

Memorandum regarding establishment of a private limited company in Estonia and the connected questionnaire.

This memorandum is composed as a preliminary review or summary about the subject and cannot be considered as a full legal opinion containing final legal estimations.

Dear startups,

Please find below a short overview of establishing a private limited company (hereinafter **PLC**) in Estonia, the management principles and the connected questionnaire for the establishment.

1. INTRODUCTION

- 1.1. The most popular company types in Estonia are the private limited company (PLC) (*osatühing* or *OÜ* in Estonian) and the public limited company (*aktsiaselts* or *AS* in Estonian). Of those two PLC is the preferred choice for most entrepreneurs as the management costs are lower than in case of a public limited company, also a PLC is easier to operate.
- 1.2. In general a PLC usually has a two level management system (management board and shareholders). A private limited company can have a supervisor board if prescribed by the Articles of Association. But it is not mandatory by the law.
- 1.3. The following memorandum outlines the management principles of a PLC which does not have a supervisory board and only the management board. In summary the management board is a body representing the company in its everyday activities whereas the shareholders control the management board and perform their rights by voting (for example choose the management board, decide on amending the articles of association, etc).

2. MANAGEMENT BOARD

- 2.1. A private limited company must have a management board. The management board is a directing body of the private limited company that represents and directs the private limited company. The management board may have one member (director) or several members. A member of the management board does not have to be a shareholder. A member of the management board must be a natural person with active legal capacity. If more than half of board members are not residing in Estonia then the company must give the Commercial Register a contact in Estonia where necessary documents can be sent. The foreign owner must give the Commercial Register his/her address and e-mail address.
- 2.2. According to the Commercial Code (hereinafter **CC**) the management board of a PLC is a managing body of the company, which represents and manages the PLC. According to law every member of the management board may represent the PLC in all transactions unless the articles of association prescribe that some or all of the members of the management board shall represent the PLC jointly. Joint representation shall apply with regard to third persons only if it is entered in the commercial register. In summary this means that as a general rule the members of the management board have limitless rights to represent the company in front of third persons, unless prescribed otherwise in the articles of association.

- 2.3. The management board can have one or more members. It is not mandatory for the member of the management board to reside in the EU, hence it is possible for a person outside of the EU to become a board member of a PLC. The members of the management board are elected by the shareholders for an unspecified term unless the articles of association prescribe a fixed term.
- 2.4. In addition to managing the everyday activities of the company the management board is also obligated to manage the list of shareholders, organise the accounting of the PLC and perform other actions required by law.
- 2.5. According to CC the members of the management board are subject to prohibition on competition and have the obligation to preserve the business secrets of the PLC.
- 2.6. A member of the management board shall perform his or her duties with due diligence. Members of the management board who cause damage to the PLC by violation their obligations shall be solidarily liable for compensation for the damage caused, whereas a member of the management board is released from liability if he or she proves that he or she has performed his or her obligations with due diligence. The limitation period for assertion of a claim against a member of the management board is 5 years unless the articles of association or an agreement with the member of the management board prescribes another limitation period.

3. ESTABLISHMENT

- 3.1. Establishment of a PLC can either be performed at the notary in Estonia or on the internet if all the shareholders and board members have Estonian ID cards. Please note that it is possible to establish the PLC also by granting a notarised power of attorney for example to attorneys in Estonia to perform all the required activities on your behalf. In this case attorney would prepare all the necessary documentation and organise the establishment in Estonia at the notary on the basis of the power of attorney.
- 3.2. The minimum share capital of a PLC is 2500 EUR, which should be transferred to the bank account of the PLC under foundation prior to finalizing the registration. A special start-account will be created for the company under foundation which shall be converted into a regular bank account after the registration is finalized. It is also possible to establish the PLC without paying in the share capital, in which case the founders will be liable for the obligations of the PLC in the amount of the share capital of the PLC. However, share capital payment is mandatory prior issuing new shares to the investors.
- 3.3. The registration of a PLC usually takes 5 business days as of submitting the documents to the Commercial Registry.
- 3.4. The state fee for establishing a PLC is 190 EUR. The notary fee depends on the size of the share capital, for example in case of the minimum share capital of 2500 EUR the notary fee amounts to 50,40 EUR.

