



Appendix D Post Specific Information

AZERBAIJAN

How to Open an Office in Azerbaijan March 2005

Inside this report:

- Steps to Establishing an Office (JSC, GP, LP, LLC, ALC)
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Prepared by Bakhtiyar I. Mamedov, BISNIS Representative in Azerbaijan

According to the Law on Protection of Foreign Investments, foreign investors may establish the following legal entities:

- ❖ An enterprise with participation of foreign investors on a shared basis (joint ventures);
- ❖ A wholly foreign-owned enterprise (foreign enterprises);
- ❖ A representative office.

Once a U.S. firm has decided to open an office in Azerbaijan, it needs to choose between establishment of a limited presence, a joint venture or a wholly foreign-owned enterprise for entrepreneurial activity. A limited presence is possible in the form of a representative office or a branch office. A representative office and a branch office that are subdivisions of a foreign legal entity are not considered to



be Azerbaijani legal entities, but both are still subject to taxation. A full legal presence as an Azerbaijani legal entity may be achieved through establishing the following forms of legal entities:

- ❖ Joint Stock Company (JSC)
- ❖ General Partnership (GP)
- ❖ Limited Partnership (LP)
- ❖ Limited Liability Company (LLC)
- ❖ Additional Liability Company (ALC)

The Registration Department of the Ministry of Justice of the Azerbaijan Republic (MoJAz) is authorized to register all types of legal entities. It is important to understand the steps to be undertaken by the foreign investor in order to establish a legal entity in Azerbaijan.

1. A letter from the founder or another authorized person requesting registration of the legal entity (one copy).
2. Charter of the legal entity (5 notarized copies).
3. Resolution or foundation agreement stating its intent to establish a legal entity in Azerbaijan (2 copies).
4. A receipt showing payment of the state registration fee in manat (payment should be made to the State Budget Fund at the National Bank of Azerbaijan, Account 30100062, code 501004).
5. A copy of a lease agreement or other document certifying the entity's legal address in Azerbaijan.
6. If the foreign founder is a legal entity, a document verifying that the entity is duly registered in the U.S. must be submitted. If the founder is an individual, then documents identifying his character and entrepreneurial activity are to be acquired. Both documents first must be certified by the consular section of the Azerbaijani Embassy in the United States and then presented to the MoJAz (two copies).
7. For joint ventures, the MoJAz also requires two copies of the founding contract.

The list of documents to register a company branch or representative office (CB/RO) of a foreign legal entity (FLE) differs from the one described above. Along with the documents necessary for the registration of a wholly owned subsidiary listed above under points 1, 4, 5, and 6, the following are to be additionally collected for the registration of a CB/RO:



1. The FLE's company charter and certificate of incorporation or equivalent. Both sets of documents must be notarized and then certified by the consular section of the Azerbaijani Embassy in the United States (two copies).
2. A statement of credit-worthiness from the FLE's bank (one copy).
3. A notarized power of attorney issued by FLE to the head of the CB/RO (two copies).
4. A resolution from the FLE's authorized body stating its intent to open an office in Azerbaijan (2 copies).
5. The CB/RO regulations signed and sealed by an authorized body of the FLE stating the purpose and objectives of the CB/RO and setting the operating principles of the organization, including the responsibility and power of the CB/RO chief executive/head (5 copies).

The registration fee for a branch office is approximately \$180 and for a representative office is \$2000, to be remitted in manat, to the account noted above.

The MoJAz may also request additional documents indicated below while registering either a company branch or representative office:

1. Two copies of the representative's identification documents/passport and three photos.
2. Sample of the FLE's seal and/or stamp (2 copies).
3. The FLE's tax identification number in the United States.

Ministry of Justice

Address: 1 Inshaatchilar Avenue
Baku AZ1000, Azerbaijan
Tel: (994 12) 4300116, 4300977, 4300972
Fax: (994 12) 4300981
E-mail: contact@justice.gov.az
Web: www.justice.gov.az
Contact: Fikret Mamedov, Minister
Zafar Gafarov, Foreign Relations Department.

Although the MoJAz has decentralized and opened district offices, FLE's must continue to submit their registration documentation to the Ministry's central office. In compliance with the Law on State Registration of Legal Entities, the Ministry of Justice must complete the registration procedure within 10 days after all required documents are presented. In case of any problem with a company's submitted documents, the MoJAz must issue a letter within five working days describing the



problem. Otherwise, the company's registration application goes directly to the Ministry Collegium and should be approved at the next registration board meeting. Following board approval, the Ministry will issue a registration certificate. The U.S. Embassy Baku understands that the registration process often takes much longer and is less than transparent. Delays are common and sometimes unexplained. As of Summer 2003, the MoJAz was considering some improvements to speed the registration process. U.S. firms that experience registration problems are advised to contact the U.S. Embassy in Baku.

Once a registration certificate is obtained, there are certain post-registration procedures to be carried out by the newly registered legal entity:

- ❖ Obtain an official seal;
- ❖ Register at the Ministry of Tax;
- ❖ Register at the State Committee for Statistics;
- ❖ Register at the State Social Protection Fund;
- ❖ Register at the Employment Fund;
- ❖ Register at the Fund of Social Protection of Invalids; and
- ❖ Open a bank account in AJ manat and U.S. dollars.

U.S. firms should remember that all documents from the FLE must be notarized and legalized in the United States. It is also important to know that according to the constitution and the Law on the State Language, Azeri is the official language of administration, legislation, record keeping in all state bodies, enterprises and organizations in Azerbaijan. Therefore it is compulsory to accompany any document written in English with its notarized translation into the Azeri language.

The above information is provided solely as general advice. Laws and regulations including registration are subject to change. For detailed registration, legal, and tax counseling, U.S. firms are advised to contact tax and legal professionals resident in Azerbaijan to receive expert advice (see contact information part below).

Selling Factors/Techniques

Azerbaijan is primarily a trading country, with the retail business largely unregulated and of the "street" variety. There are three primary market segments: (1) the largest share of the population earning the average monthly wage of \$65 or less; (2) a small but growing middle class with occasional



disposable income; and (3) “new Azeris” noted for conspicuous consumption of top-priced items. The first two segments primarily focus on the unregulated bazaars, yarmarki (street trade fairs) for cheap goods. U.S. consumer products firms should focus on the higher end of the market through retail outlets in Baku given the small but growing number of consumers with money to spend and interest in higher quality goods and services. Azeri shoppers are price-sensitive but extremely brand conscious. U.S. goods and services are lesser known than their Turkish or European competitors but are generally well regarded and thought to be reliable – a key factor in the Azeri shopping mentality. Counterfeiting of consumer goods is a problem. Well-heeled Azeri shoppers are known for their impatience and desire to buy immediately and in cash rather than wait weeks for shipments from warehouses in nearby countries.

Advertising and Trade Promotion

Advertising is still in its infancy in Azerbaijan and is largely confined to newspapers, television and billboards. Outdoor billboards and lightboxes are widely used in Baku for advertising and trade promotions. Outdoor advertising for tobacco and alcohol products is prohibited. Newspapers in Azeri and Russian are published daily, except Sunday. English-language papers are published weekly. Newspapers are widely sold and read and represent a good channel to reach Azeri consumers who have disposable income. Television advertising is possible on Azerbaijan’s two state-run and four private TV networks. In addition, Baku receives two Russian and three Turkish TV channels. There are seven private FM radio stations in Azeri and Russian. For alcoholic products, advertising is allowed on local TV and radio stations after 10:00 p.m. with some restrictions. A number of Baku-based trade shows also provide an excellent opportunity to market U.S. goods and services.

