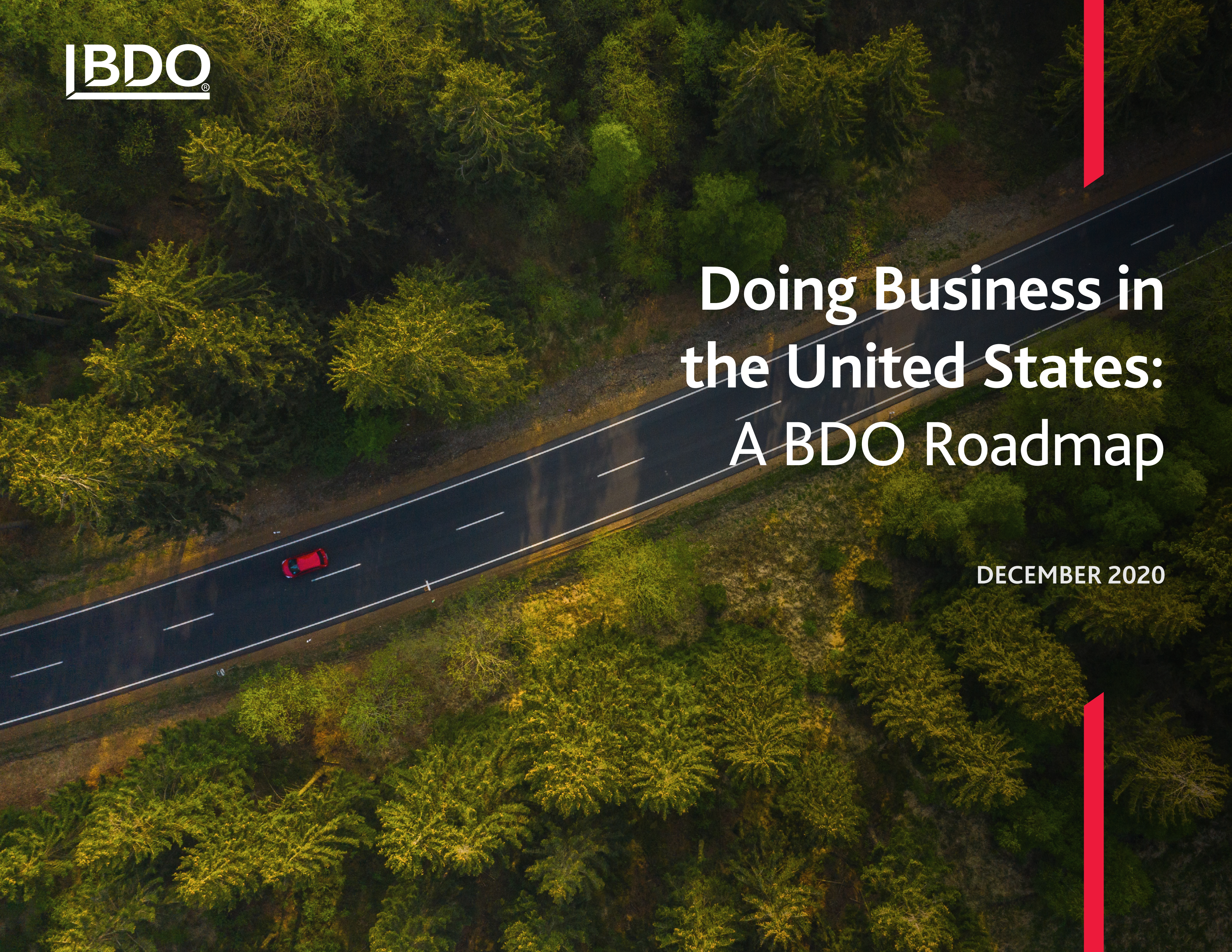


Doing Business in the United States: A BDO Roadmap

DECEMBER 2020

Businesses are looking for ways to not only survive, but ultimately thrive, as they seek out what comes next in the face of the world's current pandemic and economic turmoil. One thing remains constant—businesses are still interested in in tapping into the United States market. Home to the largest amount of foreign direct investment in the world, the U.S. is encouraging of free enterprise, competition and capitalism. It represents a worthwhile opportunity for growth—especially for businesses looking to diversify their assets.

Even during a bear market, which economies across the globe are experiencing because of the long-lasting ramifications of the COVID-19 pandemic, the U.S. remains a desirable long-term expansion target for foreign entities.

Business that can navigate the changes brought about by the pandemic in global and domestic markets will shape our new reality. While the U.S. market is still grappling with the shape of its recovery, **businesses that can adapt and build on their long-term resilience** will have the opportunity to emerge from the crisis stronger and will have the cultural foresight and operational dexterity to continue leading their peers.

In 2019, the World Bank **ranked the United States** as the sixth-easiest place to do business out of 190 economies, according to rules around opening a business, securing a location, accessing finance, navigating day-to-day operations and operating in a secure business environment.

In addition to the relative ease of setting up a business, the United States offers access to customers in a way that not many other markets do—both directly and indirectly through its various trade agreements with countries around the world.

Customer Access in the United States

Access to almost **800 million** consumers through domestic companies and free trade agreements with 20 other countries

Highest household spending globally

$370 billion in U.S. goods exports from majority foreign-owned firms with U.S. operations

Source: SelectUSA

"With an exceptionally strong market and a supportive business climate, expanding your organization's footprint to the U.S. is an exciting opportunity to pursue new avenues of growth. But it can also be daunting. Preparation is vital to ensure you're minimizing risk and maximizing opportunity when establishing a successful U.S. presence."

SCOTT HENDON
International Liaison Partner, National Leader of Private Equity, Leader of Global Private Equity

Even though the U.S. presents a world of opportunity and its rules of business are relatively easy to navigate compared to other markets, there are still challenges unique to the market—particularly given its size, business culture and workforce nuances, and diversity of jurisdictions.

To successfully capitalize on the opportunities the market presents, foreign organizations must have a clear, proactive action plan in place. In ***Doing Business in the United States: A BDO Roadmap***, we outline six steps—and questions and considerations for each—that should guide that action plan.

6 STEPS TO DOING BUSINESS IN THE U.S.

CHOOSE A STRATEGIC LOCATION

Identifying the right location for your U.S. business can be one of the most consequential decisions a business leader will make. It is particularly challenging considering there are 50 states, 3,141 counties and over 19,000 incorporated cities, towns and villages, all of which offer different geographic, demographic, legal, financial, tax and regulatory environments.

A successful site selection journey begins with a thorough location analysis comparing sites on an objective basis across a variety of measurable project parameters. The first step in that analysis is for the company to identify and detail the project's core business goals and then to define location criteria that can serve as indicators of those goals.

These location criteria will vary by project and industry. For manufacturing projects, key criteria may include proximity to natural resources, ports, low-cost power, affordable land and skilled production labor, rail and road access amongst hundreds of other factors. Research laboratories may look for concentrations of skilled scientists and locations near prominent universities and international airports. Office requirements typically focus on access to talent and customers.

Location criteria will guide the analysis and identify qualified communities.

