



# OPENING UP SHOP

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We all recognize that the world is getting smaller. Those involved in international expansion quickly recognize, however, that multi-jurisdictional legal requirements are not becoming less challenging. When expanding into new countries, executives responsible for international operations understand that the failure to comply with local laws or practices, wherever the organization operates, can result in significant legal and reputational exposure. It may be difficult for

organizations to ensure full legal compliance when expanding. The following checklist will allow your organization to understand some of the most important legal requirements for opening up shop in Canada.

**Filion Wakely Thorup Angeletti LLP (“FWTA”)** is a dedicated management side labour and employment firm operating in Ontario, Canada. We would be delighted to have the opportunity to assist with your organization’s

expansion into Canada. We have created a comprehensive package of materials and training modules allowing any organization to open quickly and in a cost effective manner while still ensuring compliance with Canadian regulations and best practices. The summary information below relates primarily to requirements in Ontario, Canada’s economic centre, but can be modified for any province of interest.

## I. LABOUR AND EMPLOYMENT REQUIREMENTS

### A. EMPLOYER POLICY REQUIREMENTS

In order to be legally compliant, employers are required by legislation to create and implement a number of employment policies. The following are required statutory policies for an organization that is commencing work in Ontario:

- a written occupational health and safety policy;
- a policy with respect to work place violence and a program to implement the policy;
- a policy with respect to work place harassment and a

program to implement the policy;

- policies governing how the organization achieves or will achieve accessibility for persons with disabilities (customers and employees);
- individualized workplace emergency response information and an individualized accommodation plan for each employee with a disability;
- return to work processes for employees who have been absent from work due to a disability;
- a multi-year accessibility plan describing how the organization

will achieve accessibility and compliance with the

- Accessibility for Ontarians with Disabilities Act (the “AODA”) and its Regulations; and,
- in certain situations, a pay equity plan.

There are a number of policies that employers should create. These policies will help an organization manage employee relations and mitigate the risk of legal liability in the future:

- a general anti-discrimination policy, including the process for responding to discrimination complaints,

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as employers that do not take positive steps to prevent or address discrimination may face significant liability;

- a discipline policy to address employee misconduct and how your organization will respond to misconduct;
- attendance and leave of absence policies to govern employee expectations for absenteeism and workplace attendance; and
- policies surrounding the use of employer tools (computer and mobile phone use, internet use, social media, physical tools, etc.) to ensure employees are aware of the expectations surrounding their employment.

While not a policy itself, many employers in Canada decide to put all of the foregoing policies and procedures within a unified employee “handbook” that contains all the information every employee would need in the employment relationship. A Canadian employee handbook would help your organization from an operations and a human resources perspective.

There are also certain posting obligations for a number of the policies described above, as well as other statutorily mandated documents that must be posted.

Our firm has prepared precedent policies which can be efficiently modified for your organization.

## B. EMPLOYEE TRAINING REQUIREMENTS

Employers are required to complete certain training activities. The following is

statutorily mandated training that employers must provide:

- train at least one health and safety representative to enable him or her to exercise the powers and perform the duties of that position;
- ensure that all workers complete basic health and safety awareness training;
- provide workers with information and instruction on the contents of the workplace harassment and workplace violence policies and programs;
- if your workplace contains hazardous material, workers must receive training and instruction on the handling of such material;
- ensure that at least one employee is trained in first aid;
- train employees on the policies for interacting with persons with disabilities, and on the general requirements under the AODA and its regulations; and
- provide training on the Human Rights Code as it pertains to persons with disabilities.

