

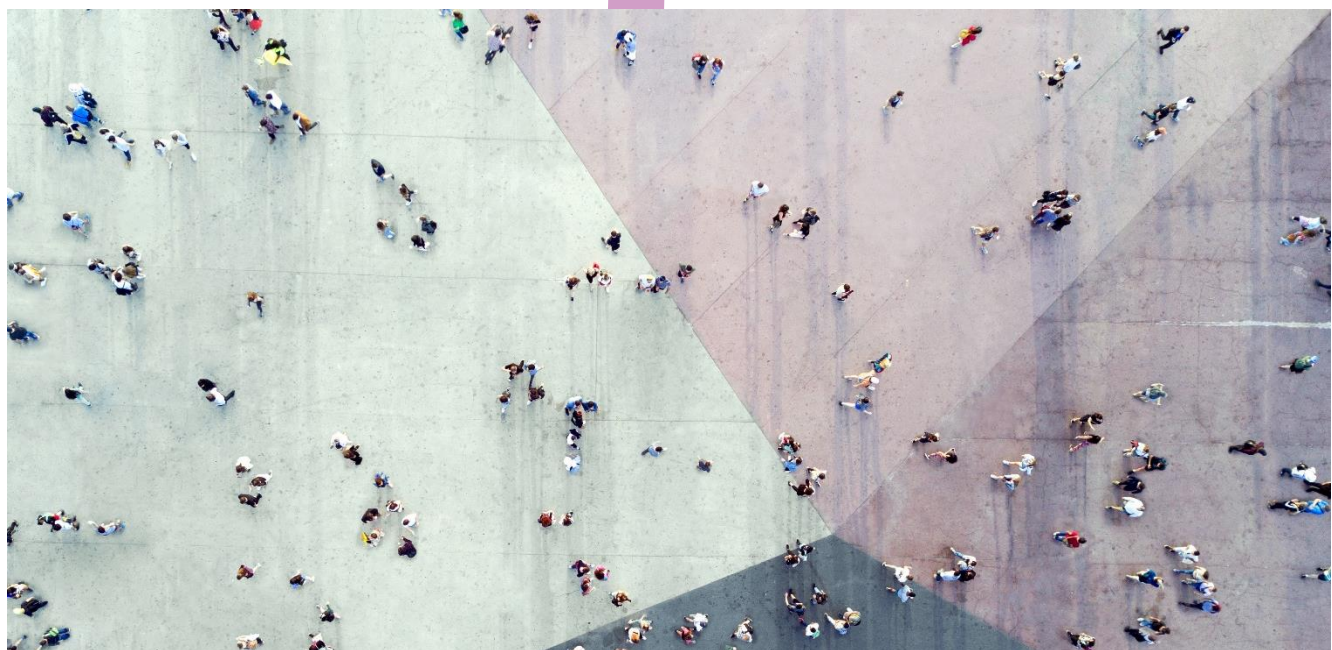
Bird & Bird

Setting up a business in the UAE

2025



The United Arab Emirates (“UAE”) is a federation of seven emirates, with each emirate also having its own ruler as well as its own rules and regulations applicable to that emirate. Numerous multinational companies have chosen the UAE as their regional headquarters because of its favourable geographical location, good infrastructure, political stability, and a welcoming attitude towards businesses in general. Historically, the economy has been heavily reliant on petroleum as an economic driver. However, in recent years, the UAE has been successfully diversifying into other economic sectors such as aviation, energy, finance, healthcare, heavy industry, logistics, retail, and tourism.



Doing business in the UAE

When an entity embarks on *doing business* (trading, providing services, performing business activities or transactions) in the UAE, it is key that it does so via legally permissible means.

We regularly advise our overseas clients on what amounts to *doing business* in the UAE. There are grey areas, and it is not always possible to precisely define what amounts to doing business - the facts and circumstances of each company's case should be assessed on a case-by-case basis. Whilst there may be some clear exceptions, we recommend exercising caution, particularly in light of the significant fines at stake for breaching trading or licensing rules.

