

STEPS FOR SETTING UP A BUSINESS/ BUSINESS STARTUP GLOSSARY

April 2021

Steps for setting up a business

Seven steps for founding your sole proprietorship

1. Startup consultancy, financial and legal advisory service from the Founder Service and/or the specialised departments and professional groups of your Chamber of Commerce (WKO). Please pay particular attention to business clarification and, if necessary, inquire about the necessity of an operating licence.

2. Declaration of startup or business transfer (NeuFöG, Promotion of New Companies Act) Certain charges, contributions and fees in the context of a startup or a (paid or unpaid) business transfer are **not** collected. The prerequisite for this is the declaration of the startup or business transfer on the form (NeuFö2) intended for this purpose. You will receive the form from the Founder Service, the professional groups or trade guilds and at the district/regional offices.

Documents and certificates compiled and issued on the basis of the Trade, Commerce and Industry Regulation Act, as well as inputs intended for the compilation and issuance of documents based on the above Federal Act, are no longer subject to federal stamp duties and administrative fees.

3. Business registration

Electronic business registration: Please contact the Founder Service or the district and regional office of your WKO [Austrian Federal Economic Chamber] if you want to register your business electronically or yourself on GISA (Austrian Business Licence Information System).

You will need the following supporting documents for the registration of your business:

3.1 If you render the proof of competence (e.g. master craftsman's certificate) yourself:

- passport
- Criminal record certificate of the country of origin (translated by a court-approved specialist) for persons who do not live in Austria or have lived there for less than five years
- proof of competence (e.g. master craftsman's certificate or qualification certificate, school and/or employment certificate) or established individual competence (with the exception of free trades - they do not require any documented proofs of competence)
- Statement that there are no reasons for disqualification from business due to insolvency or a criminal record (Art. 13 of the Trade Regulation Act)
- unlimited residence permit or residence permit for the purpose of self-employment (for non-EU citizens)
- In certain trades proof of liability insurance must be provided at the time of business registration

3.2 You do not render the proof of competence yourself, but instead appoint a managing director under trade law (who works at the operating plant at least 20 working hours a week):

For the business registration, you will need:

- passport
- Criminal record certificate of the country of origin (translated by a court-approved specialist) for persons who do not live in Austria or have lived there for less than five years
- unlimited residence permit required for non-EU citizens

For the managing director under trade law:

- passport
- Criminal record certificate of the country of origin (translated by a court-approved specialist) for persons who do not live in Austria or have lived there for less than five years
- Confirmation of social insurance (ÖGK, Austrian Health Insurance Fund) for registration as an employee at the party registering the business. Proof must also be provided of the extent of employment (usually confirmation from the tax advisory service)
- proof of competence (e.g. master craftsman's certificate or qualification certificate, etc.)
- Statement of the Managing Director under trade law about their corresponding activity in the enterprise (form). Neither the person registering the business nor the managing director under trade law may be barred from the pursuit of the trade (declaration according to Art. 13 of the Trade Regulation Act).

With the business registration, you become a member of the Chamber of Commerce (WKO) with the liability to pay contributions. Please contact the WKO of your federal state to obtain more detailed information.

4. Austrian Health Insurance Fund (ÖGK)

Before hiring employees (i.e. before their employment begins), you must register them with the Austrian Health Insurance Fund. If you employ a managing director under trade law, you must register them with the Austrian Health Insurance Fund (ÖGK) prior to registering your business (possible upon the business registration taking effect), since an ÖGK confirmation of employment and of the extent of employment (in regulated trades) must be presented to the trade authority.

5. Social Security for the Self-Employed (SVS)

Registration with Social Security for the Self-Employed (Sozialversicherung der Selbständigen) must be made within the first month. You can also register directly within the scope of the business registration at the district administrative office. The authority will forward the registration social insurance to the Social Insurance Services.

6. Tax office

You report your commercial activity with the fiscal authorities within the first month and apply for a taxpayer identification number. You can report electronically to the fiscal authorities within the scope of the business registration at the district administrative authority. It will forward the report to the fiscal authorities.

