

## National Business and Fictitious Business Name Registration

Sezzers,

Does a business based in California (corporation) that does business in all 50 states have to file a fictitious business name statement in all states/counties in which it does/intends to do business in or just the county in which it is based?

Are there any resources that can stream line multi-state/counties registrations, if in fact they are required?

Thanks!

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What do you mean by "does business in all 50 states"? Is the business web-based or are there physical locations in every state?

Kevin Grierson, Virginia

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They are physically located in California but they'll have clients in all states.

Scott D. Wu, California

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Yes, there are services. Registering as doing business in each state should be carefully analyzed and omitted where possible under the varied state rules.

Darrell G. Stewart, Texas

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It's not a straightforward analysis for all states. Need to incorporate (or organize) in one jurisdiction and the qualify in other jurisdictions. All states allow adoption of a fictitious name but California is a little more difficult. (Some businesses in some states cannot operate under fictitious names). The first question is in what states is the client doing business.

Roger Traversa, Pennsylvania

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To add to what others have said....

Having "clients" in all 50 states does not necessarily mean that the corporation is "doing business" in all 50 states.

In fact, just to complicate the analysis, there are multiple definitions of "doing business" in a state.

For instance, for purposes of personal jurisdiction, there is a separate analysis for “specific” jurisdiction (whether a client in the state can sue the corporation for liability arising out of the directly-related activities) versus “general” jurisdiction (whether a third party that has not done business with the corporation can make the corporation respond to a lawsuit in the state).

Then there are the separate analyses of whether the corporation is required to pay taxes to the state, and whether the corporation must register with the state because it is “doing business” there.

Then you get in to the analysis of whether the corporation is engaged in solely “interstate” business that the states cannot regulate, as well as the impact of a rule that engaging solely in “mail order” business is solely interstate (it’s been a while since I looked at this, but I seem to recall that the USSC ruled one way, and Congress then passed an exemption, but I could be wrong).

Finally, as the cherry on top, some courts hold that if a corporation registers in a state where it is not required to do so, that the corporation voluntarily submits to the jurisdiction of the state for all purposes.

So, you’re talking about a complicated analysis.

Sorry to be the bearer of bad news.

Brian H. Cole, California