



MIDDLE EAST INSIGHTS

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THE QATAR LEGAL AND FISCAL FRAMEWORK: A REVIEW

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In 1995, the heir to the throne of Qatar Sheikh Hamad bin Khalifa Al Thani, deposed his father Sheikh Khalifa bin Hamad Al Thani, and initiated a policy of openness that led to unprecedented urban growth and development in the country. In June 2013, the Emir voluntarily abdicated in favour of his son, Sheikh Tamim bin Hamad bin Khalifa Al Thani.

Qatar today is a country whose main economic resources derive from oil and gas while in the 1970s, much of the economy was based on fishing and pearling. Qatar indeed owns the third largest gas field of the world. However, with the aim of diversifying its economy, the Qatari government recently started a process of *sportification* (Amara, 2005) that has led it to invest in mega sports events to develop the tourism sector. This process will culminate in 2022 with Qatar hosting the FIFA World Cup. Doha in fact aims to be a regional hub for culture, sports, and education.

These rapid urban changes and fast economic development have meant that Qatar, in the last four decades, has had to face important changes in its legal and investments regulation. This Insight will introduce the reader to its major adjustments, with particular reference to the legal and fiscal aspects of doing business in Qatar.

Legal and fiscal system in Qatar

The Qatar Constitution of 2005 has replaced the old one that was introduced after the country gained independence in 1971. It states that there are three powers, the executive is under the emir with the assistance of his ministers, the legislative under the Advisory Council, and the judiciary under the Supreme Council.

The Constitution guarantees the full independence of the judiciary, with the Supreme Council in charge of overseeing the courts. In 2003, the civil, commercial and Shariah courts were unified into a single body.

The legal system of Qatar is based on civil law, with the following hierarchy of laws: the Constitution, laws and decree laws, decrees and finally ministerial resolutions.

For business and commercial activities, there is a Commercial Law to govern the formation and operation of companies, while the main regulation authorities for such activities are the following:

1. *Ministry of Economy and Commerce*

The ministry is the key commercial regulatory body. Among other things, its responsibilities include issuing the licenses to commercial and investment activities, supervising such activities, consumer protection, taxation policy, and approving trademarks.

2. *Qatar Exchange / Qatar Financial Markets Authority*

The Qatar Exchange lists equity securities only. Initially called the Doha Securities Market, it was renamed Qatar Exchange in 2009 when the Qatar Investment Authority and the New York Stock Exchange signed a strategic partnership agreement. In 2014, Morgan Stanley Capital International (MSCI) elevated Qatar to emerging market status. The Qatar Financial Markets Authority supervises the Qatar Exchange and the securities industry in Qatar.

3. *Qatar Central Bank*

The Qatar Central Bank is responsible for the monetary policy and the supervision of the banking and non-banking financial institutions in Qatar. The Central Bank is also responsible for ensuring the Qatari Riyal remains pegged to the USD.

4. *Qatar Financial Centre / Qatar Financial Centre Regulatory Authority*

The Qatar Financial Centre is a fully onshore financial and business platform that allows registered entities to do business in Qatar and internationally. The Qatar Financial Centre Regulatory Authority has been set up for licensing, registering, incorporating, supervising and regulating entities in the QFC.

Law 13 of 2000 (also known as the Foreign Investment Law) regulates the commercial and business activities of foreigners in the state of Qatar. In particular, it applies restrictions to the permitted percentage of foreign ownership, and the types of activities foreigners can conduct and invest in. The law allows a maximum 49 percent foreign ownership in any Qatari company, but there are exceptions such as, for example, registration under the Qatar Financial Centre (QFC), the Qatar Science and Technology Park (QSTP), or Manateq, the government entity that manages the Special Economic Zones. In these cases, a 100 percent foreign ownership is allowed.

When a foreign entity wants to conduct business in Qatar, the following are the legal and commercial arrangements that can be used.

- i. Incorporating a local entity under the Law 5 of 2002.
- ii. Incorporating a local entity under the Qatar Financial Centre, the Qatar Science and Technology Park or the Special Economic Zones of Manateq.
- iii. Opening a temporary branch when the mother company has been awarded a contract in Qatar.
- iv. Opening a temporary office in which only marketing and administration functions are allowed, but where financial transactions cannot be conducted.
- v. Appointing a commercial agent/distributor.

