



INSTITUTE OF INTERNATIONAL
ECONOMIC LAW
GEORGETOWN UNIVERSITY LAW CENTER



International Economic Law Practicum

UGANDA: REFERENCE GUIDE FOR LEGAL ISSUES FACING SOCIAL ENTREPRENEURS

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To: United Social Ventures
Kampala, Uganda

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Acronyms

ADR	Alternative Dispute Resolution
FIA	Financial Intelligence Authority
KCCA	Kampala Capital City Authority
MIA	Ministry of Internal Affairs
NGO	Non-Governmental Organization
NSSF	National Social Security Fund
PAYE	Pay-As-You-Earn
SCP	Small Claims Procedure
TIN	Taxation Identification Number
UEPB	Uganda Export Promotion Board
UGX	Uganda Shillings
ULC	Uganda Land Commission
URA	Uganda Revenue Authority
URSB	Uganda Registration Service Bureau
VAT	Value Added Tax

Executive Summary

This Reference Guide (Guide) is meant to be a practical tool to assist social enterprises in understanding the most common legal issues that will arise at an early stage in an enterprise's development. These include legal issues related to (1) formalizing a business; (2) choosing to register as a for-profit or non-profit entity; (3) registering a business; (4) employment; and (5) taxation issues. The Guide is not meant to provide legal advice; it is intended to serve as a reference tool for social entrepreneurs, many of whom may not have access to legal counsel, to familiarize them with common legal issues. In all cases in which a legal decision must be made, we recommend consulting a local attorney with appropriate specialization.

This Guide was developed as a resource for United Social Ventures (USV), a Uganda-based entrepreneurship incubator, and other social enterprises operating in Uganda. The project was brought to the International Economic Law (IEL) Practicum at Georgetown University Law Center by the New Markets Lab (NML), a non-profit legal innovation lab that focuses on the design and implementation of economic law and regulation in emerging markets, which had been approached by United Social Ventures about developing a guide. NML has developed a series of legal and regulatory guides for entrepreneurs and other partners and will continue to work independently and through TradeLab to expand this library and reach more social enterprises with these tools.

The student team from Georgetown University Law Center that developed this Guide used an informal questionnaire to gather input from USV entrepreneurs. Among other things, the questionnaire found out that entrepreneurs had tremendous concerns about difficulties of formalizing and registering businesses. They expressed not only their willingness but also their confusion about compliance with multiple national laws and regulations, which included but not limited to company laws, labor laws and taxation.

- Chapter I of the guide addresses a common concern highlighted both by USV's entrepreneurs and institutions like the World Bank and Organization for Economic Co-operation and Development: the legal aspects of formalizing a business understood in the context of the dynamics of the informal economy in developing countries. Formalization has several components, which exceed the

actual regulatory process of registering a business. Formalization encompasses the payment of taxes, compliance with corporate law, and other issues. In Uganda, 85% of non-agricultural jobs are described as informal by the National Labor Survey. Formalization is unpopular because it is a costly and time-consuming process. However, formalization also gives rise to rights for a company, its owners and staff which can ultimately improve a company's ability to grow and do business in a secure fashion: right to export, protection of employees, limited liability, etc.

- Chapter II outlines different options for incorporating a business and can serve as a guide for entrepreneurs who want to formalize their businesses by comparing the fundamental differences and similarities between different types of for-profit companies and non-profit entities. Once an entrepreneur has chosen the corporate form that suits their needs the most, the guide lays out certain compliance requirements that the new business owner must consider, as non-compliance penalties include financial penalties and imprisonment. These include regular mandatory meetings and proceedings, financial reporting, and anti-money laundering compliance, which are highlighted as mandatory compliance for formal businesses.
- One of the biggest concerns reported by Ugandan social entrepreneurs is the complexity of registering a business. Chapter III outlines the steps in registering a business, in compliance with numerous Ugandan laws and regulations. This Chapter contains a Business Registration Flow Chart, with some important registration details, which includes designated registration bureaus, materials and forms that one needs to prepare, cost and time required, and websites and portals that can be consulted during registration.
- Chapter IV will guide entrepreneurs through common employment issues. First, an employer must be aware that, depending on the category of employee the enterprise seeks to hire different considerations will arise. Second, once an employee is hired, early-stage formalities - written statement of terms, contract of service - will have to be complied with by the employer. Third, employees have different statutory rights that an employer must know in order to avoid conflicts. Finally, an employer may need to terminate an employee, and this

process may give rise to lengthy disputes if the correct process is not complied with.

- Even in the fulfilment of civic duties, social entrepreneurs will have concerns about tax rates and tax administration. Chapter V introduces some of the most relevant taxes entrepreneurs may face, as well as the rights and obligations as a Ugandan taxpayer.

CHAPTER I – THE LEGAL DIMENSIONS OF FORMALIZATION

Key Findings

Positive externalities

- Formalization brings credibility and enhances an enterprise's business opportunities.
- Registration documents are usually required when seeking financing.
- Registration gives legal protection to entrepreneurs when pooling resources together.
- Registered enterprises have legal rights that can be enforced in court. Some business forms provide entrepreneurs with limited liability. This protects their personal assets in case of bankruptcy.
- Registered enterprises have access to business networks such as the Ugandan National Chamber of Commerce.
- Registered enterprises have the right to export. This expands their potential market.

Negative externalities

- Registration may be costly. This will depend on the business form chosen.
- Registration may require lengthy procedures. This will depend on the business form chosen.
- Formalized enterprises will have to abide by legal obligations such as reporting to governmental agencies and labor law.
- Registered enterprises have to pay taxes and contributions. Those taxes only concern enterprises that reach a defined threshold of revenue.

In Uganda, 85% of non-agricultural jobs are described as informal by the National Labour Survey (2016/2017)¹. This shows that formalization is not seen as necessary for most of Ugandan entrepreneurs who usually consider it as synonymous of tax liability and complex administrative procedures. This Chapter will address this clear trend by exploring the various consequences of formalization.

Before entering this discussion, it is necessary to define formalization. Because the issue of formalization is prevalent in the developing world, numerous studies have explored the topic and no single definition of formalization has emerged. For instance, The National Labour Survey considers that an enterprise is informal if it is not registered by Uganda Registration Services Bureau (URSB) as a business or it was not registered by the Uganda Revenue Authority (URA) for Value added tax / income tax.² Other studies, distinguished between several levels of informality depending on the number of predetermined criteria a firm would fulfil.³ By using multiple criteria, this analysis underlines that the use of the registration as a single criterion is not sufficient. Indeed, the registration criterion only distinguishes between enterprises registered with tax authorities and enterprises not registered with tax authorities without taking into account intermediate level of formalization, for instance enterprises that are registered with tax authorities but that understate their revenues.

For the purpose of this Chapter, we will consider that formalization is a dynamic process which starts with the registration of the enterprise with governmental authorities and then entails compliance with legal obligations - payment of taxes, notifications, employment law - during the whole life of the company.

After discussing the implications of formalization at the early stage of an enterprise's life (Section 1.1), this Chapter will cover the obligations (Section 1.2) and rights (Section 1.3) which flow from formalization.

¹ National Labour Force Survey 2016/2017, Uganda Bureau of Statistics, June 2018

² National Labour Force Survey 2016/2017, Uganda Bureau of Statistics, June 2018

³ Benjamin, Nancy, and Aly Mbaye, Ahmadou. "The Informal Sector in Francophone Africa: Firm Size, Productivity, and Institutions", World Bank Group, June 2012. The following criteria were used: maintaining accounts, registration; fixed workplace, access to credit, number of employees and mode of taxation.

1.1. Starting a Formal Business

Formalization has a substantial impact on the development stage of a business. Registration takes time and comes with costs, both in the short- and longer-terms, and these factors must be weighed against the benefits that come with having a formally registered business, such as a greater ability to raise funds and engage in contractual relationships.

1.1.1. Initial Registration

Starting a business in Uganda is not easy, the country is ranked 127/190 on ease of starting a business.⁴ For comparison, other countries in East Africa have higher rankings: Rwanda is ranked 29/190; Kenya is ranked 61/190; and Tanzania is ranked 135/190.

Ugandan authorities have been taking initiatives aimed at easing the process of starting a business. For instance, the URSB offers various online services, including availing registration forms and making provision to apply for a trading license. The URA has also availed an online system for applying for a tax identity number (TIN), among other services. These developments reduces business incorporation fees and eliminate some unnecessary requirements including that a commissioner of oaths must sign compliance declarations.

As it will be further detailed in Chapter III, depending on the business form chosen by the entrepreneur, registration may require numerous procedures and involve filing requirements with different offices (the URSB, the URA, the NSSF, etc.). Registration may indeed become a maze that entrepreneurs may be reluctant to enter into, particularly when they lack sufficient information. Depending on the business form chosen and the procedures required may also be costly and entrepreneurs may be reluctant to bear the cost of registration. For instance, most businesses are required to apply for a trading license and reserve a name.

In light of the above, the formalization of a company is a time-consuming and costly process. As a result, some may perceive that avoiding formalization will allow

⁴ "Doing Business 2019: Uganda" *Flagship Report*, World Bank Group, 2019

entrepreneurs to save time and maintain initial funds to invest in the operation of the business.

1.1.2. Access to Funds

As the previous section outlines, formalizing a business does give rise to certain costs both during the registration process and when operating. Those costs provide numerous financial opportunities after formalizing.

First, formalizing a company may offer co-entrepreneurs the opportunity to pool resources with some legal protection. In essence, the company may be viewed as a legal platform on which people gather to do business. The initial investment of each shareholder may differ; with money, assets or work effort provided based on experience and resources. Once different resources are pooled under a single organization, each shareholder will be attributed rights depending on its initial investment (right to vote; right to collect dividends). Those rights and the obligations between the shareholders are set out in the contractual documents drafted and filed at the time of the registration – the Memorandum and Articles of Association. The Company Act gives legal protection to rights and obligations set out in the above contractual documents by allowing the shareholders the security of enforcing these obligation in courts.

Second, it is usually believed that formal businesses have a better access to financial institutions. Indeed, business loan applications require documents demonstrating credibility of the entity such as the certificate of incorporation, the tax identification number and the trading license. However, for at least two reasons, being in possession of these documents is itself not enough to access a loan in Uganda. First, banks usually require business owners to offer collaterals (property or other asset that a borrower offers as a way for a lender to secure the loan) or to guarantee to repay the loan if the business is unable to. This obstacle is particularly true for women who tend to have a lower access to loans due to the requirement for collateral. Land title is one of the most common forms of collateral and only one out of ten land titles registered with the Ugandan Land Commission (ULC) is held by a woman⁵. Second, the average

⁵ Prince Karakire Guma (2015) Business in the urban informal economy: barriers to women's entrepreneurship in Uganda, *Journal of African Business* (<https://www.tandfonline.com/doi/full/10.1080/15228916.2015.1081025>)

interest rate charged by commercial banks was 19.03% per year in August 2018.⁶ This high interest rates makes it almost impossible for low income businesses to borrow from commercial banks.

Third, most of the alternatives to commercial banks will also be more responsive to formal enterprises. At least four other formal sources of financing may be relevant for entrepreneurs lacking sufficient collaterals to apply for a commercial loan. First, Microfinance Institutions (MFIs) will usually be more accessible to small business owners because they allow payments to be made through mobile banking and allow numerous small payments on a flexible schedule.⁷ Second, small enterprises may also benefit from the services of leasing companies.⁸ They usually allow to cover the cost of an asset through regular payments with interest and provide the lessee with an option to purchase the equipment at the end of the lease term. Third, small enterprises may allow venture capital funds to invest in stocks with the expectation of repayment in profits and dividends.⁹ Fourth, NGOs will be able to access grants from governmental authorities or international organizations.

Even though access to finance is limited for informal businesses in Uganda, some solution have emerged. The informal economy in Uganda has usually benefited from the financial support of community based groups such as Village Savings and Lending Associations (VSLAs), or Accumulating Savings and Credit Associations (ASCA)¹⁰. The above associations engage in self-help lending and usually rely on trust between its members rather than on financial records, credit ratings and collaterals¹¹.

⁶ Performance of the Economy Report, Bank of Uganda, September 2018
(<https://www.finance.go.ug/sites/default/files/Publications/Monthly%20Performance%20of%20the%20Economy%20Report%20-%20September%202018.pdf>)

⁷ Kuhlmann, Katrin. "Legal Guide for Women Entrepreneurs" Aspen Network of Development Entrepreneurs, New Markets Lab, December 2016

⁸ Kuhlmann, Katrin. "Legal Guide for Women Entrepreneurs" Aspen Network of Development Entrepreneurs, New Markets Lab, December 2016

⁹ Kuhlmann, Katrin. "Legal Guide for Women Entrepreneurs" Aspen Network of Development Entrepreneurs, New Markets Lab, December 2016

¹⁰ Kuhlmann, Katrin. "Legal Guide for Women Entrepreneurs" Aspen Network of Development Entrepreneurs, New Markets Lab, December 2016

¹¹ Ababa, Adis. "What self-help lending says about Ethiopian banking" *The Economist*, April 4, 2019
(<https://www.economist.com/finance-and-economics/2019/04/04/what-self-help-lending-says-about-ethiopian-banking>)

1.2. Obligations Originating from Registration

Registration is only the first step in formalization. Indeed, once a business decides to formalize, it will have to comply with a range of obligations applied by different government agencies and regulators at different times in the company's life.

