

Division of a Business Organization

Description

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Division is the operation whereby a business organization is wound up without liquidation by transferring all its assets and liabilities to more than one pre-existing organizations or organizations newly formed by it. The new Commercial Code of Ethiopia Proclamation No 1243/2021 on Article 566 provides what division of business organization is all about. The requirements to be met when division of business organizations occur are stated on Article 41 of Directive 935/2022 for Commercial Registration, Licensing and Post-licensing Inspection. We shall briefly look at what the two legislation incorporate in terms of division of business organization.

Division may take place into any type of business organization. The recognized business organizations on the commercial code include General Partnerships, Limited Partnership, Limited Liability Partnership, Joint Venture, Share Company, Private Limited Company, One Person Private Limited Company and Firms incorporated abroad having a form other than those recognized by the Commercial Code.

Division is the operation whereby a business organization is wound up without liquidation by transferring all its assets and liabilities to more than one pre-existing organizations or organizations newly formed by it. The shareholders or partners of the business organization that is divided are issued in exchange shares in the organizations to which the assets are divided. The shareholders may also be given, as the case may be, additional payment in cash.

Another form of division i.e. a division by acquisition is the operation whereby a business organization is wound up without liquidation by transferring all its assets and liabilities to more than one other pre-existing organization. The shareholders or partners of the business organization that is divided are issued in exchange shares in the organizations to which the assets are divided. The shareholders may also be given, as the case may be, additional payment in cash.

A division by the formation of new organization is the operation whereby a business organization is wound up without liquidation by transferring all its assets and liabilities to organizations formed by it. The shareholders or partners of the business organization that is divided are issued in exchange shares in the organizations to which the assets are divided. The shareholders may also be given, as the case may be, additional payment in cash.

Division is also applied on dividing part of the asset or functioning business unit and contributing the asset or business unit to an organization. Dividing a certain portion of assets means separating a business unit that can subsist independently or part of assets of an organization and transferring the same to a business organization that is under formation or to an existing organization by way of contribution.

The requirements to be fulfilled when division occurs is provided by the Directive. A business

organization to be divided shall submit a tax clearance certificate and cause its books of account to be closed before the division is carried out. Where part of the business organization to be divided is to be taken over by another business organization, the divided business entity shall be incorporated under the trade name and business name of the latter business organization.

Where each divided entity of the business organization is to be established as an autonomous organ, a minute authenticated by a body authorized by law which shows that the entity who is allowed to use the trade and business names of the organization is adopted by a vote of members representing two third (2/3) of the shares the business organization that existed before the division, shall be submitted.

A copy of the newspaper or the link, if it is a digital newspaper, having nationwide circulation in which the division plan is notified to the public once in month shall be submitted as evidence within two months from the date the plan is adopted by the general meeting.

The commercial code, commercial registration and licensing proclamation and Regulation concerning business organizations shall be applicable to members, capital, business name, trade name and any other similar matters of the divided entities.

To summarize the Commercial Code and the Directive provide the principles in which business organizations undergo division and the requirements to be submitted to finalize the division.

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Date Created

July 23, 2023

Author

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