



PERMANENT ESTABLISHMENT IN LEBANON: BRANCH OR SUBSIDIARY?

DEFINITION OF A PERMANENT ESTABLISHMENT

Most businesses are governed by the Code of Commerce and by a set of rules of the Code of Obligations and Contracts. Businesses are organized either as companies or as partnerships.

Companies may be either civil or commercial. Commercial companies are companies with a commercial purpose. They are registered at the Commercial Registry; civil companies are registered at the Civil Registry of the Court of First Instance of the place of their business.

If a company with a civil purpose chooses to have the form of a joint stock company or a partnership limited by shares, it will have the same obligations as those of a merchant and will be subject to the provisions of arrangement with creditors and bankruptcy provided for under the Code of Commerce.

Foreign companies may choose to form a local company or to establish a branch office. They may also set up a representative office if their sole purpose is to promote their products and services and to render technical assistance in relation to those products and services.

However, certain rules impose on Lebanese, as well as foreigners, specific structures in regulated sectors, such as banking, financial services, media, insurance and air transport.

DEFINITION AND MAIN DIFFERENCES BETWEEN A BRANCH AND A SUBSIDIARY

The branch office may carry out all activities that are included in the parent company's object, with the exception of certain activities that require specific authorizations by the regulator (such as banking and insurance activities). It is subject to corporate income tax in Lebanon and its profits are considered distributed as dividends in fact and subject to a 10% tax. The branch office must be registered at the Commercial Registry.

A subsidiary company is one in which another, generally larger, corporation, owns all or at least a majority of the shares. As the owner of the subsidiary, the parent corporation may control the activities of the subsidiary.

For the formation of a Joint Stock Company (Societe Anonyme Libanaise S.A.L.) in Lebanon, the number of Shareholders may not be less than three.

TAX AND ACCOUNTING OBLIGATIONS

Income tax on profit is levied on the territoriality principle: Lebanese companies and branches of foreign companies are taxable on income or profits generated in Lebanon or derived from Lebanese sources. In case of an existing tax treaty, the dispositions of that treaty will prevail.

Generally, companies as well as branches of foreign companies are subject to a flat income tax of 15% on profits.

Contractors with the government for civil works, oil refineries, insurance companies and transport companies if subject to taxation are taxed on lump sum profits. A decree fixes the applicable percentage to the annual turnover in order to determinate a net lump sum profit.



Holding companies are exempt from income tax on profit and are subject to an annual lump sum tax on capital and reserves; such tax is not to exceed LBP 5 million per year (details are mentioned in section 1).

Off-shore companies are exempt from income tax on profits and are subject to an annual lump sum tax of LBP 1 million (details are mentioned in section 1).

The tax year runs from 1st January to 31st December. However a company may use a financial year which is different from the calendar year with the authorization of the tax administration.

Companies are required to submit their tax returns for the year ending 31st December by May of the following year, together with payment of tax due. For those who chose another fiscal year they must submit their tax return within a period of five months from the close of their financial year.

The Company must have at the end of the year, a stock-taking, a financial position and a statement of income which must be clear and methodical. Financial statements must be audited.

REGISTRATION FORMALITIES

The procedure for the registration of a company in Lebanon is easy and fast.

The shareholders/partners need to:

1. Sign the articles of association of the company before a Public Notary and pay stamps and other registration dues.
2. Deposit the capital at the bank which will provide them with a certificate that the capital has been paid (when a minimum capital is required).
3. For SAL companies and partnerships limited by shares (SARL), the constitutive general assembly holds a meeting to appoint the members of the Board of Directors for SAL, and a managing partner(s) for SARL, and the auditor.
4. For SAL companies the first Board of Directors shall be held to elect its Chairman.
5. The company issues a commercial circular with the authorized signatories.
6. The certificate of incorporation will be completed.
7. The applicant will file the registration request at the Commerce Registry with the necessary documentation.
8. Once the company is registered, the authorized signatory may liberate the capital from the bank.
9. The company shall have a Lawyer and an Auditor appointed by the General Assembly.

STANDARD LEGAL OBLIGATIONS AND FORMALITIES FOR A BRANCH

Same as a joint stock company with the legal documents of the mother company.