

how to do business in Turkey



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HOW TO DO BUSINESS IN TURKEY

INTRODUCTION

Dear Readers,

We are proud to meet you with the first issue of BSHK HATIP Law Firm.

Unfortunately, in these difficult days we are in, as the whole world sees how important health is, that health is the first and foremost thing in this life, and we once again express our gratitude to our health workers, the heroes of the COVID-19 process.

At the same time, during the COVID-19 pandemic period, we are excited to meet with you and issue our first issue.

We carefully follow all the measures taken by the state administration to reduce the impact of the pandemic in almost commercial, economic and legal transactions, and in this context we try to produce commercial and Legal Solutions on this issue.

As a law firm established in Turkey and opened to the world, we are aware of how important it is to share professional knowledge and experience with all our team from providing solutions and consulting services to our clients and business partners in the commercial and economic field during this period when the borders between countries are closed. As a result of this awareness, we realize our goals of opening up to the world by developing our methods of producing solutions together with our entire team, and we hope to meet you with such publications.

In the first issue of Bshk Hatip, due to the COVID-19 pandemic, we wanted to inform you about this by showing you how to start a company, continue company transactions, buy real estate, complete existing real estate transactions without coming to Turkey, complete Turkish citizenship acquisition transactions from your country and without having to come to Turkey.

Especially in recent years, our team is working hard to acquire Turkish citizenship through the purchase of real estate, which has been popular, and you can quickly complete your transactions without having to come to Turkey.

On the other hand, with our expert staff in the field of corporate law, we can produce solutions by completing your transactions on behalf of you without having to be in Turkey. We would like to note that the same care and effort will be taken in the continuity of this brochure, which we have collected under the title How to Do business in Turkey and all of which are prepared by our team.

We hope you enjoy this issue of BSHK HATIP LAW FIRM.

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IS IT POSSIBLE TO ESTABLISH A COMPANY WITHOUT BEING IN TURKEY?

It is possible to establish a company without coming to Turkey. For the establishment of the company, first, the partner / partners of the company must issue a power of attorney.

The power of attorney to be issued must be prepared for the establishment of a company and contain the authorization for all procedures that require signature.

Certain documents must be submitted to the Trade Registry for the establishment of the company. The documents showing the company's structure, capital, partnership structure, and docu-

ments containing information about the members of the board of directors. Besides submitting the documents, a bank account must be opened under the name of the company to be established. In addition, certain procedures such as depositing at least $\frac{1}{4}$ of the company's main capital in this bank account and obtaining a letter of blockage must be completed.

In order to establish a company without coming to Turkey through a power of attorney, all documents must be specified individually, and the lawyers concerned must be authorized. Likewise, transactions such as opening a

bank account, investing capital in the name of a partner must be specified individually in the power of attorney. Translations of the notarized copies of the partners' passports must also be submitted with the power of attorney.

In conclusion, the most important document for the establishment of a company without having to be present in Turkey is the power of attorney. The lawyers authorized by a power of attorney that is valid in Turkey will establish the company on behalf of the client.

IS THERE ANY DIFFERENCE BETWEEN FOREIGNERS AND TURKISH CITIZENS WITH ESTABLISHING COMPANY IN TURKEY?

The answer is “No”. According to “Foreign Direct Investment Law” numbered 4875 in Turkey, in line with the principle of equal treatment, foreign investors have the same rights as the local investors. This law stipulates that foreign investors may establish all types of companies stipulated in the Turkish Commercial Code, same as the Turkish investors.

1. Preparation Process for Foreign Natural Persons to Establish Stock Corporations

Turkish Commercial Code does not differentiate between foreign natural persons and Turkish investors in terms of company establishment and conditions regarding the transfer of shares.

The process required for a natural person who is not a Turkish citizen to establish a stock corporation can be examined in two sections under Trade Registry operations and Tax Office transactions.

