

STEPS FOR SETTING UP A BUSINESS/ BUSINESS START-UP GLOSSARY

(Schritte der Betriebsgründung/Glossar Unternehmensgründung - Englisch)

January 2018

STEPS FOR SETTING UP A BUSINESS

Seven steps for founding your sole proprietorship

1. Start-up 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 commercial clarification and, if necessary, inquire about the necessity of an operating permit.

2. Declaration of the start-up or business transfer

Certain charges, contributions and fees in the context of a start-up or a (paid or unpaid) business transfer are not collected. The prerequisite for this is the declaration of the start-up or business transfer on the form (NeuFö2) intended for this purpose. Please ask your local Chamber of Commerce to issue the declaration. Contact points at the Chamber of Commerce are the Founder Service, professional groups or associations and the district offices/regional offices.

Because of the 2017 amendment to commercial law effective 18 July 2017, documents and certificates created and issued on the basis of the Trade Regulation Act as well as input intended for the creation and issuance of documents based on the above federal act are no longer subject to stamp duties and administrative fees. Business registration, among other things, is therefore also free of charge.

3. Business registration

Electronic business registration: Please contact the Founder Service of your WKO if you want to register your business electronically.

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 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)
- unlimited residence permit or residence permit for the purpose of self-employment (for non-EU citizens)

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 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 for persons who do not live in Austria or have lived there for less than five years
- social insurance confirmation (regional medical insurance company) of the registration as an employee working at least twenty hours weekly for the person registering the business

- proof of competence (e.g. master craftsman's certificate or qualification certificate, etc.)
- declaration of the managing director under trade law on his 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. Regional medical insurance company (GKK)

Before hiring employees (i.e. before their employment begins), you must register them with the competent regional medical insurance company.

If you employ a managing director under trade law, you must register him with the GKK (entering force with the business registration) prior to registering your business, since the confirmation by the GKK of the employment must be submitted to the trade authority.

5. Commercial Social Insurance

Registration with "Commercial Social Insurance" (Sozialversicherung der gewerblichen Wirtschaft) must be made within the first month. You can register electronically with the Commercial Social Insurance within the scope of the business registration at the district administrative authority. The authority will forward the registration social insurance to the Social Insurance Services.

6. Fiscal authorities

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 normally not conducted in apartments/residential buildings (e.g. trade, crafts, hotel and restaurant 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).

Moreover, sole proprietors must be entered in the company register when the reporting requirement is met. This limit is set at an annual 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. Start-up 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 commercial clarification and, if necessary, inquire about the necessity of an operating permit.

2. Declaration of the start-up or business transfer

Certain charges, contributions and fees in the context of a start-up or a (paid or unpaid) business transfer are not collected. The prerequisite for this is the declaration of the start-up or business transfer on the form (NeuFö2) intended for this purpose. Please ask your local Chamber of Commerce to confirm the declaration. Contact points at the Chamber of Commerce are the Founder Service, professional groups or associations and the district offices/regional offices.

Because of the 2017 amendment to commercial law effective 18 July 2017, documents and certificates created and issued on the basis of the Trade Regulation Act as well as input intended for the creation and issuance of documents based on the above federal act are no longer subject to stamp duties and administrative fees. Business registration, among other things, is therefore also free of charge.

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 authorised to represent (personally liable partners), which have been certified by a notary public or district court. 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 (not EEA citizens), a residence permit and a valid employment permit or exemption certificate are also required.

5. Business registration

Electronic business registration: Please contact the Founder Service of your WKO if you want to register your business electronically.

