



REQUIREMENT OF BENEFICIAL OWNERSHIP AND TAX IMPLICATION IN COMPANY MANAGEMENT IN TANZANIA

1.0 Introduction.

Tanzania is a country founded under the union of two countries, Tanganyika (Mainland Tanzania) and Zanzibar, located in the wings of East Africa and it falls under the common law legal system. For the purpose of Company registration and Management, each part of the union has its independent system of handling company affairs.

Ever since after independence, Mainland Tanzania has been undergoing several legal reforms that were established during colonial era. These reforms have necessitated various amendments of the law.

2.0 Impact of Beneficial Owner in Company Law

The Finance Act of 2020 amended various laws including the Companies

Act, of which it has introduced some new aspects in the Company laws. Among of the new concept introduced by this new amendment is an Aspect of “*Beneficial Owner*”.

Beneficial Owner has been defined by the amended act to mean, a natural person –

- (a) who directly or indirectly ultimately owns or exercises substantial control over an entity or arrangement;
- (b) who has a substantial economic interest in or receives substantial economic benefit from an entity or arrangement directly or indirectly whether acting alone or together with other persons;
- (c) on whose behalf an arrangement is conducted; or
- (d) who exercises significant control or influence over a person or

arrangement through formal or informal agreement.

In that regard a company by itself is an artificial person hence, does not qualify to be a beneficial owner over the other company, except for natural person only.

The Companies (Beneficial Ownership) Regulations of 2021 were introduced by Government Notice No. 391 of 2021 and published on 14/5/2021. These regulations have highlighted how Beneficial Ownership should be carried out in order to reflect its purpose in the Companies Act.

3.0 Important aspects addressed in Companies (Beneficial Ownership) Regulations of 2021

3.1 Reporting Procedure

All the companies registered by virtue of the Companies Act has to identify the beneficial owners and submit their particulars to the Registrar of companies. This is done pursuant to Regulation 3(1) and (2), in case the company fails or default to comply with this requirement, the company, every officer, shareholder and the

Beneficial Owner of the Company who is in default shall be jointly and severally liable to late filing fee in accordance to these regulations.

3.2 Notification of changes

The company if wishes to make changes of its beneficial owner, shall notify the Registrar of Companies within thirty days' notice from the date of change, this is done pursuant to regulation 5 (1) and (2). A notice of change of beneficial owner of the company must be signed by at least one director of the company or the company secretary and accompanied by a true certified copy of the official identification document for every beneficial owner, thereafter shall be submitted to the Registrar of Companies.

3.3 Submission of Beneficial Owners Documents

Any documents required to be submitted by a Beneficial owner, may be submitted in such a format deems fit and appropriate by the Registrar, and by such a means

including electronic form or in any electronic communication.

4.0 Tax Implication of Beneficial Owner

The introduction of Registration of Beneficial owner's interest has some tax legal implications. Per the Tax laws, whomsoever receives income whether directly or indirectly for the services or work done accrued in Tanzania is subjected to taxation. This goes beyond to any nonresident person who has declared Beneficial Owner interest in the Company as long as the source of income accrued from Tanzania only. In that respect even interests, dividends and royalties received by a beneficial owner falling under Income Tax hence will be subjected accordingly. Under this implication it is as good as saying the revenue authority has expanded scope of

tax implication through registering Beneficial owner interest.

5.0 IMPORTANT NOTICE

It is very important to assess the number of beneficial owners and register them to the Registrar of Companies without default. Failure to do that may result to fine implications which may cost the company, its directors, shareholders and the beneficial owner at large.

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