

Doing Business in the UAE

A tax and legal guide



Table of Contents

Welcome to this guide	5
Country introduction	5
Overview	5
Legal and regulatory framework	5
Federation and Emirates	5
Shari'a Law	5
Establishment of business	6
Introduction	6
Fly In Fly Out / Trading from Overseas	6
Conducting business through agent / distributor	6
Set up of a local entity / Establishment of business	6
Mainland / Onshore	6
Free Trade Zones	7
Offshore Establishment/International Business Companies	7
Process and costs for Establishment	8
Joint Ventures	8
Mergers and Acquisitions	8
Due Diligence	8
Key considerations	8
Taxation	8
Corporate Income Tax	8
Withholding Taxes	9
Transfer pricing	9
Value Added Tax (VAT)	9
Custom duties	9
Municipal or property tax	9
Stamp taxes	9
Hotel tax and tourism levies	9
Personal taxes for nationals and expatriates	9
Obtaining a Tax Residency Certificate (TRC) for companies	10
Accounting and payroll	10
Key considerations	10
Additional legal considerations	11
Corporate / Commercial	11
Commercial Agency	11
Immigration	11
Employment	11
Real Estate	12
Dispute Resolution	12
Anti-Bribery and Corruption	12
Key considerations	13
UAE Key tax indicators	14
About PwC Middle East	15
Contacts	16

Welcome to this guide

As a place to do business, and as a hub for the region and beyond, the United Arab Emirates (UAE) continues to be increasingly important, relevant and attractive to businesses from around the world.

The new company law reforms make this guide timely. The reforms include formal recognition of holding companies and simplifies the company registration process.

Companies law aspects sit alongside other fundamental issues such as employment visas, accounting requirements and taxation issues including customs when considering the establishment or development of businesses in the country.

This guide is intended to provide an introduction to the taxation and legal aspects of doing business in the UAE, particularly from the perspective of the items an inbound investor will have in mind.

We hope you find the guide useful.

Dean Kern

Middle East - Tax and Legal Services Leader
July 2015

Country introduction

Overview

- The UAE is a federation of seven emirates comprising Abu Dhabi, Ajman, Dubai, Fujairah, Ras Al Khaimah, Sharjah, and Umm Al Quwain and was formed on 2 December 1971.
- Having celebrated its 40th year of union in 2011, the UAE is one of the youngest nations in the Middle East, with an estimated population of 9.4 million, of which a very high proportion are expatriates employed in a wide range of industries (circa 80%). Although an oil rich state – the UAE has diversified its economy, becoming a regional and global centre for business, trade and finance.
- Arabic is the first language, with English widely spoken and used in business.

Legal and regulatory framework

The legal system in the UAE is based on both civil code principles and on the Islamic Shari'a Law. The sources of law for civil matters include:

- The Constitution
- Federal laws and regulations
- Emirate laws and regulations
- Islamic Shari'a

Federation and Emirates

- The UAE constitution provides for the allocation of powers between the federal government and the government of each Emirate.
- In addition, the constitution provides the legal framework for the federation and is the basis of all legislation promulgated at a federal and Emirate level. Pursuant to the constitution, the federal government has exclusive jurisdiction in various substantive matters, including foreign policy, defence and security. Legislation passed at a federal level has primacy over the local laws of each Emirate.
- The local government of each Emirate is, however, permitted to regulate all local matters which are not subject to federal legislation. As such, the governments of each emirate retain substantial powers to regulate commercial activities, issue trade licences and effect the incorporation of corporate entities to the extent that such activity is not already regulated under federal legislation.

Shari'a Law

- Whilst the constitution provides that Shari'a is a main source of law, it is not the only source of law and its application is generally limited to: (a) being used by courts as an interpretative aid where there is no express legislation governing a particular question; (b) religious, morality and personal law matters, particularly involving Muslims (e.g. inheritance, divorce etc.); and (c) transactions which are intentionally expressed to be Shari'a-compliant, e.g. Islamic banking transactions.
- Save where such provisions would be contrary to UAE law (including Shari'a law and public policy) the UAE recognises and allows the concept of freedom of contract. This allows contractual counterparts to regulate their relationship as they choose.



Establishment of business

Introduction

There are essentially five options available to foreign investors who are looking to undertake business / commercial activities in the UAE:

- Fly In Fly Out / Trading from Overseas
- Through an agent / distributor
- Set up a local entity
- Joint Venture
- Merger & Acquisition

We will look at each one of these potential options in more detail below.

