

New rules for state registration and termination of separate subdivisions of foreign entities starting September 2024

Contacts at EY

Vladimir Kotenko

Partner

+380 (44) 490 3006

Vladimir.Kotenko@ua.ey.com

Igor Chufarov

Partner

+380 (44) 492 8231

Igor.Chufarov@ua.ey.com

Olga Gorbanovskaya

Partner

+380 (44) 490 3022

Olga.Gorbanovskaya@ua.ey.com

Borys Lobovyk

Partner

+380 (44) 490 3047

Borys.Lobovyk@ua.ey.com

Iryna Kalyta

Associate Partner

+380 (44) 499 2420

Iryna.Kalyta@ua.ey.com

Halyna Khomenko

Associate Partner

+380 (44) 490 3028

Halyna.Khomenko@ua.ey.com

Bogdan Malniev

Associate Partner

+380 (44) 499 3356

Bogdan.Malniev@ua.ey.com

Starting 3 September 2024, state registration, making amendments to a registration record and termination of a separate subdivision (i.e., a branch or a representative office) of a legal entity established under law of a foreign state (hereinafter the "**Separate Subdivision**") will be carried out under the new rules established by [Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Regulating Activities of Separate Subdivisions of Legal Entities Established in accordance with the Law of a Foreign State " No. 3257-IX dated 14 July 2023](#) (hereinafter the "**Law**"). The Law entered into force on 3 September 2023 but applies in one year thereafter. The main provisions of the Law are summarized below.

State Registration of the Separate Subdivision

The Law establishes a procedure for state registration of the Separate Subdivision similar to the one currently effective for state registration of a legal entity in Ukraine.

Thus, registration actions on the Separate Subdivision will be carried out by state registrars with subsequent entry of the information into the Unified State Register of Legal Entities, Private Entrepreneurs and Public Formations (hereinafter the "**USR**"). Entry of the information into the USR will serve as a ground for the automatic registration of the Separate Subdivision with the state statistics and tax authorities of Ukraine.

It's worth noting that currently, registrations of the Separate Subdivisions are conducted by the Ministry of Economy of Ukraine. The registration procedure is governed by the Instruction of the Ministry of External Affairs and Trade of Ukraine approved back in 1996, which provisions are quite outdated and contain numerous gaps. The statistics and tax registrations of the Separate Subdivision are currently performed separately based on respective applications of a foreign legal entity submitted to the respective authorities.

The Law establishes an exhaustive list of documents for the state registration of the Separate Subdivision. Importantly, as opposite to the currently effective procedure, the new rules require disclosing of the ownership structure and ultimate beneficial owners (hereinafter the "**UBOs**") of a foreign legal entity. The disclosure of the ownership structure and UBOs is required upon state registration of the Separate Subdivision and in case of changes - within 30 business days from the date of their occurrence.

In addition, the Law states that the USR will also contain information on type of the Separate Subdivision (a representative office or a branch) and financial statements consisting of a Balance Sheet and a Profit & Loss statement in electronic form obtained from the statistics authorities.

Furthermore, the Law supplements the procedure for state registration of the Separate Subdivision of a foreign bank. Particularly, upon accreditation of such Separate Subdivision by the National Bank of Ukraine, it is required to undergo the state registration with the USR.

State Registration Term and Administrative Fee

The term for conducting registration actions on the Separate Subdivision will be reduced from 20 business days to five business days from the date of the documents’ submission.

The administrative fee for state registration of the Separate Subdivision is not changed and is equal to a one-time subsistence minimum for an able-bodied person for the respective year (in 2023, this amount is equal to USD 2,684 or circa USD 74). The administrative fee for introducing changes into the registration record of the Separate Subdivision is equal to a 0.3-time subsistence minimum for an able-bodied person for the respective year.

Termination of the Separate Subdivision

The Law introduces changes to the Civil Code of Ukraine and *inter alia* establishes the termination procedure of the Separate Subdivision. The established termination procedure is similar to termination of a legal entity in Ukraine and among other steps include such specific steps as:

- ▶ Establishing the order and the term for filing claims by the Separate Subdivision’s creditors
- ▶ Making final settlements with the creditors (property of the foreign legal entity may be used for satisfying the creditors' claims if the property allocated to the Separate Subdivision is insufficient)
- ▶ Conducting audits by the respective controlling authorities and determining tax debts, fees and mandatory payments
- ▶ Preparing and submitting the interim and final liquidation Balance Sheets of the Separate Subdivision, as well as its reporting for the last reporting period
- ▶ Transferring the documents, which are subject to the mandatory storage, to the respective archiving institutions, etc.

The Separate Subdivision is considered as terminated from the date of entry of the relevant record into the USR.

Notably, termination of the Separate Subdivision in Ukraine is now generally performed along the above lines, while factually it is not explicitly stated in a single binding regulation.

Other matters

The already existing Separate Subdivisions are not required to re-register in compliance with the Law. Instead, the Cabinet of Ministers of Ukraine must ensure that the information on the existing and registered Separate Subdivisions is transferred to the USR before the Law enters into force (i.e., by 3 September 2023). As of the date of this newsletter, information on the existing Separate Subdivisions is not available in the USR.

We will continue monitoring the developments and will inform you of further important changes. We hope that the legislative changes described in this alert will contribute to further formation of consistent and transparent rules governing activity of separate subdivisions of foreign companies in Ukraine.

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