



Modes of Doing Business in the Philippines for Foreign Investors

A comparative table on foreign business registration in the Philippines: *Foreign Branch Office vs. Philippine Corporation vs. Representative Office*

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A foreign investor (whether a foreign individual or a foreign company) may establish one of the following:

- 1) Branch office;
- 2) Philippine corporation of which the foreign investor is the stockholder (through incorporation process); or
- 3) Representative office.

Quick Differentiation:

In the Philippines, there are several types of business registration allowed for foreigners by the Philippine Securities & Exchange Commission (SEC). Below is a write up on modes of doing business in the Philippines which includes a comprehensive description of the requirements each. Basically, in the write up you will read about:

1. Branch Office — this means your foreign company will be directly licensed SEC to do business in the Philippines, and can earn and invoice from the Philippines. This means you do not have to form a new and separate company in the Philippines.
2. Corporation — this means you incorporate a new corporation in the Philippines. You (in your personal capacity) or your foreign company can own shares of this corporation (some would then call it a subsidiary). A Philippine “corporation” is what some would call an “LLC” or limited liability company.
3. Representative Office — this is similar to a Branch Office, i.e. your foreign company is licensed to do business in the Philippines, but the major difference is that a Rep Office cannot invoice from the Philippines and cannot earn income from the Philippines. Also, the types of activities that a Representative Office can do in the Philippines is limited (read more below).

Hereunder, in tabular form, are the distinctions and requirements of each company type registration:

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	BRANCH OFFICE	CORPORATION	REPRESENTATIVE OFFICE
As to foreign parent company	Requires a foreign parent company existing in a foreign country, subject to business-type restrictions reserved for Filipinos.	Stockholder may be foreign individuals or foreign companies, subject to business-type restrictions reserved for Filipinos.	Requires a foreign parent company existing in a foreign country
As to nature of business	Limited to the same business as the parent company	May be different from the parent company	Limited to the same business as the parent company. What distinguishes a Rep Office is that it is a <u>limited purpose office</u> of a foreign company in the Philippines. It <u>cannot</u> derive income from doing business in the Philippines and it must be fully subsidized by the foreign company that it represents.
As to minimum business capitalization	<p>Minimum US\$200,000 (equivalent in Philippine Pesos) paid-up capitalization</p> <p>If the business of the Branch Office is to <u>export at least 60%</u> of its product/service from the Philippines to foreign countries, there is no minimum US\$200,000</p>	<p>If <i>more</i> than 40% stock of the corporation is owned by foreigners, minimum US\$200,000 (equivalent in Philippine Pesos) paid-up capitalization.</p> <p>If 40% or less, required capitalization would depend on business-type.</p> <p>If the business of the corporation is to <u>export at least 60%</u> of its product/service from the Philippines to foreign countries, there is no minimum US\$200,000</p>	Minimum US\$30,000 (equivalent in Philippine Pesos) paid-up capitalization

As to business legal personality	Is not considered a separate business from the parent company, thus, liability of branch is the liability of the parent company	Is considered a separate business from the parent company, thus, liabilities of the subsidiary-corporation is its own (i.e. not attributable to the parent company)	Is not considered a separate business from the parent company, thus, liability of rep office is the liability of the parent company
As to officers	Requires only 1 Philippine-resident agent to represent the branch office	Requires at least 5 individuals to start registration and act as directors (3 of which must be Philippine residents). Requires at least 3 corporate officers: 1. President 2. Corporate Secretary (must be Filipino-resident) 3. Treasurer (must be resident)	Requires only 1 Philippine-resident agent to represent the rep office
As to security deposit	Required to deposit securities with the Philippine Securities & Exchange Commission ("SEC") with actual market value of at least Philippine Pesos 100,000.00 (approx. US\$2,400). Annual additional deposit may be required depending on gross income.	None	None
As to documents required to be filed for registration	Special documents required aside from application form: 1. Board resolution authenticated before the	Standard documents only: 1. Corporate name reservation; 2. Articles of Incorporation and By-laws;	Special documents required aside from application form: 1. Board resolution authenticated before the

