

Establishing Representative Offices in Vietnam

A representative office helps a company effectively gauge the business environment; allowing it to conduct its own market research and study the industries that interests them. It is a liaison office for the parent company that pursues business opportunities for the overseas headquarters in providing economic, trading scientific and technical services.

An RO, however, cannot engage business directly with local companies since it is forbidden to conduct any revenue-generating activities. However, once the contract is signed between the parent company and Vietnamese companies and organizations, an RO can help ease the execution of contracts on economic cooperation, trade, scientific and technical commitments. This stipulation goes on further to forbid an RO to issue and use its own invoices. This is an advantage because it reduces the accounting and tax compliance burden for an RO; making it the most inexpensive entity for foreign businesses in Vietnam.

Condition to set up RO in Vietnam

The company must be incorporated and come into operation at least 1 year from the date of establishment or registration before being granted the License for Establishment of Representative Office in Vietnam.

Furthermore, the business lines of the company must be consistent with that in Vietnam's Commitments to treaties to which Vietnam is a signatory. Some business sectors can be entitled to be granted an RO license by Vietnam's Ministry of Industry and Trade including trading and distribution, market research, management consulting, manufacturing-related services, repair & maintenance services, etc. Other business sectors will be subject to different licensing authorities.

Application procedures and timing

Initially, a foreign company wanting to establish a representative office in Vietnam must first submit an application for a license to the Provincial Department of Industry and Trade. The RO must then proceed to making a seal, obtaining RO tax code, opening bank account and obtaining work permit for expatriates.

The application process can take three to six weeks.

An RO license is valid for five years with an option to renew afterwards.

Required documents

Copies of the documents detailed below must be certified by the Vietnamese consulate in the country where the headquarters is located. It must also be translated into Vietnamese and certified by authorized agencies in Vietnam or abroad. The required documents include:

- Certificate of incorporation or business registration certificate of the parent company; in case the above document does not show the business lines of the company, another government certified document showing that information must be provided
- An audited financial report of the company OR Certificates of fulfillment of tax liabilities or financial obligations of the last fiscal year or equivalent documents as proof of existence and operation of the foreign company;

The company must also prepare duly signed copies of the following documents: the RO application letter and the chief representative appointment letter.

These documents must be submitted in Vietnamese together with the signature of authorized representative and company chop or seal. In case the company does not have a common seal, a government certified document verifying the authenticity of the authorized representative's signature will be considered.

The foreign company also need to submit the original copy of office lease agreement in Vietnamese to authorities. It is necessary to verify that the landlord is certified to rent the office as well.

Hiring staff

ROs have the right to directly employ both Vietnamese and foreigners to work for them. There is no restriction on the number of local and expatriate employees that a representative office can hire for as long as their employment is properly documented. All expatriate hires including the chief representative are required to get a work permit.

The chief representative

The chief representative can be a local or expatriate hire. This person will not allowed to concurrently hold the following positions during tenure: head of a branch in Vietnam; legal representative of the foreign entity allowed to sign contracts without written power of attorney from such foreign entity; or being a legal representative of an enterprise established pursuant to the laws of Vietnam. A Vietnamese chief representative must submit a copy of their identity card or passport while foreign chief representative must provide a passport copy. Copies must be certified by either local or foreign authorities.

Required capital

There is no capitalization requirement for an RO. They are set up based on the business sectors on which the parent companies operate. An RO runs their business in Vietnam as the dependent of the parent company. They just receive money and pay for costs and expenses arising during their operation.

Tax matters

An RO is the simplest kind of establishment in terms of tax and accounting. Following Vietnamese law, a representative office will be responsible for declaring its employees' personal income tax. An RO will not be liable to pay Vietnamese corporate income tax but will be liable to pay value added tax on goods and services rendered at a standard rate of 10 percent.

Comparing an RO with a branch or WFOE

An RO and branch office are both a type of presence for foreign businesses but not considered independent legal entities. To set up an RO, the company has to have been operated for no less than one year since legal establishment or valid business registration in the country of origin. In contrast, a branch office requires that the parent company has been operating for at least five years prior to application.

A wholly foreign-owned enterprise does not require such conditions to be set up. The investors of a WFOE can be any foreign organization or individual using capital in order to carry out an investment activity in Vietnam, provided that the investor is able to submit the proper documents to prove their legal presence or establishment in the origin country. A WFOE is always required to be attached to an investment project to be approved.

Items	Representative Office	Branch	WFOE
Parent company	At least 1 year operation	At least 5 year operation	N/A
Capital required	No	No	Depending on scope of business

Items	Representative Office	Branch	WFOE
Business scope	Liaison office, market research	Trading, import/export	Manufacturing/trading/import/export
Duration	5 years	5 years	10-50 years
Location	Commercial building	Commercial building	Commercial building or Industrial Parks
Licence-issuing body	Provincial Department of Industry and Trade	Provincial Department of Industry and Trade	Provincial Department of Planning and Investment/Provincial Management Board of Industrial Parks
Setup timing	25 working days	25 working days	2 – 3 months
Recruiting staff	Hire/pay directly	Hire/pay directly	Hire/pay directly
Taxation	Personal income tax	Corporate income tax; Value added tax; Personal income tax	Corporate income tax; Value added tax; Personal income tax
Invoicing	Can not issue invoices	Can issue invoices	Can issue invoices

