



GUIDE TO GOING GLOBAL CORPORATE

Ireland



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INTRODUCTION

Welcome to the 2023 edition of DLA Piper's *Guide to Going Global – Corporate*.

GUIDE TO GOING GLOBAL SERIES

To compete and be successful today, companies need to develop and scale their businesses globally. Each country presents its own set of unique laws, rules and regulations and business practices that companies must understand to be successful. In order to help clients meet the opportunities and challenges of expanding internationally, we have created a handy set of global guides that cover the basics companies need to know when going into and doing business in new countries. The *Guide to Going Global* series reviews business-relevant corporate, employment, intellectual property and technology, executive compensation, and tax laws in key jurisdictions around the world.

CORPORATE

The *Guide to Going Global – Corporate* has been created based on our research, our experience and feedback we have received from clients in both established and emerging businesses that have expanded internationally. We hope it will be a helpful resource for you.

The *Guide to Going Global – Corporate* covers corporate basics in 54 key jurisdictions across the Americas, Asia Pacific, Europe and the Middle East. We touch on a wide range of corporate issues for companies expanding internationally, including establishing a corporate presence and choice of entity, liability considerations, tax presence and tax filings, capital requirements, the formation process, director, officer and shareholder requirements, registration processes, office lease processes and possible exit strategies.

With more than 600 lawyers, DLA Piper's global Corporate group is one of the largest in the world, with one of the widest geographical footprints of any global law firm and experience across the legal areas companies need as they expand internationally. With both global experience and local knowledge, we partner with our clients wherever they do business to find solutions and manage their risk in relation to their challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to seek advice regarding the specific matters that concern you. If you wish to speak to any of our contributors, you may find their contact details at the end of the guide.

We hope you find this guide valuable, and we welcome your feedback.

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This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

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IRELAND



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FORM OF ENTITY

The information in this guide provides a summary of 2 corporate structures that are commonly used in Ireland. Other alternatives, such as a designated activity company (DAC), a private unlimited company (ULC), a company limited by guarantee (CLG) or a public limited company (PLC), could be useful in some instances but are less common.

Private company limited by shares (LTD)

Separate and distinct legal entity. Managed by a board of directors which has collective authority and is responsible for managing the affairs of the company. Subject to the constitution, the shareholders have the power to appoint and remove directors. A LTD cannot offer shares to the public, and the right to transfer shares is generally restricted by the company's constitution. Shareholders have limited liability protection.

External company

A company with limited liability incorporated under the laws of another jurisdiction and which establishes operations in Ireland is obliged to register as an external company (ie, a branch) in certain circumstances. The requirement to register a branch generally arises where the Irish operations of the foreign company has:

- A physical place of business
- The appearance of permanency
- A person to manage the place of business and
- Authority to independently negotiate and contract directly with third parties on an independent basis

From an Irish perspective, the branch is not a separate legal entity to the "home" or "parent" company.

ENTITY SET UP

- Private company limited by shares (LTD)

- External company (ie, an Irish branch)

MINIMUM CAPITAL REQUIREMENT

Private company limited by shares (LTD)

No minimum capital requirement.

External company

Determined by the laws of the jurisdiction of incorporation.

LEGAL LIABILITY

Private company limited by shares (LTD)

The liability of shareholders is limited to the amount, if any, unpaid on the shares issued by the company.

External company

Determined by the laws of the jurisdiction of incorporation.

TAX PRESENCE

Private company limited by shares (LTD)

If an Irish tax resident, a LTD is subject to Irish corporation tax on its worldwide income at 12.5 percent on its trading income and 25 percent for non-trading (ie, passive) income.

If non-resident for Irish tax purposes, a LTD is not subject to Irish corporation tax unless it carries on a trade in Ireland through a branch or agency or if it receives income from Irish sources (eg, income from the rental of Irish properties).

External company

An Irish branch is subject to Irish corporation tax on:

- Trading income arising directly or indirectly through or from the branch
- Any income from property or rights used by, or held by or for, the branch and
- Chargeable gains accruing on the disposal of Irish land and any assets situated in Ireland which are used for the purposes of a trade carried on by the Irish branch or are held for the purposes of the branch.