	<p>Philippine Embassy that (a) authorizes the establishment of branch office; (b) names the resident agent</p> <p>2. Parent company latest financial statements as of a date not exceeding one (1) year immediately prior to the application, certified by an independent CPA of the home country and authenticated before the Philippine Embassy;</p> <p>3. Certified copies of the parent company formation or registration documents in home country, with an English translation if in foreign language, authenticated before the Philippine Embassy;</p> <p>4. Philippine bank certificate on min. capitalization (even if export enterprise);</p> <p>5. Resident Agent's acceptance of appointment (if signed in the Philippines, no need for authentication)</p>	<p>3. Treasurer's Affidavit; and</p> <p>4. Joint affidavit of two incorporators undertaking to change corporate name if required by SEC.</p>	<p>Philippine Embassy that (a) authorizes the establishment of branch office; (b) names the resident agent</p> <p>2. Parent company latest financial statements as of a date not exceeding one (1) year immediately prior to the application, certified by an independent CPA of the home country and authenticated before the Philippine Embassy;</p> <p>3. Certified copies of the parent company formation or registration documents in home country, with an English translation if in foreign language, authenticated before the Philippine Embassy;</p> <p>4. Philippine bank certificate on min. capitalization;</p> <p>5. Resident Agent's acceptance of appointment (if signed in the Philippines, no need for authentication)</p>
<p>As to registration timelines</p> <p>*conservative estimates*</p>	<p>Embassy Phase:</p> <p>All foreign-issued documents required to be filed with the SEC requires authentication by the Philippine Embassy where issued. Authentication turnaround varies per embassy (e.g. 1-2 weeks).</p> <p>SEC Phase:</p>	<p>No Embassy Phase:</p> <p>Documents can be signed in the Philippines, thus, no authentication required. Only if the documents are signed abroad will authentication be required.</p> <p>SEC Phase:</p>	<p>Embassy Phase:</p> <p>All foreign-issued documents required to be filed with the SEC requires authentication by the Philippine Embassy where issued. Authentication turnaround varies per embassy (e.g. 1-2 weeks).</p> <p>SEC Phase:</p>

	Upon filing of complete documents with the SEC, around 3-4 weeks.	Upon filing of complete documents with the SEC, around 2-3 weeks.	Upon filing of complete documents with the SEC, around 3-4 weeks.
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- The foregoing discusses the general rule and may be subject to exceptions under law, which are applicable on a case-to-case basis.

FREQUENTLY ASKED QUESTIONS

1. BRANCH OFFICE

Q. I don't have a company abroad. Can I still do branch office registration?

A. Unfortunately, no. The branch office is, as the name implies, the Philippine branch of a foreign company outside the Philippines and does the same business as the company abroad. The company abroad is what we call the "Parent Company."

Q. Is there any restrictions for foreigners?

A. There are some businesses which are reserved for Filipinos only. We can discuss them with you when you come in for a consultation.

Q. Is the US\$200,000 really required?

A. Yes, that is a mandatory requirement by law, the rationale being that the Philippine Government wants to ensure that only those with sufficient capitalization to do business will be allowed. However, if you are a manufacturing/processing or a service company (e.g. business process outsourcing) that will export or generate income at least 60% of the products made in, or service rendered from, the Philippines, (what we call "export enterprise") the minimum is just Philippine Pesos 5,000 (approx. US\$120) start up capital (although we generally suggest an amount that is reasonable as an initial working capital for a year to establish credibility with the SEC).

Q. How do I pay the US\$200,000?

A. You will have to open a bank account in the Philippines (of your choice, by yourself or staff – or you may avail of our banking assistance) and transmit the money from your bank abroad. The bank will then issue a certification on the money remitted and this will be filed with the Philippine Securities & Exchange Commission.

Q. What happens to the US\$200,000

A. During branch office registration process with the Philippine Securities & Exchange Commission, the capital will stay in the bank and once you are issued a license as a branch office, you may then use the US\$200,000 for your business operations in the Philippines.

Q. So the US\$200,000 is not registration or filing fee?

A. No, and you may use it in your Philippine business operations once you are licensed.

Q. What is the security deposit for?

A. That is required by the Philippine Securities & Exchange Commission to ensure that the obligations of the branch office are paid, since the parent company is abroad and outside the jurisdiction of the Philippines. It is similar to security deposit given when leasing office space. It will be returned when the branch office closes.

