



PERMANENT ESTABLISHMENT IN TAIWAN: BRANCH OR SUBSIDIARY?

DEFINITION OF A PERMANENT ESTABLISHMENT

A permanent establishment is a fixed location of operation for an entity's full or partial businesses operating activities. An engineering site located in Taiwan can be a permanent establishment if the total length of time for the engineering site exceeds a certain threshold.

DEFINITION AND MAIN DIFFERENCES BETWEEN A BRANCH AND A SUBSIDIARY

A subsidiary is incorporated pursuant to the Company Act and is an independent legal entity. A subsidiary can be listed in the stock market and is entitled to various tax incentives. When a subsidiary distributes dividends to its foreign shareholders, it is subject to 20% withholding tax.

A branch is also incorporated pursuant to the Company Act and can run its business independently; however, from a legal point of view, the branch is dependent to its head office. If there will be any lawsuit against the branch, the head office will also be involved. In addition, a branch cannot be listed in the stock market and is not entitled to various tax incentives. When a branch distributes the profits back to its head office, there is no 20% withholding tax.

TAX AND ACCOUNTING OBLIGATIONS

Both subsidiary and branch are subject to the Business Accounting Act in Taiwan and are required to maintain book of records in accordance with local generally accepted accounting principles. The book of records shall be maintained in local languages and denominated in local currency; however, if the book of records is maintained in a foreign language, a translation from that foreign language to local language upon request can be acceptable to the tax authorities. Both subsidiary and branch are required to file annual corporate income tax returns and VAT returns on a bi-monthly basis. If there are any payments that require withholding of income tax from the recipients, both entities are required to do so to comply with the law.

REGISTRATION FORMALITIES

For a subsidiary, the registration procedures are:

1. Chinese company name reservation
2. Foreign Investment Approval
3. Capital Examination
4. Company Registration
5. Tax Registration



DOING BUSINESS IN TAIWAN

STANDARD LEGAL OBLIGATIONS AND FORMALITIES FOR A BRANCH

Once Recognition is obtained, the branch will have the same rights and obligations and will be subject to the same jurisdictional authority as a domestic company. In running businesses, a branch is an independent entity; however, from a legal point of view, a branch is dependent to its head office.

For a branch, the registration procedures are:

1. Chinese company name reservation
2. Recognition & Branch Registration
3. Capital Examination
4. Tax Registration