



Setting Up Business in Ghana

n. dowuona & company

quick facts

Region:	Sub-Saharan Africa
Income group:	Lower-middle
Population:	25.37 million
WBDB* rank:	67
Time Zone:	GMT
Language:	English

* World Bank Doing Business 2014

Sole proprietorship – a sole proprietorship is an unincorporated business usually run by one individual. The liability of a sole proprietor is unlimited. A sole proprietor shall not carry out business in the finance, banking or communications sectors. An individual may carry out business in his/her legal name or under a trade name. A sole proprietor who adopts a trade name must register the name with the Registrar-General's Department and renew the registration annually.

Partnerships – Partnerships are an association of two or more (up to a maximum of 20) individuals carrying out business jointly for the purpose of making profits. They are a relatively simple and inexpensive way of conducting business. The members of a partnership are "partners" and the terms and conditions of their relationship must be documented in a partnership agreement.

Once a partnership is formally entered into, there is a legal presumption that each partner has the authority to transact the partnership's authorized business as an agent of the partnership and, for this reason, partnerships are generally bound by any actions taken or decisions made by a partner in the name of the partnership during the usual course of business. A partnership must be registered with the Registrar General's Department.

incorporating a company

Incorporating a company means establishing a legal identity for the company that is separate from the legal identity of its directors or shareholders.

Some benefits of incorporation are that it allows a company to contract in its own name; limits the liability of the company's directors and shareholders; and ensures continuity of the company in the event of the death or bankruptcy of a shareholder.

The three types of companies that may be incorporated in Ghana are:

Company limited by shares – an incorporated company with share capital that cannot offer its shares to the public. This is the most popular company structure in Ghana. Generally, a member's liability is limited to the amount unpaid, if any, on the shares they hold. The company's board of directors manages its day-to-day activities.

Company limited by guarantee – an incorporated company without share capital. It is a not for profit entity and, as such, its objects must not include the generation of profit. The company has an executive council instead of a board of directors and its members are often referred to as 'guarantors'. Typically, this type of company is used to protect its officers and members from personal liability in excess of what they consented to contribute towards the company's assets in the event of the company's liquidation.

External company – a body corporate formed outside the Republic, which has an established place of business (such as a branch, management, share, transfer, registration office, factory, mine or an agent authorized to conduct contract negotiations and enter into contracts on behalf of the body corporate) in Ghana. Following registration in Ghana, Ghanaians may buy and sell shares in an external company as if the company had been incorporated in Ghana.

company limited by shares

To incorporate a private company limited by shares, you must:

1. Decide who will act as the company's first directors. A company incorporated and registered in Ghana must have a minimum of two directors, both natural persons over 21 years, one of whom must be a permanent resident of Ghana.

The directors appoint the company secretary, who may be a natural person or a corporate body. Many law firms provide company secretarial services to businesses.

The directors also appoint the first auditor of the company who, is required, by law, to be a member of the Institute of Chartered Accountants. The auditor must not be an officer or employee of the company.

2. Register with the Ghana Revenue Authority (GRA). The company must obtain a tax identification number (TIN) for itself and personal TINs for its intended directors and the intended secretary, if they don't have them already.

Estimated processing time: 2 DAYS

3. Choose a business name. The company must check with the Registrar General's Department whether their preferred business name is available. If the preferred name is already taken or too similar to the name of an existing corporation, the company must choose a different name.

Unless special permission has been sought, a company limited by shares must have a business name ending with the word "Limited".

Estimated processing time: 1 DAY

4. Prepare the regulations of the company. The regulations must be signed by one or more of the initial subscribers in the presence of an independent adult witness and must state:

- the name of the company;
- the company's objects or authorized business;
- that the company is able to enter into legally binding agreements (i.e. has full capacity), unless it is restricted from doing so by its regulations;
- the names of the first directors of the company;
- that the powers of the directors are limited in accordance with the law;
- the number of shares with which the company is registered;
- the number of shares each subscriber will own on incorporation and the amount payable for the share(s); and
- a declaration that the liability of members is limited.

5. If the Registrar is satisfied that the information contained in the application and the supporting documents is accurate, a certificate of incorporation will be issued.

During the period after the issue of the certificate of incorporation but before the issue of a certificate to commence business, the company may only transact business, exercise borrowing powers or incur indebtedness if the action is incidental to its incorporation, obtaining subscriptions to or payment for its shares.

6. Within 28 days of the date of the certificate of incorporation, the company must complete and

submit to the Registrar of Companies a statement of company particulars and shareholding (Form 3) and a declaration of receipt of payment for (Form 4).

