

Doing Business in UAE



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INTRODUCTION

From being a tiny drop on the world map to securing the title of being one of the most developed countries in the world for trade and commerce, the United Arab Emirates has come a long way. Located along the eastern side of the Arabian Peninsula, U.A.E. is a federation of seven emirates namely Dubai, Abu Dhabi, Ajman, Ras Al Khaimah, Fujairah, Sharjah and Umm Al Quwain.

U.A.E. enjoys the benefit of its strategic location between major markets like Asia, Europe and Africa. It is emerging as a hotspot for foreign investors to set-up their business location. Today, U.A.E. offers international companies an ideal gateway for developing their business throughout the Middle East, Asian subcontinent, East Africa, the Eastern Mediterranean, CIS and Central Asia.

U.A.E. offers numerous advantages to businesses ranging from world-class infrastructure (in the form of top-quality airports, public facilities and economic zones) to investor-friendly legislation, favourable government policies, stable political environment, skilled workforce, abundant natural resources, and conducive financial and tax environments. Additionally, U.A.E. is a preferred business location for foreign investors as it has an extensive double tax treaty (DTT) network with other countries. Moreover, the relaxed and robust policies of the government further facilitate the business environment in the U.A.E.

Owing to the various economic, social and environmental initiatives, the U.A.E. strives to continue progressing on different fronts including investment, trade, information technology, communications, tourism and infrastructure. Besides, with the World Expo 2020 around the corner, all eyes will be on the U.A.E. especially Dubai.



LAW AND REGULATORY FRAMEWORK

The legal system in the U.A.E. is based on civil code principles and Islamic Shari'a Law. The Constitution, Federal laws and regulations, Emirate laws and regulations and Islamic Shari'a form an important source of law for civil matters.

The constitution in the U.A.E. states that the federal government and the government of each Emirate share the powers. Moreover, it also states the legal framework for the federation. The stated framework is the base for all legislation promulgated at a federal as well as the Emirate level. In accordance with the constitution, the federal government has complete jurisdiction in some of the substantive matters such as foreign policy, security and defence. Further, legislation passed at a federal level overpowers the local laws of individual Emirate.

The local government of the individual Emirate has the right to regulate the local matters which are not subject to federal legislation. Moreover, the local government of the individual Emirate also holds the power to regulate commercial activities, issue trade licences and effect the incorporation of corporate entities.



Although Shari'a Law is the main applicable law concerning U.A.E., it is not the only source of law. It has limited applicability and is used by the following:

- Courts for interpretation support where a proper legislation governing a particular question is missing.
- Religious and personal law related matters, especially those involving Muslims such as divorce, inheritance, etc.

If any of the above provisions are against U.A.E. law, U.A.E. allows the concept of freedom of contract. This means the parties to the transaction are free to regulate their relationship as they deem fit.

Apart from the above, the DIFC Courts are an independent common law judiciary in DIFC free zone that governs the civil and commercial disputes nationally, regionally and worldwide. The DIFC Courts can hear and resolve local as well as international cases

BUSINESS ENVIRONMENT

The U.A.E. offers a great business environment to young entrepreneurs eyeing to set-up their business in the country. As per the World Bank's 'Ease of Doing Business' ranking 2019, U.A.E. secures 16th position out of 190 countries, which is much higher in comparison to other developed countries.

Besides, U.A.E. is located in the Middle East and shares close borders with the Gulf of Oman and the Arabian Gulf, between Oman and Saudi Arabia. U.A.E. boasts of an open economy with a high per capita income and a good annual trade surplus. It is a member of the Gulf Cooperation Council (GCC) along with five other countries namely Kuwait, Bahrain, Oman, Qatar and the Kingdom of Saudi Arabia. U.A.E. has a superior position in the GCC owing to its dual financial centres in Abu Dhabi and Dubai. This helps the U.A.E. secure various GCC-based international free trade agreements.

