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COMPANY TYPES AND REGISTRATION

A company setting up in Belgium must first decide on the type of company to establish as well as choosing the corporate form.

Once these decisions have been taken, the company will need to be registered. The procedures must be completed in the order indicated, as information obtained during one step may be required to accomplish the next step.

Company type: branch office or subsidiary?

A business that wants to establish a presence in Belgium can either set up a subsidiary company or open a branch office. This choice can have significant legal and fiscal consequences.

Branch office

Whereas a subsidiary is considered a Belgian company, a branch is not treated as a separate entity of the foreign-based parent company. This means that the parent company is liable for all the debts and obligations of the Belgian branch office. In other words, a branch office is just an extension of the foreign parent company; a branch office has neither stocks nor shares, nor a board of directors.

Due to the legal principal of unity with the foreign head office, the branch office will be considered a foreign company rather than a Belgian company.

This differentiation may be of importance in areas such as marketing and customs duty rates which have an influence on pricing.

Advantages:

- No minimum capital required to start the business.
- No need to go to a notary to create the branch.
- Fiscal benefits.

Subsidiary

A subsidiary is a company created and capitalised in Belgium by the parent company. It has its own board of directors. Hence, the subsidiary and the parent company are considered to be two separate legal entities.

The liability of a Belgian subsidiary is limited to its own assets.

A Belgian subsidiary is in principle subject to Belgian law, even if the company is controlled from outside Belgium.

Advantages:

- Since a subsidiary and the parent company are considered to be two separate legal entities, the parent company cannot be held responsible for its subsidiary.
- From a marketing point of view, a subsidiary presents a foreign company as Belgian or European while a branch office presents the company as foreign. This could provide more credibility with potential local partners.

Choosing the corporate form

Investors who decide to establish a subsidiary will need to choose the most appropriate corporate form for the subsidiary. The most common corporate forms in Belgium are the public stock corporation, the limited liability company and the cooperative company. An investor can also choose from other legal forms such as the general partnership, sole proprietorship, joint venture or limited partnership.

Stock Corporation

The nv/sa format is most often chosen for larger enterprises.

- **Capital:** the minimum capital of the nv/sa is €61,500. This capital must be paid in by the founders (at least two) at the time of incorporation.
- **Management:** at least three directors must be appointed to the board of the nv/sa. When there are no more than two founders or shareholders, a board composed of two directors is sufficient.

Limited Liability company

A bvba/sprl is particularly attractive for small companies. Belgian corporate law provides relatively simple and flexible operating rules.

- **Capital:** the minimum capital of the bvba/sprl is €18,550, of which €6,200 must be fully paid in at the time of incorporation by the founder (one or more).
- **Management:** the bvba/sprl is managed by one or more business managers.

Cooperative company

This is a very flexible corporate form. There are two types: one with unlimited liability (cvoha/scris) and one with limited liability (cv/sc). The following points relate only to the second type.

- **Incorporation:** at least three partners are needed in order to establish a cv/sc.
- **Capital:**
 - A fixed amount, which must represent at least €18,550 of the issued capital.
 - A variable portion, which varies with the entry and exit of partners, capital increases or the buy back of shares. For a cv/sc, the variable portion must represent at least 25% of the issued capital, with a minimum of €6,200.
- **Management:** the cv/sc is managed by one or more business managers. The partners may organize their management freely in their articles of association.

Registering a branch office

If a foreign company decides to set up a branch office in Belgium, the following steps must be completed.

Corporate resolutions

Any foreign company that wishes to set up a branch in Brussels must produce an abstract from the minutes of the Board meeting. The abstract should indicate the decision to establish a branch in Brussels and the appointment of the person to represent and act on behalf of the parent company. This person will be considered the 'legal representative' of the parent company, and shall be responsible for all activities of the branch, including transactions with third parties and legal matters.

Official documents to notarize and translate

Before opening a branch office in Brussels, the following documents have to be notarized by a notary from the country of origin and translated into Dutch or French by a certified Belgian translator prior to publication in the Belgian Official Journal. Translation is not required when the documents to be submitted are already available in one of the official languages.

- Articles of incorporation/by-laws of the foreign company and subsequent amendments.
- Corporate resolutions: minutes governing the extension of the company in Belgium and appointing the legal representative, including a description of the powers delegated to him.
- Certificate of the foreign Register of Commerce confirming the existence of the company.

Financial documents

The foreign company must also translate the most recent annual accounts of the parent company in order to register them with the National Bank of Belgium.

Administrative steps

Court of commerce:

The documents listed above must be registered with the Court of Commerce of the judicial area in which the branch is established. The Court of Commerce will then take care of the publication in the Belgian Official Journal.

'One stop desk for enterprises':

Subsequently, the branch must go to a recognized "one stop desk for enterprises" which will register it in the *Crossroads Bank for Enterprises*, the official database of companies.

At the one stop desk for companies the company will also obtain:

- An enterprise number.
- A VAT number.

Registering a Belgian subsidiary

If a foreign company decides to set up a subsidiary in Belgium, the following steps must be completed.

Act of incorporation

The creation of a company requires the drafting of articles of incorporation, which need to be enacted before a Belgian notary. The cost of set up includes registration fees, publication in the Belgian Official Journal, and the fixed notary fees. For further information visit the site of the [Royal Belgian Notary Association](#).

The legal steps required when establishing a company are similar for all corporate legal forms. The incorporation procedure consists of the following steps:

- Drafting a deed of incorporation and a business plan.
- Notarizing and registering the incorporation deed.
- Publication in the Belgian Official Journal.
- Obtaining enterprise and VAT numbers from the *Crossroads Bank for Enterprises*.

Opening an account with a financial institution

After the first contact with the notary for the preparation of incorporation deeds, the company will have to open a bank account. This account will be used to deposit the minimum capital required for the opening of the subsidiary, for all business transactions and the account number should be printed on all invoices, documents and correspondence. The opening of an account generally is free of charge.

Registration with the Crossroads Bank for Enterprises via the 'one stop desk'

Enterprises doing business in Belgium have to register in the official database of companies, the *Crossroads Bank for Enterprises* via a recognized 'one stop desk' for enterprises.

In general, the following documents are required to register a company in the *Crossroads Bank for Enterprises*:

- A copy of the by-laws of the company.
- A copy of the ID-card and residence permit of the director of the company, and persons allowed to represent the company in Belgium.
- A copy of the diploma (high school, university, etc.) of the above mentioned persons.
- Once the company is registered in the *Crossroads Bank for Enterprises*, it will receive an enterprise number that has to be printed on all the enterprise's correspondence, documents and invoices.

Registering for VAT

Under certain conditions, enterprises are liable for VAT. You should apply for a VAT number after having obtained your enterprise number.

Social and healthcare insurance

A company employing staff in Belgium must register with the National Agency of Social Security. Most employers contract with a payroll agency that performs all administrative formalities concerning salary payment and social security.

All self-employed persons must register with a social insurance company. This insurance gives the right to family benefits, child allowances, retirement pension, as well as some health benefits.