The following supporting documents are required for the business registration:

- Passports of all persons of decisive influence (i.e. personally liable partners or limited liability partners with special managing authorisations and the like)
- Excerpt from the Commercial Registry
- Criminal record certificate of the country of origin 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 pursuing the trade, e.g. on account of insolvency or criminal record (Art. 13 of the Trade Regulation Act), namely statements from all persons of decisive influence (i.e. personally liable partners or limited liability partners with special managing authorisations and the like)
- The following are additionally required for the managing director under trade law:
 - passport
 - social insurance confirmation (regional medical insurance company) of registration as an employee working at least twenty hours weekly (not required if the managing director under trade law is a personally liable partner)
 - 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 his 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 (WKÖ) with the liability to pay contributions. Please contact the WKÖ of your federal state to obtain more detailed information.

6. Regional medical insurance company (GKK)

Before hiring employees (i.e. before their employment begins), you must register them with the competent regional medical insurance company.

If you employ a managing director under trade law, you must register him with the GKK (entering force with the business registration) prior to registering your business, since the confirmation by the GKK of the employment must be submitted to the trade authority.

7. Commercial Social Insurance

All partners of the OG as well as all unlimited liable partners of the KG are insured on a compulsory basis by the Commercial Social Insurance (GSVG). All persons insured must register with the Social Insurance Institution for Commerce and Industry within one month. You can register electronically 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. Fiscal authorities

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 normally not conducted in apartments/residential buildings (e.g. trade, crafts, hotel and restaurant 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. Start-up consultancy,

Financial and legal advisory service from the Founder Service and/or the specialised departments and professional groups of your WKO. Please pay particular attention to commercial clarification and, if necessary, inquire about the necessity of an operating permit.

2. Declaration of the start-up or business transfer

Certain charges, contributions and fees in the context of a start-up or a (paid or unpaid) business transfer are not collected. The prerequisite for this is the declaration of the start-up or business transfer on the form (NeuFö2) intended for this purpose. Please ask your local Chamber of Commerce to issue the declaration. Contact points at the Chamber of Commerce are the Founder Service, professional groups or associations and the district offices/regional offices.

Because of the 2017 amendment to commercial law effective 18 July 2017, documents and certificates created and issued on the basis of the Trade Regulation Act as well as input intended for the creation and issuance of documents based on the above federal act are no longer subject to stamp duties and administrative fees. Business registration, among other things, is therefore also free of charge.

3. Company agreement/formation agreement

The founders—or founder—conclude a partnership agreement through a notarial deed.

4. Shareholders' resolution

Appointment of the managing director(s) and the persons with power to represent (individual, joint, possibly with [joint] authorised representatives), if this has not already been done in the company agreement of the company. 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 can be certified by a notary public or prepared privately. The managing directors (at least one), however, do not have to be shareholders of the GmbH.

5. Bank confirmation

Payment of the share capital (The minimal amount of stock capital is EUR 35,000, or EUR 10,000 if use is made of the privilege for start-up companies; at least one-half is to be paid in cash) to the company account for the discretionary disposal of the management board.

6. Entry in the Commercial Registry/application for entry

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

- company agreement certified by a notary public

- certified shareholders' resolution on the appointment of the managing directors (certification by notary public or district court)
- bank confirmation
- specimen signatures of the managing directors (certified by notary public or district court)

7. Business registration

Electronic business registration: Please contact the Founder Service of your WKO if you want to register your business electronically.

The following supporting documents are required for the business registration:

- passport of all persons with decisive influence (i.e. managing directors, shareholders with majority interest, shareholders with minority interest but with special rights of co-determination or special managing authorisation and suchlike)
- excerpt from the Commercial Registry
- criminal record certificate of the country of origin for the managing director under trade law and all shareholders with decisive influence on management if they do not live in Austria or have lived there for less than five years
- statements that no reasons exist for disqualification from pursuit of a trade from all persons with decisive influence (i.e. managing directors, shareholders with majority interest, shareholders with minority interest but with special rights of co-determination or special managing authorisation and the like)

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

- passport
- social insurance confirmation (regional medical insurance company) of registration as an employee working at least twenty hours weekly (not required if the managing director under trade law is also managing director under commercial law)
- 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 his 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. Electronic business registration: Please contact the Founder Service of your WKO if you want to register your business electronically.

