners, it is wise to enter into the agreement when establishing the venture and everyone is in agreement (instead of waiting until needing to have an agreement becomes an issue).

The law firm that helps you with incorporation can also usually assist with the negotiation of a shareholder agreement, if required.

Your Year-End

You will need to specify when you would like your year-end to be. Naturally, factors at your international headquarters may drive this decision. If there are no other driving factors, you may want to select a year-end when accounting firms are not traditionally very busy as it will be easier to get their full attention. The busiest periods for Canadian accounting firms are often from January to the end of April.



Shareholder agreements are very flexible, and can be customized to apply to your particular business needs.

Legal Fees

You should expect your lawyer to charge you for his/her time and disbursements. The least expensive incorporations using a lawyer will cost approximately \$1,000 in fees plus several hundred dollars in government filing fees/disbursements. Some firms may offer fixed fees for incorporation and organizations for non-complex cases. Of course, more complex incorporations will cost more in legal fees but may save you significant amounts down the road and avoid other problems from a legal and tax perspective. You will also be required to pay tax on the legal services rendered though not on the government fees. Tax will appear as HST (Harmonized Sales Tax) or GST (Goods and Services Tax) on your bill, and these taxes are described further [below](#).



How Lawrie Insurance Group Can Help

We can help you find a law firm and tax specialists that are appropriate to meet your needs.

Finding a Law Firm

Just about all of the large law firms in Canada will be happy to provide these services, although a large law firm will involve higher fees. Some of them also have the bad habit of bringing multiple levels of lawyers to meetings and charging for all of them when it is not necessary. Direct them accordingly to bring only the resources that you require. There are now a number of very good small and mid-size law firms that are able to provide the services you require in a very competent way without the big price tag. If you are unsure about how to find a Canadian law firm that will meet your needs, contact us and we will be happy to assist.

Working with a Canadian lawyer, you may be able to complete all of your Canadian legal work from your home country. Whether you can complete everything remotely will depend on the jurisdiction (Federal, provincial or territories) in which you plan to incorporate, as well as other factors.

Consult Canadian Tax Specialists

Incorporating can technically be done either on your own or with a Corporate and Commercial lawyer based in Canada. However, in many cases, either of these choices will not provide you with all of the criteria that may impact you after you incorporate. As a result, before you finalize your incorporation, we recommend that you also consult Canadian tax specialists; both from the legal and [accounting professions](#). Indeed, some companies will engage tax lawyers in both their home country and in Canada. Tax treaties are complex and vary from country to country, so you want to ensure that the advice you are getting is pertinent to your own situation.



2

Registering with Canada Revenue Agency

Once you have incorporated your company, you will need to open accounts with Canada Revenue Agency. CRA will need the business number you received upon incorporation. This will form part of your CRA account numbers. You will likely need to open a Corporate Tax account, an HST account, and a Payroll Tax account.

Your accounting and tax firm, or your lawyer can open these accounts on your behalf, once you have designated the firm as your representative with CRA. You can authorize more than one individual or firm as a representative. There are rules governing who can represent you at CRA.

How Lawrie Insurance Group Can Help

We can refer you to a firm that can do your CRA registration and manage your ongoing CRA communications.

Filing Taxes

Any Corporate taxes owing are due to CRA three months after your year end. You will be assessed interest if you are late in submitting your tax payment. You are obligated to file your tax return within six months of your year-end and will be assessed penalties if the returns are filed late.

Your Payroll Taxes due date varies by the type of remitter you are deemed to be.

You can file HST returns and submit your payments monthly, quarterly or yearly. Which bucket you fall into is determined by your expected annual revenue.

Once you have submitted each of the above returns with CRA, they will issue an Assessment to you stipulating whether their calculations match your calculations. They will indicate if any further taxes are owing. CRA can also issue re-assessments at a later date. Payments to CRA can be made online or by mail, or through most Canadian banks, either online or at a branch.





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Opening a Bank Account in Canada

The main federal statute for the incorporation and regulation of banks, or chartered banks in Canada, is the Bank Act. The banks fall under three categories, and at the time of writing, include the following number of institutions:

- Schedule I (29 domestic banks),
- Schedule II (24 subsidiaries of foreign banks) and
- Schedule III (26 branches of foreign banks).

The banking industry in Canada is dominated by the “Big Five” (all Schedule I banks) which are comprised of:

- Toronto Dominion Bank (TD Canada Trust or just TD)
- Royal Bank of Canada (RBC)
- Bank of Nova Scotia (Scotiabank)
- Bank of Montreal (BMO – pronounced “bee-moe”) and
- Canadian Imperial Bank of Commerce (CIBC).

These Big Five banks are all international financial conglomerates. They all offer a full range of services. They are also fairly competitive in fees and charge fees for many different services. In our view, the banks have different strengths. Some may be better at accommodating your needs than others.