INCORPORATION PROCESS

Private company limited by shares (LTD)

For purposes of incorporation, the following documentation must be submitted to the Companies Registration Office (CRO):

- Fee of EUR50 using the online incorporation scheme
- The company's constitution
- A Form A1 which contains details of the company's
 - Name
 - Registered office
 - Principal activity
 - Directors and secretary and
 - Subscribers and their shares.

External company

For purposes of registration, the following must be submitted to the Companies Registration Office (CRO) within 30 days of the date of establishment of the branch in Ireland:

- Fee of EUR50
- CRO Form F12 or F13 (depending on whether the branch is a branch of an EEA or a non-EEA country company)
- Certified (depending on the jurisdiction of the foreign company, these documents may also need to be authenticated) copy of the foreign company's constitutional documentation and certificate/articles of incorporation and
- A copy of the latest publicly filed accounting documents of the foreign company (translated into English, if required)

If the documents are not written in the Irish or English language, a certified translation will be required.

BUSINESS RECOGNITION

Private company limited by shares (LTD)

Very well recognized. A LTD is the most common form of corporate entity used in Ireland.

External company

Well recognized.

SHAREHOLDER MEETING REQUIREMENTS

Private company limited by shares (LTD)

Generally required to hold an annual general meeting (AGM) once in each calendar year. A LTD may dispense with the requirement to hold a physical AGM. This involves the shareholders of the LTD (on an annual basis) signing a unanimous written resolution acknowledging receipt of financial statements, resolving all matters as would be required to be resolved at the AGM and confirming that there is to be no change to the auditor.

External company

Determined by the laws of the jurisdiction of incorporation.

BOARD OF DIRECTOR MEETING REQUIREMENTS

Private company limited by shares (LTD)

Subject to the constitution, the directors may meet as they think fit, and no minimum number of board meetings is required annually although regular board meetings are recommended for corporate governance purposes.

External company

Determined by the laws of the jurisdiction of incorporation.

ANNUAL COMPANY TAX RETURNS

Private company limited by shares (LTD)

Corporation tax returns are generally due by the 21st day of the 9th month following the end of the relevant company's accounting period.

Companies are also obliged to pay preliminary tax in either 1 or 2 installments within their current accounting period.

External company

Corporation tax returns are generally due by the 21st day of the 9th month following the end of the relevant

company's accounting period.

Branches are also obliged to pay preliminary tax in either 1 or 2 installments within their current accounting period.

BUSINESS REGISTRATION FILING REQUIREMENTS

Private company limited by shares (LTD)

No general requirement, but it should be considered whether any regulatory permits or licenses are required to conduct certain activities in specific industries.

External company

No general requirement, but it should be considered whether any regulatory permits or licenses are required are required to conduct certain activities in specific industries.

BUSINESS EXPANSION

Private company limited by shares (LTD)

No general requirements.

External company

No general requirements.

EXIT STRATEGY

Private company limited by shares (LTD)

Dissolution may be achieved by way of voluntary liquidation or strike-off procedure. It is also possible to merge a LTD with:

- One or more other Irish companies under Irish domestic legislation (provided that none of the companies is a public limited company and at least one of the companies is a private company limited by shares) or
- Another limited company registered under the laws of a state of the European Economic Area under Ireland's cross-border merger regulations.

External company

Notice of closure of the branch (Form F14) must be filed with the CRO within 30 days of the branch ceasing to

exist, for example, on the liquidation of the company in the jurisdiction of incorporation.

ANNUAL CORPORATE MAINTENANCE REQUIREMENTS

Private company limited by shares (LTD)

Convene the AGM (or pass a written shareholder resolution in lieu). File an annual return and audited financial statements with the CRO.

Certain events also give rise to CRO filing requirements (eg, changes to the constitutional documents, share capital, registered office or officers of the company).

