Doing Business in Qatar – 10 key points

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Ranked Tier One among the international firms in Qatar
Legal 500 2015
Qatar is one of the smaller Gulf states in terms of population (approximately 2.3 million in June 2015) and geographical area (about the size of Yorkshire in the UK and Connecticut in the USA), but boasts the third largest natural gas reserves in the world. This abundance of natural resources coupled with recent legal liberalisation, economic diversification and a burgeoning economy mean that there are many opportunities for investment in Qatar.

These opportunities have been greatly enhanced by Qatar being chosen to host the Football World Cup in 2022.

Foreign investors are welcomed and various incentives are available to attract foreign capital, including tax and customs duty exemptions. Foreign investors can transfer their investments and profits can be repatriated as can proceeds of sale and capital on liquidation.

A new Commercial Companies Law came into effect in August 2015 which made a number of changes, including removing the previous requirement that a Qatar incorporated limited liability company had to have a minimum paid up share capital on incorporation of QAR 200,000 (USD 54,950).

Qatar is very much a market where local knowledge is key. We set out below 10 key points to consider when doing business in Qatar. Please contact Simmons & Simmons Middle East LLP (“Simmons & Simmons”) if you would like more detailed information. Contact details for some of our Doha-based partners can be found at the end of this note.
Foreign Investment restrictions

- Foreign investors may only invest in Qatar in accordance with the provisions of the Foreign Capital Investment in Economic Activities Law (No. (13) of 2000), as amended.

- Foreign investors may invest in all parts of the national economy (other than those set out below) with a Qatari partner who must normally own at least 51% of the enterprise.

- Although exemptions apply in this regard, foreign investors may not invest in commercial agencies or, broadly speaking, real estate (for applicable exemptions to real estate investments, please see section 6 (Property) below). Approval from the Council of Ministers is required for foreign investment in banking or insurance.

- The Ministry of Economy and Commerce may permit foreign investors to own more than 49% and up to 100% of a company in specified sectors called the “Priority Sectors”, namely business consulting; technical services; information technology; cultural, sports and leisure services; distribution services; agriculture; manufacturing; health; tourism; development and exploitation of natural resources; energy and mining.

- Foreign capital is guaranteed against expropriation (although the State may acquire assets for public benefit on a non-discriminatory basis, provided full compensation for the value of the asset is paid).

- Foreign capital (meaning shareholding by non-Gulf Cooperation Council (“GCC”) entities or individuals) in public shareholding companies listed on the Qatar Exchange is limited to 49% in aggregate, unless the articles of association of such company provide for a higher percentage.

- A foreign company which has a contract with the Government of Qatar or a quasi-Government entity may be able to register a branch office (as opposed to incorporating a Qatar company) if it has entered into a contract in respect of a “government qualified project”.

- The incorporation and organisation of companies is governed by the Commercial Companies Law (No. (11) of 2015) (the “Commercial Companies Law”) which came into effect in August 2015. The Commercial Companies Law regulates the types of company which may be established Qatar.

- An “Article 207 Company” is a particular type of company which can be incorporated under the Commercial Companies Law. This is a private shareholding company formed by the government or a government entity, or by a foreign entity with the government or a government entity. An Article 207 Company is not subject to the Commercial Companies Law, to the extent that certain provisions of that Law have been excluded in the company’s Articles of Association.

- Gulf Cooperation Council (GCC) nationals under certain circumstances are treated the same as Qatari nationals. The Ministry of Economy and Commerce has put in place internal regulations by virtue of which GCC nationals can fully own a Qatari company, under certain exempted activities.

- The Engineering sector comes under the supervision of the Engineers & Consulting Offices Accrediting Committee at the Ministry of Municipality & Urban Planning. International Engineering Consultancy firms that meet certain requirements can register a foreign branch to undertake engineering works without a Qatari partner.
There is a separate and distinct regime for establishing companies in the Qatar Financial Centre which allows 100% foreign ownership and has been put in place primarily to attract international financial services companies (but also some support functions and since 2014 wider activities outside the financial services sector) to come to Qatar. That regime is explained in outline in Section 9.
Choosing the most appropriate business medium

Incorporating a company

- A company is the normal vehicle where an on-going business is being set up.
- Various exemptions are available to attract foreign capital.
- Except for branches of foreign companies with government contracts and Trade Representative Offices or companies in specified sectors, most of the other cases will require a Qatari partner.

