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Legal News of the Gulf

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July 2019

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Inside this Issue

International / Middle East

Possibilities of Expansion of German Enterprises in the Near and Middle East and its Legal Conditions

Elena Schildgen, Dubai..... p.1

United Arab Emirates

New DIFC Wills and Probate Registry Rules

Mariam Al-Ssayrafi, Dubai p.2

United Arab Emirates

Thoughts on the new DIFC Employment Law

Dr. Michael Krämer, Dubai..... p.4

Oman

Implementation of Excise Tax in Oman

Tarek Jairwdeh, Dubai.....p.5

(Continued...)

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Inside this Issue

Italy

Special Economic Zones in South of Italy

Dr. Sara Corradi, Dubai p.8

GCC

**The Legal Leap of Summer 2019 – New Investment
Laws in the Region**

Heinrich Köllisch, Dubai p.10

Possibilities of Expansion of German Enterprises in the Near and Middle East and its Legal Conditions

In the “lex arabiae” issue January 2019 we had already introduced the cooperation of Meyer-Reumann & Partners (M&P) with MKS Business Group and announced a series of seminars and workshops. This series will now start with its first event:



On September 13, 2019, **MKS Business Seminare** and **QRC Personalberatung International** continues with its established tradition to host an Open Day at the Malzböden Fürth and looking forward to welcome Clients of M&P.

The Open Day intends to serve as a forum for the exchange of experiences and information for a number of clients, business seekers and representatives of the Chambers of Commerce. It shall also give an overview of the multitude of services offered, provide the opportunities to network, establish and enhance relations with competent and experienced partners.

MKS Business Seminare would like to dedicate this day especially to the topic “**Possibilities of Expansion of German Enterprises in the Near and Middle East and its Legal Conditions**”.

Special Guest for this event will be Mrs. Elena Schildgen, Managing Partners of M&P in Dubai.

M&P is looking forward to join this very special and informative event in the framework of cooperation of our companies and we are looking forward to interesting and interactive discussions.

For more information, please send an email to elena@meyer-reumann.com

Elena Schildgen
Meyer-Reumann & Partners,
Dubai Office

United Arab Emirates**New DIFC Wills and Probate Registry Rules****Guiding Principle**

On 30th of June 2019 the Registrar of the DIFC Wills Service Centre issued new rules regarding the drafting of Non-Muslim Wills.

A. General Information on DIFC Wills**I. The Registrar**

The Wills Service Centre was established by Resolution No. 4 of 2014 issued by His Highness Sheikh Maktoum bin Mohammed bin Rashid Al Maktoum, the President of the Dubai International Financial Centre (DIFC), and its authority re-affirmed by Dubai Law No. 15 of 2017 issued by his Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice-President and Prime Minister of the UAE and Ruler of Dubai, regulating inheritance, wills and probate for non-Muslims. As a distinct entity, the Wills Service Centre provides administrative support to the DIFC Courts Wills Registry for Non-Muslims (the 'Registry') where the register of DIFC Wills is held and where all probate matters and probate claims are handled.

The Wills Service Centre and the Registry together provide a system ensuring that a person's assets will be distributed in accordance with the terms of their registered Wills.

II. DIFC Wills

Since 2014 the DIFC already offers Expats residing in the Emirate of Dubai or Ras Al Khaimah to plan their

succession with a Will. This Will is based upon the Regulations of DIFC and gives the opportunity for Non-Muslims to opt-out of the Sharia Regulations. The Wills are drafted in English; no Arabic documents/translations are required. The DIFC offers different types of Wills:

- Full/Mirror Will
- Business Owner Will
- Guardianship Will
- Property Will
- Financial Assets Will

For the registration of all Wills the Testator has to be 21 years old, residing in the Emirate of Dubai or Ras Al Khaimah, not being a Muslim (and never have been a Muslim). Guardianship provisions can only be set-up for children habitually residing in Dubai or Ras Al Khaimah.

B. What has changed?

In the aim to extend its services and range the DIFC implemented the following two changes in the Wills and Probate Registry Rules:

I. Wills covering UAE and world wide assets

The Rules will no longer prevent the Testator from including assets, which fall outside of Dubai and Ras Al Khaimah. It is now possible to not only include assets throughout the whole United Arab Emirates, but also worldwide. However, everyone wishing to draft a Will is recommended to seek appropriate legal advice in relation to the enforcement of a DIFC Will if including assets outside of the United Arab Emirates. Testators who wish to register DIFC Wills only for their Dubai and/or Ras Al Khaimah Estates may continue to

do so. Guardianship Wills and guardianship provisions in a Full Will continue to be valid only for minor children who are habitual residents of either Dubai or Ras Al Khaimah.

Although the DIFC set the parameters right to draft one all-inclusive Will, covering also assets worldwide, we would recommend to treat this option with care. The enforcement of a Will from one jurisdiction in another is always connected with obstacle and in many cases, due to different regulations and cultures, not possible. This is why we also recommend the draft a Will for every country, where assets are located with corresponding reference clauses.