Before you select a Big Five bank, you may want to solicit input from local Canadian firms who have dealt with all of the Big Five to obtain a comparative view.

On-line Bank Systems

One of the ways in which they differ is through the ease of use of their online systems. They all have old, antiquated back-end core systems, but some of them have done a better job than others at developing a user-friendly, integrated front-end interface. One of the challenges you will face is that none of the banks are well equipped, in our view, at demonstrating their platforms to prospective clients.

Day-to-day Business

Another differentiating factor among the Big Five is the integration of their various business units with whom you may need to do business. Over time, this will likely be a factor in your day-to-day business experience with the bank, so you may want to explore this with the bank institutions you are considering. We recommend that you be specific with them in describing your banking needs. Also, because the Canadian banking regime will likely differ in some respects with the one(s) you are accustomed to using, don't assume that you will easily get the same services delivered in the same way as what you are accustomed to receiving in your home country.

Before you select a Big Five bank, you may want to solicit input from local Canadian firms who have dealt with all of the Big Five to obtain a comparative view.

International Banks

Just about all of the large international banks are represented in Toronto (most either as Sched II or III banks). As with any supplier decisions, there are pros and cons to using these banks. If most of your banking will be driven by your head office, one of the large international banks may be able to handle most of your needs.

Your banking decision should also be determined by your long term local banking requirements in Canada. These considerations include:

- Ease of receiving payments from your customers
- Ease of paying your suppliers
- Ease of paying your local staff
- Ease of doing your accounting locally in Canada and
- Breadth of required local banking services (i.e. chequing accounts, credit cards, payment processing, electronic payments, bank loans, cash management, treasury, foreign currency and other).

We believe it is worth asking your international bank detailed questions about how they can support your local banking requirements, the breadth of their networks and the scope of their services.

How Lawrie Insurance Group Can Help

LIG can help you select the bank that is right for you. We can introduce you to representatives from any of the banks and help you establish your banking relationships.



It is a good idea to develop your own list of the banking services you will require. It is also important to be aware that there are likely differences in: 1) How banking processes and transactions work in Canada compared to what you experience in your country or other countries and 2) The timing and delays you may experience in both setting up accounts and then carrying on business with the banks in Canada. Canadian banks offer a variety of packages that enable you to better manage your fees.

In most or all cases, to open a bank account in Canada, you must first be incorporated and the company must be properly organized. The bank will want to be able to confirm details on the shareholders and directors of the company. You will need to identify the appropriate signing officers who will have authority on the account, and in some cases, your signing officers will be required to be physically present at a Canadian bank branch to open an account. If the signing officers are located outside of Canada, they may be able to arrange the account openings in their home countries. We highly recommend that you clarify the process in advance with your selected bank. There can be a large number of documents to sign so it is a good idea to get the bank to prepare them all in one package ready for your signature. This will also require you to supply information to the bank in advance and they are obligated to collect certain information from you under their “Know Your Client” rules. Usually, they will also request your Canadian Certificate of Incorporation, Articles of Incorporation and confirmation of the directors of the company. Generally, you can make arrangements to sign at any branch and selecting any particular branch (particularly at one of the Big Five), should not limit you in any way in dealing overall with that bank.



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Accounting and Tax

4.1 Internal Accounting

CFO/Controller

To begin operating in Canada, you want to establish a solid internal accounting function. While some functions may be completed at your company's head office, a local CFO or controller can perform the following functions:

Strategic Functions and Getting Started

- Assist in formulating the company's future direction in Canada
- Monitor and direct the implementation of strategic business plans
- Develop financial and tax strategies
- Manage the capital request and budgeting processes
- Develop performance measures that support the company's strategic direction
- Participate in key decisions as a member of the executive management team
- Supervise acquisition due diligence and negotiate acquisitions
- Understand and mitigate key elements of the company's risk profile



Ongoing Operational Functions

- Prepare annual financial plans and targets, operating and capital budgets and forecasts
- Understand future reporting requirements and setup chart of accounts accordingly; harmonize, to the extent practical, with parent company chart of accounts
- Apply for HST, payroll and other statutory registration
- Oversee the financial operations of subsidiary companies
- Manage any third parties to which functions have been outsourced
- Oversee the company's transaction processing systems
- Implement operational best practices
- Oversee employee benefit plans, with particular emphasis on selecting and operationalizing a cost-effective benefits package
- Oversee the issuance of financial information
- Report financial results to the board of directors
- Monitor all open legal issues involving the company, and legal issues affecting the industry
- Construct and monitor reliable control systems, harmonize controls with parent company
- Maintain appropriate insurance coverage
- Ensure that the company complies with all legal and regulatory requirements
- Ensure that record keeping meets the requirements of auditors and government agencies
- Prepare for, and support audits
- Report risk issues to the audit committee of the board of directors
- Maintain relations with external auditors and investigate their findings and recommendations
- Monitor cash balances and cash forecasts, manage cash flow
- Manage capital spending
- Arrange for debt and equity financing
- Invest funds
- Ensure the account reconciliations, general ledger management, monthly accruals, accounts receivable, accounts payable, and related functions, internal expense reporting, fixed asset management, tax filings and tax installments are completed accurately and on time



How Lawrie Insurance Group Can Help

We can introduce you to firms whose staff will work as integrated members of your team and will provide you the right management and performance on an ongoing, long term basis.