1. Fly In Fly Out / Trading from Overseas

This form of trading allows a foreign company to trade in the UAE from their home country, thereby saving the need to physically establish a presence. However, this particular option is usually only applicable to specialized services and products. Overseas companies can therefore find it difficult to establish the relationships needed in order to grow and expand their business without having a physical presence. It is also not uncommon for UAE based clients to request or indeed require a registered physical presence on the ground. Consideration also needs to be given as to how any issues that may arise, can be solved from abroad. The UAE Companies Law largely requires foreign investors to be registered and licensed by the relevant authorities in the UAE in order to carry on business. This is a significant restraint on the nature and level of activities which can be provided on a 'fly in fly out' basis.

2. Conducting business through agent / distributor

This option again avoids the need for foreign companies to establish a physical presence in the UAE and allows foreign companies to leverage the agents or distributor's local market connections. From a cost and risk perspective it can also be lower as well because it saves on the costs of physical establishment and utilises the third parties' existing buyers. However, before entering into any such arrangement with a local party, caution should be exercised and careful due diligence undertaken.

The UAE Commercial Agencies Law (Federal Law No.18 of 1981, as amended) governs the appointment of registered distributors, commercial agents and sales representatives. A commercial agency is defined as "any arrangement whereby a foreign company is represented by an agent to distribute, sell, offer or provide goods or services within the UAE for a commission or profit."

The Commercial Code (Federal Law No.18 of 1993) builds upon the Commercial Agencies Law and establishes a framework which regulates the different types of commercial agencies. The contractual agency is the most common type of agency and involves an agent representing the foreign principal in the distribution and sale of products or the provision of services undertaking, on a permanent basis and in relation to a specific activity, to instigate and negotiate deals for the principal in return for a fee.

Under UAE law -, agency and distribution arrangements are largely treated in the same way as each other. There are many different options and types of agents / distributors to choose from and a distinction needs to be drawn between registered and unregistered agreements. A registered arrangement (agency or distribution) is only possible where the agent or distributor is a UAE National or a company wholly owned by a UAE national(s). Agents also typically benefit from exclusivity whereby products imported must be exclusive to the agent.

Terminating registered agency/distribution agreements can be difficult and costly as there are strict rules and restrictions which apply.

3. Set up of a local entity / Establishment of a business

In general, there are two main options available to a foreign investor:

- Establishment in 'mainland' UAE (also commonly known as 'onshore').
- Establishment in one of the many economic free zones. It is also possible to set up a business presence offshore (also referred to as 'International Business Companies') but, as explained further below, this comes with its limitations.

a) Mainland / Onshore

Federal Law No. 2 of 2015, the new Commercial Companies Law (the 'New CCL') came into effect on 1 July 2015 and replaced the previous Commercial Companies Law, UAE Federal Law No.8 of 1984, as amended. Foreign businesses wishing to operate in mainland UAE usually do so either through a Limited Liability Company (LLC) or a branch/representative office, although the New CCL does allow for other forms of entities to be established.

UAE Limited Liability Companies (LLCs)

Under the New CCL an LLC is still required to have a local shareholder who holds at least 51% of the shares and therefore, the maximum shareholding a foreign business can hold in an LLC is 49%. This remains a key concern for foreign investors despite practices being developed to mitigate the potential risk associated with this requirement. Although there was widespread speculation that this requirement may be relaxed, the New CCL has retained the foreign ownership restrictions and they therefore still apply. See page 9 for further information on the changes under the New CCL which is now in force.

As mentioned, the New CCL requires that the UAE national/UAE company shareholder must own at least 51% of the capital of the company. Currently the New CCL does not impose minimum capital requirements for an LLC, although:

- In practice many businesses continue to apply the old minimum share capital requirement (e.g. AED 300,000 in Dubai or AED 150,000 in Abu Dhabi). The share capital in an LLC should be divided into shares equal to value.
- New LLC's operating in many sectors are still subject to specific minimum share capital requirements as part of the consents needed to operate.

Other important points to note include:

- The day-to-day management of the company may be vested in a manager who in practice is usually appointed by the foreign shareholder.
- It is possible to provide in the Memorandum of Association that profit and losses be shared in a ratio different to that of the share capital ratios.
- It is necessary to appoint an auditor who must be accredited in the UAE.
- Although there are no such ownership restrictions in respect of onshore branches (see below), a Local/National Service Agent (NSA) must be appointed and either needs to be a UAE National or a company wholly owned by UAE Nationals. The NSA is not entitled to the profits or revenues generated by the branch and only provides certain limited governmental and administrative services, as agreed in the National Service Agent Agreement. Such services typically include license application and renewal and visa applications for the branch.