Owing to the constant efforts of economic diversification in manufacturing, trade, logistics, tourism, banking and real estate, U.A.E. has come a long way from being a small desert region to being a welldeveloped modern state with a high standard of living. U.A.E. government also pushes the development by creating more job opportunities, carrying out infrastructure expansion and is opening up utilities to greater private sector involvement.

Moreover, the country is known for having one of the most liberal trade regimes in the Gulf region. Plus, it attracts heavy capital inflows from across the region. The free trade zones in U.A.E. offer 100% foreign ownership and have zero taxes. This further helps attract foreign investments. Additionally, the convenient geographical location, excellent infrastructure and a stable political environment further give rise to foreign investments.

In the recent years, U.A.E. has made it easier for the entrepreneurs to set-up a business in the country by improving its online procedure for company registration. Further, the U.A.E. government has strengthened the credit system which has, in turn, simplified the process of availing funds for new businesses. It is now much safer for banks to lend money to new entrepreneurs.

ESTABLISHMENT OF A BUSINESS

U.A.E. offers numerous options to foreign investors to undertake a business or commercial activity in the country. You can choose a structure, depending on the business objectives, costs and benefits. Every structure is unique in terms of its licensing requirements, costs and tax implications, among other things.

Broadly, the options for the establishment of business in U.A.E. are:



Business or trading with U.A.E. from overseas

It can be done directly with U.A.E. customers or with the help of a U.A.E. agent or distributor. This form of commercial activity does not require a foreign company to establish a physical presence in the U.A.E.



Projects in the U.A.E.

This can be in the form of fly-in fly-out service but to the extent a local license is not needed or it can be via a sub-contractor or via an unincorporated joint venture having a local or foreign partner.



Legal presence in the U.A.E

This can be in the form of a legal presence in the mainland U.A.E. emirate to carry on business within the emirate as well as outside U.A.E. It can also be a legal presence in a free trade zone as an onshore business entity to carry on business within the free trade zone and outside the U.A.E. or in a free trade zone as an offshore business entity to carry on business outside the U.A.E.

In order to carry on business activities in the emirates or free trade zone, business entities require a valid license.

MAINLAND U.A.E. / ONSHORE

Some of the common legal forms for mainland entities are as follows:

Branch

A branch of a local or foreign company is restricted to undertake the same activities as that of its parent office. Since it is not a separate legal entity from its parent company, it enjoys limited rights.

Representative Office

A representative office of a foreign company is restricted to undertake only marketing and promotional activities for its head office. It is not allowed to carry out any trade or business activity

Limited Liability Company

Establishing an LLC in the mainland U.A.E. requires a minimum of two shareholders. It is allowed to conduct all the activities mentioned in the license in the particular emirate and outside the U.A.E.

BUSINESS ACTIVITIES

Prior to the new law coming into effect, a foreign investor was allowed to own only up to 49% of a U.A.E. company's shares outside of free trade zones. As per the latest Foreign Direct Investment (FDI) law, foreign investment is allowed in those industrial sectors which are not part of the negative list. The sectors in the negative list can be added or removed anytime by the U.A.E. Cabinet. Some of the sectors that are a part of the negative list include insurance, banking and financing, medical retail services and land and air transport, among others.

As per the latest amendment, up to 100% foreign ownership is allowed in the mainland U.A.E. in 122 economic activities across 13 sectors. The local government of each emirate identifies the ownership percentage of foreign investors in these activities.

Few activities that are not part of the negative list (i.e. which are a part of the positive list) include:

- Space
- Hospitality and food services
- Agriculture
- Renewable energy
- Administrative services, support services
- Manufacturing
- Transport and storage
- Information and communications
- Educational activities
- Construction
- Healthcare
- Art and entertainment
- Professional, scientific and technical activities



BRIEF PROCESS FOR BUSINESS

Before incorporating any entity in the U.A.E., it is crucial to decide the type of entity that is most suitable for your business i.e. a mainland company, a free zone company or an offshore company, which type of business license is required, the ideal location to set-up a business, etc.