1.2.1. Notifications

As it will be further detailed in Chapter II, entrepreneurs that have established as companies will have to file reports on a regular basis with the URSB: the financial reports of income/loss of the year, audited report of the finances of the company, shareholder dividends, and annual reports of the affairs of the company. The purpose of those reports is to inform public authorities of the activity of the company, to set a tax base or to prove compliance with regulatory guidelines.

Reporting can be time-consuming as it requires continuously updated records to find and filling of the correct documents on time. Depending on the ability of the entrepreneurs' resources, including in-house legal expertise, and the complexity of the reporting, a company may consider consulting a legal expert at this stage.

1.2.2. Taxes and Contributions

As it will be further detailed in Chapter V, businesses usually pay taxes or mandatory contributions. The type of tax paid and the rate applied will depend on the corporate form chosen by the entrepreneur. The most common types of taxes and mandatory contributions in Uganda are the following: corporate income tax; social security contributions; value added tax; property tax; and tax on interest.

The financial burden created by taxes is nuanced. Indeed, 69% of informal business in Kampala fall under the minimum threshold for corporate income tax (UGX 10 million in annual turnover)¹²; and even more would fall under the minimum threshold for value added tax (UGX 150 million in annual turnover, approximately

¹² "From Regulators To Enablers: The Role Of City Governments In Economic Development of Greater Kampala" , World Bank Group, September 2017 (<https://development-data-hub-s3-public.s3.amazonaws.com/ddhfiles/143567/119806-revised-public-the-wb-book-2017-report-web-individual-page-layout.pdf>)

US\$ 40,000).¹³ The government should not be able to collect income tax and value added tax from businesses falling below those thresholds.

1.2.3. Corporate Compliance: The Example of Labor Law

As it will be further detailed in Chapter IV, formal enterprises must also abide by labor laws, which may initially be perceived as a burden for entrepreneurs. Indeed, the costs and constraints created by regulations may discourage entrepreneurs from hiring new employees. Uganda's Employment Act 2006 and its implementing regulations ultimately aim at protecting employees, creating a safe workplace, and ensuring non-discrimination. Following is a non-exhaustive list of statutory labor rights: minimum wages; maximum number of working days per week; paid annual leave; maximum probationary period; notice period and severance pay for redundancy dismissal; equal remuneration for work of equal value; and paid maternity leave. Also, labor laws require employers to insure their employees against injuries/diseases which may be incurred in the course of their paid work. Due to these benefits for employees, workers are more inclined to be employed by a formal business (for labor, see Chapter IV).

1.3. Rights Originating from Registration

1.3.1. Ability to Enforce Contractual Rights

A formal business is entitled to enforce its statutory rights in court. The binding effect of a potential decision by a court should deter employees and commercial partners from breaching a contract, and the entrepreneur may, in turn be more inclined to take risks that are necessary for the growth of an enterprise. In practice, however, enforcing a contract in Ugandan commercial courts takes an average of 490 days (taking into account the filing of the claim, the trial and the enforcement of the judgement), and costs 31.3% of the value of the claim (taking into account the attorney fees, the court fees and the enforcement fees).

While in practice, the time and cost associated with access to justice may deter Ugandan entrepreneurs to bring a case to court, a fast-track procedure for small claims

¹³ From Regulators To Enablers: The Role Of City Governments In Economic Development of Greater Kampala" , World Bank Group, September 2017

exists. The small claims procedure (SCP) ensures a fast and simple resolution of disputes for which the subject matter value does not exceed UGX 10,000,000 (approximately US\$ 2,670). Some interesting key features of the SCP are that only self-representation is permitted which reduces the cost of the dispute and appeals are not permitted which reduces the length of the procedure. Also, the SCP is typically aimed at claims over supply of goods, debt or rent and will not hear cases relating to family dispute, employment, defamation, against the government, divorce.

Formal businesses also have access to alternative business dispute resolutions (ADR) mechanisms: arbitration, conciliation and mediation. Arbitration presents several benefits over litigation: parties to the dispute select the arbitrator(s) which usually have a particular expertise over the dispute; parties can agree to have a confidential dispute; and arbitration is usually faster than traditional dispute resolution in court. However, arbitration can also have drawbacks for smaller enterprises, including higher costs than other forms of ADR.

1.3.2. Protection against Financial Risk

Limited liability, which is available only to certain types of business forms (see Chapter II), means that shareholders' liability in a formal company is limited to his/her investment. For example, if shareholder X individually invests alone UGX 100.00 in the company, and the company is sued by a creditor and ends up owing UGX 150.00, X would only lose the UGX 100.00 he or she initially invested. If X had not been covered by limited liability, he or she would have lost the UGX 100.00 initially invested in addition to UGX 50.00, which would have been taken from his personal savings. Notably, a shareholder may lose this protection under certain conditions, like his or her own unlawful behavior.

1.3.3. Involvement in International Trade

Flourishing businesses may desire to expand their impact to other markets by exporting their products. The Uganda Export Promotion Board (UEPB) requires that the exporting company is registered with the URSB and the URA. Also, exporters will have to provide a certificate of origin which is issued freely by the Customs Department of the URA. In principle any duly registered business is allowed to export.

However, further regulatory processes and procedures will be required for certain types of businesses for reasons of health, safety, security and the environment. Various permits and licenses are required for businesses that produce products in the following categories, for example: Fish and Marine Products, Minerals, Precious Stones and Ores, Coffee, Wildlife and Wildlife Products, and Timber Products.

1.3.4. Access to Business Networks: The Example of the Ugandan National Chamber of Commerce

A formal business can be a member of the Ugandan National Chamber of Commerce, which illustrates the overall credibility which flows from formalization. There are three main benefits of being part of such an institution. First, the Chamber is a business network which permits entrepreneurs to extend their network by meeting peers and future business partners. The networking takes place through thematic events organized by the Chamber and by simply being part of a large contact list. Second, the Chamber is engaged in advocacy for its members. As a member, businesses will have a better chance to voice their concerns to the government. Even if the results of advocacy are uncertain, sharing concerns with other members can also lead to the finding of common solutions. Lastly, the Chamber is a venue for commercial arbitration.

1.4. Conclusion

To conclude, formalizing a business (and maintaining formal status) has costs: registration and compliance with the multiple rules and taxes. Registration is also a lengthy and sometimes complicated process. Time, cost and ease are at the center of many governments' attempts to encourage formalization.¹⁴

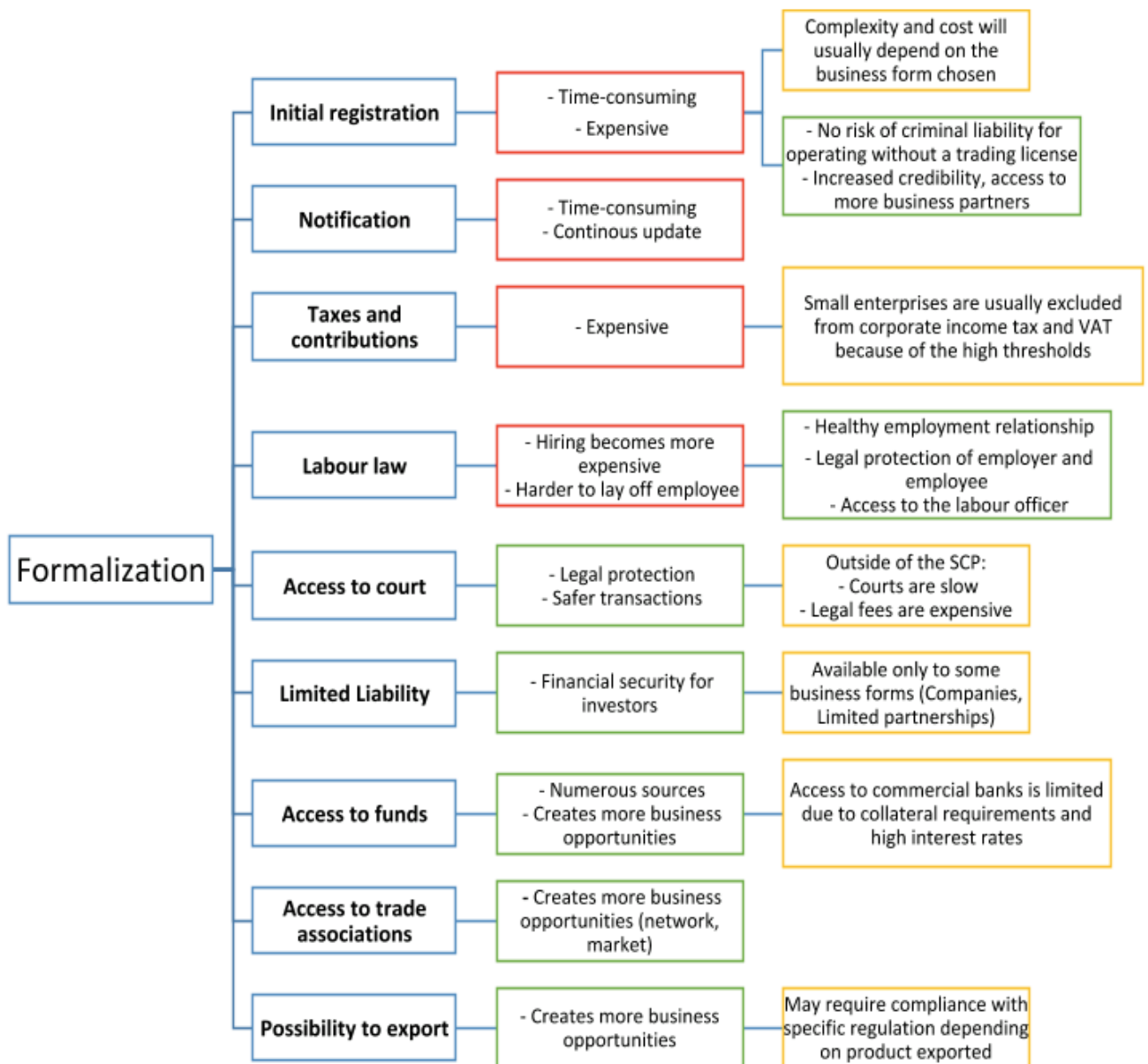
However, it has also been demonstrated that the effect of formalization on businesses is important. Overall, formal businesses have better access to financial institutions, are protected by law and are viewed as more credible. Therefore, they have greater potential to grow.

¹⁴ McKenzie, David. "A cheap intervention that helped partially formalize firms and increased profits - just don't ask about taxes.", World Bank Group, 15 Oct. 2018 (<https://blogs.worldbank.org/impactevaluations/cheap-intervention-helped-partially-formalize-firms-and-increased-profits-just-don-t-ask-about-taxes>)

Besides direct benefits to businesses, studies have highlighted three other positive effects of formalization. First, it broadens and increases a country's tax base. Second, it increases the sense of rule of law; more people respect the laws and regulations. Third, it increases the amount of information the State has about the firms which makes it easier for the government to understand the structure of the economy and answer to its needs.¹⁵

¹⁵ McKenzie, David. "A cheap intervention that helped partially formalize firms and increased profits - just don't ask about taxes.", World Bank Group, 15 Oct. 2018

Flowchart 1 – Consequences of Formalization



This tree summarizes the findings of this chapter:

Blue boxes are the factors to consider when formalizing;
 Green boxes identify the positive externalities of formalization;
 Red boxes identify the negative externalities of formalization;
 Yellow boxes identify the limits to the positive externalities or the possibility to mitigate negative externalities.

CHAPTER II – BUSINESS FORMS

Key Findings

- There are two types of business forms in Uganda which are for-profit entities and nonprofit entities.
- A for-profit entity has sole proprietorship, partnership, and company as entity forms. This form focuses on mainly commercial activities and splitting the profits amongst its owners.
- A nonprofit entity has charitable companies which can later be incorporated into NGO to take advantage of tax exemptions, grants, and special treatment by the government. This form focuses mainly on organizations with certain level of commercial activities that strives to improve social welfare, education, and charitable activity while gaining profit necessary to maintain the organization's existence.
- There are mandatory financial reports that must be reviewed, documented, and filed with the URSB within a specified procedure and time period.
- In addition, there are statutory meetings that are required by the government to perform under general and special circumstances.
- In Uganda, there are certain entities that fall under the jurisdiction of the Financial Intelligence Authority that registers and mandates cooperation from certain entities to combat money-laundering practices.

When choosing the right business structure, entrepreneurs should consider the purpose of the business entity and how it intends to attract investment to fund its operations. These factors will determine whether it should be structured as a for-profit or nonprofit.

For-profit businesses are primarily driven by financial gain and to grow only its own organization. Such organizations are not usually aided by the government as the organization is driven by private gain instead of public service and development of communities. The nature of a for-profit business is to register with the state and pay applicable taxes on its income. There are multiple forms of for-profit businesses,

including sole proprietorships, partnerships (general and limited), and companies (private and public). Each individual for-profit business structure is explained below.

Most nonprofit entities are concerned with changing and improving lives in the community. Nonprofit entities are allowed to earn money through sale of goods or services necessary to keep the organization operating. The main purpose of a nonprofit entity is to advance a common public interest, such as education, social justice, or health. The surplus money earned by the nonprofit entity is not divided amongst the owners but instead reinvested into the organization's operations in order to broaden its reach. Nonprofit entities such as Non-Government Organization ("NGO") are usually exempt from taxes and receive special assistance from the government as the ultimate objective of the nonprofit entity helps the state and its people.

