



DOING BUSINESS IN GERMANY WITH A PERMANENT ESTABLISHMENT

Depending on the extent of your business involvement in Germany, there are different possibilities for your future firm:

1. Either the deployment of the activity without a permanent establishment (see relevant information sheet)
2. Or the creation of a permanent establishment in Germany (the subject of this information sheet):
 - a) As a branch, or
 - b) As a subsidiary

STANDARD LEGAL OBLIGATIONS AND FORMALITIES

Branches or subsidiaries require:

- Registration at the Commercial Court Registry (Handelsregister);
- A VAT ID number (identification number unique to each business) and an EU intracommunity registration for firms liable to VAT;
- Filing of German financial statements (for the branch and for the whole entity) at the Commercial Court Registry;
- Registration with the German tax authorities;
- Notarization required for set up and appointment of representatives

A BRANCH OF A FOREIGN COMPANY

Simplified legal form

- No legal entity in Germany distinct from the foreign company;
- No articles of association;
- No authorized share capital;
- Registration of employees with Social Security (gesetzliche Krankenkassen), pension organisations, employment office (Arbeitsamt), and benefits, supplementary protection and pensions;

Activity

- A Branch is more flexible and less expensive than a subsidiary and enables commercial activity to be carried out.
- Under the full and integrated responsibility of the foreign company.
- Foreign company is fully liable for the dealings of the branch

Status of the legal representative

- Appointment of a representative of the head office or of a branch manager registered at the Commercial Court Registry;
- The legal representative of the branch may be either an employee or a legal representative of the foreign company. If he/she is a non-EU citizen, then he/she should have a work permit authorizing him/her to run a branch in Germany. However bilateral international agreements may stipulate specific conditions as well.

Tax status

- The activity of the German Establishment is the criteria for assigning its income;
- The profits of the branch are normally taxable in Germany unless there is an international tax agreement;



- For companies outside the European Union, a tax representative should be appointed for payment of VAT;
- The branch is liable to all German taxes.

Accounting

- A separate accounting is necessary.
- Accounting will be directly consolidated into the accounts of the foreign company in its country of origin.

A SUBSIDIARY OF A FOREIGN FIRM

Specific legal points

- Legal form independent from that of the foreign company (GmbH, GmbH & Co. KG, KG etc.). (See relevant fact sheet)
- Obligatory registration to be made through the relevant Court Registry (Amtsgericht);
- At the Commercial Court Registry (Amtsgericht);
- Registration of employees with Social Security (gesetzliche Krankenkassen), pension organisations, employment office (Arbeitsamt) etc. (See relevant information sheet)
- For controlling directors, registration with specific agencies;
- With German tax authorities;
- Minimum share capital required depending on legal form

Activity

A full commercial independency. A subsidiary of a foreign company can independently carry out deregulated commercial, financial or legal operations. Depending on legal form liability is limited to the operations of the subsidiary.

The Manager

The Manager can be:

- An employee of the German or foreign company,
- An agent of the parent company or another subsidiary,
- A German or foreign person with qualifications authorizing him/her to carry out commercial activity (in accordance with bilateral international agreements).

Fiscal and accounting status

A German company that is a subsidiary of a foreign company is liable to the same tax and accounting obligations as German companies (see relevant information sheet), in particular income tax, VAT, local taxes, and bookkeeping and accounts.