Form 4 must be signed in the presence of a Commissioner for Oaths. There is a Commissioner for Oaths in the Registrar General's Department.

7. The completed forms, capital duty charged at 0.5% of the company's stated share capital and the registration fee must be submitted to the Registrar of Companies. If the Registrar is satisfied with the documents submitted, a certificate to commence business will be issued.

Estimated processing time: 2 WEEKS
(steps 4, 5, 6 and 7 happen concurrently)

8. Except where exempt, a company with foreign participation (that is, where any of the beneficial owners of the company is not Ghanaian) must submit an application for registration with the GIPC and pay the appropriate fee, which is determined on a sliding scale, based on the type of business and the proportion of foreign equity in the business.

Estimated processing time: 6 DAYS

A company with foreign ownership that wishes to register with the GIPC must meet the minimum foreign capital requirement for its type of business. Presently, the minimum foreign capital requirements are:

Joint venture:	US\$	200,000
Wholly-owned foreign business:	US\$	500,000
General trading company:	US\$	1,000,000

Registration with the GIPC entitles a company to:

- a fixed number of employer-sponsored visas that allow migrants to work, based on the company's paid-up capital.

Paid up Capital (US\$)	No. of work permits
50,000 – 200,000	1
200,000 – 500,000	2
500,000 – 750,000	3
> 750,000	4

- all benefits and incentives granted to companies with foreign participation under all laws of Ghana in force at the relevant time.
- special incentive packages, as negotiated with the board of GIPC from time to time, for the promotion of strategic or major investments.
- absolute protection from any legal requirement that compels any person who owns all or part of the capital of a company to cede that interest to any other person, or nationalization or expropriation.

- in a dispute between a GIPC-registered company and the government, where all efforts to reach an amicable settlement fail, the aggrieved party may opt to resolve the dispute through arbitration.

Arbitration may be in accordance with the rules and procedures of:

- i. the United Nations Commission on International Trade Law (UNCITRAL);
- ii. any bilateral or multilateral investment protection agreement to which Ghana and the investor's country are parties; or
- iii. any other national or international dispute settlement procedure.

Where the parties cannot agree on the method of dispute resolution to be adopted, the method shall be mediation under the Alternative Dispute Resolution Act, 2010 (Act 798) unless the parties have an arbitration agreement that states otherwise.

9. Register for social security contributions. Ghana operates a three-tier pension scheme of which contributions to the first tier (basic national social security scheme) and the second tier (occupational pension scheme) are mandatory. It is a criminal offence for an employer not to make the mandatory contribution.

An employer must contribute at least a sum equal to 13% of the employee's basic salary towards the mandatory tiers of the scheme and the employee must make a minimum contribution of 5.5% of their basic salary. Employers and employees may make voluntary contributions towards any tier of the pension scheme.

Distribution of mandatory contributions

Tier 1	13.5%
Tier 2	5%
Total	18.5%

Before national pension contributions can be made on an employee's behalf, the employee must be registered with the Social Security and National Insurance Trust scheme.

Total estimated processing time: 4 WEEKS

company limited by guarantee

The process of incorporating a company limited by guarantee is broadly similar to the process of incorporating a company limited by shares.

The Registrar General's department will require:

- the name of the company;
- its objects or authorized business;
- details of the first members of the executive council;
- particulars of the company's officers;
- name and address of its auditors; and
- full address of its registered office and principal place of business.

Currently, the total minimum amount that members must contribute to the assets of the company in the event of its liquidation is GH¢ 700.00.

The regulations of the company must state that:

- each member's personal liability is limited;
- the income and property of the company shall be applied exclusively for the promotion of its objects;
- the company's assets shall not be given to any member, except as payment provided for in the company's regulations;
- no salaries or fees may be paid to any director, except with the approval of the Registrar of Companies;
- in the event of the company's liquidation, each member will contribute to the assets of the company a sum up to the limit prescribed by the company's regulations;
- upon liquidation of the company, the guarantors shall agree on how the remaining company property is to be distributed. The remaining property may be given to another company limited by guarantee with similar objects or applied to a charitable purpose. It must not be distributed to the guarantors on liquidation.

Providing the information given to the Registrar General's Department is accurate, a certificate of incorporation and a certificate to commence business will be issued.

Estimated processing time: 2 WEEKS

external companies

As the external company incorporated outside Ghana is merely being registered in Ghana, that is, no subsidiary has been created, there is no requirement to appoint directors and shareholders or to take any other action normally associated with the incorporation of a new company.

Registration of an external company must be completed within a month of the date of establishment of its place of business in Ghana.