In our opinion, it also has to be observed how other Emirates apart from Dubai and Ras Al Khaimah will handle the enforcement or the probate of DIFC Wills. The legal framework of the Wills and Probate Registry Rules as well as the legislation on federal level between the Emirates is in place, the practical implementation is another story.

II. Witness

The Authorised Officer/Probate Director will no longer be a second Witness to any of the Will signings as of June 30, 2019. It is imperative that Testators are aware that they now need to bring two (2) Witnesses to the Will signing. Witnesses must be at least 21 years old, with a valid photo ID. Witnesses cannot be a Beneficiary or a Guardian (or a spouse of a Beneficiary or a Guardian) mentioned in the Will.

Moreover, in accordance to the existing Rules, the Wills Registry is not required to store hard copies of the registered DIFC Will though in the past the Testators could not take the hard copy

with them. However, once the new Rules come into effect, Testators will have the option of taking the signed hard copy of the Wills with them once the Wills Registry has retained the electronic copy of the Will, which will be treated as the original Will. Otherwise, the Wills Registry will appropriately shred the documents after retaining the electronic copy of the DIFC Will.

C. Is there anything I have to do, when I already have a will at the DIFC?

Testators who already have a registered DIFC Will, but would like to extend the jurisdiction to reflect assets in other Emirates or global assets, will have the opportunity to amend their Wills at no additional cost between June 30 and August 29, 2019. Please note, these appointments must be made by email (appointments@difcwills.ae) only. If the modification appointment is made through the DIFC Will and Service Centre website there will no possibility for reimbursement of the fee paid online. Any modifications after August 29, 2019 will result in a fee of AED 550 +VAT and must be booked online through the normal website as usual.

In case you have any questions or need any clarification we will be happy to assist you.

Mariam Al-Ssayrafi
Meyer-Reumann & Partners,
Dubai Office

United Arab Emirates

Thoughts on the new DIFC Employment Law

Guiding Principle

From 28 August 2019 onwards, a new DIFC Employment Law (DIFC Law No. 2 of 2019 / the "New Employment Law") will come into effect in the DIFC, which replaces the existing DIFC Law No. 4 of 2005 (the "Old Employment Law"). The aim of this article is not providing a detailed analysis of all changes that the New Employment Law will introduce, which various other parties have done already. Instead, this article reviews the changes that will be applicable and aims to give an outlook on the impact these changes will have on employers.

A. Introduction

At first glance, the changes introduced by the New Employment Law seem to be a mixed bag of positive and potentially not so positive changes.

B. Positive Changes

Overall, the New Employment Law appears to have become more modern in some aspects and also more employee friendly. For example, the introduction of paternity leave is a welcome development, which brings the New Employment Law more in-line with many modern employment laws around the globe.

Another welcome introduction is the clarification that each employee's basic salary must not be less than 50% of the annual wage. While it really should go without saying that the actual salary part

of the salary should (far) outweigh the "allowance" part of the salary, the absence of clear regulations to that effect has led to abuse where, in some cases, employers tried to get away with setting the basic salary at no more than around 20% of the total salary amount. This is certainly beneficial (for the employer) when calculating the employees' gratuity entitlements (which are calculated based on the basic salary), but, at the same time, begs the question what gratuity entitlements are good for if the basis of their calculation depends on the employer's goodwill in the first place.

C. Debatable Changes

In the current economic climate in the UAE, a few of the changes in the new Employment Law appear debatable, however.

While at least in principle it is good news that the New Employment Law takes a tougher stance on discrimination, holding an employer liable for any discrimination taking place in the company strikes as a little harsh. This is even more true if non-compliance is penalised with compensation being payable of up to a full year's worth of (gross) salary of the allegedly discriminated employee. Yes, the employer is given the chance to prove that it has taken steps to avoid such discrimination taking place, but what would such steps be? Posting signboards throughout the office stating that discrimination is not tolerated? I have not come across a company that would have actively encouraged discriminating behaviour. At the same time, however, the provisions in the UAE Labour Law dealing with arbitrary dismissal are heavily "overused" in a sense that

nowadays virtually each and every termination of an employee is considered arbitrary. Are we looking at a future where employers in the DIFC will be held liable even for perceived "discriminations" taking place at the workplace they provide? I see a substantial risk of employees hoping for a big payday and believe that it remains to be seen whether the new Employment Law will actually lead to less discrimination or to employers employing less people in DIFC instead.

In addition, the new Employment Law introduces a whole range of new penalties and fines, ranging from US\$ 2,000 to US\$ 10,000 per breach. While it goes without saying that acts of non-compliance must be sanctionable, the question remains whether fines are really the only, or best, way of guaranteeing compliance. Systems that focus on issuing financial penalties instead of preventing wrongdoing tend to degenerate into income generators instead of upkeeping peace.

D. Conclusion

The new Employment Law comes with a number of welcome improvements. It does include a range of novel provisions, however, how the courts will interpret it will need to be monitored closely. Provisions against discrimination and penalties are nothing bad per se. The New Employment Law opens the door for such matters being abused to the detriment of employers in DIFC, however.

It might be worth bearing in mind that companies are the backbone of any economy and require a favourable business environment to flourish. It will be up to the courts to interpret the new

Employment Law carefully in order to not burden employers in DIFC unduly.