UAE branches of foreign companies

The New CCL allows a foreign company to establish a branch in the UAE. A UAE onshore branch does not have separate legal identity to its parent company. Consequently there is no legal protection to the parent company in the form of limited liability. Onshore branches are generally restricted to carrying out the same activities as the parent company.

Historically it has taken approximately four to six weeks to incorporate an entity, since there are a number of steps, and supporting documentation which need to be legalised, to complete the incorporation process. The reforms envisaged in the New CCL may aid in reducing this time frame.

b) Free Trade Zones

As an alternative to setting up in mainland/onshore, it is also possible to establish an LLC or branch in one of the many free zones across Dubai and the UAE.

Free zones are specific areas within the UAE and were introduced to attract foreign investment. Each free zone is administered and governed by their own regulatory authorities with their own rules and regulations. The licensing authority within each free zone is responsible for issuing free zone licenses and registering companies. Typically free zones are industry focused and are tailored to specific industries and therefore, only license specific types of activities.

Although there are a large number of free zones within the UAE, the majority are situated within Dubai. Some of the most popular free zones are:

- DIFC - Dubai International Financial Centre.
- JAFZ - Jebel Ali Free Zone
- DMCC – Dubai Multi Commodities Centre
- DAFZ – Dubai Airport Free Zone.
- DCC - Dubai Creative Clusters, otherwise known as TECOM and which includes Dubai Internet City, Dubai Media City etc.
- KIZAD – Khalifa Industrial Zone Abu Dhabi
- Masdar City

Within most of the free zones we typically see two main types of free zone limited liability companies:

- Free Zone Establishment
- Free Zone Company

The main difference between the two is the number of shareholders and the share capital requirements. Although free zones allow 100% foreign ownership, businesses established in a free zone are not permitted to carry out activities in mainland UAE. Each free zone has its own (non-criminal) laws which apply to companies located there, along with the Federal laws of the UAE and the local laws in the relevant Emirate where the free zone's laws are silent. The DIFC is the only exception to this as it has its own set of laws (other than criminal laws) which are not governed by the laws of the UAE. Typically each free zone allows for a company, a branch or a representative office to be set up within its jurisdiction.

It is also possible to set up a branch within the free zones. The concept of a branch is the same as that found onshore, whereby the branch is an extension of the foreign parent company and is therefore not a separate legal entity and does not offer limited liability. A branch is also not required to have its own share capital. The main difference between an onshore branch and a free zone branch is that a free zone branch is not required to appoint a NSA. It is however, limited in what it can do and engage in activities which are the same as its foreign parent company's activities. The main restriction for free zone entities (whether limited liability companies or branches) is that they are not permitted to "do business" outside of this designated free zone area. However, free zone entities are able to trade freely within their respective free zone and outside the UAE. In order to engage with onshore UAE clients (i.e. outside the free zone area) the free zone entity can engage with an onshore distributor/agent (which holds the appropriate license(s)) or establish its own onshore LLC or branch.

c) Offshore establishment/ International business companies

Companies not intending to engage in any business within the UAE (whether onshore or within one of the free zones) can set up an entity under the offshore regulatory system. Typically, such businesses act as holding companies and do not carry on commercial activities. Under the offshore regulations of certain free zones, these companies act as a vehicle to own freehold property onshore.

Jebel Ali Free Zone and Ras Al Khaimah Investment Authority are the major free zones which offer the concept of Offshore Companies in the UAE.

d) Process and costs for establishment

The process of establishing a company or registering a branch is usually longer compared to other jurisdictions in the world. The documentation required to be submitted will also need to be notarized and legalized in the country of issue.

In terms of costs, these can also be higher than found elsewhere and consideration needs to be given to the following on top of the usual set up costs:

- Visas
- Shareholders agreements
- Cost of rent / living
- Pay as you use regulatory fees

4. Joint Ventures

Foreign companies wanting to enter the UAE market or develop their existing operation beyond an agency or distribution arrangement often favour a joint venture (JV). JVs enable the foreign investor to take an equity stake and role in the operation and management of their UAE entity whilst still benefitting from the participation of a local partner. The local partner may contribute financially or by way of technical skills or local connections and reputation.

Whilst the CCL allows for a particular type of entity to be used as a JV vehicle, in practice, most JVs are set up using either onshore or free zone limited liability companies. In the case of the former, the previously mentioned requirement for 51% ownership of the share capital by a UAE National or a company wholly owned by UAE Nationals applies.

There is no need to license a JV or publish the JV agreement. As in all jurisdictions, choosing the right JV partner (s) is key to ensure that they will be able to contribute to the JV in the way planned.

