

US Expansion Playbook Choosing the Right US Entity

May 2026

US Expansion Playbook Webinar Series

1. **Choosing the Right US Entity**
2. Capitalizing & Funding Operations (7/30/26)
3. Staying Compliant in the US (10/22/26)
4. State & Interstate Compliance (1/21/27)

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Today's Presenters



Justin Stenberg
Partner, Forvis Mazars US



Brooke Simpson
Partner, Forvis Mazars US



Manny Schoenhuber
Partner, Nelson Mullins

Entity Type & Classification

Entity Type

Importance of Entity Type

The following are common terms and acronyms when discussing entity type and classification

Acronym	Meaning	Acronym	Meaning
USP	U.S. Parent	HP	Hybrid Partnership
FC	Foreign Corporation	RHC	Reverse Hybrid Corporation
CFC	Controlled Foreign Corporation	LLC	Limited Liability Company
DE	Disregarded Entity	SMLLC	Single Member Limited Liability Company
FDE	Foreign Disregarded Entity	MMLLC	Multi-Member Limited Liability Company
FP	Foreign Partnership	LP	Limited Partnership/Partner
CFP	Controlled Foreign Partnership	GP	General Partnership/Partner
BR	Branch	FBR	Foreign Branch

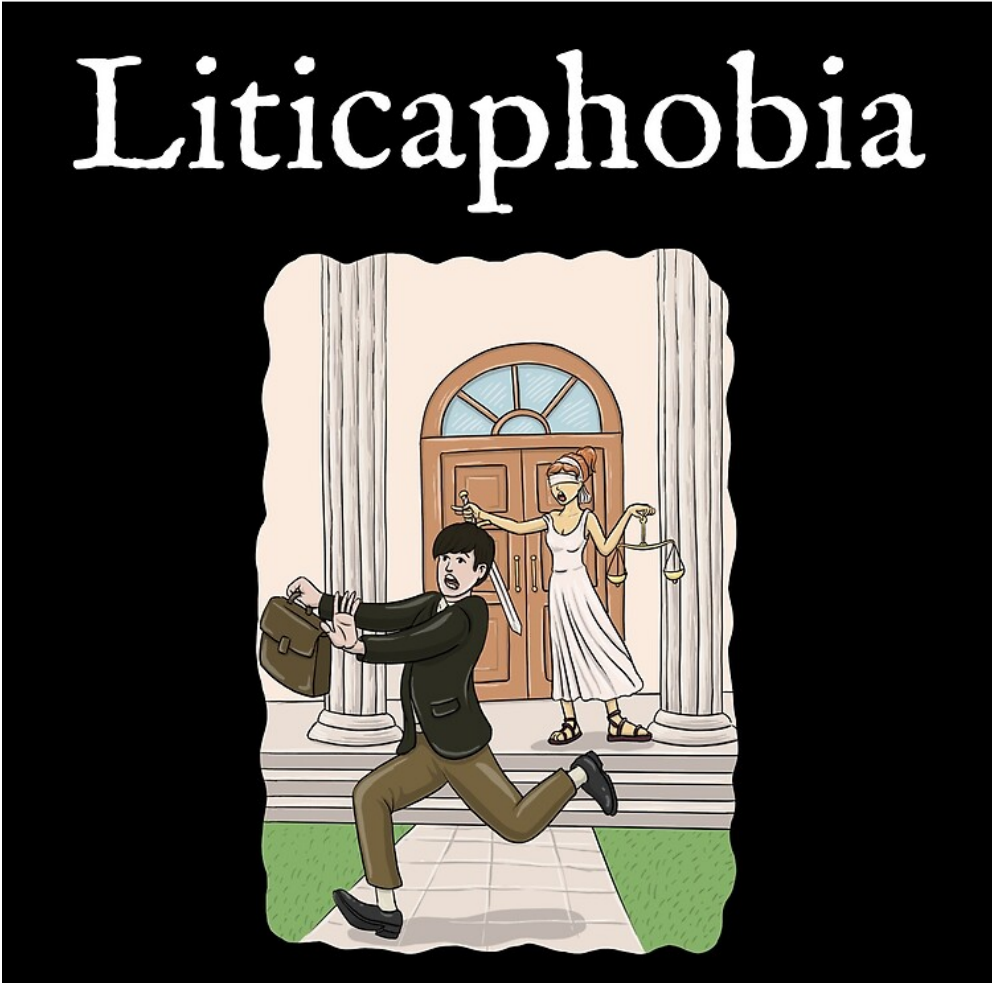
Entity Type & Classification

Entity Type

Importance of Entity Type

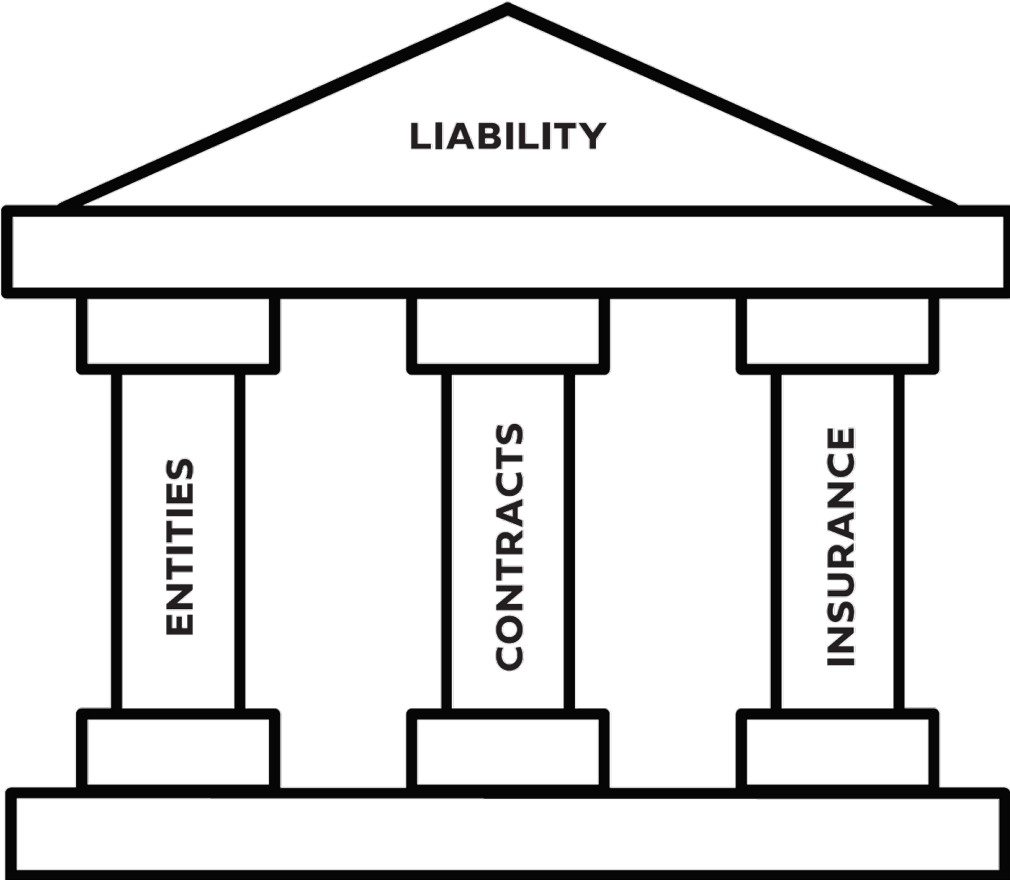
The following are common types of entities through which to conduct business in the U.S. The most common* types of entities through which to conduct business in the U.S. include the C-corporation and limited liability corporation.

Business Entity	Acronym	Default Tax Classification	Tax Return	DE Equivalent
Sole Proprietorship	SP	Partnership / Flow-Through	1040, 1120, 1065, 1120-S	N/A
General Partnership	GP	Partnership / Flow-Through	1065	Offene Handelsgesellschaft (OHG)
Limited Partnership	LP	Partnership / Flow-Through	1065	Kommanditgesellschaft (KG)
Limited Liability Partnership	LLP	Partnership / Flow-Through	1065	N/A
S-Corporation	S-Corp	Flow-Through / Taxed to owners	1120-S	N/A
C-Corporation*	C-Corp	Entity level taxation	1120	Aktiengesellschaft (AG)
Limited Liability Corporation*	LLC	Flow-Through / Taxed to owners	1120, 1065, 1120-S	Gesellschaft mit beschränkter Haftung (GmbH)
Professional Corporation	PC	Entity level taxation	1120-PC	N/A
Business Trust	BT	Flow-Through / Taxed to owners	1065	N/A