Dr. Michael Krämer
Meyer-Reumann & Partners,
Dubai Office

Oman

Implementation of Excise Tax in Oman

Guiding Principle

The implementation of excise tax in Oman follows the issuance of the Royal Decree 23 of 2019 ("the Excise Tax Law ") on 13 March 2019 and the subsequent publication of the Excise Tax Law on 17 March 2019.

The Sultanate of Oman had originally planned to introduce a 5 per cent value-added tax in 2018, which is now scheduled to start in 2020. According to the Excise Tax Law, its Executive Regulations, which are expected to contain the detailed application of the law, will be published within 6 months from the effective date of the Excise Tax Law.

Excise tax is implemented in Oman with effect on 15 June 2019 in accordance with the unified GCC Excise Tax Agreement, making Oman the fifth GCC country to implement excise tax. A 100% excise tax will be introduced for tobacco products, energy drinks and meat, while a 50% tax will be applied on carbonated drinks.

Excise tax will apply on products that are detrimental to human health or environment, or luxury goods, whether locally produced or imported.

The Secretariat General for Taxation (“SGT”) has released the Excise Tax Implementation Guide and Frequently Asked Questions (FAQs), ahead of the implementation of Excise Tax in Oman. The Guide shall supplement the Excise Tax law (issued via Royal Decree 23/2019) and the Executive Regulations, which are yet to be published. The Guide sets out the background and scope of the tax, including details of how businesses should calculate the Excise Tax due, the compliance and reporting obligations, and the transitional period rules for businesses holding stocks of Excise Goods by the date of implementation.

The Excise Tax will apply to importers, and local producers of Excise Goods. In addition, any person holding Excise Goods in their inventory by the date of implementation of the Law, will also have an obligation to account for tax. This will include businesses such as hotels, restaurants, retail shops and supermarkets.

The Excise Tax Law does not specify the list of excisable goods. However, based on the Implementation Guide on Excise Tax issued by the Secretariat General for Taxation (“SGT”), excise tax will apply to the following products:

- a) energy drinks at 100%;
- b) tobacco and tobacco derivatives at 100%;
- c) carbonated drinks at 50%; and
- d) special purpose goods (including alcohol and pork products) at 100%.

A. Excise Tax Registration

Any person involved in activities within the scope of Excise Tax must register for the Tax via the SGT portal. There is no registration threshold for Excise Tax,

therefore any business involved in importing, producing or storing Excise Goods should assess their obligation to register for Excise Tax purposes. The SGT will review the application and issue an Excise Tax number to the taxpayer upon approval.

B. Appointment of Responsible Person

Every registered person is required to appoint a person in charge (e.g., owner, partner, director or manager) and notify the SGT of the appointment. Where the registered person fails to appoint a person in charge, the SGT may exercise the right to appoint a person in charge on behalf of the registered person. The person in charge may not stay outside Oman for more than 90 days in a tax year unless prior approval is obtained from the SGT.

C. Calculation and Accounting of the Excise Tax

As in other GCC countries that have implemented Excise Tax, and in line with the provisions set out in GCC Common Excise Tax Agreement, the tax will be calculated on:

- The standard price of the goods determined by the SGT, or
- The retail sales price (RSP) declared by the producer, importer, or tax warehouse licensee.

Excise tax is due on the following dates:

- date of import of excisable goods;
- date on which the excisable goods is released for consumption; and
- date when excisable goods are offered for personal consumption (not relating to the practice of business or activity) within free

zones or special economic zones.

D. Excise Tax Exemption

The Sultanate of Oman will exempt:

1. Excisable goods received by the diplomatic and consular bodies, international organizations, heads and members of the diplomatic and consular corps within the Oman, on condition of reciprocity; and
2. Excisable goods held by passengers coming to the Oman provided goods are not brought for commercial purposes and meet the GCC Common Customs Law requirements.

E. Excise Tax Returns

Applications for Excise Tax Returns must be submitted within three months following the end of the tax period.

F. Excise Tax Payment

The Excise Tax will become due on the date of submission of the excise tax return.

G. Penalties

The Excise Tax Law imposes penalties for non-compliance with tax obligations and tax evasion. The penalties may include imprisonment of 2 months to 3 years and/or fine up to OMR 20,000.

H. Appeals

The person in charge can appeal against the assessment of the tax or against the amendment of the tax return issued by the SGT within 45 days from the date of its knowledge of the assessment or amendment. The registered person can further appeal against the decision of the Committee to the Court of First Instance.

I. Keeping the Record

Taxpayers involved in importing, producing or storing Excise Goods will be required to abide by compliance requirements including:

- Maintaining Excise Tax records for 5 years (electronically or via hard copies)
- Registering for Excise Tax purposes and submitting periodic returns and payments
- Ensuring IT systems are configured to manage the risk of non-compliance
- Complying with inventory control systems with respect to the Excise Tax suspension arrangements
- Keeping customs and transport documentation related to the movement of Excise Goods.