Pricing Product

Prices may be quoted in U.S. dollars. However, in accordance with Azerbaijani law, actual sales are officially quoted in manat. In practice, U.S. dollars are widely accepted. Azeris expect to bargain over prices. With the exception of goods such as gasoline and certain other products, the government does not set retail prices. Prices include the 18 percent value added tax (VAT).

Price Construct to Baku and Customs Clearance

U.S. exporters should consider the following when doing a price construct for the Azeri market: customs and import duties are generally about 10-15%, plus 18% VAT. To avoid unnecessary customs delays, let the Azeri importer handle the customs clearance. A 20-foot container of general, non-hazardous cargo from



Baltimore to Baku is on average \$4,000 per container. Transit time is approximately 40 days, via Port of Poti, Georgia.

Sales Service/Customer Support

Customer service is still developing and more local firms are developing a Western-style customer service approach. Cellular operators and information technology firms in Azerbaijan are known for their high-quality service and customer support. Product guarantees are generally still rare, but are becoming more common.

Selected Cellular Operators in Azerbaijan:

Azercell Telecom

Address: 61A Tbilisi Avenue
Baku, Azerbaijan
Tel: (994 12) 4967007
Fax: (994 12) 4300568
E-mail: corporatesegment@azercell.com
Web: www.azercell.com

Bakcell

Address: 24 Uzeir Gadjibekov Street
Baku AZ1000, Azerbaijan
Tel: (994 12) 4989444
Fax: (994 12) 4989255
E-mail: bakcell@bakcell.com
Web: www.bakcell.com

CATEL (Caspian American Telecommunications, L.L.C.)

Description: Azerbaijan American JV,
telephone services, facsimile
& conference communication
Address: 54 Suleyman Rustam Street
Baku AZ1007, Azerbaijan
Tel: (994 12) 4484800, 4484900
Fax: (994 12) 4474600
E-mail: catel@catel-az.com
Web: www.catel-az.com
Contact: Derya Yavalar, President
derya.yavalar@omni-inc.net
Sadig Humbatov, COO,
Member of the Board - [hsadiq@catel-](mailto:hsadiq@catel-az.com)

[az.com](http://www.catel-az.com)

Omni Communications, Inc.

504 Cathedral Street, Suite
100
Baltimore, MD 21201
(410) 962 8010

(410) 962 8070
[derya.yavalar@omni-](mailto:derya.yavalar@omni-inc.net)
[inc.net](http://www.omni-inc.net)
www.omni-inc.net
Derya Yavalar, President
and CEO



Customer Service Center in Baku:

Address: 53 Suleyman Rustam Street
Baku AZ1007, Azerbaijan
Tel: (994 12) 4471999
Fax: (994 12) 4470999

Customer Service Center in Sumgayit:

Address: 2-nd yard, 102 S. Vurgun Street
Sumgayit, Azerbaijan
Tel: (994 12) 4481999

Need for a Local Attorney

Given the challenges of doing business in Azerbaijan, U.S. clients are advised to retain strong, in-country legal counsel. This especially includes at the outset of any transaction involving investment, structuring of joint ventures, and the like. The Azerbaijani legal system does not yet contain a transparent body of commercial law, and implementation of court decisions is haphazard at best. A new civil code was adopted in September 2000 and has, to a certain extent, improved the legal environment for commercial activity.

Selected List Of Consulting Companies With Offices In Azerbaijan:

AON Azeri

Address: Caspian Business Center, 7th floor, 40 Jafar Jabbarli Street
Baku, Azerbaijan
Tel: (994 12) 4977115, 4976279
Fax: (994 12) 4977110
E-mail: Zurab_Gumberidze@aon.nl or Natavan_Mamedova@aon.nl
Web: http://www.aon.com/az/en/about/office_locations.jsp
Contact: Mr. Zurab Gumberidze, General Manager
Natavan Mamedova, Deputy General Manager

Ernst and Young

Address: Hyatt International Center – Tower III, 1st floor
1033 Izmir Street
Baku AZ1065, Azerbaijan
Tel: (994 12) 4907020
Fax: (994 12) 4907017
Web: www.ey.com
E-mail: baku@az.eyi.com Jody.Campbell@az.eyi.com
Contacts: Jody Campbell, Managing/Audit Partner



KPMG

Address: ISR Plaza, 4th floor - 340 Nizami Street
Baku AZ1000, Azerbaijan
Tel: (994 12) 4971905, 4971906, 4971907
Fax: (994 12) 4971909
E-mail: baku@kpmg.az
Web: www.kpmg.com
Contacts: David Meier, Director
Noveen Reddy, Audit Manager

Price Waterhouse Coopers

Address: The Landmark Building, 5th floor / 96 Nizami Street
Baku, Azerbaijan
Tel: (994 12) 4972515
Fax: (994 12) 4977413
Web: www.pwcglobal.com
E-mail: Nicolas.Blower@az.pwc.com
Contact: Nicolas Blower, Managing Director
Movlan Pashayev, Tax Manager

Deloitte & Touche

Address: The Landmark Building, 4th floor, 96 Nizami Street
Baku AZ1010, Azerbaijan
Tel: (994 12) 4982970, 4982971, 4982972
Fax: (994 12) 4989805
Web: www.deloitte.ru
Contact: Elnur Gurbanov, Audit Manager – egurbanov@deloitte.az
Tim Mahon, Partner Responsible for Operations in Azerbaijan

Central Asia Business Consultants

Address: “Caspian Business Center”, 8th floor / 40 Jafar Jabbarly
Street
Baku AZ1065, Azerbaijan
Tel: (994 12) 4974485, 4974486
Fax: (994 12) 4974487
Web: www.cabc-global.com
E-mail: Adik@cabc-global.com, leila@cabc-global.com
Contact: Adik Babayev, Managing Partner
Leila Edwards, Legal Manager

Shield Bearer LLC

Address: Ganjlik, 74 Teymour Aliyev Street
Baku, Azerbaijan
Tel: (994 12) 4906406
Fax: (994 12) 4906324
E-mail: shieldbearer1@msn.com



Contact: Stanley Escudero, President

Selected International Law Firms with Offices in Azerbaijan

Baker & McKenzie

Address: The Landmark Building, 6th floor / 96 Nizami Street
Baku AZ1010, Azerbaijan

Tel: (994 12) 4971801, 4971802, 4971803, 4982480

Fax: (994 12) 4971805

Web: www.bakernet.com

E-mail: baku.info@bakernet.com,
daniel.matthews@bakernet.com

Contact: Daniel Matthews, Partner

Baker Botts LLP

Address: Icheri Sheher - 6-10 Vagif Mustafazadeh, 3rd floor
Baku, Azerbaijan

Tel: (994 12) 4976388

Fax: (994 12) 4976391

E-mail: mark.Rowley@bakerbotts.com

Web: www.bakerbotts.com

Contact: Mr. Mark Rowley, Head of Representation

Chadbourne & Parke LLP (in affiliation with BM International LLP)

Address: Hyatt Tower III, 5th floor
Baku AZ1065, Azerbaijan

Tel: (994 12) 4971914, 4971915

Fax: (994 (12) 4971913

E-mail: Info@bmlawaz.com

Web: www.chadbourne.com

Contact: Jamal Bagirov, Senior Partner, BM International
Farkhad Mirzoyev Vice-President and Partner BM International
Laura Brank, Managing Partner, Chadbourne & Parke LLP