Branch office

- Used where a foreign company is performing a specific government contract in Qatar.
- Authorised by the Ministry of Economy and Commerce where the project is “government qualified”.
- No need for a Qatari partner.
- Branch is registered to perform the specific government contract for which it is registered and cannot undertake work for the private sector.
- Branch will be fully taxable unless it is granted a special exemption.

Commercial Agency

- The foreign company does not establish a presence in Qatar, but instead, a Qatari agent is appointed to market goods and services within Qatar.
- Exclusive agencies may be registered and are subject to the Commercial Agents Law (No. (8) of 2002).
- Under a registered agency, commission is payable on all sales of the products within the territory even if the sales are not due to the activities of the agent.
- Termination of the agency will trigger compensation for the Qatari agent, including upon the expiry of a fixed term agency.
- Non-registered agencies will be subject to the Commercial Law (No. (27) of 2006).

Trade Representative Office

- It is possible to register a Trade Representative Office by virtue of the Minister of Economy and Commerce Decision No. (142) of 2006 regulating Trade Representative Offices.
- May only be used to promote a foreign company in Qatar so as to introduce it to Qatari companies and projects, through marketing and promotions.
- May not be engaged in selling or entering into contracts in Qatar. Business must be carried out by the foreign entity (where the contract can be performed substantially outside Qatar) or by a company or branch authorised to do business in Qatar.
Company structures

In addition to the list below, other possible legal entities under Qatari law include the Simple Partnership, the Joint Partnership and the Holding company. The participation of foreign capital in all companies is restricted to various levels.

If a foreign investor is permitted to own 100% of the company (by the Ministry of Economy and Commerce as a result of investing in certain specified sectors), a Limited Liability Company with a single shareholder can be used as the vehicle for such investment.

Limited Liability Company

- Minimum capital used to be QAR200,000 (USD54,950). However, under the current Commercial Companies Law, no minimum capital is specified. The capital is required to be fully paid up.

- Can have one shareholder only who owns 100% of the company’s shares. This could be used by a Qatari individual and also by a foreign investor who has obtained an exemption allowing them to invest in the Priority Sectors as provided for under the Foreign Investment Law.

- Where an exemption cannot be obtained, a foreign investor would require a Qatari partner who has 51% ownership.

- The parties’ profit shares do not necessarily have to reflect their equity shareholdings.

- 10% of each year’s net profits must be kept within the company until the legal reserve stands at 50% of the share capital.

- May not raise capital by public subscription and may not issue freely transferable shares or bonds.

- Shares may only be transferred after they have first been offered to the other shareholders by way of pre-emption, unless the other shareholders have agreed to waive their right.

- There is no restriction (under the Commercial Companies Law) on a limited liability company from undertaking activities which include accepting deposits, carrying out banking or insurance business or providing investment services on behalf of third parties. However, other laws in Qatar which regulate these activities effectively mean that a limited liability company could not conduct activities such as these. Instead, a shareholding company would need to be incorporated.
Shareholding Company

- There are two types of shareholding companies: privately and publicly held (publicly held shareholding companies are required to be listed on the Qatar Stock Exchange within one year of incorporation, otherwise they will be converted to a private shareholding company).

- Minimum paid up capital for a public shareholding company must be QAR10 million (USD2,746,574) for an unlisted company and QAR40 million (USD10,986,295) for a company listed on the Qatar Stock Exchange. However, a private shareholding company must have a minimum capital of QAR 2 million (USD547,945).

- Number of shareholders must not be less than five (or not less than 30 if listed on the Qatar Stock Exchange).

- Memorandum and Articles of Association are in a prescribed form and any deviations from such form are subject to the approval of the Commercial Companies Department at the Ministry of Economy and Commerce.