This Chapter will expand on the considerations related to establishing a for-profit entity or nonprofit entity under Ugandan law. Once an entrepreneur has chosen a business form, they may have to comply with the obligations to file financial reports (Section 2.4) and hold regular meeting of the members (Section 2.5), and all must comply with the anti-money laundering regulations (Section 2.6). Entrepreneurs for for-profit entities can use the decision tree in Annex A and nonprofit entities can use the decision tree at the end of each section as a supplement in their decision for an entity form.

2.1. For-profit Entity

Under Ugandan law, sole proprietorships, partnerships, private companies and public companies are all recognized. In this section, we will look into the advantages and disadvantages of each business form.

2.1.1. Sole Proprietorship

A sole proprietorship is a single-person business entity established for the purpose of profit and commercial gain. One of the distinct features of sole proprietorship is that the single-person business owner will be subject to single taxation. Single taxation means the owner will pay income tax as an individual instead of having to pay both personal income and business income tax to the government. In order to establish a sole proprietorship, the owner must only register the business name with the URSB and apply for a trading license to the relevant local authority.

There are certain advantages to sole proprietorship. Sole proprietorships are easier to set up than other business forms due to less onerous paperwork, compliance, and no registration requirement. The entrepreneurs are not required to go through a complex registration process for a sole proprietorship. In addition, the owner of the sole proprietorship is entitled to all the profits of the business. As the owner is the sole owner of the business, the owner will have complete authority in the agenda and direction of the business without pressure individuals such as shareholders, directors, and partners.

There are certain trade-offs for this business form as well. One of the major disadvantages of this corporate form is that the single business owner remains personally liable for all debts of the business. Other disadvantages include difficulty attracting investment and the inability to share the burden of running the business with other individuals. Overall, it can be difficult to find investors because of the single-member structure of the company as most investors prefer to place their capital in an entity run by a team of directors instead of one single person. This is normally due to the implications of greater oversight of the operations when multiple people are managing the business.

If the owner of a sole proprietorship decides to end the existence of the entity, he or she must draft and pass a resolution to voluntary wind up of the company. After passing a resolution, the owner must publish the resolution within fourteen days in the Gazette and in a newspaper with a wide national circulation in the official language. The state may appoint an official receiver that investigates any fraud or impropriety when a business becomes insolvent or wound up. If one is appointed, the sole owner must send a copy of the resolution within seven days to the official receiver.

In addition, the sole owner must report the resolution to the URSB in order to register the winding up of the company. The sole owner must report to the URSB because sole proprietorships reserve an entity name which becomes available if the entity is wound up. This report also notifies the government that the business cannot be charged taxes. For example, the business cannot be charged trading taxes by the municipal council since it no longer exists.

2.1.2. Partnership

Partnership is a business agreement between two or more people with the primary goal of profit and commercial gain. Partnerships are commonly established in

professional fields such as medical practitioners, law firms, and consultancy firms. Partnerships can be categorized as General Partnerships or Limited Liability Partnerships.

There are certain advantages afforded to partnerships. A partnership has the ability to engage in commercial activities under the partnership name. All of the tax liability due to the partnership's income is paid by the partnership and all of the assets are owned by the partnership, instead of individual tax liability or ownership. Furthermore, the partnership can sell and purchase property, enter into contracts, and bring petition in court of law under the partnership name. In addition, filing the partnership documents mandated by law requires less effort compared to private and public companies.

There are certain trade-offs in establishing a partnership compared to other business forms. Foremost, partnerships are required to automatically dissolve if one of the partners dies or voluntarily leave the partnership. In the event the partner decides to sell their equity in the partnership, the transfer will require the consent of all of the partners. This additional step in transferring equity can discourage investment as it increases the difficulty for a partner to exit from the business. If partners are unable to exit a business when they're unsatisfied then they will feel trapped in an involuntary venture.

Winding up a partnership is similar to winding up a sole proprietorship and company. However, a Limited Liability Partnership has special rules in winding up the partnership. *See* Section B - Limited Liability Partnership ("LLPs") below.

A. General Partnership

In General Partnerships, all partners share full liability for all of the business's debts. When the liability for the business is jointly shared among partners, it reduces the burden of financial and legal obligations because they are spread among a group of people instead of one individual. One of the interesting distinguishing features of a General Partnership is that it does not require a formal registration. In other words, two or more people orally agreeing to work together toward a certain commercial goal under a mutual understanding would suffice as a General Partnership.

B. Limited Liability Partnership ("LLPs")

In LLPs, at least one of the partners is required to have unlimited liability for the partnership. In other words, the law requires that at least one partner of the LLP remain a General Partner with full liability for all debts and obligations of the partnership. The General Partner enjoys the privilege of controlling and managing the business in exchange for waiving limited liability privileges. The limited liability partners must not directly engage in managing the business in exchange for enjoying limited liability. The limited liability partners are liable only to the extent of their investment into the partnership. The main advantage of establishing an LLP is the limited liability as it attracts investment. Investors do not want to directly manage a company and require the protection of limited liability in the event a business fails.

When winding up an LLP, the partners cannot voluntarily wind up the business, and it is not subject to the court. The LLP can only be wound up if the partnership has ceased to carry out its operations or is operating for the sole purpose of winding up, unable to pay its debts, and it is the court's opinion (not decision) is that the LLP should be wound up. In contrast, a sole proprietorship and company can be wound up voluntarily by the owners or by the ruling of the court.

2.1.3. Company

A company can be defined as an entity that operates for commercial gain and profit for its investors. A company can be categorized into company limited by shares, company limited by guarantee, or unlimited company. Depending on whether the founders of a company would allow the public to become shareholders by buying or trading shares of the company within a closed membership, a person must choose between registering as either Private Company or Public Company. Please note that once you register as a Private Company or Public Company, you can choose to change the form into the other form. For example, a Private Company can choose to become a Public Company in order to publicly trade their stock.

A company that is limited by guarantee or shares can also be identified as a Limited Liability Company ("LLC"), as the shareholders normally enjoy the privilege of protection against debts, contractual obligations, and other legal repercussions that a business may encounter. However, the shareholders cannot directly manage the company in exchange for this protection. If the shareholder manages the company, the court may decide to void the limited liability and hold the managing shareholder

personally liable for the company's debts. For example, a director can also be a shareholder by owning stock but he will not be able to enjoy the privilege of limited liability. There is also the option for Unlimited Company is available to shareholders who wish to actively participate in their business as a director.

A company limited by guarantee are separated into two categories. The first type of company limited by guarantee is the for-profit company version. This type is called a company limited by guarantee with share capital. A company limited by guarantee with share capital operates for private financial gain with limited liability protection to the extent of their contributed assets to the company. This form can be used for charitable purposes but normally operates as a for-profit business. The second type of company limited by guarantee is the company limited by guarantee without shares. This company form allows owners to join or leave at any time following particular conditions. This form commonly operates as a non-profit entity which is driven by the ultimate goal of community development and charitable activities. For further expansion, please see Nonprofit Entity section of this chapter. It is important to note that the details outlined in the table will be included in the Memorandum and Articles of Incorporation filed when the company is established.

Table 1 - Compares the most significant aspect of a company limited by shares, company limited by guarantee, and unlimited company.

	Definition	Example
Company Limited by Shares	A company limited by shares is a company that limits the liability of its members by the number of shares stated in the Memorandum of Incorporation.	If the company has 1,000 shares stated in their Memorandum of Incorporation, the shareholders who hold the entirety or a portion of the 1,000 shares are liable to the extent of the value of the number of shares that they own.

Company Limited by Guarantee with Share Capital.	A company limited by guarantee is a company that limits the liability of its members by the value of assets contributed to the company as stated in the Memorandum of Incorporation in the event the company dissolves.	If an owner commits \$1,000 USD as a guarantee for the business then the owner will be liable for the company's liabilities to the extent of the \$1,000 USD.
Unlimited Company	An unlimited company is a company that does not limit the liability of its members.	If a company dissolves with debts to creditors then the creditors will have the right to petition against the members of the company in an individual capacity. Director X could be sued in a court of law for his personal assets in order to sufficiently satisfy the debt.

One of the most distinct advantages of establishing a company is the continuity of the entity's existence. The existence of a company is normally not affected by individual shareholder ownership. In other words, the company has a life of its own separate from its owners. For example, the company will continue regardless of the shareholder's death or incapacity to continue as a shareholder unless the company is wound up or dissolved under applicable law. The continuity of the entity's existence increases the trust that customers and vendors to trust that the business will continue without depending on one individual. It also improves trust of potential employees as the business's existence will not be discontinued on the demise of the owner. It is beneficial for the shareholder if they intend their children, family, or other individuals to inherit their shares in the company.

As stated earlier, the shareholder's identity and the company's identity are separate. As such, the company can engage in commercial activities under the company name. This means that the company can own and transfer property, enter into contracts, and sue other parties in court under the company name without using the shareholder or director's name.

If the members of the company decide to end the existence of the entity then they must draft and pass a resolution to voluntary winding up of the company. After passing a resolution, the company must publish the resolution within fourteen days in the Gazette and in a newspaper with a wide national circulation in the official language. The state may appoint an official receiver which investigates any fraud or impropriety when a business becomes insolvent or wound up. If one is appointed, the sole owner must send a copy of the resolution within seven days to the official receiver. The company must hold a meeting of the directors to make a declaration regarding the solvency of the company and its ability to pay its debt. If the company finds that it cannot pay its debts and is in fact insolvent, then there is a different procedure. Any company seeking to wind up should consult a local legal expert.

In addition, the company must report the resolution to the URSB in order to register the winding up of the company. Similar to sole proprietorships, the report serves as a notice to the government that the reserved name is available and that the company can no longer be charged taxes.

A private company is a business form that does not offer its shares and ownership to the general public, as the shares are privately held and traded amongst interested parties. While most global corporations and companies are publicly-traded companies, the majority of businesses in the world are private companies, as the owners are interested in holding onto their ownership of the business instead of offering shares to the public. A private company is forbidden by law to publicly trade its shares and can incorporate certain restrictions of transfer of shares within their Articles of Association.

A public company is a business entity that sells its ownership through shares to the general public through stock exchange, public offering, and other methods of invitation for subscription to company shares. Many companies make the mistake of attempting to register as a public company when they're just beginning their operations. However, a company should wait until its more firmly established in the market with a history of successful business activity before offering stock to the public. Without strong financial resources and demand, a company will needlessly go through the hassle of registering without attracting investment from the public.

The chart below shows the main differences between each business form. When deciding which form to adopt, an entrepreneur should remember that partnership and companies have more detailed forms such as limited or general partners and private or

public companies. A number of the main differences are addressed in this section, but there are other distinct features between these corporate forms. It is highly recommended to consult a specialized legal professional regarding the legal benefits and liabilities of formalizing as a business under Ugandan law.

Table 2 - Compares the most significant aspect of the sole proprietorship, partnership and private company.

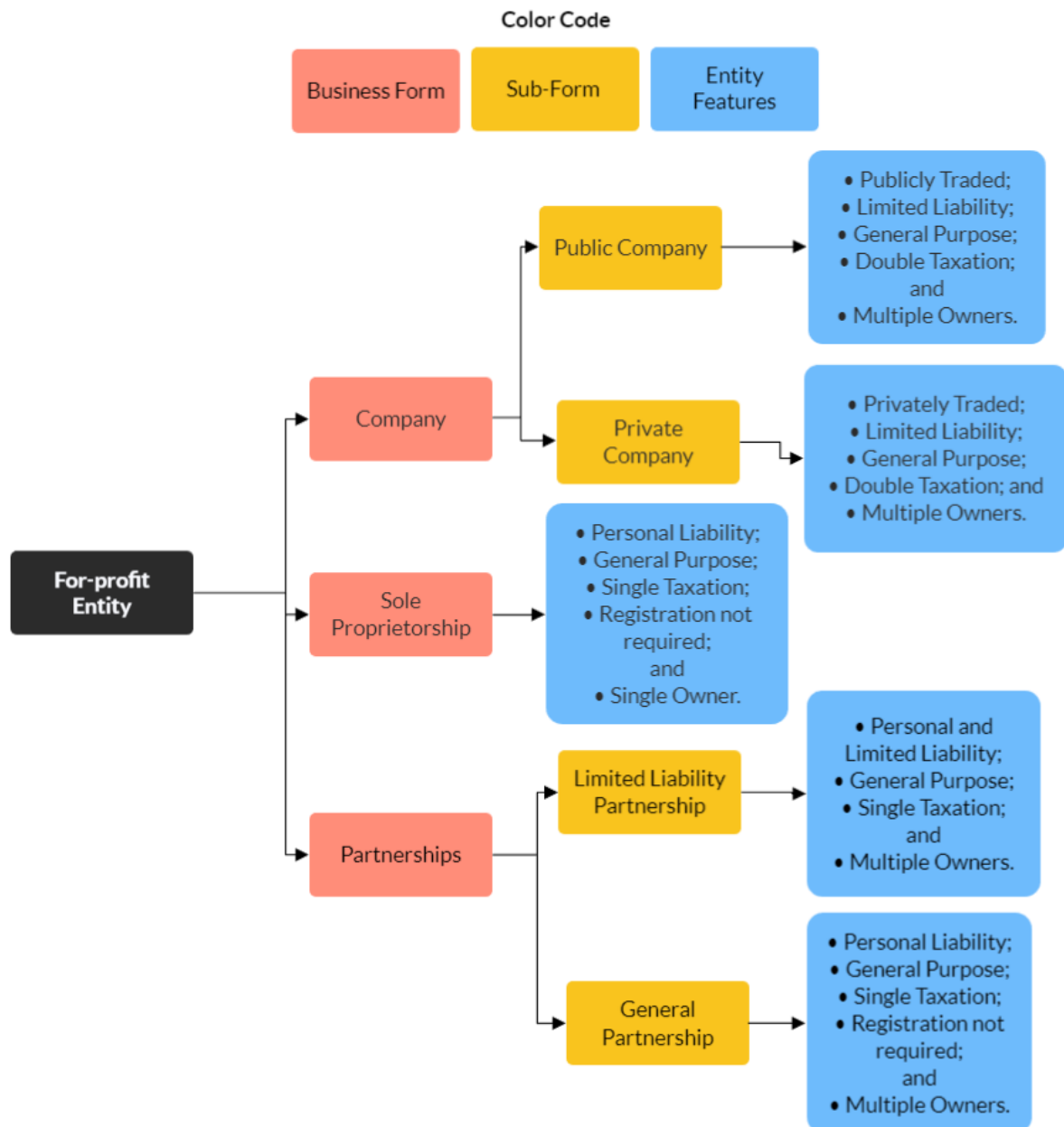
	Sole Proprietorship	Partnership	Company
Separate Legal Identity	No - the owner and the business share one identity regardless of name reservation	Yes - the Partnership is a separate identity from the partners and can own property under the Partnership name	Yes - the company is a separate identity from the shareholders and can own property under the company name
Limited Liability for Owners/General Partners	No - the owner of the single proprietorship is liable for all debts	Yes - a limited partner in a Limited Partnership and General Partnership enjoys the protection from liability	Yes - the shareholders of a company are protected from liability
Limited Liability for Directors	No - the owner is the single member of the business and liable for all debts	No - the general partner(s) are the directors of a Partnership and are liable for the debts of the business	No - the Directors do not enjoy the privilege of limited liability as they directly manage and control the operations of the business
Statutory Documents	Not Applicable - registration is not mandatory for this business form	Partnership Deed	Memorandum and Articles of Association - Public Companies must adopt the code of Corporate Governance