5. Mergers and Acquisitions

A final market entry strategy for foreign companies is to acquire or invest in an existing UAE company or business. Both share and asset purchases are possible in the UAE. Particular factors to bear in mind include:

- The very limited amount of publicly available information and so the need for thorough due diligence.
- The impact of the foreign ownership restrictions and need for onshore entities to be 51% owned by UAE individuals or companies owned by UAE Nationals.
- The absence of provisional equivalent to the European transfer of undertaking regulations, and the resulting need to deal with the transfer of employee contracts as part of any asset deal.
- The impact of UAE end of service benefits in the case of assets transfers.

Due Diligence

Each of these five options, particularly the appointment of agents and distributors, joint venturing or acquisitions raises a need for thorough due diligence to ensure commercial compatibility and avoid future legal difficulties.

Particular considerations include the third party's other existing business interests to:

- Avoid conflict of interests and competitive business.
- Flush out existing business interests in high risk jurisdictions.
- Ensure the foreign company can continue to comply with its obligations in respect of anti-bribery and corruption.

Key considerations



The decision to go onshore versus offshore (ie. within one of the free zones) depends greatly on the location of clients and customers and the nature of the business activity (for example a free zone may make more sense if the customer base is across the Middle East rather than purely in the UAE).

It is important that the business licence obtained accurately reflects the intended and actual business activities. This is different when compared to approaches in other jurisdictions where 'shelf companies' and companies able to undertake more general business activities are widely used.

The costs for establishing an entity can be greater than in other jurisdictions, because, for example, ancillary costs such as the need to have documents notarised, legalised and translated and with regards to premises form a key part of the registration process.

The time frame required to establish a business presence can be significantly longer than in other countries and jurisdictions.

Taxation

Corporate Income Tax

The UAE currently has no system of federal income taxation.

Most of the Emirates constituting the UAE have their own corporate income tax decrees that provide for tax to be imposed on the taxable income from business activities that are carried out in the relevant Emirates at rates of up to 55%.

Although the Decrees continue to apply and allow for corporate tax to be levied on all companies, in practice, tax is only enforced on foreign oil companies engaged in upstream petroleum activities and branches of foreign banks. Consequently, tax is generally not actually levied under the Decrees on most companies operating in the respective Emirates. In addition, some of the Emirates have introduced their own specific banking tax decrees which impose tax on branches of foreign banks at the rate of 20%.

The UAE is looking into a possible introduction of a federal corporate tax. There have been no public announcements from the UAE regarding the potential introduction of corporate income tax, beyond references from the International Monetary Fund to economic impact studies carried out by the UAE government and general statements from the UAE Government in the media. As a result there is no visibility on the scope of application of a future federal corporate income tax framework (if any), or on the interaction between a federal income tax and the existing Emirates tax decrees and free zone tax holidays.

Withholding Taxes

There are no withholding taxes in the UAE that would apply to payments such as royalties, interest or dividends etc. made by UAE entities to another entity or person (resident or non-resident).

Transfer pricing

There is currently no transfer pricing regime in the UAE.

Value Added Tax (VAT)

There is currently no VAT or similar tax system in the UAE. However, given the need for diversifying government revenues, a potential introduction of a VAT system has been considered by the Gulf Cooperation Council (“GCC”) countries (i.e. United Arab Emirates, Oman, Qatar, Kuwait, Bahrain and the Kingdom of Saudi Arabia). Similar to the corporate income tax, there has been no official communication or announcement confirming a VAT implementation in the near future, although the recent fluctuations in oil prices may constitute an extra push to seek a more imminent implementation.

Customs duties

The UAE is part of the GCC Customs Union, which was established in 2003 to remove customs and trade barriers among the GCC member states. The implementation of the GCC Customs Union is still in progress.

The GCC member states apply a Common Customs Law and a Unified Customs Tariff with a standard customs duty rate of 5% of goods’ cost, insurance and freight value, except for tobacco, alcohol and goods subject to a customs duty rate of 0%. The GCC Customs Law does not levy export customs duties.

The GCC Customs Law sets out the general legal framework for customs regulations and procedures; however, the practical application of the Law is subject to the interpretation of the local customs authorities in the GCC member states. This has sometimes led to discrepancies and contradicting practices among the member states which eventually affected businesses.

UAE free zones are areas within the territory of the UAE but considered outside the scope of the customs territory. Therefore, goods imported into a UAE Free Zone are not subject to customs duty. Customs duty is suspended until the goods are imported into the GCC local market. UAE free zones do not levy export customs duty and thus,

goods leaving the free zone to a destination outside of the GCC Customs Union should not incur customs duty.

Goods within UAE Free Zones are under the UAE customs authorities’ control, therefore, any transaction or disposal of goods must be communicated to the customs authorities to avoid any non-compliance fines and penalties.