In general, when foreigners incorporate a local entity they opt for a Limited Liability Company (LLC) because the capital requirement is lower, circa USD 50,000, and it can be used for working capital needs. Under this arrangement, the foreigner counterpart is obliged to have a local partner who owns 51 percent of the company, but a different agreement on how to share the profits can be made. Nonetheless, the LLC is not appropriate for all activities since LLCs cannot be used for banking, insurance, and investments.

If the local partner is a government entity, then it is customary for the parties to incorporate a private joint stock company under article 68 of the Commercial Law.

The taxation system

Law 21 of 2009 regulates taxation in the state. Qatar also has Avoidance of Double Taxation Agreements with 46 states.

1. *Corporate income tax:* Generally, the profits of non-Qatari nationals are taxed 10 percent, but this can reach up to 35 percent in the oil and gas sector. The taxation system is different for

entities registered under the Qatar Financial Centre, the Qatar Science and Technology Park, and the Special Economic Zones, where lower taxes can be applied in order to attract firms in the financial, manufacturing and high tech sectors.

2. *Withholding tax*: A rate of 5 percent is applied to royalties and technical fees; a 7 percent rate is applied to services such as commissions, broker fees, advisory fees, and so on. There is no withholding tax on dividends.
3. *Personal income tax*: There are no taxes imposed on salaries, wages, and allowances.
4. *Other taxes: vat/custom duties*: Currently there is no VAT. Qatar also imposes custom duties of 5 percent on imported items.

So far the taxation system has not been impacted by the low oil prices, but the VAT will be introduced in 2018 in all GCC member countries at a rate of 5 percent

FDI in Qatar

Foreign investors in Qatar benefit from a strong rule of law, but long bureaucratic procedures, and administrative costs can be a burden on the operations of the company. In this respect the government is improving the process through e-government services. However, the relatively high amount of capital required for a company's incorporation, i.e. USD 50,000, can deter small foreign investors. Also the long and difficult process of closing a business, especially when there is an insolvency case to resolve, is another barrier for small foreign investors.

Foreign investment in Qatar is mainly in the hydrocarbon sector due to the high level of oil and gas reserves. Foreign investors have also been attracted by the booming construction sector, mainly due to the 2022 FIFA World Cup. The authorities are trying to balance the economy, which is mainly dependent on hydrocarbon revenues by moving to a knowledge-based economy. The government has thus begun to encourage FDI in other areas such as agriculture, education, health, and tourism. In these sectors, 100 percent foreign ownership can be allowed.

Having said that, Qatar's robust legal environment, a good system for dispute resolution, and a low risk of expropriation make the country attractive to foreign investors. Qatar is a member of the International Centre for the Settlement of Investment Disputes (ICSID), and this means that it accepts the results of international arbitration as binding.

Qatar signed the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), which establishes international intellectual property rights. Qatar is also a member of the World Intellectual Property Organisation (WIPO) and a member of the International Patent System. This means that patents filed in Qatar can be recognized in 148 countries. However, the state grants patents only to industrial invention, which can be a limit to the development of the knowledge-based economy.

Foreign entities in Qatar are also drawn to the fact that the country's environment is conducive to international trade. Indeed Qatar has free trade agreements with:

1. The Gulf Cooperation Council - Kuwait, Bahrain, Oman, Saudi Arabia and UAE
2. The European Free Trade Association (EFTA) - Iceland, Liechtenstein, Norway and Switzerland
3. Singapore
4. The Greater Arab Free Trade Area (GAFTA), which includes Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestine, Saudi Arabia, Sudan, Syria, Tunisia, UAE and Yemen

Trade within GCC, EFTA and GAFTA is limited, while it is high with Singapore.

While the legal and fiscal systems are favourable and conducive of FDI, and the country is politically stable, the level of FDI remains low at less than 20 percent of GDP in 2015. Factors such as the large presence of state owned enterprises, the small size of the domestic market, the lack of a skilled workforce, and the high costs of living and doing business contribute to a low level of FDI.

Conclusion

The legal system in Qatar is clear, open and stable, while the tax regime is very favourable. The fact that it is also onshore is unique. In many locations, including the UAE, the legal system is usually an offshore system. In a world that is becoming highly regulated, it offers a good platform to corporate entities that would like to conduct business in and from Qatar. With its geographic location, and its many free trade agreements, entities in Qatar are able to easily expand their business in the region and beyond.

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