7. Municipality/city

Please note: activities not normally conducted in apartments/residential buildings (e.g. trade, crafts, hospitality industry) require the corresponding zoning (allocation) and planning permission (usage permission) for the desired location.

If you are going to hire employees, you must notify the municipality/city (municipal tax).

Moreover, sole proprietors must be entered in the company register when the reporting requirement arises. This limit is set at an annual net turnover of EUR 700,000.00. A voluntary registration is possible if this limit is not reached.

Nine steps for founding a partnership (OG) or founding a limited partnership (KG)

1. Startup consultancy, financial and legal advisory service

from the Founder Service and/or the specialised departments and professional groups of your Chamber of Commerce (WKO).

Please pay particular attention to business clarification and, if necessary, inquire about the necessity of an operating licence.

2. Declaration of startup or business transfer (NeuFöG, Promotion of New Companies Act)

Certain charges, contributions and fees in the context of a startup or a (paid or unpaid) business transfer are **not** collected. The prerequisite for this is the declaration of the startup or business transfer on the form (NeuFö2) intended for this purpose. You will receive the form from the Founder Service, the professional groups or trade guilds and at the district/regional offices.

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3. Partnership agreement

The OG/KG is established by a partnership agreement (minimum 2 persons) to which no special formalities apply; you can conclude the agreement orally or in writing. For reasons of proof, we recommend a written agreement.

4. Entry in the Commercial Registry/application for entry

The OG/KG comes into being only with the entry in the Commercial Registry. The partners can write the application for entry in the Commercial Registry themselves.

Their signature on the application as well as any specimen signatures must be certified by a notary public or court (district court).

The following supporting documents are required for entry in the Commercial Registry:

- The specimen signature of all bodies with authorised representation (personally liable partners), as certified by a notary or a district court; the Commercial Registry application by a KG (limited partnership) shall also be signed by the limited partner and the signature shall also be notarized.

Even if a partnership agreement is available, the application for entry in the Commercial Registry must contain the following information:

- Company; limited partners may not appear in the company name; the suffix indicating the legal form of OG or KG is mandatory
- Liability amount of the individual partners
- Registered office of the company and business address authoritative for the company
- Designation of the business segment
- Names, dates of birth and addresses of the partners
- If not all personally liable partners are authorised to sign, this must be entered in the Commercial Registry
- Provisions governing representation
- Day of conclusion of the partnership agreement
- In the case of third-country citizens (non-EEA citizens), a residence permit and a valid employment permit or exemption certificate are also required for personally liable partners.

5. Business registration

Electronic business registration: Please contact the Founder Service or the district and regional office of your WKO [Austrian Federal Economic Chamber] if you want to register your business electronically or yourself on GISA (Austrian Business Licence Information System).

The following supporting documents are required for the business registration:

- Passports of all persons with significant control (i.e. personally liable partners or limited liability partners with special managing authorisations)
- excerpt from the Commercial Registry
- Criminal record certificate of the country of origin (translated by a court-approved specialist) for the managing director under trade law and all personally liable partners if they do not live in Austria or have lived there for less than five years

- Statements that no reasons exist for disqualification from business due to insolvency or a criminal record (Art. 13 of the Trade Regulation Act), i.e. statements from all persons with significant control (i.e. personally liable partners or limited liability partners with special managing authorisations)
- In certain trades proof of liability insurance must be provided at the time of business registration

The following are additionally required for the managing director under trade law:

- passport
- Confirmation of social insurance (ÖGK, Austrian Health Insurance Fund) for registration as an employee for at least 20 hours a week at the party registering the business; proof shall also be provided of the extent of employment (usually confirmation from the tax advisory service). This is not required if the managing director under trade law is a personally liable partner or free trades are involved.
- proof of competence (e.g. master craftsman's certificate or qualification certificate, school and/or employment certificate) or established individual competence (with the exception of free trades)
- Statement of the managing director under trade law about their corresponding activity in the enterprise (form). Neither the managing director under trade law nor all personally liable partners may be barred from the pursuit of the trade (declaration according to Art. 13 of the Trade Regulation Act).

With the business registration, you become a member of the Chamber of Commerce (WKO) with the liability to pay contributions. Please contact the WKO of your federal state to obtain more detailed information.