Business Purposes	Any lawful purpose	Any lawful purpose	Any lawful purpose
Governance	Single member	At least two or more persons	At least one director for Private Company At least two directors for Public Company
Statutory Meeting of Directors	Not Applicable	Not Applicable	At least once a month but not exceeding three months since commencing business
Transfer of Partnership/Share	Not Applicable	Consent of all partners	Transferable as provided by the Association of the company
End of the Business	Voluntarily winding up	Voluntarily winding up or dissolution by Expiration or Notice, Bankruptcy, Illegality of Partnership, or declaration by court of Incapacity	Voluntarily winding up or dissolution by Insolvency, Bankruptcy, or Illegal Activities.

Flowchart 2 – Key characteristics for each for-profit entity form

Factors to consider:

- Main objective is private financial gain from commercial activity
- Owners have the ability to demand any compensation from the profits
- Directors and employees have duty to the owner (shareholders)
- Some business forms have benefits of limited liability for the owners in exchange for direct management
- Business forms have single taxation and other forms have double taxation



2.2. Nonprofit Entity

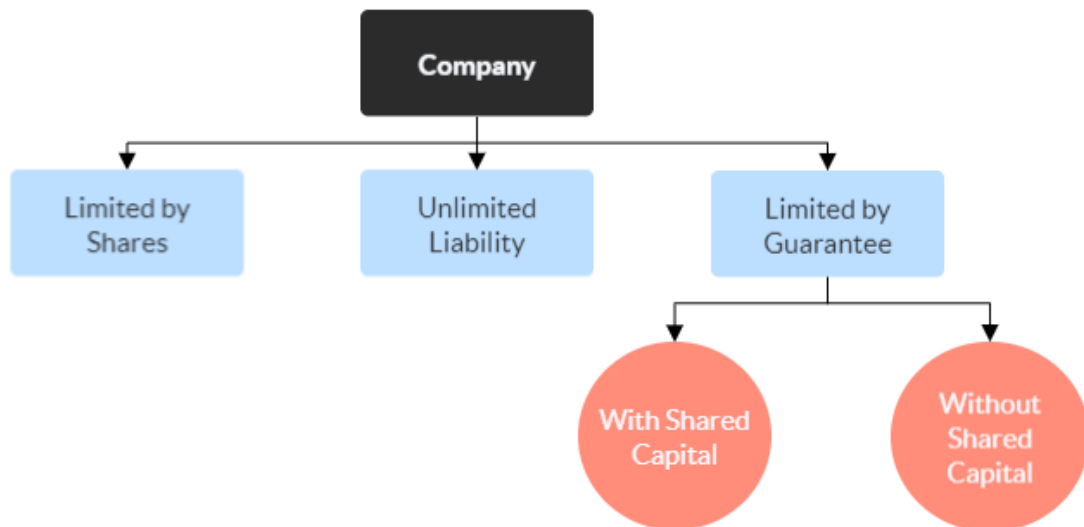
A nonprofit organization is one of the main drivers of community development and public wellbeing. As stated earlier, nonprofits are normally tax exempt as the profits

of the nonprofit are reinvested back into the ultimate mission of the organization. The key characteristics of a nonprofit organizations are accountability, transparency, and trustworthiness of those who donate their money, time, and faith into the organization. When a social entrepreneur who strives out to do public good, they must consider what form of nonprofit that would benefit their goals the most. This guide will cover the differences between a charitable company that can eventually become an NGO to fully legitimize their nonprofit status to the government and to the public.

When registering to establish an NGO, the founding members must provide a copy of the certificate of incorporation. This means that the founding members must have a registered company that is limited by guarantee. The requirement for the company to be limited by guarantee stems from the non-profit aspect of an NGO. If the company was limited by shares, the shareholders expect to receive dividends from the profits of the company. The dividends from the profit conflicts with the idea of non-profit status of the NGO. In addition, the founding members must pass a resolution from the members of the company. The founding members must register the resolution with the minutes and copy of the resolution with the URSB. The registration of an NGO will be further explained in Chapter III.

As mentioned previously in the for-profit section of this chapter, a company limited by guarantee has two types of forms. It is categorized as a company limited by guarantee with share capital and company limited by guarantee without share capital. As defined in our previous section, most companies limited by guarantee with share capital are established for for-profit activities therefore this form is excluded from discussion for this section. If you need more information about this type of limited by guarantee, please refer back to the for-profit section.

Flowchart 3 – Different forms of company liability that is available in Uganda. The blue squares represent those directly provided by the law and the pink squares represent those available in practice.



The more relevant type for this section is the company limited by guarantee without shares. In this form, the social entrepreneurs aren't required to contribute capital or assets immediately into the company. This means that without shared capital, there are no shareholders in the company (no share capital, no shareholder). Since there are no shareholders, the owners of the company are called members of the company limited by guarantee without share capital. The members of the company are subscribed and listed in the provisions of the Memorandum of Incorporation and Articles of Association. The company operates by having the members make important decisions by voting in general meetings.

In practice, the company must include a clause in their Memorandum of Incorporation that prohibits the distribution of profits or capital among the members if it wishes to be considered a charitable entity. While this is a nonprofit and charitable entity, it does not incur the complete benefits that is provided to NGOs by the government. This issue is easily resolved when the charitable company decides to register as an NGO to further formalize as a true nonprofit organization. It is important to note, as mentioned previously, that incorporating a company limited by guarantee is a mandatory pre-requisite for establishing an NGO.

2.3. Non-Government Organization

Within the laws of Uganda, the legal framework for nonprofit organizations falls under three different forms, including Non-Governmental Organizations, Trusts, and Foundations. There are other forms of non-profit organizations outside the scope

of the statutory definition such as cooperative societies, communal land, trade unions, and community-based organizations. However, only the NGO form of nonprofit will be addressed in this guide as they are most common and relevant to the socially beneficial activities.

NGOs are governed by Uganda's Non-Governmental Organizations Act of 2016 and the Non-governmental Organizations Regulation 2017 which requires that an organization must not be for profit or commercial purposes. Similar to companies, the continuity of the NGO's existence is normally not affected by individual shareholder ownership. The founder's identity and NGO's identity are separate legal entities. There is no limit to the control or governance of an NGO by local or foreign citizens.

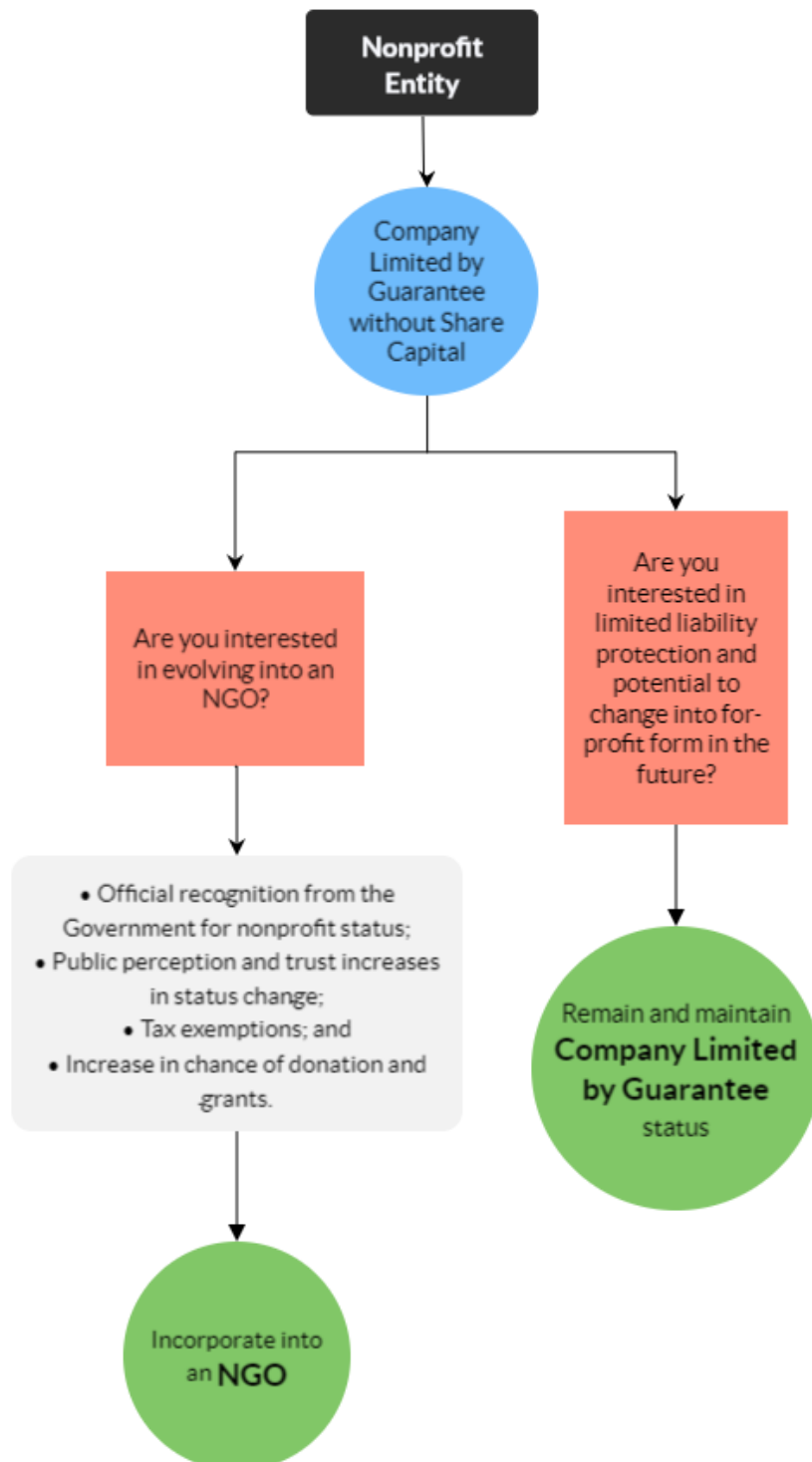
There are certain unique characteristics of establishing an NGO. Under the Ugandan law, the NGO and its members, directors, or employees must not engage in any profitable activities that are for the purpose of personal gain other than the reasonable compensation for rendered services of the organization. This means that the NGO can pay its employees a reasonable salary for their services and it allows the NGO to attract noble people without having them sacrifice their basic income. In addition, Common Law dictates that the nonprofit organization's income or assets cannot be transferred or distributed to employees, directors, or any other individual other than the fulfillment of statutory provisions of Ugandan law. While this may seem unattractive to some entrepreneurs, this allows the NGO to operate without its members profiteering from the donations, profits, and grants.

There are tremendous benefits to registering as an NGO if the activity of the organization is charitable. For example, NGOs are eligible to receive grants. Foreign grants must be declared with an audit report to the local authorities, are not subject to Value Added Tax ("VAT"), and goods and equipment imported for the purpose of aid-funded projects are exempt from customs duties. If the NGO is established under the NGOs Act and qualifies for the requirements as a charitable organization, then it may qualify to be exempt from *income tax* by a written ruling by the Commissioner General of Uganda under the Income Tax Act of 2005. There are other non-legal benefits of establishing an NGO as it drastically increases the legitimacy and public perception of the organization. This means that attracting donations, grants, and volunteers are more likely as an NGO in comparison to remaining a company.

However, there are certain disadvantages to establishing as a NGOs under the NGO Act and Regulations. The NGOs Act's text does not provide any special treatment

or consideration to organizations established as an NGO. The special benefits of establishing an NGO are provided by government support such as tax exemption, customs duty exemption, and income tax exemption. In other words, it is not guaranteed that establishing an NGO will automatically exempt you from applicable taxes. NGOs are required to receive approval of the local authority with a memorandum of understanding to conduct activities. In addition, the dissolution of the NGO creates an issue of distributing the assets of the nonprofit organization that is not governed by Ugandan law.