LABOR

- Population demographics and projections
- Availability of employees with specified skill sets
- Educational attainment
- Availability of training programs
- Presence of colleges, universities and vocational programs
- Presence of unions and rates of unionization

REAL ESTATE / LOCATION

- Size, shape, topography of site and room for expansion
- Elevation and risk of flooding
- Climate and weather
- Nearby land uses
- Geotechnical status - bearing capacity, seismic risk and water table elevation
- Environmental status – wetlands, contamination, archeological significance
- Risk of natural and man-made disaster

BUSINESS CLIMATE & COSTS

- State and local tax rates
- Cost of labor, utilities, real estate, construction, etc.
- Regulatory environment
- Permitting
- State and local fiscal position and outlook
- Availability of incentives

INFRASTRUCTURE & UTILITIES

- Proximity to airports, highways, and rail
- Utility capacity (water, sewer, gas, electric, telecommunications)
- Cost of utilities
- Reliability of utilities

SUPPLIERS & CUSTOMERS

- Locations of key suppliers
- Proximity of production inputs/resources
- Access to key markets

QUALITY OF LIFE FACTORS

- Cost of living
- Cultural amenities
- Recreational options
- Quality of air and environment
- Crime rates
- Hospitals and healthcare
- Quality schools

Based on the location criteria and geographical preferences, the company can identify qualified communities and begin gathering and analyzing data, in order to evaluate and rank locations objectively. Through this objective measurement process location candidates emerge.

Next, the project team should visit communities, tour specific real estate sites and begin negotiations of incentives. Site visits offer valuable opportunities to meet government officials and members of the business community in order to assess the local business climate and quality of life. Following site visits, detailed incentive negotiations and further due diligence on the communities and real estate, the company can make a location decision with confidence. It is critical to note that in the United States the incentives offered by state and local governments are competitive. Thus, they must be negotiated in advance of making a commitment to a particular site or building.

Knowing which steps to take from the outset is key to making a strategic location decision.

ANALYSIS

- Define project parameters and location criteria
- Develop list of qualified communities
- Gather and analyze data on key criteria in each community
- Identify and quantify potential incentives in each community

NEGOTIATIONS & SHORT LIST

- Develop a Request for Offers of Incentives
- Arrange visits to the short-listed locations
- Negotiate incentives
- Manage the political process among competing jurisdictions
- Obtain formal offers of incentives from state and local officials in the short-listed locations

FINALIZE CHOICE

- Select finalist site
- Complete and file incentives applications
- Attend public meetings and hearings to secure formal approvals
- Complete all agreements related to incentives

COMPLIANCE

- Conduct ongoing review of progress
- Retain savings
- Identify enhancement strategies
- Submit annual compliance forms

BDO'S QUICK TAKE:

"A sound site selection and incentives strategy can serve as a catalyst for business success by guaranteeing access to key talent, maximizing political support and media coverage all while reducing the financial risk of the investment by securing useable financial incentives that go directly to the bottom line."

TOM STRINGER
Leader of BDO's National Site Selection and Business Incentives Practice

Contact Tom to learn more about how to choose the best location for your organization. ▶

MORE ABOUT DEVELOPING AN INCENTIVES STRATEGY

A complete package of incentives can mean a return on investment of more than 25% and potentially up to 100% for major development projects. State and local governments offer a myriad of incentives to attract jobs and investment and to develop certain industries. Incentives can range from high value cash grants available through a negotiation process (discretionary incentives), free land, major property tax exemptions, utility discounts or free infrastructure to tax savings available by right to any business that meets the program requirements (statutory incentives).

STATUTORY TAX CREDITS AND EXEMPTIONS

State and local taxes represent a significant business cost and understanding the potential tax burden is a crucial part of a strategic location decision. Statutory tax credits and tax exemptions are important tools for reducing costs and improving operating margins.

States offer tax credits to encourage job creation, investment and other business activity. States often target tax credits at desirable industries or activities they wish to develop, such as manufacturing or research and development. It's also common for states to offer tax credits to promote growth in undeveloped areas. Certain forms of investment, such as manufacturing equipment, may be exempt from sales tax or property tax.

Many states recognize that tax credits aren't useful to companies operating in a loss position. With no tax liability projected for many years, tax credits have no value. Increasingly, states are offering refundable or transferrable tax credits to enable companies to realize cash savings.

A thorough review of tax credits and tax exemptions may reveal significant cost differentials among locations and can be an important component of the location decision.

COMMON TYPES OF INCENTIVES

- **Tax exemption:** An incentive that removes the obligation to pay tax on certain transactions or forms of investment. Example: No sales tax is imposed on electricity used in the manufacturing process.
- **Tax credit:** An incentive that lets a taxpayer subtract a set amount from their local, state, or federal tax liability. Example: A company receives a tax credit worth 3% of investment in manufacturing equipment.
- **Refundable tax credit:** An incentive that allows a company to apply a set amount against existing tax liability and receive the excess as a refund. Example: A start-up company has no tax liability and cannot utilize an investment tax credit. The state refunds the value in cash.
- **Transferrable tax credit:** A tax credit that may be sold, assigned or transferred. A company with no tax liability transfers the credit to a company with tax liability in exchange for payment.

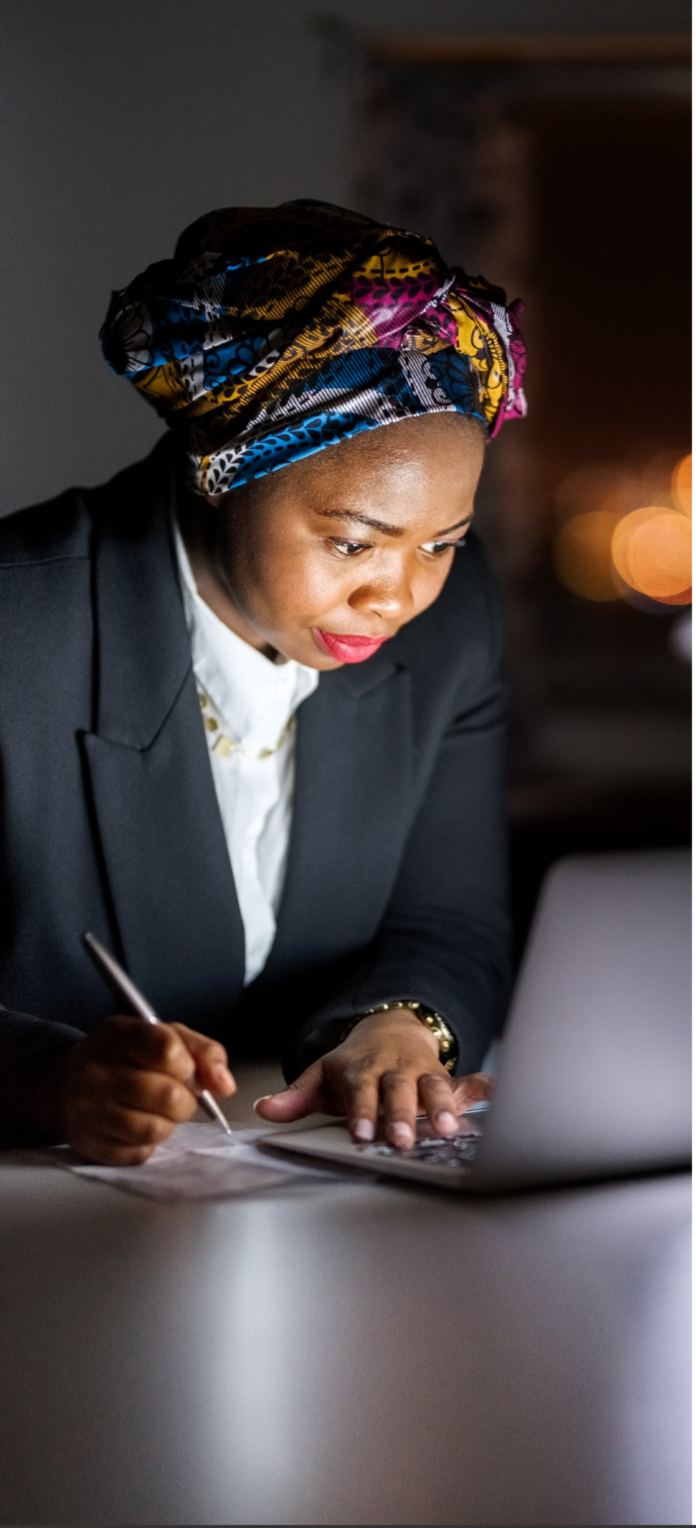
BDO'S QUICK TAKE:

"Statutory tax credits and exemptions offer an important way to reduce business costs. It's important that companies evaluate their specific fact pattern to understand potential opportunities and how they can benefit. The types of credits and exemptions, their value and their specific provisions vary widely from state to state. Establishing a sound methodology for identifying credits and exemptions is critical to ensure all available savings are captured."

