

Comparison of Set-up Subsidiaries, Branch Offices, or Representative Offices in Taiwan

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In line with the trend of economic globalization, the government continues to encourage foreign enterprises to invest in Taiwan. Currently, the primary organizational structures set up by foreign companies in Taiwan are subsidiaries, branch offices, and representative offices. These various organizational forms engage in different business activities and are subject to different taxation systems. Therefore, it is essential for investors to assess their situation and needs before investing, to determine the most suitable organizational form.

I. Introduction to Organizational Forms

◆ Subsidiaries :

Subsidiaries are set up for profit-making purposes, with the parent company holding 100% or a significant proportion of the shares (usually between 51% to 99%) to ensure actual control over the company. According to the Company Act, foreign enterprises investing in Taiwan can set up a subsidiary as either a Limited Company or a Corporation. Such companies are set up in accordance with Taiwanese Company Act, requiring an investment approval from the Dept. of Investment Review, MOEA and registration with the competent registration authority. Subsidiaries have independent legal entity status and maintain separate financial records from their parent company.

◆ Branch Offices :

Branch offices, also set up for profit-making, are divisions governed by the head office. They are not independent legal entities and thus are not liable for civil responsibilities. They do not have separate assets, charters, or decision-making powers. The head office and branch office are considered the same legal entity, with the head office bearing responsibility. A branch office may have its accounting system, but at the end of the year, the accounts of both the head office and branch office are consolidated into a single financial statement.

◆ Representative Offices :

Representative offices are not allowed to engage in profit-making business activities. Their scope of work is limited to representing the head office in signing contracts, quoting prices, bidding, procurement, market research, and research activities. They are extensions of the head office and do not possess independent legal status.

II. Regulations Related to the Set-up of Organizations

Item	Corporation	Limited Company	Branch Offices	Representative Offices
Permitted Activities	<ul style="list-style-type: none"> ➤ General trade, sales, and manufacturing. ➤ Investments from Mainland China must comply with the positive list of Investment Sectors for People from Mainland China in Taiwan. 		<ul style="list-style-type: none"> ➤ General trade, sales, and manufacturing. ➤ Mainland Chinese investment must comply with the positive list of Investment Sectors for People from Mainland China in Taiwan. 	<ul style="list-style-type: none"> ➤ Limited to the scope of business as stipulated by legal regulations. ➤ Investments from Mainland China must comply with the scope of business outlined in the positive list of Investment Sectors for People from Mainland China in Taiwan."
Responsibility of Shareholders/Parent Company	<ul style="list-style-type: none"> ➤ Shareholders are liable for the company up to the amount of their capital contribution. 		<ul style="list-style-type: none"> ➤ The foreign parent company is jointly liable for the debts not yet settled by the branch office. 	NA
Conditions for Shareholders	<ul style="list-style-type: none"> ➤ There must be at least one corporate shareholder or two individual shareholders, who can be foreign investors residing outside of our country or individuals from Mainland China. 	<ul style="list-style-type: none"> ➤ There must be at least one corporate shareholder or one individual shareholder, and all must be foreign investors residing outside of our country or individuals from Mainland China. 	<ul style="list-style-type: none"> ➤ No need for shareholders. 	NA
Conditions for Directors	<ul style="list-style-type: none"> ➤ There must be at least three directors, and all must be foreign investors residing outside of our country or individuals from Mainland China. 	<ul style="list-style-type: none"> ➤ There must be at least one director, but no more than three, and all must be foreign investors residing outside of our country or individuals from Mainland China. 	<ul style="list-style-type: none"> ➤ No directors are required, however, a representative must be appointed as the responsible person within Taiwan. 	NA
Conditions for Supervisors	<ul style="list-style-type: none"> ➤ There must be at least one supervisor, who can be a foreign investor residing outside of our country or an individual from Mainland China, but at least one must have a residence in the country. 	<ul style="list-style-type: none"> ➤ No need for a supervisor. ➤ Shareholders who do not engage in business operations may exercise supervisory rights. 	<ul style="list-style-type: none"> ➤ No need for supervisors. 	NA