Article 207 Company

- Must be a private shareholding company – the Qatari government, a Qatari public corporation or a Qatari government owned entity in which the State has a shareholding of not less than 51%, or a lower percentage with the approval of the Council of Ministers, may incorporate a private shareholding company, either alone or together with a foreign investor. With the approval of the Minister of Economy and Commerce, the foreign investor’s share of the company is a matter for negotiation, and can be greater than 49%.

- Falls outside the Commercial Companies Law to the extent that certain provisions of that law have been specifically excluded in the company’s Articles of Association.
Commercial registration and other formalities

As part of the company incorporation procedures, Simmons & Simmons will use its own PROs (public relations officers or liaison officers) to carry out all the necessary registration formalities. However, once a company has been established, it will normally either employ a PRO or hire a PRO from a third party service provider. Such a PRO will be invaluable for obtaining residence permits, driving licences and telephone, power and water connections etc. and their renewals.

Company Formation

The following are required in order to incorporate a company and obtain a Commercial Registration:

- Memorandum & Articles of Association in Arabic which conform with the standard form provided by the Ministry of Economy and Commerce and have been approved by the Ministry;
- Notarised, authenticated and consularised copies of the foreign company’s Certificate of Incorporation, Memorandum and Articles of Association and board resolution or power of attorney authorising someone to act on its behalf to establish a company in Qatar;
- Letter from a Qatar bank indicating the deposit of the share capital at that bank; and
- Qatar Chamber of Commerce Registration (issued simultaneously with the Commercial Registration Certificate which will confirm Chamber membership).

Once the company has been incorporated and the Commercial Registration issued, the share capital can be released to the company’s directors or the general manager for the purposes of running the company. The following licences must then also be obtained:

- Commercial Licence;
- Signage Licence; and
- Immigration Card.

Branch Office

The following are required in order to register a branch office and obtain a Commercial Registration:

- letter of support from the Qatar government entity to whom the services will be rendered;
- copy of the contract with the Qatar government entity;
- authorisation from the Ministry of Economy and Commerce to establish a branch;
- notarised, authenticated and consularised copies of the foreign company’s Certificate of Incorporation and Memorandum and Articles of Association;
- a notarised, authenticated and consularised power of attorney from the foreign company to the manager of the branch; and
- Qatar Chamber of Commerce Registration (issued simultaneously with the Commercial Registration Certificate which will confirm Chamber membership).
Once the branch has been approved and the Commercial Registration issued, the following licences must also be obtained:

- Commercial Licence;
- Signage Licence; and
- Immigration Card.

If applicable, the company/branch may also need to be entered in the Importers’ Register and/or Contractors’ Register.
Taxation

Companies

- The Income Tax Law (No. (21) of 2009) (the “Tax Law”) came into force on 01 January 2010. This law repealed Law No. (11) of 1993 and brought about a number of changes, most importantly establishing a flat 10% corporate tax rate, replacing the sliding scale tax rate applicable before January 2010, as well as introducing a withholding tax regime.

- A 10% flat rate income tax is levied on businesses other than those wholly owned by GCC nationals. However, where special agreements have been concluded between the Qatar government and foreign companies in the oil and gas industry and for the development of natural wealth and resources, the tax rates specified in the agreements will continue to apply. If the agreement does not specify a tax rate, then a tax rate of 35% is expected to apply in those sectors.

- However, the share of profits of the Qatari or GCC partner in a business is exempt from tax.

- The Tax Law imposes tax on “the Aggregate Taxable Income of the tax payer arising from sources in Qatar during the preceding tax year.” Tax liability applies not only in relation to income arising from sources in Qatar, but also in relation to commissions payable under agency agreements, brokerage or commercial representation realised outside Qatar in connection with activities conducted inside Qatar.

- Income arising from sources in Qatar includes income arising from: any activity intended to make profit in Qatar, implementation of contracts, real properties, sale of shares in Qatari companies or companies listed on Qatar Exchange, services supplied to head offices, branches or associated companies, interest on loans obtained in Qatar, income arising from the exploration, drilling or utilisation of natural resources, and taxable income in accordance with double taxation treaties.