External company

A branch is required to file a copy of the foreign company's accounting documents (translated into English, if required) with the CRO no later than 30 days after the last date for publication of accounting documents in the jurisdiction of incorporation.

Certain events give rise to CRO filing requirements (eg, changes to constitutional documents, address of the branch or offices of the company).

DIRECTOR / OFFICER REQUIREMENTS

Private company limited by shares (LTD)

Must have at least 1 director. A body corporate cannot act as a director.

External company

Determined by the laws of the jurisdiction of incorporation.

For more information on directors' duties, see our [Global Guide to Directors' Duties](#).

LOCAL CORPORATE SECRETARY REQUIREMENT

Private company limited by shares (LTD)

A company secretary must be appointed. Unless a LTD has only 1 director, it is possible for a director of the company to also act as company secretary. A body corporate may act as company secretary.

External company

Determined by the laws of the jurisdiction of incorporation.

LOCAL LEGAL OR ADMIN REPRESENTATIVE REQUIREMENT

Private company limited by shares (LTD)

None.

External company

A branch is required to indicate the following on registration:

- The person or persons authorized to represent the branch
- A person resident in Ireland authorized to accept service of proceedings and notices
- A person resident in Ireland authorized to ensure compliance with the Companies Act 2014

LOCAL OFFICE LEASE REQUIREMENT

Private company limited by shares (LTD)

Every company is required to have in Ireland:

- a registered office address , being the official address where all formal legal documents are sent or
- a business or trading office address.

Both the registered office address and business/trading office address can be the same address and may be provided by a third-party services provider.

External company

Must have a principal place of business in Ireland which:

- has the appearance of permanency
- has a management system
- is materially equipped to negotiate business with third parties.

The principal place of business also acts as the registered address, being the official address where all formal legal documents are sent, and may be provided by a third-party services provider.

OTHER PHYSICAL PRESENCE REQUIREMENTS

Private company limited by shares (LTD)

No other legal requirements, but may be required by the Irish Revenue Authority to register in respect of certain types of tax (eg, required for registration for value-added tax).

External company

No other legal requirements, but may be required by the Irish Revenue Authority to register in respect of certain types of tax (eg, required for registration for value-added tax).

SUFFICIENCY OF VIRTUAL OFFICE

Private company limited by shares (LTD)

Insufficient – a physical address must be specified on incorporation documentation.

External company

Insufficient – a physical address must be specified on registration documentation.

PROVISION OF LOCAL REGISTERED ADDRESS BY LAW FIRM OR THIRD-PARTY SERVICE PROVIDER

Private company limited by shares (LTD)

Permitted.

External company

Permitted.

PROVISION OF LOCAL DIRECTOR OR CORPORATE SECRETARY BY LAW FIRM OR THIRD-PARTY SERVICE PROVIDER

Private company limited by shares (LTD)

Permitted.

External company

Permitted.

NATIONALITY OR RESIDENCY REQUIREMENTS FOR SHAREHOLDERS, DIRECTORS AND OFFICERS

Private company limited by shares (LTD)

At least 1 director of the company must be resident in the European Economic Area. Alternatively, the company must:

- Put in place a bond to pay any fines or penalties which may be imposed on the company under the Companies Act 2014 or the Taxes Consolidation Act 1997 or
- Obtain a certificate from the CRO confirming that the company has a real and continuous link with 1 or more economic activities in Ireland.

External company

Not applicable for this jurisdiction.

RESTRICTIONS REGARDING APPOINTMENT OF NOMINEE SHAREHOLDERS OR DIRECTORS

Private company limited by shares (LTD)

None. Nominee directors generally subject to the same duties as other directors.

External company

Determined by the laws of the jurisdiction of incorporation.

SUMMARY OF DIRECTOR'S, OFFICER'S AND SHAREHOLDER'S AUTHORITY AND LIMITATIONS THEREOF

Private company limited by shares (LTD)

Authority for management of the company's affairs is typically delegated collectively to the board of directors in the constitution with certain fundamental decisions relating to the company being reserved for the shareholders (eg, changes to the company's constitution).

