



Establishing a  
**Limited Liability Company**  
in Spain

# Establishing a Limited Liability Company in Spain

The Spanish limited liability company (Sociedad Limitada or SL) is definitely the most popular corporate form in Spain. This is the form adopted by most companies –including big international groups – willing to invest in Spain. Below is a guideline on how to incorporate a Sociedad Limitada in Spain. Reference is also made to the main aspects to be considered when setting up a business in Spain<sup>1</sup>.

## SHAREHOLDERS, MANAGEMENT

Spanish limited liability company (SL) can be incorporated by a single or several incorporators. The shareholder/s may be legal persons or natural persons. Foreign persons are also entitled to be shareholders.

When all shares are held by one sole shareholder a communication has to be filled within the Companies Registry (Registro Mercantil) informing about the identity of the said sole shareholder; in addition the word “unipersonal” will be added to the corporate name (SL becomes SLU).

The management and representation of a SL can lie with either one or multiple directors (being a legal person or a natural person). A minimum of three directors are required to compose a Board of Directors (Consejo de Administración). A non-shareholder may become a director, unless otherwise stated in the by-Laws.

Non-EU persons may become directors in a SL. However, foreign (even EU citizens) persons becoming a shareholder and/or director must first obtain a Foreign national identity number (NIE: Número de Identificación de Extranjeros). The above also applies to legal persons.

In addition to the above referred NIE, the following documents may be required for both shareholders and directors.

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<sup>1</sup>This guide is not intended to be a substitute for legal advice from qualified counsel, and thus should not be used for this purpose. Receiving, reading and/or using this guide does not create an attorney-client relationship between you and our firm or any of its employees and attorneys.

Individuals: Passport + NIE shall be enough. Should a proxy be required, said proxy must be drafted in Spanish or, if drafted in another language, it must be accompanied with sworn translation into Spanish and the Hague Apostille.

Legal entities (companies): We need to provide the Notary with an excerpt of the commercial register stating the company is dully registered and existing under the laws of the relevant country, including the name and faculties of the director who will act on behalf of the company for the formation of the Spanish SL. Said excerpt must be accompanied with a sworn translation into Spanish and the Hague Apostille.

If the name and faculties of the director are not mentioned in the excerpt (or the person who will act on behalf of the company is not a director) a specific Board Resolution appointing said representative and granting the relevant faculties will be required.

Finally, information as for the identity of the ultimate beneficial owner/s will be required by both the Notary and the lawyer engaged with the formation of the company.

## FORMATION AND REGISTRATION

The first thing to be done is to submit possible names for the company to the Central Companies Registry (Registro Mercantil Central) to check that no other company is registered under the same name. Provided there is not, you will receive a Negative Name Certificate (Certificado Negativo de Nombre). This process may take between 3 and 5 days. The said certificate allows the new shareholders to open a bank account in the company's name and deposit the required amount of share capital (see below). Bank will provide shareholders with a certificate to prove they have deposited the required capital. The two above referred certificates together with the company's by-laws are enough to prepare and execute the deed of incorporation, to be authorised by a Public Notary.

The whole process usually takes 12-15 working days in total. In addition you may allow two more weeks for the registration of the deed of incorporation in the Commercial Registry (Registro Mercantil).

<sup>2</sup> In accordance with Spanish Act of Money Laundering and Terrorism Financing Prevention (Ley 10/2010 de 28 de abril, de prevención del blanqueo de capitales y de la financiación del terrorismo).

<sup>3</sup> You will not be allowed to withdraw the money you have deposited until the company has been formally incorporated.



Pursuant to Spanish law, a SL can start trading at the moment when the company is incorporated (even before it is registered), provided a Tax Identification number (CIF) has been obtained and Tax Authorities have been informed about the beginning of the business activity. However, the shareholders will be personally liable for debts which arise (if any) from business activities undertaken prior to registration.

## Capital

The statutory minimum capital of a SL amounts to three thousand euros (3,000 EUR). 100% of this amount has to be fully paid prior to registration.

When capital comes from abroad, a declaration (form D1-A “Declaration of foreign investments in unlisted companies, branches and other types of investment”) must be presented to the Registrar of Investments of the Ministry of Economy and Competitiveness.

