



# Bringing your eh game.



A Checklist for U.S.  
Franchisors Expanding  
to Canada



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Franchise & Business Law

When an American franchisor wishes to expand its franchise system to Canada, there are a number of important issues to be considered, including the following:

#### BRAND PROTECTIONS

- Search availability of brand name re: trade-marks and potential incorporation.
- Register Trade-marks and Domain Names (including .ca domain names). Note: Only a Canadian registered Trade-mark is enforceable in Canada. Consider registering French equivalent names for use in the province of Quebec.
- Establish Confidentiality Agreement for prospective franchisees to protect your Trade Secrets.
- Consider registration of copyrights and patents.

#### FORM OF DOING BUSINESS

- Consider alternatives (i.e., direct franchising, master franchising, area development, licensing, distribution) .
- Identify your appropriate corporate structure: Branch, Subsidiary, Joint Venture or Partnership. Also, consider using an unlimited liability corporation as a subsidiary.
- Consider Canadian tax matters, including Canada-U.S. Tax Treaty, withholding taxes and value-added taxes (GST/PST/HST).

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#### PRIVACY AND ANTI-SPAM ISSUES

- Compliance with Canadian personal privacy legislation and anti-spam legislation.

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#### COMMENCING OPERATIONS

- Retain experienced professionals: Canadian franchise lawyer, accountant and consultant.
- Compliance with consumer taxation registration requirements (GST/PST/HST) and customs duties.
- Allocate or hire personnel for training and other tasks associated with establishing operations in Canada.
- "Canadianize" U.S. franchise documents using Canadian franchise lawyer. This includes a Franchise Disclosure Document complying with franchise legislation in some or all of the 6 franchise-regulated provinces (BC, Alberta, Manitoba, Ontario, New Brunswick and PEI).
- Also "Canadianize" your Operations Manual.
- Negotiate contracts with Canadian suppliers.
- Implement packaging and labelling requirements - metric and bilingual (English / French)
- Establish POS or another "store level" operating system.

**ADDITIONAL DOCUMENTATION**

- If relevant, establish Master Franchise Agreement between U.S. parent and Canadian subsidiary.
- Prepare forms of leasing documents (lease and sublease).
- Consider drafting Canadian forms of guarantees and security documents.

**DOING BUSINESS IN QUEBEC**

- Compliance with Civil Code of Quebec and Quebec Charter of the French Language, including translation of English language documentation to French and establish a French website for use in Quebec.
- Consider use of Quebec partner, employee or consultant to advise on cultural / business issues.

**MISCELLANEOUS ISSUES**

- Cross-border immigration visas (“work permits”) allowing key personnel to move to Canada.
- Establish forms of employment contracts (“employment at will” is not valid in Canada).
- Revise documentation for Canadian currency and Canadian spellings (for example, “labour”, “cheque” and “colour”).
- Revise agreements to comply with Canadian governing law and court jurisdiction).

This checklist is general in nature. It does not include all relevant laws or legal issues. Also, it does not constitute legal advice, which would only be given pursuant to a formal engagement letter.

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