- The Tax Law established a new withholding tax regime on payments to non-residents, as follows:
  - 5% (five percent) of the gross amount of royalties and technical fees;
  - 7% (seven percent) of the gross amount of interest, commissions, brokerage fees, director’s fees, attendance fees and any other payments for services carried out wholly or partly in the State of Qatar.

- A tax exemption can be granted under the Tax Law for a period of up to six years for major projects if they meet certain criteria.

- Some countries have double tax treaties with Qatar including France, Russia, China, Switzerland and the United Kingdom. If there are no double tax treaties, unilateral relief may be available.
Individuals

There is no income tax on personal salaries.

Customs duty

The GCC has a customs union whereby the rate of duty is 5% on most items imported into GCC countries. Once in Qatar, products may be exported to other GCC countries freely without further duties. Exemptions from customs duty can be obtained for the import of equipment relating to a particular project as can exemptions from customs duty for the import of primary or semi-manufactured materials where they are not available locally. In addition to customs duty, legalisation fees are payable on import documentation.
Property

The following forms of ownership are permitted in Qatar:

Freehold

Freehold ownership is mainly restricted to Qatari nationals.

GCC nationals may own land without restriction in three designated areas managed by Qatari Diar. These are Lusail, Fox Hills and Al Khuraj.

Foreign non-GCC nationals may own real estate only in specific designated projects, namely the Pearl-Qatar, West Bay Lagoon and Al Khor Resort projects.

Usufructuary rights

“Usufructuary” rights are rights in real estate granting the recipient the right to use and occupy property belonging to another person for a defined period of time (or, if undefined, the life of the recipient) and in accordance with the terms and conditions contained in the instrument that creates the right. The rights granted under a usufructuary arrangement attach to the land and create a legal interest in the property. Non-Qataris can hold usufructuary rights in property used for both residential and commercial purposes for a period of up to 99 years in 18 designated investment areas.

Leasehold rights

A lease will only grant to the tenant a personal right. The lease will be enforceable against the original landlord, but is not directly enforceable against third parties, and may not be enforceable against a new owner of the property.

The tenant does not have the right to assert and protect his rights in the leased property in his own name.

The personal rights granted under a lease are not capable of being mortgaged as they do not amount to ‘property’ in their own right (although security may be taken by a lender by way of an assignment of the lease from the tenant to the lender in the event of a default by the tenant). The relationship between landlord and tenant is largely regulated by Law No. (4) of 2008 which, amongst other matters, established a designated committee within the Doha Municipality to deal with lease disputes.

Registration of title

All transactions which establish, transfer, alter, cancel or terminate property rights or other rights attached to land must be registered. Any unregistered contracts have no effect other than as personal obligations between the contracting parties.

The Land Registration Department records all rights over land and any changes that might take place in respect of them and such records are now entered on to an electronic system. Interested parties, judicial authorities or experts appointed by them have access to such records.
Commercial contracts – choice of law and jurisdiction

Once a business entity has been established it will need to protect its interests when contracting with other entities.

- The parties to an international contract are free to choose the law and jurisdiction which will govern that contract (if they do not choose an applicable law, the contract will be governed by the Civil Code Law (No. (22) of 2004)).

- The parties may also agree in writing to refer disputes to arbitration.

- Qatar has acceded to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) (the New York Convention). Therefore, arbitration awards made in countries that are party to this convention, should be enforceable in Qatar according to the provisions of the convention.
Intellectual property

Introduction

With a booming economy in Qatar, adequate protection of intellectual property ("IP") is essential for promoting predictability, consistency and transparency, all of which are crucial components in creating a stable and free market economy. IP protection gains particular importance in Qatar with the establishment of the Qatar Science and Technology Park which aims to attract:

- internationally renowned companies to set up research and development centres; and
- start up companies from internally generated or externally acquired IP.

Although not strictly monitored or enforced, Qatar has enacted several intellectual property laws in compliance with its World Trade Organisation obligations.

Trademarks

- Trademarks can be registered at the Trademark Office.
- Registrations are valid for 10 years from the date of filing (renewable).
- Trademarks can be cancelled if not used for periods of five consecutive years in Qatar.
- The international classification of goods and services is used and a separate application must be made for each class.
- Non-Qataris have the same rights as Qataris provided that their country treats Qatar reciprocally.

