Jan Forest
Customs and International Trade Attorney/Consultant
J. Forest Consulting
Washington, DC
Ph: (202) 841-1060
jan@jforestconsulting.com

**REGISTERING A COMPANY IN GHANA**

The various types of business for which a company in Ghana may register include:

1. Sole Proprietorship;
2. Partnership;
3. Company Limited by Shares;
4. Company Limited by Guarantee;
5. Unlimited Company;
6. Cooperative;
7. External Company; and
8. Foreign Company.

The first of these involves a relatively simple procedure, but imposes personal liability. Partnership imposes personal liability on the partners. Company Limited by Shares imposes liability on the shareholders.[[1]](#footnote-1) The liability under a Company Limited by Guarantee is limited to what the members have agreed to contribute. However, this type of business cannot engage in trading and all income and proceeds must be applied to a charitable purpose. An Unlimited Company imposes unlimited liability on the members. A Cooperative is generally set up for a specific purpose, such as group marketing of a product. An external company is defined as a company formed outside Ghana which has an established place of business in Ghana. A foreign company providing services only and wholly owned by foreigners does not need to register as a company in Ghana, but must register with the Registrar General’s Department.

**Registering as a for-profit company in Ghana**

The option for registering a for-profit company in Ghana with limited liability is to register as a company limited by shares. The requirements for forming a company limited by shares in Ghana are as follows:

1. Purchase a set of Limited Liability Forms from the Registrar General’s Department for 10 cedi.
2. Deliver to the Registry a copy of the proposed regulations of the company, including –
	1. The name of the company with “Limited” as the last word;
	2. The nature of the business;
	3. That the company has the power of a natural person to conduct business;
	4. The number of shares;
	5. The names of the first directors[[2]](#footnote-2) of the company;
	6. That the powers of the directors are limited; and
	7. A statement that the liability of members is limited.
3. Registrar will register the regulations.
4. File a declaration and a consent letter from a qualified auditor.
5. Pay a fee of 230 cedi and a 0.5% stamp duty on stated capital[[3]](#footnote-3).
6. Registrar issues a certificate of incorporation and a certificate to commence business.
7. Allow 5 working days.
8. Annual renewal is 50 cedi.

The requirements for registering as an external company are as follows:

1. The company must register with the Registrar of Companies.
2. The company must provide establishment documents from its country of origin.
3. The address and principal place of business in the country of incorporation must be provided as well as the address and principal place of business in Ghana.
4. The company must provide a local manager and a process agent.

A foreign company may choose not to register in Ghana as either a local company or an external company. However, a foreign company providing services only and wholly owned by foreigners must have minimum capital of $50,000 and must register with the Registrar General’s Department. A foreign company engaged in trading, jointly owned by foreigners and Ghanaians, must have minimum capital of $300,000. A foreign company, jointly owned by foreigners and Ghanaians, and engaged in services, must have $10,000 in foreign equity and Ghanaian equity in the amount of 10% of the total share capital.

There may also be requirements to register with other entities in Ghana, such as the Ghana Investment Promotion Centre. If a company wishes to move forward with registration in Ghana, it will most likely be necessary to engage local counsel in order to be certain that all necessary requirements are met.

**Registering as a non-profit company in Ghana**

A non-profit company in Ghana is referred to as a Company Limited by Guarantee. This provides limited liability for the members, but such a company generally cannot engage in trading. There are some exceptions for situations where all of the income and proceeds are applied to the charitable purpose of the company, but the primary purpose cannot be to make a profit.

U.S. law covering non-profit companies (generally covered under section 501(c) (3) of the Internal Revenue Code) states that there are four main activities that can jeopardize the organization’s tax-exempt status:

