



Representative Office Branch Office Subsidiary

An Overview

Legal Aspects

Representative Office

Features	<p>In practice, a representative office (<i>Repräsentationsbüro</i>) or liaison office is a place which makes information about the foreign company available to potential customers.</p> <p>A representative office does not have its own legal personality. Contracts are concluded on behalf of the parent company.</p>
Potential activities	<p>The activities a representative office may undertake in Austria are very limited.</p> <p>A representative office is only allowed to engage in auxiliary or preparation activities.</p> <p>Activities above and beyond this, especially sales and marketing activities, would lead to the setting up of a branch office.</p> <p>The distinction between a representative office and a branch office is a delicate issue, because operating a branch office has tax implications (refer to the section on "Tax Aspects.")</p> <p>If the representative of a company in Austria concludes or negotiates contracts, the risk exists that a branch office will have to be established.</p>
Registration	<p>A representative office is not entered into the Austrian Commercial Register.</p>
Capital	<p>No legally prescribed minimum capital.</p>
Representation	<p>No power of representation.</p>
Timetable	<p>The time involved in opening a representative office is short, depending on the particular company.</p>
Costs	<p>The costs for opening a representative office are low. Neither a lawyer nor a notary is required.</p>

Branch Office

Features	<p>A branch office (<i>Zweigniederlassung</i>) carries out sales and marketing activities and has commercial substance (e.g. an office and staff).</p> <p>A branch office does not have its own legal personality. Contracts are concluded on behalf of the parent company.</p>
Potential activities	The scope of a branch office's activities is unrestricted .
Registration	A branch office is entered into the Austrian Commercial Register.
Capital	No legally prescribed minimum capital.
Representation	<p>A branch office is principally represented by representatives (executive bodies) of the parent company.</p> <p>EU companies:</p> <p>There is no obligation to appoint a branch office manager in Austria. If a branch office manager is voluntarily appointed, his habitual residence must be in Austria.</p> <p>Third countries:</p> <p>Companies from third countries are required to appoint at least one branch office manager whose habitual residence is in Austria.</p> <p>A branch office manager represents the branch office in all dealings with third parties. His power of representation vis a vis third parties is unrestricted.</p>
Timetable	The time involved in establishing a branch office is 2 to 4 weeks.
Costs	The costs for establishing a branch office amount to € 2,000 - € 3,000 (legal and notary fees).

Subsidiary (GmbH / FlexCo)

Features	<p>A subsidiary carries out sales and marketing activities in Austria and has commercial substance (e.g. an office and staff).</p> <p>A subsidiary has its own separate legal personality.</p> <p>For this reason, contracts can be concluded on behalf of the subsidiary.</p> <p>The most frequent legal form of business in Austria is the limited liability company (<i>Gesellschaft mit beschränkter Haftung</i> or GmbH).</p> <p>The founding of a flexible company ("FlexKapG" or "FlexCo") has also been possible since 1 January 2024. The FlexCo relies mostly on laws relating to the formation of a limited liability company (GmbH), but in some cases the FlexCo is a more flexible legal form (especially with respect to the transfer of shares, employee participation in the company's success and capital-raising measures). The following details apply equally to the GmbH and the FlexCo.</p> <p>For a comparison with other legal forms of business, refer to the overview "Comparison of Legal Forms in Austria".</p>
Potential activities	The scope of a subsidiary's activities is unrestricted .
Registration	A subsidiary is entered into the Austrian Commercial Register.
Capital	The legally prescribed amount of capital is € 10,000, of which € 5,000 must be paid up.
Representation	<p>At least 1 managing director must be appointed.</p> <p>The managing directors must be natural persons. They are not required to have a place of residence in Austria. However, to avoid tax risks, it should be ensured that the management is located in Austria.</p> <p>The managing director represents the company on all matters relating to third parties. His power of representation vis-à-vis third parties cannot be restricted.</p>
Timetable	The timeline for the founding of a GmbH or FlexCo is two to four weeks.
Kosten	<p>The costs for establishing a GmbH or FlexCo amount to € 2,000 - € 3,000 (legal and notary fees).</p> <p>The costs depend, amongst other factors, on whether documents must be bilingual (e.g. German/English).</p>