Q. So what do we do to start a branch office?

A. Upon signing an engagement letter with us, we will guide you through the process.

Q. What is the process?

A. Here are the requirements by law:

1. You will need a Philippine resident individual who will act as your agent in the Philippines. If you are residing in the Philippines, you can be the resident agent.
2. Please prepare the following documents of the Parent Company:
 - a. Board resolution that (a) authorizes the establishment of branch office; (b) names the resident agent (we suggest to use our version which we have filed in the past);
 - b. Latest financial statements with "As of [date]" not exceeding one (1) year immediately prior to the filing of the application at the Philippine SEC, certified by an independent CPA of the home country;
 - c. Certified copies of the parent company formation or registration documents in home country, with an English translation if in foreign language;
 - d. Bank Certificate of Inward Remittance of the Initial Paid Up Capital

These Parent Company documents if issued outside the Philippines must be authenticated at the Philippine Embassy/Consulate there. Please schedule a meeting with the Philippine Embassy/Consulate to inquire about their requirements and fees. We estimate these will be authenticated in 1-2 weeks.

3. While waiting for the Philippine Embassy/Consulate, you can prepare the following:
 - a. Philippine bank certificate on the remittance of US\$200,000. You will have to open a Philippine bank account;
 - b. Resident Agent's acceptance of appointment (we can assist you with this document)

4. Fill out our *Client Information In-take Sheet* so we can prepare your branch office application, among requirements of which is the proposed Philippine address of the branch office. The address required is an exact address where the Philippine Securities & Exchange Commission can send notices and letters.

Q. What happens next after we prepare all the documents?

A. We will then file all the documents for you at the Philippine Securities & Exchange Commission. Estimate time for approval is a minimum of 4 weeks up to 5 weeks upon receipt of your complete documents for filing. We may have to go to the Philippine Securities & Exchange Commission on your behalf to answer their queries and clarifications.

Q. What are the costs to register a Branch Office?

A. The SEC application fee is computed as Name Reservation Fee + Filing Fee + Legal Research Fee + Foreign Investment Act Fee (to do business in the Philippines); where:

Name Reservation Fee = Philippine Pesos 120

Filing Fee = 1% of the actual inward remittance to the Philippine bank account

LRF = 1% of the Filing Fee

FIA Fee = Philippine Pesos 2,000

Q. What are the other costs to register a Branch Office?

A. If there are documents to be prepared outside the Philippines, the Philippine Embassy will need to authenticate such documents and it will have a fee for authentication. It is best to inquire directly with the Philippine Embassy of that country.

Your resident agent may have a fee for acting as such. This depends on your agreement.

If you wish for us to accompany you to open a bank account in the Philippines, we may charge per scheduled visit to the bank.

You will need a Philippine office address. This may be through a lease or subscription to a virtual office.

After registering with the Philippine Securities & Exchange Commission, the branch office would also need to register with the Bureau of Internal Revenue (the tax government agency) and secure a business permit from city hall. These will also have their own taxes and fees.

The above fees are indicative and may change without prior notice.

2. PHILIPPINE CORPORATION

Q. What is the difference between a branch office and a corporation?

A. The main difference is that the branch office must have a parent company while the corporation need not have a parent company. At a minimum, 5 individuals are required to start a corporation, who will then act as the initial stockholders and directors.

Q. Why is there a difference between more than 40% and 40% or less stocks held by foreigners?

A. Under Philippine laws, we have the 60-40 Rule. A corporation that is more than 40% owned by foreigners is considered a foreign corporation already. That is why it has the minimum US\$200,000 capitalization requirements similar to the branch office of a foreign company. So if you wish to own more than 40%, or even 100% of a corporation, there is that minimum capitalization requirement.

If 40% or less is foreign-owned (i.e. 1% to 40% max), say you have Filipino business partners who can hold the 60% while you hold 40%, it is considered a Philippine local company and there is **no** US\$200,000 requirement. However, there are some businesses which require different capitalization requirement as mandated by law. We can discuss this with you when you come in for a consultation. It depends on your business activities.

Q. If the corporation is more than 40% owned by foreigner, it is considered a foreign corporation. Is there any restrictions for foreigners?

A. There are some businesses which are reserved for Filipinos only. We can discuss them with you when you come in for a consultation.

Q. Is the US\$200,000 really required?

A. Yes, that is a mandatory requirement by law. However, if you are a manufacturing/processing or a service company (e.g. business process outsourcing) that will export or generate income at least 60% of the products made in, or service rendered from, the Philippines, (what we call "export enterprise") the minimum is just Philippine Pesos 5,000 (approx. US\$120) start up capital (although we generally suggest an amount that is reasonable as an initial working capital for a year to establish credibility with the SEC). Also, if you have Filipino business partners, they can hold the 60% and there will be no US\$200,000 requirement.