6. Austrian Health Insurance Fund (ÖGK)

Before hiring employees (i.e. before their employment begins), you must register them with the Austrian Health Insurance Fund. If you employ a managing director under trade law, you must register them with the Austrian Health Insurance Fund (ÖGK) prior to registering your business (possible upon the business registration taking effect), since an ÖGK confirmation of employment and of the extent of employment (in regulated trades) must be presented to the trade authority.

7. Social Security for the Self-Employed [SVS]

All partners of the OG as well as all unlimited liable partners of the KG (general partners) are insured on a compulsory basis by the Social Security for the Self-Employed (SVS). The insured persons must register with the Social Security for the Self-Employed within one month. You can register directly with the Social Insurance Services within the scope of the business registration at the district administrative authority. The authority will forward the registration to the Social Insurance Services.

8. Tax office

You report your commercial activity with the fiscal authorities within the first month and apply for a taxpayer identification number for the partner(s) and the company. You can report electronically to the fiscal authorities within the scope of the business registration at the district administrative authority. It will forward the report to the fiscal authorities.

9. Municipality/city

Please note: activities not normally conducted in apartments/residential buildings (e.g. trade, crafts, hospitality industry) require the corresponding zoning and planning permission (usage permission) for the desired location.

If you are going to hire employees, you must notify the municipality/city (municipal tax).

The eleven steps for the founding of a limited liability company (GmbH)

1. Startup consultancy, financial and legal advisory service

from the Founder Service and/or the specialised departments and professional groups of your Chamber of Commerce (WKO).

Please pay particular attention to business clarification and, if necessary, inquire about the necessity of an operating licence.

2. Declaration of startup or business transfer (NeuFöG, Promotion of New Companies Act)
Certain charges, contributions and fees in the context of a startup or a (paid or unpaid) business transfer are not collected. The prerequisite for this is the declaration of the startup or business transfer on the form (NeuFöZ) intended for this purpose. You will receive the form from the Founder Service, the professional groups or trade guilds and at the district/regional offices.

Documents and certificates compiled and issued on the basis of the Trade, Commerce and Industry Regulation Act, as well as inputs intended for the compilation and issuance of documents based on the above Federal Act are no longer subject to federal stamp duties and administrative fees.

3. Partnership agreement/declaration of formation

The founders conclude a partnership agreement in the form of a notarial deed. If there is only one founder, then this constitutes a declaration of formation, which is implemented either in the form of a notarial deed or as simplified startup via the USP and in cooperation with a bank.

4. Shareholders' resolution

Appointment of the managing director(s) and the persons with power to represent (individual, joint, possibly with [joint] authorised representatives), unless already implemented in the company's partnership agreement. This is where you can restrict the revocation of the managing director appointment by the general meeting in the company agreement to important reasons. The minutes of the general meeting concerning this matter may be notarized or drafted privately. The managing directors (at least one) do not have to be shareholders of a GmbH (limited liability company).

5. Bank confirmation

Share capital payments (the minimal amount of share capital is EUR 35,000, or EUR 10,000 if use is made of the privilege for startups; at least one-half of which is to be paid in cash) are made onto the company account to be freely disposed of by the Management Board.

6. Entry in the Commercial Registry/application for entry

You will need the following supporting documents for certified entry in the Commercial Registry (the application must also be certified):

- Partnership agreement (declaration of formation), as a notarial deed
- Certified shareholders' resolution on the appointment of the managing directors (certification by a notary or a district court), unless already implemented in the partnership agreement
- Bank confirmation of share capital payment, pursuant to Article 10(3) of the GmbHG (Limited Liability Companies Act)
- Specimen signatures of the managing directors and any authorised representatives (certified by a notary or a district court)

7. Business registration

Electronic business registration: Please contact the Founder Service or the district and regional office of your WKO (Austrian Federal Economic Chamber) if you want to register your business electronically or complete it yourself on GISA (Austrian Business Licence Information System).

