

TECH START-UP CODERTS GHANA







Chambers GLOBAL 2020

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section one

Are you a start-up or are you contemplating starting that business as you do not have a clue on how to proceed, do not fret as this start-up tool kit[1] will guide you through on incorporation of your company, obtaining a tax identification number, obtaining a tax clearance certificate, intellectual property registration and filing of your annual returns.

Happy reading!

section two REGISTERING YOUR BUSINESS WITH THE REGISTRAR OF COMPANIES

REGISTERING YOUR BUSINESS WITH THE REGISTRAR OF COMPANIES

One of the essential steps to take in setting up a business in Ghana and perhaps, the most important is registration of the business.

The body entrusted with the responsibility of overseeing the registration and overall running of business affairs in Ghana is the Registrar of Companies ("ROC"). The Companies Act, 2019 (Act 992) ("the Code"), governs the organisation of companies in Ghana.

To register a business with the ROC in Ghana, business owners may adopt any of the following business structures:

- Sole proprietorship;
- Partnership
- Company (this may be unlimited, limited by shares or limited by guarantee and external companies. They may also be public or private).

Businesses in Ghana must be registered with the Ghana Revenue Authority (GRA) for the purposes of the payment of tax [2]. Every person who is liable to pay tax or is required to withhold tax at source must also have a tax identification number (TIN) [3]

Procedure for TIN Registration

- Download a copy of the prescribed Form from the GRA website
- Complete the form and submit it to any of the following agencies
 - Registrar General's Department
 - Domestic Tax Revenue (Income Tax & VAT) Office
 - Custom Division Office
- Collect your Taxpayer Registration Certificate upon completion of the registration formalities.

Registration Requirements

In addition to providing the details on the registration form, you need one of the following:

- Certificate or letter of business registration;
- Copy of picture page of valid drivers' licence;
- Copy of picture page of valid passport;
- Copy of valid voters' ID; or
- Copy of valid National ID

Fees

There is no registration fee for the generation of a TIN. It normally takes between 2 to 5 days to receive the Taxpayer Registration Certificate.

SOLE-PROPRIETORSHIP

This business structure is essentially a business owned and often run by an individual. The individual is the sole owner- investing the capital, bearing all the risks, enjoying all the profits and may or may not employ staff in running the affairs of the business. The assets of the entrepreneur are not separate and distinct from the assets of the business. Consequently, an entrepreneur who trades as a sole proprietor and the business are one and the same because there is no distinction in law between the business being carried out and the individual behind the business.

Incidence of registration:

The registration of a business run by a sole proprietor does not confer any distinct legal personality on the business. This means that the entrepreneur's liability is not limited thus whenever the business owes money for instance, the personal assets of the entrepreneur can be sold to satisfy the debt. What the sole proprietor registers is the "**business name**"[4], as the law does not recognise such as a legal entity, separate from the owner, except it is registered as a company.

Compulsory registration

A sole proprietor who carries on business in his true personal name, surname or initials, does not have to register the business name [5]. However, where the entrepreneur seeks to use a name that is different from his own name, surname or initials, he must register the name of the business with the ROC [6]. The registration must be done within two weeks of commencing business.

Procedure for Registration of Business Name

- You may download Online or pick up the prescribed Form A from the in-house bank
- Submit the completed form at the Business names Registration Counter for Verification and capturing or via Online
- Pay processing fee at the in-house bank or via Online
- Collect your business registration certificate and a certified true copy of the submitted form once the registration is complete.
- The business registration certificate must be renewed annually

Registration requirements

- a. Business name
- b. Nature of business
- c. Principal place of the business
- d. Any other places at which the business is carried out
- e. Name, nationality, residential address and business occupation of the sole proprietor

Fees

- The current processing fee is Sixty Ghana cedis (GHS60.00).
- The current renewal fee is twenty-five Ghana cedis (GHS25.00)

PARTNERSHIP

Procedure for registering a Partnership is governed by Ghanaian law [7]. In instances where an entrepreneur wants to share liability for a business venture without the stringent requirements associated with incorporating a company, a partnership may be the most suitable vehicle for the venture.