TIM SCHRAM
Managing Director and National Leader of BDO's Credits & Incentives Practice

Contact Tim to learn more about more about statutory incentives.

ESTABLISH A STRONG FOOTING



APPLYING FOR AN EMPLOYER IDENTIFICATION NUMBER (EIN)

While finalizing the right location for their business, companies must also register for a federal tax identification number (called an EIN), which the Internal Revenue Service (IRS) uses to identify a business. To get one, international applicants can apply by telephone. There are three other ways to apply, depending on the applicant's circumstance.

Organizations will also want to check the requirements of the state(s) they're locating to in the U.S.

DETERMINING YOUR TAX YEAR

Depending on the nature of your business and when your heavier revenue periods fall, you'll want to choose between filing your taxes according to the calendar year or a fiscal year.

The former must be used if an organization does not have an annual accounting period or its present tax year doesn't qualify as a fiscal year, among other factors. A fiscal year is 12 consecutive months ending on the last day of any month except December.

VIEW THE IRS TAX CALENDAR FOR BUSINESSES FOR KEY TAX DUE DATES AND ACTIONS FOR EACH MONTH

CHOOSING THE RIGHT STRUCTURE

Because the United States is a federal union, both the federal and state governments impose a variety of taxes. Most states and the federal government impose income taxes. States may also impose property, sales and use taxes, among others.

Employers and employees must also pay U.S. social security taxes, though the United States doesn't have a value added tax (VAT) system.

The level and nature of federal and income tax a business must pay, however, depends on which legal structure it chooses when expanding to the United States. This choice has implications for the business' day-to-day operations, total tax liabilities and financing strategies.

For example, the Tax Cuts and Jobs Act (TCJA), which went into effect during the 2018 tax year, included a pass-through deduction, which lets U.S. taxpayers now deduct up to 20% of business income that comes from pass-through entities, which include LLCs, S corps, partnerships and sole proprietorships, among others. Organizations or investors interested in U.S. expansion should consider changes like this and others when deciding on a structure.

The following section outlines the general characteristics—including key benefits and pitfalls—of some of the most common legal structures in the United States.

Subchapter S corporations

S corporations require a more complicated setup than other structures but provide limited liability, meaning the owners are not held personally accountable for their company's financial liabilities. Classified as flow-through entities, this means income of S corporations is taxed at the shareholder level but not at the corporate level.

Notably, S corps generally require that shareholders are lawful permanent U.S. residents, or fulfill either the **substantial presence test** or **first-year election requirements**.

To elect status as an S corporation, a business must:

- Be a U.S. domestic corporation or a domestic entity that has elected to be treated as a U.S. corporation
- Have 100 or less shareholders that fulfill residency requirements
- Have only individual shareholders, except for certain permitted estates, trusts and tax-exempt organizations
- Issue only one class of stock

Investment entities

Investment entities are specialized types of companies formed in the United States. They include:

- Regulated investment companies (RICs), commonly known as mutual funds and formed to invest in diversified portfolios of stocks and securities
- Real estate investment trusts (REITs), which are formed to invest in real property and real property mortgages

On **June 24, 2020**, the IRS and U.S. Treasury finalized regulations to allow RICs to apply the pass-through deduction included within TCJA if they receive dividends from REITs, allowing for a more favorable total tax liability.

Limited partnerships

A limited partnership is a good structure if you're going into business with one or more people, and it's relatively low-cost and easy to set up. Businesses electing as a limited partnership:

- Should create a written partnership agreement clearly outlining the duties, responsibilities and economic relationship between partners
- Typically share profits and losses between partners in accordance with their overall economic arrangement, as well as invest capital into the business and collectively own assets
- Allow partners to make some binding decisions for the business, although there are typically restrictions on decision-making authority

It's important to note that while a general partnership is considered a separate entity from any of the partners, the partners can be financially liable should anything go wrong. If enough partners decide to leave the business, and only one partner remains, the partnership—and in turn, the business—is often dissolved.

Limited liability company (LLCs)

Easy to create—typically requiring just a form and a small fee—LLCs can provide limited liability if used correctly. They are managed by "members" who hold decision-making power that increases in proportion to the percentage of the company they own. LLCs can be member managed or manager managed.

Businesses electing as an LLC:

- Are generally taxed as a partnership, meaning that all income, gains, losses, deductions and credits will flow through and be taxed to the partners or members—versus the entity itself. An LLC can also elect to be taxed as an S corporation or C corporation
- Can be operated by any taxpayer including one individual, in which case it can operate as a sole proprietorship while still offering limited liability protection
- Can grow to an unlimited number of members who oversee the business but allows them to hire external employees to run day-to-day operations

C corporations

C corporations pay corporate income tax directly to the government, as opposed to flowing through to the owner's personal return. C corps are subject to double taxation, which means the company is taxed once on earnings, and then shareholders are taxed again on distributions.

Charitable organizations

These are exempt from U.S. federal income tax, provided they meet certain qualifications. This exemption is available to corporations, trusts, community chests, funds and foundations that are organized and operated exclusively for one or more charitable purposes. The predominant category of organizations that fall into this tax-exempt category are public charities, which include entities with religious, charitable, scientific, educational, literary and sports competition purposes, among others.

BDO'S QUICK TAKE:

"It's critical that foreign entities understand how U.S. tax will impact their cost of doing business in the United States by considering their total tax liability, including U.S. federal income tax, state income tax, sales and use tax, property tax, and customs and duties. Organizations must model these tax impacts to understand how to best position U.S. operations. It's also important that they consider U.S. tax implications and tax reporting obligations of cross-border payments from related party arrangements, capital investment and financing structures for existing or future U.S. operations."

MONIKA LOVING

International Tax Services Partner & National Practice Leader

Contact Monika to learn more about how to establish strong footing in a way that makes the most sense for your organization.

FINANCE YOUR BUSINESS

A CHECKLIST FOR DETERMINING SETUP COSTS

After deciding which business and legal structure is appropriate, you need to decide the best method of financing. The first step is to determine the amount of capital you need to fund your U.S. operations.

HUMAN CAPITAL

- ☐ How many employees do you need stateside in the initial phase?
- ☐ How could that number grow over the next six-month, one-year or five-year timeframes?
- ☐ Will you need to pay fees to secure work visas for employees you are expecting to recruit or relocate from overseas?
- ☐ What funds do you need to recruit and retain your workforce? (Note that these costs could be higher if you need a highly skilled workforce and have to recruit or relocate from overseas.)
- ☐ How often will your employees need to travel, and what associated expenses will you incur?

RENT AND UTILITIES

- ☐ If your business requires one or multiple physical spaces, how much will you need to cover your lease and associated utility costs? Are there certain locations that have more favorable costs or that offer certain incentives?
- ☐ How might lease and utility costs increase over time, and how much capital will you need to cover those increases?