As the UAE is a member of the World Trade Organisation and the World Customs Organisation, most of the applicable customs procedures, suspension arrangements, exemptions, etc. are in line with the relevant international agreements and protocols. The UAE hosts one of the top 10 container ports in the world, the Jebel Ali Port located within the Jebel Ali Free Trade Zone in Dubai.

The UAE grants duty free imports to most national goods originating in other GCC member states, member countries of the Greater Arab Free Trade Agreement (“GAFTA”) and Singapore. It is expected that in the near future most goods originating in the European Free Trade Association (“EFTA”) countries will also benefit from customs duty exemption when imported into the UAE.

Municipal or property tax

Most Emirates impose a municipality tax on properties, mostly by reference to the annual rental value. It is generally the tenants’ obligation to pay the tax; however, the tenants’ employer will typically pay the tax on behalf of the employee. In some cases, separate fees are payable by both tenants and property owners. For example, in the Emirate of Dubai, it is currently imposed at 5% of the annual rental value for tenants or at 5% of the specified rental index for property owners.

Further, a registration fee may also be levied on transfer of ownership of land or property. For example, a land registration fee is levied in the Emirate of Dubai at a rate of 4% of the sale value of the property (shared between the buyer and seller), payable to the Dubai Land Department. These levies are imposed and administered differently by each emirate.

Stamp taxes

Currently, there are no separate stamp taxes levied in the UAE.

Hotel tax and tourism levies

Most Emirates impose a hotel tax of 5% to 10% on the value of hotel services and entertainment. In addition, there may be tourist fees/charges of up to 10% levied for practice of certain tourist/entertainment activities (e.g. events and shows).

These levies are imposed and administered differently by each Emirate.

Personal taxes for nationals and expatriates

Income is currently not subject to personal income taxes in the UAE and there is no requirement to file income tax returns.

Employees who are GCC nationals are subject to a social security regime in the UAE. Generally, the social security payment is at a rate of 17.5% of the employee's gross remuneration as stated in an employee's employment contract and applies regardless of the Free Zone tax holidays: 5% is payable by the employee and the remaining 12.5% is payable by the employer. The rates can differ between Emirates. The withholding obligation is on the employer. There are no social security payments for expatriates.

For completeness, expatriates employed by a UAE employer are entitled under the UAE Labour Law to a gratuity payment (or an 'end of service' benefit). End of service benefits are not applicable to UAE national employees.

Obtaining a Tax Residency Certificate (TRC) for companies

The TRC is issued for the period of one year for a specific tax treaty. The process is likely to take around four working weeks. Please see below the list of the documents required to be submitted by the applicant to the UAE Ministry of Finance to commence the process:

- Copy of the valid trade licence
- Latest audited financial statements
- Copy of a valid lease/rent agreement in the name of the applicant
- Copy of the passport and resident/work visa of the applicant's director/authorised signatory
- Copy of a bank statement for the last six months
- Application letter to the Ministry of Finance and certificate application form

Fees are payable as part of the process, currently some AED 5,000.

We note that the guidelines of the UAE Ministry of Finance suggest that companies may not be able to obtain tax residency certificates until the company has been established for at least 3 years. In practice, however, a TRC is generally issued once a company has been in existence for at least one year.

Accounting and payroll

All companies are required to maintain proper accounting records. There is no national GAAP in the UAE and no specific language requirement for the purpose of keeping books and records, although English is widely used.

International Financial Reporting Standards (IFRS) are mandated by the Emirates Securities and Commodities Authority (SCA) and the Central Bank of the UAE and adopted as the default GAAP by other companies.

The requirement to prepare statutory financial statements (SFS) varies within each regulatory authority. Most authorities ask for audited SFS at the time of the renewal of the annual trade license. In some cases exemption from preparing and filing audited SFS may be available but generally companies prefer to prepare SFS as part of good corporate governance and best practice.

As for payroll, although there are no personal income tax obligations in the UAE, it is important to comply with all labour law requirements together with certain mandatory requirements such as the Wages Protection System (WPS). WPS applies to employees registered with the UAE Ministry of Labour (MOL). A key requirement under WPS is to pay employees in local currency, into their local bank accounts and from a local bank account. Employers non-compliant with WPS could face financial penalties and problems with renewing or processing new visas for their workforce.

Key considerations



Most operations in the UAE should commonly not be subject to taxation, so taxes are unlikely to be a key consideration. However, it should be taken into account that a VAT or Federal corporate income tax may be implemented in the foreseeable future.

With regard to customs it should be considered whether any preferential treatment, suspension arrangement or exemption is available to mitigate cash outflows.

In case UAE or GCC nationals are employed social security contributions will be due over the salary payments.



