

I. LEGAL REGIME

MERCHANT COMPANY

1. WHAT IS IT?

It is a voluntary association of individuals or legally constituted bodies which, through a merchant contract, contribute capital in order to cooperate in the carrying out of a business or professional activity.

The company may take the form of a **joint stock company** (SA) or of a **limited liability company** (SL). Either of these may be incorporated by one or more partners (in the first case it will be a single personal company).

These companies have their own juridical personality, separate from that of the partner or partners which form them, as soon as they have been entered in the Company Register.

2. COMPANY CAPITAL

The minimum company capital for a limited liability company is **3,000€** and that for a joint stock company is **60,000€**

3. REGISTERED OFFICES

Andorran companies must have their registered offices within the territory of the Principality of Andorra.

4. HOW IS A COMPANY MANAGED?

The general assembly of shareholders is the sovereign body in the company and passes resolutions on the most important matters in company life (amendment of bylaws, approval of yearly accounts, application of profits for the financial year, appointment and dismissal of administrators, transformation, merger, separation or liquidation of the company, etc). Resolutions are taken by majority of capital (which must mean at least one third of company capital).

The General Assembly appoints and decides on the system of normal administration for the company:

- Sole administrator.
- Joint administrators (joint action).
- Joint and several administrators (individual action).
- Board of Directors (collegiate action).

In the case of a single person company, the powers of the general assembly are taken on by the single partner.

5. PROCESS OF INCORPORATING A MERCHANT COMPANY

- **Application to reserve the company name** to the Government, a certificate which lapses 6 months after issue and while valid reserve a name for the future makers of the deed of incorporation (5.69€).
- **Request to the government for the foreign investment authorization**, for foreign investments with a stake holdings of more than the 10% of the share capital.
- **Public deed**. To incorporate the company, the public deed of incorporation is made before an Andorran notary.
- For the permit to incorporate a limited liability company **1,016.67€** must be paid as well as an annual tax of **851.00 €** (if there is no permit for commercial activity, see section III.A.1 of this document). In the case of a joint stock company the permit costs **1,480.54€** and the annual tax is **935.50 €** (if there is no permit for commercial activity, see section III.A.1 of this document).
- **Registration**. Entry in the Company Register is compulsory and the company acquires its juridical personality once it has been entered.

Companies carrying on trading, industrial or service activity must be entered in the Registry of Trade and Industry.

INDIVIDUAL ENTREPRENEUR

1. WHO IS THIS?

This is an individual of age, with free disposal of his/her assets, who habitually undertakes a business activity in his/her own name.

Persons under age and the disabled can carry out trade through their guardians or legal representatives.

The financial rights of foreign individuals who wish to carry out an economic activity in the Principality of Andorra are acquired on obtaining residence in the Principality.

2. WHAT LIABILITY DOES HE/SHE HAVE?

The individual entrepreneur answers for the debts of the business with all his/her present and future assets. There is no separation between business and private assets.

In the case of marriage, the spouse's goods can be affected, depending on the matrimonial financial regime.

II. ADMINISTRATIVE AUTHORIZATION FOR THE EXERCISE OF TRADING, INDUSTRIAL OR SERVICE ACTIVITIES

1. Reservation at the *Comú* of the trading name that the business will use.

2. Commune authorisation: Every individual who wishes to carry out a trading, industrial or service activity needs an authorisation from the local corporation where it is established.

Commune authorisation is also needed for closure, alteration of activity, change of owner of the establishment and any change of its name.

3. Government Authorisation: the *Comú* process the request directly to the Registry of Trade and Industry. The circumstances already described for the authorisation to open a trading, industrial or service establishment before the local corporations are subject to entry in the Registry.

To obtain the government authorisation, the holders applying for it must enquire from the respective Government departments beforehand regarding the requirements in matters of health, the environment, accessibility, etc. to be met by their establishments, so that government authorisation can be granted.

III. FISCAL REGIME

A. GOVERNMENT RATES AND TAXES

1. THE FEE ON THE REGISTRY OF HOLDERS OF FINANCIAL ACTIVITIES

The fact generating this fee is entry and remaining valid in the Registry of Holders of Financial Activities, integrated with the Registry of Trading Companies, the Registry of Trade and Industry and the Registry of Liberal Professions.