Establishing a Physical Presence in the UAE

Deciding where to establish your business presence will be a critical step. You should assess in which Emirate you intend to start growing your business as well as the jurisdiction type. There are advantages and disadvantages of each jurisdiction type. The main jurisdiction types in the UAE (excluding offshore jurisdictions) are:

- Mainland jurisdictions
- Free zone jurisdictions

Mainland means all areas outside a free zone and a free zone is essentially a business park with its own licensing regime (see also section below on free zones). There are more than forty different free zones in the UAE. Free zones have become popular because (i) they do not impose any restrictions on foreign ownership and (ii) the free zone authorities are designed to be one stop shops for investors (which avoids having to deal with a plethora of different authorities and third parties). However, there are certain trading restrictions imposed on a free zone business, which still makes a mainland set-up a more popular choice amongst many businesses and foreign investors. We look at the characteristics of a mainland business set-up below. Once you have decided in which jurisdiction to establish your business, the next step is to determine the type of legal form. On mainland, the most common set-up types for foreign investors are a limited liability company ("**LLC**") or a branch office of a foreign company ("**Branch**"). A free zone also offers the equivalent of an LLC or a Branch.

Choice of legal entity Set up decision making

In deciding **where** to establish and **which legal set-up** to choose in the UAE, the following questions are key:

- In which industry or sector do you intend to operate? It is important that you procure that your set-up and licensing is appropriate to your sector and intended business activities.
- Which business activities do you wish to conduct? For example, do you intend to trade or import/export goods across the UAE and/or internationally? The scope of your business activities will influence the availability of jurisdictions and set-up types allowed.
- Where are the individuals or businesses located, with whom you intend to transact business? Are they outside of the UAE, on mainland or in another UAE free zone? This question is important when assessing the jurisdiction in which to set up your business presence.
- Who do you intend to conduct business with? Free zone entities may for example be precluded from contracting and operating within certain regulated sectors on mainland or concluding contracts with public bodies. Is your business an online business only?

Determining where to establish and the choice of legal form is an important step when setting up in the UAE. We can guide you through this decision-making process and help you evaluate the best UAE jurisdiction, set-up type and licence to meet your business needs now and in the future as your business grows.

The scope of your business activities will influence the availability of jurisdictions and set-up types allowed.

Subsidiary (LLC)

LLCs have limited liability and low share capital requirements. They are also considered to be flexible and can carry out a wide scope of activities, except for banking, insurance, and certain investment activities.

The number and nationality of shareholders required for an LLC depends on the intended business activities of the LLC. Foreign investors may hold 100% ownership in an LLC where the

activities of such LLC fall under a specific category of pre-defined commercial activities that allow for 100% foreign ownership. All other commercial activities are considered as strategic activities that require shareholding of at least 51% being held and registered in the name of a UAE national or a UAE company wholly owned by UAE nationals. Each Emirate has issued its own list of activities where 100% foreign ownership is permitted, and the lists are regularly being reviewed and updated. The respective economic licensing authority in each Emirate (i.e. typically, the relevant Department of Economic Development) is responsible for verifying whether a business activity is permitted for 100% foreign ownership.

The costs of incorporating an LLC vary depending upon the chosen licensed activities, the premises selected, any fit-out costs, any local sponsor/nominee shareholder fees (if required depending on the chosen activities) and the number of employees envisaged. The time it takes to incorporate an LLC varies depending on whether documents required in the incorporation process will need to be notarised, legalised overseas and/or translated. A typical time frame to set up an LLC is between three to six months.

Branch

A Branch is not a separate legal entity but is considered under UAE law to be an extension of its foreign parent company. Through a Branch it is possible to perform most business activities in the UAE and to conclude contracts as long as the Branch's activities mirror or are in line with the activities and objectives of its parent company. However, it is subject to certain restrictions including that the respective economic licensing authority in each Emirate (i.e. typically, the relevant Department of Economic Development) and the UAE Ministry of Economy ("MOE") typically do not allow a Branch to engage in the trading of goods or import and export activities.

