



How to constitute a

# Limited Company In person

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Steps to create a company in Spain **in person**



**ICEX**

INVESTIN  
SPAIN



**Guide to  
Business**  
in Spain  
2020

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## Obtaining the Tax Identification Card (NIF) for non-residents

(when applicable)



**A >**

**If the partners/shareholders are non-resident legal persons**

The NIF must be requested using the official declaration of start of activity registered in the Census of Businessowners, Professionals and Withholders (Form 036) to the Spanish State Tax Administration Agency (AEAT).

 **FORM 036 >**

**B >**

**If the partners/shareholders are nonresident natural persons**

The NIF is the same as the Foreigner Identity Number (NIE). From within Spain, the NIE may be obtained from the Directorate-General of the Police and Civil Guard. From abroad, it may be obtained at the Spanish diplomatic mission or consular office corresponding to the partner's/ shareholder's place of residence.

**C >**

The official declaration registered in the census must also include the name and surname(s) or corporate name or full name and tax identification number of the legal representatives of the natural person applying. Therefore, a Spanish NIF must also be obtained by any directors of the foreign entity who are going to assume legal representation of the company before the State Tax Administration Agency.

**D >**

The census declaration must be accompanied by a document certifying the existence of the foreign legal person. This document may be the deed of incorporation in the person's country and the corporate by-laws registered in any official register in the country, or certification by a Notary Public or a tax authority proving the existence of the company. This document must be submitted together with its official translation, and must be duly legalized\*.

\*Apostilled if the country issuer of the document is a member of the Hague Convention, dated October 5, 1961 or legalized through a diplomatic channel, if the country issuer of the document is not a member of the Hague Convention.

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## Application for a company name clearance certificate

→ This is obtained at the **Central Companies Registry**. The certificate accredits that no other entity with the same name is recorded in the Registry.

To simplify this procedure, you may access the **reserved name bank of the Companies Registry**. It consists of 1,500 names whose inclusion in the bank of itself proves that it does not coincide with another existing name, and so they are immediately available for the interested party.

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## Application for a provisional NIF (Tax Identification Number) for the company

→ The official declaration of start of activity must be filed with the AEAT before the activity begins, in order to notify the authorities of the intention to engage in activities in Spain. To do so, use **form 036** (registration in the list of Businessowners, Professionals and Withholders).

The same form is also used to apply for a **provisional Tax Identification Number (NIF)**. The tax identification number of corporate entities will be provisional until the interested party has filed a copy of its public deed of incorporation and of its bylaws, as well as certification of its registration in the Companies Registry.

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## Opening of a bank account in the Company's name

at a credit entity that operates legally within Spain.



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## Deposit in the account held in the Company name

of the money constituting its share capital

**A >**

In a Limited Liability Company (SRL) the shareholders must have paid out fully at the time of incorporation the sum of **at least 3,000\* euros as Share Capital**. There is no maximum level to the amount of share capital.

\*As an exception, currently an SRL can be incorporated with a share capital below the legal minimum when a company is set up as a gradual incorporation (*formación sucesiva*). SRLs under the gradual incorporation scheme operate under the same legal system as SRLs, except for a certain guarantees designed to strengthen the company's own funds and boost self-finance.

**B >**

**Exhibition and delivery to the Notary Public of the proof of deposit** is the most commonly used procedure in practice to prove the reality of these contributions. The date of the deposit may not be more than two months before the deed of incorporation.

It is also possible to **deliver the money in cash to the Notary** so that the Notary sets up the deposit in a bank account in the company's name.

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# Issuing the Public Deed of Incorporation



**A >** The incorporation of an SRL must be documented in a public deed issued by the founding partners, either themselves or by means of an attorney.

**B >** If the foreign citizen who is to incorporate the company does not appear personally before the Notary, an original power of attorney granted by said citizen to his or her representative must be provided, with a sworn and duly legalized translation.

**C >** Spanish law also allows the creation of single-person companies, so an SRL may be incorporated by a single partner.

**D >** The public deed must include the following:

- > Identity of the partners.
- > Expression of the desire to create an SRL.
- > Contributions made by each of the partners and the number of shares assigned in payment.
- > Status of the company.
- > The specific form in which the corporate administration is initially organized, if the bylaws allow for different alternatives.
- > The identity of the directors, the company's representatives, and any auditors.
- > Prohibition of people declared as having conflicts of interest from occupying positions in the company.
- > The CNAE code of the economic activity that the company will engage in.
- > Any other agreement or condition that the partners consider appropriate.

