BRIEF GUIDE IN ORDER TO INVEST IN CATALONIA
How to set up a business...

KIT 6.1

Advice & Information Tools
July 2017
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INTRODUCTION:

Locate and expand your business in Catalonia, a top European region for FDI attraction

Catalonia encourages the setting up of large, medium and small companies and start-ups in the region in order to boost up the economy. Foreign investors are welcome, from both EU Member States or non-European countries, and the procedure to set up a business is simple. In addition, there are many options for setting up a business depending on the characteristics and objectives of the investors.

Options for setting up a business in Catalonia

The incorporation of a share capital Company is the most usual form of investment in Catalonia and can adopt different legal forms, including the Public Limited Liability Company (S.A.) and the Private Limited Liability Company (S.L.). The new Company has to appoint a representative, who must hold a Spanish national identity card number. If the representative is a foreigner, he or she must apply for a foreigner’s identification number (NIE).

The Branch is a permanent establishment that has certain powers of self-management through which the Parent Company operates in Catalonia. Although it is managed by its Parent Company, the Branch must have a legal representative in Catalonia duly empowered in order to carry out its duties. In general, the requirements, formalities, steps and costs related to establishing a Branch are very similar to those for a subsidiary, with a few differences.
The **Representative Office** cannot trade and its activities are mainly promotional, coordination, assistance, etc. It has neither a permanent establishment nor legal personality, as it is subject to the status of its Parent Company, which also has unlimited liability for the debts of its Representative Office. Although it is managed by its Parent Company, the Representative Office must have a legal representative in Catalonia duly empowered in order to carry out its duties.

Registering as a **Self-Employed** is a way to work for an individual who pursues a for-profit economic activity on a regular basis, without being subject to a contract of employment. The self-employed person can open a work centre and register as an employer with the Social Security in order to employ workers.

Associating with local shareholders or other companies already established in Catalonia, obtaining as a result **Joint Ventures**.

There are other ways of setting up a business in Catalonia without need to establish a centre of operations in the territory, such as making **distribution agreements, operating through an agent or a commission agent, establishing a franchise or having a license agreement.**
Investing in Catalonia is simple

- **24/48 hours** to buy an existing company
- **20 days** to incorporate a new company*
- **€ 1,500** as an approx. cost (SL) (+ the minimum share capital)
- **Visas and Permits** are processed and approved in **10 and 20 working days**, respectively

* A private limited liability company (SL) can be incorporated within a shorter timeframe by means of the "express" procedure. KIT 6.1.3.1 contains a summary of the corresponding procedure for incorporation.
3 Steps for investing in Catalonia

1. **WHO** CAN GUIDE ME WHILE INVESTING IN CATALONIA

2. **HOW** CAN I INVEST IN CATALONIA?

3. I HAVE DECIDED TO SET UP MY COMPANY IN CATALONIA. **WHICH** PROCEDURES SHOULD BE FOLLOWED?
STEP 1. Who can guide me while investing in Catalonia?

**CATALONIA TRADE & INVESTMENT** offers very useful services to foreign investors:

a. **Makes setting up** your business in Catalonia easier (financing & incentives, business location, information and advice, work permits, …).

b. **Assigns a manager** to each investment project.

c. **Save time and money** with a **one-stop shop** for your project (Free of charge and confidential treatment).
STEP 2. How can I invest in Catalonia?

a) **With an establishment** (direct form): through the incorporation/purchase of a company or the incorporation of other companies.

b) **Without an establishment** (commercial/indirect form): distribution, agency, commission, franchise, license or similar agreements.
Most usual ways of setting up a business (I)

1 In an upcoming slide, special aspects regarding limited liability companies will be discussed. There are other ways to directly set up a business, such as a European Stock Company, a Simple Limited Partnership, a Partnership Limited by Shares. Also, there are other company types depending on the activity (professional, agrarian or a venture capital company) or the purpose (foundation or association) of the company.
Most usual ways of setting up a business (II)

Commercial/Indirect

- Distribution agreement
- Agency agreement
- Commission agreement
- Franchise agreement
- License agreement