US Law & Liability – Entity Type

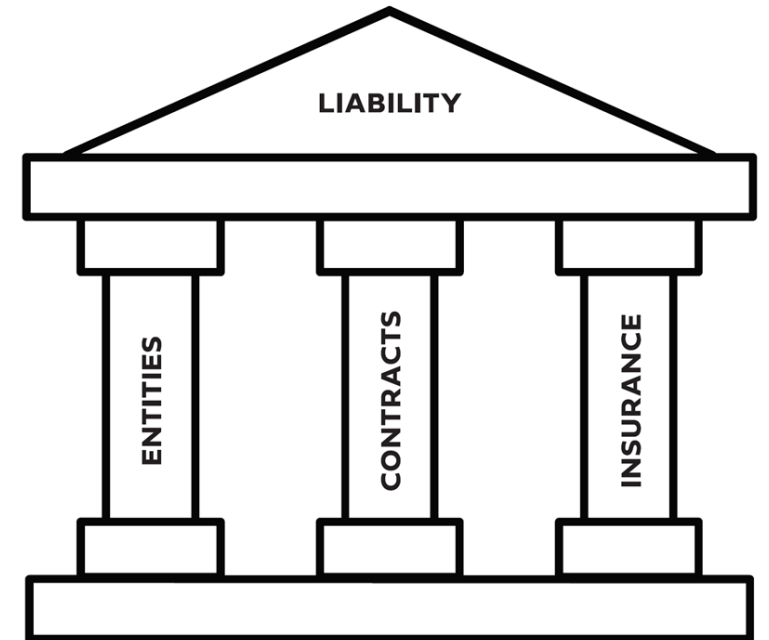
The Three Pillars of Limiting Liability



US Law & Liability – Entity Type

Pillar 1: Entities

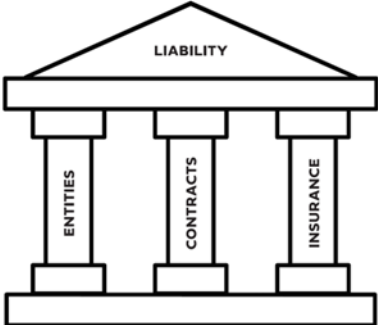
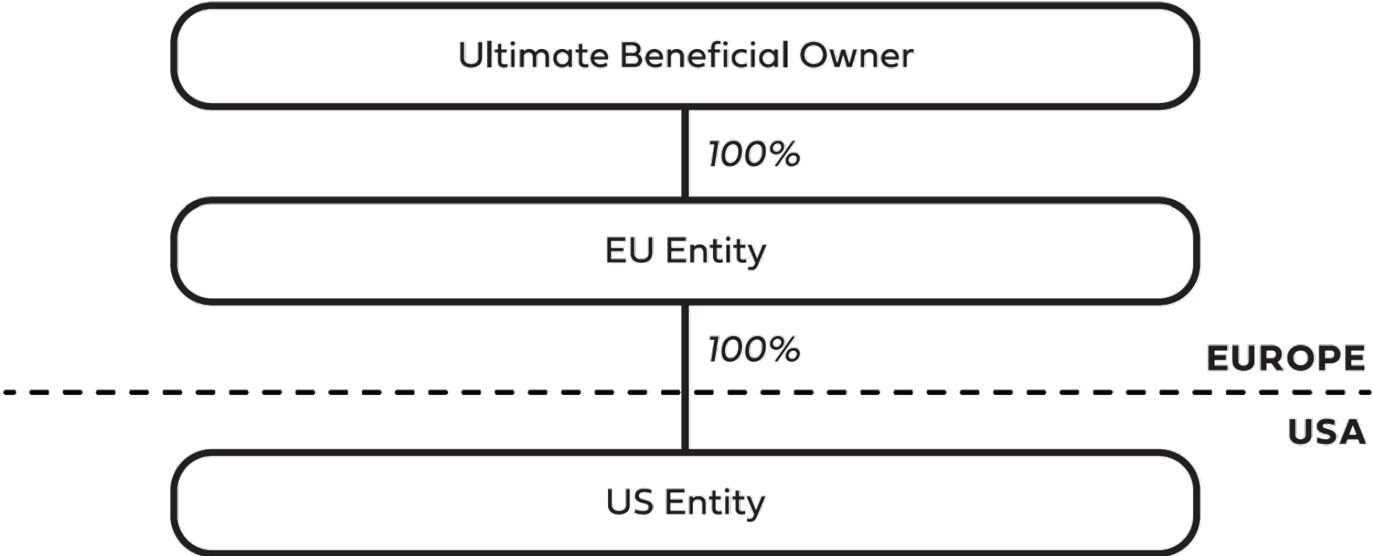
- Corporation (Inc.) / Limited Liability Company (LLC) / Limited Partnership (LP)
- Limited Liability
- Entity has its own legal personality
- Liability coverage with company capital
- Shareholders or parent companies are usually not personally liable; however, this depends on the specific facts, entity structure, and applicable law
- “Blocker Entity” – Entity that additionally prevents access to assets in Europe