The brief process for company incorporation in the U.A.E. is as follows:

STEP 1

The very first step is to decide upon the economic activity of your business and depending on that choose a legal form that suits your business activities.

STEP 2

The next step is to choose a company name and make an application for company registration to the Department of Economic Development (DED).

STEP 3

In the next step, you need to apply for the trade license. For obtaining a trade license, you need to submit a few company documents and directors and shareholders due diligence documents to the DED or the Chamber of Commerce and Industry. These documents include certificate of incorporation, financial statements, three month's bank statements, etc. for the company. Likewise, for the directors and shareholders, the documents include passport, address proof, three month's bank statement, educational certificates, etc.

STEP 4

On obtaining trade name approval from the DED, the next step is to register the same

STEP 5

Next, you need to notarize the company's Memorandum of Association.

STEP 6

Whether it is a mainland company or free zone company, you need to apply for an Establishment Card from the Ministry of Labour or register the company with the General Directorate of Residency and Foreigners Affairs (GDRF) and also register the company for Value Added Tax (VAT) with Federal Tax Authority (FTA), if required.

STEP 7

In the next step, you need to obtain all the initial and special approvals concerning your company.

STEP 8

After obtaining the necessary approvals, you need to sign the Memorandum of Association and lease agreement in front of a public notary.

STEP 9

Later, you need to secure business premises and obtain a location and inspection approval from the Municipality for the same.

STEP 10

In the next step, apply for the relevant trade license by paying the license fee. For engaging in the trading business, you need to apply for a commercial license, for setting up a manufacturing business, you need to apply for an industrial license and for offering accountancy and consultancy services, you need to apply for a professional license.

FREE TRADE ZONES

Just like establishing a business in the mainland U.A.E., investors can also set-up their business in the free trade zones in the U.A.E. A free trade zone is a special geographic area within the U.A.E. that has been established by the U.A.E. government with the aim to boost direct foreign investment into the country. Further, unlike onshore entities, these establishments do not have any foreign ownership restrictions. Therefore, a foreign investor or a foreign company can incorporate a 100% fully owned entity in any of the free trade zones.

One of the important things to note is, earlier, entities that were registered in the free trade zones were restricted from carrying out commercial activities in the U.A.E., outside of the free trade zone. But, now a dual licensing system has been introduced by some of the free trade zones which allow entities engaged in certain sectors in the free trade zones to also operate in the mainland U.A.E.

With an aim to boost business, Dubai Free Zones Council has recently announced the implementation of “One Free Zone Passport” for companies. The initiative will allow companies to operate across different free zones in a particular emirate without holding multiple licenses.

At present, there are 45 free trade zones in the U.A.E., of which the majority are in the Emirate of Dubai. A free trade zone in each emirate is independent with its own rules and regulations. However, some of the U.A.E. federal laws are applicable to all the free trade zones irrespective of which emirates they belong to.

Typically, the free trade zones in the U.A.E. focus on a particular sector. Some of the popular sector-specific free trade zones in the U.A.E. are:

Financial services

- Abu Dhabi Global Market (ADGM)
- Dubai International Financial Centre (DIFC)

Ports and logistics

- Dubai Airport Free Zone (DAFZ)
- Jebel Ali Free Zone (JAFZA)

Telecom, IT and multi-industry

- Dubai Multi Commodities Centre (DMCC)
- Dubai Internet City (DIC)

Apart from the above-mentioned sector-specific free trade zones, some of the other free trade zones include:

- Jebel Ali Free Zone (JAFZ)
- Dubai Creative Clusters (DCC)
- Khalifa Industrial Zone Abu Dhabi (KIZAD)

The entities in the free trade zones are broadly classified into three types, namely:

- **Free Zone Establishment**

Free Zone Establishment is one of the simplest types of entities that can be established in the free trade zone. There cannot be more than one shareholder in this form of entity. However, if there is a requirement for more than one shareholder, a Free Zone Establishment can be converted into a Free Zone Company or a Free Zone Limited Liability Company. Moreover, the minimum share capital requirement varies depending on the free trade zone in which the entity is established.