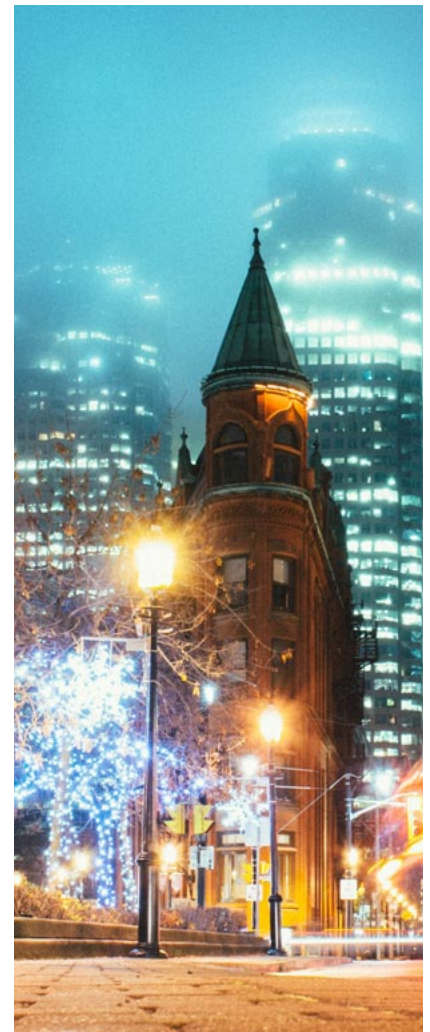
We have created training modules covering all of these training areas. Training can be offered in person or through webinar.

## C. EMPLOYMENT AGREEMENTS

In Canada, employers are urged to create written employment agreements for all employees. Such agreements are vital as “at will employment” is not a concept recognized in Canadian law. In the absence of employment agreements, the relationship

between the employer and employee is governed by the “common law”. Employer common law obligations are often much more onerous than contractual rights under an employment agreement, especially as they relate to employee rights upon termination. Employment agreements are essential to limit the risk of legal liability and financial exposure in operating the employment relationship.

Our firm has prepared thousands of precedent employment agreements. Modifying precedent agreements for your organization will be a critical portion of the project.







## II. CORPORATE LAW REQUIREMENTS

In order to incorporate a company in Canada, there are a number of steps and requirements that are needed to ensure legal compliance. Those steps and requirements are as follows:

- choose the jurisdiction for registration (federal or provincial);
- prepare and file articles of incorporation;
- define the organization's capital structure;
- create all the necessary organization and foundational resolutions, including drafting the initial corporation by-laws;
- establish the initial registered office address;
- establish a board of directors (note: in Canada, the board needs to be comprised of at least 25% resident Canadians;

there are solutions for organizations who cannot meet this requirement);

- draft a unanimous shareholder agreement/declaration restricting powers of the board, if applicable;
- prepare an Investment Canada (Canada's foreign trade regulator) report regarding non-resident formation of a Canadian corporation obtaining a no-action letter from them;
- correspond with the Canada Revenue Agency to complete all necessary application steps to obtain a Business Number, which is used in all federal accounts (income tax registration, Harmonized Sales Tax registration, Employment Insurance payroll deductions, Canada Pension Plan deductions);

- register with the Workplace Safety and Insurance Board (the "WSIB"), unless otherwise exempted (this would need to be discussed further);
- correspond with a Canadian bank regarding the satisfaction of "know-your-client" obligations and account opening procedures; and
- register trademarks or other intellectual property protections, where applicable.

Our firm has established a relationship with experts in the above business law requirements and will coordinate the work with completion included in the quoted project budget.



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### III. PAYROLL AND BENEFITS PROVIDERS

In Canada, the vast majority of employers outsource payroll and benefit responsibilities to third party companies. This reduces the administrative burden faced by the company by outsourcing payroll deductions and benefit administration to qualified companies who specialize in these areas.

We would be happy to recommend payroll providers to fit your business’s requirements.

We are pleased to offer our services for all of the required work identified above and assist your organization to open in Canada. Any portion of the work can be conducted on the basis of a blended rate of \$375 USD per hour in addition to any required

disbursements and tax. As an alternative, all of the above work can be offered for a project budget of \$21,000 USD plus disbursements and tax.

If you have any questions, please contact Robert Bayne or Danny Parker.

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**We look forward to working with you.**

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