Every individual entrepreneur or trading company carrying out a trading activity must be entered in the Registry of Trade and Industry and must pay an annual fee for each Registry of Trade and Industry authorised of **214.21 €**

In the case of asset-holding companies (families), or others which do not carry out any activity in the Principality, these will not be entered in the Registry of Trade and Industry and then they will have to pay the annual fee corresponding to Companies Registry, which is **935.50 €** for the SA or **851.00 €** for the SL

Trading companies must pay a fee at the time of entering the company in the Companies Registry, **1,016.67€** for the SL and **1,480.54€** for the SA. For the following years, the annual fee to be paid if the company is not entered in the Registry of Trade and Industry, will be **935.50 €** for the SA and **851.00 €** for the SL. If on the other hand, the company is entered in the Registry of Trade and Industry, it will only pay the fee for the Registry of Trade and Industry, which is **214.21 €**

In the case of the liberal professions, taxpayers entered in the Registry of qualified professionals, colleges and professional associations must pay a fee of **426.40 €** for each qualified profession authorised.

2. INDIRECT TAXATION

Indirect General Tax (IGI)

This is an indirect tax which is levied on consumption by means of a tax on the supply of goods and the provision of services by business people or professionals, as well as on the importation of goods.

The general rate for the tax is 4.5%. A super reduced rate of 0%, a reduced rate of 1%, a special rate of 2.5% is applied to certain operations envisaged under the Law and an increased rate of 9.5% is applied to operations provided by banking and financial services.

3. DIRECT TAXATION

3.1 Tax on companies

The tax on companies is a direct and individual tax which burdens the income of legal entities in accordance with the rules established in the Law regulating the tax.

The tax period coincides with the financial year of the entity and may not exceed twelve months. In the event that the company year should be longer, the tax period finishes at the end of twelve months.

The taxable base is calculated by correcting the accounting result. The general rate of burden is 10%. The tax quota is the amount resulting from applying the rate of burden to the taxable base. A reduced rate is applied for companies which carry out the exploitation of certain assets incorporels. International double taxation is eliminated on income attributed to permanent establishments located abroad and deductions are established for eliminating national and international double taxation, for the creation of jobs and investments.

During September taxpayers must make a payment on account for the settlement of the tax period in progress on 1 September.

Taxpayers for the tax on companies must have a tax registration number, which they must apply for if they do not already have it as taxpayers for indirect taxes.

3.2 Personal income tax

This is a direct, personal tax on the income received by individuals, based on their total income and their personal and family circumstances. It taxes the taxpayer's income, i.e. the whole of his income and capital gains and losses, irrespective of where it was produced or the taxpayer's place of residence.

An individual in either of the following circumstances is considered to be resident for tax purposes:

- He spends more than 183 days in Andorra in one calendar year. Temporary absences are counted for determining this period, unless the taxpayer can prove that he is resident for tax purposes in another country.
- The main hub or base for his activities or economic interests is located in Andorra, directly or indirectly.

Workers who travel daily to Andorra from Spain or France and are employed by businesses that are resident in Andorra for tax purposes or permanent establishments of foreign companies in Andorra are not deemed to be resident in Andorra for tax purposes.

The tax domicile of taxpayers who are resident in Andorra for tax purposes derives from applying the rules provided in the regulations on the bases of tax law.

To determine the tax bases and taxable income and calculate the tax, income is classified as general income and savings income.

General income consists of: income from work, income from economic activities and income from real property. Income from savings consists of: income from movable assets and capital gains and losses.

Net income is obtained from the difference between accountable income and deductible expenditure. Capital gains and losses are generally determined by the difference between transfer and acquisition values.

The various types of income are integrated and offset according to their source and whether they are classified as general or savings income.

The result of these operations determines the bases of general tax and savings tax.

General taxable income is the result of reducing the positive balance of the general tax base by the total of the allowances provided by Law (personal and family allowances, tax reliefs on investment in the home and on private pension contributions and maintenance payments).

Taxable income from savings is determined by reducing the positive balance of the savings tax base by the allowance provided by Law (minimum exemption).

The standard rate of tax is 10%. The tax liability is the total of the amounts resulting from applying the tax rate to the positive balances of the general and savings taxable income, respectively.

The net tax liability is the result of reducing the tax liability by the amount of credit provided by law and by the total deductions provided by law (deductions to eliminate domestic double taxation, to eliminate international double taxation and for job creation and investment).

Any taxpayer who receives income from work, income from economic activities or income from real property deducts from his tax liability a credit of 50 percent of the total obtained by applying the tax rate to his general tax base, after deducting the allowance of 24,000 Euros provided by law. This credit cannot be greater than 800 Euros.