External company

Determined by the laws of the jurisdiction of incorporation.

PUBLIC DISCLOSURE OF IDENTITY OF DIRECTORS, OFFICERS AND SHAREHOLDERS

Private company limited by shares (LTD)

Identities of the following persons must be disclosed and are publicly available from filings made at the CRO:

- Directors
- Secretary
- Shareholders
- Any "beneficial owners," being any natural person who ultimately owns or controls, directly or indirectly, 25 percent or more of the company

External company

Details of the branch's representatives (see "Local Legal or Admin Representative Requirement") are publicly disclosed at the CRO.

MINIMUM AND MAXIMUM NUMBER OF DIRECTORS AND SHAREHOLDERS

Private company limited by shares (LTD)

Directors – minimum 1 and no maximum; however, a company's constitution may set an upper limit.

Shareholders – minimum 1 and maximum 149.

External company

Determined by the laws of the jurisdiction of incorporation.

MINIMUM NUMBER OF SHAREHOLDERS REQUIRED

Private company limited by shares (LTD)

At least 1 shareholder is required.

External company

Determined by the laws of the jurisdiction of incorporation.

REMOVAL OF DIRECTORS OR OFFICERS

Private company limited by shares (LTD)

Shareholders can remove or replace directors by availing of a statutory procedure set out in the Companies Act 2014. The constitution of a company can also often provide authority to the board of directors to remove and appoint directors.

External company

Determined by the laws of the jurisdiction of incorporation.

REQUIRED AND OPTIONAL OFFICERS

Private company limited by shares (LTD)

Directors and secretary are the only officers required under statute. The constitution may allow for the appointment of a managing director or other executive officer(s).

External company

Determined by the laws of the jurisdiction of incorporation (see "Local Legal or Admin Representative Requirement").

BOARD MEETING REQUIREMENTS

Private company limited by shares (LTD)

Subject to the constitution, the directors may meet as they think fit, and no minimum number of board meetings is required annually from a legal perspective (although regular board meetings are recommended for corporate governance purposes). The company's constitution will often provide for quorum and voting requirements.

External company

Determined by the laws of the jurisdiction of incorporation.

QUORUM REQUIREMENTS FOR SHAREHOLDER AND BOARD MEETINGS

Private company limited by shares (LTD)

Shareholder meetings – subject to the company's constitution, the minimum quorum requirement is 2 shareholders present in person or by proxy (or, in the case of a single-member company, the quorum is 1 shareholder). Shareholders may also approve resolutions by way of written resolutions.

Meetings of the board of directors – subject to the company's constitution, the minimum quorum requirement is 2 directors (or, in the case of a company with a sole director, the quorum is 1 director). Subject to the company's constitution, written resolutions of the directors may also be used but require the unanimous consent of all

directors.

External company

Determined by the laws of the jurisdiction of incorporation.

MUST A BANK ACCOUNT BE OPENED PRIOR TO INCORPORATION, AND MUST THE BANK ACCOUNT BE LOCAL?

Private company limited by shares (LTD)

A bank account does not need to be opened prior to incorporation.

There is no legal requirement for a company to have an Irish bank account.

External company

A bank account does not need to be opened by the foreign company prior to registration of the branch.

There is no legal requirement for the foreign company to have an Irish bank account.

AUDITING OF LOCAL FINANCIALS. IF SO, MUST THE AUDITOR BE LOCATED IN LOCAL JURISDICTION, AND MUST THE COMPANY'S BOOKS BE KEPT LOCALLY?

Private company limited by shares (LTD)

Subject to limited exceptions, audited financial statements must be prepared annually and publicly filed at the CRO.

Subject to certain approval and registration requirements, the auditor may be located outside of Ireland.

There is no statutory obligation that the company's accounting records must be kept in Ireland, but significant additional requirements are imposed where the accounting records are kept outside of Ireland. Certain statutory registers (including the register of members, register of directors and secretaries, shareholder and director's meeting minute books and the register of disclosable interests) must be kept in Ireland.