Tax Aspects

Representative Office

Registration	No tax registration, neither for the corporate income tax nor for the value added tax (VAT).
Corporate income tax	A representative office does not cause any corporate income taxes in Austria. In practice, tax authorities do focus on representative offices. The underlying reason is that an assessment is made as to whether the sphere of action on the part of a representative office goes above and beyond the stipulated definition (refer to "Legal Aspects"), and whether in fact it is actually a branch office to be taxed at the rate of 23%.
Value-added tax	The activities a representative office may undertake in Austria are very limited (refer to "Legal Aspects.") No value-added tax is charged as no deliveries and services are performed in return for remuneration. For this reason, no tax registration is required. A VAT refund is possible for expenses incurred in Austria.

Branch Office

Registration	Mandatory tax registration for the corporate income tax and the value added tax.
Corporate income tax	23% corporate income tax. No legally stipulated minimum corporate income tax. Same treatment of tax loss carryforwards as for a subsidiary.
Umsatzsteuer	A branch office is treated in the same way as a subsidiary with respect to the value added tax.

Subsidiary (GmbH / FlexCo)

Registration	Mandatory tax registration for the corporate income tax and the value added tax.
Corporate income tax	23% corporate income tax rate, legally stipulated minimum corporate income tax of € 500 annually. Losses can be carried forward for an unlimited time and offset against future profits. Losses carried forward can be deducted against a maximum level of 75% of taxable income. This means that 25% of annual profits are taxable despite the high level of tax loss carryforwards.
Value added tax	20% value added tax / 10% value added tax / VAT exemptions available.

Accounting / Annual Financial Statements

Representative Office

Annual financial statements	Annual financial statements do not have to be prepared for a representative office.
Disclosure of the annual financial statements	No disclosure requirements apply.

Branch Office

Annual financial statements	Annual financial statements do not have to be prepared for a branch office. However, the branch office is required to calculate its profit in accordance with local regulations and to keep appropriate accounts or maintain a separate accounting entity.
Disclosure of the annual financial statements	<p>In the case of a branch office, the annual financial statements of the parent company must be translated into German and disclosed with the Austrian Commercial Court no later than 9 months after the balance sheet date.</p> <p>The Commercial Court imposes fines if disclosure requirements are not complied with. Disclosure is not mandatory if the accounting documents can be downloaded in German or English via the Business Registers Interconnection System.</p>

Subsidiary (GmbH / FlexCo)

Annual financial statements	Annual financial statements for the subsidiary must be prepared in accordance with local regulations.
Disclosure of the annual financial statements	<p>The annual financial statements of the subsidiary must be disclosed to the responsible Austrian Commercial Court within 9 months after the balance sheet date.</p> <p>The Commercial Court imposes fines if disclosure requirements are not complied with.</p>

Summary

Representative Office

A representative office is only suitable for ancillary activities, but not for the core activities of the company (see "Legal Aspects" with a reference to the tax risks). This represents a **major disadvantage**. As a result, **in practice there are few representative offices**.

Branch Office

One advantage of a branch office is that there is no minimum capital requirement compared to a subsidiary (refer to "Legal Aspects"). The branch office and subsidiary are comparable with respect to their founding and ongoing accounting.

In practice, the branch office often leads to **considerably higher costs and greater effort** compared to the subsidiary. This is due to the disclosure obligation of the annual financial statements of the parent company in German and the fact that changes in the management of the parent company must be implemented in the management of the Austrian branch office as well.

Subsidiary (GmbH / FlexCo)

A GmbH features **significant advantages** due to the clear demarcation to between the GmbH and the parent company. **The GmbH is the most frequent legal form in the Austrian economy.** It has also been possible to establish a **FlexCo** since 1 January 2024. This is just as suitable for a subsidiary due to its similarity to the GmbH, but also offers the advantage (especially for startups) of a more (time-)efficient and cost-effective transfer of shares, employee participation in the company's success and capital increases.



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