INVENTORY AND UPCOMING ORDERS

- ☐ Do you have access to the materials necessary to operate your business, and do you have contingency plans in place should the cost of those materials increase?
- ☐ How much capital do you need to secure your operations for the next 12 months, two years or five years?

INSURANCE

- ☐ What type of assets will you need to insure to protect your business? These can include physical assets like real estate, manufacturing sites and/or equipment, supplies, intellectual property and your workforce.
- ☐ Are you offering health or dental benefits to your employees? Often a consideration unique to the U.S. given its largely privatized healthcare system, it's important for companies coming from abroad to be mindful that many U.S. citizens and permanent residents in the U.S. receive health, life and dental insurance through their employers. Properly accounting for costs associated with health and other benefits will be important to becoming an attractive employer in the market.
- ☐ Are you prepared in case of a disaster? Determine what type of insurance policy you'll need to protect against physical damage, as well as non-physical damage like lack of access to facilities, government declarations of emergency, cancelation of events or loss of utilities, and others. As the COVID-19 pandemic has taught businesses, ensuring you have adequate insurance coverage is critical.

LICENSING, PERMITS AND TAXES

- ☐ What licenses and permits do you need to legally operate your business?
- ☐ How much money do you need to pay for such licenses and permits, and how many of them will require recurring fees?

EQUIPMENT

- ☐ What types of equipment do you need to run your business? In the case where your business is heavily dependent on computers and connected devices, what types of cybersecurity software and protective measures will you need to set up and fund?
- ☐ Are you able to rent or lease equipment or purchase it at a discount?

MARKETING

- ☐ Do you need to set up a U.S. domain for your website or a completely different website? Will you need to pay for translation services?
- ☐ What federal, state or local data privacy or cybersecurity regulations does your website or customer management system need to comply with?
- ☐ How will you reach your customers?
- ☐ What advertising or marketing investments will you need to make to build and communicate with your customers?

OTHER EXPENSES

- ☐ Will you need to enlist external local advisers to help you secure certain contracts and/or navigate laws and regulations to set up your business operations in the U.S.?
- ☐ Will you need to retain a lawyer to secure your intellectual property or provide ongoing counsel?

EVALUATING CAPITAL OPTIONS

Now that you've determined how much capital you need to set up and maintain your business, you should evaluate which financing options are available and make the most sense for your business needs.

The U.S. is known for its diverse, flexible and efficient financing markets—making it an attractive option for international expansion. The market also differs from many others in that capital investors are not often involved in day-to-day operations of companies they fund, giving owners and executives more autonomy than they may expect in other countries.

Most Common Capital Sources

Banks: At the end of 2018, the U.S. banking system had more than $17 trillion in assets, underlining its heavy concentration of private capital and diversity in banking organizations. Organizations have two general paths to consider:

Commercial banks

- Offer retail and commercial financial services to companies of various sizes
- Are regulated by the federal or state governments depending on the institution, though the government does not own or manage them

Investment banks

- Offer strategic guidance on how organizations can raise capital for greenfield investments or mergers and acquisitions
- Help companies secure capital through stock offerings, bond issues, securities or derivative trades
- Are regulated by the federal government, as well as the Securities and Exchange Commission (SEC)

Private Equity (PE): A foreign concept to many countries, PE is an option many companies without the levels of capital needed to feasibly refinance bank loans pursue. In 2018, for example, PE firms invested nearly $700 billion in U.S.-based organizations. There are numerous types of PE to consider; below are some of the most common routes:

Leveraged buyout (LBO) fund

- Combines investor capital with borrowed money to purchase companies and improve their performance
- Allows the target company to pursue other types of strategic acquisitions
- Typically takes a majority stake in the company or buys it entirely, meaning the acquired entity gives up control of its strategy and direction

Venture capital (VC)

- For startups and early-stage entities with high growth potential
- Typically takes a minority stake, preserving the acquired entity's control over strategy and direction

Growth capital

- Like VC, a growth capital fund gives a company capital to support growth and just takes a minority stake—again preserving the acquired entity's control over strategy and direction
- For entities with a longer track record than startups or early-stage companies

Real estate

- Funds that invest in lower-risk rental properties with more predictable capital flows
- Funds that invest in land or early-stage development deals—oftentimes creating greater risk and bigger rewards

Infrastructure

- Invest in utilities or transportation infrastructure like airports, roads, electricity and gas networks, solar and wind farms, and hospitals, among others

Distressed PE

- Funds that specialize in lending to or investing in companies in financial distress
- Allow funds to purchase shares cheaply, with the goal that the infusion of capital will help turn operations around and ultimately generate a profit for investors

BDO'S QUICK TAKE:

"U.S. regulation of securities offerings and capital raising is quite complex and may appear overwhelming to an issuer accessing the U.S. capital markets for the first time. However, given the large amount of dry powder and the myriad of capital providers for all types of situations, the U.S. capital markets offer a highly competitive landscape where companies can often negotiate a lower cost of capital at more advantageous terms. In addition, turnaround and special situations lenders and private equity funds are highly active in the current COVID-19 environment, providing bridge financing and rescue funds to keep troubled companies afloat in an otherwise dire outlook. Meanwhile, senior bank lenders and non-bank lenders continue to look for healthy opportunities to finance special projects and expansion, M&A and leveraged buyouts.."

BOB SNAPE
President, BDO Capital Advisors, LLC

Contact Bob to learn more about how to strategically—and sustainably—finance your business. ▶

SHORE UP THE RIGHT WORKFORCE

UNDERSTANDING THE TALENT POOL

From September 2014 to February 2020, the U.S. was a candidate's job market with unemployment levels less than 6%, according to the U.S. Bureau of Labor Statistics (BLS). This made it tough for even domestic companies to find and retain top talent during that period. Healthcare and social assistance, food and beverage, government, construction, professional and technical services, and financial activities saw the largest job gains.

However, with the emergence of the COVID-19 outbreak in the U.S., the unemployment rate spiked dramatically starting at the end of Q1. In April 2020, over 14% of U.S. employees were unemployed, according to data from the U.S. Bureau of Labor Statistics.

At the end of Q1 2020, the federal government signed the Coronavirus Aid, Relief and Economic Security Act (CARES Act) into law in response to the pandemic. The $2 trillion emergency funding package, designed to inject liquidity into the economy and tied heavily to employee retention, included provisions that allocated $500 billion in direct payments to Americans. A little more than $500 billion in loans were granted to distressed businesses in impacted areas and economic sectors, provided they can show their businesses were viable before the outbreak and meet other requirements.

The Federal Reserve, meanwhile, established the Main Street Lending Program to support lending to small- and medium-sized businesses that were in good financial standing prior to the COVID-19 crisis.

While much is still unknown about the U.S. economic recovery, the shape it does take will greatly impact the ability to attract and fund talent and expansion for the foreseeable future. Organizations considering expansion into the U.S. will want to closely monitor the evolving situation.

ATTRACTING AND RETAINING TALENT

Today's technology-enabled society offers the workforce more flexibility than ever before to choose the type of job they want—or create it for themselves. With the rise of the gig economy and the ability of people to create the jobs they want, employers have had to work harder than before to attract and retain the best talent. This is especially true when it comes to recruiting and retaining highly skilled and experienced technology professionals, even in the downturn.

In the 10 years prior to the COVID-19 pandemic, according to a recent TalentNow report, almost 73% of employers had a tough time recruiting relevant candidates, and more than 40% were worried they'd be unable to find the type of talent they need, according to Indeed. This was largely due to scarcity of applicants or hard skills, expectations of higher pay than what was being offered and a lack of experience, among other factors. However, the COVID-19 pandemic has made some types of workers scarcer in fields like healthcare and technology but made others more available. It has also wreaked havoc on supply chains across the world which disrupts the corresponding workforce.