2. Points to Consider Before Establishment

Regardless of the type of company to be established, before starting the establishment process, first the title of

the company, the scope of the subject of activity, who will be the manager or representative, the company address, the capital and the shares as well as the board of directors should be determined. In addition, before the establishment procedures, appointing a lawyer who has professional expertise on the subject will provide great convenience in terms of transaction security and for speeding up the process.

After settling the above-mentioned matters, a document proving the parents name and residence information of the foreign natural person who is establishing the company should be provided along with a notarized passport translation and a document showing the partnership structure of the company and a list of the documents to be requested from the foreign countries should be prepared accordingly.

TRADE REGISTRY PROCEDURES

a. Establishment Operations

In order to establish a stock corporation in Turkey, first, an application through MERSIS – the central registration system of the Ministry of Commerce – must be made. In this context, foreign natural persons must register to MERSIS prior to starting the establishment procedures on the system and obtain a MERSIS numbers. In order to complete these operations, the translated copy of the natural person's notary-certified passport and the potential tax number should be scanned and sent via e-mail to the e-mail address of the relevant Chamber of Commerce (for Istanbul: mersis@ito.org.tr).



b. Post-Establishment Transactions

After the application of establishment of the company and the approval of the said application, the establishment and the articles of association of the company are registered and announced in the Trade Registry Gazette. Next, a circular of signature approved by the notary public to provide the company's board of directors with the power of representing the company and if there is a company lawyer, a general power of attorney for the lawyer must be issued.

TAX OFFICE TRANSACTIONS

After the company is registered to the Chamber of Commerce, a certificate of approval obtained from the Chamber of Commerce must be certified by the notary public. The person to apply to the notary must be the Chairman of the Board of Directors authorized to carry out the transactions of the company and, if there are any, the other members of the Board of Directors.

After these procedures are finalized, the Tax Office to which the company is attached will send a government officer to the address specified in the company's articles of association in order to verify the existence of the company. The documents to be checked by this officer must include: if the proxy is present during the inspection, their power of attorney and the "Trade Registry Certification" issued by the Chamber of Commerce indicating the establish-

ment of the company. Following this inspection made by the Tax Office, the legal existence of the company is accomplished.

ADVANTAGES OF THE JOINT STOCK COMPANY

With the enforcement of the new Turkish Commercial Code, establishing a joint stock company has become advantageous. Indeed, the fact that the Turkish Commercial Code provides convenience for converting limited liability companies into joint stock companies shows that the legislative authority has desired to increase the activity of the joint stock companies in commercial life. Taking into consideration that approximately 85% of the companies in Turkey are limited liability companies, the new Turkish Commercial Code demonstrates that the legislative authority's inclination to ensure institutionalization and to enable growth via joint stock companies. It is possible to list the most important properties and advantages of the joint stock companies as follows:

1. Joint stock companies can be established with one person.
2. Members of the Board of Directors can be recruited from outside.
3. It is possible for the company to go public.
4. Joint stock companies are more prestigious in terms of organization and corporate identity.

Can I Convert My Limited Liability Company to a Joint Stock Company?

As mentioned above, the law offers great conveniences for converting the limited liability companies into joint stock companies. As important transfer rules, there is no obligation for joint stock companies to perform share transfer transactions via notary public and they are also not subject to stamp duty or fees. Owing to the advantageous procedures provided to joint stock companies, especially in terms of Tax Laws, it is also recommended by experts that other owners of stock corporations, such as limited liability companies, convert their companies into joint stock companies.

What are the Benefits of Joint Stock Companies in Terms of Public Opinion and Prestige?

Corporate image carries great significance in terms of achieving the expected goals in commercial activities and the first impression in the corporate field is of great importance. The fact that a first impression cannot be recreated makes it imperative to take every decision with great care. The companies that approach their customers with a solid infrastructure and corporate identity will always be advantageous and will be one step ahead of their competitors. Company name and identity are extremely important details in terms of corporate message. In this context, there are many incentives in the Turkish Commercial Code for the establishment of a joint stock company that meets all these requirements or for the conversion of other types of companies into joint stock companies.