Tarek Jairwdeh

*Meyer-Reumann & Partners,
Dubai Office*

Italy

Special Economic Zones in South of Italy

Guiding Principle

The Decree-Law No 91 for the Economic Development of South of Italy issued on 20 June 2017 ("Decree-Law") and converted into ordinary Law No 123 on 3 August 2017 has introduced various measures for the growth of the southern part of Italy. These measures shall offer to this part of the country more flexibility from an organizational, financial and fiscal

point of view. The Law in particular has established the creation of Special Economic Zones ("SEZs"), special zones connected with port areas, and the Regulation No 12 issued on 27 February 2018 ("Regulation") provides the details of the new provisions for the Special Economic Zones.

A. Special Economic Zones: Forms and Definitions

Special Economic Zones are geographical areas in which a governmental authority offers incentives for the development of the businesses operating in that specific area in order to attract investments in particular from foreign investors and to be able to operate in different legal forms.

The *Organization for Economic Cooperation and Development* (OCDE)¹ has identified four different forms of Special Economic Zones:

- Free Trade Zones; at ports and airports, which offer partial or total exemptions on import or export duties for those goods that are re-exported;
- Export Processing Zones; facilitating the re-exportation only of goods that are being reprocessed on the spot, and will assume a significant added value;

¹ For a more detailed analysis and for references see Aniello, *Zone Economiche Speciali e zone logistiche semplificate. Misure per lo sviluppo dei porti ed elementi per una valutazione di impatto*, Consiglio Nazionale dei Dottori Commercialisti e degli Esperti Contabili – Fondazione Nazionale dei Commercialisti, 30 maggio 2018, p. 4-5.

- “Real” Special Economic Zones; offering a variety of incentives, concessions and administrative simplifications to the companies that establish their headquarters there;
- Special Industrial Zones; limiting the facilities to a specific sector and in which ad hoc infrastructures will also be built.

According to Article 4, paragraph 2 of the Decree-Law, the Special Economic Zone is a zone:

- a) geographically defined and identified within state boundaries;
- b) composed of territorial areas not directly adjacent as long as they have a functional and economic connection with the port; and
- c) which includes a port area, connected to the trans-European transport network (TEN-T).

The Special Economic Zones are allowed in six regions in the South of Italy: Campania, Basilicata, Puglia, Calabria, Sicily and Sardinia

B. Procedure For the Establishment of a Special Economic Zone

Following the initial consultation amongst the mayors of the territory, the Region submits a proposal based on a special strategic development plan and the government eventually officially establishes the SEZ.

The strategic development plan shall include the following:

- identification and documentation of the areas identified as part of the SEZ, highlighting in particular those falling within the port area;
- list of the already existing

infrastructures as well as the infrastructures connecting non-territorially adjacent areas;

- analysis of the social and economic impact expected from the establishment of the SEZ;
- report illustrating the strategic development plan accompanied by data and elements that identify the types of activities that are intended to be promoted within the SEZ, the territorial specialization activities that are intended to be strengthened, and that demonstrate the existence of an economic-functional link with the port area;
- identification of the administrative simplifications of its competence for the realization of the investments that the Region undertakes to adopt for business initiatives located in the SEZ;
- indication of the incentives and incentives that can be granted by the region.

The duration of the section may not be less than seven years and more than fourteen, which may be extended for a maximum of a further seven years at the request of the regions concerned.

C. Advantages of operating in a SEZ

There are basically two major benefits for companies that decide to settle in a SEZ:

First of all there is fiscal advantage for the companies that already are settled in a SEZ or that decide to set up a business in a SEZ: for these companies it will be possible to take advantage of a tax credit with a maximum of 50 million euros for the purchasing of capital goods. In

addition, the Decree-Law envisaged simplified procedures and special procedural regimes, which guarantee acceleration of procedural deadlines and simplified procedures with respect to the regime envisaged by the regulatory legislation ordinarily applicable. It is also envisaged the access to existing and planned infrastructures in the strategic development area of the SEZ.

The recognition of the types of benefits discussed above is subject to the following conditions: the beneficiary companies must maintain their activity in the SEZ area for at least seven years after the completion of the investment subject to the subsidies and the beneficiary companies must not be in a state of liquidation or dissolution.

These law provisions are mostly aimed to investors operating in the port sector but of course the establishment of SEZs will be a benefit for the whole region as it will be possible to create important connections with the already locally present activities that can in turn provide to the new companies infrastructures, expertise and workforce.

D. Simplified Logistic Zones in the North of Italy

The SEZs, in accordance with the European Union provisions of the State Aid Rules and of the Decree-Law, can be created only in the South of Italy. However, the Legge di Bilancio n. 302/2017 (“Budget Law”) has provided the possibility of establishment of entities within port areas in which companies can benefit from some simplified procedures typical of SEZs.

The Budget Law states that the ports that cannot benefit from the SEZs can enjoy the simplified procedures but not the tax

benefits provided for the SEZ; these special areas are called Simplified Logistic Zones (SLZs).

The SLZ is established following consultation on the proposal of the Region and with the act of the Minister of Territorial Cohesion in concert with the Minister of Transport; it lasts seven years with the possibility of renewal for other seven years.