- Prepare the monthly, quarterly, and annual financial statements and management reporting and analysis to support executive decision making
- Ensure all financial reporting deadlines are met
- Analyze key variances and monitor progress of action plans to improve results and strategically operate the business
- Consolidate reporting
- Prepare regular KPI reports and related analysis
- Manage banking relationships and negotiate new loan facilities as required
- Manage, coach, supervise and train accounting and administrative staff
- Ensure that financial and accounting policies and procedures are followed by all staff and that all transactions are correctly reflected in the accounts

Bookkeeping

A local bookkeeper will perform the following functions:

- Procure and setup Canadian version of accounting software
- Setup the Chart of Accounts to accommodate future accounting and reporting requirements
- Regularly enter accounting data into the accounting system
- Complete the payroll, accounts receivable, accounts payable, account reconciliations, general ledger management, monthly accruals, internal expense reporting, fixed asset management, HST and other statutory filings accurately and on time
- Prepare the monthly and annual financial statements and management reporting and analysis to support executive decision making. Ensure all financial reporting deadlines are met
- Manage cash flow and capital spending
- Support partners and staff in the use of the accounting system
- Ensure that accounting policies and procedures are followed by all staff and that all transactions are correctly reflected in the accounts
- Prepare for, and support work with both head office and your selected audit firm
- All of these functions may not require full-time resources, depending on the volume of work anticipated. It is possible to engage professionals on an 'as-needed' basis to conform to your needs.

4.2 External Accounting

It is a good idea to hire an external accounting firm to handle several functions. The most important include:

Tax planning

- This can be highly complex, depending on your strategic and operating requirements. Because tax treaties vary between countries, you will want a firm that understands the tax treatments between Canada and your home country.
- Tax considerations may influence how you structure your company in Canada and therefore may affect your Articles of Incorporation. For this reason, it is a good idea to have your tax accountant work with your lawyer to finalize your Canadian incorporation.
- You may need to file a number of different forms with Canada Revenue Agency and, with the right advice, you can ensure they will be properly completed and filed to avoid potentially long processes to correct any filing mistakes.
- There are different tax jurisdictions across Canada, including the Federal level, Provincial and territorial levels and municipal level (the latter for property taxes). What you sell, who you sell it to and where you operate are considerations for both setting up and operating your Canadian business.
- There are a variety of tax incentives offered by different levels of government. Your tax accountant should be able to provide you guidance on the various programs available to you and how you can take advantage of them.

Year End processes

- There are various year end processes and deliverables from which you can choose, including Notice to Reader, Review and Audit (listed in order of increasing thoroughness and work required to complete). There are a variety of factors that may drive which process is most appropriate for your Canadian operation and indeed, the selection may change as the years progress.
- The accounting firm will prepare your annual financial statements, Corporations Tax Return, your HST return and other returns, as required, and if not already completed by your in-house accounting staff. To file your tax returns on your behalf, your external accounting firm is obligated to first obtain your written consent.



How Lawrie Insurance Group Can Help

We can introduce you to many Canadian accounting firms. We will help you identify one or more firms who bring a combination of:

- Excellent reputation, with the right skills, experience and customer service
- Right size for your organization
- Knowledge of cross-border tax issues that are relevant to you



Selecting an External Accounting Firm

It is common practice to solicit bids from more than one accounting firms to compare the services they will deliver and their associated fees. It is advisable to provide them all with the same list of your requirements for you to be able to compare the different bids. The 'Big 4' accounting firms all have well established practices in Canada. There are approximately 10 mid-size accounting firms and a myriad of small firms. There is a balance between attaining the skills and expertise that you require and the fees you will need to pay. As always, it also comes down to who will service your account and you'll want to have a clear understanding of how much the partner will spend on your account, as opposed to his/her juniors.

Canada had three accounting designations: Chartered Accountant (CA), Certified Management Accountant (CMA) and Certified General Accountant (CGA). In 2015, plans were made to roll all of the designations into one designation called Chartered Professional Accountant (CPA). For the first several years of the transition, accountants identified themselves as CPA - CA, CPA - CMA, and CPA - CGA, ultimately dropping the second legacy component of the designation. With the combined CPA designation, it is important for you to ensure that you are getting someone legally qualified to conduct an audit, if that is what you require.



