

Establishment of Liaison Offices of Foreign Companies in Turkey

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Many foreign companies have discovered the Republic of Turkey as a rewarding place for investments because of Turkey's rapidly expanding economy, political and economic stability and the possibility of European Union membership. As foreign investors may not be familiar with the Turkish market, they may prefer not to enter the market by immediately establishing a joint stock or a limited liability company. Another option is the establishment of a liaison office, which enables the company to acclimate to the market and acquire a range of customers. Herein we will focus on general information regarding (i) conducting the business of a liaison office, (ii) the term of a liaison office and (iii) the steps in establishment of the liaison office of a foreign company under Turkish Law.

Conducting the Business of a Liaison Office

According to Article 3/h of Foreign Direct Investments Law no. 4875 ("FDIL"), establishment of a liaison office requires the permission of the Undersecretariat of Treasury's General Directorate of Foreign Investment of the Republic of Turkey ("GDFI") in Ankara. A liaison office is not allowed to engage directly in any profit-generating business. However, activities such as gathering information, conducting market research, visiting clients and describing the features of the parent company, arranging the transfer of documents between the clients and the parent company and establishing contacts to expand the business opportunities of its parent company are permissible, since they are not considered commercial activities. In light of the abovementioned, a liaison office may not directly issue invoices for the goods sold or services rendered to local persons, however, the parent company may issue such invoices.

Furthermore, a liaison office is not required to bring capital into Turkey; however, the expenditures of a liaison office, such as the payment of salaries, must be brought from abroad in foreign currency. This is because a liaison office can not engage in any commercial activity and cannot obtain income or transfer money abroad from Turkey. As a result, a liaison office does not pay income or corporate taxes; however, it must keep records of all of its expenditures and revenues, which are transferred from the parent company.

Term of a Liaison Office

A liaison office establishment permit may be issued for a maximum period of three (3) years. Upon its expiry, an application may be made for the extension of its term for an additional period of three (3) years. When assessing such applications, the GDFI takes into account the previous years' activities of the relevant liaison office together with its future projects and objectives.

Steps in Establishment of a Liaison Office

Permission from the GDFI

First of all, permission from the GDFI shall be obtained. Documents required by the GDFI for the application are as follows:

- i. A commitment letter specifying that all the expenses of the liaison office shall be provided from abroad by transferring foreign currency into Turkey (notarized and apostilled);
- ii. The parent company's certificate of activity provided from the Trade Registry or Chamber of Commerce where the parent company is registered (notarized and apostilled);
- iii. A board resolution of the parent company for the incorporation of a representative office in Turkey (notarized and apostilled);

iv. The most recent annual report of the parent company including its balance sheet and profit/loss statement (notarized and apostilled);

v. A power of attorney granted to the person who will conduct the activities of the representative office (notarized and apostilled); and

vi. A detailed explanation with respect to (a) the business to be conducted by the representative office, (b) the number of personnel to be employed by the same and (c) the estimated expenses to be made in one (1) year.

Registration with the Tax Office

Within one (1) month of obtaining permission from the GDFI, an application must be made to the relevant tax office. Although the liaison office itself is not subject to taxes and the employees are exempt from income tax, tax office registration is required for the withholding tax liabilities for the rental payment to be extended to real persons and for the stamp tax liabilities for salary payments. Upon obtaining the permission of the GDFI, documents required for the application to the relevant tax office are as follows:

i. A copy of the Certificate of Permission of the GDFI;

ii. The rental agreement for the liaison office (notarized);

iii. A signature sample of the representative of the liaison office (notarized and apostilled);

iv. A copy of the power of attorney granted to the representative(s) in Turkey;

v. A copy of the passport and work and residence permit of the representative of the liaison office (for foreigners) or a notarized copy of national ID and domicile certificate (for Turkish citizens); and

vi. The standard application form filled out and signed by the representative of the liaison office.

Registration with the Social Security Institution ("SSI")

For registration with the SSI the following documents are required:

i. A copy of the Certificate of Permission of the GDFI;

ii. A copy of the tax office registration certificate;

iii. The rental agreement for the representative office (notarized);

iv. A signature sample of the representative(s) in Turkey (notarized);

v. A copy of the power of attorney granted to the representative(s) in Turkey;

vi. A copy of the passport of the representative(s) (for foreigners) or notarized copy of ID and domicile certificate (for Turkish citizens);

vii. The standard Work Place Opening Notification Form; and

viii. The standard Employee Entrance Notification Form.

Reporting Establishment to the GDFI

As the final step, upon completion of the establishment process, due establishment of the liaison office is to be reported to the GDFI with the documents listed below: i. a copy of the rental contract of the liaison office, ii. a copy of the tax registration certificate, and iii. a copy of the application to the SSI.

If a liaison office terminates its activities, the termination and examination of business note that will be received from the related tax office has to be submitted to the GDFI. Liaison offices cannot claim any money transfer except the remainder after termination or liquidation. The GDFI may cancel the permits of a liaison office if the office is found to have violated legislation. Establishment of liaison offices in Turkey by Turkish entities does not have any legal grounds under Turkish law. However, in practice, by application to the relevant tax office, Turkish entities may open liaison offices by submitting (i) an application petition, (ii) a notarized board of directors resolution regarding the establishment of a liaison office and (iii) a copy of the rental agreement of the place which will be used as the liaison office.

Although Turkish law stipulates a list of required documents, the GDFI and relevant tax offices may always request, at their discretion, additional documentation or information while evaluating an application. One should bear in mind that in the regulated sectors, the process of liaison office establishment is subject not only to Turkish law, but also the applicable sector and specific legislation.