QUESTIONNAIRE

FOR ESTABLISHING A PRIVATE LIMITED COMPANY (OÜ) IN ESTONIA

Please provide the following information, which is required to be included in the incorporation documentation of an Estonian private limited company (*osaiühing*, *OÜ* in short):

1. Required business name of the *OÜ*.
2. Full address, telephone and e-mail of the *OÜ*.
3. Size of the share capital of the *OÜ* (minimum is 2500 EUR); please note that it is possible also to establish the PLC without paying in the share capital at first, in which case the founders shall be liable for the obligations of the *OÜ* up to the extent of the share capital until the share capital is fully paid in;
4. *OÜ*'s founders' data (in case of natural persons – full name of each founder, personal ID code, date of birth, full address and e-mail. In case of legal persons – full business name, registry code, full address, e-mail and also full name and date of birth of the legal representative of the legal person) and shareholding percentage of each shareholder.
5. *OÜ*'s management board data (number of board members, full name of each board member, personal ID code, date of birth, full address and e-mail of each board member).
6. Economic year of the *OÜ* (usually 01.01. – 31.12).
7. Main field of activity of the *OÜ*.
8. Is VAT registration required for the *OÜ*?
9. In which bank does the *OÜ* wish to open the bank account? Is internet bank or bank card needed, if yes then who will receive the respective rights/cards?

Please note that it is possible to establish the *OÜ* either by visiting a notary in Estonia or granting a notarised power of attorney to attorneys in Estonia to perform all the required activities on your behalf.

REGISTERING COMPANY IN ESTONIA

	ONLINE (with e-residency card)	OFFLINE
	<p>ALL private persons related to establishment (members of the management board, founding members, etc.) must be able to sign the application of initial entry and establishment documents digitally (e-residency card); See step by step guide http://abiinfo.rik.ee/foundationofacompany</p>	<p>a) All founders and board member(s) visit an Estonian State Notary in person. or b) All founders and board member(s) assign notarised Power of Attorney (in English) to an attorney or a service provider. List of service providers https://e-resident.gov.ee/run-a-company/</p>
Company name	<p>Check if a company with a similar name already exists: https://ariregister.rik.ee/index?lang=eng</p>	
Share capital	<p>2500 eur. a) Company could be established without an immediate share capital contribution. However, the amount has to be paid in latest before Wise Guys joining as a shareholder or b) B) Company could be established with a monetary contribution made electronically in the course of preparing an application.</p>	<p>2500 eur. a) Company could be established without an immediate share capital contribution. However, the amount has to be paid in latest before Wise Guys joining as a shareholder or b) B) Company could be established with a monetary contribution made electronically in the course of preparing an application.</p>
Estonian address: Every Estonian company must have an Estonian address	<p>See trusted service providers https://e-resident.gov.ee/run-a-company/</p>	<p>See trusted service providers https://e-resident.gov.ee/run-a-company/</p>
Authorized contact person: If at least half of the board members reside outside the European Economic Area OR the management board consist of non-Estonian residents, you must appoint a local contact person. This person can be either an Estonian legal or private person who is your shareholders (e.g. Wise Guys), or a service provider (service provider	<p>Appointment of the Contact Person is done via https://ettevotjaportaal.rik.ee/ portal (in case you have e-residency card for digital access).</p>	<p>In case you don't have e-residency card for digital access, it can be done in person at notary office.</p>

could be anyone who, by its economic activities, provides services for business address etc.)		
Field of activity: The Estonian Classification of Economic Activities (EMTAK) is the national version of the international harmonised NACE classification.	https://emtak.rik.ee/EMTAK/pages/klassifikaatorOtsing.aspx	https://emtak.rik.ee/EMTAK/pages/klassifikaatorOtsing.aspx
Cost of company establishment	190 eur.	145 eur; notary fee ca 50eur. In case notarised power of attorney is assigned to an Estonian attorney - notary fee, apostille fee and service fee of law firm (ca 750eur) will be additional costs.
Time	48h	2-3 days
Company's bank account		
<p>If management board consists of non-Estonian residents, the commercial bank runs background checks to verify company's ties to Estonia and certain documents need to be presented to the bank. NB! All commercial bank accounts in Estonia are by default multi-currency ones (can accept and hold multiple currencies without automatic exchange)</p> <p>NBB! An account at commercial bank is mandatory for adding new shareholders.</p> <p>Recommended reading: https://blog.leapin.eu/ultimate-guide-to-e-residency-and-borderless-business-banking-your-options-b21647958a1</p>	<p>ONLINE: Starting account (limited functionality) can be opened electronically in the course of preparing an application at any Estonian <u>commercial bank</u>. To make payments and perform transactions from this account you will need to transform it into a business account at a commercial bank branch. However, for commercial banks, <u>1 visit to Estonian bank office is required (mandatory)</u> for verifying the user (management board member) and adding info to system. Only after that will you get access to internet banking portals and can order a bank card(s) for your business.</p> <p>Commercial banking options:</p> <ul style="list-style-type: none"> ➤ Commercial banks in Estonia (LHV Pank and Swedbank are recommended) <p>Other online banking options:</p> <ul style="list-style-type: none"> ➤ Transferwise borderless business account https://transferwise.com/borderless ➤ Holvi https://about.holvi.com/e-residents/ 	<p>OFFLINE: For commercial banks, <u>1 visit to Estonian bank office is required (mandatory)</u> for verifying the user (management board member) and adding info to system. Only after that will you get access to internet banking portals and can order a bank card(s) for your business.</p> <p>The decision for opening fully functional business account in commercial bank will be made within 10 working days after submitting the necessary documents.</p>