To recruit and successfully integrate top candidates into U.S. companies regardless of the economic outlook, organizations must focus on:

1. Updating recruitment strategies

The best talent is not looking for any job—they're looking for the right job. This makes it crucial to let candidates—both domestic and expatriates—know what sets your company apart from the very beginning and then work to recruit and retain them throughout their journey with your company. Even during a pandemic, this can include investing in a talent acquisition specialist or a human resources function with a strong recruitment track record; leveraging diverse digital recruitment platforms; offering a candidate referral program; increasing their engagement while remote; and holding – potentially virtual - recruitment events at local schools and events to increase visibility.

2. Broadening your hiring and onboarding approach

Especially if you need to recruit or bring over expatriate talent, consider which demographics are most likely to relocate, and think through what types of relocation benefits would be most enticing. For example, U.S. millennials are more likely to have relocated for their current position, compared to other generations, according to Adecco's U.S. Workforce Report. If you're only looking at the workforce within the area you're relocating to, you're likely missing out. Additionally, companies that need to fill certain talent gaps during the pandemic should consider whether they can do so remotely, if vacant positions allow for that.

3. Ensuring regular and transparent candidate communications

Whether through technology-enabled platforms or not, it's important to regularly thank candidates after they complete each step, provide an honest and timely update on the status of their application, and most importantly, let them know if your hiring strategy has shifted focus. In the future, that candidate may be a fit for another role, so it's important to preserve the relationship.

4. Implementing thoughtful onboarding processes and procedures

It's not enough to successfully secure candidates—you must set them up for success from the beginning. This could include creating a "cheat sheet" document they can reference while they become familiar with regular processes and internal dynamics; giving them an internal supervisor or formal mentor to guide them through internal and even external dynamics; and providing them regular and constructive professional reviews to update them on their progress.

5. Evaluating the compensation and benefits environment in your industry and U.S. jurisdiction and offering competitive packages

Though ensuring a competitive salary is important, today's U.S. workforce also values financial planning support, flexible and remote working options, in-office health and wellness benefits, and even pet insurance. Options for retirement savings and additional benefits like wellness programs and extended maternity and paternity leave can also be strong tools for recruiting and retention. It's important to think about what the types of people you need to recruit might value most according to the demands and schedules of their jobs—and how that might vary by generation. You should also consider offering relocation benefits, particularly for candidates moving from abroad who may require more support compared to domestic hires.

6. Ensuring you have the resources and tools in place to reskill or upskill certain employees

Once you build your workforce, it's important to provide continuing education—and opportunities for employee growth. This could include training on digital transformation, public speaking, artificial intelligence or data analytics, and more, depending on your industry.

7. Outlining your path to digital transformation and making sure you're implementing employee education to support its success

Digital transformation will be key to your organization surviving in a digitally enabled culture and supporting overall company operations, yet lack of skills or insufficient employee training (41%) and employee pushback (30%) are among the top reasons organizations say their digital initiatives fail, according to BDO's *2020 Digital Transformation Survey*. Supporting employees across your organization in digital transformation efforts will be key to ensuring your long-term success, particularly as digitally driven customer experience plays a greater role in customer loyalty.

Leading a Reimagined Post-COVID Workforce

The impacts of COVID-19 on traditional U.S. workforce norms are likely to be felt long after the pandemic abates. Organizations will need to be prepared to support and guide their workforce in this new reality appropriately.

In 2018, for example, the U.S. Census Bureau estimated that about 5% of U.S. residents worked from home full time. Once the pandemic hit, among residents who were employed before it did, about 50% were working remotely full time as of May, according to a study by MIT and other academic researchers.

Ahead of a vaccine being made widely available, concerns about returning to work as "normal" will remain. Organizations will need to embrace and prepare to support a more virtual workforce until the plan for fully reopening the economy becomes clearer and anxieties ease.

As organizations begin reimagining what the new reality looks like for them, they should continue what has been working, reinvent what hasn't and build more agility, flexibility and productivity into work. To do that, they'll need to focus on three areas—people, place and productivity—and priorities under each.

PEOPLE

Focus on Mission
Realign corporate mission to meet the moment

Past is not Prologue
Create new staffing forecasts based on historical data but without relying on historical assumptions

Maintain Morale
Evolve cultural and camaraderie-building activities to fit a new, more flexible work environment

Get Personal
Provide guidance for professional relationship-building that accounts for changed dynamics

Rethink Travel
Reassess "on the road" professionals and opportunities where travel could be replaced by virtual meetings

Review Professional Skillsets
Continually reassess needed skillsets for a new—and evolving—environment

Serve Others
Reconsider your organization's ability to make an impact

PLACE

Survey Space
Assess changing workplace space needs to determine the ideal physical footprint

Optimize Office
Rethink the open floor plan and redesign for safety and productivity

Change Collaboration Style
Enable and support online meetings where possible and appropriate

Recruit from Anywhere
Expand your talent pool by recruiting virtually from around the country—or world—for remote positions

Work from Anywhere
Plan to accommodate geographic change of employees who can work from any location

Evolve Expense Policy
Consider evolving gas or parking perks to reimburse Wi-Fi or connection costs

PRODUCTIVITY

Drive Digital Transformation
Increase productivity and identify new revenue opportunities

Accelerate Automation
Eliminate or streamline routine tasks, processes and jobs that can be automated

Adjust Employee Shifts
Consider flex hours to allow employees to work at times best for them

Focus on Innovation
Establish an innovation lab for creative approaches to new problems or opportunities

Invest in Infrastructure
Ensure your IT is aligned with long-term strategy

Connect in the Cloud
Ensure adoption of cloud-based collaboration tools

Craft Customer Service
Create new customer service strategies bespoke to individual needs

Organizations able to reimagine their workplace will ultimately demonstrate resilience to their internal and external stakeholders.

For more on this, dive into our Supporting Your Workforce series in our Resilience Agenda or reach out to Courtney Brokaw (Resource Solutions Managing Director), Greg Gratteau (Human Capital Management Services Managing Director) and Ric Opal (BDO Digital Principal and National Strategic Partnership Leader) for more information.



NAVIGATING EMPLOYMENT LAW

Because of the litigious nature of the U.S., navigating employment law is an important part of ensuring a successful expansion into the market. Doing so is no small feat—the U.S. Department of Labor (DOL) administers and enforces more than **180 federal laws**, covering workplace activities for about 10 million employers and 125 million U.S.-based workers.

Though each state has its own additional nuances, U.S. employment law generally can be viewed under several lenses:

Wages and hours: Under the Fair Labor Standards Act, U.S.-based employers must comply with certain wage and overtime pay standards. These include:

- Paying employees at least the federal minimum wage and overtime pay of 1.5x the regular rate of pay
- Restricting hours that children under 16 work and forbidding children younger than 18 in certain jobs
- Prohibiting the employment of children younger than 16 during school hours for agricultural operations

Workplace health and safety: The Occupational Safety and Health Administration (OSHA) administers the Occupational Safety and Health Act. This requires employers to:

- Comply with broad regulations, as well as safety and health standards
- Provide employees with work and a workplace free from safety hazards
- Comply with workplace inspections and investigations

Workers' compensation: The DOL's Office of Workers' Compensation Programs does not administer or oversee private company or state government compensation programs, so organizations should consult with **the office** overseeing the program for the state in which they're interested in operating. The DOL does oversee and require certain measures around providing:

- Compensation and medical care for certain maritime employees
- Payment and prospective medical benefits to employees of the Department of Energy and contractors and subcontractors due to cancer or illness caused by radiation exposure
- Monthly payments and medical benefits to miners who have suffered disabilities from their work

Family and medical leave: This requires employers of 50 or more employees to offer up to 12 weeks of unpaid, job-protected maternity leave or leave for serious illness of their own or a close family member. Employers coming from abroad that are used to offering more generous maternity leave offerings—and potentially even paternity offerings—may find that this is an area where they can differentiate themselves in the marketplace of candidates by offering more robust maternity and paternity leave.