8. Regional medical insurance company (GKK)

Before hiring employees (i.e. before their employment begins), you must register them with the competent regional medical insurance company. If you employ a managing director under trade law, you must register him with the GKK (entering force with the business registration) prior to registering your business, since the confirmation by the GKK on the employment must be presented to the trade authority.

9. Commercial Social Insurance

You must register the managing directors with the Commercial Social Insurance if they have not been insured with the General Social Insurance (ASVG; the ASVG insurance is significantly more expensive than the Commercial Social Insurance). 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.

10. Fiscal authorities

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.

11. Municipality/city

Please note: Activities normally not conducted in apartments/residential buildings (e.g. trade, crafts, hotel and restaurant 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).

BUSINESS START-UP GLOSSARY

Accounting/statement of revenues and expenditures: An entrepreneur is required to collect bills and receipts and keep records. A statement of revenues and expenditures must be prepared for a turnover of up to €740,000 (operational expenditure may be specified as a lump sum). Revenues, expenditures, goods receipt book, assets register (contains e.g. computers, office equipment) and a logbook must be kept.

Commercial Registry: All companies (partnerships like OG and KG or joint stock companies, e.g. GmbH) must 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, etc.).

Corporation tax: Corporation tax is the income tax of joint stock companies. It amounts uniformly to 25% of the balance-sheet profit.

Criminal record certificate: The criminal record certificate must be presented to the competent trade authority with the business registration. It may not be older than 3 months old and must be translated by a court-approved expert.

Employees: A company can have employees. Registration of these employees with the regional medical insurance company must be done on the day the employment commences. The fiscal authorities must also be notified about the employees. In many trades, the employment relationship and wage are regulated by a collective agreement.

Employment relationship: An employment relationship refers either to employment as a worker (e.g. manual work) or to employment as a clerk (e.g. commercial function - 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.

Fiscal authorities: All fiscal matters (e.g. sales tax, income tax, corporation tax [for a GmbH], ancillary wage costs for employees) must be handled with the fiscal authorities.

Freedom of establishment and free movement of services: Freedom of establishment permits the start-up of a business or company and the pursuit of 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.

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

Invoice:

Characteristics of an invoice: Name and address of the company rendering the service and name and address of the recipient. Quantity and designation of the service rendered; time period for the delivery or service; compensation; sales tax and sales tax rate; issue date of the invoice; sequential number; own VAT ID number. With regard to invoices whose overall amount (net + sales tax) exceeds €10,000, the VAT ID number of the recipient must also be included.

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

Limited liability company (GmbH): The GmbH is a joint stock company. The minimum share capital is €10,000; the minimum cash contribution is €5,000. The GmbH contract must be concluded in the presence of a notary public. 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.

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. There is no requirement to appear before a notary public. The partnership must be entered in the Commercial Registry.