Copyright

- The Copyright Law (No. (7) of 2002) protects original literary and artistic works including computer programmes and databases which are creative in the selection and arrangement of their subject matter.
- Materials are registered at the Qatar Copyright Office in order to be protected.
- Protection extends, inter alia, to non-Qataris whose work is first published in Qatar or is published in another country and then published in Qatar within 30 days of the first publication date, and to works protected by international agreements.
- The Copyright Law repealed the predecessor law (No. (25) of 1995) and provides protection for original works including:
  - books, pamphlets and other writings;
  - works, delivered orally such as lectures;
  - plays and musicals;
  - music;
  - choreographic work;
- audio-visual work;
- photographs;
- applied art (handicrafts and industrial);
- drawings and paintings; and
- computer programmes.

The protection is extended to works derived from the above list. The protection does not extend to laws, legislation, judgements, international conventions and all other official documents and their translations.

**Patents**

- Patent Law (No. (30) of 2006) provides for registration of inventions and foreign patents at the Qatar Patent Office. The Patent Office was previously a department within the Ministry of Justice. However, with effect from 2014, the Patent Office is now a department of the Ministry of Economy and Commerce.

- A GCC patent can be obtained by filing at the Patent Office in Riyadh, Saudi Arabia.

**Design Rights**

- Industrial designs and models can be registered under the Trademark Law (No. (9) of 2002).

- Protection lasts for five years (renewable for two further five year periods).
Setting up in the QFC

Introduction

The Qatar Financial Centre ("QFC") has been established by the Government of Qatar and is located in Doha.

The QFC was originally intended to provide an environment solely to attract international and domestic financial services institutions and service providers in support of those institutions to encourage participation in the growing market for financial services in Qatar and elsewhere in the region.

However, the QFC is now willing to accept applications for business registration from other types of service providers which are not associated with the financial services sector, for example, in the fields of management consultancy, recruitment, sports and entertainment, engineering, and claims services. However, depending on the sector, certain licensing requirements, as such apply in Qatar, may still need to be complied with.

The QFC aims to operate to international standards and provides a legal and business infrastructure for those doing business within the centre.

The QFC is operated by the Qatar Financial Centre Authority ("QFCA"), which is responsible for the commercial strategy and business development for the centre and provides its administrative functions. The QFC Regulatory Authority ("QFCRA") is the independent regulatory body that has powers to authorise, supervise and discipline QFC firms and individuals. Finally, there is a QFC Companies Registration Office ("CRO") which can register limited liability companies and limited liability partnerships within the QFC, and branches of foreign companies operating within the QFC.

Ways of setting up in the QFC

An applicant firm can establish a presence in the QFC to carry out what are called “Permitted Activities”. Permitted Activities are divided into Non-Regulated and Regulated Activities (essentially financial services type activities). The regulation process differs depending on the scope of the activities which the applicant firm wishes to undertake.

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Non-Regulated Activities

- Non-Regulated Activities are activities which do not require extensive supervision. As well as other activities which may be specified by the QFCA from time to time, the following are considered to be Non-Regulated Activities:
  - the business of ship broking and shipping agents;
  - the business of provision of classification services and investment grading and other grading services;
  - business activities of company headquarters, management offices and treasury operations and other related functions for all kinds of business, and the administration of companies generally;
  - the business of providing professional services including but not limited to audit, accounting, tax, consulting and legal services;
activities of holding companies, and the provision, formation, operation and administration of trusts and similar arrangements of all kinds; and
the business of provision, formation, operation and administration of companies.

In addition, the QFC have indicated that the following types of activities will also be considered for registration as Non-Regulated Activities:
- Information technology consultancy activities
- Advertising agencies
- Architectural activities
- Engineering design activities for industrial process and production
- Engineering related scientific and technical consulting activities
- Environmental consulting activities
- Media representation services
- Translation and interpretation activities
- Urban planning and landscape architectural activities
- Accreditation
- Logistics Planning and Consulting
- Project Management
- Marketing and Brand Management
- Specialized design activities
- Event management services
- Estate planning and will writing
- Activities of patent and copyright agents; other legal activities n.e.c.