US Law & Liability – Entity Type

Entities - Basic

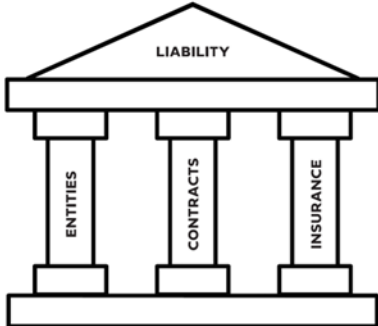
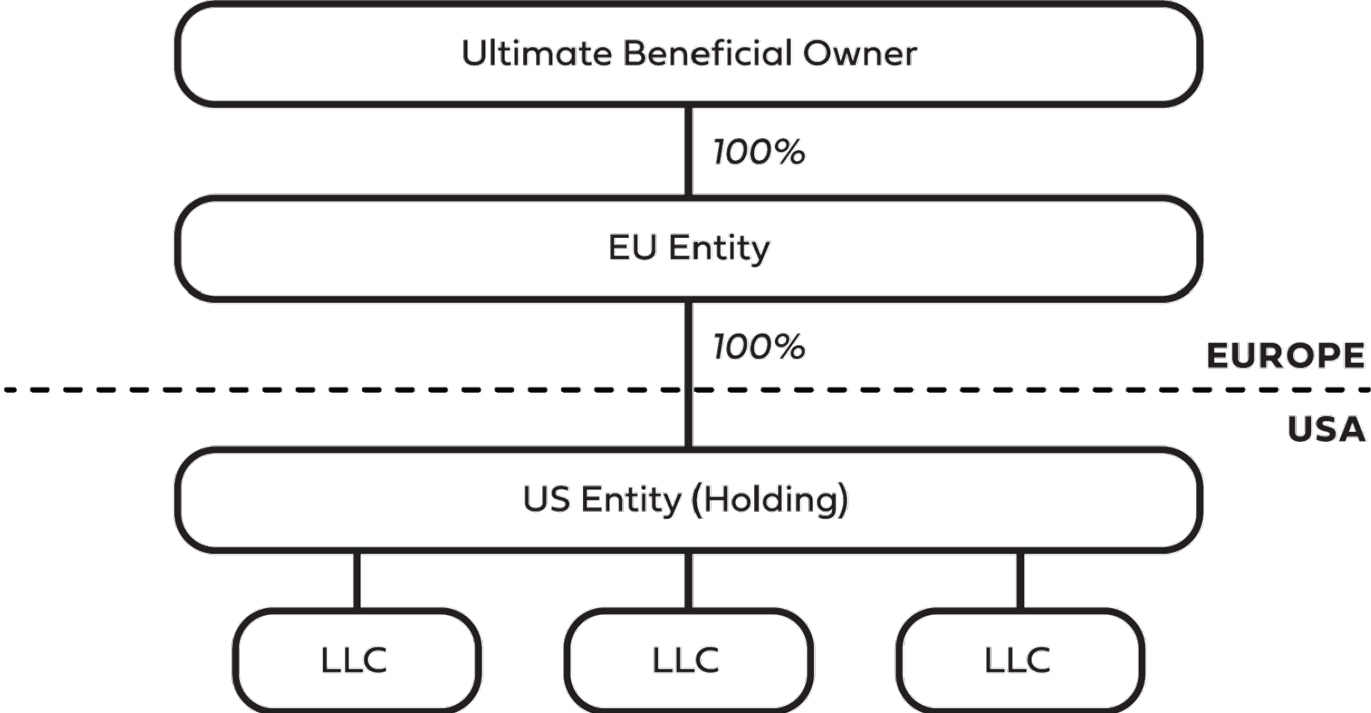
ENTITY STRUCTURE: BASIC



US Law & Liability – Entity Type

Entities - Advanced

ENTITY STRUCTURE: ADVANCED



Entity Type & Classification

Entity Type

Importance of Entity Type

The following discussion highlights common issues that are relevant to selecting the type and U.S. classification of entities. This discussion is not all inclusive. Each taxpayer's set of facts and circumstances may be different that warrant alternative consideration and review of laws and regulations not discussed here.