Incidence of registration:

A registered partnership is treated as a separate and distinct legal entity from the individuals who make up the partnership. However, a partner is jointly and severally liable with the firm and the other partners for all the debts and obligations of the firm over the period for which he remains a partner [8]. A partnership is defined as "an association of two or more individuals carrying on business jointly for the purpose of making profits" [9]. From this, a partnership must consist of at least two individuals. The maximum number of persons who can form a partnership is twenty (20)

Parties who seek to enter into a partnership must first prepare a partnership agreement to govern the relationship however in the absence of a partnership agreement, or any contrary provisions in a partnership agreement, the provisions of Act 152 shall govern the partnership relationship.

Compulsory registration, Procedure for Registration

- Applicant may purchase and complete Form "A" for Incorporation of Partnership from the in-house bank or Download
- Provide stamped Partnership agreement at Land Valuation Board
- Submit filled forms at the Partnership Registration Counter for Verification and Capturing or via Online
- Pay processing fee of GHS160.00 at the in-house bank or via Online
- Registrar Examines, Approves & Issues Certificate Incorporation as well as CERTIFIED TRUE COPY(CTC) of Form B
- File Annual Returns together with Audited Account

COMPANIES

A company may be incorporated as either a private or public in any of the following forms:

- Company limited by Shares, which is a company having the liability of its members limited to the
 amount, if any, unpaid on the shares held by them; Company Limited by Shares is an association
 between two and fifty people with a set of objectives for either profit or non-profit basis. There are
 shareholders who are the owners of the company and directors, secretary and auditors who are the
 officers of the company.
- Company limited by Guarantee, which is a not-for-profit entity having the liability of its members limited to the amount that they have undertaken to contribute to the assets of the company in the event of its being wound up; and
- Unlimited Company, which is a company without any limit on the liability of its members.

1.General Requirements

Companies limited by shares are required under the Act to have at least:

- 1 shareholder
- 2 directors
- 1 auditor
- 1 company secretary.

A company with shares has the option to register its proposed Constitution with the Registrar of Companies. The shareholder (s) of a company may be an individual or a corporate body. The directors of a company must be natural persons of sound mind, not minors, and must not be undischarged bankrupts. A limited liability company must have at least two (2) directors, and one of them must be ordinarily resident in Ghana. A minimum of one subscriber (shareholder) is also required under Ghanaian law. A company is required under the law to appoint a company secretary. In Ghana, a secretary can be either a natural or artificial person. It is the duty of the directors to appoint a secretary and fix the remuneration of the secretary. The appointment is usually made at the first meeting of the Board after incorporation.

Prior to submission of incorporation documents, a letter must also be obtained from the prospective auditors, indicating their willingness to act as auditors to the Company.

2. The Constitution

This is the equivalent of the Memorandum and Articles of Association of a company. Where the company opts to register its Constitution, the Constitution must contain the following:

- The name of the company with "Limited Company" or the abbreviation 'LTD' as the last word of the name of company (unless it is not a company limited by shares).
- The nature of the business or objects which is to be carried out by the company.
- The names of the first directors of the company (at least 2).
- An indication in the Constitution that the powers of the directors are limited in accordance with Section 189 of the Act.
- In the case of a company with shares, the number of shares with which the company is registered.
- A declaration that the liability of its members is limited.
- A declaration that a call is made at the time when the resolution of the directors authorising the call is passed and may be required to be paid in instalments.
- An indication that in furtherance of the company's authorised business, the company has the powers of a natural person of full capacity in accordance with section 18 of the Act.
- An indication that the powers of the board of directors are limited in accordance with section 195 of the Act. (This relates to the directors' obligation to disclose any interest that is likely to create a conflict of interest between the company and the director).

The Constitution must be signed by one or more subscribers in the presence of a witness who shall attest to the signing.

In the case of a company that does not have a registered Constitution; the company shall be deemed to have as part of its Constitution the following:

- The name of the company,
- The name of its first directors,
- Number of shares with which the company is registered, and
- The number of shares subscribed by each shareholder on the incorporation of the company and the consideration to be respectively paid for those shares as is respectively stated in the application for incorporation.
- 3. Equity contribution
- a. Company Wholly Foreign

Service Industry:

Such as Construction and Civil Works

(i) Minimum of five hundred thousand US Dollars (USD 500,000) in equity i.e. Ghanaian Cedi equivalent for the foreigners at the Prevailing Bank rate

(ii) Applicants are to pay 0.5% stamp duty on the stated capital at the time of Incorporation

Trading Industry

Such as general Trading, Importers, Dealers in General Goods and Retail Trading, Manufactures Representatives

(i) Minimum of One Million US Dollars (USD 1,000,000) in equity i.e. Ghanaian Cedi equivalent for the foreigners at the Prevailing Bank rate