Taxpayers must file and sign a declaration between 1 April and 30 September in the financial year following the end of the tax period.

However, taxpayers who only receive income from any or all of the following sources are not required to file a declaration: income from work, income from real property and exempt income. Taxpayers who are not by law subject to the requirement to make payments on account must always file and sign a declaration.

3.3 Tax on the income of tax non-residents

The tax on the income of non-residents for tax purposes is a direct tax which burdens income obtained in the territory of the Principality of Andorra by individuals or legal entities which are not resident in this territory for tax purposes.

The taxpayers for this tax are individuals and legal entities, non-resident for tax purposes in the Principality of Andorra, who obtain income which, in accordance with this Law, is considered as generated in the territory.

The following answer joint-and-severally for the tax debt:

- a) the payer of income earned by taxpayers operating without a permanent establishment, and
- b) the depositary, attorney or manager of the assets and rights of taxpayers operating without a permanent establishment.

Taxpayers non-resident for tax purposes are obliged to appoint an individual or legal entity with residence in Andorra to represent them before the ministry in charge of finances, in relation with their obligations for this tax, when they obtain income through a permanent establishment or when so required by the minister in charge of finances.

For income obtained by taxpayers non-resident for tax purposes through a permanent establishment, the rate of burden is 10%. There are deductions from the taxation quota. The tax period must coincide with the financial year declared by the permanent establishment, and may not exceed 12 months.

For income obtained by taxpayers non-resident for tax purposes without a permanent establishment, the general rate of burden is 10%; when dealing with income arising from re-insurance transactions it is 1.5%, and when dealing with income paid in the form of a fixed rate, 5%.

The following are exempt from the tax, among others: income from employment, income from investment, gains from shares or participations in Andorran companies (provided the holding does not exceed 25% of the capital) and that arising from the transfer of shares or participations in group investment bodies.

The tax becomes exigible:

- In the case of income, when demandable or on the date of collection if it should be earlier.
- In the case of capital gains, when the capital alteration or transfer takes place.
- In the other cases, when the corresponding income is demandable.

B. COMMUNE TAXES AND RATES

1. TAX ON THE LOCATION OF TRADING, BUSINESS AND PROFESSIONAL ACTIVITIES

The tax on the location of trading, business and professional activities is a commune tax which burdens the exercise of a trading, business or professional activity carried out in the territory of a parish. The tax obligation falls on the person (individual or legal) holding the administrative resolution authorising the exercise of financial, trading, business or professional activities.

The communes burden this activity, taking into account the type of activity, the establishment, the surface area of the establishment, and the rate of burden varies according to the commune.

2. RATES FOR RIGHTS OF ESTABLISHMENT

This is a commune rate burdening the authorisation to establish a trade, industry or the exercise of a professional activity in the parish and/or a change of address or of the administrative holder. The amount of the rate varies according to the parish concerned.

3. RATES FOR THE SUPPLY OF SERVICES IN CONCEPT OF PUBLIC LIGHTING, PUBLIC HEALTH, ETC.

Persons holding an authorisation to establish a trading business or professional activity in the parish district must pay annual rates for these services, which varies according to the commune in question. Generally it is a percentage of the rate for the authorisation of a trading establishment.

IV. SOCIAL REGIME AND WORK PERMITS

Affiliation to Andorran Social Security (CASS) is compulsory for all salaried and similar workers, and for the self-employed. The contributions by salaried and similar workers mean a charge of 6.5% for the worker and 15.5% for the employer. In the cases where, in accordance with the law, they only contribute to the general branch, the charge is 3% for the salaried worker and 7% for the employer.

For the self-employed the charge is 22% of the average gross monthly salaries making contributions to CASS for the salaried group in the immediately preceding calendar year. In the event that, in accordance with the law, they only contribute to the general branch, the percentage contribution is 10% of the average gross monthly salaries contributing to CASS for the salaried group in the immediately preceding calendar year.

Every foreigner working in the Principality must have a work permit. Once engaged by a national business, the employer must apply to the Ministry of the Interior for the corresponding permit. The grant of permits by the Ministry is conditioned by a quota.

Links of interest:

www.bopa.ad
www.tramits.ad
www.impostos.ad
www.treball.ad
www.cass.ad
www.immigracio.ad
www.sape.ad
www.ccis.ad

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