For business persons who prefer their company to have a corporate identity, to be more organized, to have a high reputation and to be prestigious, it would be more advantageous for them and their company if the company is established as a joint stock company or continued its activities as a joint stock company.



Advantages of Joint Stock Companies compared to Limited Liability Companies

	Joint Stock Company	Limited Liability Company
Minimum Capital	It is established with a minimum capital of 50,000 TL	It is established with a minimum capital of 10,000 TL.
Number of Partners	It can be established with one person. There is no limit on the number of partners.	It can be established with one person. The number of partners cannot exceed 50.
Nominal Value of The Share	The nominal value of each share is at least 1 penny.	The nominal value of each share is at least 25 TL.
Registered Capital	It is possible to switch to this system at the company establishment or later.	The registered capital system is not applicable.
Going Public	It is possible to make the company public.	It is not possible to make the company public.
Bond Issuance	Can issue bonds	Cannot issue bonds
Management Right and Representation Authority	It is not mandatory for the company partners to be on the board of directors.	At least one partner must be a manager.
Attendance of the Ministry Representative to the General Assembly Meetings	<p>The attendance of the ministry representative to the general assembly meetings is obligatory in case of decision on the following matters:</p> <ul style="list-style-type: none"> • At all general assembly meetings of companies whose establishment and articles of association amendments are subject to the permission of the Ministry, <p>In other companies,</p> <ul style="list-style-type: none"> • increasing or decreasing the capital, • transition to the registered capital system and exit from the registered capital system, increasing the registered capital ceiling • amendment of the articles of association regarding the change of the subject of activity • merger, division or change of species 	Ministry representative do not attend the general assembly meetings.
Issuance of Shares	It is mandatory to print share certificates (Provisional certificates may be issued until the printing of shares).	Registered share certificates may only be issued only for the purpose of proving the partnership. They do not provide for tax advantages as in joint stock companies.
Transfer of Shares	<ul style="list-style-type: none"> - Bearer share certificates, only by delivery (with the transfer of possession). - Registered share certificates or provisional share certificates are transferred by endorsement and delivery. <p>There are no obligations of transfer before notary public, approval of the general assembly and registration in the trade registry.</p>	It is obligatory that the share transfer is completed via a notarized transfer agreement, that the general assembly approved the transfer and that the transfer is registered to the trade registry.

	Joint Stock Company	Limited Liability Company
Taxation in Share Transfer for Natural Persons	<p>Earnings arising from the sale of shares held for more than two years after this period are not subject to income tax.</p> <p>In addition, the cost value in the sale of shares is determined by increasing the rate of increase in the wholesale price index. In order to make this indexing, the rate of increase must be 10% or more.</p>	<p>Regardless of the time limit, the income from the share transfer is subject to income tax in any case.</p> <p>In addition, the cost value in the sale of shares is determined by increasing the rate of increase in the wholesale price index. In order to make this indexing, the rate of increase must be 10% or more.</p>
Taxation in Share Transfer for Legal Entities	<p>VAT does not arise in the share transfer, provided that there is a provisional certificate or a share certificate. 75% of the profit to be obtained in the sale of the shares held for at least two years will be exempted and 25% will be taxed.</p>	<p>VAT is not levied on the sale of shares held for at least two years.</p> <p>75% of the profit to be obtained in the sale of the shares held for at least two years will be exempted and 25% will be taxed.</p>
Responsibility for Public Debt	<p>The shareholders of the company are not liable for the public debts that cannot be collected from the company. However, if the shareholder is also on the board of directors, he has unlimited responsibility.</p> <p>Legal representatives (if the authority of representation has not been given to third parties as a managing member or manager, the board of directors; if the authority of representation has been given to third parties, these persons) are responsible for all the public debts with their public assets.</p> <p>The shareholder who is not a member of the board of directors is not liable for tax and social security premiums (4 / a) that cannot be collected from the company. For this, the entire capital must have been paid. The chairman of the board of directors can be appointed externally, there is no obligation for the chairman to be a shareholder. In this way, this is a possibility to be not held personally liable which is especially important in tax offenses that require smuggling penalties.</p>	<p>The shareholders are held liable for the public receivables that cannot be collected from the company in proportion to their capital share contributions.</p> <p>Legal representatives (shareholder / shareholders or third parties who act as managers) are liable with their personal assets.</p> <p>Shareholders are responsible for the company's tax and social security (4 / a) premium debts that cannot be collected from the company and the manager with all of their personal assets. Company shareholders are responsible not only with the amount of capital they contributed, but also for the rate of capital. For example, if the company's capital is 10 thousand but its tax debt is 100; the responsibility of the shareholder with 50% of the shares is 50 thousand. If this is a shareholder manager, he is responsible for the entire debt.</p>
Meeting and Resolution Quorum in Articles of Association Amendments	<p>Where shareholders holding half of the company capital are present at the meeting, majority of votes is required for a resolution.</p>	<p>Decision of the shareholders representing two thirds of the company is required.</p>
Bookkeeping	<p>Mandatory ledgers: Journal, general ledger, inventory, company stock ledger, general assembly meeting and negotiation book, board of directors resolution ledger.</p>	<p>Mandatory ledgers: Journal, general ledger, inventory, company stock ledger, general assembly meeting and negotiation ledger.</p> <p>The decisions of the Board of Directors / Managers can be recorded in the general assembly meeting and negotiation ledger, or in a separate ledger of board of directors.</p>