The following supporting documents are required for the business registration:

- Passports of all persons with significant control (i.e. Managing Directors, partners with majority shareholdings, partners with minority shareholdings and qualified minority rights)
- excerpt from the Commercial Registry
- Criminal record certificate of the country of origin (translated by a court-approved specialist) for the Managing Director under trade law and all shareholders with significant control over the Management Board if they do not live in Austria or have lived there for less than five years
- Statements that no reasons exist for disqualification from business for all persons with significant control (i.e. Managing Directors, partners with majority shareholdings, partners with minority shareholdings and qualified minority rights).
- In certain trades proof of liability insurance must be provided at the time of business registration

The following are additionally required for the managing director under trade law:

- passport
- Confirmation of social insurance (ÖGK, Austrian Health Insurance Fund) for registration as an employee for at least 20 hours a week at the party registering the business; proof shall also be provided of the extent of employment (usually confirmation from the tax advisory

service). This is not required if the Managing Director under trade law is also a Managing Director under commercial law or free trades are involved.

- proof of competence (e.g. master craftsman's certificate or qualification certificate, school and/or employment certificate) or established individual competence (with the exception of free trades)
- Statement of the Managing Director under trade law about their corresponding activity in the enterprise (form). Neither the managing director under trade law nor the managing director(s) under commercial law nor majority shareholders may be barred from the pursuit of the trade (declaration according to Art. 13 of the Trade Regulation Act).

With the business registration, you become a member of the Chamber of Commerce (WKO) with the liability to pay contributions. Please contact the WKO of your federal state to obtain more detailed information.

8. Austrian Health Insurance Fund (ÖGK)

Before hiring employees (i.e. before their employment begins), you must register them with the Austrian Health Insurance Fund. If you employ a Managing Director under trade law, you must register them with the Austrian Health Insurance Fund (ÖGK) prior to registering your business (possible upon the business registration taking effect, since an ÖGK confirmation of employment and of the extent of employment (in regulated trades) must be presented to the trade authority.

9. Social Security for the Self-Employed [SVS]

You must register executive partners with the Social Security for the Self-Employed in the first month, unless they have already been insured in this capacity under the General Social Insurance Act ASVG; (ASVG insurance is significantly more expensive than Commercial Social Insurance [GSVG]). You can register directly with the Social Insurance Services within the scope of business registration at the district administrative office. The authority will forward the registration to the Social Insurance Services.

10. Tax office

You shall report your commercial activity to the tax office in the first month and apply for a tax number for the partner(s) and the company. You can report electronically to the fiscal authorities within the scope of the business registration at the district administrative authority. It will forward the report to the fiscal authorities.

11. Municipality/city

Please note: activities not normally conducted in apartments/residential buildings (e.g. trade, crafts, hospitality industry) require the corresponding zoning and planning permission (usage permission) for the desired location.

If you are going to hire employees (not applicable to directors who are employees under ASVG, but also to executive partners who are insured under GSVG), you must notify the municipality or city (local tax).

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Registration certificate: EEA citizens and Swiss citizens who are entitled to more than three months' residence under European law shall obtain a "registration certificate" that documents their right of residence (a corresponding application must be filed within four months of entering Austria). Geographical jurisdiction is based on residence. The responsible authorities are the district administrative offices (district authorities and town councils).

Employment relationship: An employment relationship may refer to employment as either a worker (e.g. manual work) or a salaried employee (e.g. commercial activities - office work). An employee is bound to the company's working hours, a fixed work location and to instructions. When hiring employees, all statutory provisions and collectively agreed regulations must be complied with.

Residence permit /settlement permit: A residence permit/settlement permit entitles the holder to residence for a limited time and to pursue self-employed activity or activity as a paid employee for which the corresponding permission is granted under the Federal Act on the Employment of Foreign Nationals (AuslBG).

Proof of competence/individual qualification: In order to pursue certain activities as a self-employed person (e.g. carpenter, hospitality industry, baker, electrical engineering, etc.), proof of competence is required. Requirements have been defined in an Ordinance. If the requirements are not met in full (e.g. training abroad), the assessment of individual qualification can be applied for at the trade authority.

Operating licence: Many trade activities require an operating licence (e.g. workshop, restaurant, hotel, storage area and/or point of sale for potentially hazardous goods). The trade authority (district commissioner or municipal authority) is the competent authority for the location.