E. Conclusion

As highlighted in this article the creation of an SEZ is an important tool for economic acceleration. Its usefulness is not limited only to fiscal or administrative advantages but also allows companies that establish themselves in the area to exploit synergies with local businesses and with the workers already present in the area as well as having access to existing infrastructures.

Alea iacta est: it will now be up to Italy and to European Union to adequately promote this institution on the one hand and, on the other hand, also for foreign investors to realize its potential.

Dr. Sara Corradi
Meyer-Reumann & Partners,
Dubai Office

GCC

The Legal Leap of Summer 2019 – New Investment Laws in the Region

Guiding Principle

July 2019 has brought about several core changes and reforms in States of the GCC regarding particularly the materia of foreign direct investment (FDI).

A. UAE – The Positive List is out

The detailed list can be seen on page 15 to 19.

The enactment of the Foreign Direct Investment Law (FDIL-AE) in the UAE has resonated far beyond the borders of the GCCs main investment hubs. The core of the law was to enable 100% foreign ownership in UAE companies. These companies will be designated specially as companies under the FDIL-AE. Until now, the large secret has been for what activities will such companies be licensed and under what individual conditions. The FDIL-AE itself already set out a so called “negative list” (NL) of activities. Companies pursuing this kind of activities will not be licensed under the FDIL-AE. Examples from the NL include exploration and production of petroleum products, Banking and finance, insurance, retail medicine (pharmacies) and commercial agency (c.f. Art. 7 Para. 2 FDIL-AE). Furthermore, the FDIL-AE provides for a so called “positive list” (PL). The activities listed therein shall be approved by default by the administrations as long as all other legal conditions including those ones in the PL itself are satisfied.

The actual PL is left to be issued by cabinet decision (Art. 7 Para. 3 FDIL-AE). Any activity not enlisted in the NL or the PL shall be approvable on a case-to-case basis by the authorities leaving them considerable discretionary authority. As per the beginning of July 2019, the UAE Cabinet under Sheikh Mohammed bin Rashid Al Maktoum Vice President and Prime Minister of the United Arab Emirates, Ruler of the Emirate of Dubai has issued the long-awaited PL. As firstly only Arabic full copies of the PL were available, Meyer-Reumann & Partners (M&P) would like to present an English translation of the Arabic version of the PL in full in this article.

The list includes 122 activities spread across the agricultural (19) industrial (51) and services (52) sectors. For each of these activities it states the minimum capital needed to invest, the requirements for Emiratization and further terms and regulations. Some of the above-mentioned requirements are the same throughout the entire list or large parts thereof like the requirement to join the Tawteen Partners Club (an Emiratization support initiative) of the Ministry of Human Resources and Emiratization (MOHRE), some others might be more differentiated.

In the area of services, the required capital is in many cases set at the level of capital required by applicable legislation. This means that the establishment of 100% owned foreign companies seems to be likely and very probable. In many cases however (e.g. legal services) professional companies with a 100% foreign ownership were already permitted subject to the engagement of a local service agent.

Thus, in the area of free professions a quantitatively large base for the establishment of FDI companies can be anticipated. In other fields of services, the choice of activities and conditions seems to be in line with development strategies of the country: e.g. Medical practices, and educational establishments are subject of favorable conditions and would contribute to the UAE's development perspectives in these fields. Notable is that holding companies for intellectual property (IP) can be set up with the legally required capital now. This gives more flexibility to those wanting to have their IP directly in the UAE. Until now IP not being brought into a 51 / 49 % joint venture with a local partner could only be held in offshore or limitedly in free zone companies, whereas now it could be held in mainland. An astonishing feature seems to be the allowance of retail in unspecialized stores, which however requires the maximum of 100 mio AED as capital under the PL.

Aside services the industrial production do make up the major portion of activities under the PL. Here throughout the activities, the PL demands the use of advanced technology in the production process, achieve high (domestic) value add and to contribute to research and development in the country. A number of production and manufacturing activities can be exercised with a minimum capital of 15 – 20 mio AED. Though a number of activities involving e.g. manufacture of electrical equipment requires a minimum capital of 100 mio AED.

In between manufacturing and services (though classified as services) construction activities can be found.

Here capital as per the applicable regulations is required, however their licensing will be limited to wide scale infra-structure projects such as airports, highways sports facilities and projects with a value higher than 450 mio AED.

To sum it up, the list of activities seems to have been chosen motivated to establish an equilibrium between foreign investors, who would like to have a wider access to UAE market, in respect of acquired rights of UAE citizens and the strategic development goals of the country.

Investors should firstly carefully check, if their perspectives and aims align with the partly ambitious capital amounts to invest. Secondly, due to long term commitment to the UAE as the place of investment their strategies would have to conform to the countries strategic perspectives in order to partner up therefor together in the future.

