

CHOOSING THE RIGHT BUSINESS STRUCTURE: FOR PROFIT

Choosing the right business structure is one of the most crucial decisions for any entrepreneur starting a venture in Kenya. This is because it has direct implications on your personal liability, tax obligations, access to funding, control and management, and the future of the business.

Common Business Structures in Kenya

1. Sole Proprietorship.

This is the simplest option. Started by registering a business name via eCitizen. In sole proprietorship, you enjoy full control, minimal paperwork, and taxation is at personal level. However, personal liability is unlimited, access to funding is limited and the business does not survive you. It is ideal for individual ventures in small and medium-sized businesses.

2. General Partnership.

This is where two or more people, who with a common goal venture into business by pooling resources. They share capital, skills, liabilities and profits. Its registration is through the BRS. Taxation is done on individual's share of profit. However, partners face unlimited liability, jointly and severally. Interactions in a partnership are mostly governed by a partnership deed. For businesses seeking greater protection and credibility, limited liability companies are an alternative to sole proprietorships and partnerships.

3. Private Limited Company (Ltd).

Most preferred for growing ventures. Set up and registration are through the BRS. It involves more paperwork and is more costly, however this offers it credibility. The liability is limited to one's shareholding in the company. Has easy access to

funding, through investors, credits, banks and clients and has perpetual succession. Taxation is a corporate tax, currently at 30% with compliance requirements and annual returns.

4. Public Limited Company (PLC)

This is a larger entity designed for business that intend to raise capital from the public. Registration is through the BRS, with a minimum authorized share capital of Kshs.6.75m. PLC come in two forms, the listed and unlisted PLCs. In listed PLC, shares are offered and traded publicly on the Nairobi Securities Exchange (NSE). Unlisted company offers shares to the public but without trading in the exchange. PLC has ample access to funding through sale of shares to the public, investors, clients and debt financing. Liability is limited to share ownership. However, its disadvantages include, strict regulatory and reporting requirements, as well as oversight from regulatory bodies such as the CMA. This business structure suits rapidly expanding businesses aimed to attract widespread investment.

5. Limited Liability Partnership (LLP)

This is a hybrid structure under Kenya's Limited Liability Partnership Act, combining partnership flexibility with limited liability protection. Two or more partners manage the business

together, but personal assets are shielded from business liabilities. Registration is through the BRS and has a high registration cost compared to other partnerships. Taxation is done individually on partner's share of profits. It is not subject to corporate tax. It is ideal for professional firms.

6. Branch of a Foreign Company.

This is an extension of a foreign parent company, allowing it to conduct business in Kenya without creating a fully separate local entity. It is registered under the Companies Act 2015. It requires a local representative, the parent company's incorporation documents and a registered office in Kenya. No need for local shareholding. They are quickly incorporated into the Kenyan market, with direct control from the parent company. However, they are subject to a corporate tax at 37.5%, taxed on Kenyan-generated income and 15% repatriation tax. It is suitable for international companies and firms who do not prefer local incorporation.

Conclusion

When starting a business venture in Kenya, have the following in mind to help you make an informed decision. Protection from liabilities, tax obligations and implications, access to financing, legal compliance capacity, management and control of the business structure as well as the growth and future plans of the business.