

BULLETIN

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ESTABLISHING BUSINESS IN TURKEY – 10 ESSENTIAL STEPS

Strategic location, robust economy, skilled and competitive labor force, lucrative incentives and many more are factors that encourage foreign investors to invest in Turkey. However, a professional investor must be careful and accurate before taking any investments step in a foreign country.

1. LEGAL STUDY AND OVERVIEW

Individuals and companies seeking to enter the Turkish market, establish partnerships in Turkey, import or export, or carry out any trade or industry related to Turkey, must have a comprehensive and professional legal, financial and tax studies and overview on the field of their business in Turkey.

- The investor shall familiarize himself with all Turkish legislation related to the client's field of business,
- Appointing professional counsels and advisors to provide legal financial and tax due diligence, feasibility study and advice on the investment type and legal structure,

2. DECIDE ON THE BUSINESS MODEL

Regardless of what country you plan to operate your business in, establishing a well-advised legal structure and business model will make you look more serious and professional entity. Creating the right entity will be the first step in putting your business on the path to success. Some examples are:

- Joint Venture (with a partner in Turkey),
- Acquisition of a company in Turkey,
- Capital Investment in a company in Turkey,
- Establishing joint stock or limited liability company in Turkey,
- Opening a branch in Turkey,
- Establishing a Liaison office in Turkey.

3. SHAREHOLDERS AGREEMENT

The shareholders agreement intends to regulate the relationship between the shareholders and outlines the way in which the company is to be run. The shareholders agreement organizes the management of the company, the rights and responsibilities of the shareholders, the prevention of possible disputes, and the protection of confidentiality among the shareholders.

The shareholders agreement also ensures that shareholders are protected and treated fairly, and it allows them to make decisions on the third parties who may become shareholders in the future.

Unlike a company's Articles of Association, the Shareholders' Agreement does not need to be filed to the Trade Registry, therefore, it does not have to be made available for public inspection. It can include clauses that cannot be included in the AoA.

Having a well drafted SHA will protect the investor and minimize future conflicts.

4. JOINT VENTURE

Joint ventures is a common way of doing business in Turkey in cases where an existing company Turkey is part of the investment. A joint venture (JV) is a business arrangement in which two or more parties agree to combine their resources for the purpose of accomplishing a project.

A joint venture agreement allows the parties to set the ground rules and define each other's obligations to ensure that the business partners are protected in case of a joint venture dispute. The venture is a separate entity from the partners. However, it can't be registered as a company. Therefore, we advise to include the JV Agreement the establishment of a company.

Although the JVA is different from the SHA, it can contain similar clauses to the SHA.

5. ESTABLISHING COMPANY

The steps of establishing a company in Turkey are in general:

- Preparing and collecting the required documents,
- Drafting the Article of Association,
- Documents shall be notarized,
- Registering through MERSIS (Central Registration System),
- Opening a bank account for the company and deposit 25% of the capital,
- Application to the Trade Registry Office for registration procedure,
- The legally required books are certified by the Trade Registry,
- Company Establishment Declaration is issued from Tax office,
- Signature Circular for the company is issued.

6. REQUIRED LICENSES and PERMITS

All licenses and permits required by law for the relevant field of investment shall be obtained, to avoid penalties or even closing the company's facilities.

7. SETS OF CONTRACTS

Sets of contracts shall be drafted and revised in the first stage of an enterprise life, to protect the tangible and intangible assets of the enterprise and to preserve the workflow, for example:

- Supply agreement,
- Sales Contract,
- Purchase Orders,
- Terms and conditions of your services and a privacy policy,
- Employment Agreement
- Loan agreement,
- Non-Disclosure Agreement,
- Independent Contractor Agreement.

8. EMPLOYMENT ISSUES

- Employing or terminating employment shall be done with contracts compliant with Turkish Labor Law.
- The company shall not record Personal Data more than what is permitted by the Personal Data Protection Law N.6698.
- Work permits for foreign employees shall be obtained.
- Written policies setting standards for employees and their relationship with upper management, including penalties.
- Employees' performance shall be recorded.

At BSHK & HATIP we can establish an employment system for the company compliant with Turkish laws, Draft legal documents to protect the company and minimize future dispute risks, also assuring that all employees are legally registered.

9. INTELLECTUAL PROPERTY RIGHTS

- All intellectual properties (trademark, patent...) belonging to the company shall be registered officially in Turkey to be protected.
- Special agreement shall be signed with employees to protect current and future IP rights.
- A research is required to avoid infringement of already existing IP rights in Turkey.
- Signing license agreement if required.
- Intellectual Property Assignment Agreement could be in place to protect the IP of a founder from a potential legal challenge if a dispute arises over ownership.

10. TAX, FINANCE, INTERNATIONAL TRADE

Any investor shall take into consideration, make calculations and take professional advice on tax issues and how it can be reduced. Also, the investor should familiarize himself with the financial requirements and obligatory statements, and use the services of professional financial advisor. Furthermore, as needed by most sectors of investment, the investor shall know the standards of customs requirements and procedures, importing, exporting and other international trade requirements.

With the support of our professional and experienced business partners of tax, financial and international trade professionals, we can cover all the needs of the client in his new investment.