Accounting/statement of revenues and expenditures: An entrepreneur is obliged to collect bills and receipts and keep records. A statement of revenues and expenditures shall usually be prepared for net turnover of up to €700,000 (reference should be made here to various different options for consolidation in lump sums). Revenues- and expenditure shall be recorded within the scope of the statement of revenues and expenditures, as well as a register of incoming goods, an equipment list (including for example computers, business facilities, etc.) and a logbook of journeys.

Income tax: Income tax must be paid on generated profit, as determined by means of the required documents (e.g. statement of revenues and expenditures). The tax rate is between 0% and 55%.

Sole proprietorship: The proprietor of the enterprise is an individual, natural person, who operates the business - the person can be the owner of the enterprise or a leaseholder. A sole proprietor has unlimited liability for the company's debts with his private property. Because the sole proprietor assumes all risks on his own, he is also solely entitled to the profit.

Tax office: The tax office is the authority that handles all fiscal matters, such as sales tax, income tax (tax on wages for employees), corporation tax (for a GmbH), capital gains tax, local tax, etc.

Commercial Registry: The Commercial Registry is kept at regional courts for civil matters. All business partnerships and corporate entities shall be entered in the Commercial Registry. Sole proprietorships can also be entered in the Commercial Registry.

Company name: The company name entered in the Commercial Registry is always the name of the company. Misleading names are not allowed. This designation must be used on all business papers (letter paper, invoice and order forms, website, etc.).

Subsidies/NeuFöG - Startup company subsidy - Startup company subsidy: Under the Act for Promoting Startup Companies, various fees and charges are dispensed with for company founders, provided that certain requirements are met. If you have any questions about other forms of subsidies, e.g. investment subsidies, subsidies for training and further education, etc. please contact the responsible WKO (federal state, in which the company is to be founded).

Marginally employed persons/marginal employment: Marginal employment is an employment relationship that falls under labour law (e.g. collectively agreed minimum wage, special payments, continued remuneration while on sick leave, etc.), however the monthly remuneration shall not exceed € 475.86 gross (2021), which constitutes the marginal employment limit under social insurance law.

Limited liability company (GmbH): A GmbH is a corporate entity. The minimum share capital is € 35,000 or € 10,000 if use is made of the privilege for startups. At least one half is to be paid in cash. The founders - or

founder - conclude a partnership agreement in the form of a notarial deed. If there is only one founder, then this constitutes a declaration of formation, which is implemented either in the form of a notarial deed or as a simplified startup.

The company comes into being upon entry in the Commercial Registry. If the company wants to pursue a trade, it requires a business licence made out to a GmbH. The appointment of a managing director under trade law is mandatory.

Types of trades:

Unregulated trades: No proof of a specific competence (training, examination, etc.) is required for practising unregulated trades. The general requirements (at least 18 years old, EEA/EU citizenship, integrity, corresponding residence permit for third-country citizens) must always be fulfilled

Regulated trades: The stipulated proof of competence shall also be provided for practising a regulated trade, in addition to the general requirements (see Proof of competence).

Trade authority: The trade authority is the competent authority for all matters concerning trade law, business registration, operating licences, individual qualifications, etc.

Trade authorities are either the district authorities or town councils in cities with their own statutes.

Managing Director under trade law: The Managing Director under trade law is liable to the **entrepreneur** for professionally flawless practice of the trade. They are responsible to the **trade authority** for compliance with all regulations under trade law, as well as for opening hours and price marking. He must bear any penalties imposed on him (due to an offence).

Managing Director under commercial law: The Managing Directors under commercial law constitute the body authorised to run and represent the GmbH. They manage the company's business within the company and represent the company externally. In the case of joint stock companies, persons who are not shareholders (employees) can be appointed managing directors. Shareholders can also become managing directors. Only natural entities can be appointed managing directors. A special qualification of the managing director is not required.

Small business exemption regulation: If annual sales amount to less than €35,000, excluding sales tax, a company is essentially exempt from paying sales tax. In this case, the company may not deduct any input tax (sales tax contained in the expenditures) either.