Advantages of Joint Stock Companies in Terms of Income Tax

In limited liability companies, besides the aforementioned stamp duty and fees, the transferor may be required to pay "income tax."

According to the repeating article 80/4 of the Income Tax Law, the transfer of limited liability company shares, regardless of their transfer within 3 years or 10 years, are subject to income tax as "capital gains. The 8,800 Turkish Liras of the income is exempt from the income tax and the exceeding part is subject to an income tax between 15% and 35%.

Advantages in Converting Limited Liability Companies into Joint Stock Companies

In case of the conversion of a limited liability company into a joint stock company;

1. Since the transfer of shares will be a "transfer of shares" of the joint stock company, the transfer is not subject to stamp duty and fees.
2. The transfer is not required to be made before a notary public.
3. In terms of income tax, if the limited liability company is converted into a joint stock company and a "share certificate" or a "provisional certificate" is printed immediately afterwards, the acquisition date of the share certificate or the provisional certificate is accepted as the "date of establishment of the limited liability company." In addition, there is no income tax two years after the acquisition date.

Accordingly, the most sensible way in terms of transfer is not by transferring the shares of the limited liability company directly, but by converting the company into a joint stock company and issuing share certificates or provisional share certificates which will provide exemption from stamp duty, fee and income tax.







IS IT POSSIBLE TO PURCHASE A REAL ESTATE WITHOUT COMING TO TURKEY?

CAN YOU PURCHASE A REAL ESTATE IN TURKEY WITHOUT COMING TO TURKEY?

Directorate General of Land and Cadastre Department of Foreign Affairs is authorized to make the necessary arrangements and conduct all proceedings to make possible that Turkish citizens and foreign natural or legal persons abroad may carry out any and all kinds of land and cadastre operations in Turkey from the country they are currently in.

The legal regulations now allow land registry procedures to be completed from abroad. Turkish citizens who live abroad and even foreign natural or legal persons, without having to come to Turkey for sale and purchase of real estate or establishment of mortgage, may purchase immovable property from Turkey or sell their immovable property in Turkey.

Foreign Representative Offices of Directorate General of Land and Cadastre may request information, relevant documents and authorization online regarding the land registry proceedings of immovable property registered in Turkey from the Directorate of Land Registry to which the real estate is registered provided that the request clearly identifies the parties to the proceedings and the subject of the request.

Authorization of Foreign Representative Offices

After a request for a particular transaction is made to the foreign representative offices, "authorization" of the office concerning the execution of the said transaction as well as the relevant doc-

umentation for the real estate will be requested from the land registry where the real estate is located. Under normal circumstances, the application for land registry transactions are made to the land registry office where the immovable property is geographically located. However, authorization may be requested from any land registry office without an obligation to apply to the office where the real estate is located. Applications from abroad may be made without being in Turkey via Foreign Representative Offices of Directorate General of Land and Cadastre.