(ii) Applicants are to pay 0.5% stamp duty on the stated capital at the time of Incorporation

All enterprises in the Country with Foreign participation are required to register with the Ghana Investment Promotion Centre (GIPC) for an Investment Cert and other permits

a. Company with Foreign Participation

Service Industry

(i) Foreign Applicants must have minimum of two hundred thousand US Dollars (USD 200,000) (Stated Capital) i.e. cedi equivalent at the prevailing Bank rate(ii)Ghanaian applicant must have 10% equity participation of the company at time of incorporation(iii) Applicants are to pay 0.5% stamp duty on the stated capital at the time of Incorporation

Trading Industry

Such as general Trading, Importers, Dealers in General Goods and Retail Trading, Manufactures Representatives

(i) Foreign Applicants must have minimum of minimum of one million 1,000,000 US Dollars (USD 1,000,000) in equity i.e. cedi equivalent at the prevailing bank rate

- (ii) Ghanaian applicant must have 10% equity participation of the company at time of incorporation
- (iii) Applicants are to pay 0.5% stamp duty on the stated capital at the time of Incorporation

Please note that the Ghana Investment Promotion Centre is currently considering proposals for the increase of the minimum capital requirements for companies with foreign participation in Ghana.

4.TIN Registration

Upon submission of the relevant forms, and payment of stamp duty (currently 0.5% of the stated capital), it is now a requirement that all directors, shareholder(s), secretary of the company apply for a Tax Identification Number. This has to be applied for and issued before the company incorporation documents can be submitted.

Each proposed director is required to provide a letter of consent and a statutory declaration indicating that within the preceding five years, the proposed director has not been:

a) charged with or convicted of a criminal offence involving fraud or dishonesty;

b) charged with or convicted of a criminal offence relating to the promotion, incorporation or management of a company; or

c) declared insolvent or if that proposed director has been insolvent, the date of the insolvency and the particulars of that company.

5. Incorporation Steps (Private and Public Companies)

- The first step to incorporating a company is to conduct a name search at ROC's register to ensure that the proposed name(s) of the company is available for registration. The Registrar may refuse to reserve for registration the proposed name of a company where a similar name already exists or where the name is misleading. Where the name is available, the entrepreneur may apply to reserve the name or may proceed to apply to the ROC for the company to be incorporated with the chosen name.
- Applicant may purchase a set of Limited Liability Forms from the in-house bank or via download
- Provide Consent letter from certified auditor by the Institute of Chartered Auditors and must be registered as a Sole Proprietor/Partnership
- Form 3 must be witnessed by Commissioner for Oaths/Notary Public/Self-Declared
- A minimum of two directors is required. Each must submit Statutory Declaration & Consent Letter with the registration Form
- Submit filled forms at the Company Registration Counter for Verification and Capturing or via Online
- Pay the required registration fee at the in-house bank or via Online
- Also Filing fee of Fifty Ghanaian Cedi (GHS 50) and 0.5% stamp duty on stated capital at the in-house bank or via Online
- Registrar Examines, Approves & Issues:
 - Certificate of Incorporation
 - Certified Copy (CTC) of Standard/Registered Constitution of the Company
 - Certified Copy (CTC) of Form 3
- File Annual Returns at Fifty Ghanaian Cedi (GHS 50) together with Audited Account

6.Fees

- The current fee for registration form is fifteen Ghana cedis (GHS15.00).
- The current official fee for registering a company is two hundred and thirty Ghanaian Cedi (GHS 230).

section three APPLICATION FOR TAX REGISTRATION: VAT AND CORPORATE TAX

Businesses in Ghana must be registered with the Ghana Revenue Authority (GRA) for the purposes of the payment of tax [10]. Every person who is liable to pay tax or is required to withhold tax at source must also have a tax identification number (TIN) [11].

Procedure for TIN Registration

1.Download a copy of the prescribed Form from the GRA website 2.Complete the form and submit it to any of the following agencies

- Registrar General's Department
- Domestic Tax Revenue (Income Tax & VAT) Office
- Custom Division Office

3.Collect your Taxpayer Registration Certificate upon completion of the registration formalities.

Registration Requirements

In addition to providing the details on the registration form, you need one of the following:

- Certificate or letter of business registration;
- Copy of picture page of valid drivers' licence;
- Copy of picture page of valid passport;
- Copy of valid voters' ID; or
- Copy of valid National ID

Fee

There is no registration fee for the generation of a TIN. It normally takes between 2 to 7 days to receive the Taxpayer Registration Certificate.





