

Pillar Legal Tech Law Blog¹

Do I Need to Register My Out-of-State Company in California?

When operating a business across state lines in the United States, that business may need to be registered in each state where it conducts significant activities. This requirement, often referred to as a “doing business” registration or “foreign qualification”, varies slightly from state to state. Generally, common triggers for this registration include generating material revenue from the state, having employees there, owning or leasing property, or maintaining a substantial economic presence. In this post, we’ll explore the rules and thresholds for what counts as “doing business” in California.

How do I know if my company is “doing business” in California?

While this seems like a straightforward question – do I need to register my out-of-state company in California, is my company “doing business” in California – it can be difficult to answer, especially if only a part of your company’s business takes place in the state. In addition, the standard for “doing business” in the state under the corporate law code and under the tax code is different, causing further confusion.

As a practical matter, however, there are a several activities that are generally considered to be “doing business” in California:

- **Physical Presence:** Having an office, branch, warehouse, or other fixed place of business in the state.
- **Employees:** Hiring employees or have representatives in the state doing work related to the company’s core business.

Why does it matter if my company is “doing business” in California?

An out-of-state company that is “doing business” in California must both register with the state authorities and pay taxes. More specifically, a company that is “doing business” in California must:

- Register with the California Secretary of State, and
- Pay California taxes, including a minimum annual franchise tax of \$800.²

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² See California Corporations Code [§2105](#) and California Revenue and Taxation Code [§ 23151](#) and [§ 23101](#).

Failing to register or pay taxes when required can have consequences:

- **Late Filing Fees:** Your company may be fined \$20 for each day it does business in California without being properly registered.
- **Cannot Sue in California:** Your company may be barred from enforcing contracts or bringing lawsuits in California courts until properly registered and all fees are paid.³
- **Retroactive Liability:** Taxes, penalties, and interest may be assessed for prior years once the business is deemed to have had California nexus.⁴

When is an out-of-state company required to register with the California Secretary of State?

An out-of-state company is generally required to register with the California Secretary of State if it is “transacting intrastate business” in California – the first of two competing standards for “doing business” in the state. According to the California Corporations Code, transacting intrastate business (meaning wholly within California) means entering into repeated and successive transactions of business within the state, excluding interstate or foreign commerce (meaning commerce that crosses state lines or international borders).⁵ Although the rule is not entirely clear, the corporations code does provide a list of activities that do not require registration.

What activities can an out-of-state company conduct without requiring registration?

The following activities, among others, **do not** qualify as “transacting intrastate business” and therefore can be undertaken by out-of-state companies without requiring registration in California:

- Owning shares in a California corporation, being a member or manager of a California LLC, or holding a limited partnership interest in a California partnership;
- Holding board or shareholder meetings in California, provided such meetings are occasional and the company does not maintain a fixed office;
- Defending or settling legal claims, or participating in arbitration or administrative proceedings in California;
- Maintaining a bank account with a California-based bank;
- Effecting sales through independent contractors located in California (as opposed to employees or agents with authority to bind the company);
- Soliciting orders where the orders are accepted and fulfilled outside of California;
- Creating or recording security interests, such as liens or mortgages, on real or personal property located in California;
- Engaging in a one-time, isolated transaction that is completed within 180 days and is not part of a series of similar transactions; or

³ See California Corporations Code [§2203](#).

⁴ See California Revenue and Taxation Code § [19051](#), [19101](#), [19131](#), [19132](#), [19133](#).

⁵ See [Cal. Corp. Code §§ 191, 17708.03\(a\)](#).

- Transacting any business in interstate or foreign commerce (for example, a California-based customer purchasing a product from an Ohio-based salesperson is interstate commerce, not intrastate business).⁶

When is an out-of-state company subject to California taxes?

Under the California Revenue and Taxation Code (the “California Tax Code”), a company is generally considered to be “doing business” in California for **income and franchise tax** purposes if:

- The company is actively engaging in any transaction in the state for the purpose of financial gain or profit, regardless of whether there is any actual profit.
- The company has a main office or headquarters in California.
- The company’s sales, property, or payroll in California are significant enough to meet the state’s thresholds.

This is the second competing standard for “doing business” in California, and applies to tax registration and liability, whereas the first standard above applies to registration with the Secretary of State.

California’s **sales tax** rules are, however, separate from the above income and franchise tax rules. A retailer must register with the California Department of Tax and Fee Administration (“CDTFA”) and collect and remit sales tax if its total sales of tangible personal property for delivery into California exceed \$500,000 in the current or preceding calendar year. This obligation applies regardless of whether the retailer has a physical presence in California or falls below the thresholds for California income and franchise tax.⁷

What are the California sales, property and payroll thresholds for “doing business” in the state under the tax code standard?

For 2024, a company meets the California thresholds for tax registration and liability if the company meets any of the following:

- **California Sales:** Exceed \$735,019 or 25% of total sales.
- **California Property:** Own or lease real and tangible personal property in California with values exceeding \$73,502 or 25% of total property values.
- **California Payroll:** Pay compensation in California exceeding \$73,502 or 25% of total payroll.

These dollar amount thresholds are updated annually.⁸

⁶ See [Cal. Corp. Code §§ 191, 17708.03\(b\) and \(c\)](#)

⁷ See California Revenue and Taxation Code [§6203\(c\)\(4\)\(A\)](#) and [CDTFA Publication 109 – Internet Sales](#).

⁸ See updated threshold schedule [here](#).

Can a company be taxable in California without needing to register?

Yes. California's registration and tax requirements are governed by different laws and apply independently. A company may be subject to California franchise or income tax if it meets the state's economic nexus thresholds, even if it is not required to register with the California Secretary of State.⁹ Conversely, if your company is registered with the California Secretary of State, it is generally prudent to comply with franchise tax obligations to minimize compliance risk.

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⁹ See [Mediterranean Exports, Inc. v. Superior Court](#) (1981) 119 Cal.App.3d 605, 615–17.