Q. How do I pay the US\$200,000?

A. You will have to open a bank account in the Philippines (of your choice, by yourself or staff) and transmit the money from your bank abroad. Once in the Philippine bank account, it will be converted to Philippine Peso equivalent. The bank will then issue a certification on the money remitted and this will be filed with the Philippine Securities & Exchange Commission.

Q. What happens to the US\$200,000

A. During incorporation process with the Philippine Securities & Exchange Commission, the capital will stay in the bank and once you are issued a license as a branch office, you may then use the US\$200,000 for your business operations in the Philippines.

Q. So the US\$200,000 is not registration or filing fee?

A. No, and you may use it in your Philippine business operations once you are licensed.

Q. So what do we do to start with incorporation?

A. Upon signing an engagement letter with us, we will guide you through the process.

Q. What is the process?

A. Here are the requirements by law (as will be indicated in the documents to be filed):

1. At least 5 people to act as incorporators, i.e. people who will sign the documents, one of whom will be acting as initial treasurer. The initial 5 will also be the initial 5 stockholders and directors of the company (which can be changed later on).

Q. I do not know 4 other people and I do not have business partners

A. Please ask us for assistance regarding this matter. But this is a mandatory requirement, required by law.

2. An exact address for the corporation

Q. Where can I get an office address?

A. You can use your house, condominium, or lease an office space, or use a virtual office

3. Company name of your choice (subject to availability)

4. Philippine bank account

5. Fill out our *Client Information In-take Sheet* so we can prepare your registration documents.

Q. What happens next after we prepare all the documents?

A. We will then file all the documents for you at the Philippine Securities & Exchange Commission. Estimate time for approval is a minimum of 4 weeks up to 5 weeks upon receipt of your complete documents for filing. We may have to go to the Philippine Securities & Exchange Commission on your behalf to answer their queries and clarifications.

Q. What are the costs to register a corporation?

A. The SEC application fee is computed as Name Reservation Fee + Filing Fee + Legal Research Fee + By-Laws Fee; where:

Name Reservation Fee = Philippine Pesos 120
Filing Fee = 1/5 of 1% of the authorized capital stock
LRF = 1% of the Filing Fee
By-Laws Fee = Philippine Pesos 500

Each corporation also requires a Stock & Transfer Book ("STB") for registering official stockholders. An STB with registration = Philippine Pesos 470

+ Foreign Investment Act Fee (to do business in the Philippines) may be applicable if more than 40% of the stock is owned by foreigner = Philippine Pesos 2,000

Q. What are the other costs to register a corporation?

A. If there are documents to be prepared outside the Philippines, the Philippine Embassy will need to authenticate such documents and it will have a fee for authentication. It is best to inquire directly with the Philippine Embassy of that country.

Your other incorporators/directors may have a fee for acting as such. This depends on your agreement.

If you wish for us to accompany you to open a bank account in the Philippines, we may charge per scheduled visit to the bank.

You will need a Philippine office address. This may be through a lease or subscription to a virtual office.

After registering with the Philippine Securities & Exchange Commission, the company would also need to register with the Bureau of Internal Revenue (the tax government agency) and secure a business permit from city hall. These will also have their own taxes and fees.

The above fees are indicative and may change without prior notice.

3. REPRESENTATIVE OFFICE

Q. It really seems like it's similar to a Branch Office. What then is the main difference?

A. Yes, it does seem like it is a Branch Office but there is one major distinction: a Rep Office cannot earn income from the Philippines.

The activities of a Rep Office are limited to the promotion and dissemination of information about the products and/or services of the foreign company that it represents. Although it can engage in products and/or services promotion, it

cannot sign contracts on behalf of the foreign company it represents. Such contracts must be signed directly between the foreign company and the relevant counterparty.

A Rep Office may perform the following activities:

- quality control
- act as a message center or a communication center between interested parties and its head office;
- promote products presently being distributed in the Philippines;
- provide and facilitate better communication and contact between its head office and affiliated companies on the one hand and present and future customers on the other;
- conduct surveys and studies on the market, economic, and financial conditions in the Philippines; and
- attend to the needs of end-users of its head office's products/services in the Philippines, advise them on the proper care and maintenance of their equipment, and communicate to its head office problems that call for consultations.