External company

No requirement to audit the local financial statements of the branch.

A branch is required to file a copy of the foreign company's accounting documents (translated into English, if required) with the CRO no later than 30 days after the last date for publication of the accounting documents in the jurisdiction of incorporation.

No requirement for the branch's books to be kept locally.

REQUIREMENT REGARDING PAR VALUE OF STOCK

Private company limited by shares (LTD)

All allotted shares must have a fixed nominal value. Shares must not be allotted at less than nominal value but may be issued at a premium. There is no statutory minimum nominal value.

External company

Determined by the laws of the jurisdiction of incorporation.

INCREASING OF CAPITALIZATION IF NEEDED

Private company limited by shares (LTD)

Generally permitted. A company may increase its share capital by issuing and allotting further shares provided that the company's constitution authorizes such action.

External company

Determined by the laws of the jurisdiction of incorporation.

SUMMARY OF HOW FUNDS CAN BE REPATRIATED FROM YOUR JURISDICTION (IE DIVIDENDS OR REDEMPTION)

Private company limited by shares (LTD)

Funds may be repatriated via dividends, a redemption or buyback of shares or a reduction of share capital. Capital maintenance rules must be complied with.

External company

Determined by the laws of the jurisdiction of incorporation.

RESTRICTIONS ON TRANSFERABILITY OF SHARES

Private company limited by shares (LTD)

Shares are generally freely transferrable subject to restrictions, such as pre-emption rights, that may be contained in a company's constitution.

External company

Determined by the laws of the jurisdiction of incorporation.

OBTAINING A NAME AND NAMING REQUIREMENTS

Private company limited by shares (LTD)

The CRO approves the names of all companies and will reject a name that is currently registered or if the proposed name is offensive, misleading or otherwise objectionable. Every LTD must include the word "limited" or "teoranta" as the last word of the registered name (although this may be shortened to "ltd." or "teo." in subsequent usage). Prior to incorporation, it is possible on payment of a fee to reserve a company name for a period of 28 days.

External company

A branch may use the name of the company or adopt a separate name – typically, the company name with the appendix "Irish Branch."

The CRO approves the names of all branches and will reject a name that is currently registered or if the proposed name is offensive, misleading or otherwise objectionable.

SUMMARY OF "KNOW YOUR CLIENT" REQUIREMENTS

Private company limited by shares (LTD)

Typical KYC information required by, for example, banks and professional services firms is as follows:

- Proof of incorporation/registration
- Up-to-date list of directors
- Identification of the ultimate beneficial owners
- Personal identification of at least 1 director (ie, copies of a recent utility bill and passport or driver's license) and
- Disclosure of any politically exposed persons

KYC information does not need to be submitted for the incorporation of the company itself.

External company

Typical KYC information required in respect of the foreign company by, for example, banks and professional service firms is as follows:

- Proof of incorporation / registration
- Up-to-date list of directors (if any)
- Identification of the ultimate beneficial owners
- Personal identification of at least 1 director (ie, copies of a recent utility bill and passport or driver's license) and
- Disclosure of any politically exposed persons

KYC information does not need to be submitted for registration of the branch.

APPROVAL REQUIREMENTS FOR AMENDING CHARTER DOCUMENT

Private company limited by shares (LTD)

A special resolution of the shareholders (ie, approval of shareholders holding at least 75 percent of the voting rights in the company) must be passed in order to alter the constitution of the company.

External company

Determined by the laws of the jurisdiction of incorporation.

LICENSES REQUIRED TO CONDUCT BUSINESS IN JURISDICTION

Private company limited by shares (LTD)

No general business license is required, but an authorization or permit may be required to conduct certain activities in specific industries.

External company

No general business license is required, but an authorization or permit may be required to conduct certain activities in specific industries.

PROCESS OF PURCHASING AND UTILIZING A SHELF COMPANY

Private company limited by shares (LTD)

Shelf companies may be purchased from third party providers.

External company

Not applicable for this jurisdiction.

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