



# Registration of a Representative Office in Ukraine

## ■ Introduction

Making business in the Ukraine is embedded into a quite unique market situation. On the one hand the country is associating itself towards the European Union by initializing reforms and rejuvenating its authorities. This atmosphere of change promises massive chances to capture a remunerative market. On the other hand the country conducts its heritage of the former Soviet Union including laws and regulations, specific local accounting standards, a variety of different authorities directly impacting the business world by a high level of bureaucracy and corruption.

Excellent personal relationships and creation of trust are essential to establish a successful joint venture or market presence. HWC is combining local expertise with Western European business manner and acts as the interface between you and this complex environment. Adapting your business to the Ukrainian market, consulting on business relevant decisions and supporting with business services is our core competence.

## ■ General information

A representative office ("RO") of a foreign company is similar in concept to a branch, which is commonly accepted in the law of numerous jurisdictions. At the same time, the relevant Ukrainian legislation fails to provide any guidance as to the procedure, which must be followed by a foreign legal entity, in order to open its branch in Ukraine. As a result, in practice, foreign legal entities do not carry out their business activities through branches, but rather through their ROs or their owned subsidiaries, which, as a rule, established in the form of a limited liability company.

## ■ Main characteristics of RO

- A RO is not deemed to be a Ukrainian legal entity and acts in the name of its head office. Consequently, the powers of a head of a RO are limited to those are granted by the relevant power of attorney issued by the head office. In other words, any RO cannot enter into any deals in their own name but should act only on behalf of its head office.
- The notion of a commercial and non-commercial ROs is not recognized by Ukrainian law. From the legal perspective there is no differences between commercial and non-commercial ROs.
- The difference between commercial and non-commercial ROs crystallizes at the level of taxation.
- A non-commercial RO, as a rule, performs marketing, advertising and other auxiliary and preparatory functions on behalf of its head office.
- A commercial RO, as a rule, carries out activities, which can be treated as the statutory activities of its head office.
- The overlap of the activities of a RO and statutory activities of its head office creates a "*permanent establishment*" for of the head office, unless relevant protection is granted by a relevant double tax treaty signed between Ukraine and country of residence of the head office.

## SPECIFICS OF REGISTRATION A REPRESENTATIVE OFFICE IN UKRAINE

No	Steps and Documents	Comments
<b>1</b>	<b>Foundation Meeting</b>	Foundation meeting is to be held by the individuals authorized by the statutory documents of a founder or by the relevant power of attorney issued by a founder.
	Power(s) of attorney (if any) Minutes of the Foundation Meeting*	Both power(s) of attorney and Minutes are to be notarized and affixed with the apostille at the place of issuance (for documents to be executed not in Ukraine).
<b>2</b>	<b>Charter</b>	
	Provisions of establishment	Being no legal entity any RO <b>has no</b> Charter. Instead of the Charter, some of the ROs has the "Provisions of establishment". This document includes the essential characteristics of a representative office (e.g. founder's details, status, goals of the RO, etc.). From practical side of view, this document is not obligatory in Ukraine, but can be used as one of the arguments to confirm non-commercial status of a RO (e.g. based on the non-commercial goals of a RO, which are rather of auxiliary and preparatory nature).
<b>3</b>	<b>Registration in the Ministry of Economic Development and Trade of Ukraine</b>	In general, foreign founders prefer to involve properly authorized Ukrainian lawyers.
	<ul style="list-style-type: none"> <li>▪ Application (free form)</li> <li>▪ Extract from a commercial (court) register of country regarding a founder.</li> <li>▪ Certificate from the bank where a founder has its account opened.</li> <li>▪ Power of attorney (for the particular person e.g. for a "director") to perform the representative functions on behalf of the head office.</li> </ul>	The application can be prepared in "free form". Nevertheless, it has to include the information, which is directly required by the Ukrainian law. The extract from the commercial (court) register regarding the founder, as well as certificate from the founder's bank are to be notarized and affixed with apostille at the country of issuance (for documents to be executed not in Ukraine). Please note that the registration in the Ministry may takes <b>up to 3 months</b> .
<b>4</b>	<b>Registration fee</b>	When the documents above submitted the registration fee is to be paid
		The fee constitutes <b>USD 2,500</b> . The fee is to be paid in foreign currency from a founder's bank account. Bank commission (if any) for the transfer of money has to be paid on top.
<b>5</b>	<b>Registration in Tax Office and Social Funds</b>	
	In general, the list of the documents for the registration in the tax office and Social Funds is similar to the list of the documents required for the registration in the Ministry of Economic Development and Trade of Ukraine (see above). In addition, the registration certificate, issued by the Ministry, is must. Certain additional documents may be required as well (e.g. lease agreement, powers of attorney, notarized translations, passports, the management's ID tax codes, etc.).	Given that the ROs are registered by the Ministry of Economic Development and Trade of Ukraine (not by the State registrar) the principle <b>"one stop shop"</b> does not work. Correspondingly, the representative offices shall perform individually its registrations in tax office and social funds.