Additional legal considerations

Corporate / Commercial

As previously noted, the New CCL Federal Law No.2 of 2015, applies to all types of companies incorporated in the UAE. The key provisions for LLCs under the New CCL are as follows:

- **Foreign ownership restriction:** All LLCs must continue to be 51% (minimum) owned by UAE national(s) and 49% (maximum) owned by foreign investor(s), or 100% owned by GCC nationals.
- **Minimum capital requirements:** For LLCs, the minimum capital must be sufficient to achieve the company's corporate purpose which may depend on the business activity of the company. For free zone companies, the minimum share capital will continue to depend on the minimum specified by the relevant free zone.
- **Sole shareholder:** one natural person, or corporate entity, may be the sole shareholder of an LLC. Given the foreign ownership restriction (as mentioned above), this will primarily benefit Emirati and entrepreneurs from other GCC countries.
- **Share transfers:** shareholders of LLCs can transfer their shares to one another. However, if a shareholder wishes to transfer shares to a non-existing shareholder, a statutory right of pre-emption applies.
- **Share pledges:** shareholders of LLCs are permitted to pledge their shares. Such pledges must be made in accordance with the LLC's memorandum, then notarised, and, finally, entered onto a commercial register.
- **Minority shareholders:** There are no express provisions in the New CCL to protect minority shareholders in LLCs (but such express provisions in the New CCL do exist for public joint stock companies).
- **Voting requirements:** 75% of the voting rights based on paid up share capital is considered a quorum for shareholders' meetings.

Commercial agency

The UAE Commercial Agencies Law (Federal Law No. 18 of 1981, as amended) ("CAL") governs the appointment of distributors, commercial agents and sales representatives. A commercial agency is defined as "any arrangement whereby a foreign company is represented by an agent to distribute, sell, offer or provide goods or services within the UAE for a commission or profit".

The Commercial Code (Federal Law No. 18 of 1993) builds upon the CAL and establishes a framework which regulates the different types of commercial agencies. The contractual agency is the most common type of agency and involves an agent undertaking, on a permanent basis and in relation to a specific activity, to instigate and negotiate deals for the principal in return for a fee. Distributor contracts are treated as contractual agencies when they involve one agent as the sole distributor.

Immigration

To live in the UAE, a person needs to be sponsored either on the basis of the ownership of a business in the UAE, or an employment contract with an employer in the UAE. The sponsorship requirements include obtaining a residence visa or work permit.

Nationals from certain countries may enter the UAE with a short visit visa issued upon arrival.

It is the employer's obligation to process and obtain the visa for its employees. The employer will carry out the following process:

- The Government Relations Officer or PRO sends the requisite documents to the Labour/Immigration offices to apply for the residence visa;
- Once approved, the employee goes for a medical test; and
- If the results of the medical test are satisfactory, the residence visa is obtained.

A labour card is issued by the Ministry of Labour ("MOL") and identifies an employee and his/her place of work.

Employees working for employers established in a free zone are sponsored by the relevant free zones Authorities ("FZA") and not by their employers.

It is noteworthy that holders of a residence visa are permitted to sponsor dependents (subject to restrictions).

Employment

Whilst UAE nationals are provided the first right of employment under the UAE labour law (Federal Law No. 8 of 1980) ("LL"), expatriates, i.e. non-UAE nationals, may be employed with requisite approvals by the MOL.

There are Emiratisation policies, whereby the MOL encourages and even, in some instances, compels the employment of a certain quota of UAE nationals in certain sectors.

In general though, the hiring of a non-national or foreign expatriates, is fairly easy and quick subject to the requisite approvals being obtained. There is a good supply of educated and experienced manpower available in the UAE. Employment advertisements are either placed in local and international newspapers in circulation within the UAE or through hiring and placement agencies. Internet-based HR services are another source of access to foreign expatriates. In the case of employment with an onshore company, the employee has to enter into a standard MOL contract.

In addition, it is good practice to have a fully-fledged employment contract detailing the terms of employment. Where the employee is employed to work in one of the free zones in the UAE, the free zones will provide their own standard form of employment contract. However, some free zones do not require employment contracts in a prescribed form to be made, for example, the DIFC. The likes of DMCC also allow contracts to be made to these standard contracts subject to DMCC approval.

Real estate

The UAE constitution states that real estate falls within the Federal jurisdiction (i.e. to be regulated by the federal government of the UAE, rather than by the local government of each of the Emirates). However, if the Federal legislation is silent on a particular area of real estate law, then each individual Emirates may legislate and issue local laws that govern real estate in the relevant Emirate.

