



Doing Business with Cuba

A Regulatory Overview by EY

November 10, 2015



EY

Building a better
working world

Building a better working world for companies doing business in Cuba

Highlights

- ▶ We have over 20 years of experience assisting clients doing business with Cuba. During this time we have developed an extensive pool of knowledge and understanding of the Cuban market. We have also helped many of the most prestigious Cuban state-owned entities implement international standards and to apply best international practices.
- ▶ We maintain a strong relationship with the main Cuban audit & consulting company, Consultores Asociados S.A. (CONAS). Working with an integrated CONAS/EY team, we are able to prepare complementary deliverables that meet both local regulatory and international requirements.
- ▶ We have a team of twelve experienced international staff dedicated full-time to assisting clients with their Cuba-related business interests and an established infrastructure on the island.
- ▶ As well as maintaining the largest audit portfolio of any Big 4 firm in Cuba, we have performed market and feasibility studies for several major new projects in Cuba, and have provided tax, regulatory and other advice to many of the leading international companies doing business with Cuba.
- ▶ EY Caribbean Professional Services Ltd (EY CPSL) works closely with other EY offices both regionally and globally to ensure that our clients receive an integrated service in accordance with EY's Vision 2020.

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EY [Cuba]
EY Caribbean Professional Services Ltd

CONTACT DETAILS

EY Caribbean Professional Services Ltd
Miramar Trade Center.
Edificio Jerusalén.
Cuarto Piso, Oficina 412.
Miramar, Playa. La Habana, Cuba.
Tel: (+53) 7-204-4658

Matthew Pickles
Country Managing Partner
Matthew.Pickles@eycps.com
Tel: (+53) 5-268-9547

Alejandro Gago
Partner, Audit
Alejandro.Gago@eycps.com
Tel: (+53) 5-284-7300

German Matkin
Partner, Audit
German.Matzkin@eycps.com
Tel: (+53) 5-263-8115

06.

Commerce with Cuba

(Establishing a
representation office)

- Documents to be submitted to the
Chamber of Commerce



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In Cuba all commerce is controlled by the State and only Cuban incorporated companies are authorized to carry out acts of commerce and imports. In order to sell products to Cuban companies, the foreign supplier needs to be registered with the relevant purchaser as an authorized supplier in accordance with Resolution 50/2014. Cuban companies specialized in being agents for foreign suppliers such as Platino can be available.

Foreign companies that meet certain conditions may open a representative office in Cuba (*sucursal / oficina de representación*), although the activities of representative offices are generally restricted by law to sales intermediation and other limited activities carried out in the name and for the benefit of the foreign head office.

Companies registered under Decree Law 206/Resolution 550 are considered outside of the scope of the Foreign Investment Law. Typically, income is not considered as being earned from the representative office/ branch office and therefore, no corporation tax will be payable since income is zero (being recorded instead by the parent in the overseas jurisdiction). There are very strict rules and limitations to the activities that these representative offices can carry out in Cuba.

Decree 206 dated 10 April 1996 ("Decree 206") issued by the Executive Committee of the Council of Ministers and Resolution 550/2001 dated 13 November 2001 ("Resolution 550") issued by the Ministry of Foreign Trade set out the main requirements for the authorization by the Ministry of Foreign Trade and Foreign Investment and the registration on the National Register of Branch Offices and Agents of Foreign Commercial Companies (the "Register of Branch Offices") and licensing of branch offices of foreign companies.

The main requirements to receive the authorization of the Ministry of Foreign Trade and Foreign Investment to operate a branch office include, amongst others, the following:

1. The operation of the branch office should be in the interest of Cuba, taking into account the type of products to be sold, the transfer of technology, the availability of credit, and the solvency and prestige of the company;
2. The company should have been in existence for at least five years;
3. The company should have paid-up social capital in the minimum amount of US\$50,000 or its equivalent in another currency;
4. The company should have a minimum volume of operations with Cuban counterparts of not less than US\$500,000 per year during the last three years.

A letter of support confirming the determination by the Cuban Ministry or other authority responsible for the relevant sector that the establishment of the branch office will be in the interest of the country should be forwarded directly to the Cuban Chamber of Commerce in support of the application for registration of the branch office.

Documents to be submitted to the Chamber of Commerce

In order to apply for registration of a branch office on the Register of Branch Offices, the following documents should be presented to the Cuban Chamber of Commerce, together with the duly completed application form:

- a. duly authenticated letter explaining the reasons and justification for the establishment of the branch office in Cuba signed by a duly authorised representative of the company;
- b. duly authenticated certificates of incorporation and good standing of the company dated less than six months prior to date of presentation of the application;
- c. duly authenticated certified copies of memorandum and/or articles of association and corporate by-laws of the company or other relevant corporate documents;
- d. duly authenticated power of attorney or notarial deed confirming the designation and powers of the intended foreign representative of the company in Cuba;
- e. list of products or services intended to be marketed in Cuba;
- f. bank reference letter addressed to a Cuban bank issued no more than three months prior to the date of presentation of the application;
- g. curriculum vitae of the intended foreign representative of the company in Cuba;
- h. general information regarding the world-wide activities carried out by the company and its foreign branches and subsidiaries, if any, during the last five years;
- i. copy of a letter from the relevant Cuban authority having responsibility for the sector of operations confirming the interest to the country represented by the branch office and the volume of operations with Cuban entities during the last three years (as explained above, in the event that the minimum volumes of operations are not met, the relevant Cuban authority should express support for the establishment of the branch office);
- j. copy of most recent annual report and/or audited financial statements.

Documents submitted in a language other than Spanish should be accompanied by an official Spanish translation.

As part of the authentication process, the documents mentioned above in paragraphs a) to d) should be (i) notarised in the jurisdiction of their issuance; (ii) accompanied by an apostille from the jurisdiction of their issuance; (iii) legalized by the Cuban consular authorities in the jurisdiction of their issuance; (iv) legalized in Cuba by the Cuban Ministry of Foreign Affairs; and (v) notarised in Cuba before a Cuban notary public.