5

Insurance

It is important to protect your business in Canada from a number of perspectives. Insurance in Canada is regulated at the Federal and Provincial level, depending on the type of insurance. The types of insurance you may want to consider include:

Directors and Officers (D&O)

- Liability insurance payable to the directors and officers of a company, or to the organization(s) itself, as indemnification (reimbursement) for losses or advancement of defense costs in the event an insured suffers such a loss as a result of a legal action brought for alleged wrongful acts in their capacity as directors and officers.

Errors and Omissions (E&O)

- Also known as professional liability insurance, is designed to protect your business in the event that a customer or a client alleges that an error or neglect on your part resulted in a financial loss for their company.

Commercial General Liability (CGL)

- Coverage that will protect your business in the event that you are sued. CGL coverage is designed to protect against bodily injury or property damage claims.



Workers' Compensation (In Ontario, this is run by the Workplace Safety and Insurance Board and is commonly referred to as WSIB)

- Provides wage replacement and medical benefits to employees injured in the course of employment. WSIB is mandatory for some industries.
- Your business likely needs to be registered with the WSIB within 10 days of hiring your first employee. Based on your industry and the amount of compensation being paid, the WSIB will assess the applicable rate, and whether you are required to report and remit payments monthly or quarterly.

How Lawrie Insurance Group Can Help

Our entire team of insurance experts and risk managers is available to assist you with subject matter expertise in every area of insurance.

Tips on Purchasing Insurance in Canada

There are many other types of insurance in Canada, including life insurance, car insurance, and home insurance, to name just a few. It is important to learn the interdependencies of the various types of insurance to ensure that your company's risks are properly managed.

Insurance is typically sold through agents and brokers and you should ensure they are licensed. They sell insurance offered by insurance carriers and you may want to ensure that you are satisfied with the size of your selected carrier as well as their level of customer service and payout history. Your broker will be able to provide you this type of information and should be able to provide you competitive bids from several carriers.



6

Finding Premises in the GTA

Where you locate in the GTA is a function of a number of considerations:

- Where are your customers located?
- From which areas of the city are you likely to draw staff?
- How close do you need to be to highways and the airports?
- Do you need to be on a subway line?
- How much space do you require?
- What grade of space fits your image?
- What business functions will operate from your Canadian premises (i.e. Office work, manufacturing, warehousing, etc.)

In addition to these considerations, for retail premises, you may also want to consider traffic flows, parking and proximity to similar retailers.

The highest concentration of business in the GTA is in downtown Toronto. If you are in financial services, this is most likely where you want to be. Many manufacturing firms and warehouse operations are located in Mississauga. Automotive is located in Oakville and Oshawa. Tech firms can be found in many areas of the city including downtown, Markham, Mississauga and many other areas. Other commercial pockets include Yonge Street, North of the 401 up to Highway 7, Brampton, and a variety of others.



Real estate is often classified as A, B or C.

Class A

These buildings are prestigious, have high quality finishes, state of the art building systems and command the highest rents. They compete to attract high quality tenants, provide above average access and project a presence in the marketplace.

Class B

These buildings compete for a wide range of users with rents in the average range for the area. They often include older buildings that were once Class A. Building finishes are fair to good for the area and systems are adequate. These buildings are typically priced lower than Class A on a per square foot basis.

Class C

These buildings compete for tenants requiring functional space at rents below the average for the area. They tend not to have the same level of access, finishes and systems as the Class A and B buildings.

Common Lease Factors

It is important to understand whether you are quoted 'gross' or 'net'. Gross price per square foot will provide you a closer idea of your actual cost per month. Gross price includes the 'net' price paid to the landlord, and could include real estate taxes, insurance, maintenance, repairs, utilities, and other items. Leasehold improvements are also negotiable. You will also want to be well informed about the services in the building, whether it is connected to the underground PATH, if in the downtown core, the term of the lease (which determines how long you are committing to pay the agreed rents), whether there is adjacent space that may come available to accommodate your growth, and a variety of other factors.

How Lawrie Insurance Group Can Help

LIG can make introductions for you to real estate agents, brokers and lawyers.

Toronto's Retail Environment

The retail environment in Toronto is both complex and diverse, with a wide range of pricing options from one neighbourhood to the next. Toronto is currently experiencing a growth period, with a notable rise in more independent and artisanal retailers in gentrified areas, and the demise of the typical big box retailer. This has led to significant vacancies and thus opportunities for smaller users in secondary markets, with reduced net rents, higher tenant allowances and more flexible terms.