Brands
Technology
Other less usual limited liability (SL) company types

Types of limited liability company:
- **New business** limited liability company (SLNE)
- **Ordinary** limited liability company
- **Professional** limited liability company

Regarding the incorporation procedure:
- Limited liability company of **successive formation**
- **Express** limited liability company (standard bylaws)
- **Ordinary procedure** of constitution

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2 KIT 6.1.3.1 on the express incorporation of SLs contains a summary of the corresponding procedure for incorporation.
## Main features of the legal forms of establishment (I)

<table>
<thead>
<tr>
<th>Stock company (SA)</th>
<th>Limited liability company (SL)</th>
<th>Branch</th>
<th>Representative Office</th>
<th>The individual businessman (&quot;Self-employed&quot;)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Overview</strong></td>
<td>Subject to a less flexible scheme than limited liability companies, but may be listed on the stock exchange market and its shares are easily transferred.</td>
<td>More flexible than a stock company, but with a more rigid procedure for transferring shares.</td>
<td>Secondary establishment with permanent representation and certain powers of self-management.</td>
<td>Promotional activities, auxiliary to the business of the parent company.</td>
</tr>
<tr>
<td><strong>Share capital</strong></td>
<td>Shares.</td>
<td>Equity interest.</td>
<td>No share capital. The available capital is allocated by the parent company.</td>
<td>No share capital. Uses parent company’s resources.</td>
</tr>
<tr>
<td><strong>Minimum capital</strong></td>
<td><strong>€ 60,000; 25% minimum to be paid on incorporation.</strong></td>
<td><strong>€ 3,000, paid up in full on incorporation.</strong></td>
<td>Exception: limited company of successive formation, which does not require minimum capital.</td>
<td>Funds allocated by the parent company.</td>
</tr>
</tbody>
</table>
## Main features of the legal forms of establishment (II)

<table>
<thead>
<tr>
<th>Legal status</th>
<th>Stock Company (SA)</th>
<th>Limited liability company (SL)</th>
<th>Branch</th>
<th>Representative Office</th>
<th>The individual businessman (&quot;Self-employed&quot;)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Different status to that of the foreign parent company.</td>
<td>Different status to that of the foreign company.</td>
<td>Does not have legal personality. Subject to status of parent company.</td>
<td>Does not have legal personality. Subject to status of parent company.</td>
<td>Status of self-employed.</td>
<td></td>
</tr>
<tr>
<td>Tax on profits</td>
<td>Corporation tax (IS).</td>
<td>Corporation tax (IS).</td>
<td>IS with certain limitations on deductible items.</td>
<td>As long as it does not have a permanent establishment, not subject to taxation.</td>
<td>Personal Income Tax (IRPF).</td>
</tr>
<tr>
<td>Agreements to avoid double taxation</td>
<td>Affect the cost of the repatriation of profits through dividends.</td>
<td>Affect the cost of the repatriation of profits through dividends.</td>
<td>Affect the cost of the repatriation of profits (special taxation in certain cases).</td>
<td>Allow establishing certain activities that may be conducted by representative offices without being considered as permanent establishments.</td>
<td>Affect tax on foreign earnings.</td>
</tr>
</tbody>
</table>
### Main features of the legal forms of establishment (II)

<table>
<thead>
<tr>
<th>Stock Company (SA)</th>
<th>Limited liability company (SL)</th>
<th>Branch</th>
<th>Representative Office</th>
<th>The individual businessman (“Self-employed”)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The company would be managed by its own governing body</td>
<td>The company has its own accounting books</td>
<td>The branch is managed by the parent company governing body, despite of appointing a legal representative in Spain duly empowered in order to carry out its duties</td>
<td>The representation office is managed by the parent company governing body, despite of appointing a legal representative in Spain duly empowered in order to carry out its duties</td>
<td>Not applicable</td>
</tr>
<tr>
<td>The governing body can be conferred either to a sole director, several directors acting jointly, several directors acting jointly and severally (i.e. individually) or a board of directors</td>
<td>Audit is required if two of the following thresholds are exceeded during two consecutive years:</td>
<td>The branch has its own accounting books</td>
<td>The branch would have to deposit within the Commercial Registry a duly legalized copy (with the “The Hague Apostille”) of its parent company’s annual accounts (the consolidated accounts, if applicable)</td>
<td></td>
</tr>
<tr>
<td>The company has its own accounting books</td>
<td>- Total assets + € 2,850,000</td>
<td>Audit requirements: not in Spain</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The company would have to formulate, approve and deposit within the Commercial Registry its annual accounts</td>
<td>- Total annual turnover + € 5,700,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Audit is required if two of the following thresholds are exceeded during two consecutive years:</td>
<td>- Number of employees + 50</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

