

## Setting up a business in Spain

Setting up a business in Spain can be done using a variety of legal forms. Choosing one or another will be very much dependent on the needs and priorities of each investor. In this article we outline the most frequently used legal structures in Spain:

- *Autónomo* (Sole Trader)
- *Sociedad Civil* (Partnership)
- *Sucursal* (Branch)
- *Sociedad Limitada* or *S.L.* (Private Limited Company)
- *Sociedad Anónima* or *S.A.* (Public Limited Company)

### Autónomo

This is the simplest form. It is establishing oneself as self-employed. It does not require a minimum capital as the sole trader carries out the activity under his/her own name and tax identification number. It is normally used by people who offer services as freelance, professionals, etc... The sole trader has unlimited personal liability for all the debts of the business and is taxed through personal income tax.

### Sociedad Civil Privada or SCP

It is based on a partnership **agreement between two or more individuals whereby they contribute/invest certain amount, assets or work to carry out jointly a business activity and they share the profits generated by such activity in the proportion they have agreed**. The partnership agreement can be formalized by signing a private document or a notarial deed.

The *Sociedad Civil* does not require a minimum share capital, and can have its own name and its tax identification number (different from those of the partners) but each partner will have unlimited personal liability respect to its portion of the partnership.

When a *Sociedad Civil* carries out commercial trade or production activities, it will be taxed through Corporation Tax. For other activities such as agricultural, mining or livestock activities, it will be taxed through the personal income tax of each one of the partners.

A *Sociedad Civil* that carries out commercial trade or production activities will have similar registration, accounting and bookkeeping obligations than corporations.

### Sucursal

If you are a company in your own country, you can open a branch in Spain.

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A branch is a permanent establishment in Spain of a foreign company, it is not a separate or legally independent company. The branch will have the same name as the foreign parent company adding the words “Sucursal en España”. The branch does not require a minimum share capital but the foreign parent company will be responsible for any liabilities of the branch.

A *Sucursal* will have similar registration, accounting and bookkeeping obligations than corporations, and will be taxed through the Non-Resident Income Tax for the income allocated to the Branch.

**Sociedad Limitada or S.L.**

The *Sociedad Limitada*, with a minimum share capital required of 3,000 euros, is the most widely used type of corporation in Spain. The liability of the shareholders is limited to the capital contributed by each one of them. It is taxed through Corporation Tax.

A *Sociedad Limitada* can have one or more shareholders. If it has only one shareholder, it must disclose the identity of the sole shareholder in the mercantile registry.

The *S.L.* benefits from more flexible corporate procedures and it is easier to manage from a legal standpoint compared to a *Sociedad Anónima*.

**Sociedad Anónima or S.A.**

The *Sociedad Anónima*, with a minimum share capital required of 60,000 euros, has a more demanding and rigid regulation and nowadays is normally used for very large companies, listed companies or when the law requires it (banking activities, etc.). The liability of the shareholders is also limited to the capital contributed by each one of them. It is taxed through Corporation Tax.

A *Sociedad Anónima* can have one or more shareholders. If it has only one shareholder, it must disclose the identity of the sole shareholder in the mercantile registry.

The *S.A.* will normally be more expensive to manage from a corporate standpoint as the law requires certain formalities for the *S.A.* that are not required for the *S.L.*

**Main differences between S.L. and S.A.**

	<b><i>S.L.</i></b>	<b><i>S.A.</i></b>
Minimum share capital	3,000€	60,000€
Payment of the share capital	Full payment required upon incorporation	Minimum payment of 25% upon incorporation
Type of shares	Only registered shares	Registered or bearer shares
Negotiable shares	Not negotiable on a stock exchange	May be negotiable on a stock exchange
Transfer of shares to third	Right of first refusal in favor	Limitations are based on the

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parties	of the other shareholders is set by law	By-laws of the company
Number of directors	Maximum of 12 directors set by law	Number of directors not limited by law.

Foreign companies and individuals willing to set up a business in Spain need to analyze the advantages and disadvantages of each one of the legal forms and see which one fits better for them based on the size of the investment, the number of partners, liability preferences, taxes, etc. Our recommendation, whenever possible and unless other aspects must be prioritized, will always be to choose a form that limits the personal liability of the investor.

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