## Business Registration

Under certain circumstances, a permit to open business premises (Licencia Municipal de Apertura) may be required by municipal authorities.

## Tax Registration

New companies have to apply for a tax identification number (CIF) from Tax Authorities. In addition, newly founded companies willing to start its business activity in Spain must also file a formal statement (Declaración Censal de Inicio de Actividad) with the local Tax Office (Delegación de Hacienda).

## Bank Account

As mentioned above, shareholders may open a bank account under the (future) company’s name (“en constitución”) and deposit the required amount of share capital (minimum of 3,000.00 EUR) prior to the incorporation of the company. This is the most common way to proceed when founding a SL.

Nevertheless, contributions in kind are permitted in a SL with no need of a third party’s valuation.

A director of the company may also open a bank account once the new company is registered at the Companies Registry (Registro Mercantil).

## ACCOUNTS + RECORDS

At the end of each accounting year, a SL is obliged to draft year-end reports, profit and loss accounts, balance sheet and a list of assets as at the date of reference and also draft a report on the status for the company (Cuentas Anuales). The accounting and year end report has to be drafted in accordance to the Spanish accounting rules (Plan General Contable or PGC) and filed with the Companies Registry.

The above obligations have to be fulfilled even if the company has no business activity. However, smaller companies are only obliged to publish abbreviate annual accounts (Cuentas Anuales Abreviadas).

Our team of accountants and tax experts can take care of the above obligations and make sure your new company is 100% compliant.

## COSTS OF INCORPORATION

Incorporation costs consist of the notary's fees, Registro Mercantil fees and publication costs and, of course, legal fees involved in the drafting of incorporation documentation, assistance on the opening of a bank account and the granting of the constitution deed, applying for Company's Tax Identification Number, and taking care of all steps necessary for the registration of the new company under the relevant "Registro Mercantil", among other interventions.

Said costs may vary depending on the share capital, the number of shareholders, the number of directors, whether they are individuals or legal entities, among other factors.

We are very much used to incorporate foreign companies in Spain. Thus, we are in a position to provide our clients with a reliable estimate of all costs right after some basic information has been provided.

Capital duty: A 1% capital duty used to apply on share capital (to be paid within 30 days following the incorporation of the company). However, from December 3rd, 2010 no capital duty applies to new companies, but Spanish Government may decide to reintroduce the above referred capital duty in the near future.

### Corporate Income Tax

The standard Corporate Tax (Impuesto sobre Sociedades) rate –from January 1st 2016 – is 25% (coming from 30% in 2014 and 28% in 2015).

Notwithstanding the above, as of January 1st 2015, a new lower tax rate (15%) was introduced for newly-formed companies. The above referred low rate applies to the first two years in which the new company obtains a taxable profit (certain requirements have to be fulfilled).

Filing Requirements: The Corporate Income Tax return must be filled and taxes paid within six months and 25 days following the close of the fiscal year. Companies are required to make three advanced payments of income tax in April, October and December of each year.

### **Business Activities Tax** (Impuesto sobre Actividades Económicas)

Companies having a net turnover of more than one million euros per year (first two years of activity are exempted) are required to pay a Business Activities Tax, being charged depending on a number of factors, including industry type, number of employees and size of the premises.

### **VAT**

From September 1st, 2012, VAT is taxed at the rate of 21 % (coming from 18%). Certain services and products are taxed at a lower rate of 4% and 10%.

### **Social Security**

“General Risks” contribution represents 28.3% of an employee’s wages –up to a ceiling of 3,606.00 € per month<sup>4</sup> -, with the employer (the new company) paying 23.6% and employee paying 4.7% (+ 1,60% for unemployment benefits).

Said that, the new company may be eligible for some reductions in Social Security Contributions, provided certain requirements are fulfilled. Our payroll specialists will be more than glad to assist you in this regard.

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<sup>4</sup> From January 1st, 2015.

## **More information**

Should you need any further information and/or have any question regarding the above, do not hesitate to let us know.

We are aware every client has its own specific circumstances. We will be more than pleased to analyse your precise needs and offer you the best solution to set up your business in Spain.

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