Flowchart 4 – Key characteristics for nonprofit entities in Uganda:



2.4. Financial Reports for Companies

The Ugandan Company Act requires public and private companies to file the following accounts and audit documents in the English language on an annual basis to

the Registrar. There are heavy punishments for non-compliance and failure to submit the statutory documents in a timely manner will result in sanctions listed in Table 4 below.

2.4.1. Annual Returns with Balance Sheet

Companies are required to report their annual returns along with a balance sheet reflecting true and fair view of the affairs of the company and explaining transactions. The balance sheet must include all sums of money received and expended by the company, all sales and purchases of goods by the company, and the assets and liabilities of the company. Books of accounts are required to be kept at the registered office of the company or another place within the territory of Uganda that the directors think fit. All company balance sheets must be signed on behalf of the board by two of the directors of the company or the single director if the company has only one director.

2.4.1. Profit and Loss Account

The company must present a profit and loss account in a general meeting. The presentation must not exceed eight months since the commencement of the business and presented at least once a year. The presentation can be extended to eighteen months in the event of a special reason to excuse the company. This request is determined by the registrar.

2.4.2. Director's Report

Companies must also file a director's report that reflects the state of company affairs, the amount of dividend (if any) recommended and the amount of reserves proposed (if any) to be kept. This report must deal with the appraisal of the state of the company's affairs by its members and will not in the directors' opinion be harmful to the business of the company or any of its subsidiaries during the financial year. The director's report is annexed to the balance sheet submission to the Registrar.

2.4.3. Auditor's Report

Companies are also required to submit an auditor's report, which is a written confirmation of the financial statement of the company. An auditor's report is required to determine the credibility of the financial report. The auditor's report must include the opinion of the auditor as to whether the report materially qualifies and whether that

the balance sheet has been properly prepared in accordance with the Company Act. The auditor’s report is annexed to the balance sheet submission to the Registrar. Every company must appoint an auditor to hold office from the conclusion of the annual general meeting until the conclusion of the next, annual general meeting.

Once the required documents are gathered, a copy of the balance sheet along with its annexes must be distributed to every director of the company at least 21 days before the general meeting. When that has been accomplished, the general meeting will commence as set out in the provisions of the Company Act.

Flowchart 5 – A visual representation of how the financial reports correlate.

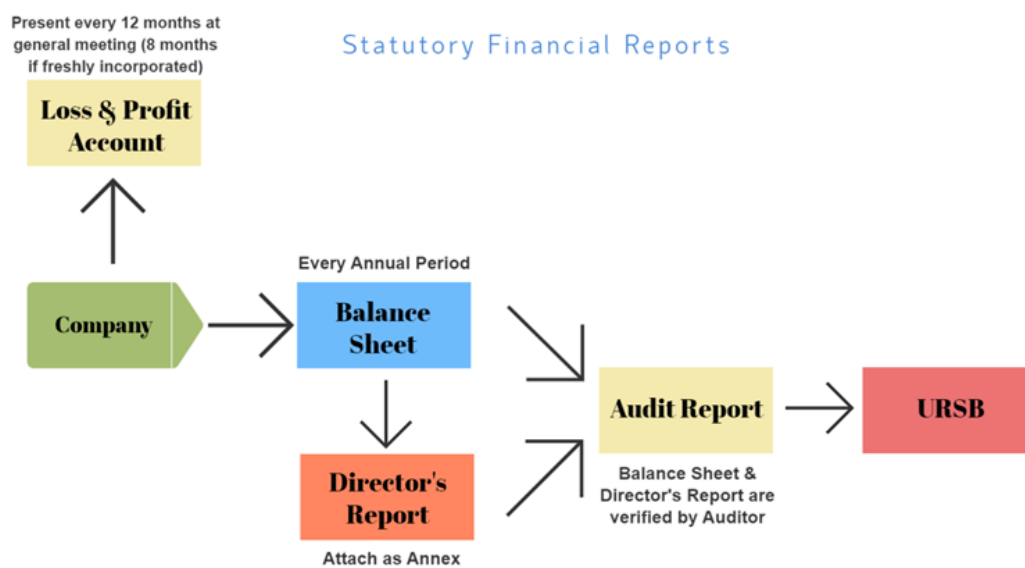


Table 3 – Lists the sanctions imposed on members of a company if they fail to submit their financial reports required by Ugandan law.

Mandatory Requirement	Non-Compliance Sanctions
Annual Returns with Balance Sheet – Failure to Submit in Time	<ul style="list-style-type: none"> • A fine not exceeding one hundred currency points (UGX 2 million, approximately US\$ 535); • Imprisonment up to twelve months; or • Both

Profit and Loss Account – Failure to Submit	<ul style="list-style-type: none"> • A fine not exceeding one thousand currency points (UGX 20 million, approximately US\$ 5,350); • Imprisonment up to five years; or • Both
Director’s Report – Failure to Submit	<ul style="list-style-type: none"> • A fine not exceeding one hundred currency points (UGX 2 million, approximately US\$ 535); • Imprisonment up to twelve months; or • Both

2.5. Meetings and Proceedings for Companies

2.5.1. Statutory Meeting

Private and public companies limited by shares or limited by guarantee with share capital must hold a general meeting of the directors within not less than a month or more than three months since commencement of business activities which will be termed as the statutory meetings. Failure to comply can result in monetary penalties, please see Table 5 below.

Before the statutory meeting, a statutory meeting report must be circulated to every director of the company (14 days before the meeting date) with certification from at least two directors. In addition, the statutory report must be sent to the Registrar as soon as it has been sent to every director. The statutory report shall include:

- The total number of shares allotted in the company while distinguishing shares allotted as fully, partly paid up, or to the extent to which they’re paid up;
- The total amount of cash received by the company in respect of all shares allotted. The company must distinguish shares allotted as fully, partly, and so on;
- Receipts of the company and payments up to a date within seven days before the date of the report, particulars of the remaining balance and an account or estimate preliminary of the expenses of the company;

- The names, postal addresses and descriptions of the directors, auditors, if any, managers, if any and secretary of the company; and
- The particulars of any contract the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

The financial balance sheets and reports must be audited and certified as correct by a certified auditor of the company (if any).

2.5.2. Annual General Meeting

Annual general meeting is a meeting required by law for the directors of the company to gather and present the affairs of the company to the shareholders of the company.

The annual general meeting is exclusive to companies and not required for sole proprietorships and partnerships. Typically, the meeting presentation includes the performance, strategy, and business forecast of the upcoming year. Under the Ugandan Company Act, a public company must hold an annual general meeting once a year and not more than fifteen months shall elapse between one annual general meeting and that of the next. A private company may hold an annual general meeting at the request of a member.

If the company is a newly incorporated business and it holds its annual general meeting within eighteen months of incorporation then it is not required to hold another annual general meeting within that year or the following year. If the company is in default of their annual general meeting requirement, the registrar may call and direct a general meeting of the company at the behest of an application of a member of the company. The members of the company can attend in person or by sending a proxy in their place. A proxy is an agent of the member to convey the interests and vote on behalf of the member in the annual general meeting.

2.5.3. Extraordinary General Meeting

This is a general meeting that occurs in the event of a serious issue that requires the input of the members and directors of a company that cannot await the next annual general meeting.

An extraordinary general meeting of the company may be held at the request of a member of the company that holds at least one tenth of the company shares or voting rights. The requisition must state the objectives of the meeting and must be submitted to the registered office of the company. The directors must hold a general meeting attended by members consisting of at least half of the voting rights within three months since the deposit of the requisition. If the company fails to hold a general meeting with at least half of the voting rights then the requisition expires.

Flowchart 6 – Time duration to conduct statutory meetings and report by Ugandan law for companies.

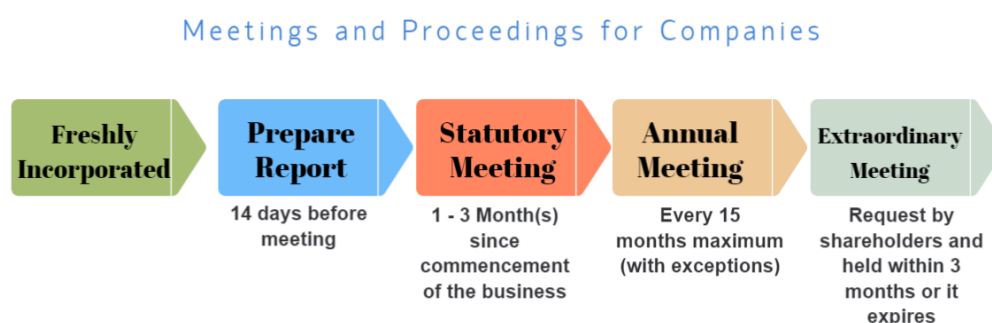


Table 4 – Lists the sanctions imposed on members of a company if they fail to hold their mandatory general meeting and submit the meeting report required by Ugandan law.

Mandatory Requirement	Non-Compliance Sanctions
Statutory Meeting Report – Failure to Submit	A fine not exceeding twenty-five currency points (UGX 500,000, approximately US\$ 135);
Annual General Meeting – Exceeding 15 Month Maximum Time Period	A fine not exceeding twenty-five currency points (UGX 500,000, approximately US\$ 135 USD);

Failure to Follow the Directions of the Registrar	A fine penalty of five currency points (UGX 100,000, approximately US\$ 27)
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2.6. Anti-Money Laundering Compliance

2.6.1. Financial Intelligence Authority

Uganda recently put in place stricter anti-money laundering rules and, like most countries around the world, forbids the practice of money laundering within their territory. Money laundering is defined as the process of concealing the origins of illegally obtained money by passing it through a series of commercial transactions and bank transfers. The act of money laundering is prohibited by almost all countries in the world and it carries a criminal sanction if committed. It is completely normal for governments to have strict anti-money laundering law enforcement and registration with these government enforcement agencies are not any implications that your entity is selected as a suspect of any investigation. In addition, registration is required from certain classes of businesses and entities that are prone to money laundering activity.

The main preventative measure for money laundering practice is keeping track of individuals that are conducting transactions, accounts, and transfers of money and goods. In 2014, the Ugandan government founded the Financial Intelligence Authority (“FIA”) under the Anti-money Laundering Act. The FIA serves as a tool to combat money laundering practices and ensuring compliance with the law. The main focus of the agency is to impose certain duties on businesses and organizations that violate the law of anti-money laundering, confiscate illegal property, report status to the international community, and conduct investigation into suspicious commercial activity in the interest of the integrity of the financial system of Uganda.

It is one of the statutory duties of the FIA to give guidance to accountable persons as defined in the law. The term “accountable persons” include business entities, nonprofit organizations, and other entities that engage in constant commercial activity. The FIA provides guidance to accountable persons regarding customer identification, record keeping, and reporting obligations. In addition, the FIA conducts training programs for accountable persons regarding suspicious transaction and reporting obligations if they deem to be necessary. The authority of the FIA is provided by

Ugandan Law, which permits them to demand and collect any information from accountable persons in order to determine whether they are in compliance with anti-money laundering laws.

2.6.2. Customer Identification for Financial Institutions

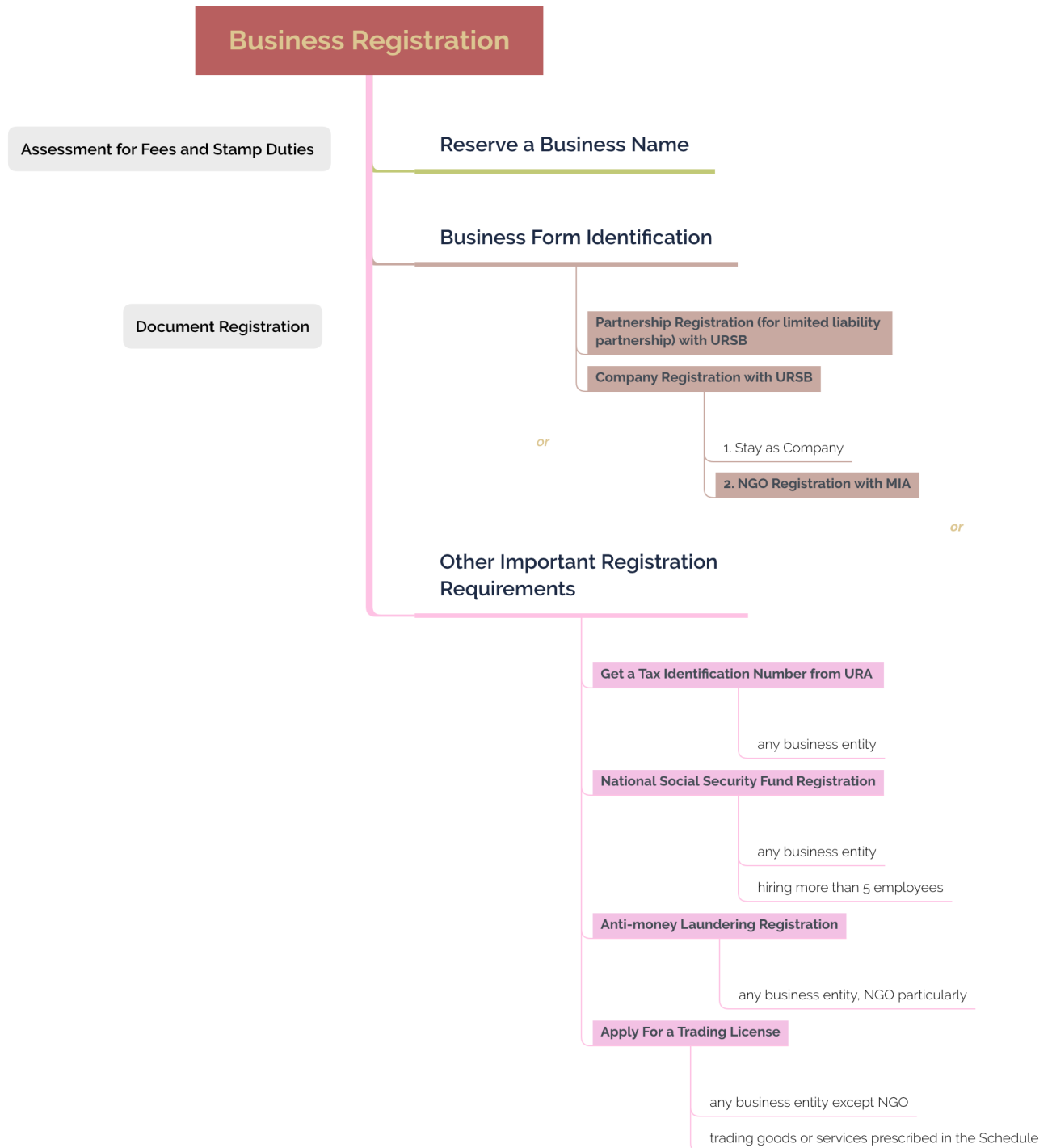
A sole proprietorship and general partnerships are required to provide identification documents to the Financial Institutions if they are not registered. For Sole Proprietorship which has one owner, the owner must provide documentation confirming their identity. For General Partnerships that are not yet incorporated, at least two partners and all authorized signatories must provide evidence of their identity. If the General Partnership is formal with a written arrangement then the partnership must provide a mandate that authorizes an opening of an account and the mandate must confer who is operating the account.