APPLICATION FOR TAX CLEARANCE CERTIFICATE

The applicant is to make a formal application to the Ghana Revenue authority with the following information:

- 1. Applicant's individual tax identification number (TIN) or the tax identification number of the organization requesting a tax clearance certificate.
- 2. The purpose for which the tax clearance certificate is required. This is important as the tax clearance certificate will also indicate the same reason.
- 3. The reason for application is also useful for situations where the certificate is required to process a visa or work permit.
- 4. Ensure that all tax returns, financial statements, interests, penalties due etc., are up to date to avoid delay or rejection of the application.

Where all tax returns are properly filed and there are no issues, the TCC should be issued within a maximum of 72 hours (3 working days).

section five INTELLECTUAL PROPERTY REGISTRATION IN GHANA

INTELLECTUAL PROPERTY REGISTRATION IN GHANA

1. REGISTRATION OF TRADEMARK IN GHANA

Trademarks and its registration in Ghana is governed by the provisions of the Trade Marks Act, 2004 (Act 664), Trademarks (Amendment) Act, 2014 (Act 876) which entered into force on July 25, 2014 and the Trade Marks Regulations, 1970 (L.I. 667).

The marks registrable in Ghana include any sign or combination of signs capable of distinguishing the goods or services of one undertaking from the goods or services of other undertakings including words such as personal names, letters, numerals and figurative element [12]. Both collective and service marks are registrable in Ghana.

Registration of a trade mark by any person confers an exclusive right to the use of the trade mark on the person [13]. In the absence of registration, such a person cannot assert or claim ownership of such an unregistered trademark. An application for the registration of a trade mark shall be filed with the Trademark's Registry of the ROC and is subject to the payment of the prescribed fee.

The application is accompanied with a reproduction of the trade mark and a list of the goods or services for which the registration of the trade mark is requested using the International Classification.

A. From the filing of a trademark application up to examination

1. <u>Filing the Application</u>:

An application is made in the prescribed manner to the Registrar of Trademarks. It is however advisable to conduct a preliminary trademark search prior to the application for registration of the trademark. The search is important to ensure that no identical trademark has been registered or is pending registration.

1.1 The Trademark Form No. 2 is used for the application. An Applicant is required to attach four (4) hard or soft copies of the representations of the trademark with a prescribed fee of \$ 200.00 or its Cedi equivalent. Applicants whose principal place of business is located outside Ghana are required to apply through a legal entity.

2. <u>Acknowledgement of Application</u>: The Registrar, on receipt of the application, issues a letter of acknowledgement (i.e. Official Filing Receipt). The document contains all relevant filing details of the trademark (e.g. Temporary Number, date of application, the trademark etc.). The acknowledgement letter may be issued within two (2) weeks after filing.

3. <u>Examination of the Application</u>: The Registrar examines the trademark for distinctiveness, identical/similarity with existing registered trademarks and general compliance with the requirements of the Law specifically section 1, Section 3, Subsection (1) and (2) of Section 4, and Section 5 of the Trade Marks Act, 2004, Act 664.

3.1. Acceptance of Application: The Trademark application when accepted by the Registrar is published in the Industrial Trademarks Bulletin (Journal) for a period of two (2) months. Within this period any interested party/person may file for a notice of opposition to the registration in a prescribed manner.

3.2. <u>Refusal of Application</u>: Where the Registrar objects to the application, he shall inform the Applicant of his objection in writing. The refusal may be absolute or conditional. Within <u>two months</u> on receipt of an absolute objection, the Applicant must apply for a hearing or make a considered reply in writing to those objections otherwise the applicant shall be deemed to have withdrawn the application. Or within <u>one month</u> on receipt of conditional objection, the applicant must apply for a hearing or make a considered reply in writing to those objections otherwise the applicant shall be deemed to have withdrawn the application.

From filing an application to obtaining an acceptance form - This takes about 2-6 weeks.

B. From acceptance up to publication

An application to register a trademark is required to be advertised in the Gazette during such times and in such manner as the Registrar may direct. After publication there is a two-month wait period for the certificate of registration.

C. The opposition period

1 Opposition Proceedings: When a trademark is advertised, any person may within **two months** from the date of the publication give notice to the Registrar of opposition to the registration of the mark.