Once the documents relevant to the transaction are submitted to the foreign representative office, the office shall request authorization from the Directorate of Land and Cadastre where the immovable property is located.

Transactions to be Carried Out by Foreign Representative Offices

When authorization is granted, the following statement must be written under the declarations column of the land register page belonging to the immovable property/properties: "Foreign Representative Office of Directorate General of Land and Cadastre in is authorized for the transaction. Date/TAKBIS application number."

(Under article 24 paragraph 3 of the Land Register Regulations, in applications to Foreign Representative Offices of Directorate General of Land and Cadastre, if one or more than one of the applicants do not speak Turkish, a translator shall be present at the proceedings.)

For the transactions that do not require the drafting of a contract, a document of request, and for the transactions that require a contract, an au-



Authenticated contract shall be prepared by the foreign representative office and submitted for the signature of the parties.

According to the type of the transaction, title deed and/or mortgage certificate shall be prepared by the foreign representative office and presented to the parties.

Certified copies of the title deed and/or the mortgage certificate as well as the authenticated contract the document of request prepared by the foreign representative office that carries out the transaction will be uploaded to TAK-BIS e-archive in addition to the color scan of the originals and other relevant documents; following this, a request will be electronically sent to the authorizing district/county directorate of land registry on the same day or the first business day following the date of the transaction in order for the activities of annotation, recording, cancellation or registration regarding the immovable property to be completed.

As a result, all transactions carried out at the foreign representative office will be under record with the specific information on date and time which will prevent the applicants to suffer from any loss of rights.

What is to be Done When Seller and Purchaser are at Different Locations?

Some transactions such as sale and purchase transactions that are planned

to be carried out via foreign representative offices of land and cadastre are bilateral and require the signature of both the seller and the purchaser. Land Registry Law (article 26/2) solves the problem of seller and purchaser being in different locations as follows: In contracts regarding the transfer of ownership of immovable properties, in case the parties are present at different directorates of land registry or foreign representative offices, the contract may be concluded by obtaining the parties' consents separately by the officials.



What to do if the Application is Denied?

The decision of rejection made by the foreign representative offices of land and cadastre may be objected within 60 days from the date of notification before the relevant representative office to be submitted to the Directorate General of Land and Cadastre.

If the objection is accepted by the Directorate General, the transactions shall be carried out according to the abovementioned procedures.

Countries Where Foreign Representative Offices are Located

There are foreign representative offices in Germany, the United Kingdom, Greece, Austria, Netherlands, Denmark, Norway, Russia, Belgium and Qatar. In addition, two representative offices are planned to open in Turkic Republics.

For the applications made in countries where there are no foreign representative offices, you may issue a power attorney to us as your lawyers at the Turkish Embassies and Consulates in your country of residence. With this power of attorney authorizing us for the real estate purchase transactions, our team of experts shall diligently carry out the relevant procedures on your behalf.





ADVANTAGES OF ESTABLISHING A JOINT STOCK COMPANY

The two most preferred types of companies in the global financial world are the Joint Stock Companies and Limited Liability Companies. It is important to know the advantages and disadvantages of these two types of companies, particularly for entrepreneurs who are considering to establish a start-up. Among these types of companies regulated in the Turkish Commercial Code, Joint Stock Companies have more important and substantial advantages over Limited Liabilities.

Advantages of the Joint Stock Company in Terms of the Responsibilities of the Partners

- In Joint-Stock Companies, shareholders' responsibilities regarding corporate debts are limited. ***The partners are solely responsible for fulfilling the capital they owe.***
- ***The partners can not be held responsible for the public debts of the company.*** This special nature of the Joint Stock Companies ensures that the shareholders' personal assets are exempted from the losses

and risks of the company. Therefore, the most preferred company type in the global economy is the Joint Stock Company.