UAE Federal law provides legislation on:

- Land ownership
- Leasing
- Co-ownership of floors and apartments
- Creation and operation of owners' associations

Generally, foreign individuals and entities wholly or partly owned by foreign individuals are not permitted to own property in the UAE, except within areas designated for foreign property investment ("Investment Areas"). Purchase may be on a freehold basis or as leasehold property within such Investment Areas.

The rules and regulations surrounding property ownership differ depending on the Emirate. GCC nationals are permitted to purchase property anywhere on freehold basis or as leasehold property except in the Emirate of Abu Dhabi. GCC nationals including foreigners are subject to various restrictions in the Emirate of Abu Dhabi, including that they are only permitted to:

- Own units or entire floors in buildings constructed within Abu Dhabi Investment Areas.
- Lease units, floors or buildings constructed within Abu Dhabi Investment Areas (up to 99 years).
- Acquire leasehold for up to 99 years.

Dispute resolution

The UAE allows freedom of contract, including the right for parties to an agreement to mutually agree the laws that will govern the contract and the forum that will be used in case of disputes. Foreign companies may choose one of these options for the resolution of disputes as follows:

- UAE 'onshore' courts
- DIFC courts
- Arbitration
- Courts of another jurisdiction

The UAE Onshore Courts comprise of three levels:

- Court of First Instance
- Court of Appeal
- Court of Cassation

The UAE is a civil law country and, therefore, unlike common law jurisdictions, case law does not act as binding precedent, and the courts do not need to decide future cases based on a previous court's decision. However, in practice, a decision of the Court of Cassation is usually regarded as persuasive in deciding subsequent cases.

All court proceedings are conducted in Arabic. Only certain individuals can be present during court proceedings. They must be qualified local advocates with special licenses.

DIFC courts

The DIFC courts comprise of two levels:

- Court of First Instance
- Court of Appeal

The DIFC courts were established in 2004 to offer an independent common laws judiciary and have jurisdiction in relation to various civil and commercial matters. The DIFC courts conduct proceedings in English and are available to parties incorporated inside or outside the DIFC.

The DIFC courts have entered into a number of memorandums of understanding and treaties to facilitate the enforcement of its judgements elsewhere in the UAE, the GCC and elsewhere.

Arbitration

Arbitration has long been a popular method of dispute resolution in the UAE. Since it allows for proceedings to be conducted in private, in a language of the parties' choice and with arbitrators selected and approved in accordance with the relevant individual arbitrators' organisation's own rules. Historically there have been concerns about the ability to and costs associated with the enforcement of arbitral awards.

Parties to a contract can mutually agree their choice of arbitration forum. Popular forums include:

- ICC
- DIA
- DIFC LCIA

The DIFC LCIA Arbitration Centre ("DIFC LCIA") is considered to be a popular seat of arbitration in the UAE (as well as the Middle East region), and it has a modern set of rules based on the long established rules of the London Courts of International Arbitrations. The DIFC LCIA is founded on a strategic partnership between two institutions, the DIFC and the LCIA.

Anti-bribery and corruption

Unlike the UK or the U.S., there is no specific legislation focusing solely on anti-bribery and corruption per se in the UAE. However, there a number of provisions outlawing bribery in various Federal and Emirate laws, as well as Government Department Rules including (without limitation):

- The Penal Code (Law no. 3 of 1987 as amended)
- Federal Armed Forces Law (no. 3 of 1971)
- The Human Resources Law (no. 11 of 2008)
- UAE AML Law (no. 4 of 2002)*
- Proposed new federal law to establish "The Federal Authority for Combatting Corruption"

**In April 2014 – the UAE Federal National Council passed a draft law to amend law no. 4 of 2002 and introduce "Federal Law No. 4 of 2002 on Confrontation of Money Laundering Offences and Combating the Financing of Terrorism".*

It should be noted that foreign companies with a presence in the UAE are often required to abide by the legislation of their relevant home jurisdiction. For example, breaches of the UK Bribery Act and/or the U.S. Foreign Corrupt Practices Act could be heavily penalised (fine and possible imprisonment of directors), notwithstanding territorial boundaries.

They also risk being disbarred from bidding for government contracts and other reputational damage.

Key considerations



- Consider the ownership structure required for the corporate vehicle (i.e. onshore or free zone) by evaluating the business plan and, where applicable, relationships with UAE partners.
- Consider the need for and consequences of services to be provided by distributors, commercial agents or sales representatives. Depending on the types of agreements, some might impose more onerous obligations on the foreign company principal.
- When contracting with local entities in the UAE consider whether it would be more beneficial (i.e. cost-effective and time-efficient) to resolve future disputes via the local courts, or an established arbitration centre or another forum in the UAE.
- Take into consideration UAE employment laws and visa requirements.
- Ensure compliance with all applicable anti-bribery and corruption legalization (not just in the UAE), especially where the business has operations/presence in other jurisdictions which have well-established (and far-reaching) anti-bribery and corruption legislation (e.g. UK Bribery Act and the U.S. Foreign Corrupt Practices Act).