The company must authorise at least one person resident in Ghana to manage the business of the company (a 'local manager'). The company must also have an agent in Ghana who is authorized to accept service of documents on behalf of the company ('process agent'), which may be a corporate entity.

To register as an external company, the local manager must deliver to the Registrar of Companies:

- a certified copy of the company's constitutional documents. If the constitutional documents are not in English, a certified translated copy;
- a statement in duplicate of:
 - the company name;
 - the nature of its business or main objects;
 - current and previous names, business occupation and current address and of the local manager(s);
 - notarized power of attorney authorizing the local manager to act on behalf of the company;
 - details of the company's authorized and issued shares, or a statement to the effect that the company has no authorized or issued shares;
 - the address of its registered or principal office in the country of its incorporation;
 - the address of its principal place of business in Ghana (including post office box);
- the name and address of the company's agent in Ghana who is authorized to accept service of process and other documents on behalf of the company;
- the particulars, and copies, of any charges on the property of the company that are required to be delivered for registration in accordance with the Companies Act or, if there are no charges, a statement to that effect.

Estimated processing time: 5 DAYS

general information

Exchange control rules

The Bank of Ghana regulates the transfer of currency into and out of Ghana and, from time to time, it issues directives in relation to foreign exchange transactions.

Transfers of foreign currency involving an organization with its principal place of business or center of control in Ghana or an entity incorporated in Ghana ('a resident') must be made through a bank that reports its foreign currency transactions to the Bank of Ghana.

Though the requirements of each bank are different, the information that must be provided before a transfer

of money in respect of imported goods is authorized includes:

- Invoices;
- Bills of lading or airway bills;
- Import declaration forms;
- A customs entry form; and
- A final classification and valuation report.

Any person who transfers outside Ghana in a year an amount in excess of US\$10,000 per annum must provide proof of the reason for the transfer. Proof may be in the form of medical bills, invoices for school fees or goods and services purchased.

Corporation tax

Companies resident in Ghana are taxed on their worldwide income, taxes are only applied to foreign income that is received in or brought into Ghana. Non-resident companies are taxed on their locally-generated income only. The rate of corporation tax is 25%.

A company is resident in Ghana for tax purposes if it is incorporated in Ghana or its management and control have been exercised in Ghana at any time during the relevant period of assessment.

A national fiscal stabilization levy (NFSL) is charged on the pre-tax profits of:

- banks and non-banking financial institutions (excluding rural and community banks);
- insurance companies;
- telecommunications companies liable to collect and pay the communications service tax;
- breweries;
- inspection and valuation companies;
- companies providing mining support services; and
- shipping lines, maritime and airport terminals.

The levy, which is assessed, is payable in quarterly installments falling due on March 31, June 30, September 30 and December 31 of the year to which the payments relate.

Withholding taxes

Resident income

Payment of employees – see section on individual taxes

Directors' fees – 10%

Payment of interest (excluding individuals) – 8%

Fees to part-time teachers, lecturers, examiners etc. – 10%

Payment of dividend to shareholders – 8%

Commission to insurance and sales agents – 10%

Commission to lottery agents and receivers – 5%

Payment for goods and services supplied – 5%

Rent – 8%

Non-resident income

Management and technical service fees – 15%*
 Royalties, natural resource payments and rents – 10%
 Endorsement fees – 15%
 Dividends – 8%
 Repatriated branch after tax profits – 8%
 Interest – 8%
 Short-term insurance premium – 5%

Value Added Tax (VAT)*

VAT is charged on the supply of goods and services in Ghana and imported goods and the supply of imported services at a rate of 15%.

National Health Insurance Levy (NHIL)**

A levy is imposed on most goods and services imported into or supplied in Ghana to fund the national health scheme. The levy is 2.5% of the sale price excluding VAT of the goods or service.

* Under the 2014 budget, MoFEP proposes an increase from 15% to 20%.

** VAT and NHIL are not charged on the provision of financial services.

Individual taxes

Currently, the rate of capital gains tax on the disposal of a chargeable asset amounting to a gain of over GH¢ 50 is 15%. Dividends are taxed at 8%.

In Ghana, tax is deducted from an employee's personal income at source through a 'pay-as-you-earn' scheme. The highest income tax rate payable by an individual resident in Ghana is 25%.

The taxable bands for the 2013/14 tax year are:

Chargeable Income (GH¢)	Rate (%)	Tax (GH¢)	Cumulative Tax (GH¢)
First 1,584	0	NIL	NIL
Next 792	5	39.60	39.60
Next 1,104	10	110.40	150
Next 28,200	17.5	4,935	5,085
> 31,680	25		

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If you would like to discuss how any of the matters raised in this newsletter affect you or your business, please contact us.