- For Limited Liability Companies, there is no sharp restriction as in Joint Stock Companies. The partners are responsible for the public debt of the company ***limited by the share they hold*** (Tax, SGK premium debt, etc.). Therefore, all ***shareholders in the company are directly responsible with all of their assets*** due to public debt of the company.
- When the responsibilities of partners are compared in both types of companies; shareholders of Joint Stock Companies have limited liability only to the capital they owe, therefore, this is one of the primary reasons Joint Stock Companies are preferred in the global financial world.

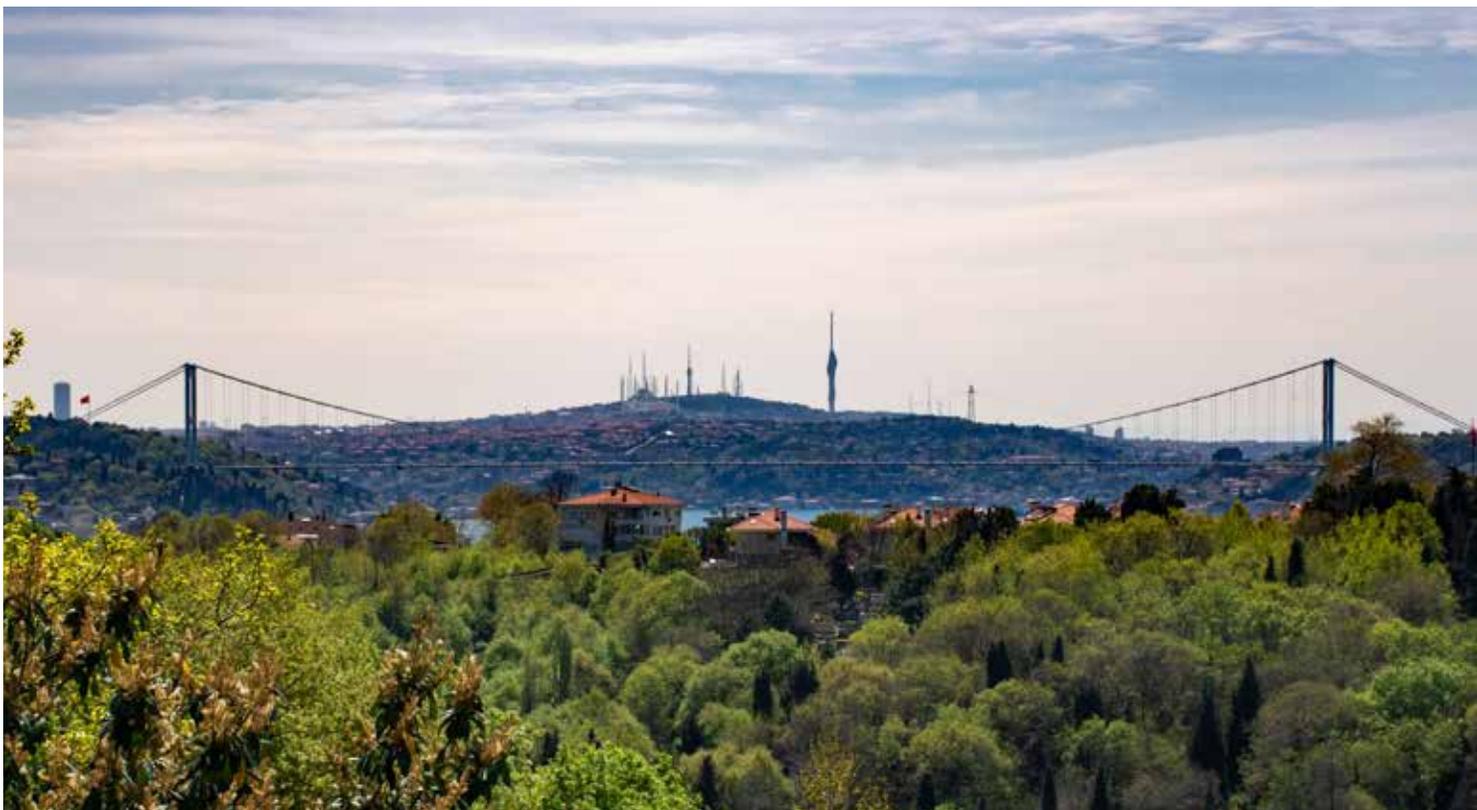


The Absence of obligation of Joint Stock Company Partners to Become Administrators