Toronto's Real Estate Environment

The real estate environment in Toronto is sophisticated, mature, can be complex and is one of the most expensive markets in Canada. Whether you lease or buy, you would be well advised to get both a good real estate broker and a real estate lawyer to represent your interests. In most cases, the broker who represents you is paid by the landlord/seller. This means that, in many cases, there is not a direct "out of pocket" cost to using a broker. However, many brokers will work for both the landlord and for you, the tenant. It is important to recognize, therefore, that for these brokers, there is an inherent conflict of interest built into the system. There are some brokers who only represent tenants, lessening, though not eliminating, the conflict of interest.





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Corporations Canada



If your company has been federally incorporated, once a year, you will receive a notice from Corporations Canada requesting payment of \$20 for each of your Canadian companies. This is not related to Canada Revenue Agency, and we are not aware of any value received for this fee. Nevertheless, pay the nuisance fee as this federal government department has the power to dissolve your company if you go too long without paying.



8

Human Resources

Canada is different! The biggest mistake that international firms make when hiring and managing staff in Canada is to assume that local practices elsewhere can automatically be super-imposed on Canadian workers.

Canada and its provinces have their own unique legislation covering employment, labour and a variety of related topics. You will hear reference to:

- OHRC – Ontario Human Rights Code
 - AODA – Accessibility for Ontarians with Disabilities Act
- ESA – Employment Standards Act
- WSIA – Workplace Safety and Insurance Act
- OHS – Occupational Health & Safety Act
 - Bill 168 – Harassment
 - WHMIS – Workplace Hazardous Materials Information System

Do not ignore any of this legislation. Possible outcomes of non-conformance to the above legislation can include unnecessary lawsuits, government fines, investigations, in extreme situations imprisonment, and a variety of other actions that risk distracting management from running your business.



How Lawrie Insurance Group Can Help

We can introduce you to HR specialists that can effectively develop your HR Policy Guide.

Policies and Terms to Consider

The HR policies and the terms that you include in your offer letters will influence the seniority and caliber of people you will attract. Just a few of the considerations you should take into account:

- Workers expect more than two weeks of vacation after several years of work experience. There is a traditional sliding scale going up to 4 – 6 weeks of vacation for the most senior levels. The Employment Standards Act defines minimums for vacation but these are usually only strictly applied to employees at the low end of the salary spectrum.
- If you aren't specific about how bonuses and other perks are earned, there can often be assumptions of minimum bonus payouts. If it is your intention that bonuses be paid according to certain performance criteria, lay those out very clearly in your Employment Offer or Consulting Agreement.
- A 90-day probationary period is included in the Employment Standards Act. Beyond this, there is no "Fire at Will" in Canada. While you can terminate an employee at any time, how you do it will determine how much it will cost you and what risks you will incur as an employer. There are straight-forward rules that apply and there are 'right ways' and 'wrong ways' of doing a termination. Doing it the wrong way can result in legal action being taken against you. It is not uncommon for Canadian employees to seek legal advice upon termination.
- A benefits package or payment in lieu of benefits is often expected. While the public health care system in Canada covers many of the costs of health care, benefits packages supplement the government system by covering items such as optical, dental, medication, semi-private and private hospital stays, and a variety of other benefits.
- Canada has a very active labour movement. It is worth getting expert advice on unions, their involvement in your industry in Canada and the potential impact they may have on your Canadian business operations. The rules related to unions can be complex and it is important to understand the actions you need to take to remain inside.



It is important that your organization conforms to Canadian employment legislation and local business practices.

While Canadians may not be as litigious as some other societies, they will often hold you to both statutes and common law. If they feel that you have not conducted yourself properly, they may very well seek legal assistance. You are vulnerable if you have not informed yourself properly in the conduct of your business from an HR perspective. These risks are readily mitigated by having a good HR resource for your company. Your HR Professional can:

- Implement a comprehensive set of HR policies
- Tie the policies to all of your Employment offers
- Provide ongoing advice and support to help you properly manage your staff

In cases where legal issues may arise, your HR resource can advise you if and when it is appropriate to involve the more expensive services of an employment lawyer. While many general Corporate and Commercial lawyers represent themselves as able to handle employment law, we recommend that when you require such services, you engage a lawyer who specializes in employment law. It is also a good idea to engage an employment lawyer to prepare template forms of employment agreements that HR can then manage affordably afterwards. This can help to pre-empt problems down the road.

8.1 Employment vs. Contract

You have the option of bringing people into your organization as employees or on contract.

Most Canadian workers still view employment as preferable to contract. This is based on an outdated notion that employment offers more security than contract. In reality, both arrangements can be short or long-term. Employment contracts are covered by the Employment Standards Act and a number of other pieces of legislation. They include statutory minimums that must be paid upon termination. There can be significant tax advantages to retaining staff on contract, as opposed to engaging them as employees. It is important to remain onside with CRA, as you can be assessed for back-taxes and penalties if you are deemed to have wrongfully treated an employee as a contractor. This is one of those situations where it is worth consulting a Canadian accountant and/or employment lawyer to determine what is best for your organization.