<p>Location: Each business licence must have a location. For business activities that do not consist solely of office work, refer to Item: “Operating licence.”</p>
<p>Managing director under commercial law: The managing directors under commercial law constitute the body that is 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.</p>
<p>Managing director under trade law: The managing director is liable to the entrepreneur for the professionally proper pursuit of the trade. He is responsible to the trade authority for compliance with all provisions under trade law as well as, among other things, for opening hours and pricing. He must bear any penalties imposed on him (due to an offence).</p>
<p>Marginally employed persons/marginal employment: Marginal employment refers to an employment relationship that falls under labour law (e.g. collectively agreed minimum wage, extra payment, continued payment of wages in case of illness, etc.); however, the monthly wage may not exceed €446,86 gross (2019), which constitutes the marginal employment limit under social insurance law.</p>
<p>Operating licence: Many trades require an operating licence (e.g. workshop, restaurant, hotel, car park, sales room). The trade authority (district commissioner or municipal authority) is the competent authority for the location.</p>
<p>Partnership (OG): The OG is a partnership with at least 2 personally liable partners. The partnership agreement does not have to have a definite form. There is no requirement to appear before a notary public. The partnership must be entered in the Commercial Registry.</p>
<p>Passport: Proof of identity for the business start-up (business registration).</p>
<p>Proof of competence/individual qualification: In order to pursue certain activities as a self-employed person (e.g. carpenter, hotel and catering industry, baker, electrical engineering, etc.), a proof of competence is prescribed. 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.</p>
<p>Regional court/trade court/Commercial Registry court: Authority responsible for entry in the Commercial Registry.</p>
<p>Registration certificate: EEA citizens and Swiss citizens who are entitled to more than three months’ residence under European law obtain a “registration certificate” that documents their right of residence (a corresponding application must be filed within four months after entering Austria). The issuing authority is the immigration authorities or the office of the respective state government (competence according to residence).</p>
<p>Registration certificate: The Registry Office issues a registration certificate for proof of residence.</p>
<p>Residence permit: A residence permit entitles the holder to limited residence and pursuit of an independent or dependent gainful activity for which the corresponding permission under the Federal Act on the Employment of Foreigners (AuslBG) is available.</p>
<p>Residence: Residence in Austria is required for the business registration of a sole proprietorship. It does not have to be the primary residence (secondary residence suffices).</p>
<p>Sales tax: The sales tax, also called value added tax, is collected for all deliveries of goods supplies of services undertaken by companies in Austria. In most cases, the sales tax amounts to 20% of the net payment. Apart from this, there is a reduced tax rate (10%), e.g. for foodstuffs and books.</p>
<p>Small business exemption regulation: If annual sales amount to under € 30,000, excluding sales tax, a company is exempt from paying sales tax if certain requirements are fulfilled. In this case, the company may not deduct any input tax (sales tax contained in the expenditures) either.</p>
<p>Social insurance: if you are a contractor, you are insured under trade and industry National Insurance. Contributions depend on the operational result (sales minus operating expenditures). In start-up companies, these amount to € 121.04 a month in retirement pension insurance (with the possibility of an additional charge</p>

starting from the first year), € 34.18 in health insurance (with the possibility of an additional charge starting from the third year), € 6.84 monthly for a self-employment pension and € 9.79 per month for accident insurance (2019).

Sole proprietorship: A sole proprietor is liable for the debts of his company with his private property. Hence he is also solely entitled to the entire profit.

Subsidies/NeuFöG - Start-up company subsidy: Under the Act for Promoting Start-Up 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 advanced training, etc., please contact the WKO competent for you (federal state in which the company was founded).

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

Taxes: e.g. income tax, sales tax, corporate income tax, payroll tax, etc.

Trade authority: The trade authority is the competent authority for all matters concerning the trade law, business registration, operating licence, individual qualification, etc. The trade authority can be the district commissioner's office (in the districts of a federal state) or the municipal authority (in cities).

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

Types of trades:

Free trades: For the pursuit of a free trade, no proof of a definite competence (training, examination, etc.) is required. The general requirements (at least 18 years old, EEA/EU citizenship, no criminal record, corresponding residence permit for third-country citizens) must in any case be met.

Regulated trades: The obligatory proof of competence must be submitted for the pursuit of a regulated trade (see Item: Proof of competence).

This information leaflet is a joint product of all Chambers of Commerce. If you have any questions, please contact the Chamber of Commerce of your federal state: Vienna, tel. (01) 51450-0, Lower Austria, tel. (02742) 851-0, Upper Austria, tel. 05 90 909-0, Burgenland, tel. 05 90 907-0, Styria, tel. 0316 601-600, Carinthia, tel. 05 90 904-0, Salzburg, tel. (0662) 8888-0, Tyrol, tel. 05 90 905-0, Vorarlberg, tel. (05522) 305-0

Note: You can also find this information on the Internet at: www.gruenderservice.at

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