- In Joint-Stock Companies it is possible for shareholders to become directors at the Board of Directors, **but it is not compulsory for at least one shareholder to become a director.** According to common practice, shareholders in Joint Stock Companies do not hold positions in the Board as Directors and Legal Representatives. The management organization is managed by expert and professional, in the areas where the company operates. This provides a more functional and effective progression for the company. The obligations arising from the public debts and criminal responsibilities of the company are undertaken not by the partners but by the persons assigned to that position. By this way, the responsibilities of partners are significantly limited.
- In limited liability companies, management activities are also carried out by the directors. With the company

contract, the management and representation of the company may be granted to one or more partners or all partners or third parties bearing the title of manager. **However, one partner at least has to assume management and representation authority of the company.** The obligations of legal representatives and management, **which are obliged to undertake by at least one of the partners, constitutes an economic risk in common and also imposes legal and criminal liability arising from the managerial position of the partner.**

- When comparing the two type of companies; with the regulation of the new Turkish Commercial Code, the necessity of having at least one partner in management position, even if it is possible to assign manager/s who are not shareholders of the company, increases the scope of the liability limit and increases the risk factor. In this regard, particularly Limited Liabilities with single-partner are faced with unexpected economic, legal and penal risks and challenges.





Advantages of Joint Stock Companies in Terms of Share Transfers

- In Joint Stock Companies, the shares are divided into two types as registered share and bearer share:
 - » Registered shares may be transferred unless original contract expressly provided otherwise. The transfer of registered shares occurs by turn over and submission to transferee.

The transfer of bearer share take effect to the company and third parties only with submission of the shares.

- In the case of limited liability companies, capital share and share transfers are as follows:
- **The transfer of the shares are only possible by the notarized transfer agreement.**

At least four-thirds of the partners', which must hold at least four-thirds of the capital base, approval is required before the transfer of shares.

- A notarized sample of signature notarized transfer contracts and decision of the Board of Directors indicating the approval of the transfers, must be submitted to the trade register office.
- At the beginning of common mistakes, there is the assumption that the transactions are completed after the capital share transfer of the Limited Liability Company is realized in the notary. **But in fact, it is not deemed legitimate as long as the transfer of the capital share together with the consent of the partners are not given for registration to the trade registry office.**
- When comparing two types of companies; the procedural simplicity of share transfer of Joint Stock Companies makes an impor-

tant contribution to the rapidity and effectiveness of commercial activity and therefore plays an important role in the choice of Joint Stock Companies.

Joint Stock Companies may be preferred for; minimizing the financial liability and risks of both partners' commercial activities and personal property assets, the easy and rapid change of the capital shares, and the advantages in terms of management.



DIFFERENCES BETWEEN JOINT STOCK COMPANIES AND LIMITED LIABILITY COMPANIES

What Makes Joint Stock Companies More Desirable?

The two most commonly preferred types of company in Turkey are joint stock companies and limited liability companies. It is important to know the advantages and disadvantages of the two types, particularly for entrepreneurs who consider launching a start-up. In terms of these companies regulated in the Turkish Commercial Code, joint stock companies appear to have more important and substantial advantages over limited liability companies.

1. Capital

- The minimum capital required for the establishment of a joint stock company is fifty thousand Turkish Liras. In joint stock companies where the registered capital system is adopted, the initial capital may not be less than one thousand Turkish Liras. In this system, the Board of Directors has the authority to increase the capital up to a

designated amount in the articles of association.

- For limited liability companies, it is possible to establish the company with a capital of at least ten thousand Turkish Liras.

