

LIQUIDATION PROCEDURES REVISED

In November 2013, amendments to the Civil Code of the Republic of Azerbaijan and Law of the Republic of Azerbaijan “On State Registration and State Registry of Legal Entities” were introduced. The said amendments entered into force in December 2013 and affected the process of termination (liquidation and deregistration) of legal entities.

Satisfaction of Debts

If an entity is liquidated pursuant to the resolution of its participants/shareholders or a body authorised by the charter, the participants/shareholders or the authorised body must request that the management body of the entity resolve on the ability of the entity to satisfy creditors’ claims within twelve months of the start of the liquidation.

The management body must pass the requested resolution no later than 20 days prior to the date of the resolution to liquidate. If the management body is unable to pass such resolution, then an independent auditor can be engaged to confirm an ability of the liquidated entity to satisfy creditors’ claims.

Time Limitation

Time limitations were introduced to the liquidation procedure and if the deregistration does not complete in one year, the liquidation process must be started anew.

Resolution to Liquidate

Provisions regarding the resolution to liquidate were introduced. The resolution must provide for an appointment of a liquidation commission, upon which the liquidation process starts. During the liquidation process, a legal entity maintains its legal capacity in full.

Participants of a legal entity or its authorised body perform the duties of the liquidation commission only in the liquidation process while the liquidation commission represents the entity in courts. The liquidation commission is responsible for the sale of a legal entity’s assets in order to pay outstanding debts and to distribute remaining balance (if any) among the participants of the entity.

In case of deregistration of a non-commercial entity (a public association, fund, and union of legal entities), the balance remaining after the outstanding debts are paid is used for the purposes defined in the charter of the non-commercial entity and, if it is not possible, the balance is transferred to the state budget.

Liquidation Process

Within ten days of appointment, the liquidation commission must publish the initial information about the liquidation process and the process and period for submission of claims by creditors. The same information must be published again two times more in 15-20 day intervals. The term, during which, the creditors must submit their claims cannot be less than 60 days from the first publication.

Within 15 days of appointment, the liquidation commission must submit the following documents to the state body responsible for registration of legal entities:

- resolution to liquidate;
- resolution on the ability to satisfy creditors' claims;
- documents showing the publication of relevant liquidation information; and
- corporate seal.

The relevant state body must include the said information into the state registry within five days of receipt of the above documents. Afterwards, during the liquidation process, a legal entity must use a special stamp bearing the words "in liquidation process" on all its documents.

In case liquidation commission does not agree with a creditor's claim, the creditor can file a claim in court and, during the court proceedings the amount required to satisfy such claim is secured ("frozen").

Within ten days of expiration of the period, during which creditors must submit their claims, the liquidation commission must approve an interim balance sheet. A participant of an entity holding at least ten per cent of the charter capital who is not satisfied with the interim balance sheet is entitled to call the general meeting within seven days of receipt of the interim balance sheet. In such a case, the interim balance sheet must be approved by the general meeting.

Once all creditors' claims have been satisfied, the liquidation commission must prepare a plan related to the distribution of liquidated assets among participants of a legal entity. Within ten days of an approval of the liquidation distribution, the liquidation commission must transfer the remaining assets to the participants in accordance with the liquidation plan.

Within ten days of the distribution of the liquidation assets (or the assets remaining unused), the liquidation commission must submit the reports in relation to the distribution and other relevant documents (such as the registration certificate, charter, stamp bearing the words "in liquidation process") to the relevant state authority (for commercials, the Ministry of Taxes). After the relevant information has been included into the registry, a legal entity becomes deregistered.

Any obligations in relation to the legal entity arising after the legal entity has been deregistered, do not create grounds for the renewal of the deregistration process.

PLEASE CONTACT US FOR ANY QUESTIONS AND FURTHER INFORMATION AT:

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