Item	Corporation	Limited Company	Branch Offices	Representative Offices
Minimum Capital/Operational Funds Requirement for Company/Branch Office	➤ There is no minimum capital requirement, but the company's capital amount should be sufficient to cover set-up costs as verified and certified by an accountant.		➤ No minimum operational capital requirement, however, the operational capital for the branch office should be sufficient to cover set-up costs as verified by an accountant.	NA
Source of Capital Investment	➤ Contributions can be made in cash, retained earnings, or capital reserves.		➤ Initial operating capital must be remitted by the foreign parent company; however, subsequent capital can be made either through remittances from the parent company or from the retained earnings of the branch office.	NA

III. Tax Regulations for Different Types of Organizations

Item	Corporation	Limited Company	Branch Offices	Representative Offices
Profit-seeking Enterprise Income Tax	➤ For-profit businesses with an annual taxable income of less than TWD 120,000 are exempt from income tax. For those with an annual taxable income exceeding TWD 120,000, a 20% tax is levied on the entire taxable income, but the tax payable should not exceed half of the amount exceeding TWD 120,000. (1) If P (Taxable Income) is less than TWD 120,000, it is exempt. (2) If $TWD\ 120,000 < P \leq TWD\ 200,000$, then T (Tax Payable) = $(P - 120,000) * 1/2$. (3) If P exceeds TWD 200,000, then $T = P * 20\%$. *Note: T = Tax Payable, P = Taxable Income.		➤ Same as the left column.	NA
Surcharge on Undistributed Surplus Earnings	➤ Applicable.		➤ Not applicable.	NA
Tax Burden on Profit Repatriation	➤ The withholding tax rate is 21%.		➤ Not applicable.	NA
Tax Incentives Under the Statute for Industrial Innovation	➤ Applicable.		➤ Not applicable.	NA
Withholding tax for Salaries, Rent, and Business Execution Compensation	➤ Applicable.		➤ Applicable.	➤ Applicable (if this situation exists)
Allocation of Administrative Expenses by Parent Company/Head Office	➤ The income tax withholding rate for such expenses is 20%, and whether it can be deducted from the income depends on whether the subsidiary provides documents that comply with the tax law requirements.		➤ Under certain standards, expenses can be allocated to the branch office and deducted from the income.	NA

Item	Corporation	Limited Company	Branch Offices	Representative Offices
Liquidation Required at Dissolution	➤ Applicable.		➤ Applicable.	NA
Preservation of Account Books	➤ Applicable.		➤ Applicable.	➤ Applicable (if this situation exists).
Purchasing Real Estate and Vehicles in the Name of Subsidiaries/Branch Offices/Representative Offices	➤ Allowed.		➤ Allowed.	➤ Not allowed.

In the context of a globalized economy, establishing a worldwide presence is an essential focus that cannot be overlooked. In recent years, according to the IMD World Competitiveness Yearbook, Taiwan has risen to the 6th position among 64 evaluated countries. Taiwan's strengths in high-tech industry technology, talent quality, and geographical location are significant advantages. Moreover, the government's continuous efforts to promote foreign investment in Taiwan are likely to increase opportunities for foreign companies to establish themselves here. Therefore, before investing, foreign companies should carefully evaluate their objectives for development in Taiwan to determine the most suitable organizational form, thereby maximizing benefits.

Foreign companies that have already set up representative offices in Taiwan, if considering evolving these into branch offices due to future development needs, will find this process simplified due to amendments made to the 'Regulations Governing Company Registration' on April 23, 2021. These amendments include additional procedures and required documents in Supplemental Table 6 of Article 5 for the conversion of representative offices into branch offices. This change is expected to reduce administrative procedures and lower the costs of conversion.

This article has compiled the key points of the relevant regulations for reference. It is recommended to consult professional advice as necessary.

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