2. Public Offering

- Under Turkish Law, only joint stock companies are entitled to conduct public offerings.

3. Presence of Attorney

- Joint stock companies with a minimum capital of two hundred fifty thousand Turkish Liras are mandated to make a consulting agreement with an attorney.
- There is no requirement for limited liability companies to have an attorney present.

4. Number of Shareholders

- Limited liability companies and joint stock companies may both be launched with a single shareholder.
- In joint stock companies, there are no restrictions as to the number of shareholder.
- Limited liability companies cannot have more than 50 shareholders.

5. Liability of the Shareholders

- In joint stock companies, shareholders' liabilities regarding corporate debts are limited. The partners are solely responsible for fulfilling the capital they have

committed and only to the company. The partners cannot be held liable for the public debts of the company. This characteristic of the joint stock companies ensures that the shareholders' personal assets are exempted from the losses and risks undertaken by the company.

- For Limited Liability Companies, there is no strict restriction regarding shareholder liability as in joint stock companies. The shareholders are personally and directly liable for public debts that cannot be collected from the company (such as tax debts, SSI employer premium debts, etc.), in proportion to their capital shares.

6. The Obligation for the Shareholders to be Managers

- In joint stock companies, it is possible for the shareholders to participate in the Board of Directors as managers; however, it is not obligatory for at least one shareholder to be a member of the Board of Directors. According to common practice, shareholders in joint stock companies do not usually hold positions in the Board of Directors as managers or legal representatives. Experts and professionals of the fields in which the company operates manage the company. This provides a more functional and effective operation for the company. The obligations arising from public debts and criminal liabilities of the company are undertaken not by the shareholders but by the persons assigned to that position. The responsibilities of shareholders are thereby limited significantly.



- In limited liability companies, the directors carry out the management operations. Management and representation of the company may be granted to one or more shareholders or all shareholders or third parties bearing the title of manager by the articles of association. However, at least one shareholder has to assume management and representation authority of the company. The obligation of legal representation and management by at least one shareholder constitutes an economic risk for the said shareholder, and also imposes legal and criminal liability arising from the managerial duties. In this regard, particularly limited liability companies with single-shareholder face unexpected economic, legal and penal risks and challenges.

7. Withdrawal and Expulsion of Shareholders

- In joint stock companies, the shareholders cannot be expelled from the company by court order. If a shareholder does not pay the share price and further fails to make the payment with interest upon pay-

ment request, they will be deprived of the shares they have committed.

- In limited liability companies, the articles of association may provide causes for withdrawal or for expulsion by resolution of the general assembly. In addition, in cases where there are justified reasons for a shareholder to withdraw or to be expelled, the interested party may apply to the court. The shareholder who wishes to withdraw from the company may request the real value of his/her capital share.

8. Share Transfers

- In joint stock companies, it is not mandatory to perform the transfer of shares before the notary public or to register these transfers in the trade registry. In joint stock companies, the shares are divided into two types as registered shares and bearer shares:
- Registered shares may be transferred freely unless otherwise provided in the articles of association. The transfer of registered shares occurs by endorsement and delivery to transferee.

- The transfer of bearer share certificates takes effect for the company and the third parties only after simple delivery.
- Procedural convenience of share transfer in joint stock companies meets the speed and efficiency requirements of business.
- In limited liability companies, transfer of shares is subject to certain conditions and formal requirements. The transfer must be made by a notarized transfer agreement, the approval of the general assembly (Shareholders holding at least three quarters of the capital must approve) and the share transfer must be registered in the trade registry. If the transfer is not registered, the transfer shall not be deemed legally valid.

In conclusion; joint stock companies may be preferred over limited liability companies for minimizing the financial liabilities and risks for the shareholders commercial activities and personal assets, the easy and rapid transfer of capital shares, and the various advantages in terms of management.





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LAW FIRM

This study has been prepared by taking into consideration the conditions in Turkey in the year 2020 by company employees of **BSHK | HATIP** law firm.

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