1.1 The Registrar shall send a copy of the Notice of Opposition to the Applicant, and the Applicant shall within **two months** of receipt of the Notice of Opposition, file a Counter-Statement of the grounds on which it relies for its application to be registered. Failure to file the Counter-Statement within the prescribed period will result in the application being deemed abandoned (at the application of the opponent).

1.2 It is within the authority of a Registrar to grant to any party in an opposition proceeding, reasonable extension of time without giving the said party any hearing if he thinks fit.

1.3 Where a Counter-Statement is filed, the Registrar shall furnish a copy to the Opponent. Within one month from the receipt by the opponent of the copy of the Counterstatement, either party may leave with the Registrar evidence in the form of a statutory declaration in support of his case. A copy of this evidence shall be delivered to the other party.

1.4 Within one month from the receipt by one party of the copy of evidence from the other party, the firstnamed party may leave with the Registrar evidence for his reply. A copy shall be delivered to the other party and this shall be confined to matters strictly in reply. No further evidence shall be left on either side. It is worth mentioning that in any proceedings before the Registrar, the Registrar may at any time he thinks fit give leave to either the Applicant or the opponent to produce additional evidence upon such terms including cost or otherwise.

1.5 Upon completion of the evidence, the Registrar gives notice to the parties of a date when he will hear arguments in the case. Such appointment shall be for a date at least fourteen days after the date of the notice, unless the parties consent to a shorter notice. Within seven days from the receipt of the notice any party who intends to appear will notify the Registrar. A party who receives this notice and does not, within seven days from the receipt, notify the Registrar, may be treated as not wishing to be heard and the Registrar may act accordingly.

The Registrar's decision shall be subject to appeal to the High Court. The parties may further exercise their right of appeal to the Court of Appeal and finally to the Supreme Court of Ghana.

1.6 Non-completion within Twelve Months. Where registration of a trademark is not completed within twelve months from the date of the application due to default on the part of the Applicant, the Registrar shall give notice in writing to the Applicant at his trade or business address. If the Applicant has authorized an agent for the purpose of the application, he shall instead send the notice to the agent and shall send a duplicate to the Applicant.

If after fourteen days from the date when the notice was sent or such further time as the Registrar may allow, the registration is not completed, it is deemed to be abandoned.

D. From the expiration of the opposition period up to the issuance of the registration certificate.

<u>Registration and Issuance of Certificate of Registration</u>: In the event where no opposition is received, or there is no Opposition to the Trademark by the Registrar, or the opposition is determined and resolved in favor of the Applicant, a certificate of Registration of Trademark is then issued to the Applicant. This takes about two months after publication. The registered trademark is valid for a period of 10 years from the filing date of the application. The prescribed fee for issuing the certificate is \$ 200.00.

Required Documents

The documents required to file a trademark application in Ghana are as follows:

- 1. Duly completed T.M. Form 2 'Authorization of Agent' (copy attached). Please note that this document does not require notarization or legalization; a simple signature will suffice.
- 2. The name and address of the proprietor of the trademark.
- 3.A representation of the trademark to be registered.
- 4. An indication of the class of goods and/or services in which the trademark is to be registered.
- 5. A power of attorney where the Applicant has authorized an agent for the purpose of registration.

2. REGISTERING PATENT IN GHANA

A patent is a legal document that grants its holder the exclusive right to control the use of an invention within a limited area for a specified period. An invention qualifies for a patent if it is new, involves an inventive step and is industrially applicable. A patent can be registered for by an inventor or their legal successor or assignee. Applicants that are not resident or without principal place of business in Ghana must be represented by a legal practitioner resident and practicing in Ghana.

The principal enactments governing the registration and protection of Patents in Ghana are the Patents Act, 2003 (Act 657) (Patents Act) and the Patents Regulations 1996 (L.I. 1616). The Patents Office of the ROC is the issuing office of a patent in Ghana.

Patents are territorial therefore a grant of a patent in Ghana affords the inventor the rights and protection of the invention only within Ghana. A patent may also be granted in respect of Ghana by filing a regional patent application with the African Regional Industrial Property Organisation (ARIPO).

The World Intellectual Property Organisation (WIPO) administers the Patent Corporation Treaty (PCT). The PCT ensures a unified method for filing international applications in member countries. Under the PCT, an applicant is able to file applications, conduct searches and examine inventions to determine their patentability. An applicant is then able to file an application in the national phase at the Patents Office for the grant of a patent by Ghana.