- Entities may be organized or legally constituted pursuant to the laws of a governmental entity in various jurisdictions.
- The legal form or constitution of an organization may take many different forms, for example:
 - Corporation;
 - Limited Liability Company;
 - General Partnership;
 - Limited Partnership; and,
 - Limited Liability Partnership.
- Others forms of entity type may exist.
- The type of entity selected has a direct effect on how the entity is taxed, both within the United States (“U.S.”) and without the U.S.
- Local legal counsel should always be consulted when selecting the most appropriate entity type.
- Shareholders, owners, and members of entities must consider the type of entity organized for several reasons, including:
 - Taxation of current earnings;
 - Taxation on exit;
 - Ease of transferability of interest;
 - Contemplated future liquidity events;
 - Cash and treasury management, including repatriation of earnings;
 - Operational necessity;
 - Legal liability;
 - Tax, regulatory, and other requirements; and
 - Admission of new owners, among others.
- For U.S. income tax purposes and most other sections of the U.S. Internal Revenue Code (“IRC”), one must consider whether an entity is or is not an “eligible entity.”

US Law & Liability – Entity Type

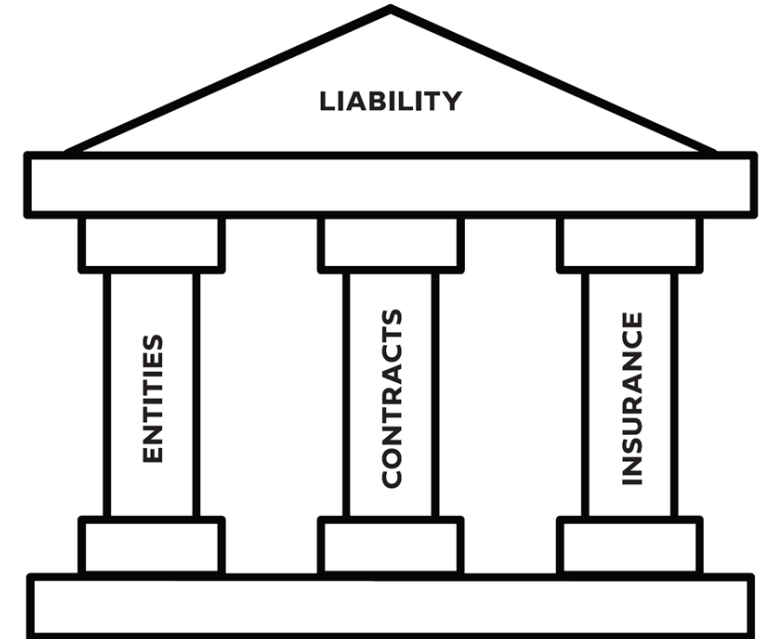
“Piercing the Corporate Veil”

- Exception to corporate liability
- “Piercing the corporate veil” results in the personal liability of shareholders (or other companies) for the company's actions
- The veil of the company's legal personality is lifted and the independent entrepreneurial unit is broken
- But: limited to certain exceptional cases and handled restrictively by courts
- Fraud (Shareholder acts with the intention of deceiving third parties)
- “Alter Ego” – Company a mere instrument of a shareholder/parent company (e.g., mixing of assets, accounting, corporate formalities) + unlawful action leading to injustice
- Undercapitalization – no minimum capital to start up, but must be able to conduct business
- Permanent Establishment of the European parent company
- What happens in Europe? What happens in the US?

US Law & Liability – Entity Type

Personal Liability for Directors & Officers (Individuals)

- Executives and individuals are generally not personally liable for a company's business obligations and actions, subject to applicable legal exceptions
- Requirements for D&O liability in the USA similar to that in Europe
- Business Judgment Rule: Careful entrepreneurial action in the interest of society (no intentional acts or criminal offenses) is generally not questioned by the courts
 - Indemnification of the company internally and externally towards third parties

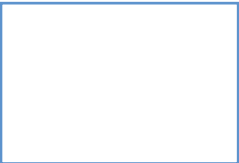


Entity Type & Classification

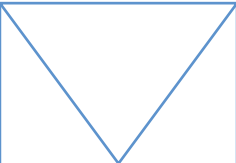
Entity Type

Commonly Understood Symbols

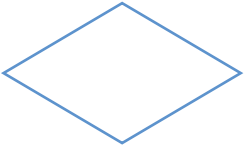
In general, entities are represented by the following shapes or symbols:



Corporation



Reverse Hybrid Corporation
(U.S. Corporation, foreign-pass through)



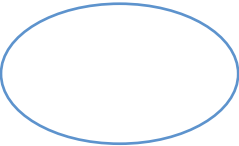
Trust



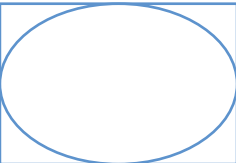
Partnership



Hybrid Partnership (U.S. pass through, foreign corporation)



Branch,
Disregarded Entity
("DE") or Individual



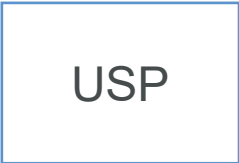
Hybrid Branch or
Disregarded Entity
("DE") (U.S. Branch/DE foreign corporation)

Entity Type & Classification

Entity Type

Commonly Understood Symbols

In general, entities are represented by the following shapes or symbols:



