



N. XENOFONTOS LLC

Valid Transfer of Shares under Cyprus law



Introduction

Shares of private limited companies are personal property of the owner, considered as movable property. As such, shares may be transferred according to the provisions laid out in the company's articles of association.

In the case of a private company the right to transfer shares is restricted usually in the form of pre-emption clauses or by conferring on the directors the power to refuse to register transfers (in some circumstances).

The manner in which shares may be transferred is, by practice, done by an instrument of transfer. By instrument, we mean something in writing. Thus, it is unlawful for a company to register a transfer unless a proper instrument of transfer, duly signed by the transferee and the transferor has been delivered to the company, in original form, in accordance with section 73 of the Companies Laws of Cyprus, Cap. 113, as amended ("Law").

Despite no requirement for the instrument of transfer to be witnessed, for evidential purposes, it is prudent to do so in case such transfer is disputed at a later stage. A resolution of the Board of Directors will be required to approve the transfer.

Any transfer of shares of a private company with share capital is to be notified to the Registrar of Companies in the prescribed form, within 14 days from the date the transfer has been registered in the company's register of member, as required by section 113A of the Law.

Steps & Documents

- A duly executed instrument of transfer delivered to the company
- Board of Directors resolution approving the transfer
- Insertion of the name of the transferee in the company's register of members
- Delivery of new share certificate to the transferee (within 2 months) that is a prima facie evidence of title to the shares
- Filing of prescribed Registrar's form (HE57) with the Registrar of Companies within 14 days from the registration of the transfer in the register of members

Rights of Transferee

Until the transfer has been registered, the transferee has only an equitable right to the shares. Legal ownership is only assumed once the transferee's name is entered in the company's register of members. Hence, the statutory filing of form HE57 with the Registrar does not affect the validity of the transfer, even if all the statutory requirements were met.

Default

Where a company defaults in complying with the provisions regarding the register of members and entering the particulars therein, the company and every officer in default are liable to a 'default' fine. Aggrieved persons whose name has neither been omitted from the register or entered without due cause, may by application, apply to the competent court to have the register of members rectified.

If you would like to know more about how we can help you, please get in touch.

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