

Representative Office

Representative office (“RO”) is not a separate legal entity under the laws of Vietnam. The activities of a RO are limited to business promotion; identification and promoting the trade opportunities; and supervising the implementation of contracts signed between its parent/ represented company(ies) and local partners. However, a RO may sign commercial contracts on behalf of its parent companies, with appropriate authorization, on a case-by-case basis.

In this Section, only ROs of foreign businesses, which fall within the jurisdiction of the Provincial-level Departments of Industry and Trade (“DOIT”) are covered (ROs of foreign banks, auditing, law firms, tourism organizations, fall within the power of the State Bank of Vietnam (“SBV”), the Ministry of Finance, and the Ministry of Justice (“MOJ”), respectively). It is noted that a foreign business shall be entitled to set up one or several ROs, each in a different city or province in Vietnam.

Legislation

The Commercial Law dated 14 June 2005 constitutes the legal ground for representative offices and branches of foreign businesses in Vietnam, which is further specified by the GoV’s Decree No.07/2016/ND-CP, dated 25 January 2016, detailing the provisions of the Commercial Law on representative offices and branches of foreign traders in Vietnam (“Decree 07/2016”).

To implement Decree 07/2016, on 5 July 2016, the Ministry of Industry and Trade (“MOIT”) issued Circular No. 11/2016/TT-BCT, detailing all standard forms related to the issuance of licenses to, organizations and activities of representative offices and branches of foreign enterprises in Vietnam; as amended by Circular No. 03/2024/TT-BCT dated 30 January 2024 of Minister of Industry and Trade, amending Circulars in the

fields of franchising, representative offices and branches of foreign traders, goods trading and goods trading-related activities of foreign service providers (“Circular 11/2016/TT-BCT”).

Requirements

Under Article 7 of the Decree 07/2016, a foreign trader shall be issued with a license for establishment of a representative office in Vietnam upon satisfying the following requirements:

(i) The foreign trader is incorporated and registered for doing business in accordance with provisions of laws of countries or territories being parties to treaties to which Vietnam is a signatory or is recognized by the aforesaid countries or territories;

(ii) The foreign trader has come into operation for at least 1 year from the date of establishment or registration;

(iii) The foreign trader’s Certificate of Business Registration or the equivalent document if having expiry date is valid for at least 1 more year from the date of submission of the application;

(iv) The scope of operation of the RO is consistent with that in Vietnam’s Commitments to treaties to which Vietnam is a signatory;

(v) Where the scope of operation of the RO is inconsistent with Vietnam’s Commitments or the foreign trader is not located in the country or territory being party to treaties to which Vietnam is a signatory, the RO can be established only if relevant Ministers, Heads of ministerial agencies (hereinafter referred to as “relevant Ministers”) have given approval for establishment of the RO.

Applications

To establish a representative office in Vietnam, a foreign company must apply for a license issued by the provincial-level DOIT. A set of application files for establishment of a

representative office must be submitted to the provincial-level DOIT.

To obtain a seal, the chief representative of the representative office or its staff may be required to personally lodge the applications due to security reasons.

The following documents must be submitted to the licensing authority for obtaining a License:

- (i) Application for License (standard form);
- (ii) A legalized copy and Vietnamese translation of the Certificate of Incorporation or the equivalent document and any amendments thereto of the parent company;
- (iii) A certified copy and Vietnamese translation of the parent company's letter of appointment of the Chief Representative;
- (iv) A certified copy and Vietnamese translation of the audited financial statements of the parent company for its latest financial year issued by an auditing company or certificates of fulfilment of tax liabilities or financial obligations of the last fiscal year or equivalent documents as proof of existence and operation of the foreign trader issued or certified by competent authorities where such foreign trader is established;
- (v) Documents on the expected location of the RO; and
- (vi) A certified copy and Vietnamese translation of Chief Representative's passport.

Licensing Timing

A license for establishment of a RO will be granted within 7 days from the receipt of the satisfactory application. The applicant is required to pay the license fee of VND3 million/license for a license for establishment of a new RO and VND1.5 million/license for re-issuance, amendment, supplementation or extension. The license fee would be paid upon the approval of the application.

Within 15 days from the date of issuance of the license, information about the RO shall be publicly published on the licensing agency's website.

Permitted Activities

According to Decree 07/2016, a RO will be entitled to do the functions as stipulated in the granted license. Operational functions of a RO are limited to:

- (i) the conduct of liaison activities;
- (ii) market research, and promotion of its head office's businesses, excluding those in which establishment of representative office is specified in specialized legislative documents.

A RO shall have the following rights and obligations:

- (i) RO shall be entitled to do the functions as stipulated in the granted license;
- (ii) The Head of the RO shall have the right to conduct activities authorized by the parent company;
- (iii) RO's staff shall be subject to relevant tax obligations in accordance with the laws of Vietnam;
- (iv) RO shall have to report to provincial-level People's Committee, once a year, the RO's operations.

Term of License

The license for establishment of a RO has a term of five years but not exceeding the remaining effective period of the parent company's Certificate of Business Registration or the equivalent (for documents having expiry date). If the parent company's business license or establishment certificate expires, the license for establishment of a RO will also expire. In other words, the term of the RO cannot exceed any term of existence of its parent company. The license for establishment of a RO may be extended upon its expiry unless it commits one of the following violations:

- (i) Fail to come into operation for 1 year and fail to enter into transactions with licensing agencies;
- (ii) Fail to submit reports on the operation of the RO for 2 consecutive years; and
- (iii) Fail to submit reports, provide documents or explanations on issues related to its operations to the licensing agency within 6 months from the deadline of submission or as requested in writing by the licensing agency; and
- (iv) Other cases provided for by law.

In addition, the License may be revoked when the RO committed any of the above-mentioned violations.

Taxation

No taxes are applicable to ROs' operation, except for personal income tax to be imposed on their staff which will be further described in **Taxation** hereunder.