There are more requirements for a company to register with financial institutions in Uganda. A company must provide documents that identify the principal shareholders, directors, and authorized signatories, and the general purpose of the business that is satisfactory to the minimum requirements of the law. The financial institutions will be required to inquire regarding the current status of the company in issues like bankruptcy, dissolution, wound-up, or termination. If the company has a change in management, ownership (shareholders), and other important structures then they must notify the bank regarding the new changes to its structure.

The company must also provide documents in regards to the company's separate identity and its internal operations. These documents include, but not limited to, certificate of incorporation, memorandum of incorporation, articles of association, trading license (if any), and resolution of the board to open an account. After providing these documents, the financial institution can make an account for the company's identity. All these requirements are in the pursuit of combating money-laundering practices in Uganda.

CHAPTER III - BUSINESS REGISTRATION

Flowchart 7 – Business Registration



In general, the process of registering a business in Uganda is depicted in the flow chart above.

Starting with name reservation (Section 3.1), any business in Uganda must have a lawful business name to identify itself.

Next, the type of business entity will determine which kind of registration to follow. Section 3.2 briefly introduces the mandatory registration for limited liability partnership, whereas general partnership does not subject to registration at the establishment stage. Companies limited by shares, companies limited by guarantee and unlimited companies should follow the registration requirements explained under Section 3.3. Then as explained in Chapter II, an NGO mostly first registers as a company limited by guarantee and then follow a procedure illustrates in Section 3.4.

After becoming a lawful business entity, tax, trading license, social security for employees and anti-money laundering registration are closely related to future business activities. Section 3.5.1 explicit how to get a taxpayer identification number as a business (non-individual) taxpayer. For more information about tax issues, please see Chapter V. If the business has more than 5 employees, the employer should register with the National Social Security Fund (Section 3.5.2). Section 3.5.3 lists all public information regarding anti-money laundering registration. Trading license application (Section 3.5.3) does not concern every business entity, but any business that is required to apply cannot trade without a trading license.

Two other important registration procedures are not in the flow but closely associated with the registration process, Assessment for Fees and Duties (Section 3.6.1) and Document Registration (Section 3.6.2). Registration bureaus generally do not charge fees directly. They will issue bank slips after assessing the fees that one need to pay, and entrepreneurs are responsible for taking these slips to a designated bank then pay. Some important documents are required to be registered first before submitting to the authorities during the whole registration process, for example, memorandum and articles of association, certificate of incorporation, partnership agreement and so on.

3.1. Name Reservation

Name reservation is a requirement for all businesses in Uganda under the Uganda Business Names Registration Act 1918. A business name is the name or style under which any business is carried out whether as a company, partnership, or NGO. The business is identified by the reserved name when interacting with clients, businesses, and government bodies.

First, fill the reservation form with three desired names in order of own preference; second, submit the reservation form with confirmation of payment, the receipt from the bank, for the name search. The law has restrictions on certain types of names, which includes immoral names, vulgar names, and names similar to existing ones by spelling or pronunciation, names associated with the government or countries, and abbreviations. If the name passes the similarity, defensive, offensive, and desirability tests, an entrepreneur can then receive a report on confirmation of name availability and a certificate of reservation of a business name. There are name-reservation books where the entrepreneurs can search and check whether the desired name was approved or rejected before and for what reasons.

Table 5 – Name reservation location, time, estimated time and materials

Location	Uganda Registration Service Bureau, the Name Reservation window
Time	2-4 business days
Fee	UGX 22,000 (approximately US\$ 5.4), including UGX 2,000 banking service fee.
Material	Name reservation form (obtained from a Uganda bookshop, or the URSB building, or downloaded from the URSB website)

3.2. Partnership Registration

Under the Partnership Act 2010 and the Partnership Regulations 2016, the registration process for a partnership is different from that for a company. Ugandan law does not require registration of a general partnership at the URSB. However, registering a business name is generally requested if one would like to conduct business with a name.

Limited liability partnership, on the other hand, needs to be registered at the URSB. The registration fee for a limited liability partnership is UGX 24,000 (approximately US\$ 6.5). The following documents are required by URSB: partnership deed, partnership Form 6 (statement for registration of limited liability partnership, and the payment receipt of registration fee.

3.3. Company Registration

Based on the Uganda Companies Act 2012, there is no paid-in minimum capital requirement in Uganda. This means that an entrepreneur can put no money at all in the company at the registration stage. The law requires an entrepreneur to prepare several mandatory documents in order to get a certificate of incorporation. Once these documents are finished, the company must present them in person at the registration window within the URSB. The estimated time for the URSB to review all documents and issue a certification of incorporation is 3-5 days. The certification of incorporation is the legitimate proof that the company is officially registered. After registering as a company, there are other forms that need to be presented to the URSB within certain time periods.

3.3.1. Documents, Time, and Fees for Company Registration

Table 6 - Documents Required by URSB¹⁶

Present upon registration	Present within days of incorporation
<p>For all types of companies:</p> <p>Form S18: Company Registration Form</p> <p>Form A2: Declaration of Compliance</p> <p>Receipts of Payments of Registration Fee</p> <p>For company limited by guarantees:</p>	<p>Form 20: Particulars of the directors and secretary of the company is required to be filed within 14 days of company registration</p> <p>Form 18: Notice of the situation of the Registered Address of the company. This form must be filed with the Registrar of Companies within 14 days of incorporation.</p>

¹⁶ All Forms are available for downloading at the [URSB website](#).

Memorandum and Articles of Association	Form 10: Return of allotment, within 60 days of incorporation.
For company limited by shares: Form A1: Statement of Nominal Capital	Form of annual return for companies limited by shares, to be filed once a year
Memorandum and Articles of Association (optional)	

Table 7 – Fee Schedule for Company Registration

	Company limited by guarantee	Company with share capital	Other Company
Registration Fee	UGX 80,000 (approximately US\$ 21.5)	UGX 50,000 (approximately US\$ 13.5) (nominal capital 1m-5m) UGX 1% of share capital (nominal capital exceeding 5m)	UGX 20,000 (approximately US\$ 5.4)
Stamp Duty	UGX 35,000 (approximately US\$ 9.4)	0.5% of share capital	
Registration of Annual Returns	UGX 30,000 (approximately US\$ 8)	UGX 50,000 (approximately US\$ 13.5) continuous filing	
Stamp Duty on Memorandum &	UGX 35,000 (approximately US\$ 9.4)		

Articles of Association	
Filing Fees	UGX 1,000 (approximately US\$ 0.3) per copy
Continuous Company Form Filing/Registration	UGX 20,000 (approximately US\$ 5.4) per form

3.3.2. Company Seal

Another mandatory step is to get a company seal from a seal-maker. A company seal is used to issue a sense of security and authenticity to protect documents against forgery and to show proof that the decision has been approved by the company. The Companies Act provides that every company shall have its name engraved in legible letters on its seal. The price of making a company seal ranges from UGX 250,000 to UGX 500,000.

3.4. Partnership Registration

Under the Uganda Non-governmental Organizations Act 2016, a legally constituted NGO is a private voluntary grouping of individuals or associations established to provide charitable services to the community, not for profit or commercial purposes. The laws and regulations require that all NGOs to register with the NGO Registration Board in the Ministry of Internal Affairs (“MIA”).

According to The Non-governmental Organizations Regulations 2017, an application for registration of an NGO shall be in Form A (provided in the Schedule in the Regulations) and accompanied by the following documents in the table, and the application for the registration of an organization shall be signed by at least two founder members.

3.5. NGO Registration

Under the Uganda Non-governmental Organizations Act 2016, a legally constituted NGO is a private voluntary grouping of individuals or associations established to provide charitable services to the community, not for profit or

commercial purposes. The laws and regulations require that all NGOs to register with the NGO Registration Board in the Ministry of Internal Affairs (“MIA”).

According to The Non-governmental Organizations Regulations 2017, an application for registration of an NGO shall be in Form A (provided in the Schedule in the Regulations) and accompanied by the following documents in the table, and the application for the registration of an organization shall be signed by at least two founder members.

Table 8 – Documents for NGO Registration

NGO Registration Documents	
	<ul style="list-style-type: none"> ▪ A certified copy of a certificate of incorporation; ▪ A copy of the organization’s governing documents; ▪ A chart showing the governance structure; ▪ Proof of payment of the prescribed fee; ▪ Source of funding of the activities of the organization; ▪ A copies of valid identification document for at least two founder members ▪ Minutes and resolutions of the members authorizing the organization to register with the bureau; ▪ A statement complying with section 45 of the act (staffing); ▪ A recommendation from: 1) District NGO Monitoring Committee (DNMC) where the NGO’s headquarter is located and 2) a line ministry or a government department or agency.¹⁷

Table 9 - Fee Schedule for NGO Registration

Application Fee for Registration of an Indigenous NGO	UGX 100,000 (approximately US\$ 27)
Application Fee for Registration of a Self-regulatory Organization	UGX 60,000 (approximately US\$ 16)

¹⁷ Section 4, The Non-governmental Organizations Regulations 2017.

Fees for a request of certified copy of a certificate/permit/any document in the Registry	UGX 25,000 (approximately US\$ 6.7) per copy
Fees for Search of the Register and Search Report	UGX 20,000 (approximately US\$ 5.4)

3.6. Other Registration Procedures after Becoming A Business Entity

3.6.1. Taxpayer Registration

According to the Public Finance and Management Act 2015, each for-profit business in Uganda are required to have a Tax Identification Number (“TIN”). The company submits a personal inquiry form for each director, and a corporate preliminary inquiry form in application for the TIN. The TIN application can be completed online on the website of the Uganda Revenue Authority (“URA”): <http://www.ura.go.ug>.

The company also registers for Value-Added Tax (VAT) if the company has a threshold of over UGX 50,000,000 (approximately US\$ 13,460) according to the Value Added Tax Act 1996. On uploading the application form online, the system will print out the online form which has to be signed and submitted it to the nearest URA office together with Company Form 20 and a copy of the Certificate of Incorporation of the Company. The Corporate Tax file number is internally assigned upon approval.

3.6.2. National Social Security Fund Registration

National Social Security Fund (“NSSF”) is a social security scheme that is mandatory for employees between the age of 16-55 years old working in private sectors, non-governmental organizations and governmental bodies that are not covered by the government pension scheme. It is governed by the National Social Security Fund Act 1985. Under the Act, all employers with more than 5 employees are obliged to pay an NSSF contribution of 10% of the employee's gross monthly salary. Registration for NSSF authority can be done at the [NSSF website](#), and forms can be downloaded on the site.

3.6.3. Anti-money Laundering Registration Trading License

As mentioned in Chapter II, the Financial Intelligence Authority (“FIA”) has required accountable persons to register with the Authority in accordance with the Anti-money Laundering Act 2013 and the Anti-money Laundering Regulations 2015. The deadline of registration was November 2017. However, both the Act and the Regulation, as well as the FIA official website didn’t provide enough detailed information about the registration, which made the new requirement hardly known to the public. The FIA has extended the deadline before it can embark on non-compliance enforcement.

Table 10 – Information Required by the FIA

Accountable Individuals	Accountable Entities
Name, date of birth, telephone number, postal address, physical address, email address, TIN number, national identification number and profession.	Name, name of representative, date of incorporation or registration, telephone number, registration number, postal and physical address, email address, TIN number, name of managing director/CEO or TIN of managing director/CEO. ¹⁸

3.6.4. Trading License

The Uganda Trade (Licensing) Act 1969 prohibits trading in any goods or services specified in the Schedule of the Act without the possession of a trading license.

