

## PERMANENT ESTABLISHMENT (BRANCH) VS SUBSIDIARY

Companies setting up in the UK can set up a Branch or a Subsidiary, however the treatment of these entities is very different and the options require careful consideration. We highlight the main differences below.

A **permanent establishment (Branch)** is generally defined as a fixed site through which the business of the company is wholly or partly carried on within that territory. It can include an agent habitually exercising authority to do business on behalf of the company.

A **Subsidiary** is a separate legal entity, so liabilities arising within the company cannot be claimed against another company in the group.

Issue	Branch	Subsidiary
<b>Legal entity</b>	Not a separate legal entity so claims and liabilities arising in the PE can be extended to the main company of which it is part.	A separate legal entity so liabilities arising within the company cannot be claimed against another company in the group.
<b>Inter office remittances/ repatriation of profits</b>	Inter office remittances are not taxable.	Repatriation of profits can take various forms and is therefore flexible.  Timing of the repatriation of profits can be arranged to suit the group tax position.  No withholding tax on dividends
<b>Profits/losses</b>	Relief for start up costs and initial trading losses can be set against parent company profits for tax purposes. Corporation Tax will be due on any profit made by the branch.	The rate of corporation tax can be higher as a result of increased number of companies in the worldwide group.
<b>Filing requirements</b>	Public filing of company accounts is usually required, depending on the law in the country of origin.	There is public disclosure of the accounts. There is no cross border consolidation so administration can be more straightforward.
<b>Generally</b>	A PE can be easier to establish and close down if unsuccessful. However, later incorporation may trigger tax liabilities because of transfers to a separate company, although these can often be overcome.	UK customers may prefer to deal with a UK company rather than the branch of an overseas company.

**If you have any questions please contact**

**Sudheer Gupta** t. +44(0)207 759 9313 e.sudheer.gupta@alliotts.com

**David Gibbs** t. +44(0)207 240 9971 e. david.gibbs@alliotts.com