

COMMERCIAL BOOKKEEPING: FIRST INSIGHTS

LIKE IN MANY OTHER JURISDICTIONS, under the *Commercial Code* (hereinafter the Code) commercial entrepreneurs (and companies) are legally obliged to have organized bookkeeping to enable a chronological understanding of their operations. The commercial books can be organized directly by the entrepreneur or by any other person duly authorized by him (namely, accountants or employees).

COMPULSORY BOOKS:

The Code sets up compulsory and voluntary books. The compulsory books are the following: inventories, balance sheets, diary, accounting book and copy letter-book. In addition to these general books applicable to entrepreneurs and companies, the Code sets books for companies, either general (e.g., the minute books) or special books, depending on the type of companies (e.g., the register of shares). Entrepreneurs and companies must keep the books for 10 years counting from the last entry.

LEGALIZATION OF COMPULSORY BOOKS:

The legalization of compulsory books consisting in the signature of the opening and closing statements, as well as in the indication, on the last sheet of each one, of the number of sheets of the book and, on all sheets of each book, the respective number and initials, is compulsory and it is done before the court of the main establishment of the entrepreneur or of the head-office of the company.

OTHER VOLUNTARY BOOKS:

Entrepreneurs and companies may keep other books that allow them to have their activities and accounting duly organized, provided those books are organized according the principles of bookkeeping.

PRINCIPLES OF BOOKKEEPING:

Bookkeeping must comply with the following principles: (i) clarity and legible writing, (ii) sequential numbering, (iii) chronological order of entrances, (iv) no blank spaces, interpolations, amendments or erasures, (v) errors or omissions in accounting records must be corrected as soon as detected; (vi) if any cancellation is necessary, it must be done in a manner so that the cancelled words are legible.

Except if stipulated otherwise by a special statute, books must be prepared in Portuguese language, and value amounts must be in the national currency *Dobras*.

SECRECY:

The main purpose of bookkeeping is for entrepreneurs and companies to organize their activities. Thus, commercial bookkeeping is confidential, which means that only in exceptional cases others besides the entrepreneur (and person duly authorized) or managers. Upon certain conditions the partners of companies may be allowed to inspect the books. As an exception of secrecy, examination of the books can be ordered by the Court upon request of an interested party, in cases of bankruptcy and liquidation of a company. In some cases, the examination shall be exclusively restricted to those aspects that directly relate to the matter indicated by the Court.

EVIDENCE:

Entries made in books for commercial bookkeeping are deemed evidence that can be used between entrepreneurs to prove facts related to their enterprises either in support or against the entrepreneurs/companies. In this regard general provisions regarding the documental evidence (set in the Civil Code) may be applicable. For example: if there is a discrepancy between the entries of the books of two entrepreneurs, one of them or both may argue and prove the forgery of the other's books.

SANCTIONS:

So what happens if the entrepreneur does not duly perform his bookkeeping? One of the consequences of unduly bookkeeping is, as mentioned above, that the books evidence facts against the entrepreneur. Further, in bankruptcy processes (governed by the Civil Procedure Code), bankruptcy of an entrepreneur or company lacking books or with unduly bookkeeping is deemed to be fraudulent.

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