How Lawrie Insurance Group Can Help

We can refer you to several payroll firms that can either setup and run your payroll in-house or be your outsourced payroll provider.

How Lawrie Insurance Group Can Help

There are many HR firms and depending on your needs LIG can direct you to the right source for your company's particular situation.

8.2 Employee benefits and taxation

Large corporations and government in Canada typically offer comprehensive benefits packages. These often include health and dental coverage, life insurance, disability insurance, Accidental Death and Dismemberment Insurance, and dependent life insurance, to name a few. Additionally, companies may offer stock option plans, pension plans and a variety of other benefits.

Indeed, future or potential employees will often inquire about what benefits are included in employment.

It is important to consider how benefits are taxed when considering different types of employee benefits as part of an employee's compensation package. Some types of employee benefits are taxable to the employee. This may decrease the incentive to offer the benefit as opposed to a slightly higher salary. Other employee benefits are not tax deductible for the business, increasing the cost of the benefit to the company.

The ideal scenario is an employee benefit that is not taxable to the employee, but is tax deductible for the business. Examples of this can include group disability and health care plans. For that ideal scenario to apply, group disability premiums must be paid by the employee. The worst option is a benefit which is taxable to the employee, but not (or only partially) tax deductible for the employer.

8.3 Setting up Payroll

Your business becomes an employer and assumes specific responsibilities when you hire individuals and pay them salary, bonuses or commissions and provide employee benefits.

HR payroll process

As indicated in Section 2, you need to setup a payroll account with CRA upon hiring your first employee. All employees need to complete both the federal and provincial copies of form TD1 and submit the completed forms to you. Employees also need to complete these same forms annually before the end of the first pay period. The completion of this form enables your company to deduct and remit less tax for employees based on clearly established rules. Examples of allowable deductions include tuition, disability, support of a spouse and eligible dependents.



Payroll deductions: CPP, EI and income tax

The employer is required to deduct Canada Pension Plan contributions (CPP), Employment Insurance premiums (EI) and income tax from salary paid in each pay period. You are required to remit these deductions along with the employer's share of CPP (equal to the amount withheld from the employee) and EI (1.4 times the amount withheld). These deductions must be remitted to the Canada Revenue Agency (CRA) on a regular basis.

Employment Insurance (EI) is a federal government program to provide temporary financial assistance for unemployed Canadians while they look for work or upgrade their skills. Premiums are deducted at source from wages paid to most employees in Canada.

You will be assessed a penalty by CRA if you:

- Fail to deduct the required amounts
- Deduct the amount from the employee but do not remit it
- Remit the amount after the due date (interest will be applied from the date the payment was due)

Employers are also required to annually complete T4 and T4A forms for each employee by the last day of February. The form indicates the employee's income and deductions.

Within 5 days of the date an employee stops working for your company, you need to issue and submit an ROE (Record of Employment), which helps determine an employee's eligibility for Employment Insurance.

Calculating Payroll Deductions

Many Canadian versions of bookkeeping software programs (i.e. Quickbooks, Sage 50, Microsoft Dynamics GP) offer a payroll module, which is often integrated but sold separately. This module can automatically calculate and account for payroll and associated deductions. Annually, CRA updates and publishes their online payroll calculator which can be used by a bookkeeper to manually calculate deductions.

Many employers use an outside payroll provider (such as ADP, Ceridian, Payworks, Payweb, Payment Evolution, and a variety of others). The correct data, such as period being paid, salary, number of hours worked, etc., needs to be provided to them and is most often done online. The payroll provider will then calculate all of the deductions, extract funds from your bank account according to a pre-established schedule, and will remit payment to employees, contractors, CRA and other providers on a timely basis. Your bookkeeper will need to enter information provided by the payroll provider into your accounting package. Payroll providers also issue all payroll forms such as T4, T4A and ROE. This can significantly facilitate year-end processing.

Most payroll providers charge a one-time set-up fee and then a payroll service fee (usually per employee) for each payroll run. Some vendors also offer integrated payables and payroll processing.

Employer Health Tax (EHT)

The Employer Health Tax (EHT) is an Ontario-based tax applicable to all businesses operating in Ontario. It applies to organizations with total annual salaries in excess of \$450,000. No EHT is payable for organizations under that threshold.