U.S. parent corporation



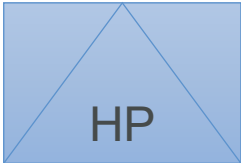
Controlled foreign corporation



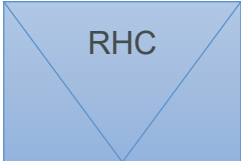
Disregarded entity directly owned by a U.S. person; branch for U.S. tax; corporation in country organized



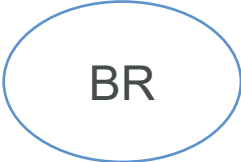
Disregarded entity for U.S. tax; corporation in country organized



Hybrid Partnership: Flow-through for U.S. tax; corporation in country organized



Reverse Hybrid Corporation: Corporation for U.S. tax; flow-through in country organized



True domestic branch for U.S. and foreign tax



True foreign branch for U.S. and foreign tax

Entity Type & Classification

Entity Classification

Classifying an Entity and the “Check-the-Box” Regulations

In General:

- The IRC and regulations prescribe the classification of entities for U.S. income tax purposes.
- In classifying an entity, there are four basic questions to be answered:
 1. Is the organization an entity separate from its owners?
 2. Is the separate entity a business entity?
 3. Is the business entity a “per se” corporation?
 4. If the entity is an eligible entity, is it domestic or foreign, and what is its default classification?

Entity Type & Classification

Entity Classification

Classifying an Entity and the “Check-the-Box” Regulations

Question 1: Entity Separate From Owners?

- Ordinarily straightforward as an entity is usually created under U.S. state or U.S. federal law as a separate entity, such as a corporation, limited partnership (“LP”) or a limited liability company (“LLC”).
- A matter of federal tax law and does not depend on whether the organization is recognized as an entity under local law.
- For example, it is possible to have a U.S. tax partnership without having an entity recognized under local law.

Question 2: Is the Entity a Business Entity?

- A “business entity” means any entity recognized for U.S. income tax purposes that is neither properly classified as a trust nor subject to special treatment under the IRS.

Entity Type & Classification

Entity Classification

Classifying an Entity and the “Check-the-Box” Regulations

Question 3: Is the Entity a “Per Se” Corporation?

- A “per se” corporation is not an “eligible entity.”
- Corporations are broadly defined by the IRC.
- Treasury Regulation §301.7701-2 defines a corporation for U.S. income tax purposes and provides a list of foreign entity types that are considered to be “per se” corporations.
- For U.S. income tax purposes, the following organizations are “per se” corporations:
 - A business entity organized under federal or state statute, or under a statute of a federally recognized Indian tribe, if the statute describes or refers to the entity as **incorporated** or as a corporation, body corporate, or body politic;
 - A business entity organized under a state statute, if the statute describes or refers to the entity as a joint-stock company or joint-stock association;
 - An insurance company;
 - A state-chartered business entity conducting banking activities, if its deposits are insured by the Federal Deposit Insurance Corporation (“FDIC”);
 - A business entity wholly owned by a state or any political subdivision thereof, or a business entity wholly owned by a foreign government or any other entity described in Reg. §1.892-2T;
 - A business entity that is taxable as a corporation under a Code provision other than IRC §7701(a)(3), such as publicly traded partnerships (“PTP”); and,
 - Certain foreign business entities specifically listed in the regulations.
- An “**eligible entity**” is an unincorporated business entity and **is not classified as a per se corporation**.
- An **eligible entity** can be either foreign or domestic and **may elect its classification** for U.S. income tax purposes (i.e., it is “eligible” to make such election).
- The election available depends on whether the eligible entity has multiple members.
- An eligible entity has a default classification on formation, which may be changed by “**checking-the-box**.”

Entity Type & Classification

Entity Classification

Classifying an Entity and the “Check-the-Box” Regulations

Question 4: Is the Entity U.S. (i.e. “domestic”) or Foreign?

- For “check-the-box purposes,” a business entity is “domestic” if:
 - The entity is created or organized as any type of entity (including, but not limited to, a corporation, unincorporated association, general partnership, limited partnership, and limited liability company);
 - In the U.S.; or,
 - Under the law of the U.S.; or,
 - Under the laws of of any U.S. state.
- A business entity that is created or organized both in the U.S. and in a foreign jurisdiction is a domestic entity.
- A “foreign” business entity is an entity that is not domestic.

Entity Type & Classification

Entity Classification

Classifying an Entity and the “Check-the-Box” Regulations

Classification: In General

- The regulations provide **default classifications** for eligible entities that do not make a classification election.
- Thus, a check-the-box election is needed only when an eligible entity chooses to be classified either (1) initially as other than the default classification or (2) chooses to change its classification.
- An entity whose classification is determined under the default classification rules retains that classification until the entity elects to change that classification.
- The check-the-box regulations include a comprehensive list of **foreign entities** that are **per se corporations** for federal tax purposes.
- A foreign eligible entity’s classification is “**relevant**” when its classification affects the liability of any person for federal tax or information purposes. Special rules exist related to “relevance.”

Foreign Eligible Entities: Default

- The default classification of a foreign eligible entity with **two or more members** where at least one member **does not have limited liability** is a **partnership**.

- The **default classification** of a foreign eligible entity for which all members have **limited liability** is an **association** (i.e. **corporation**).
- The default classification of a foreign eligible entity with a **single owner** that **does not have limited liability** is **disregarded** as an entity separate from its owner.

Limited Liability:

- A member of a foreign eligible entity has limited liability if the member has no personal liability for the debts of or claims against the entity by reason of being a member.
- Determination is based solely on the law under which the entity is organized
- The organizational documents may also be relevant.
- A member has personal liability if the entity’s creditors can seek satisfaction of all or any portion of the debts or claims against the entity from the member, regardless of agreements made to shift liability.