An invention is patentable in Ghana if it is new, involves an inventive step and is industrially applicable [14]. For an invention to be 'new', it is must not have been anticipated by a prior art [15], whereas prior art shall consist of everything disclosed to the public, anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing or, where appropriate, the priority date, of the application claiming the invention [16]. On the other hand, the Patents Act excludes some inventions from the grant of patent. These include [17] (i) discoveries, scientific theories and mathematical methods; (ii) methods for conducting business or playing purely mental games; and (iii) inventions contrary to public policy and morality.

Patent Application Procedure

1.A Patent application is filed with the prescribed fees which must contain: a description, claims, abstract or drawings where applicable

2. The application is acknowledged with a filing date and application number

3.Power of attorney if applicable; where applicant is a foreigner or foreign entity based outside the jurisdiction

Other information to be made available to the resident agent (legal attorney) in Ghana where applicant is not resident or without principal place of business in Ghana

- Power of attorney, no notarization or legalization is required;
- Specification in English with claims and abstract fully supported by a description;
- Drawings, if necessary, for the understanding of the invention;
- If priority is claimed, indication of country date and file number of basic foreign application;
- Full name and address of inventor(s), if to be mentioned.

4.Formality examination is conducted by the Patent Registry to ensure that all the formal requirements in respect of fees and information required are provided.

5.A Search and Substantive examination are subsequently conducted for the invention claimed in the application/ request

6. The application is Refused where it does not meet the patentability requirement as provided by the Patent Act

7. The application is Granted where it meets the patentability requirement in accordance with the Patent Act 8. The application is Published in the Industrial and Commercial Bulletin

9.A certificate is issued for the patent.

In order to maintain the patent or patent application, an annual fee is to be paid in advance to the Registrar for each year, starting one year after the filling date of the application. A Patent expires after 20 years from the date of the filing of the relevant patent application.

3. **REGISTRATION OF COPYRIGHT**

Copyright in Ghana is governed by the Copyright Act, 2005 (Act 690). Copyright is a basic right granted to creators of literary and artistic works to enable them receive financial reward and recognition for their creative efforts. This right exclusively empowers creators to have control over their works and thus they alone or their heirs can authorize or prohibit the use of their works by others.

Works entitled for copyright protection include [18]:

(a) literary work,
(b) artistic work,
(c) musical work,
(d) sound recording,
(e) audio-visual work,
(f) choreographic work,
(g) derivative work, and
(h) computer software or programmes.

The creator of a work of copyright enjoys a bundle of rights that are broadly classified into two distinct categories namely: (1) Economic rights (2) Moral rights. The author of any protected copyright work has the exclusive economic right in respect of the work to do or authorise the reproduction of the work in any manner, the translation, adaptation, arrangement or any other transformation of the work [19]. In addition to the economic rights, the author of protected copyright work has the sole moral right to claim authorship of the work and in particular to demand that the name or pseudonym of the author be mentioned when the work is reproduced, translated, publicly performed etc., and to object to and seek relief in connection with any distortion, mutilation or other modification of the work where that act would be or is prejudicial to the reputation of the author or where the work is discredited by the act [20].

The owner of copyright may transfer the economic rights to another person either in whole or in part but the transfer whether in whole or in part shall not include the moral rights. [21]

Duration of Copyright

The copyright law in Ghana provides several categories and the duration of rights. This include the following:

- Duration of copyright in individuals: rights of the author are protected during the life of the author and seventy years (70) after the death of the author unless the contrary is stated in this Act [22].
- Where a work is jointly authored, the rights of the author are protected during the life of the last surviving author and seventy years (70) after the death of that author [23].
- Duration of copyright in bodies corporate: where the copyright in a work is owned by a public corporation or other body corporate, the term of protection shall be seventy years (70) from the date on which the work was either made or first published, whichever date is the later [24].
- Duration of copyright in anonymous works: Where a work is published anonymously or under a pseudonym, the rights of the author are protected until the expiration of seventy years from the date on which the work was either made, first made available to the public, or first published, whichever date is the later, but if the identity of the author is known or is no longer in doubt before the expiration of that period, the rights of the author shall be protected during the life of the author and seventy years after the death of the author [25]

A copyright is infringed by any person who without the license or authorization of the owner of the copyright uses or causes the copyrighted work to be used. A copyright holder whose right has been infringed is entitled to damages or injunctions when steps are taken to enforce this right.