How Lawrie Insurance Group Can Help

Many firms can become your entire Human Resources function. Their staff will work as integrated members of your team and will provide you the right management and performance on an ongoing, long term basis. Services include:

- HR Policy Development
- Recruiting
- Talent Management
- Performance Management
- Compensation & Rewards
- Training & Development
- Compliance
- Coaching
- Organizational Development and Succession Planning
- Employee Relations
- Labour Relations
- And, integrated with our bookkeeping services, full payroll management and administration.



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Patents and Trademarks

How Lawrie Insurance Group Can Help

LIG can introduce you to many different law firms, including both general firms with intellectual property specialists, as well as to boutique firms specializing in patents and trademarks.

Canada has a mature system of patents and trademarks. The application process is well defined but can be very complex and time consuming. This is something you are advised to do only with the assistance of a lawyer qualified to do such work and who is familiar with the Canadian patenting and trademark processes. With the right advice, you can help to expedite the approval process, and potentially save yourself significant time and expense responding to comments or objections on your application. There are also deadlines associated with patent and trademark applications and a lawyer can help ensure that the necessary steps have been taken leading up to these deadlines.

It is important to note that trademark protection does not cross borders and your intellectual property protected in other jurisdictions generally does not provide you protection in Canada. Therefore it is important that you protect yourself accordingly in Canada when commencing operations here. In some cases, and depending on when you have applied for, or been approved for trademarks in other jurisdictions, you may be entitled to expedited approval or consideration in Canada.

Some of the larger law firms will have intellectual property specialists. Alternatively, there are law firms that specialize in patents and trademarks at a reasonable cost.



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Protection of Personal Information

There is important government regulation in Canada that relates to the protection of personal information. The Personal Information Protection and Electronic Documents Act (PIPEDA) sets out requirements applicable to the collection, use and disclosure of personal information in the course of commercial activities and generally applies across Canada. This applies to most aspects of a company's business, whether applicable to clients, suppliers and employees, and includes:

- Individual's name, addresses telephone numbers, email addresses
- Credit card information
- Social insurance numbers and health information (generally applicable to employees)
- Data on client orders
- Financial information

Somewhat confusingly, PIPEDA is legislation of the federal government in Canada, and consequently only applies to information on those persons employed by federally regulated companies (for example, banking, aviation, broadcasting and telecommunications). Nevertheless, it is best practice to comply with the general requirements of PIPEDA in the use and disclosure of any personal information.



How Lawrie Insurance Group Can Help

We will introduce firms that can help to implement policy and procedures to ensure compliance with privacy legislation.

PIPEDA requires a business to establish procedures related to the collection, use and disclosure of personal information, and to establish policies to ensure enforcement of these procedures. Each business has flexibility in establishing these policies, depending on the industry and type of sector, subject to the guidance set out in the regulations and as provided by the Privacy Commissioner.

The Privacy Commissioner also means that PIPEDA is more than just legislation, as there is a government agency to which consumers can complain in the event of any breach of the requirements. The Privacy Commissioner has the power to order investigations and audits and impose fines. This is a matter within the public eye, and there have been a number of high-profile enforcement cases.

There is also privacy legislation in Ontario, including the Personal Health Information Protection Act (“PHIPA”) that provides a set of rules for the collection, use and disclosure of personal health information. Some of the other provinces have similar legislation.



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Online

Domain Names

Because of the difficulty in finding domain names, particularly those ending in “.com”, many Canadian companies have reserved “.ca” domain names. It is a good idea to protect your brand by buying any “.ca” domain names related to your company name, services, and trademarks, or to domain names that you already own. The cost is nominal and it affords you the comfort of knowing that no one else can use that domain name. “.ca” domain names can be registered at Canadian Internet Registration Authority (CIRA).

Companies are well advised to couple their “Nuans” name searches ([See Section 1](#)) with domain name searches to maximize brand consistency as they enter the Canadian market.

Canada’s Anti-Spam Legislation (CASL)

Canada’s Anti-Spam Legislation (CASL) defines spam, lists the penalties for sending spam, as well as the simple procedures anyone can take to file a complaint. Company directors have a maximum one million dollar liability and companies have a maximum \$10 million liability should they be found guilty of violating the legislation. You can protect yourself by establishing, communicating and enforcing company policy to ensure that your staff do not engage in spamming.



12

Immigration Options for Entrepreneurs

Temporary Options

Individuals who seek to establish and develop a business in Canada have several options to obtain a Canadian work permit to come to Canada temporarily.

Temporary residence through a work permit is a viable alternative for individuals who cannot immediately obtain permanent resident status. This option could allow the business to be established and developed, while the applicant gains the necessary Canadian work experience or other qualifications that will allow a successful application for permanent resident status. If the work permit is issued for longer than 6 months, it is possible to apply for an open work permit for an applicant's spouse and study or visitor visas for children.