- **Free Zone Company or Free Zone Limited Liability Company**

These forms of entities can be formed with a minimum of two shareholders. The minimum share capital requirement varies depending on the free trade zone in which the entity is established.

- **Branch**

A local U.A.E. company or a foreign company can also establish a branch of a legal entity in the free trade zone.

TAXATION

The tax structure in the U.A.E. is as follows:

Personal Income Tax

At present, there is no personal income tax in the U.A.E.

Withholding Tax

At present, there is no withholding tax in the U.A.E. for payments like dividend, interest, royalty, etc. made from the U.A.E. entities to a resident or non-resident person.

Transfer Pricing

At present, there are no transfer pricing regulations in the U.A.E. However, the country has recently implemented the Country-by-Country Reporting (CbCR) legislation.

Thin Capitalization

At present, thin capitalization rules do not apply in the U.A.E.

Value Added Tax (VAT)

With effect from 1 January 2018, U.A.E. has implemented VAT.

- If the value of taxable supplies and imports exceed AED 375,000 per annum in the previous 12 months then a natural or legal person in business is required to register for VAT.
- If your taxable turnover is less than AED 375,000 but more than AED 187,500 per annum then you can voluntarily register for VAT.
- If you expect your taxable turnover to exceed AED 375,000 per annum in the next 30 days, you are obligated to register for VAT.

All the goods and services obtained while carrying on business in the U.A.E. are taxable, except if they are specifically exempted or are not included in the scope of VAT according to the U.A.E. VAT Decree Law. The standard rate of VAT is 5%. Moreover, there is no VAT on exports.

Registered entities have to file VAT return on a monthly or quarterly basis, as required by the U.A.E. Federal Tax Authority.

Customs Duty

Being a member of the GCC Customs Union, U.A.E. follows the rules and regulations for customs duty set by them. For most of the goods entering the GCC, a 5% duty is imposed, while some goods are also imported duty-free. It is important to note that, the duty is charged at the first point of entry into the GCC.

Since free trade zones are considered as offshore for GCC customs purposes, the goods imported into free trade zones do not attract customs duty. The duty is imposed when goods leave the free trade zones and enter mainland U.A.E.

Excise Tax

Excise tax is imposed only on a few products such as energy drinks, carbonated drinks, tobacco and tobacco products.

Property Transfer Fee

While transferring a real estate in the U.A.E., you are required to pay a registration fee



AUDITORS AND ACCOUNTANTS

Limited liability companies and joint stock companies are required to appoint one or more auditors. As per the U.A.E. Commercial Companies Law, most of the branches and companies in the U.A.E. have to get their accounts audited locally. All legally incorporated companies are also required to file annual audited financial statements with the Ministry of Economy or the concerned Emirate level authorities as part of the licence renewal filing process. Companies are also required to pay annual licence renewal fees depending on the type of entity, license and the business activities. The free trade zone entities also have similar requirements but the fee varies.

The law requires the listed companies to file quarterly reviewed financial statements and annual audited financial statements in English as well as the Arabic language with the Securities and Commodities Authority (SCA). The SCA publishes the same on its official website. Further, banks and branches of foreign banks in the USE have to file their audited annual financial statements and regulatory returns with the Central Bank, U.A.E. They are also required to publish the same in the local newspaper.

The generally accepted accounting practice adopted by the Securities and Commodities Authority and the Central Bank of the U.A.E. is the International Financial Reporting Standards (IFRS). There is no specific language requirement for bookkeeping and accounting. However, books are generally maintained in English.



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