Limited partnership (KG): A limited partnership consists of at least 2 partners. A personally liable partner and a partner liable with a limited cash contribution. The partnership agreement does not have to have a definite form. It does not require the engagement of notarial or legal services. The partnership must be entered in the Commercial Registry.

Corporation tax: Corporation tax is basically income tax for corporate entities. It amounts uniformly to 25% of the balance-sheet profit.

Regional court/commercial court/Commercial Registry court: Authority responsible for entries in the Commercial Registry.

Registration certificates: Official certificates are designated registration certificates if notification of an official residence or long-term residence is documented therein.

Employees: A company may have employees. Any person who is subject to compulsory insurance under the General Social Insurance Act (ASVG) by virtue of their work activity shall be registered for social insurance by the employer even prior to starting work. This obligation applies to persons in marginal employment, independent contractors and on an ad hoc basis to employees and apprentices. The fiscal authorities must also be notified about the employees. Remuneration is often regulated by a collective agreement especially in the commercial sector.

Freedom of establishment and free movement of services: Freedom of establishment allows for the startup of a business or company and therefore practising a trade in any EEA/EU member state. On account of the free movement of services, commercial work ordered in the home country can be implemented in Austria. However, proof of competence required in Austria/according to EU Directives must be submitted for this.

Partnership (OG): The OG is a general partnership with at least 2 personally liable partners. The partnership agreement does not have to have a definite form. It does not require the engagement of notarial or legal services. The partnership must be entered in the Commercial Registry.

Invoice: Details of a specimen invoice can be found on page 67/68 of the "Guide for Business Startups".

Legal forms: Sole proprietorship, OG, KG, GmbH, etc.

Passport: Proof of identity for the business startup (business registration).

Social security: As a trade professional, you are insured with Social Security for the Self-Employed (SVS). Contributions depend on the operating profit (net turnover minus operational expenditure). In case of young entrepreneurs the monthly contributions are € 106.26 to pension insurance (with a possible additional payment starting from the 1st year), € 32.36 to health insurance (with a possible additional payment starting from the 3rd year), € 7.28 for the self-employed pension provision and € 10.42 for accident insurance (2021).

Location: Each trade licence must be practised from one location. The location is the site or facility at or in which the registered business is to be exclusively or predominantly conducted. A postal address shall be indicated within the course of business registration.

Tax consultant/accountant: Tax consultants or independent accountants help with records and the handling of all fiscal matters, e.g.: income tax returns, sales tax advance returns, sales tax returns, accounting, etc.

Taxes: Sales tax, income tax (tax on wages for employees), corporation tax (for a GmbH), capital gains tax, local tax, etc.

Criminal record certificate: The criminal record certificate (also known as criminal record extract or certificate of good conduct) for the country of origin shall be submitted by persons who are not resident in Austria or have lived there for less than five years without interruption. The certificate shall not be older than 3 months and must be translated by a court-approved specialist.

Translation of foreign documents: Translations by a court-approved specialist are required for the presentation of documents to the competent authorities (e.g. foreign certificates of training and practising abroad, criminal record certificate, etc.).

Sales tax: Sales tax, also called value added tax, is generally charged on all deliveries of goods and supplies of services undertaken by companies in Austria. The standard tax rate is 20% of the net price, but there are also reduced tax rates of 10% and 13% for certain products and services.

Residence: The party registering the business shall appoint a Managing Director under trade law if they are not resident in Austria. This does not apply to citizens of a signatory to the EEA or Switzerland, who are resident in one of those countries.

This information leaflet is a joint product of all Economic Chambers. If you have any questions, please contact the Chamber of Commerce of your federal state: Vienna, tel. no.: (01) 51450-0; Lower Austria, tel. no.: (02742) 851-0; Upper Austria, tel. no.: 05 90 909-0; Burgenland, tel. no.: 05 90 907-0; Styria, tel. no.: (0316) 601-600; Carinthia, tel. no.: 05 90 904-0; Salzburg, tel. no.: (0662) 8888-0; Tyrol, tel. no.: 05 90 905-0; Vorarlberg, tel. no.: (05522) 305-0
Note! You can also find this information on the Internet at: www.gruenderservice.at.

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