



Forming a Business Entity: New Jersey, New York, Pennsylvania or Texas vs. Delaware

Client Advisories

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Clients often ask whether they should form their business entity in Delaware. Delaware is an ideal jurisdiction for public companies and private companies with venture capital and private equity investors. However, Delaware may not be ideal for a local business operating in New Jersey, New York, Pennsylvania, or Texas. For example, if a business is formed in Delaware, but will be operated in another state, the business will have to file papers and pay initial and likely annual fees in two states. For many clients, forming a business in New Jersey, New York, Pennsylvania or Texas is perfectly acceptable. This paper describes some of the advantages and disadvantages of forming a business entity in Delaware, and then outlines the initial and annual costs involved in forming a corporation or limited liability company in New Jersey, New York, Pennsylvania, Texas, and Delaware.

There are some advantages of being a Delaware company, but they are probably not important to most small businesses operating in New Jersey, New York, Pennsylvania, or Texas. The advantages are:

- Delaware business entity statutes are frequently amended to keep them current.
- There is a large body of Delaware case law.
- The Delaware courts have a reputation for handling complex business entity issues.
- Many attorneys and investors have knowledge of, and are comfortable with, Delaware law.
- The names and addresses of a corporation's initial board of directors are not required to be included in the certificate of incorporation filed with the State of Delaware.

There are some disadvantages of being a Delaware company operating a business in New Jersey, New York,

Pennsylvania, or Texas. The disadvantages are:

- The company must pay initial and likely annual fees to two states—Delaware and the other state where the company actually operates its business.
- The company must pay an annual fee to a third party to serve as the registered agent in Delaware.

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Initial and Annual Costs of Forming a Business Entity



	New Jersey	New York	Pennsylvania	Texas	Delaware
Initial Cost (not including legal fees)	Domestic:	Domestic:	Domestic:	Domestic:	Domestic:
	Corporation - \$125. LLC - \$125.	Corporation - \$125. LLC - \$200, plus \$50 for filing certificate of publication. Plus the cost of published notice in the newspaper, which can be \$1,000 to \$2,000.	Corporation - \$125, plus cost of published notice, which can be \$200 to \$400. LLC - \$125	Corporation - \$300. LLC - \$300.	Corporation - \$109 (for first page) and \$9 for each additional page, plus an additional fee based on number of shares and par value, with a minimum of \$15 (1,500 shares with no par value). LLC - \$110.
	Foreign: *	Foreign: *	Foreign: *	Foreign: *	Foreign: *
	Corporation - \$125. LLC - \$125.	Corporation - \$225, plus cost of obtaining a certificate of good standing (i.e., certificate of existence) from state of incorporation. LLC - \$250, plus \$50 for filing certificate of publication and cost of obtaining a certificate of good standing (i.e., certificate of existence) from state of formation. Plus the cost of published notice in the newspaper, which can be \$1,000 to \$2,000.	Corporation - \$250, plus cost of published notice, which can be \$200 to \$400. LLC - \$250.	Corporation - \$750. LLC - \$750.	Corporation - \$245. LLC - \$200.
Annual Cost	Corporation - Annual report fee of \$75. LLC - Annual report fee of \$75.	Corporation - Biennial statement fee of \$9 every two years. LLC - Biennial statement fee of \$9 every two years.	Corporation ** - Annual report fee of \$70. LLC *** - Annual registration fee of at least \$500.	Corporation - No annual report fee; annual franchise taxes only for corporations that earn over \$2,470,000 in annual revenue. **** LLC - No annual report fee; annual franchise taxes only for LLCs that earn over \$2,470,000 in annual revenue. ****	Corporation - Annual report fee of \$50 for domestic and \$125 for foreign, plus annual franchise taxes starting at a minimum of \$175. LLC - Annual tax of \$300.



* A foreign entity is an out-of-state entity seeking authorization to do business in the state.

** For domestic benefit corporations only.

*** For domestic and foreign restricted professional LLCs only.

**** Amount of franchise taxes due depends on various factors. Learn more at

<https://comptroller.texas.gov/taxes/franchise/>.

Sources:

NJ Filing Fee

<https://www.state.nj.us/treasury/revenue/gettingregistered.shtml>

NJ Annual Fees

<https://www.njportal.com/DOR/AnnualReports/Home/FAQ#90>

NY Filing Fees

<https://dos.ny.gov/fee-schedules>

NY Annual Fees

https://www.tax.ny.gov/pit/efile/annual_filing_fee.htm

<https://dos.ny.gov/authority-foreign-business-corporation#top>

<https://dos.ny.gov/application-authority-foreign-limited-liability-companies>

PA Filing Fees and Annual Fees

<https://www.dos.pa.gov/BusinessCharities/Business/Resources/Pages/Fees-and-Payments.aspx>

TX Filing Fees

<https://direct.sos.state.tx.us/help/help-corp.asp?pg=fee>

TX Annual Fees

<https://comptroller.texas.gov/taxes/franchise/>

DE Filing Fees

<https://corpfiles.delaware.gov/AugustFee2024.pdf>

DE Annual Fees

<https://corp.delaware.gov/paytaxes/>

<https://corp.delaware.gov/alt-entitytaxinstructions/>



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