BDO'S QUICK TAKE:

"Organizations of all sizes and types have had to rethink their workforce strategies, and for those with international operations, the future of global mobility has never been more interesting. The uncertainty of the pandemic and the resulting 'work from home' situations have led to many employees working remotely across borders which may become more of the norm. As such, mobility managers will need to be tuned into the logistical and regulatory challenges that will come from these more unique situations. As companies continue to compete for top talent, being flexible and adaptable to remote workers, whether domestically or abroad, will be a critical element in shoring up the right workforce while staying in compliance with local law and reporting requirements."

DONNA CHAMBERLAIN
Tax Office Managing Principal, Global Expatriate Services National Leader

Contact Donna to learn more about global mobility considerations.

NAVIGATING IMMIGRATION POLICIES

For organizations in industries requiring certain technical skills—especially technology, life sciences, healthcare, and manufacturing and distribution—being able to recruit and legally relocate certain workers from overseas is desirable. And it's becoming more complicated, especially in light of a June 2020 executive order. The order, in effect at least through 2020:

- Blocked visas for numerous jobs requiring skilled workers who come to the U.S. under the H-1B visa scheme, along with seasonal hospitality workers and students participating in work-study summer programs, among others
- Limited the ability of U.S. companies with global operations and overseas companies with U.S. locations to send their foreign execs and other employees to the U.S. for extended placements
- Suspended the issuance of green cards to most foreigners looking to live in the country for 60 days from June 22

However, the process is still functioning right up to the approval and issuance and many people are pursuing opportunities even while the ban is in place.

Though the full impact of these changes remains to be seen, historically, the most common types of temporary work visas in the U.S. for the purposes of foreign businesses entering the market and hiring from abroad are the H-1B Specialty Occupation Visa, the L-1 Intra-Company Transfer Visa and the TN Visa.

BDO'S QUICK TAKE:

"As companies look to navigate current and expected shifts in immigration laws, the use of country-specific visas has proven effective to securing inbound employees, such as TN visas for Mexican or Canadian citizens and E-3 visas for Australians. Employers are becoming more willing to sponsor U.S. green card applications to retain those employees. However, the shift to remote workforces will also have an impact on the number of companies and employees taking advantage of such programs. Ensuring you have the right legal counsel in place to help you navigate an ever-changing U.S. immigration environment is, therefore, imperative. BDO recommends consulting with an immigration attorney for all questions related to visa or immigration policy and can help with referrals to suitable attorneys."

LAURA AUSTIN
Head of Investment Migration Due Diligence

Contact Laura to learn more about how to shore up the right workforce.

SECURE ONGOING LEGAL AND REGULATORY COMPLIANCE

Foreign companies interested in U.S. expansion must pay even greater attention to legal and regulatory compliance, as they're under a more focused microscope.

Through an AI-informed digital survey of 15,000 financial decision-makers at foreign companies interested in U.S. expansion, BDO uncovered the top barriers—many related to legal and regulatory compliance—that foreign companies face when looking to enter the market.

By region or country, meanwhile, barriers vary according to cross-border trade, geographic, immigration and general business relations.

Top Global Barriers to U.S. Expansion

- **U.S. Laws & Regulations**
- **Site Selection & Incentives**
- **Customs Duties & International Trade Tensions**
- **Navigating U.S. Taxation**

Top 3 Barriers to Entering the U.S. Market By Region or Country

CANADA

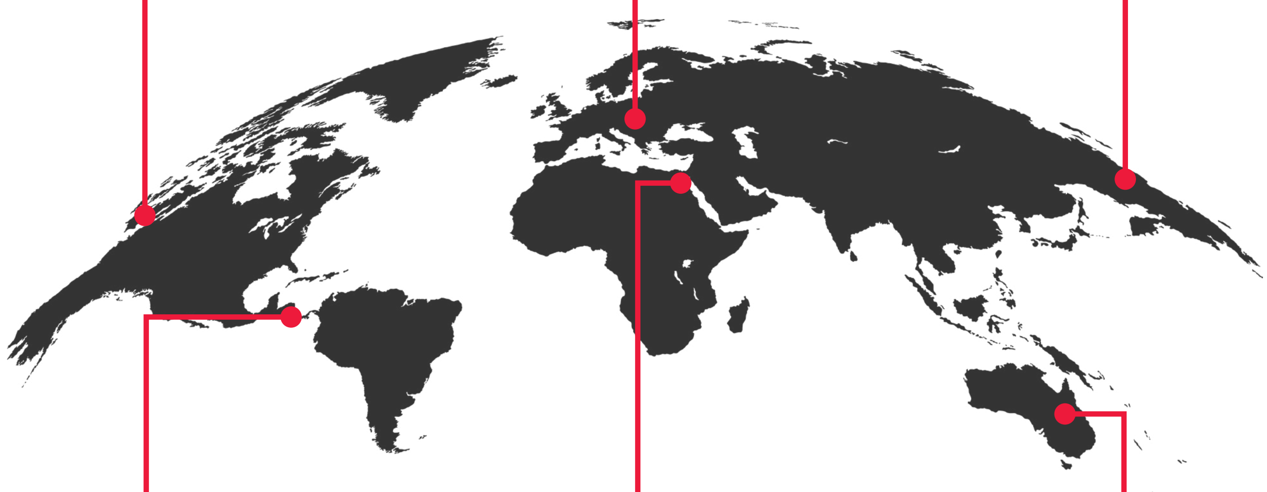
1. Navigating U.S. Taxation
2. Customs Duties & International Trade Tensions
3. Physical Distance

EUROPE

1. Site Selection & Incentives
2. Customs Duties & International Trade Tensions
3. Navigating U.S. Taxation

ASIA/PACIFIC

1. U.S. Laws & Regulations
2. Site Selection & Incentives
3. Political Climate



LATIN AMERICA & CARIBBEAN

1. Obtaining Credit Capital
2. Credential Transfer
3. U.S. Laws & Regulations

AFRICA/MIDDLE EAST

1. Site Selection & Incentives
2. Obtaining Credit Capital
3. Immigration

OCEANIA

1. Customs Duties & International Trade Tensions
2. U.S. Laws & Regulations
3. Human Rights

NAVIGATING TOP-OF-MIND U.S. LAWS & REGULATIONS

Committee on Foreign Investment in the U.S

Increased concern around navigating rules overseen by the Committee on Foreign Investment in the U.S. (CFIUS) is one example of an area of concern for foreign executives. In February 2020, the final regulations of the Foreign Investment Risk Review Modernization Act (FIRRMA) were formally enacted. These regulations expand the jurisdiction of CFIUS to address growing national security concerns over foreign exploitation of certain investment structures, which traditionally have fallen outside of CFIUS jurisdiction. Additionally, FIRRMA modernizes CFIUS's processes to better enable timely and effective reviews of covered transactions. Foreign investors now need clearance from CFIUS in more instances to invest in certain types of U.S. businesses. The rules could also trigger fines if foreign investors—individuals or corporations—fail to disclose certain deals to CFIUS. Deals such as those involving critical infrastructure, real estate located near U.S. government facilities, critical technologies or other investments in certain U.S. businesses will be scrutinized going forward in an effort to protect the national security interests of the United States.