Who is eligible to apply for a trading license? Any person carrying out business in the jurisdiction of the Kampala Capital City Authority (“KCCA”) except those who are exempted under Section 8(2) of the Trade (Licensing) Act. Exempted businesses include the following: any trade carried on in a market; the trade of a planter, farmer, gardener, dairy person or agriculturist in respect of sale of his or her own dairy or agriculture produce; the trade of a person in respect of goods made by him or her by his

¹⁸ No legal provisions can be found on this respect. The information is from the African Legal Network. *Legal Alert – Timeline on Registration with the Financial Intelligence Authority*. Available at: <https://www.africalegalnetwork.com/uganda/newsevents/legal-alert-timeline-registration-financial-intelligence-authority/>.

or her handicraft in or any premises where he or she normally resides, or by the handicraft of persons normal: residing with him or her or who are his or employees or members of his or her family.

An entrepreneur can apply for a trading license at the Municipal Authority/Council Authority where the business premises are located. The division of KCCA in the jurisdiction where the business premises are located will conduct an inspection and it issue a trading licenses on behalf of the KCCA. Upon inspection of the company premises, the division also issue the assessment forms for the application fees, which vary with the location of the office. These fees are regulated by the Trade Licensing (Amendment of Schedule) Instrument, 2011. KCCA and its divisions also reserves the right to revoke and cancel the trading license if deemed necessary by municipal inspections (health and building).¹⁹

Table 11 – Documents required for a trading license

New Business	Existing Business
Identification: passport / driving permit / voter’s card.	Identification: passport / driving permit / voter’s card.
Certificate of incorporation	Trading license for the previous year
Memorandum and Articles of Association	KCCA receipt for the previous year
Rent receipt and/or tenancy agreement from the landlord	

Table 12 – Examples of trading license fees

Business or Trade	City Council of Kampala			
	Grade I	Grade II	Grade III	Others

¹⁹ Detailed information and application portal see [KCCA online system](#).

Retailers	UGX 35,000 (approximately US\$ 9.4)	UGX 20,000 (approximately US\$ 5.4)	/	/
Wholesalers	UGX 100,000 (approximately US\$ 27)	UGX 60,000 (approximately US\$ 16)	/	/
Workshop	UGX 50,000 (approximately US\$ 13.4)	UGX 30,000 (approximately US\$ 8)	/	/
Garages	UGX 150,000 (approximately US\$ 40)	UGX 100,000 (approximately US\$ 26.8)	UGX 50,000 (approximately US\$ 13.4)	/

3.7. Ancillary Registration Procedures

3.7.1. Assessment for Fees and Stamp Duties

The Uganda Revenue Authority requires any fees paid after a fee assessment procedure. A company can either go to the assessment centre and present all documents or go through the self-assessment on the URA website at www.ura.go.ug. After the assessment, the authority will issue a form, referred as bank slip or slip-in or payment slip, designated to document in categories the items included in the payment. The stamp duty, a duty payable for each official document, occurs at each step in the process. For more details on Stamp Duty, please see Chapter V. Companies are also required to obtain the payment slip for stamp duty.

In practice, entrepreneurs sometimes receive the payment slip from URSB for the payment of company registration fees and other registration fees. It is advised that entrepreneurs confirm with the authorities about the location of obtaining the payment slip. After the assessment, any registration fees and stamp duties can be paid at a designated bank, and the bank will issue receipts accordingly.

3.7.2. Document Registration

After the incorporation of a business, a company may need to register certain legal documents with the URSB, including power of attorney, deed poll, constitution, affidavit, statutory declaration, memorandum of understanding, agreement, guarantee, promissory notes.

URSB provides document registration services based on the Registration of Documents Act 1922. To register, a company must submit the document in a minimum of three copies, and the documents must be signed by the authorized persons and witnesses or commissioned. Generally, the registration takes 2 days.

Table 13 – Document Registration Fees

Certification Fees	UGX 5,000 (approximately US\$ 1.3) for the first 100 words, and UGX 2,000 (approximately US\$ 0.5) for every folio after the first 100 words
Uncertified copy of documents	UGX 3,000 (approximately US\$ 0.8) for the first 100 words, and UGX 2,000 (approximately US\$ 0.5) for every 100 words after the first 100 words
Search Fees	UGX 2,000 (approximately US\$ 0.5) per record
Registration Fees	UGX 20,000 (approximately US\$ 5.4) per set of 3 copies
Stamp Duty	Documents of no monetary value – UGX 15,000 (approximately US\$ 4) per set of 3 copies. Documents of monetary value – see rates in Stamps Act for details and consult the URA.

CHAPTER IV - LABOR LAW

Key Findings

- The law does not apply the same way depending on the type of employee. Some individuals may not be employed (e.g. migrant workers).
- The employment of ten or more person with disabilities allows the employer to benefit from a fifteen percent tax deduction on all payable taxes.
- The employer must provide documentation to the employee within twelve weeks of the beginning of employment.
- Employees have default rights under the Employment Act 2006. Those may be modified by mutual agreement of the employer and the employee within legal limits.
- Employers have the obligation to apply for medical insurance for every employee.
- The employer must follow a particular procedure when terminating an employee's contract of service in order to avoid any litigation. Most importantly, there must be a valid reason to terminate and the employer must provide the employee with due process.

Labor law regulates the relationship between the employer and the employee in order to establish the best work environment possible. This Chapter will highlight the employer's legal obligation in the field of employment. Those are established in the Employment Act 2006 and the relevant implementing regulations.

The analysis will follow the chronology of employment: choosing a new employee (A), the contract of service, (B), the rights of the employee (C) and the termination of the contract.

4.1. Selecting a New Employee

In this Section we will discuss some rules that an employer must keep in mind when choosing a particular employee.

4.1.1. Child Labor

Children are not able to work under the age of 12. From 12 to 14 years old they can contribute to light work under adult supervision, and as long as it does not affect his/her education. It is to the labor officer to judge whether the work is light or not. Moreover, any child under the age 18 may only work from 7 a.m. to 7 p.m.

4.1.2. Migrant Workers

It is an offence to employ anyone whom the employer knows is present unlawfully in the country. This prohibition is related to illicit or organized clandestine movement of migrants.²⁰

4.1.3. Family Members

Ugandan law carves out companies in which the only employees are dependant relatives of the employer as long as the total number of dependent relatives does not exceed five. In other words, a parent that own a family undertaking that is driven by the work of their children will not have to abide by the rules explained in this Chapter.²¹

4.1.4. Person with Disabilities

Under the Person with Disabilities Act 2006, person with disabilities must not be discriminated against in regard to any job application procedures, hiring, promotion, compensation training and any privileges of employment. It will not be considered as discrimination if the employer requires the employee to take medical examination in order to evaluate his or her ability to perform job related functions.

Also, employers must carry out appropriate modification in their work premises to facilitate the employment of persons with disabilities. The cost incurred as a result of those modification can qualify the employer to claim tax exemptions.

The government incentivizes the employment of person with disabilities by granting a fifteen percent tax deduction on all payable taxes to any employer who

²⁰ Section 37, The Employment Act 2006.

²¹ Section 2, The Employment Act 2006.

employs ten or more persons with disabilities on a regular basis or as apprentices or learner on a full time basis.

In order to know whether a person can be considered as having a disability, the employer must consult a medical officer.

4.1.5. Non-discrimination

Discrimination of any kind in regards to the job application procedure, hiring, promotion, compensation are prohibited. In other words, this means that an employer shall not distinguish, exclude or prefer any employee in a way which makes his or her employment condition less favorable, on the basis of race, color, sex, religion, political opinion, national or social origin, the HIV status or disability.²²

4.2. Employment Documentation

The relationship between the employee and the company is contractual. In short, the employee agrees to perform a particular task for the company in exchange of payment. It is necessary that the terms of this relationship do not change throughout the employment unless both employer and employee agree to. Also, in the event of a conflict between the employer and the employee, the labor officer may need to refer to the agreement make a decision. Two documents are relevant to this section: the contract of service and the written statement of terms.

4.2.1. The Contract of Service

It is any contract under which a person agrees in return for remuneration to work for an employer. It may be written or unwritten, implied or expressed. The concept of unwritten implied contract refers to the situation the contract of service arises out of the employer and employee's behavior: the employee effectively works for the employer in return for a remuneration.²³

²² Section 6, The Employment Act 2006.

²³ Section 2, The Employment Act 2006.

4.2.2. Written Particulars

Whether the contract is written or unwritten, the employer has the obligation to provide to the employee a written notice containing particular information regarding the employment. This must be done not later than twelve weeks after the beginning of employment.

The notice must contain the following information: the name and addresses of the employee and the employer; the date on which the employment began; the title of the employee's job; the place where the employee will perform his duties; the employee's wage including any rate for applicable to overtime work; the number of days of annual leave and the employee's entitlement during this leave; the terms and conditions regarding sick pay, the length of notice for lawful termination.

4.2.3. The Contract for Services

The employer may agree on a contract for services with an independent contractor. The latter will not benefit from the employee status and the statutory rights attached to this status. The status of independent contractor is usually more suitable to part-time, casual, temporary or seasonal workers.

4.3. The Employee's Right

Once a new employee is hired, he or she will automatically benefit from new statutory rights ensuring a safe working environment. This Section will highlight the most important rights of the employee, differentiating between mandatory rules and default rules which may be modified in an agreement between the employer and the employee.

4.3.1. Working Hours

Employees are entitled to at least a day of rest every six consecutive days of work for the employer, and a 30-minute break when working 8 hours a day or more. Moreover, on a weekly basis, the default rule is that an employee shall not be asked to work more than 48 hours. The employer and employee may decide otherwise within the maximum limit of 10 hours per day and 56 hours per week. Finally, it is usually considered that the hours worked in excess of 48 hours in any one week are overtime

hours which are remunerated one and a half times the normal hourly rate. This may be modified by an agreement between the employer and employee.²⁴

4.3.2. Annual Leave

Every 4 consecutive months of work, employees benefit from 7 days of holidays with full pay. Only some employees benefit from this rule: (1) it must have worked continuously for the employer for a minimum period of six months and (2) it must work at least 16 hours per week.²⁵

4.3.3. Sick Pay

An employee is entitled to wage and all other the benefits under the contract of service during the first month of absence due to sickness (which must be ascertained by a medical statement). This benefit will only be available to employees that have worked for at least a month of continuous service. Moreover, if the employee's sickness lasts more than two months, the employer will have the right to terminate the contract of service.²⁶

4.3.4. Medical Insurance

In case an employee is injured in the course of employment the employer will have to compensate the employee if this results in permanent incapacity or the worker is incapable of working for at least three consecutive days.

The liability of the employer is very extensive. For instance, the employer is liable for any injury suffered by the employee when traveling to or back from work. Also, compensation must be paid even if the employee acted recklessly or negligently. The risk of an employee getting an injury is high and costly.

To address this risk, employers have the obligation to insure their employees against injuries or diseases which may be incurred in the course of their employment.

²⁴ Section 51 -53, The Employment Act 2006.

²⁵ Section 54, The Employment Act 2006.

²⁶ Section 55, The Employment Act 2006.

The lack of adequate insurance is an offense for which the employer may be liable to a minimum fine of UGX 200.000,00 (approximately US\$ 53).

4.4. Termination

As any contractual relationship, a contract of service can be unilaterally terminated. In this Section, we will discuss the issues an employer may face when deciding to terminate a contract of service as well as the statutory process the employer must comply with.

When deciding to terminate an employee, the employer must make sure the reason invoked is not unfair; then comply with due diligence obligation: notify the employee of his intent and motivation to terminate the contract of service, allow the employee to answer; then if the employer actually decides to terminate the contract, he or she will have to notify the employee and wait for the notification period to elapse before actually terminating the contract.

The employer may avoid the notification period, if he or she considers that the employee breached a fundamental obligation arising under the contract. There is no definition of what constitutes a fundamental breach, it is the labor officer that will decide whether summary termination was justified or not. In parallel of notifying the termination, it is recommended that the employer and employee make a settlement on the terms of termination. This will permit to avoid a further complaint brought by the employee against the employer.

Two types of conflicts may arise out of termination. The employee may complain that the termination was unfair. If the labor officer considers the termination is unfair it will have the choice between asking the employer to compensate the employee or to reinstate the employee. In parallel, an employee may complain that the employer should have respected the notification requirement and therefore the summary termination was unfair. If the labor officer sides with the employee, the employer will have to compensate him or her. Both conflicts are nonexclusive.