Costs to register a Branch depend on the chosen licensed activities, the premises selected, any fit-out costs and the number of employees envisaged etc. The fees to set up a Branch are generally slightly higher than for an LLC. It is also necessary to procure a bank guarantee issued from a local bank in favour of the MOE in the sum of AED 50,000 as part of the Branch's registration process.

The typical time frame for registering a Branch is the same as for an LLC, approximately three to six months. It may vary depending on the number and volume of documents required in the registration process and how long any notarisation, legalisation and/or translation of those documents takes.

Free zones

Individual emirates have established certain economic and financial free zones within each of their boundaries. Such free zones are intended to encourage economic development.

These free zones have distinct business friendly laws and relaxed foreign ownership and regulatory obligations.

Free zones have the freedom to enact their own rules and regulations concerning the setting up of businesses in those free zones and the activities taking place within the free zone. However, federal and emirate specific laws still apply in those areas where their application is mandatorily imposed or which have not been specifically regulated by the free zone.

Many free zones are targeted at a specific business sector such as technology, healthcare, finance, aviation, media, telecommunications, education and have become a hub for such sectors.

It is possible to establish the equivalent of either an LLC or a Branch in most free zones. The main benefits offered by a free zone is that they are business clusters without any restrictions on foreign ownership and the respective free zone authorities are designed to be one-stop-shops for investors.

However, a business registered in a free zone is only permitted to conduct its business activities within the free zone's borders (or outside the UAE) and not in mainland UAE or in another free zone. It is often challenging to determine as to which activities are permissible under a free zone's licensing regime and when they fall outside their scope. Depending on activities and procurement requirements, it may not be possible to contract with government departments through a free zone set-up. This remains the general rule although we occasionally see 'tolerated practice', whereby free zone licensed businesses trade or contract with government customers and temporarily second employees to mainland entities.

To mitigate the general geographical trading restriction on mainland for free zone entities, some free zones have started to offer so called dual licences (i.e. a free zone and a mainland licence). The details and requirements for dual licensing vary (and constantly changes) but we would happily discuss their relevance with you.

ADGM and DIFC

Most free zones in the UAE are economic free zones. However, the UAE also has two financial

free zones: the Abu Dhabi Global Market (“**ADGM**”) and the Dubai International Financial Centre (“**DIFC**”).

Both free zones have their own court system modelled on English language common law judiciary and their own civil and commercial laws, based on principles of common law. They also have their own financial services regulators. This makes the ADGM and the DIFC appealing to foreign investors, particularly as they are increasingly being recognised globally as leading financial jurisdictions.

Employment

The Labour Law sets out key provisions relating to employment law matters in the UAE and is, with some exceptions, applicable to most private sector employers and employees in the UAE. The Labour Law deals with matters such as mandatory employment contract terms, employees’ working hours, rights of annual-, sick-, and maternity leave, termination of employment and notice periods and end of service gratuity payments.

Employers are required to procure work permits from the Ministry of Human Resources & Emiratization or free zone identity cards from the relevant free zone authority as applicable. Unless employees are self, spouse or dependent sponsored or a GCC national, employers are also required to act as sponsors for their employees and procure their visas.

There are certain federal Emirati national quota requirements to be aware of when recruiting staff to mainland companies. These quotas apply depending upon the number of employees in a business and the business sector.

Employment and immigration laws (including beyond of the scope of the Labour Law) is ever changing and developing in the UAE and we expect this evolution to continue.

Real Estate

As a general rule, ownership of real estate in the UAE is restricted to GCC nationals or entities wholly owned by GCC nationals. A non-GCC individual or entity may own real estate but only in certain free zones or in designated foreign investment areas. Accordingly, most businesses moving into the UAE will rent rather than acquire business premises. With just a few exceptions, it is necessary to obtain physical premises when setting up a business presence in the UAE. The size and nature of your premises will depend upon

factors such as the number of employees you intend to hire and your business activities.