No	Steps and Documents	Comments
6	<b>Bank Account</b>	The Ukrainian legislation presumes two types of the bank accounts for the representative offices, namely: (1) accounts of the <b>“N” type</b> for the representative offices that are not engaged in business activities in Ukraine, and (2) accounts of the <b>“P” type</b> for the commercial representative offices
	In general, the list of the documents for the opening of the bank account is similar to the list of the documents required for the registration by the Ministry of Economic Development and Trade of Ukraine (see above). Nevertheless, certain additional documents may be required, depending on the type of account (e.g. lease agreement, powers of attorney, notarized translations, passports, the management’s ID tax codes, etc.).	In general, the choice of a servicing bank is the sole responsibility of a founder. This is due to the fact that different banks in Ukraine have different internal procedures and services’ conditions. The Ukrainian lawyers may support at the stage of analyzing of the bank agreement and may arrange notarization of the required bank’s signature card (other documents). In other words, the presence of the individuals, who will authorize a RO’s payments from Ukraine, is required to open bank account.
7	<b>Seal</b>	
	<b>The use of a company’s seal is not mandatory in Ukraine. The representative office, being not a legal entity, should not require a seal at all. Nevertheless, the seals are widely used in practice by both companies and ROs registered in Ukraine.</b>	Courts and state authorities usually accept powers of attorney issued by legal entities only if they are sealed. Certificates and applications signed by a company’s or a RO’s officials but not sealed are still considered by state authorities as not trustworthy, unless they have been signed in front of a state official. Among the exceptions are tax records, as tax authorities accept them in paper form without the seal if a signee marks the record with “w/s” (“without seal”). In order to apply this “privilege” the absence of seal is to be directly presumed in the Charter of a company or in Provisions of establishment of a representative office.
8	<b>Other</b>	
		Requirement to have lease agreement confirming a RO’s location was abolished. In practice, however, it may still be required by different authorities for verification. Moreover, the issue of legal address’s existence has to be settled prior any registration.

\*If the Minutes of the Foundation Meeting prepared and signed by the Ukrainian lawyers, properly authorized by the founder, the document is bilingual (i.e. in Ukrainian and in a language of the country of original). In this case only notarization of the signature of a translator is to be performed in Ukraine, i.e. no founder’s involvement required.

The information above is general in nature and does not highlights the situation of any particular company or individual. Although no one should act and rely upon such information without appropriate professional advice provided after detailed investigation of the concrete situation.

In case of need for additional advice on the issues above, please contact us.

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## Who we are?



**Dipl.-Kfm. Sven Henniger**  
**Partner**

### German

- 9 years experience as CEO in Ukraine and CIS
- Board member of the German Business Club in Ukraine (DWK)
- Head of working group “Tax and Accounting” at the German Business Delegation (AHK) in Ukraine (future AHK, 2012-2015), since 2016 Deputy Head
- German/ English/ Russian
- Hobbies: Sailing, Travelling



**Dr. Thomas Winkelmann**  
**Partner**

### German

- 20 years experience in leading position for different Global Companies in the Ukraine
- Last 15 years in leadership position in the Ukrainian subsidiary of leading global consulting company
- Board member of the German Business Club in Ukraine (DWK)
- German/ Russian/ English
- Hobbies: Diving, Travelling

## Our Services

### HWC LLC Outsourcing Services

- Accounting Outsourcing & Financial Services
- HR & Payroll Solutions
- Tax Compliance & Tax Advisory Service
- Interim Management
- Legal Address & Business Address
- Office Sublease, Co-Working
- Recruiting & Outstaffing
- Liquidation Services

### HWC LLC Business Services

- Business Set Up
- Market Analysis & Research
- Business Planning
- Feasibility Studies
- Strategy Consulting
- Due Diligence & Transaction Services
- Restructuring



# Making your business work – is what we do!

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