Ledingham Chalmers

Address: 11 Rasul-Rza Street
Baku AZ1000, Azerbaijan

Tel: (994 12) 4936669, 4932939

Fax: (994 12) 4987132

Web: www.ledinghamchalmers.com/locations/Baku.htm

Contact: Benjamin Paine, Associate
benjamin.paine@ledinghamchalmers.com

Ismail Askerov, Resident Director

ismail.askerov@ledinghamchalmers.com



Elchin Mammadov, Resident Director
elchin.mammadov@ledinghamchalmers.com

Moore Stephens Azerbaijan Ltd

Address: 153 Vidadi Street
Baku, Azerbaijan
Tel: (994 12) 4973042
Fax: (994 12) 4973493
E-mail: rb@bennett.azeri.com
Web: www.moorestephens.com/website/newmsil.nsf/pages/network.europe.AZbaku
Contact: Robin Bennett, General Manager

Salans

Address: Hyatt International Center, II, 1st floor / 1033 Ismir Street
Baku AZ1065, Azerbaijan
Tel: (994 12) 4907565
Fax: (994 12) 4971057
Web: www.salans.com
E-mail: baku@salans.com, abati@salans.com,
bati@wicklow.baku.az
Contact: Alum Bati, Managing Partner

Selected List of Internet Providers Operating in Azerbaijan

Adanet

Address: 13 Z. Tagiyev Street
Baku AZ1005, Azerbaijan
Tel: (994 12) 4974116
Fax: (994 12) 4974117
Web: www.azdata.net

Azerin JV

Address: 36 Hajibeyov Street
Baku AZ1000, Azerbaijan
Tel: (994 12) 4982533
Fax: (994 12) 4982534
Web: www.azerin.com

Azeronline JV

Address: 61A Tbilisi Avenue
Baku AZ1122, Azerbaijan
Tel: (994 12) 4935030, 4904994
Fax: (994 12) 4988272
Web: www.azeronline.com



AzerSat

Address: 241 Sharifzadeh Street
Baku AZ1012, Azerbaijan
Tel: (994 12) 4311420, 4335078
Fax: (994 12) 4310065
E-mail: office@azersat.az, Techsupport@azersat.az
Web: www.azersat.net

Azeurotel JV

Address: 1 Buniat Sardarov Street
Baku AZ1001, Azerbaijan
Tel: (994 12) 4926500
Fax: (994 12) 4970101
Web: www.azeurotel.com

Artel JV

Address: 41 Azerbaijan Avenue
Baku AZ1000, Azerbaijan
Tel: (994 12) 4982800
Fax: (994 12) 4980878
Web: www.artel.net

AzTelecom

Address: Block 3166, Tbilisi Avenue
Baku, Azerbaijan
E-mail: info@aztelekom.net
Web: www.aztelecom.net

Azcom JV

Address: 77 Fizuli Street
Baku AZ1014, Azerbaijan
Tel: (994 12) 4931444, 4925050
Fax: (994 12) 4939292
Web: www.azcom.az

Azintex Company

Address: 16 Ruhulla Akhundov Street
Tel: (994 12) 4922222
Web: www.azintex.com

AzinternetService Company

Address: 77 Fizuli Street
Baku, Azerbaijan
Tel: (994 12) 4939307
Fax: (994 12) 4983816



Web: www.azeri.com

AzNet – Azerbaijan Networking Education Technologies

Address: 122 Bashir Safaroglu str.
Baku AZ1001 Azerbaijan

Tel: (+99412) 4993741

Fax: (+99412) 4993742

E-mail: office@noc.aznet.org

Web: www.aznet.org

AzNetCard

Web: www.aznetcard.com

AzStarNet

Address: 214 Abdulla Shaig Street
Baku, Azerbaijan

Tel: (994 12) 4335076, 4957393

Fax: (994 12) 4991879

Web: www.simsiz.net

BakInternet

Address: 54 Suleyman Rustam Street
Baku AZ1007, Azerbaijan

Tel: (994 12) 4416161

Fax: (994 12) 4416799

Web: www.bakinter.net

Baku Telecom Company

Address: 41 Azerbaijan Avenue
Baku, Azerbaijan

Tel: (994 12) 4931409

Fax: (994 12) 4992196

Carvannet

Address: 26 Azadlig Avenue
Nakhchivan, Azerbaijan

Tel: (994 136) 57191, (994 136) 57190

Web: www.karvan.net

Caspian Electronics Company

Address: 20 Khagani Street, Apt 2
Baku, Azerbaijan

Tel: (994 12) 4989321

Fax: (994 12) 4989309

Web: www.caspel.com



CATEL

Address: 54 Suleyman Rustam Street
Baku AZ1007, Azerbaijan
Tel: (994 12) 4484700
Fax: (994 12) 4474600
Web: www.catel-az.com

Intrans

Address: 70 Nizami Street
Baku AZ1000, Azerbaijan
Tel: (994 12) 4980522
Fax: (994 12) 4933453
Web: www.az.com

LiderCard

Address: Block 655, S. Vurgun Street
Baku, Azerbaijan
Tel: (994 12) 4992511
Web: www.lidercard.com

Sinam-Invest JV

Address: 9 Agayev Street
Baku AZ1141, Azerbaijan
Tel: (994 12) 4392214
Fax: (994 12) 4392633
Web: www.sinam.net

Smart System Technology LTD

Address: Absheron Hotel, Suite 409 / 674 Azadlig Avenue
Baku AZ1010, Azerbaijan
Tel: (994 12) 4937968
Fax: (994 12) 4970358
E-mail: info@smart.az
Web: www.smart.az

Ultra Company

Tel: (994 12) 4985515
Tel/Fax: (994 12) 4938384
Tel/Fax: (994 12) 4986742, 4930592, 4389489
E-mail: sales@ultra.com.az
Web: www.ultra.com.az

Uninet

Address: 4, 28 May Street
Baku, Azerbaijan
Tel: (994 12) 4936767



Web: http://www.azuni.net/index_en.html

5CI.AZ / Penki Kontinental Baku

Address: 20 Khagani Street, Apt 26
Baku AZ1000, Azerbaijan

Tel: (994 12) 4477090

Fax: (994 12) 4980087

E-mail: info@5ci.az

Web: www.5ci.az

For more information on doing business in Azerbaijan

US Embassy, Baku, Azerbaijan

Address: 83 Azadlig Avenue,
Baku AZ1007, Azerbaijan

Tel: (994 12) 4980335

Direct Fax: (994 12) 4986117

E-mail: Bakhtiyar.Mamedov@mail.doc.gov

Web: www.bisnis.doc.gov and www.bisnis-eurasia.org

Contact: Bakhtiyar I. Mamedov, BISNIS Representative

Plus 9 hours from U.S. Eastern Standard Time

U.S. Department of Commerce, R-BISNIS

Address: Washington, DC 20230

Tel: (202) 482-4199

Fax: (202) 482-2293

E-mail: bisnis@ita.doc.gov

Web: www.bisnis.doc.gov

Contact: Chang Suh, BISNIS Trade Specialist for Azerbaijan -
Chang_Suh@ita.doc.gov

This report was prepared by Bakhtiyar I. Mamedov, BISNIS Representative, U.S. Embassy Baku,
Azerbaijan.