UAE Key tax indicators

Tax indicators	Resident	Non-resident *
Fiscal year end	Calendar year	Calendar year
Companies		
Income tax	Tax is currently only enforced in respect of corporate entities engaged in the production of oil and gas or the extraction of other natural resources in the UAE.	Same as residents. In addition, foreign banks operating in the UAE are subject to 20% taxation in certain Emirates.
Tax on capital gains	Not Applicable	Not Applicable
General sales tax	Not Applicable	Not Applicable
Value added tax	Not Applicable	Not Applicable
Individuals		
Individual marginal tax rate (max)	Not Applicable. Social security contributions apply to UAE (5%, 12.5%) and GCC national employees (local rates).	Not Applicable
Basis of taxation	Not Applicable	Not Applicable
Withholding tax		
Dividends	Not Applicable	Not Applicable
Interest	Not Applicable	Not Applicable
Royalties	Not Applicable	Not Applicable
Management service fees	Not Applicable	Not Applicable
Customs	Standard rate is 5%. Other rates (0%, 50%, and 100%) apply depending on the nature of the goods imported.	
Exchange controls	Not Applicable	
Thin capitalisation	Not Applicable	
Transfer pricing	Not Applicable	
Double tax treaties	Algeria, Armenia ,Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, China, Czech Republic, Egypt, Estonia, Finland, France, Georgia, Germany, India, Indonesia, Ireland, Italy, Kazakhstan, Republic of Korea, Latvia, Lebanon, Luxembourg, Malaysia, Malta, Mauritius, Montenegro, Morocco, Mozambique, Netherlands, New Zealand, Pakistan, Panama, Philippines, Poland, Portugal, Romania, Serbia, Seychelles, Singapore, Spain, Sri Lanka, Sudan, Switzerland, Syria, Tajikistan, Thailand, Tunisia, Turkey, Turkmenistan, Ukraine, Uzbekistan, Venezuela, Vietnam, Yemen.	
Treaties awaiting conclusion or ratification	Fiji, Kenya	

* Not tax resident in UAE and no permanent establishment in the UAE.

About PwC Middle East

Our services

PwC helps organisations and individuals create the value they're looking for. We're a network of firms in 157 countries with more than 195,000 people who are committed to delivering quality in assurance, tax and advisory services.

Established in the Middle East for 40 years, PwC has firms in Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, the Palestinian territories, Qatar, Saudi Arabia and the United Arab Emirates, with over 3,000 people.

We provide a comprehensive set of services covering:

- Assurance and Audit
- Consulting
- Deals
- Family business
- Tax and Legal

Tax and Legal

The Middle East Tax & Legal practice offers expertise in jurisdictions across the region with over 500 people. We can provide assistance with the following areas:

- Indirect taxation (VAT and customs) and fiscal reform
- International taxation
- Global mobility and Human Resource Services
- Legal
- Mergers and Acquisitions
- Services for U.S. citizens and Green Card holders
- Tax and Zakat advisory
- Tax compliance, management and accounting services
- Transfer pricing

PwC Legal

Advice from a team of legal professionals based in the UAE, who leverage the multi-disciplinary strength of PwC and the broadest geographical coverage of any legal services network in the world.

We can assist you with:

- General corporate matters (including commercial contracts, joint ventures arrangements, and corporate restructuring)
- Acquisitions and disposals of companies and assets
- Immigration services
- Business establishment, corporate governance and ongoing compliance
- Government advisory

Contacts

Dean Kern, Dubai**Middle East Tax and Legal Leader**

+971 4 304 3575

dean.kern@ae.pwc.com

Jonathan Gibson , Dubai**Middle East PwC Legal Leader**

+971 4 304 3424

jonathan.s.gibson@pwclegal.co.ae

Jochem Rossel, Dubai**Middle East International Tax Services Leader**

+971 4 304 3445

jochem.rossel@ae.pwc.com

Waseem Khokhar, Dubai**PwC Legal Government Consulting Leader**

+971 4 304 3181

waseem.khokhar@pwclegal.co.ae

Alan Wood, Dubai**PwC Legal Corporate/M&A Leader**

+971 4 304 3056

alan.wood@pwclegal.co.ae

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PwC does not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

© 2015 PwC. All rights reserved. PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details.

CDC 993/62015