Entity Type & Classification

Entity Classification

Classifying an Entity and the “Check-the-Box” Regulations

Making a “Check-the-Box” Election:

- Represents an elective/optional change available to eligible entities.
 - An eligible entity can elect to be classified as other than its default classification or change its classification by filing **Form 8832, Entity Classification Election**.
 - The check-the-box election is effective on the date specified by the entity on Form 8832, or, if no date is specified on the election form, on the date it is filed.
 - The effective date may neither be **more than 75 days before** the date on which the election is filed nor **more than 12 months after** the date on which the election is filed.
 - If an eligible entity makes a check-the-box election to change its classification, the entity cannot change its classification by election again during the 60 months after the election’s effective date.
 - Certain deemed elections exist, for example, when an SMLLC gains a second owner, or a partnership only has one partner.
- An elective change in classification may have other federal income tax consequences as a result of a change in entity classification.
 - IRS has authority under the regulations to grant a **reasonable extension** of time for the taxpayer to make a **late election**.
 - **Rev Proc 2009-41** provides relief for both late initial classification elections and changes in classification elections and is the exclusive means for obtaining relief for a late entity-classification election.
 - The late election procedure is to be used in lieu of the letter ruling procedure used to obtain relief for a late entity-classification election for entities so long as a certain requirements are satisfied.

Entity Type & Classification

Entity Classification

Common phrases and terms are used to describe fundamental differences in taxation among various types of entities. The following describes basic concepts, terms, and phrases relevant to a particular type of U.S. income tax classification for an entity.

Entities Taxed as Corporations:

- Corporations are separate **distinct** entities.
- Therefore, corporations are commonly referred to “**opaque**” or “**regarded**” entities, because they are separate and distinct.
- Corporations are **taxable on their earnings and profits** at the corporation level.
- When a corporation distributes its profits in the form of a dividend, a corporation’s shareholders are subject to tax on the dividend received.
- Thus, corporate earnings and profits are generally subject to two layers of taxation—**double taxation**.
- Includes “per se” corporations or other types of entities electing to be taxed as corporations for U.S. income tax purposes.

Entities Not Taxed as Corporations:

- Includes entities other than corporations, generally, by default.
- Common examples include domestic partnerships and domestic limited liabilities companies (“LLC”).
- Commonly referred to as “**fiscally transparent**” or “**flow through**.”
- Unlike corporations, these entities are **generally not subject to U.S. income tax** at the entity level.
- Instead, an entity’s items of income, expense, gain, loss, deduction, and credit “**flow through**” to the entity’s owners.
- The entity’s owners report their proportionate share of these items on the owners’ income tax returns and pay the corresponding amount of U.S. income tax.
- Unlike corporations, there is **generally no double taxation**.
- In general, such an entity’s earnings are only taxed one time and at the owner level.

Entity Type & Classification

Single Member LLCs

When an LLC is established in the U.S. with one owner or is viewed as having a single owner from a U.S. tax perspective **and that single owner is not a U.S. person**, the entity is classified by default as an entity disregarded as separate from its owner or a “branch.”

If desired, the U.S. LLC with a single owner may make a check-the-box election to be taxable as a corporation in the U.S. as previously noted.

If no election is made, it is important to note there are annual U.S. filing obligations for both the disregarded entity and the single owner:

- The U.S. LLC must file a pro forma Form 1120, *U.S. Corporation Income Tax Return*, Page 1, and must attach Form 5472, *Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business*, to identify its foreign owner and related party transactions with its foreign owner and other related parties.
- Non-compliance can lead to significant penalties (\$25,000 penalty for not filing a single form 5472).
- The owner likely has an 1120-F filing obligation, as well as potentially form 5472, to disclose transactions with the disregarded entity and its activity.

Entity Type & Classification

Entity Classification

Four Relevant Questions:

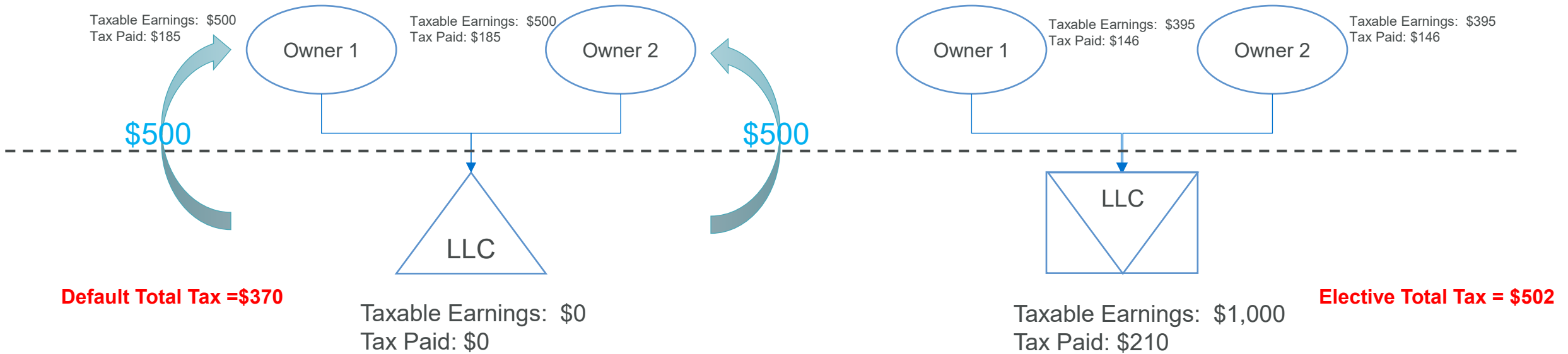
- (1) Entity is separate from owner
- (2) Entity is a business entity
- (3) Not a per se corp
- (4) Domestic eligible entity

Illustrative Example 1 DEFAULT Classification

Earnings “flow through”

Elective Classification

Two layers of tax / double tax



- Entity earns \$1,000.
- Entity has two individual owners in the highest U.S. marginal tax bracket of 37%.
- Entity legally **organized as a limited liability company** under the laws of the **State of Delaware**.
- Entity distributes all earnings to owners.