COPYRIGHT REGISTRATION

The Copyright Office

Act 690 [26] establishes a Copyright Office which performs the following statutory functions among others:

- implements copyright and copyright related laws and regulations and provide for copyright administration.
- Investigates and redresses cases of infringement of copyright and settle disputes where such disputes have not been reserved for settlement by the copyright tribunal.
- Responsible for the administration of external copyright relations.
- Administers copyright of which the state is owner.
- Registers copyright works, productions, publications and associations.

The Copyright Office has the responsibility of registering copyright works, although registration is optional.

The Difference between Copyright, Patent and Trademark

Copyright protects original works of authorship. The work must not be an abstract idea or concept but must have been reduced (expressed) into a tangible medium. Patent is the form of intellectual property right that protects inventions. Whereas copyright does not protect ideas or concepts, patent protects ideas embodied in an invention which solves a certain technical problem. The invention must meet three key criteria namely (1) must be new (or novel); (2) must have an inventive step (i.e. must be non-obvious) and (3) must have industrial applicability. Patent protection can cover a product (a physical object) or a process (for producing the product).

A trademark refers to any inscription (or mark) that is used by one undertaking (or company) to distinguish its products or services from those of other companies. A trademark could be a word, a number, combination of words and numbers, phrases, symbols, designs, sounds or even smells. A trademark suggests the source of a product or service which helps consumers to make their choice of a product they want to buy. The key requirement in registering a trademark is that the mark must be unique, distinctive and not descriptive of the product or service for which it is used to identify.

Unlike copyright which does not require registration for protection, the owners of a patent or a trademark generally must register before they can enforce their rights. Certain trademarks, however, are classified as "well known marks" and do not need to be registered for protection.

section six PROCEDURE FOR FILING OF ANNUAL RETURNS UNDER THE COMPANIES ACT 2019, ACT 992

PROCEDURE FOR FILING OF ANNUAL RETURNS UNDER THE COMPANIES ACT 2019, (ACT 992)

Annual Returns is a means of reporting the current status of the company to the respective regulators. It is therefore considered a necessity as it indicates a renewal of registration. Every year, companies must deliver to the ROC for registration an annual return including particulars of every member of the company, and in the form and relating to the matters prescribed in the Act.

An annual returns form is completed to reflect any of the changes that has occurred over the period under review. The changes may include: changes in business name, shareholder(s), director(s), company secretary, auditors, and address of principal place of business among others. It is of great essence to refer to the current company profile before completing the form.

Filing Procedures

- Financial Statement for the year under review (Auditors Report)
- Penalty for Late/Non Filling
- External Companies are not exempted from filling and Penalties
- Business Name (Sole Proprietor) Renewal: Once in every year an individual or company registered under this Act is to deliver to the ROC for registration a renewal notice in the prescribed form renewing the registration.

Filing of annual returns [27] requires all companies registered in Ghana to file with the ROC thirty-six (36) days after their financial statements have been dispatched to its members and signed by directors.

- 1. The Companies Act requires that Limited Liability Companies file their first Returns after 18 months of incorporation.
- 2. This implies that a company is not required to file returns within or for the year of incorporation.
- 3.Note that, after the 18 months grace period, the company is required to file for every other year of operation.

An External Company or a Branch/Liaison Office is established in Ghana by a company (referred to as the "Parent Company") registered outside the jurisdiction of Ghana. Even though a branch office, it is required to file returns together with the Audited Financial Statements or Accounts of the parent company.

Fees

- Sole Proprietorship = GH¢25.00
- Company Limited by Shares = GH¢50.00
- Company Limited by Guarantee. = GH¢50.00
- Unlimited Liability Companies = GH¢50.00
- External Company = US\$600.00

How to File Annual Returns at Ghana Revenue Authority (GRA)

GRA just like ROC, requires filing of Annual Returns every year. This requires a completion of the GRA returns form accompanied by an Audited Account duly signed by a certified Auditor. The deadline for filing is 30th April in the subsequent month.

Fees

There are no statutory fees to be paid for filing your returns with GRA. However, for late filing, the company would be required to pay a penalty of five hundred Ghana cedis (GH¢500) upon default and ten Ghana cedis (GH¢10) for each day of default.

CONCLUSION

As a start-up company, the laws of Ghana are not all engraved in stone in a particular location. However, the gap in legal knowledge of owning a business should not stop you from executing the ideas. Start that business and consult a legal practitioner today!

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