There are a variety of real estate options available depending upon in which jurisdiction you establish your business and your business activities and chosen set-up type, including dedicated office/industrial space, serviced business centres/shared office space, flexi desk options or even shell and core premises. Leases in the UAE are normally entered into for a minimum period of one year. New premises may require fitting out and such costs are generally borne by the tenant (although this can be negotiated). The tenant is also generally responsible for the internal maintenance of the premises.

Data Protection/Privacy

The federal Data Protection Law came into force in January 2022. It regulates data subject rights, data breach requirements, data protection impact assessments, data transfer requirements and notification and record keeping requirements. In tandem with the Data Protection Law, the UAE Data Office was established, which acts as the data protection regulatory authority, operationalising the Data Protection Law’s requirements. Furthermore, an individual’s right to privacy is enshrined in the UAE Constitution and the Penal Code which continue to apply alongside the Data Protection Law. There are other provisions that can be used to claim a right to privacy. For example, the Cybercrimes Law punishes with imprisonment or a heavy fine whoever, without authorisation, deliberately receives or intercepts any communication through any computer network.

The Telecommunications Law also imposes a fine and imprisonment on whoever copies, discloses, or spreads the contents of any communication or telephone message, without having the right to do so.

Besides these general provisions, there are specific provisions in the Health Data Law that regulate the storing, processing, generation, or transfer of health information, which would have to be taken into consideration when handling health related data and information.

More comprehensive data protection laws also apply to businesses operating in a free zone with its own data protection laws, such as the DIFC and ADGM. Both the DIFC and ADGM require businesses registered in these free zones to register as data controllers with that free zone’s data protection authority.

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Intellectual Property

When entering the UAE market (through establishing your own business presence or entering into an agency/franchise arrangement) and as your business grows, it is key to protect your intellectual property rights and brand, which often represent the core of your business.

The UAE has several federal intellectual property laws to protect your patents, copyrights, confidential information, industrial design rights and trademarks. We would be happy to guide you through your rights and the protections available for your intellectual property rights.

Taxation

The UAE announced the introduction of corporate tax on profits with tax rates of 9% and, in some cases, 15% respectively. The new corporate tax regime has come into force from June 2023.

Personal income tax is not levied in the UAE at present. Excise tax is levied on certain goods deemed harmful to human health or the environment. Value Added Tax ("VAT") is otherwise levied on most goods and services, although the general rate is still relatively low at 5%.

Contact us

If you would like further information on setting up a business in the UAE, please e-mail our Set up Desk at MEA.Newcompany@twobirds.com and we will contact you within 24 hours.

This summary gives general information only as of September 2024 and is not intended to give a comprehensive analysis. It should not be used as a substitute for legal or other professional advice, which should be obtained in specific circumstances.

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Business Model Design

Alongside legal challenges, whatever the nature of your international ambitions the planning process requires some key questions to be addressed:

- Is internationalisation a feasible option, and are you ready for it?
- What is your internationalisation strategy, and how will you prioritise which markets to target?
- What business model will be most effective for driving profitable growth?
- Will you require business partners, and how do you plan to find them?
- What will your penetration strategy be for your selected markets?
- How will you build the infrastructure and operating model required to support your move into the new markets?
- How will you execute the plan and implement the business model?

Wherever your starting point, Bird & Bird's consultancy arm OXYGY can help you answer this question and create a fit-for-purpose roadmap to guide your business through its internationalisation journey.

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What clients say



Bird & Bird (MEA) LLP is praised for Good working knowledge of local requirements and reasonable value. Very responsive and easy to work with.

Legal 500 EMEA 2022



Bird & Bird went the extra mile, and their prompt and confident service provided us with the assistance needed.

Chambers Global, 2022, UAE



The Bird & Bird team has ‘Good knowledge of local processes, very responsive and easy to deal with.’

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Thank you

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