About Forvis Mazars



U.S. Presence

Leading U.S. Firm

\$2.24B

Revenue (FY 2025)*

76

Markets

30

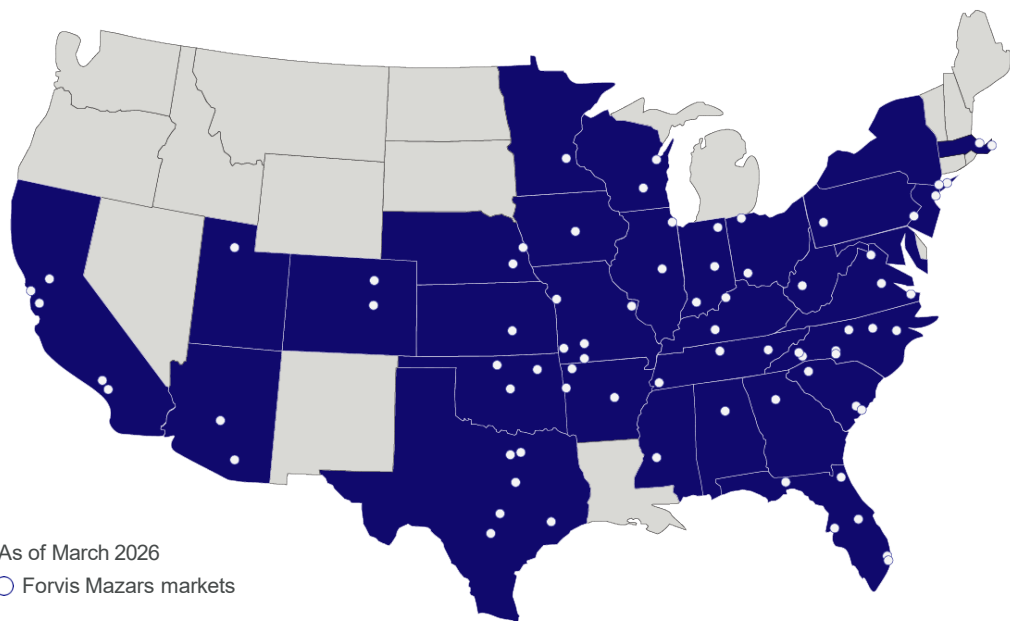
States

600+

Partners & Principals

7,000+

Employees



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*FY 2025 revenue: period ending 5/31/25.

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Updated 03/02/2026

Global Presence

Leading Global Network

\$5.5+B

Combined Revenue (2025*)

100+

Combined Countries & Territories

400+

Combined Offices & Locations

1,800+

Combined Partners

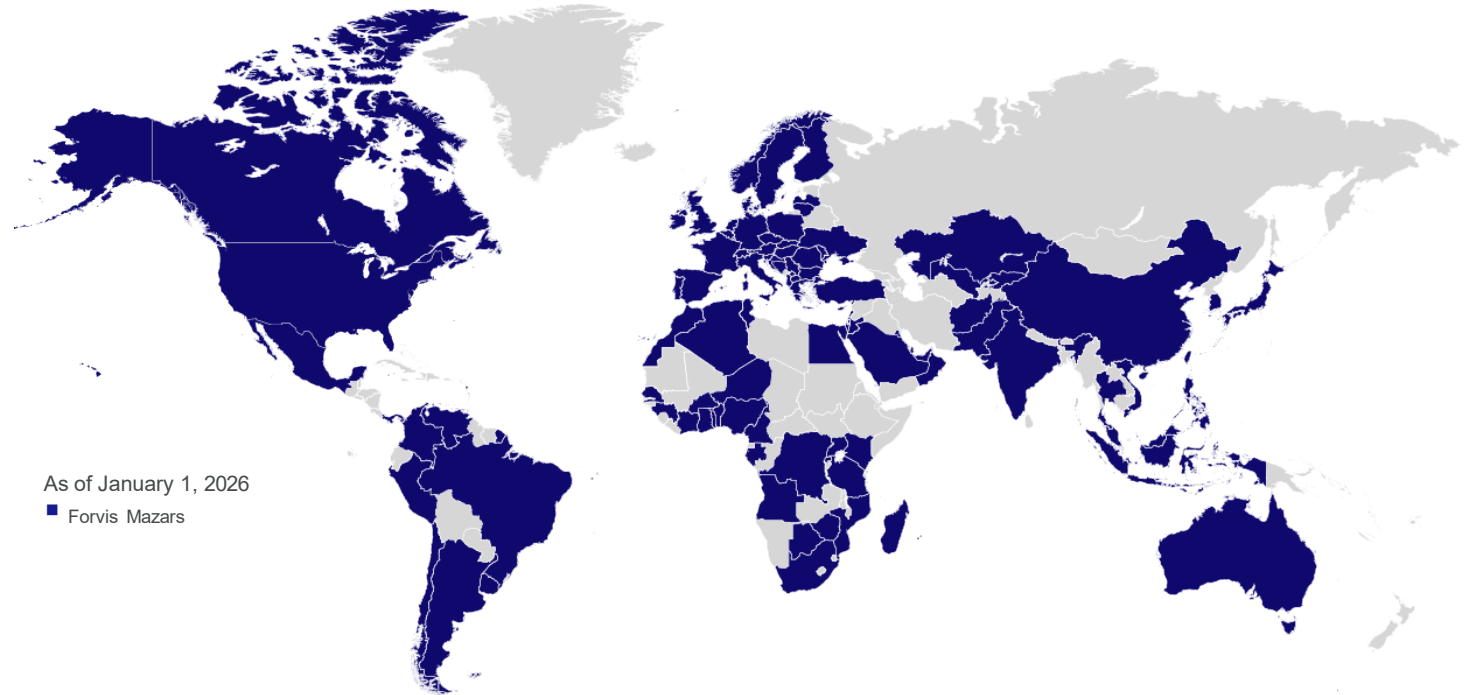
40,000+

Combined Employees

*As of 8/31/2025

Forvis Mazars is the brand name for the Forvis Mazars Global network (Forvis Mazars Global Limited) and its two independent members: Forvis Mazars, LLP in the United States and Forvis Mazars Group SC, an internationally integrated partnership operating in over 100 countries and territories.