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## Filing the payment document

for Asset Transfer Tax and Stamp Duty (ITP and AJD)



Incorporation of companies is exempt from **ITP and AJD** as corporate operations. However, to classify and register the company with the Companies Registry it is necessary to present to the tax **authorities of the corresponding autonomous region** a form for this tax settled at 0 with a declaration of exemption from it.

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## Registering the Company with the Companies Registry

**A >**

A term of two months is granted to **file for registration** of the deed of incorporation with the Companies Registry corresponding geographically to the location of the registered office, this period being calculated from the date the deed is issued.

**B >**

Filing the deed of incorporation is mandatory, as **the company only acquires its legal personality once the registration process has been completed.**

**C >**

Once this is done, the company registration is **published in the Official Bulletin of the Companies (*Boletín Oficial del Registro Mercantil*)**.

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## Application for final NIF



**A >**

Within a month of registering with the Companies Register an application must be made to **change the provisional NIF for a final NIF** by the appropriate official declaration of modification (**form 036**) before the AEAT. The form must include any changes with respect to the data in the statement presented with the declaration filed to apply for the provisional NIF. This official declaration must be accompanied by:

- > A copy of the public deed of incorporation.
- > The bylaws.
- > A certificate of registration with the Companies Register.

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## Declaration of foreign investment



This is a mandatory document (**Form D-1A**) which, though merely informative, must be presented to the Foreign Investment Registry (RIE) of the **Ministry of Industry, Trade and Tourism**. As a general rule, it must be presented within one month of the incorporation of the New Company. The Notary Public may complete this procedure for you, upon request.

Furthermore, in exceptional cases, when the investment originates in a territory classified as a tax haven in accordance with Spanish tax regulations, an informative declaration must also be presented prior to the incorporation of the company (Form D-P1).



**FORM D-P1 >**



**FORM D-1A >**

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## Registration for the Tax on Economic Activities (IAE)

→ Within a month of starting to operate, the company must register for the **Tax on Economic Activities** (Form 840 of the declaration of Tax on Economic Activities).

The companies that are exempt from IAE must not file the registration until the December immediately prior to the year in which they are obliged to pay IAE. The **official registration** (form 036) must identify the economic activities they are engaged in, and the establishments and locations at which these activities are carried out. Any change or cancellation of such activities or establishments must be notified.

**Exemptions include natural persons, legal persons for the first two months of their activity, and entities whose net revenue is less than one million euros.**

 **FORM 840** >

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## Registration of the Company with the Social Security

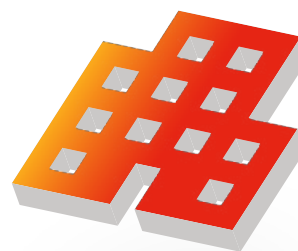
→ Registration is an administrative act by which the General Treasury of the Social Security assigns a number to the company owner for identification and control of his or her obligations with respect to the Social Security scheme. This number is called the contribution account code (**Código de Cuenta de Cotización**). The application must be made using the **form TA.6**, and it must be filed before the start of business activities at the Provincial Directorate or Administration of the General **Treasury of the Social Security** corresponding to the geographical location where the business has its registered office.

 **FORM TA.6** >



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## Communicating the opening of a workplace



→ Prior to the start of the activity or within thirty days following the opening of a workplace, the Company, when applicable, must **notify** the Ministry of Labor of the corresponding autonomous region of the **opening of the workplace**, for purposes of controlling Occupational Health and Safety conditions.

**A workplace is defined as any area, whether within a building or not, at which employees must remain or which they must access for purposes of performing their jobs.**

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## Registration/affiliation of workers with the Social Security

→ Businesses must apply for **affiliation with the Social Security** system of any employees who enter their service and are not affiliated. The application for affiliation (form TA.1) must be filed with the **Provincial Directorate of the Treasury of the Social Security** or the Administration in the same province at which the company has the registered office where the employee works, or where the self-employed worker is domiciled. Applications for affiliation must be made before the start of the provision of services by the employee.





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