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BOLIVIA

Approval from the U.S. Embassy

Family members of USG direct hire American employees assigned to Bolivia may engage in freelance activities or run a home-based business with the approval of the Ambassador. Before you start your business, you will need to inform the Embassy of your intent to set up a home-based business and request permission to start. This is to ensure that there is no conflict of interest and that your proposed business does not violate U.S. or Bolivia law or damage the interests of the United States.

To request approval, please send a memorandum to the Ambassador, through the Management Officer. The Management Officer will review your request, coordinate with GSO on housing issues, and notify you when your request has received Ambassadorial approval.

Please prepare a memo for Management stating the following (example attached):

- Statement that you intend to freelance or open a home-based business
- A description of the work to be performed and the clientele you intend to serve
- Request to use government-provided living quarters for running a home-based business, if needed.
- Confirmation of your understanding regarding the loss of civil immunity arising for this employment and your obligation to meet any U.S. and Bolivian tax requirements.

An approval is usually granted, provided that the proposed activity complies with regulations stated in 6 FAM 725.7 and 3FAM 4125 (see attached regulations).

The HR Office will determine if your proposed business or freelance work requires a local work permit.

Work Permits

Providing services as a freelancer or operating a home-based business may not require a work permit if your business only serves the diplomatic community. However, if the proposed home-based business will provide services and/or products to the Bolivian public, then registration with the Bolivian authorities is required, as well as a work permit. The Human Resources Office will assist family members in understanding the registration process.



Diplomatic Immunity

If your home-based business requires a work permit, and if you are providing a product or service to the Bolivian public at large, family members should understand that they lose diplomatic immunity from civil and administrative matters arising from your business activity. Losing civil immunity means that a person may be sued (usually for money damages) before the civil or administrative authorities of the host country.

As noted in 3 FAM 4125, if the proposed business activity requires or entails a waiver of diplomatic privileges or immunities deemed unacceptably broad by the COM or Assistant Secretary, then the Mission will not allow the business to function.

Taxes

Income from home-based businesses is subject to the payment of applicable taxes. Registration of small businesses with the Bolivian tax authorities is required if you are selling a service or product to the non-diplomatic community. However, if your business is serving only the needs of the U.S. Embassy and diplomatic community at large in Bolivia, paying local taxes might not be required.

Should you elect to provide services only within the diplomatic community, your income may be subject to U.S. taxes. The Internal Revenue Code Sec. 911 allows for the exclusion of a certain amount of foreign-earned income, called the income threshold, currently set at \$80,000. A tax consultant can help you determine whether to elect this exclusion. See also www.irs.ustreas.gov for IRS publication 553 which regulates “self-employment tax.”

The SNAP Office has a list of U.S. tax consultants who are familiar with the issues of foreign-earned income.

Help in Getting Started

The Strategic Networking Assistance Program (SNAP) will help family members investigate career opportunities and find work on the local economy of Bolivia. The office can support your efforts in getting a business started. The Local Employment Advisor (LEA) can help connect your business with the greater Embassy community and the diplomatic community at large, exchange ideas and offer networking opportunities. The Community Liaison Office is also available to help in advertising your home-based business and promoting your efforts.



CAMEROON

FAQs for Starting a Business while Living Overseas

What are the relevant local laws, concerning a small-business startup and operation?

In principle, all businesses have to be registered with the Registrar of the Court of First Instance. This State institution issues a Certificate of Registration of the business. Depending on the nature of the business and the type of shareholding a Notary Public may have to draft the Articles of Association, which serves as the modus operandi of the business concern. In addition to that, the government of the Republic of Cameroon has created an Investment Code Management Unit (ICMU) to advise foreign investors who contemplate to open a business in Cameroon. Please Contact Ms. Marthe Angeline Minja, Director, ICMU, P.O. Box 15438, Douala, Tel: 237-42-59-46/43-31-11; Fax: 237 43-30-07

Can a spouse operating a business hire other people?

It is possible. Each business concern is considered a potential employer and in so far as it is legally recognized to operate, the employer can hire workers to ensure the running of the business. However, ICMU would provide a definitive answer to this question.

Does s/he have to pay local taxes on employees?

Yes. There is no exemption. Impositions on employees are two-folds:

- a- The employer pays income tax on the remuneration of the employees (deductible from the base salary of the employees). This is paid to the Taxation Department.
- b- The employer pays social insurance premiums to the National Social Insurance Fund.

If the customers are diplomats, expats or locals, are there different rules?

There are basically no discriminatory tax policies with regard to business tax payment. The company pays a number of taxes including the VAT, Inland Revenue Tax, etc that are decided upon by the Taxation Department.

If a spouse only serves diplomats, does s/he have to register the business locally?

Yes.



Have you had to restrict the types of businesses to be operated from a USG owned or leased home? Please explain.

There are no specific restrictions as such. However, this may depend on the terms and conditions of the tenancy in the case of a leased home.

Are there different legal requirements for home-based or small businesses for diplomats' spouses than from other third country nationals? How do the requirement change for a spouse who is also a host country national?

All businesses operated within the national territory follow the same registration procedure per se. If there are any specific derogations, that would be determined by a separate rules.

What are the specific insurance requirements for home-based businesses?

Usually there are no specific requirements peculiar to home-based businesses. Most businesses usually take an insurance policy against such risks as flooding, fire, and business losses and other third party liabilities. However, there is no strict law on the taking of an insurance policy. Each company management decides on what kind of insurance policy to take irrespective of whether it is home-based or on rented premises.

Do spouses starting their own businesses require work permits?

Usually the type of residential status of the spouse will determine whether the spouse is entitled to run a business of his/her own. Otherwise specific issues can be addressed to the Public Notary who can be of great assistance in starting up a business initiative.

How is immunity restricted for a spouse who is freelancing or operating a home business? Is this done officially?

???

Does a spouse have to register his/her business with a local trade office or government agency?

Yes, all businesses have to be registered with the Taxation department and or with the Registrar of the Court of First Instance. But please contact ICMU for more information.

If a spouse has a telecommuting position with a U.S. or foreign firm and does all the work online, does s/he have to receive host country Foreign Affairs permission?



S/he may not need it because s/he is not working within Cameroon nor does her/his work have any fiscal impact on Cameroon.

Who is the point of contact for spouses wishing to start a business in your mission?

The commercial section of the embassy can always be an important point of contact to assist spouses in starting up businesses. The commercial section can provide useful addresses and contacts of legal experts who can be useful in registration procedures.

CHINA

There is no work agreement so anyone choosing to open a business does so at his or her own risk. Current policy is “don’t ask, don’t tell.” Those spouses operating a business out of their home must advertise by word of mouth, mission newsletter, through other diplomatic missions and the schools. No local taxes are paid.

COSTA RICA

Host Country Regulations: Establishing a Business in Costa Rica

The first step in establishing a business in Costa Rica is to obtain the assistance of a notary public, the only professional authorized by law to register a company. Companies must be filed within the Costa Rican Mercantile Registry in order to be a legal, authorized entity. At registration, all information related to the new company and the persons who will manage the company must be submitted. This information includes the full name, marital status, nationality and occupation, domicile and the legal form of the company being organized, purpose of the company, amount of initial capital and the manner in which this capital is to be paid, time limits for its payments and any other agreements made by the founders.

