

SUMMARY

Key Words: legal entity, constituent documents, state registration, location, management bodies, reasons for refusal of state registration

Subject matter: The emergence (creation) of a legal entity under the laws of the Russian Federation.

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The relevance of the research topic. Legal entities are the main participants in business relations. The adoption and execution of the decision on the creation of a legal entity is quite a responsible and very difficult step in the process of creating an organization. In the conditions of instability of the world and domestic economy, great competition in the field of market economy, a person who wants to have his own business often encounters a number of problems that consist in solving the following questions: how to make a state registration of his organization, what constituent documents need to be prepared for this what corporate name should be chosen for the legal entity being created and registered, where and at what address it is better to register the organization, compliance with the deadline supplying a desired packet for registering documents in USRLE etc. To do this requires knowledge of a number of laws, professionalism and foresight. Not everyone can act effectively in the market economy, especially if you start a business in a big city. The problem lies in the fact that people are often narrow specialists and, being well-versed in their field of activity, they may not know the subtleties of legislation and legal documents, because it is not every day that you have to create a legal entity.

Most of all difficulties arise in the process of creating and registering legal entities whose activities are subject to licensing.

For this reason, it is necessary to improve both the process of creating and registering legal entities, as well as the legislation of the Russian Federation, regulatory documents governing the relevant processes.

These problems are particularly acute in the banking sector, because in the process of creating and organizing new banks in the form of joint-stock companies, it is necessary to be guided by specific financial (banking) legislation.

The purpose of the work: the work is to study the order of occurrence (creation) of a legal entity under the laws of the Russian Federation and finding ways to improve the regulatory framework for the creation of a legal entity.

Objective:

- 1) explore the procedure for the formation and competence of the governing bodies of a legal entity;
- 2) to consider the legal capacity and liability of a legal entity;
- 3) to determine the features of the preparation of constituent documents;
- 4) to identify features of the creation of branches and representative offices of legal entities;
- 5) to analyze the process of state registration of legal entities;
- 6) identify problems in creating a legal entity and the reasons for refusal of state registration;
- 7) to identify ways to improve the federal laws and regulatory framework for the creation of legal entities, their branches and representative offices.

The theoretical and practical significance of the research that the theoretical and practical significance of the research results is that all the conclusions and proposals in the thesis can be used to improve the regulatory documents and federal laws on legal entities in general, and the process of creating (arising) legal entities in the Russian Federation, when implementing activities of registration authorities during the registration of legal entities. At the same time, the conclusions and proposals can be applied in the process of further study and analysis of the

problems of the legal status of legal entities, their creation, as well as the formation and formation of the civil legal capacity of legal entities.

Results of the study:

1. The process of creating a legal entity is a sequence of actions that begin with the manifestation of the will of one person or several persons.
2. Each legal entity has the exclusive right to its name, which should reflect its organizational and legal form, can consist only of words denoting the type of activity, and in the future should be indicated in the constituent documents.
3. As the address of the location during registration, it is allowed to indicate the address of registration (propiska) of the sole executive body, while registration in the residential premises is not allowed.
4. If there are discrepancies in the information specified in the memorandum and articles of association, it is necessary to be guided by the provisions of the articles of association.
5. Currently, a large number of legal entities that do not carry out their activities, so-called "one-day firms", have been created and are being registered, and therefore the information contained in the USRLEY has lost its main task - to reflect actual information about legal entities, and reflect formal information about legal entities.
6. When creating a legal entity, an applicant is entitled to be an individual who has reached the age of majority (18 years) or sixteen years of age, with the written consent of his legal representatives - parents, adoptive parents or guardian (emancipation).
7. The procedure for state registration of legal entities is simplified if the newly created legal entity conducts business on the basis of the standard form of the charter.
8. The tax authorities during the registration of legal entities do not carry out the necessary checks to identify the direct (hidden) beneficial owners of legal entities provided for by the requirements of art. 6.1 of the Federal Law No. 115-ФЗ "On Counteracting Legalization (Laundering) of Proceeds from Crime and Financing of Terrorism.
9. The registration authority, in the process of checking and examining documents submitted by a legal entity for state registration, has the right to decide to refuse registration.
10. A major drawback of the Federal Law No. 129-ФЗ "On State Registration of Legal Entities and Individual Entrepreneurs" is the lack of requirements to provide to the registering authority the documents confirming the address of the legal entity, which is specified in the constituent documents.
11. The registering authority is liable for violation of the procedure for state registration of a legal entity established by the legislation of the Russian Federation, and also compensates for the damage that the state registration was denied or denied due to its fault.
12. The registering authority has the right to appeal to the court with a request to liquidate a legal entity, if in the process of its creation serious violations of current legislation or other regulatory acts that are ineradicable, as well as in case of numerous violations of current legislation or other regulatory acts were committed. legal acts of state registration of legal entities.

Recommendations:

1. In order to reduce the number of legal entities with a similar name, it is necessary at the legislative level to secure the right of the tax inspectorate to monitor and verify the presence of legal entities with the same name in the USR of the same legal form in the same territory within which the newly created a legal entity intends to carry out its activities.
2. In order to reduce the number of litigations relating to refusals of state registration of legal entities, and to avoid making false information in the USRLE about the address of the legal entity, it is necessary to introduce appropriate amendments to the Law on Registration and other regulatory legal acts of the Russian Federation governing the registration of legal entities persons who will be to perform a mandatory on-site inspection by employees of the registering authority at the address specified in the constituent documents and application, in order to confirm the

reality of finding a business.

3. It is necessary to toughen the penalties provided for in Art. 14.25 of the Administrative Code and Art. 173.1 of the Criminal Code in terms of bringing to responsibility both officials representing inaccurate information about legal entities, since they confirm in writing the accuracy of the documents submitted for state registration, and for all participants of newly created legal entities.

4. It is necessary to keep a register of data on persons who were brought to responsibility for submitting to the registering body any inaccurate information about newly created legal entities.

5. As a result of insufficiently high legal qualifications of the employees of registering bodies, the process of creating and registering legal entities should include the stage of filing documents with the judicial authority, for more detailed legal expertise of the constituent documents provided for registration with the tax authority, for compliance with current legislation, or legislative level to fix the obligation of tax authorities to carry out such expertise, in connection with which it is necessary to raise special qualifications requirements for employees of tax inspectorates performing the registration function.