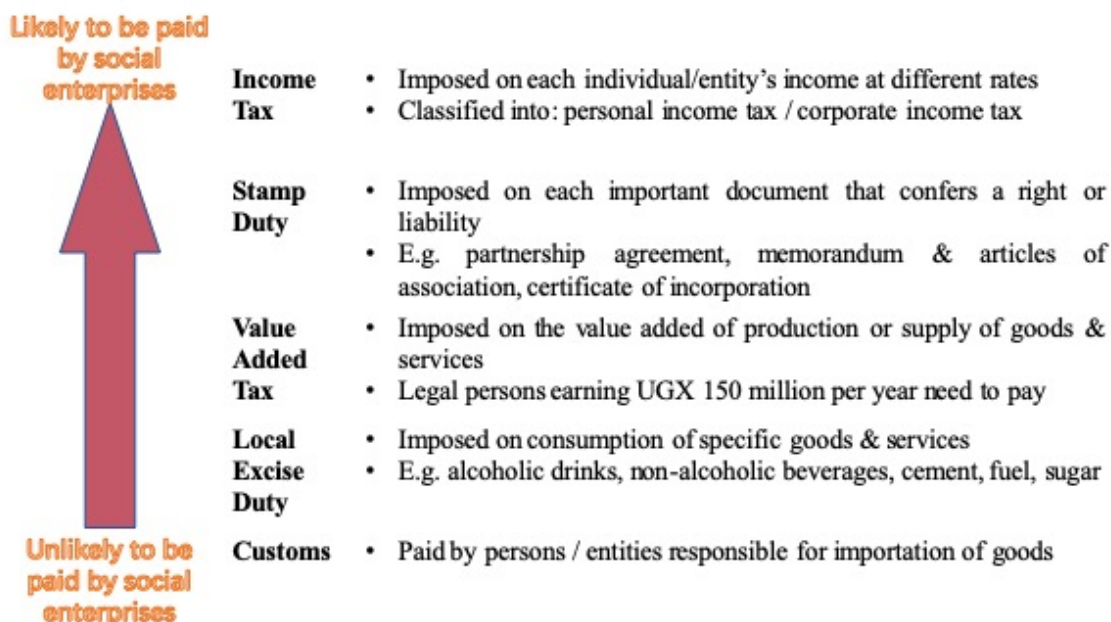
Flowchart 8 – Termination of an Employee



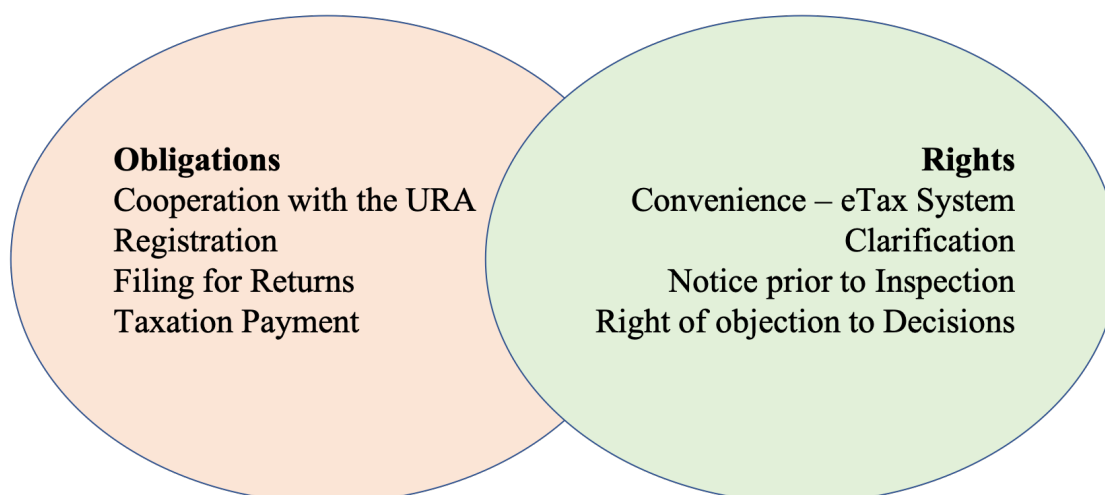
Note: The Act referred to in this flowchart is the Uganda Employment Act 2006.

CHAPTER V – TAX

Take-Aways of Five Important Taxes



Taxpayer’s Obligations & Rights



Paying tax is considered as a civic duty, and it is also a requirement of the law. Government raise revenues from taxes, and tax revenue is used to foster economic

growth and to provide quality infrastructure that benefits enterprises. An entrepreneur who fails to pay taxes will face penalties from the government, such as fines or even imprisonment. Recent survey data has shown that businesses consider Uganda’s tax rates to be among the top five constraints to their operations and tax administration to be among the top 11.

This Chapter, divided in two sections, will present basic information that an entrepreneur has to know about taxation in Uganda. The first Section introduces five types of taxes which are the most relevant for social enterprises: income tax (particular corporate income tax), value added tax (“VAT”), local excise duty, stamp duty, and customs / import duties. The next section outlines the rights and obligations that a Ugandan taxpayer has based on Ugandan laws and regulations.

5.1. What Types of Tax Could Apply to a Social Entrepreneur?

5.1.1. Income Tax

Income tax is a tax imposed on a legal person’s taxable income at specific rates. Legal persons include individuals, companies, partnerships, trustees, retirement funds, NGOs, government and sub-divisions of government, and listed institutions. Income tax, administered under the Income Tax Act 1997, is charged on each taxpayer who has chargeable income each year. Chargeable income and residency are two pillar figures in order to calculate the corporate income tax. Chargeable income includes business, employment and property income. Certain incomes by law are not taxed referred to as exempt income and are listed in Section 21 of the Income Tax Act.

Table 14 – Important Income Tax Alerts for Different Business Forms

Business Forms		Income Tax		
		PAY E	Corporate Income tax	Other Income tax
Sole Proprietorship		yes	no	The Income Tax Act detailing regulates what other incomes are subject to taxation.
Partnership	as entity	yes	no	

	as partners	no	no
Company	as entity	yes	yes, if reaching the threshold
	as member / shareholder	no	no
NGO	as entity	yes	no
	as founder	no	no

Table 15 – Business Income & Property Income & Employment Income

	Definitions	Examples
Business Income	Any income derived by a legal person in carrying on a business, either of a revenue or capital nature	1) Sales; 2) Gains and losses from the disposal of business assets, such as land and buildings; and 3) value of any gifts derived by a person in the course of, or by virtue of, a past, present, or prospective business relationship
Property Income	1) Any dividends, interest, natural resource payments, rents, royalties and any other payments derived by a person from the provision, use or exploitation of property; 2) The total amount of any contribution made to a retirement fund during a year of income by a tax-exempt employer; 3) Any other income derived by a person but does not include an amount which is business, employment or exempt income.	
Employment Income	Individual's income obtaining from employment.	

a. Corporate Income Tax

Under the income tax regime, income tax imposed on companies is referred to as corporate income tax, or corporation tax. The current rate of corporate income tax in Uganda is 30%. To qualify as a Ugandan taxpayer, a resident company is one which is incorporated in Uganda under Uganda law; and is managed or controlled in Uganda at any time during the year of income; and undertakes a majority of its operation in Uganda during the year of income.

Generally, to calculate the income tax liability, allowable deductions are reduced from gross income. Allowable deductions are expenditures and losses incurred when deriving chargeable income, such as interests, bad debts, repairs, depreciation, initial allowances, start-up costs (25% per year for 4 years), costs of intangible assets, farm work deductions (20% for 5 years), meals, etc.

b. Partnership Income Tax Regime

Section 65 to 69 of the Uganda Income Tax Act regulates the taxation of partnerships and partners. A resident partnership is one where any of the partners was a resident person in Uganda during the year of income.²⁷ Chargeable partnership income is the gross income of the partnership for that year calculated. A resident partner is allowed a deduction for a year of income for the partner's share of a partnership loss for that year.

c. Pay-As-You-Earn (PAYE)

The Pay-As-You-Earn scheme is individual income tax paid by the employees but collected by every employer. It is calculated based on each employee's employment income upon the business becoming operational. Rates are applied depending on the employee's yearly income; for instance, Employees earning below UGX 1.56 million (approximately US\$ 417) do not pay PAYE, 10% is taxed on incomes exceeding UGX 1.56 million but not exceeding UGX 2.82 million (approximately US\$ 754). The amount increases as the income increases.²⁸

²⁷ Section 12, The Income Tax Act 1997.

²⁸ The Income Tax (Amendment) Act 2012.

NGO does not pay corporate income tax, but it still has an obligation to withhold PAYE from employment income. Employers should deduct the correct tax from the employee's total employment income at the time of effecting payment to every employee. The deadline of PAYE payment is the 15th of each month. Every employer should maintain records and keep them for inspection by URA on demand for at least 5 years.

5.1.2. Stamp Duty

Stamp duty is a duty payable upon every document that confers any right or liability as it is created, transferred, limited, extended, extinguished, or recorded. The documents are referred to as instruments. Importantly, not all documents are subject to stamp duty, but only those specified by the law, the Stamps Act 1915 and its Amendments; the Stamp Instruments; and the Stamp Duty Bill. Instruments for stamp duty, which are relevant to the business, include but not limited to the following: partnership agreement, memorandum of association of a company, articles of association of a company, and certificate of incorporation.

5.1.3. Value Added Tax

Value Added Tax (VAT) is an indirect tax²⁹ paid by a person who consumes or imports goods and/or services in Uganda. The tax, administered under the Value Added Tax Act, is charged on the value added at different stages of production or supply of goods and services.

Taxpayers that are required to register may be one of the following: an individual, a partnership, a company, a trust, the government as well as public or local authority. For social entrepreneurs, one thing that needs to be aware of is that legal persons who make taxable supplies in excess of UGX 37.5 million (approximately US\$ 10,023) in any 3 consecutive calendar months are required to register for VAT. Legal persons whose taxable supplies are below UGX 37.5 million are only eligible to register but it is not mandatory.

²⁹ Indirect tax is a tax collected by an intermediary (such as a retail store) from the person who bears the ultimate economic burden of the tax (such as the consumer).

General requirements for VAT Registration include: 1) the applicant must have a fixed place of abode or business; 2) the applicant should be able to keep proper books of accounts; 3) the applicant should be able to submit regular and reliable tax returns; 4) the applicant should be a fit and a proper person in the opinion of the Commissioner General.³⁰

5.1.4. Local Excise Duty

Local Excise duty is a tax on consumption of specific goods and services. This tax is administered under the Excise Act 2014. The current rates of Excise duty are listed in the 2nd Schedule of the Excise Duty Act 2014 as amended. The Schedule, which is subject to frequent change, includes excisable goods and services and the rates.

Excisable goods and services include: 1) cigarettes, 2) beer, 3) spirits, 4) wine, 5) non-alcoholic beverages, excluding natural fruit juice drinks and/or vegetable juice drinks containing not less than 10% by mass of standardized fruit and/or vegetable juice, 6) mineral water, bottled water and other processed, 7) cement, 8) fuel, 9) cane or beet sugar and chemically pure sucrose in solid form water purposely for drinking, 10) cane or beet sugar for industrial use, 11) Sacks and bags of polymers of ethylene and other plastics except vacuum packaging bags for food, juices, tea and coffee, 12) cosmetics and perfumes, 13) telecommunication services, and 14) ledger fees, ATM fees, withdrawal fees and periodic charges and other transaction and non-transaction charges excluding loan related charges periodically charged by financial institutions.³¹ The excise duty rate ranges from 10% to 160%, according to the Schedule.

Either individuals or businesses dealing in excisable goods or services should get a license upon their premises from URA. The license is renewed annually.

5.1.5. Customs

When goods are imported into Uganda, customs, or import duties and charged to the person/entity responsible for importation. In Uganda, customs are paid through self-assessment procedures, whereas taxpayers use Direct Trader Input centres to make

³⁰ Section 8, The Value Added Tax 1996.

³¹ Schedule 2, The Excise Act 2014.

declarations of goods which are captured into the Automated System for Customs Data (ASYCUDA) to enable payment of customs in designated banks.

5.2. What Rights & Obligations Do You Have as Ugandan Taxpayers?

5.2.1. Taxpayer Obligations

Paying taxes is a civic duty for each Ugandan social entrepreneur. Taxation duties under Ugandan laws include taxpayer registration, filing for returns and tax payment.

In addition, Ugandan taxpayers are supposed to cooperate and deal with only the authorized staff from the Authority. Taxpayers shall honestly make full disclosure of information and correct declaration of all transactions at all times. And do not indulge in any form of tax evasion and other illegal behaviours prohibited by the law.

Social entrepreneurs shall fulfil tax obligations in order to promote businesses activities legally. According to the Tax Procedures Code Act 2014, tax evasion, and any other non-compliance with Uganda tax law may lead to the following consequences: 1) liable to pay the tax together with any penal tax and interest thereon; or 2) liable on conviction to a fine; or 3) liable on conviction to imprisonment not exceeding two years.

5.2.2. Taxpayer Rights

Ugandan government and its taxation bureaus, including the URA, are obliged to assist Ugandan taxpayers in facilitating tax-related issues compliance. Whenever a taxpayer has questions, complaints or requests, he/she can ask the tax authority and administrative staff for clarification and explanation.

The URA has its modernized e-TAX system (<http://www.ura.go.ug/>) to cater for registration, filing of returns, assessments and tax payments of taxpayers. E-TAX enables taxpayers to lodge their applications online through the web portal, from anywhere on the globe as long as they are connected to the internet. As the application is being processed, the applicant will be contacted in case of any inquiry, interview or inspection. Upon approved, the applicant will be issued a Tax Identification Number (TIN). The taxpayer, once has a TIN, will be able to log onto the web portal and create

his/her own account for any further transactions. For filing of returns, the taxpayer can also fulfil its obligation on the web portal. Payments of tax are required to be made to URA using the e-payment process on the web portal as well. The web portal works 24/7 and URA has toll free lines and an email address to service taxpayers.

Under the law, taxpayers shall be given prior notice whenever their premises are subject to inspection of if an audit is to be conducted. And any administrative decision rendered by the authority will be combined with reasons and justifications.

A taxpayer who is dissatisfied with a tax-related decision has a right of objection. He/she may lodge an objection with the Commissioner within 45 days after receiving notice of the decision. The Commissioner, after reviewing the objection, may make a decision on the objection. Further, if the taxpayer still dissatisfied with the objection decision made by the Commissioner, he/she may, within 30 days after being served with a notice of the objection decision, lodge an application with the Tax Appeals Tribunal for review of the objection decision. And if he/she dissatisfied with a decision rendered by the Tribunal, may within 30 days after being served with a notice of the Tribunal decision, lodge an application with the High Court for review.

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