An extract of the registration is then published in the official legal journal (“La Gaceta”). Payment on initial equity (usually nominal) must be expressed in local currency. Very often lawyers will draft the articles of incorporation stating that the parties have signed promissory notes to cover the capital requirements.

The costs of forming a small business including lawyer fees and miscellaneous stamp taxes typically range from \$500 to \$1,000.



Types of Costa Rican Business Corporations Available

The CR Code of Commerce allows for 5 types of businesses corporations, although generally only two are used. These are the "Sociedad Anonima" (a stock-held company) or a "Sociedad de Responsabilidad Limitada" (limited liability company).

The Costa Rican Code of Commerce stipulates that a corporation must be formed by at least two initial shareholders. It also allows, however, the acquisition of the totality of the capital stock by an initial shareholder immediately after formation, thus essentially permitting the formation and control of business corporations by a single interested person or company with the help of a nominal or temporary shareholder.

Corporate Taxes

Once a corporate identification number (cédula jurídica) has been issued, the company must register with the General Income Tax Office (Tributación Directa) as a taxpayer.

In Costa Rica, gross income includes earnings, benefits, rents, whether in cash or kind. Companies may deduct from gross income all costs and expenses necessary to produce taxable income. Partnerships are treated as corporations independent of their partners and are liable for corporate taxes on net profit. Tax rates vary between 10% (on gross income up to @ US\$47,000) to 30%. Costa Rica has no state or city income taxes. There are, however, minor municipal taxes, operation permit fees and stamp taxes. Municipal taxes will vary from one municipality to another. Stamp taxes are levied on most legal documents.

Export permits, licenses

If the products are being exported, an export permit must be obtained through the Costa Rican Foreign Trade Corporation (PROCOMER). Likewise, specific business licenses may be required for various types of commercial activities.

General Labor Laws:

Social Security Withholding and Payroll Taxes

If the spouse contracts employees, s/he will be liable for social security withholdings and payroll charges. These are payments that employers and employees must pay to various state agencies.

Social security charges: Employers must register their business with the Caja Costarricense de Seguro Social (CCSS) by way of a relatively simple filing.



Social security coverage is mandatory for all workers and is funded through a three-tiered system: State, employer and employee contributions. The amount of the contribution is calculated on the basis of the entire compensation paid to the employee. Employer contribution is 26% and employee contribution is 9%.

Income tax on salaries: Employees are required to pay taxes on any income earned as a result of an employment contract. Reporting is the responsibility of the employer. The employer is required to apply the appropriate tax withholdings on a monthly basis and report the taxes to the Tax Authority.

Workers Compensation Insurance

In Costa Rica there is a legal obligation to provide workers compensation insurance to all employees. The Instituto Nacional de Seguros (National Insurance Institute) is the only insurer authorized to underwrite the workers compensation insurance. This insurance covers employees for work-related accidents. The premium ranges from .35% through 25.42% with a median premium rate of 2.69%.

Severance Pay

Employers must pay severance pay when the employment terminates for reasons not attributable to the employee. In accordance with the local labor laws, severance pay is calculated at a rate of approximately 21 days of salary for each year of service, with an upper limit of 8 years.

Vacation

Employees are entitled to two weeks of paid vacation for each 50 continuous weeks of employment with the same employer. When employment terminates before the 50-week term, the employee must be paid vacation time at a rate of one day of vacation for each month of service.

Before considering starting up your own business, it is important to discover your propensity for self-employment. There are a number of advantages, including the opportunity to experience personal satisfaction, be your own boss, be rewarded in direct proportion to your productivity and flexible work hours. On the other hand, few challenges are riskier than starting own business. You may go into debt and realize little income in the first months. To be successful requires extensive planning.

Resources and Contacts

US Department of Commerce – US Commercial Services

US Embassy, Pavas Costa Rica

Contact: James McCarthy, Commercial Attaché Tel. 519-2293



E-mail: James.McCarthy@mail.doc.gov

US Department of Commerce – US Commercial Services: *The Country Commercial Guide* presents a comprehensive look at Costa Rica's commercial environment using economic, political and market analysis. The Guide is available on the Internet at http://www.buyusainfo.net/docs/x_8772428.pdf

Costa Rican Coalition for Development Initiatives (CINDE)

Tel. 220-0036

Contact: Edna Camacho, Director

www.cinde.or.cr

The Costa Rican Foreign Trade Corporation (PROCOMER)

Tel 256-7111 ext. 240

www.procmer.com

The Investors' Manual details step-by-step procedures for establishing and operating a business in Costa Rica at

<http://www.tramites.go.cr/manual/english/frame.htm>

The Costa Rican/American Chamber of Commerce

Tel. (506) 220-2200

www.amcham.co.cr

Contact: Lynda Solar, General Manager

Membership Directory and Business Guide - features over 400 local and multi-national companies and is a valuable reference manual.

CZECH REPUBLIC

The following website is full of information regarding work permit and taxes in the Czech Republic <http://www.czech.cz/>

The website of Ministry of Trade includes information about trade licensing at http://www.mpo.cz/EN/Zivnostenske_podnikani/Pruvodce_zivn_zahr_osoby/default.htm

Starting a Limited Liability Cooperation (in Czech it is called "sro").

Regarding this please read the related chapter in the attached book. I have hosted a seminar about cross-cultural issues and David Showalter, the author of the book, came to our Embassy to give the seminar. His e-mail address changed because he sold his business to someone else. Here is his new e-mail address david@neweuroperealty.com.



2. Get a trade license (Zivnostenske List). About the procedures please visit the following website

http://www.mpo.cz/EN/Zivnostenske_podnikani/Pruvodce_zivn_zahr_osoby/default.htm

than click

[Application for Trade Permit: Natural Persons with Domicile outside the Czech Republic \(106 kB, Format: pdf Language: EN\)](#)

When you register for ministry of trade you will have a trade number which allows you to give recipe for the products or services you are providing. But the taxes are very high and the lowest amount is almost 50 Dollar/month and it doesn't matter whether you earn this money or not.

The forms are available in the following website which is all in

Czech. <http://www.mvcr.cz/reforma/>. You need to register for different activities with different forms. The form for teaching is different than the form for opening a restaurant. Some of the activities require certain type of certification in that field but for teaching is exempt from this rule. In the past I planned to register and start teaching excel or some statistic programs to the employees of a company than changed my mind because the taxes were too high.

Introduction to Founding a Small Business in the Czech Republic *

Most foreign-owned small businesses take the form of the Limited Liability Company or "s.r.o.", which roughly corresponds to "inc" in the United States. The "s.r.o." allows foreigner to act as a legal entity without being a legal physical person (one with a permanent residency). Each "s.r.o." registered in the Commercial Register and issued an ICO (business identification number)

To be registered by the Commercial Court the owners must sign the founding contract of the company, listing all the share holders (who need not be Czech or reside here), the statutory executive, the seat of the company, and various other legal matters about the corporate structure. The executive of the company (jednatel) must be Czech or have a valid residency permit or long term visa, a clean criminal record in this country and their home country, and must sign an affidavit that he or she has not been involved certain business dealings within last three years, including bankruptcies. Jednatel carries the legal responsibility for all transactions of the company as well as the power to sign contracts.

The "s.r.o." needs to obtain a trade license for the business which it expects to perform. Some of these licenses are free licenses which take only a few days, others carry more requirements. Every trade license requires a physical person (odpovedny zastupce), who is a Czech citizen or has a permanent residency, speaks Czech, and can prove the education and experience necessary for the business practice. This person has neither the legal responsibility nor the legal power of the jednatel. New legislation requires this person to actually be employed by the country.