B. Oman – A Whole Bundle of New Laws

In the slipstream of the aforementioned UAE development, its eastern neighbor also enhanced its legislation with regards to foreign direct investment. Oman hereby covers in one step a number of legislative areas regarding FDI that have been subject to more gradual reform in its neighbors over the recent past. At the start of the year, the country reformed its Company's law (c.f. *lex arabiae* Vol. XXIII – 2nd Issue April 2019). As mentioned in this article many reforms therein would appear in an entirely new light if Oman would submit its Foreign Direct Investment Legislation to major changes. At the beginning of July, exactly this was published in the Official Gazette. However, the laws published in

there did not limit itself to a new FDI law only, but covered a whole bundle of new economic legislations that could turn out to be a game changer in Oman:

- The new Foreign Investment Law (FIL-OM) enacted by Sultani Decree 50/2019
- The Privatization Law (PL-OM) enacted by Sultani Decree 51/2019
- The Law on Public Private Partnerships (PPPL-OM) enacted by Sultani Decree 52/2019
- The Bankruptcy Law (BL-OM) enacted by Sultani Decree 53/2019
- The Law on Information and Statistics enacted by Sultani Decree 55/2019

As well as Sultani Decree 54/2019 concerning the Authority responsible for Privatization.

This complete bundle of law is of large importance for any foreign economic activity in Oman, as it does seem to channel foreign direct investment in a more favourable way for investors than the prior one. It also provides improved legislation for companies in rough times by the new bankruptcy law and offers better facilities for foreign companies by contribution in contexts of privatisation and public private partnerships (PPP), where Oman seems to provide and enlarge space for private initiative inside the Sultanate.

In comparison to the UAE, where the PL has given a clearer outline to legislation enacted before, Oman still depends to issue its executive regulations to the aforementioned legislations and the whole picture might only be available after weeks / months, last but not least since the executive regulations for the

new companies law still await their publishing.

C. The new Foreign Investment Law (FIL-OM)

The FIL-OM replaces the old Foreign Investment Law that in fact limited engagement of foreign investors to Omani corporations and requiring a minimum shareholding of 30% nationals and a minimum capital of RO 125 000/-. Under exceptional circumstances, a holding of 100% in foreign hands was possible for an enlarged capital and when national goals were achieved by such a kind of project. A major exception to this essential pattern was in place for certain nationalities such as GCC and US nationals due to international treaties. These privileges will remain and continue under the new legislation. However, the FIL-OM has stopped to mention share quotas for shareholders in Oman in total. Details for approval of foreign direct investment in Oman are now left to the executive regulations to be issued within 6 months. The law however states relative clear competences of the Ministry of Commerce and Industry and the Public Authority for Investment Promotion & Export Development. FDI disputes are subject to Omani courts on fast track procedures or arbitration.

Vehicles for approved investment can be corporate vehicles approved by Omani legislation i.e., in core Omani companies. It remains interesting to what extent branches of foreign companies will be recognized. Until now, those were only allowed temporarily in cases of government projects. The issue will be clearer once the executive regulations

to the Companies Law and the FIL-OM have been issued. On the other hand, the trend towards allowing more foreign ownership in Oman seems to be obvious. Everywhere, where 100% would be permitted, branches would not be of major interest, because a company in most cases would provide a safer liability structure for its parent than a branch of the same.

Aside the actual establishment proceedings that will be outlined in its full clarity, once the executive regulations have been approved, the law gives a number of incentives and guarantees to foreign investors. This particularly entrenches to repatriation of capital and profits, fund and subsidies in Oman as companies approved under the FIL-OM would be treated the same as locally owned companies. This is e.g. a major difference to the situation in the UAE, where companies under the FDIL-AE are even easily recognizable as they have to use another company abbreviation than local companies.

What will in general apply further to any Omani company, are the very developed Omanization requirements concerning labor force. The nationalization programs in Oman are one of the oldest in the region and seen as a success in the country.

All in all Oman seems to have made a large leap forward for enhancing its foreign direct investment structure and once its conditions are available to the public, should be considered in the scope of further developments for companies in the Middle East.

D. The Bankruptcy Law (BL-OM)

Until now Oman used to have one generally bankruptcy law as part of its

Commercial Code. It generally aimed at winding up companies when finding themselves in financially troubled conditions.

This has been overcome by the new BLOM. The new legislation aims and provides for a more complex and differentiated structure by providing options for restructuring, preventive settlements and a coordinated bankruptcy procedure not only for companies but also for single merchants.

E. The Laws on PPP and Privatization

As already mentioned, the further laws open perspectives to find flexible and more encouraging solutions for private companies and investors to cooperate and engage in fields and ways that have been subject to state engagement only during past times in Oman.

F. Final Remarks on Oman

Oman has enacted a bundle of very interesting measures that look promising to be a further game changer for foreign direct investment and economic engagement in the country. A further close monitoring of the details as to be spelled out by the executive regulations remains however necessary.

G. Conclusion

The reforms enacted during the usual holiday season in the UAE and Oman seem to be substantial though more for some foreign investors than for others. A final picture has yet to be assembled in the next weeks and months. Interested investors should consider consulting legal and other consultants in the near future for checking their options and evaluating them once the picture has

become clear enough. This should be done by obtaining professional advice, as rumors are quickly spread and unprofessional advice might give rise to unreasonable dreams or cut off promising chances.

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You can see the full “Positive List of the United Arab Emirates Ministry of Economy” on page 15 to 19.