Q. I don't have a company abroad. Can I still do rep office registration?

A. Unfortunately, no. The rep office is, as the name implies, the Philippine representative office of a company abroad and merely promotes or assist in administrative and communication functions of the company abroad. The company abroad is what we call the "Parent Company."

Q. Is the US\$30,000 really required?

A. Yes, that is a mandatory requirement by law, the rationale being that the Philippine Government wants to ensure that only those with sufficient capitalization to hire Filipinos will be allowed.

Q. How do I pay the US\$30,000?

A. You will have to open a bank account in the Philippines (of your choice, by yourself or staff – or we can assist you through our partner local bank) and transmit the money from your bank abroad. The bank will then issue a certification on the money remitted and this will be filed with the Philippine Securities & Exchange Commission.

Q. What happens to the US\$30,000

A. During rep office registration process with the Philippine Securities & Exchange Commission, the capital will stay in the bank and once you are issued a license as a representative office, you may then use the US\$30,000 for your operations in the Philippines. It cannot be withdrawn arbitrarily but will be subject to Philippine accounting and tax rules.

Q. So the US\$30,000 is not registration or filing fee?

A. No, and you may use it in your Philippine operations once you are licensed.

Q. So what do we do to start a rep office?

A. Upon signing an engagement letter with us, we will guide you through the process.

Q. What is the process?

A. Here are the requirements by law:

1. You will need a Philippine resident individual who will act as your agent in the Philippines. If you are residing in the Philippines, you can be the resident agent.
2. Please prepare the following documents of the Parent Company:
 - a. Board resolution that (a) authorizes the establishment of rep office; (b) names the resident agent (we suggest to use our version which we have filed in the past);
 - b. Latest financial statements with "As of [date]" not exceeding one (1) year immediately prior to the filing of the application with the Philippine SEC, certified by an independent CPA of the home country;
 - c. Certified copies of the parent company formation or registration documents in home country, with an English translation if in foreign language;

These Parent Company documents if issued outside the Philippines must be authenticated at the Philippine Embassy/Consulate there. Please schedule a meeting with the Philippine Embassy/Consulate to inquire about their requirements and fees. We estimate these will be authenticated in 2-3 weeks.

3. While waiting for the Philippine Embassy/Consulate, you can prepare the following:
 - a. Philippine bank certificate on the remittance of US\$30,000. You will have to open a Philippine bank account (or you can avail of our banking assistance);
 - b. Resident Agent's acceptance of appointment (we can assist you with this document)
4. Fill out our *Client Information In-take Sheet* so we can prepare your rep office application, among requirements of which is the proposed Philippine address of the rep office. The address required is an exact address where the Philippine Securities & Exchange Commission can send notices and letters.

Q. What happens next after we prepare all the documents?

A. We will then file all the documents for you at the Philippine Securities & Exchange Commission. Estimate time for approval is a minimum of 4 weeks up to 5 weeks upon receipt of your complete documents for filing. We may have to go to the Philippine Securities & Exchange Commission on your behalf to answer their queries and clarifications.

Q. What are the costs to register a Rep Office?

A. The SEC application fee is computed as Name Reservation Fee + Filing Fee + Legal Research Fee; where:

Name Reservation Fee = Philippine Pesos 120

Filing Fee = 1/10 of 1% of the actual inward remittance to the Philippine bank account

LRF = 1% of the Filing Fee

Q. What are the other costs to register a Rep Office?

A. If there are documents to be prepared outside the Philippines, the Philippine Embassy will need to authenticate such documents and it will have a fee for authentication. It is best to inquire directly with the Philippine Embassy of that country.

Your resident agent may have a fee for acting as such. This depends on your agreement.

If you wish for us to accompany you to open a bank account in the Philippines, we may charge per scheduled visit to the bank.

You will need a Philippine office address. This may be through a lease or subscription to a virtual office.

After registering with the Philippine Securities & Exchange Commission, the representative office would also need to register with the Bureau of Internal Revenue (the tax government agency) and secure a business permit from city hall. These will also have their own taxes and fees.

The above fees are indicative and may change without prior notice.

Ready to do business in the Philippines?

For scheduling a free 30 minutes consultation on business registration, please directly email our our Kerwin Tan, at Kerwin.Tan@vta.ph for scheduling. He is available to meet at our office. You may schedule an in-person meeting or a teleconference. This may change without prior notice due to unforeseen circumstances.