The company also needs a seat, not necessarily the premises where it will do business, before it can be registered. The jednatel can sign a lease for a seat on the basis of the notarized company contract before the company is registered.



The location of the seat of the company determines in which court (district of Prague or locality outside of Prague) the company must be registered. It is possible to have a seat outside of Prague which operates a company in the Prague center. If the seat of the company later changes, the jednatel is required to change the entry in the Commercial Register.

Finally the owners must have deposited the basic startup capital in a bank which will hold the money during the registration process at the Commercial Court. Once the company contract, the documentation of jednatel, the proof of the seat of the company, trade license, and the papers about the basic capital are submitted to and accepted by the court, the company will be registered with the court in one or two months and issued the ICO.

The company jednatel is then obligated to bring an extract from the Commercial Register to the financial office in the locality of the seat of the company and register the company for tax responsibilities. At this time company will be issued a DIC or tax identification number. The "s.r.o." does not have to register to pay Value Added Tax (DPH) at this time. Only after doing business and reaching certain ceiling of turnover is an "s.r.o." required to register for and pay DPH. The s.r.o. is required to keep double-entry accounts and must file corporate income tax returns yearly from the date it was registered in the Commercial Register. Once s.r.o. is established, has a trade license, ICO and DIC (which it should display on its all important company stamp, or razitko), it can proceed with its business.

Documents for obtaining a trade license (most documents must not be older than three months)

1. Notarised copy of company contract
2. Trade reporting form for each license requested
3. Extract from Criminal Register for the physical person (odpovedny zastupce).
4. Confirmation from Financial Authority that the odpovedny zastupce does not owe any taxes or penalties.
5. Lease contract for the seat of the company.
6. Power of attorney (if someone other than jednatel will apply for license)
7. Notarised affidavit from the odpovedny zastupce that he or she agrees to act in this capacity.
8. Documentation that the odpovedny zastupce that he or she agrees to act in this capacity.
9. Signed employment contract for the odpovedny zastupce

Documents for registration with the Commercial Court (most documents must not be older than three months)

1. Original copies of company contract with notarized signatures.
2. Affidavit from Criminal Registry for the jednatel.
3. Extract from Criminal Registry for the jednatel.
4. Lease contract for the seat of the company.



5. Affidavit of the contribution of the company of all partners and an original bank statement showing that basic capital.
6. Power of attorney (if the person dealing with the court is not jednatel)
7. Trade license in name of the company
8. If the executive is a foreigner, a copy of the residency visa and proof of criminal record from their home country.
9. Formal request from the jednatel or lawyer holding power of attorney to register the company in the Commercial Register.

*** Reference**

Breitmeyer, H.H. (2002/2003). The Layperson's Introduction to Founding a Small Business in the Czech Republic. Czech Republic Business Guide 7th Edition. P:48-49.

Showalter, David S., *The Complete Guide to Living, Working & Investing in the Czech Republic!*

El Salvador

The steps necessary for establishing a business office in El Salvador are:

- a. Find a legal representative or lawyer and appoint an auditor. A lawyer is necessary since there are a variety of legal requirements, documents and steps to complete at the Registro de Comercio and the Superintendencia de Empresas Mercantiles to obtain an authorisation to operate in El Salvador. The auditor registers the company with all the governmental agencies and creates and legalizes the accounting system and books.
- b. Request a permit to operate in El Salvador from the Superintendencia de Empresas y Sociedades Mercantiles, Ministerio de Economia
Complejo Maestro, Centro de Gobierno
San Salvador, El Salvador, C.A.
Tel (503) 281-11-22
- c. The Superintendencia de Empresas y Sociedades Mercantiles authorises all types of commercial activities that take place in El Salvador and establishes the minimum starting capital required for businesses to begin operations. These start at approximately US\$25,000.
- d. Obtain an income and property clearance (this includes an income tax contributor number, as well as a Value Added Tax -VAT- collector number) from the Direccion General de Impuestos Internos from:
Ministerio de Hacienda
Avenida Alvarado y Diagonal Centroamerica
Condominio Las Tres Torres N°2
San Salvador, El Salvador



- Tel. (503) 225-1022
Fax: (503) 225-8175
- e. Request a License at the Commerce Registry (Registro de Comercio), in the Commerce and Industry License Registry Department. Industrial and/or commercial patent registry is also requested in this office. For the issuance of the license, the Registry must approve a Spanish version of the accounting system, and must also approve the accounting books. Your auditor must approve this system and books prior to registering at the Commerce. Once the Registry sees it is "legalized" and approved by and auditor they register it.
 - f. Register the firm's board of directors and administrative personnel at the Commerce Registry.
 - g. Obtain Municipal services clearance from the appropriate township or city.
 - h. Obtain certification that the firm is properly registered in the Industrial and Commercial National Establishments Directory at:
Direccion General de Estadistica y Censos
Avenida Juan Bertis N° 79, Ex-Instituto Geografico Nacional
Ciudad Delgado.
Tel. (503) 276-5900
Fax: (503) 276-5900
 - i. If the firm sells of manufactures pharmaceuticals, obtain a permit from:
Consejo Superior de Salud Publica
Paseo General Escalon N°3551
San Salvador, El Salvador
Tel: (503) 245-3885, (503) 245-3886
Fax: (503) 245-3886
 - j. Publish the firm's license in a local newspaper.
 - k. Register the investment at the Foreign Capital and Technology Transfer Department of the Ministry of Economy.H
 - l. Hire both an accountant and an external auditor that has been certified by the Government of El Salvador.

Germany

Answers to questions pertaining to EFM's
who are interested in starting their own business:

1. When diplomatic spouses start their own businesses, what are the U.S. tax implications?

Income from freelance work is subject to the payment of applicable taxes. Registration of small businesses with the German tax authorities is required and will be done either through the trade registration agency or the small business owner.



Registration with the Tax Office (after you start your business)*

Hauptfinanzamt
Gutleutstrasse 116
60305 Frankfurt am Main
T: 069-2545 12
Opening times: M-F 8 am to 4 pm

Submit the following documents:

-Memorandum confirming intention to engage in freelancing

-Form: *Fragebogen zur steuerlichen Erfassung*

****(If your business does not require registration with the trade office, the registration with the German tax office can be done by yourself)***

An agreement between the U.S. and Germany exists to avoid double taxation with respect to taxes on income (www.pinkernell.de/dbausa.htm#a23).

Should you elect to provide services only within the diplomatic community, your income may be subject to U.S. taxes. The Internal Revenue Code Sec. 911 allows for the exclusion of a certain amount of foreign-earned income, called the income threshold, currently set at 80,000. A tax consultant can help you determine whether to elect this exclusion. See also www.irs.ustreas.gov for IRS publication 553 which regulates “self-employment tax”.

Family members may consult with the US tax consultants at the US Embassy in Berlin, for more information on U.S. tax liability.



2. What are the regulations on the use of the APO for business purposes? (It cannot be used for this purpose) Check the FAM for the specific regulation.

The government mail system (both APO and pouch) may not be used for business purposes. According to **5 FAM 341**, individuals are not authorized to use government mail systems for the distribution of advertisements or other mass mailings.