**United Arab Emirates
Ministry of Economy
Positive List**

Agricultural Sector	19 main and sub-activity
Industrial Sector	51 main and sub-activity
Services Sector	52 main and sub-activity
Total	122 main and sub-activity

Agricultural Sector					
S.	Ref.	Sector and Activities	Min. Capital (m/AED)	National Cadres & Training	Regulations & Terms
1)	01111	Growing Grains (Wheat-Corn-malt-etc.)	7.5	Participation in the membership of Tawteen Partners Club in MOHRE	Use advanced technology in the production process. Achieve high added-value. Contribute in the research and development. Fulfill the requirements set by the national licensing authorities
2)	01112	Growing Legumes	7.5		
3)	0113	Growing Vegetables, melons, roots and Tubers	7.5		
4)	0114	Growing Sugarcane	7.5		
5)	0116	Growing Fiber Crops	7.5		
6)	0119001	Growing Flowers and Buds	7.5		
7)	0121	Growing Grapes	7.5		
8)	0123001	Growing Fruits and Citrus	7.5		
9)	0124	Growing Apples and Seed plants	7.5		
10)	0125	Growing other Fruit Trees and shrubs, and nuts	7.5		
11)	0125	Growing other Fruit Trees and shrubs, and nuts	7.5		
12)	0126	Growing Oily Plants	7.5		
13)	0127	Growing Beverage Crops	7.5		
14)	01289	Growing Aromatic Crops, Drug and Pharmaceutical Crops	7.5		
15)	0161	Support Activities for Crop Production	10		
16)	0162	Support Activities for Animal Production	7.5		
17)	0163	Post-Harvest Activities	7.5		
18)	0164	Seed Processing for Reproduction	7.5		
19)	0210	Agroforestry and other Agroforestry Activities	7.5		
20)	0240	Agroforestry Support Activities	7.5		

Industrial Sector					
S.	Ref.	Sector and Activities	Min. Capital (m/AED)	National Cadres & Training	Regulations & Terms
1)	10	Manufacture of Food Products (Except) 1071 – Bakeries 105 – Dairy Products 108 – Artificial Animal Feed	15	Participation in the membership of Tawteen Partners Club in MOHRE	Use advanced technology in the production process. Achieve high added-value. Contribute in the research and development.
2)	11	Manufacture of Beverages (except) 1101 – distilment, refining or mixing of spirit beverages 102 – Wines	15	Participation in the membership of Tawteen Partners Club in MOHRE	Fulfill the requirements set by the national licensing authorities

		1103 – Malt-based Alcohols			
3)	14	Manufacture of Clothes (Except) 14109 – tailor-making and sewing of clothes 1410122 – Military Uniforms	15		
4)	15	Manufacture of leather products and related products	15		
5)	16	Manufacture of wood, wood and foam works except furniture Manufacture of straw or plaited products	15		
6)	2012002	Manufacture of straight or compound fertilizers	15		
7)	2013	Manufacture of plastics and synthetic rubber in primary forms	15		
8)	2021	Manufacture of pesticides and other agrochemical products	15		
9)	2022	Manufacture of coatings, polishes, similar paints, printing inks and mastic pastes	15		
10)	2023	Manufacture of soap, detergents, cleaning and polishing products, perfumes and cosmetics	15		
11)	2029006	Manufacture of glues and artificial adhesives	15		
12)	2029008	Manufacture of writing and drawing inks	15		
13)	2029009	Manufacture of textiles and leather preparing chemicals	15		
14)	2029013	Manufacture of photography slides and films	15		
15)	2029019	Manufacture of gelatin and its derivatives	15		
16)	2029021	Manufacture of basic oils (concentrated perfumes)	15		
17)	2029022	Manufacture of natural aromatic products extracts	15		
18)	2029023	Manufacture of aromatic distilled water	15		
19)	2029024	Manufacture of matches	15		
20)	2029025	Manufacture of welding powders and pastes	15		
21)	2030	Manufacture of synthetic fibers	15		
22)	2100	Manufacture of pharmaceutical, medical, chemical and vegetable substances	15		
23)	22	Manufacture of rubber and plastic products	15		
24)	23	Manufacture of other non-metals	15		
25)	24	Manufacture of base metals (except) 242 – precious and non-iron base metals 2432 – non-iron metals casting	20		
26)	25	Manufacture of formed metal products except machines and equipment (except) 252 – weapons and ammunition	15		
27)	26	Manufacture of computers, electronic and visual products	15		
28)	27	Manufacture of electrical equipment	100		
29)	28	Manufacture of machines and equipment unclassified elsewhere (except) 28259 – tobacco processing machine	100		
30)	29	Manufacture of engine-vehicles, trailers and semi-trailers	100		
31)	3011101	Building commercial ships	100		
32)	3011103	Manufacture of ship parts and floating facilities	100		
33)	3011905	Construction of floating or fixed oil rigs	100		
34)	3011906	Construction of floating facilities	100		
35)	3011907	Building helicopters	100		
36)	3012	Building cruise ships and sport boats	15		
37)	3020	Manufacture of locomotives and railway wagons	20		
38)	3030	Manufacture of air and space ships and connected machines (except) 3030006 – ballistic and military guided missiles	100		
39)	3090	Manufacture of the transportequipment unclassified elsewhere	20		