If an applicant firm wishes to conduct one or more Non-Regulated Activities, it must be (1) registered with the CRO and (2) licensed by the QFCA.

Regulated activities

Regulated Activities are those financial services (such as banking, insurance or securities businesses) that require close and continuing scrutiny to ensure prudential soundness and proper conduct of those businesses. The following constitute Regulated Activities:
- deposit taking;
- providing credit facilities;
- providing custody services;
- dealing in investments;
- managing investments;
- advising on investments;
- arranging deals in investments;
- arranging credit facilities;
- arranging the provision of custody services;
- operating a collective investment fund;
- carrying out a contract of insurance; and
- effecting of insurance.

If an applicant wishes to conduct one or more Regulated Activities, it must be (1) registered with the CRO; (2) licensed by the QFCA; and (3) most importantly, authorised by the QFCRA. An applicant firm may only conduct the particular Regulated Activities if it has been granted a specific authorisation by the QFCRA.
Staff and local customs

- A “Qatarisation” initiative is in place which aims to increase the number of Qatari nationals in the public sector workforce. The Labour Law (No. (14) of 2004), as amended also introduces Qatarisation initiatives for certain private sector entities. The employment of Qatari nationals is one of the criteria taken into account when tax exemptions are granted.

- Except for Qatar Petroleum (and its related companies), security guards, housemaids and agricultural workers, all private sector contracts of employment are governed by the Labour Law. Such contracts must be in Arabic (or bi-lingual) and approved and registered with the Ministry of Labour and Social Affairs.

- Companies established and regulated under the QFC have their own different employment regulations governing the relationship between the QFC employer and the QFC employees.

- In particular, employers outside the QFC should be aware of the requirement to pay an end of service benefit to employees who have been employed for at least 12 months. Such benefit must not be less than three weeks’ salary for every year of employment.

- Companies will need to obtain residence and work permits for their expatriate staff.

- All expatriate employees must be sponsored by their corporate employer who is responsible for them while they are in Qatar.

- Finally, a ‘soft’ point, employers should provide their staff (both those based in Qatar and those to whom they will be reporting in the head office) with a briefing on local culture and customs.
Simmons & Simmons

Few firms can match Simmons & Simmons Middle East LLP’s established history in Qatar; the UK-headquartered firm has been on the ground for a decade and has a ‘strong capability in financial services work’. Middle East regional head Andrew Wingfield ‘knows the local market inside out’ and is one of the country’s leading names for corporate and finance work...” Legal 500 2014

“One to go to if you want bespoke advice on sophisticated banking and corporate matters where deep knowledge of Qatari law is as important as knowledge of the financial products.” Chambers Global 2014

“Middle East regional head Andrew Wingfield is widely revered for his ‘top-class advice’ and in-depth understanding of the Qatari legal market.’ He really goes the extra mile and is always available,” enthuse market commentators.” Chambers Global 2015

“Philip Norman is a construction specialist. He receives strong praise from sources, who respect his extensive experience with the international construction industry and top-notch preparation and analysis.” Chambers Global 2015

“Arnaud Depierrefeu is a respected corporate and commercial lawyer who regularly assists international entities with their business matters in Qatar.” Chambers Global 2015

“Acts on sophisticated M&A and finance deals, in addition to drafting major project contracts and preparing regulatory advice for Qatari institutions. A compact, bilingual team that draws on its global network while having acquired many years of experience on the ground in Qatar.” Chambers Global 2014

Winner of ‘MENA International Law Firm of the Year 2013’ ACQ Global Awards

Winner of ‘Equity Capital Markets Law Firm of the Year – Qatar 2013’ at the International Fund Awards

Simmons & Simmons continues to be regarded as one of the leading and most prominent international law firm in the country. “They are one of the most active of the international law firms” says one peer, while another agrees: “If you are talking tier one international firms, I would certainly say Simmons & Simmons” International Financial Law Review (IFLR) Middle East Awards 2013

“Unquestionably a good team.” “Provides good, in-depth Qatari knowledge based in the context of an international, professional organisation” – Chambers Global 2012
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