The DoD Postal Manual, C3.2.11.6.1 states on the use of APO restrictions: *Sending or receiving items through the IDS to advertise home businesses, to sell merchandise, or to conduct business or for commercial purposes is prohibited. This resale prohibition applies whether sale is to authorized MPS users or not, and regardless of the beneficiary of the proceeds; i.e., charitable organizations or non-appropriated welfare fund activities.*

3. What do spouses with small businesses need to know about work permits in Germany?

In Germany, providing services as a freelancer does not require a work permit.

In the case of diplomatic spouses, the Consulate will seek approval from the German Foreign Affairs Office in Berlin. In a verbal note, the Consulate will assure compliance of the work with conditions in article 41 of the WÜD (recognition of vocational training, approval as registered trade..).

If your business is a trade, registration with the German Trade Office is necessary:

Kassen – und Steueramt
Abteilung für Gewerbe
Paulsplatz 9
60311 Frankfurt am Main
Tel. 69-212-32999
z.H. Herr Linz
Information: Frau Kirchner-Peinemann, T: 069-212-34443

Opening times: M-F 8 am – 1 pm

Documents to bring:

- Proof of address (available from Brigitte Ballner in HR)
- Business Plan
- Copy of transcript and/or university diploma to confirm qualification, if applicable
- Permission to run a business in government housing from Consul General
- Passport with residency permit



4. Is permission from the U.S. embassy/consulate needed before starting up a business? (yes) What do spouses need to do to obtain permission?

Consulate Family members of assigned American employees may engage in freelance activities or run a home-based business with the approval of the Consul General. Before you start your business, you will need to inform the Consulate of your intend and request permission to start. This is to ensure that there is no conflict of interest. If your work violates any U.S. or German law, or damages the interests of the United States, permission will not be granted.

To request approval, please send a memorandum to Mr. Peter Bodde, Consul General, Frankfurt, thru Ms. Kathleen Gaseor, Human Resources Officer. HR will review your request and notify you when your request has been approved.

Please prepare a memo for HR stating the following:

- Explanation that you will be freelancing
- A description of the work to be performed and the clientele you intend to serve
- Request to use government provided living quarters for running a home-based business if so intended.
- Confirmation of your understanding regarding the loss of civil immunity arising for this employment and your obligation to meet any U.S. and German tax requirements.

An approval is usually granted, provided that the proposed activity complies with regulations stated in 6 FAM 725.7 and 3FAM 4125 (see below).

5. What are the regulations in the FAM that relate to small businesses?



6 FAM 725.7 Businesses

(TL:GS-113; 09-24-2003)

(Uniform State/USAID/Commerce/Agriculture/DIA)

a. The Department fully supports the desire of many spouses and family members to secure employment while posted abroad. Spouses and family members of employee occupants of U.S. Government-held or LQA/OHA housing may use the housing for the conduct of a private business for personal financial gain, provided that such conduct conforms to the provisions of paragraphs b or c in this section.

b. Such housing may be used for activities that foster cultural understanding between the embassy community and the local community and/or provide a benefit to mission employees or families, as determined by the chief of mission.

c. Such housing may be used for commercial activities if approved by the chief of mission or, in the case of an ambassador's residence, by the relevant regional bureau assistant secretary in response to a written request. The chief of mission or assistant secretary shall approve such requests where:

6. What are the ethical issues that spouses need to be aware of when setting up their own businesses? (see the FAM)

As set forth in 3 FAM 4125, the proposed activity would meet the following standards:

(a) It would not violate any law of the host country;

(b) It would not require or entail a waiver of diplomatic privileges or immunities deemed unacceptably broad by the chief of mission or assistant secretary; and

(c) It would not otherwise damage the interests of the United States as determined by the chief of mission or assistant secretary;

(2) The chief of mission or assistant secretary determines that the proposed activity is appropriate, taking into account local customs and norms, post security and other relevant considerations, and whether the activity would adversely affect the work of the post;

(3) The proposed activity does not require substantial use of the housing by non-U.S. Government employees and their families (e.g., retail sales from a residence would not be permitted, but individual piano lessons or tutoring may be in appropriate cases) or, in the case of use of the ambassador's residence, the proposed activity does not involve any use of the residence by non-U.S. Government employees and their families;

(4) If determined to be necessary by the *management* officer at post to



protect the Department from significantly increased risk of liability, the occupant obtains liability insurance covering the proposed use or presence in the residence by non-U.S. Government employees and their families;

(5) The chief of mission or assistant secretary determines that the proposed commercial activities of the spouse or family member would not create a conflict or appearance of conflict of interest with the U.S. Government employee's duties; and

(6) The person who will conduct the commercial activities provides assurances that the business will comply with all relevant local legal requirements (e.g., licenses, work permits, and similar regulations).

d. If any commercial activity approved under either paragraphs b or c of this section causes increased operating or continuing maintenance costs to the U.S. Government, the occupant must pay the increased costs attributable to such use. Costs for installation of any equipment as well as for returning the property to former condition are borne by the occupant. In addition, notwithstanding paragraphs b and c of this section, under no circumstances will a commercial activity be approved that requires the regular presence of employees of the spouse or family member in the residence. Finally, the chief of mission or the assistant secretary may at any time revoke approval of a commercial activity approved pursuant to this section, if any of the standards set forth above are no longer met.

Immunity

You should bear in mind that you will not enjoy immunity from civil matters arising from your business activity. Civil immunity means that a person may not be sued (usually for money damages) before the civil or administrative authorities of the host country. When a family member engages in actions relating to professional or commercial endeavors outside the scope of official functions they are except from civil and administrative immunity, however, criminal immunity is preserved in every case.

The taxation of self-employment income in Germany (excerpts from

11) Tax on net income from professional activities or from carrying on a trade or business is collected by assessment. Quarterly installments might be assessed on an estimated basis and credited against the final income tax burden.

12) Dividends and interest received from German or from non-German sources, are taxable for German residents, in excess of 1.550 € for single filers and 3.100 € for married couples filing a joint return. They are subject to taxation at individual progressive rates. German withholding tax on dividends (25%), on interests paid



by banks (30%), and corporation tax (30%) are credited against the tax liability. The solidarity surcharge (5,5%) is withheld at source. Foreign tax may also be credited.

**ADMINISTRATIVE POLICY
EMBASSY OF THE UNITED STATES OF AMERICA
BERLIN**

Subject: Spousal Employment on the Local Economy	Date: 15 Nov 04	No. 18 – 04
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The Minister Counselor for Management Affairs would like to remind the U.S. Mission community that in most cases host country approval (a work permit) is required before an EFM may accept employment or provide freelance services (self-employment) on the local economy.

For Self Employed Individuals: Use of USG funded quarters for self-employment must be approved by the Chief of Mission (COM), in writing. Any and all costs for installation/de-installation of items for the business, plus additional wear-and-tear or utilities charges must be borne by the employee assigned to the quarters. Use of duty-free items or other materials obtained by virtue of diplomatic status (i.e. the APO to import goods for resale, items purchased at military installations, the IVG telephone line, etc) is not permitted.

In every case: plans to work on the local economy must be approved by the Chief of Mission, in writing. Once COM approval has been obtained the Human Resources Office in Berlin will coordinate with the Ministry of Foreign Affairs (MFA) for issuance of a work permit. Any EFM seeking employment in Germany is reminded that he or she will **not** enjoy civil immunity from judicial process for activities relating to employment and will be subject to German and U.S. income and social security taxes, as appropriate.