**Operating issues to take into consideration**

- The branch is managed by the parent company governing body, despite of appointing a legal representative in Spain duly empowered in order to carry out its duties.
- The branch has its own accounting books.
- Audit requirements: not in Spain.
- The representation office does not have its own accounting books.
- Not applicable.
Relationship scheme between control/risk/flexibility of the legal forms of establishment

- Distribution Agency
- Industrial leases
- Franchises
- License agreements (brand or technology)

+ Risk/Allocation of resources

- Manufacturing subsidiary (creation or acquisition)
- Joint production company
- Joint Ventures
- Joint sales company

Control

Risk/Allocation of resources

Flexibility

Intermediate options

Commercial Implementation

Direct Investment

Strategy and Competitive Intelligence Unit
STEP 3. I have decided to set up my company in Catalonia. Which procedures should be followed?

Options:

a. Incorporation of a new company.

b. Acquisition of an existing company.
Incorporation of a new company

1) Decisions regarding corporate form, shareholders, financial year, directors, share capital and its disbursement’s basic aspects.
2) Reservation of the company’s corporate name before the Central Commercial Registry, by one of the shareholders.
3) Drafting of the Articles of Association.
4) Obtaining the Tax/Foreigner ID Number for the shareholders and non resident directors.
5) Granting a special power of attorney, sworn translated and apostilled when the shareholders cannot travel to Catalonia to sign the incorporation Deed.
6) Opening of a bank account and disbursement of the share capital.
7) Identification of the beneficial owner, grant the corresponding Public Deed, obtainment of the provisional Tax ID Number and registration in the relevant institutions (Tax Administration, Social Security).
8) Declaration of a foreign investment (if applicable).
9) Submission of the Public Deed in order to settle (exempt) the relevant taxes (ITPAJD).
10) Registration in the Companies Registry.
11) Request the final Tax ID Number.
12) Request the electronic certificate of the Company.

Company in process of incorporation until its due registration, although it can still carry out some procedures.
Acquisition of an existing company ‘Shelf Companies’

Main features

- The company has already been legally incorporated under Spanish law.
- Bank accounts already set up and ready to operate.
- Final NIF number.
- Wide and adjusting corporate purpose.
- Economically inactive prior to sale – incorporated and left with no activity.
- Guaranteed to be free from contingencies and other liabilities.

Main advantages

- **Timing:** Approximate time required less than 24 h and an approximate cost of € 3,000.
- **Confidentiality:** The name of the new shareholders will not be registered in the Companies’ Registry (unless it’s a sole shareholder company). The identity of the directors will be registered.
Notes:

1 **Hague Apostille**: procedure by which the relevant authority of the Central State Administration recognizes the validity of a document issued in another jurisdiction.

2 **ITPAJD**: Property Transfer and Certified Legal Documents Tax.

This document has been written as a general guide only for setting up any business in Catalonia. The timeframes and costs referred to in this guide are intended as a guideline only, and may vary depending on the specific circumstances of each particular case. It is therefore no substitute for specific professional advice, which it is highly advisable to seek before investing in Catalonia.

For more information, contact us at catalonia@catalonia.com.

The above information is provided solely for information purposes and does not serve as a substitute for any legal advice. Therefore, we suggest that you seek professional advice prior to taking any decisions related to said information.
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