Participation in the membership of Tawteen Partners Club in MOHRE
Participation in the membership of Tawteen Partners Club in MOHRE

Use advanced technology in the production process. Achieve high added-value. Contribute in the research and development. Fulfill the requirements set by the national licensing authorities

40)	31	Manufacture of furniture	15	Participation in the membership of Tawteen Partners Club in MOHRE Participation in the membership of Tawteen Partners Club in MOHRE	Use advanced technology in the production process. Achieve high added-value. Contribute in the research and development. Fulfill the requirements set by the national licensing authorities
41)	3220	Manufacture of musical instruments	2		
42)	3230	Manufacture of sports gear	3		
43)	3240	Manufacture of toys and games	3		
44)	3250	Manufacture of dental medical tools and supplies	20		
45)	3290	Manufacture of the products unclassified elsewhere	3		
46)	3312001	Repair and maintenance of train engines	15		
47)	3312002	Repair and maintenance of ship engines	15		
48)	3315001	Repair and maintenance of ships	15		
49)	3315004	Repair and maintenance of trains and railway equipment	15		
50)	3315005	Repair and maintenance of plane engines	15		
51)	3315006	Repair and maintenance of planes	15		

Service Sector						
S.	Ref.	Sector and Activities	Min. Capital (m/AED)	National Cadres & Training	Regulations & Terms	
1)	6910002	Legal Consultancy Office	As per the Applicable Regulations	(Provided not to litigate before UAE courts, appear before official authorities or perform notary duties) and take the approval of the relevant state authorities.	Participation in the membership of the Tawteen Partners Club in MOHRE	
2)	692	Accounting, book-keeping, audit and tax consultation activities		Nothing is permitted but the tax planning of business, consultations, preparing and revision of business taxes.		
3)	711	Architectural, engineering activities and related technical consulting services				
4)	862	Medical and dental clinics activities				
5)	75	Veterinary activities				
6)	620	Computer programming activities, consulting experience and associated activities		Provide a technical team not less than 5 programming specialists at the end of the company's first year.		
7)	72	Scientific research and development				
8)	7730-77300	Renting of machines, other equipment and physical commodities (except renting of cars)				
9)	471	Retail sale in unspecialized stores (except cooperative societies 4711001)		100		
10)	731	Advertisements		As per the Applicable Regulations		
11)	732	Market researches and Surveys				
12)	702	Consulting experience in Administration				
13)	712	Inspections and technical tests				

14)	331	Repair of the formed metal products, machines and equipment (except naval ships, planes and other transportations)	As per the Applicable Regulations		Participation in the membership of the Tawteen Partners Club in MOHRE	
15)	8121-81210	General cleaning of buildings				
16)	742	Photography activities				
17)	8292-82920	Packing and packaging activities				
18)	823	Organization of conferences and commercial fairs				
19)	741	Specialized designing activities				
20)	7490005	Legal translation services				
21)	7490006	Subtitling of cinematic films and TV shows				
22)	7490012	Document translation services				
23)	8299002	Simultaneous translation services				Nothing is permitted but the wide-scale infrastructure projects such as airports, highways, sports facilities and projects with a value higher than AED 450 mio.
24)	41	Construction of buildings				
25)	42	Civil engineering				
26)	432	Electrical, plumbing works and other structural activities				
27)	433	Completion and finishing of building				
28)	431	Demolishing and site preparing				
29)	439	Other specialized construction activities				
30)	7730009	Renting machines and equipment used in construction, building or demolishing				
31)	851	Pre-elementary and elementary Education				Except for the general education and only after obtaining the approval of the relevant authorities to establish and guide an educational institution. This may also be subject to the convenience conditions of the school facilities and ensuring a high standard of educational quality.
32)	852	Secondary Education				
33)	853	Higher Education				
34)	854	Other Education Stages				
35)	370	Sewage System				
36)	382	Processing and drainage of wastes				

37)	3900001	Processing of pollution effects and environment protection			
38)	861	Hospital services	100	Shall be subject to the approval of the competent authorities, which is based on the economic need tests, which take into consideration the number of hospitals, medical and health centers in a specific area. In Dubai Healthcare City, the economic need tests will not be required.	Participation in the membership of the Tawteen Partners Club in MOHRE
39)	869	Other Human Health Services	70		
40)	8211001	Hotel Management			
41)	8211004	Restaurant Management			
42)	90009	Creative Activities and Drama Shows (Theatre)		Nothing is permitted but the theatre activities, live shows and circus activities	
43)	9000104	Musical Bands			
44)	9000110	Circus			
45)	8130002	Landscaping			
46)	9103-91030	Gardens, zoos and natural reserves activities	As per the Applicable Regulations	Nothing is permitted but the general gardens services and gardening services.	
47)	5012-50120	Marine and coastal transport			
48)	5022001	Inland water transport			
49)	7730016	Hiring of commercial ships			
50)	5222002	Guidance and towing of ships			
51)	5222007	Marine towing of boats and jet-skies			
52)	New	Intellectual property activities in the holding companies			