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Bank account opening fee	Free of charge. One-off payment of ca 50eur for pin-calculator giving an access to online banking portal.	
Registration as a VAT payer According to Estonian laws you have an obligation to register your company as a VAT payer at the Tax and Customs Board if the taxable turnover exceeds 16,000 euros per annum. In this case the Tax and Customs Board issues you an Estonian VAT number. If your company's taxable turnover is below 16,000 euros per annum you can still apply for an Estonian VAT number. For this you have to submit an application and justify the wish to receive a VAT number.	<p>ONLINE For registration as a VAT payer please submit a written application to the Tax and Customs Board. The application can be submitted in the e-Tax/e-Customs, or submitted at a service bureau. Notaries can submit applications through the information system of the e-notary as well.</p> <p>Read more: http://www.emta.ee/eng/business-client/registration-business/persons-liable-value-added-tax/registration-person-liable</p>	<p>OFFLINE: For registration as a VAT payer please submit a written application to the Tax and Customs Board. The application can be submitted in the e-Tax/e-Customs, or submitted at a service bureau. Notaries can submit applications through the information system of the e-notary as well.</p> <p>Read more: http://www.emta.ee/eng/business-client/registration-business/persons-liable-value-added-tax/registration-person-liable</p>
E-residency Estonia is the first country in the world to offer government issued digital identity that empowers entrepreneurs around the world to run a location-independent business	<p><u>ONLINE application</u></p> <ul style="list-style-type: none"> • Application processing period is 30 days • Once you have submitted your application, the Estonian Police and Border Guard Board will conduct your background check to ensure the safety and trust of the e-Residency programme • The Estonian Police and Border Guard Board may request further information during the background check <p>Read more https://e-resident.gov.ee/become-an-e-resident/</p>	<p><u>OFFLINE:</u> You must pick up the card at an Estonian embassy or consulate, or inside Estonia. If you do not have a pick up location in your country, you can arrange to pick up the card in another country.</p>

Cost	State fee is 100 eur	
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USEFUL SITES

E-Residency	E-Residency is a new digital nation for global citizens, powered by the Republic of Estonia. It offers the freedom to easily start and run a global business in a trusted EU environment.	https://e-resident.gov.ee/become-an-e-resident/
Company Registration Portal	The Company Registration Portal allows entrepreneurs to submit electronic applications, documents and annual reports to the Commercial Register.	https://ettevotjaportaal.rik.ee/index.py?chlang=eng
Estonian Startup Visa	The Estonian Startup Visa is meant for non-EU startup founders who wish to come and be a part of one of the smallest but liveliest startup communities in Europe as a founder. State fee is 80eur.	http://www.startupestonia.ee/visa
Tax and Customs Board	Declare taxes online. Get all the information regarding taxation, VAT and annual report submissions.	https://www.emta.ee/eng/business-client https://www.emta.ee/eng/business-client/registration-business/persons-liable-value-added-tax/registration-person-liable
	Credit information and administrative issues	www.krediidiinfo.ee/
Centre of Register and Information Systems		www.rik.ee
Enterprise Estonia	Various grants and programmes for Estonian companies	www.eas.ee
Payroll calculator	How to calculate net salary or find out what the employer's total costs of employment are.	www.kalkulaator.ee
Accounting info	Many interesting articles on employment and taxation, database of training courses, laws and calculators	www.raamatupidaja.ee
Legislation	Look up consolidated texts of English translations of Estonian legislation. Commercial Code	www.riigiteataja.ee/en/ https://www.riigiteataja.ee/en/eli/519122017001/consolide
Relocation services	Use relocation service providers if you are thinking of moving to Estonia.	https://teleport.org/ http://www.expatestonia.ee/