

Germany: What are the accounting and filing requirements for a GmbH that is a subsidiary of a French company?

German limited liability companies (Gesellschaften mit beschränkter Haftung or GmbHs), whether subsidiaries of French companies or independent companies not subject to consolidation of their accounts, have more time than their French SARL cousins to draw up and file their annual accounts, which may not include full legal notes, an income statement or a management report, depending on their size.

If the company meets the definition of a "petite société de capitaux" - kleine Kapitalgesellschaften (these companies must not exceed a balance sheet total of €6m, turnover of €12m and 50 employees for two consecutive financial years HGB art. 267 al. 1 - the same thresholds are found in the French Commercial Code), the GmbH's legal representative must:

- close its accounts within 6 months of the balance sheet date,
- electronically file the documents subject to publication within 12 months of the closing date.

In order to go further in the process of closing and filing the accounts, these "small limited liability companies" benefit from substantial reductions in the content of the documents to be published (HGB art. 326 para. 1):

- no obligation to publish any P&L accounts, those companies may draw up a simplified profit and loss account (HGB art. 276a),
- the legal notes to the accounts are reduced in certain respects (HGB art. 288 para. 1); they are exempt from all information relating to the unpublished profit and loss account ((HGB art. 274a),
- the company is not required to prepare a management report - Lagebericht.

The match begins! what is the score between France and Germany for a SARL / a GmbH ending on 31 December, a subsidiary of a single shareholder who is a legal entity, with two financial years of stable sales of €5m, total assets of €10m and around forty employees?

*Germany: a GmbH benefiting from the deadlines and simplifications applicable to "small limited companies" will only have to publish annual accounts without a profit and loss account, accompanied by simplified notes, and without a management report, within 12 months of the balance sheet date.

*France: EURLs must, within 2 months of approval of the annual accounts (art. L232-22 C. com), i.e. by 31 August at the latest, electronically file annual accounts comprising a balance sheet, profit and loss account and notes in "simplified" format ("small companies" referred to in C. com L123-16, simplifications in PCG art. 832-1 et seq.), and would also be exempt from drawing up a management report (C. com. art. L 232-1 IV) if the articles of association do not provide for one.

Beware, additional arbitrator! Given the current thresholds for appointing a CAC in both countries, a French EURL would have to appoint a CAC for 6 financial years (C. com. art. L 223-35 and D 221-5 on reference from D 223-27), while a GmbH would still fall below the thresholds for "small capital companies" without any obligation to appoint an auditor (HGB art. 316)!

We'll leave you free to count the goals, comment on the match... we'll plan the next meetings!

We've been happy to simplify this friendly meeting, so please contact us directly if your scheme requires us to think about it together, to avoid publishing too much... or too little information...

Everyone! To your financial statements!

Freundliche Grüßen



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