Contact Mike to learn more about CFIUS. ▶

Accounting & Financial Reporting Requirements

Accounting standard setters, regulators and others introduce new standards and requirements on the preparation and audit of financial statements. These new requirements cause preparers to continually assess and change their preparation of financial statements, and they often require significant new and more complex data sources. In addition to impacting internal accounting policies and procedures, adoption of new standards may materially impact capital resource allocation, tax planning and management of resources.

To navigate changing accounting and audit requirements, organizations need to:

- Ensure they fully understand new and shifting requirements—including financial statement preparation, tax planning and reporting implications, information systems, technology and business processes
- Conduct a gap assessment to identify and prioritize areas for resource allocation and continuing education
- Consider the right accounting methodologies and software tools, financial modeling and testing
- Reassess financial reporting and disclosure risks and opportunities, and update internal controls
- Assess the impact of new standards on other business transactions they might be planning

Contact Thiru to learn more about accounting and financial reporting requirements. ▶

Data Privacy & Protection

Businesses have grown increasingly reliant on transforming their digital capabilities, resulting in the need to improve data governance practices. But protecting personal data is no longer as simple as locking a file cabinet or setting up basic internal security controls. And policymakers—at local, state and federal levels—are swiftly updating data protection laws in the U.S. for today's fast-paced digital environment.

Failure of companies operating in the U.S. to adequately protect individual data privacy rights has severe reputational, financial and legal consequences. Businesses operating in the U.S. must:

- Map out how to comply with new data privacy regulations as well as U.S. and international data privacy laws
- Implement holistic information governance and data privacy programs, including security controls design and effectiveness, policy development, internal education and testing
- Assess and address privacy impacts of new technology implementation, business processes and transformation projects
- Have the systems in place to assist with responding to data privacy breaches, including crisis management, timely notification, investigation and recovery

Contact Karen to learn more about data privacy and protection. ▶

INTERPRETING VARYING SITE SELECTION & INCENTIVES

As highlighted in our earlier chapter, Choose a Strategic Location, the United States is a vast and diverse market with varying opportunities and challenges depending on location. This is especially true when it comes to choosing the right location, and many foreign executives are stumped by the numerous incentives, political landscapes and processes for obtaining formal offers from state and local communities.

In general, organizations must navigate incentives at the federal, state and local levels around free or subsidized real estate, utilities reductions, workforce recruitment, and tax credits or rebates, among others.

Incentives tied to renewables, though, is one area where foreign executives are particularly stumped. Though they view renewables incentives positively, they're concerned about whether they can benefit from such incentives.

It's no wonder there's confusion. At the national level alone, dozens of clean energy incentive programs exist. By state, that number goes up into the 100s in some jurisdictions, with California, Minnesota and Oregon leading among states with the highest number of programs. Different programs are also targeted to varying renewable technologies, including energy sources, building insulation, building systems and others.

Contact Tom to learn more about site selection and incentives.

MITIGATING RISK AROUND CUSTOMS DUTIES & INTERNATIONAL TRADE TENSIONS

The growing uncertainty around customs and international trade regulations has brought the issue to the forefront of foreign executives' U.S.-specific concerns.

Shifting alliances between the U.S. and its largest global trading partners are generating new policies and regulations that may prompt massive revamps of current processes, standards and operations. During its tenure, the Trump administration has announced increased tariffs on Chinese medical devices and supplies, French wines, and Indian steel and aluminum products, to illustrate just a few examples.

Notably, the United States-Mexico-Canada Agreement (USMCA), which replaced the 26-year-old North American Free Trade Agreement (NAFTA), took effect on July 1, 2020. While USMCA retains most of NAFTA's rules, it does include several changes, including those with significant implications for the auto industry, among others.

Organizations whose U.S. operations depend on imported goods could see their production costs increase, while manufacturers targeted by retaliatory tariffs may find their products becoming less competitive overseas. With significant changes to controls in the U.S. around emerging technologies and tightening economic sanctions, companies that export from the U.S. also need to ensure they're in compliance with all U.S. export controls restrictions. Historically, companies operating in the U.S. were able to take a more reactive approach to customs and trade requirements, using third-party customs brokers to address any issues. Today's reality is different in that companies must be proactive to be able to mitigate the risk in an appropriate and timely manner.

Contact Damon to learn more about customs duties and international trade.

NAVIGATING A DIVERSE TAXATION ENVIRONMENT

Navigating the continually evolving U.S. tax environment is one of the biggest obstacles for foreign executives, especially since regulations vary according to state and local jurisdiction, and the U.S. has many more jurisdictions than most foreign executives are used to, given the size of the market.

State and Local Tax Issues

The U.S. has more than 80,000 state and local tax jurisdictions—and each has its own set of evolving rules and regulations. For most organizations operating in the U.S., state and local taxes represent most of the overall tax burden.

Companies, especially foreign ones unfamiliar with all the various jurisdictions and different reporting requirements, may not even realize they've incurred liabilities, which may result in penalty and interest being imposed. Businesses in the digital or e-commerce spaces must assess compliance with new statutes that allow states to tax remote sales through their economic nexus statutes. (See BDO's **Economic Nexus Standards by State** guide.)

When it comes to their state and local tax liability, organizations expanding into the U.S. must consider:

- Income, franchise and gross receipts compliance
- Property tax burden both for real and personal property
- Sales and use tax compliance, and when and how to automate
- Telecommunication taxes and fees
- Unclaimed property compliance

Capitalizing on Innovation - Research and Development (R&D) Tax Credits

R&D tax credits can directly offset organizations' total tax liability. Though many companies do pursue this option every year—recouping billions of dollars in credits—many other companies leave billions unutilized because they don't realize they're eligible.

Companies across industries can capitalize on these credits, if they've spent resources on development of new products, processes or software—whether those were successful or not. When it comes to claiming R&D tax credits, organizations should keep in mind:

- Companies can deduct R&D expenses in the year incurred or amortized over a 60-month period
- Increased expenditures for R&D are eligible for a 20% tax credit to the extent that they exceed a base amount determined by reference to a fixed-base percentage of the taxpayer's average annual gross receipts for the previous three taxable years
- Organizations can claim a 20% R&D tax credit for qualified basic research payments

(See BDO's **U.S. R&D Tax Credit Calculator**.)

Understanding Transfer Pricing

Multinational tax challenges like transfer pricing are some of the toughest and potentially costly issues facing organizations with international operations. Under Internal Revenue Code (IRC)'s Section 482, the IRS can make transfer pricing adjustments in transactions between commonly controlled entities if the price set by the parties is not at arm's length. Arm's length is defined as a price of the product sold between the entities being the same as it would be for an unrelated party.

IRC Section 482 applies to organizations owned or controlled, either directly or indirectly, by the same interests. Organizations that fall into this category and are expanding operations to the U.S. will need to develop policies around transfer pricing that are defensible, flexible and aligned with their larger tax strategy. Common issues to consider include:

- The transfer of tangible property
- The use of tangible property
- The transfer of intangible property
- Loans and advances
- Provision of services
- Advance pricing agreements

Contact Monika to learn more about the potential tax implications of expanding your business to the United States.

MITIGATE ECONOMIC UNCERTAINTY

Pre-COVID-19, the U.S. Federal Reserve projected that GDP growth would remain relatively steady through 2022, with unemployment rates staying below the 6.7% target and inflation remaining stable. However, in its June 2020 economic projections, the Fed estimated that U.S. GDP would show a median 6.5% contraction in 2020 and land at a 3.5% median expansion by 2022.