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As of January 1, 2026

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Nelson Mullins Locations

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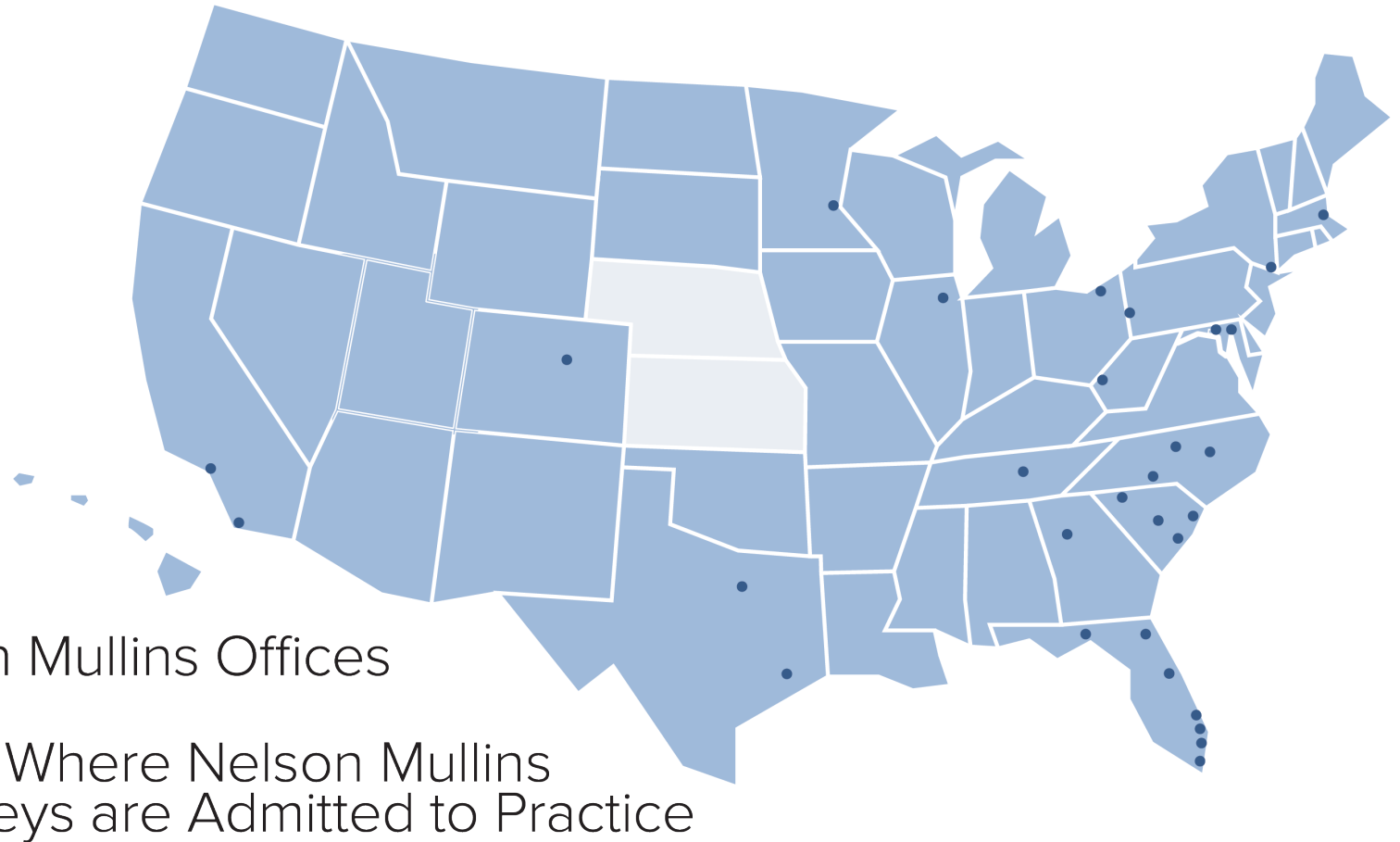


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Manny Schoenhuber

Outside General Counsel for European Clients in the USA

- Manny was born and raised in Germany and advises European investors, companies and their subsidiaries in the USA.
- Manny is the author of *Mastering Market Entry: USA – The European’s Guide to Making It BIG in America* and host of the *Transatlantic Titans* podcast.
- Manny is the *Vertrauensanwalt* of the German Consulate General Houston covering Texas, Louisiana, Arkansas, Oklahoma, and New Mexico.
- As their single contact through which to direct questions, Manny manages his clients’ legal matters across all the firm’s practice areas.
- As a US-educated attorney with European roots, Manny provides added value to clients by understanding the cultural, societal, and organizational differences.
- Manny is Vice Chair of the Board of Directors of the European American Chamber of Commerce Texas.
- Prior to becoming a lawyer, Manny was a professional football goalkeeper in Germany and collegiate athlete in Florida.



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- Economic Development
- E-Discovery & Information Governance
- Education
- Employment & Labor
- Energy
- Environmental
- Estate Planning Family
- Government Contracts & Grants
- Government Relations
- Health Insurance
- Healthcare
- Insurance
- Intellectual Property
- International
- Life Sciences–IP
- Litigation
- Outsourcing
- Real Estate
- Real Estate Capital Markets
- Sports
- Tax
- Technology
- Transportation
- White Collar Defense & Government Investigations

Contact

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