1. Activity that results in private benefit or inurement;

2. Lobbying activity, if it is a substantial part of the organization’s overall activities;

3. Political campaign activity; and

4. Unrelated business activity that is substantial in comparison to the exempt activities.

The fourth of these is relevant here. In determining whether a business activity is an unrelated business activity, U.S. law looks at whether the activity is substantially related to the charitable purpose for which the organization was set up. If so, the activity may be exempt, even if it is a trade or business. However, if an exempt organization carries on a trade or business that is unrelated to its exempt purpose, except that it provides funds for the exempt purpose, it will be taxed on its income from that trade or business. The business is not considered substantially related to the exempt purpose if it does not contribute importantly to that purpose beyond the provision of funds. For example, selling of products that result from the performance of an exempt function is not an unrelated business subject to tax where the product is sold in the condition it is in at the time the exempt function is completed, but if the product is used in further business activity beyond what is necessary to dispose of it as is, it may be considered an unrelated business activity. Any exploitation of the product of the exempt activity beyond that needed to contribute importantly to the exempt purpose can result in the activity being considered a taxable unrelated business activity. An example of a related business activity that would not be taxed is the sale of products made by residents of a halfway house where the production of the product contributes importantly to the exempt purpose and the profits are applied to operating costs for the facility. Similarly, where students of an exempt vocational school make articles as part of their regular course of training, the sale of those articles will not be treated as an unrelated taxable business activity.

The recommended steps for setting up a non-profit in Ghana include:

1. Developing a vision and mission;
2. Developing goals and objectives;
3. Setting up a Board of Directors;
4. Drafting a Constitution; and
5. Registering in Ghana.

The Constitution generally should include:

1. The official name of the organization;
2. The mission and goals of the organization;
3. The registered office;
4. The program areas;
5. The requirements for members, including qualifications and length of membership;
6. The size of the board and responsibilities;
7. The structure of board meetings;
8. The structure for committees;
9. The executive positions;
10. How the organization is funded;
11. How funds are applied; and
12. The procedure for amending the constitution.

Registering a Company Limited by Guarantee in Ghana is a two-step process, including registration with the Registrar General’s Department and registration with the Department of Social Welfare.

**Registering with the Registrar General’s Department**

The steps for registering with the Registrar are as follows:

* 1. Purchase a set of documents from the Registrar General’s Department for 9.50 cedi.
1. File a declaration and a consent letter from qualified auditors.
2. Fill out and submit the forms to the Registrar with the fee of 270 cedi.
3. The Registrar General’s Department will issue a certificate to commence business and a certificate of incorporation within five working days.
4. Annual renewal is 50 cedi.

The following information will be needed to fill out the forms for registration:

* 1. The name of the company;
	2. The objectives for forming the company;
	3. The initial members of the Executive Council or Board (2-20 persons);
	4. Information about the Directors and Secretary;
	5. The name and address of the auditor; and
	6. The address of the registered office, principal place of business.

**Registering with the Department of Social Welfare**

To qualify for registration with the Department of Social Welfare as a non-profit, the company:

1. Must be voluntary, independent and not for profit;
2. Must be working to improve circumstances and prospects of disadvantaged people who are unable to realize their potential or achieve their full rights in society;
3. Must operate within the confines of the framework of National Development Policy and Fundamental Liberties in the Laws of Ghana;
4. Must not be used to shield private for profit enterprise(s);
5. Must state their objectives clearly and concisely;
6. Must state the manner in which they are governed, in a constitution or by law or memorandum according to the law under The Companies Code, Act 179 of 1963;
7. Must provide a general account of the organization’s work method, activities and scope;
8. Must provide a statement of sources of income and fields of expenditure;
9. Must be managed and controlled by their members; and
10. Must submit annual reports by March of every year to the Department of Social Welfare.

To register with the Department of Social Welfare as a non-profit requires the submission of:

* 1. The Certificate of Incorporation and the Certificate to Commence Business;
	2. An application letter to the Director on company letterhead;
	3. A copy of the Constitution;
	4. A non-profit profile form;
	5. A social investigation report;
	6. A recommendation letter from the municipality where the company is located;
	7. A company profile (brochure); and
	8. 3 copies of an endorsement letter from the regional office of Social Welfare.

Companies Limited by Guarantee are required to renew their status every year by submitting to the Department of Social Welfare the following:

1. An annual report;
2. A second financial report;
3. A renewal form; and
4. A renewal fee of 5 cedi.
1. In a company limited by shares, liability is limited to the amount of unpaid shares held by the members. [↑](#footnote-ref-1)
2. A company in Ghana is required to have a minimum of two directors. Both may be non-Ghanaian, but at least one must be resident in Ghana unless the company is registered as an external company. The company must also have a company secretary to keep records and an auditor who has agreed to act for the company. [↑](#footnote-ref-2)
3. Ghana has minimum capital requirements for a company limited by shares. There are no restrictions on non-residents owning shares in Ghana. [↑](#footnote-ref-3)