Concern around the pandemic's impact on U.S. economic activity is visible among foreign executives interested in U.S. expansion. According to BDO's AI-informed research, their engagement on public social media platforms around the topic of global recession increased 13% from pre-COVID January to March 2020. Executives in M&D were the most concerned about a global recession in March, but those in technology and natural resources—the former already facing an impending funding bubble and the latter declining oil prices—showed the most rapidly growing concern.

However, since March, the economy has taken center stage in online discussions amongst those international CFOs and finance directors evaluating expansion opportunities. Executives are uncertain about the future of the economy and are discussing confidence in the stock market and general economic conditions as a result of the pandemic.

As of May/June, the biggest points of discussion centered on technological innovation and the availability of labor. Companies are experiencing rapid innovation spurred by the reduced access to labor and supply chain disruptions. Specific concerns tied to the economic recession vary by industry.

Chief concerns regarding expanding to the U.S. by industry and timeframe

	Healthcare	M&D	Natural Resources	Private Equity	Tech	Retail
March	U.S. inability to handle COVID-19	Closing borders further harming an already hurting industry	Impact on oil prices	Impact country-wide stimulus package could have on global economy and inflating USD value	The current tech bubble bursting hard and fast	Sales being high but stock low
May/June	Innovation in healthcare infrastructure, record management, remote healthcare and digital pharmacies	Innovation and the opportunity cost of upgrading	The shift away from a reliance on oil	Availability of loans and relief programs / state of the stock market	Cultivating stability rather than growth	Innovation in delivery networks

Long term, we expect the U.S. to make a full recovery.

In the near term, though, as the heath and economic implications of the pandemic continue to evolve, businesses of all sizes and across all industries will continue to feel a significant impact.

For many companies the pandemic has driven reduced revenue, financial liquidity and general economic uncertainty.

To mitigate long-term economic impacts as well as build operational resilience, organizations need to establish a task force to monitor the level of impact on their business and periodically report to the board on the status of their key performance indicators—and recovery plans—for critical business units. As part of this process, companies should consider:

- **Conducting thorough, regular risk assessments of business operations**, taking a holistic approach across the globe, rather than focusing on certain regions, to assess the level of possible interruption and formulate measures to mitigate potential impacts
- **Reviewing the pace of expenditure in relation to your company's expansion plans** and existing development projects (if any) and slow down the cash burn rate
- **Identifying** tax planning opportunities to increase cash by reviewing newly established resources and programs and maximizing the available benefits
- **Re-prioritizing the allocation of resources** to unaffected business lines
- **Assessing any impact relative to customer behaviors or sales** over the past month(s) to determine if adjustments should be made to the level of staff needed or business hours
- **Exploring and identifying business transformation opportunities** and models to reduce over-reliance on existing business segments
- **Identifying measures for controlling budgets and increasing cost savings**, such as assessing the possibility of outsourcing or reduction of non-critical business activities
- **Exploring opportunities for collaboration with new strategic business partners** for new market development and to meet customers' needs

Learn more about how to navigate the business impacts of COVID-19 and a potential economic downturn.

Conclusion

We have an opportunity to reinvent the rules of business in our global marketplace and at this inflection point, the choices we make as leaders to transform our businesses and adapt quickly to our new reality will likely mean the difference between surviving—and ultimately thriving—or being left behind.

Technology has collapsed borders and connected organizations, customers and the global supply chain more than ever before—making international expansion more realistic and attractive. With rewards, come risks, as already evidenced by the impact of COVID-19 on supply chains around the world.

It's easy for organizations—especially those considering U.S. expansion plans—to feel overwhelmed by the challenges, particularly during economic and political uncertainty. With the right combination of foresight and focus, organizations can turn uncertainty to opportunity.

Disruption—whether driven by a pandemic or by policy—is everywhere we turn. But so is innovation and opportunity, and the U.S. market still encourages and rewards those with an entrepreneurial spirit who are driven to find success for their ideas, products, and services.

Reach out to learn more about successfully expanding into the U.S.:

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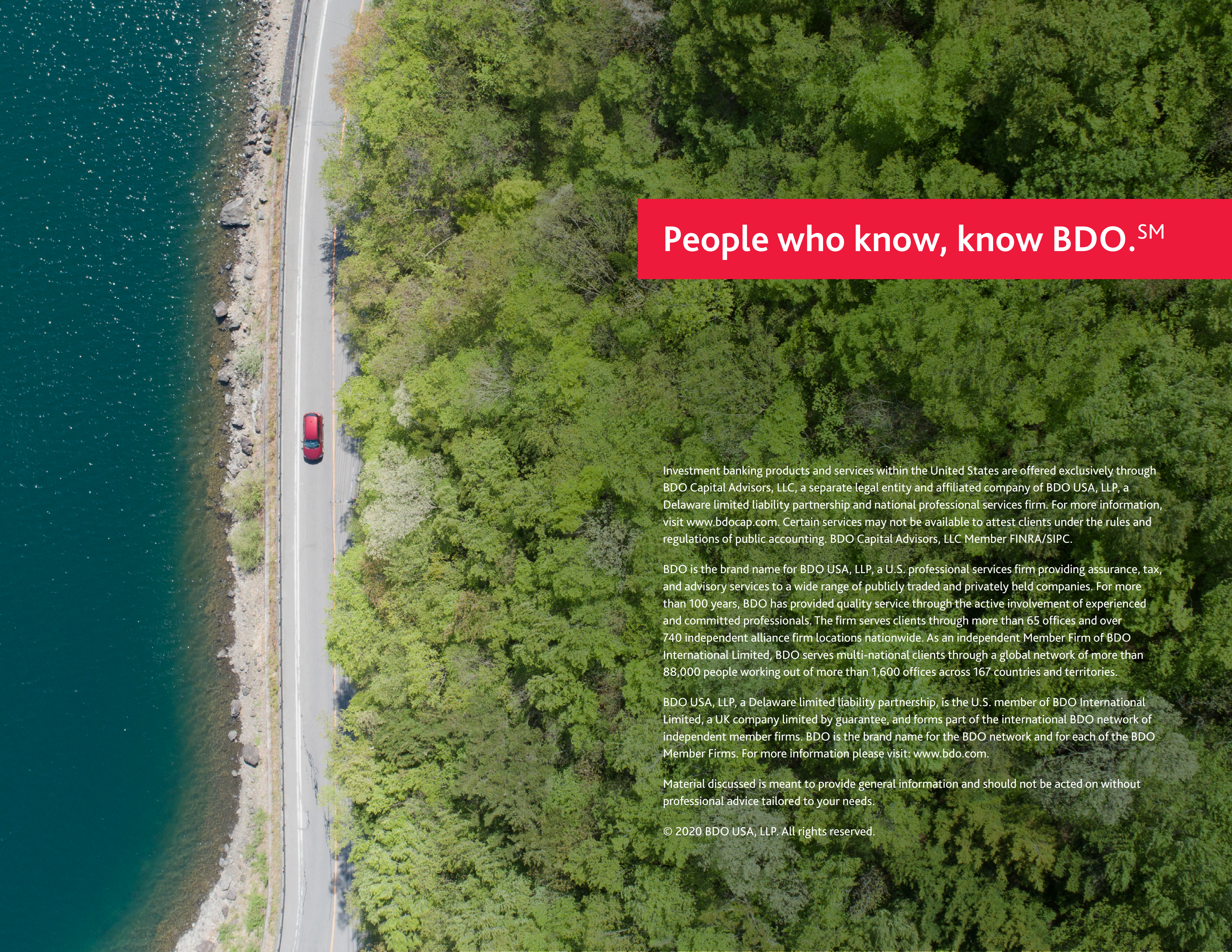

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