

TRANSFER OF BUSINESS/BUSINESS ORGANIZATION

Description

By DMLF Team

The Commercial Code of Ethiopia Proclamation No. 1243/2021, the Commercial Registration and Business Licensing Proclamation No. 980/2016 (as amended by Proclamation No. 1150/2019), the Commercial Registration and Business Licensing Council of Ministers Regulation No. 392/2017 (as amended) and most importantly the Commercial Registration, Licensing and Post Licensing Inspection Directive No. 935/2022 govern the commercial and business transactions of Ethiopia. This brief article is about the requirements for transfer of business or business organizations.

What is Business?

The Commercial Code of Ethiopia Proclamation No 1243/2021 defines business in what it contains. A business consists mainly of goodwill. A business may consist of other incorporeal elements such as: a) the trade name; b) trademark and any other designation under which the trade is carried on; c) the right to lease the premises in which the trade is carried on; d) intellectual property rights; e) Such special rights as attach to the business itself and not to the trader. A business may consist of corporeal elements such as equipment or goods. On the other hand, A business may normally not include the assets and debts of the trader, with the exception of the right to the lease of the premises.

What is a Business Organization?

A business organization is an association established through a memorandum of association by persons who bring together contributions for the purpose of undertaking an economic activity in cooperation and of participating in the profit. Nonetheless, a joint venture is formed by an agreement concluded among members that is not disclosed to third parties. The following are types of business organizations: 1/ General partnership; 2/ Limited partnership; 3/ Limited liability partnership; 4/ Joint venture; 5/ Share company; 6/ Private limited company; 7/ One person private limited company.

Transfer of Business or Business Organization

The Commercial Registration, Licensing and Post Licensing Inspection Directive No. 935/2022 provides the required documentation for transfer of business or business organization. In order to transfer a business/ business organization by sale or lease, the following documents are required to be submitted: a) an agreement authenticated by a body authorized by law; b) a tax clearance certificate related to the previous business license; and c) a license issued in the name of the previous owner shall be returned.

The trader to which the business/business organization/ is transferred by lease or sale shall obtain a business license in his name by submitting a copy of the newspaper or the link of the newspaper where it is a digital newspaper, having nationwide circulation as evidence. Provided however, if the

trader to which the business/business organization/is transferred is already engaged in the same business, he may cause the business to be registered as a branch. If he is not engaged in the same business, he shall obtain a business license on the basis of the previous commercial registration.

Where the business to be transferred is a business organization, a minute authenticated by a body authorized by law that shows the unanimous agreement of the members to transfer the same shall be submitted. Moreover an agreement authenticated by a body authorized by law and a tax clearance certificate related to the previous business license shall be submitted. Then the license issued in the name of the previous owner shall be returned.

Where the business is to be transferred to business organization, the memorandum of association of the organization to which a transfer is to be made and a minute authenticated by a body authorized by law which indicates that the transfer is adopted by members with voting rights representing two third (2/3) of the shares of the organization present at the extraordinary meeting is required. An investment permit shall also be submitted where the person to whom the business/business organization/ is being transferred is a foreigner or a business organization in which a foreigner is a member. A verification shall also be made whether the area of investment is open for foreign investors as well.

You may contact us at info@dmethiolawyers.com for your legal assistance.

Category

1. Latest Posts

Date Created

March 26, 2023

Author

dmethiol_admin