The following documents must be submitted by the EFM wishing to seek any kind of employment on the local economy to their prospective Human Resources Office at post to initiate the process:

- A written request for forwarding to the Chief of Mission indicating intent to work either in an employee-employer relationship or to conduct



commercial activities on a self-employed basis- **prior to the start of employment or establishment of self-employment.**

- An official job offer from the prospective employer or a “business plan” for self-employment.
- A job description from the prospective employer, in the form of a certificate identifying the proposed position.
- A completed work-permit application form. The form is obtained by the prospective employer, filled out and signed by both parties: the prospective employer and the EFM.
- Copy of the EFM’s Foreign Office Ausweis showing legal status in Germany.

The local HR/MGT office at consulates will work closely with HR Berlin to obtain front office approval, and will forward all documents for submission to the MFA to HR Berlin.

Please remember that the decision to grant a work permit lies solely with the Federal Labor Office in Germany and depends on the situation and development on the German labor market. Additional considerations may apply for self-employed individuals such as licensing and insurance. In general, if a work permit is issued, it is valid only for the duration of the particular employment contract with the same employer and is not transferable to any other employee-employer relationship.

3 FAM 4125 and 6 FAM 725.7 apply to employment by EFMs and use of government provided quarters for a private enterprise, and are reproduced below for your reference.

3 FAM 4125 OUTSIDE EMPLOYMENT AND ACTIVITIES BY SPOUSES AND FAMILY MEMBERS ABROAD

(TL:PER-491, 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

a. A spouse or family member of a U.S. citizen employee may accept any outside employment or undertake other outside activity as described in section 3 FAM 4123 in a foreign country unless such employment:

- (1) Would violate any law of such country;



- (2) Could require a waiver of diplomatic immunity deemed unacceptably broad by the Chief of Mission; or
 - (3) Could otherwise damage the interests of the United States as determined by the Chief of Mission in that country.
- b. A spouse or family member should notify the principal Administrative Officer at post before acceptance of intended outside employment.

A spouse or family member accepting employment abroad should bear in mind that he or she loses civil immunity from judicial process for activities relating to employment and would be subject to the payment of taxes on income from non-diplomatic employment.

6 FAM 720

HOUSING ABROAD PROGRAM

6 FAM 725.7 Businesses

(TL:GS-113 ; 09-24-2003 Uniform State/USAID/Commerce/Agriculture/DIA)

- a. The Department fully supports the desire of many spouses and family members to secure employment while posted abroad. Spouses and family members of employee occupants of U.S. Government-held or LQA/OHA housing may use the housing for the conduct of a private business for personal financial gain, provided that such conduct conforms to the provisions of paragraphs b or c in this section.
- b. Such housing may be used for activities that foster cultural understanding between the embassy community and the local community and/or provide a benefit to mission employees or families, as determined by the chief of mission.
- c. Such housing may be used for commercial activities if approved by the chief of mission or, in the case of an ambassador's residence, by the relevant regional bureau assistant secretary in response to a written request. The chief of mission or assistant secretary shall approve such requests where:
 - (1) As set forth in 3 FAM 4125, the proposed activity would meet the following standards:
 - (a) It would not violate any law of the host country;



(b) It would not require or entail a waiver of diplomatic privileges or immunities deemed unacceptably broad by the chief of mission or assistant secretary; and

(c) It would not otherwise damage the interests of the United States as determined by the chief of mission or assistant secretary;

(2) The chief of mission or assistant secretary, determines that the proposed activity is appropriate, taking into account local customs and norms, post security and other relevant considerations, and whether the activity would adversely affect the work of the post;

(3) The proposed activity does not require substantial use of the housing by non-U.S. Government employees and their families (e.g., retail sales from a residence would not be permitted, but individual piano lessons or tutoring may be in appropriate cases) or, in the case of use of the ambassador's residence, the proposed activity does not involve any use of the residence by non-U.S. Government employees and their families;

(4) If determined to be necessary by the management officer at post to protect the Department from significantly increased risk of liability, the occupant obtains liability insurance covering the proposed use or presence in the residence by non-U.S. Government employees and their families;

(5) The chief of mission or assistant secretary determines that the proposed commercial activities of the spouse or family member would not create a conflict or appearance of conflict of interest with the U.S. Government employee's duties; and

(6) The person who will conduct the commercial activities provides assurances that the business will comply with all relevant local legal requirements (e.g., licenses, work permits, and similar regulations).

d. If any commercial activity approved under either paragraphs b or c of this section causes increased operating or continuing maintenance costs to the U.S. Government, the occupant must pay the increased costs attributable to such use. Costs for installation of any equipment as well as for returning the property to former condition are borne by the occupant. In addition, notwithstanding paragraphs b and c of this section, under no circumstances will a commercial activity be approved that requires the regular presence of employees of the



spouse or family member in the residence. Finally, the chief of mission or the assistant secretary may at any time revoke approval of a commercial activity approved pursuant to this section, if any of the standards set forth above are no longer met.

Approved:MGT:BMcIntosh

Drafted:HR:SMyers, KWitte

Cleared:HR:SHolden, SNAP:CMueller, CLO:MTaylor

Distribution: Germany Mission Wide

Greece

To date, spouses starting a home-based business in Athens do not require work permits. However, these businesses are limited to the diplomatic community.

Lebanon

Telework is permitted if work is done for a foreign company.

Malaysia

1. What are the relevant laws, concerning a small-business startup and operation?
2. Can a spouse with a business hire other people? [Yow, Yuen Thiam] Yes, after the business is successfully registered with the local authorities (Registrar of Companies).
3. Does s/he have to pay local taxes on employees? [Yow, Yuen Thiam] No, if the employees are Malaysian citizens, but the employer is required to make regular payroll deductions from the salary of his/her employees. Hiring of non-Malaysian citizens requires paying a levy. The levy amount(s) may differ depending on the type of work or occupation.
4. If the customers are diplomats, expats or locals, are there different rules?
5. If a spouse only serves diplomats, does s/he have to register the business locally? [Yow, Yuen Thiam] Legally, yes.
6. Can a spouse run the business from his/her USG leased home? [Yow, Yuen Thiam] Yes, subject to the provisions of State 04193 dated 01/07/2000, Subject: Home-based Businesses in USG property.
7. Are there different legal boundaries for home-based or small businesses for diplomats' spouses than from other third country nationals?



8. What are the insurance requirements for home-based businesses? [Yow, Yuen Thiam] Please refer to State 04193 dated 01/07/2000.
 9. Do spouses starting their own businesses require work permits? [Yow, Yuen Thiam] Legally, yes. They should first have the question of diplomatic privileges and immunity properly addressed.
 10. Will a spouse who is freelancing or operating a home business lose part of his/her immunity? [Yow, Yuen Thiam] Refer to 9 above.
 11. Does a spouse have to register his/her business with a local trade office or government agency? [Yow, Yuen Thiam] Refer to 2 above.
 12. If a spouse has a telecommuting position with a U.S. firm and does all the work online, does s/he have to receive Foreign Affairs permission?
 13. Who is the post's point of contact for spouses wishing to start a business?
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Poland

The Government of Poland on their Poland Embassy in Washington D.C. Web site publishes a thorough business guide.
www.polandembassy.org/Business/p5-1.htm

Thailand

Teleworking with a foreign business is unofficially permitted. Spouses who operate their business from their homes appear to be skirting the issue of unavailable work permits.