International Agreements

Canada has negotiated trade agreements with several countries, which provide programs under which citizens of signatory countries can obtain a Canadian temporary work permit to operate a business in Canada, which could lead to permanent resident status. One often used program is for individuals who have invested a significant amount of funds into a Canadian business, which they will directly manage and oversee. Such individuals may be eligible for a work permit of up to 1 year, with the possibility of renewal. Other programs for temporary immigration to Canada under trade agreements exist, but they are highly context specific. Legal advice on these options is highly recommended.



Intra-Company Transfer – Start-Up Option

If your company is looking to start an office in Canada you may be able to get a temporary work permit to manage the establishment and development of your company’s presence in Canada. The applicant must have been working with the non-Canadian company for at least 1 year in a role similar to the corresponding future position in Canada, and the relationship between the office and the non-Canadian company must be one that qualifies under the regulations. This work permit can last for up to 1 year, with conditional renewals, and any time spent outside of Canada under the work permit can be recovered.

Owner-Operated Labour Market Impact Assessment (LMIA)

Aside from the two options listed above, most other work permits require a positive labour market impact assessment (an “LMIA”) from Social and Economic Development Canada. An LMIA usually requires a minimum of 1 month of advertising for the vacant position, to ensure no other qualified Canadians are available to take the job. Applying for a LMIA as an owner-operator provides an exemption from the usual advertising requirements, and therefore a quicker route to obtaining a Canadian work permit. This means that owner-operators do not need to advertise for their position, which therefore eliminates the administrative burden and time of an advertising and recruitment campaign.

In order to qualify for the owner-operator advertising exemption, the applicant must have a controlling share in the business and intend to work in a high-level position.

You must also be able to demonstrate that:

- there is no employee of the business who can terminate your employment (i.e. you have no manager or boss); and
- your temporary entry into Canada will result in the creation or retention of employment opportunities for Canadians or permanent residents, and/or there will be skills transfer to Canadians or permanent residents.

This work permit can be granted for a period of up to 2 years. It can also be used to obtain an additional 200 points on the Express Entry Comprehensive Ranking System, discussed in further detail below.



Permanent Options

If you seek to come to Canada on a permanent basis to run your business, there are also several options available, depending on your situation. Spouses and dependent children can be included in permanent resident applications.

Express Entry

If certain qualifications are met, an applicant may be able to apply for permanent resident status in Canada through the express entry system. One of the main qualifications is a satisfactory score on the Comprehensive Ranking System (“CRS”). The CRS assesses an application based on:

- age,
- English or French language ability,
- education,
- work experience, and
- other factors that affect adaptability to Canada (e.g. Attending a Canadian school, family in Canada, work experience in Canada)

If an applicant’s CRS score is high enough, an applicant could be offered an invitation to apply for permanent residency in Canada. Ideally, once the application is submitted in response to an invitation to apply, the application will be processed in under 6 months. The maximum CRS score is 1,200 points and recent successful applications have had CRS scores in excess of 440 points. Historically this number changes every few weeks and is not a guarantee of acceptance.

Provincial Nominee Programs

Each Canadian province and most territories have immigration programs aimed at attracting entrepreneurs. Most provinces require a minimum personal net worth and a minimum investment in a local business (whether a new business or a purchased, existing one) and an initial business plan. Many provide a 1-year work permit, after which the business’ progress will be assessed against the applicant’s initial business plan. If the business has fulfilled initial expectations, as set out in the business plan and the program’s requirements, the applicant may be issued a certificate of nomination, which will be used to apply to the federal immigration department for an application for permanent residency.



How Lawrie Insurance Group Can Help

For more information on which immigration option is best for you and your business, or for assistance designing your longer-term immigration strategy, contact us and we will refer you to qualified immigration legal counsel.

Start-Up Visa Program

The Start-Up Visa Program is a third entry-way to permanent resident status in Canada for entrepreneurs. The following is required to qualify for this program:

- a qualifying business, where:
 - each applicant must hold a minimum of 10% or more of the corporation's voting shares (maximum 5 applicants),
 - the applicants and their supporting designated organization together hold more than 50% of the voting shares, and
 - at the time that permanent residence is received:
 - the applicant's management of the company in Canada is ongoing and active,
 - an essential part of the business is conducted in Canada, and
 - the business is incorporated in Canada.
- proof that the business is supported by a designated organization; these include incubators or other business groups approved by the Government of Canada,
- sufficient ability in English or French, as shown by the applicant's score on an approved language test, and
- a qualifying amount of settlement funds.



Conclusion

Canada is one of the best, most vibrant places in the world to do business. It offers:

- robust, efficient markets
- a safe place to live and do business
- fairly low business tax rates
- relatively low levels of government bureaucracy, understandable regulation, and most importantly,
- Canadians who tend to be warm, hospitable and straight forward.

We look forward to welcoming you and to helping you to establish operations in our great country!



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