

Legal Guides for Opening and Maintaining Branches or Representative Offices in Iraq

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Agenda

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1. Iraqi General Legislation



The Iraqi legislation is based on the following:

1- (1). The Iraqi constitution

Iraqi constitution is the highest authority in Iraq which specifies the type of political system and authorities of state institutions starting from The President, Prime Minister, Council of Ministers and ending by the Parliament. Constitution is drafted by parliament in conformity with specific layouts provided therein which defines the nature and bases of the economic and social life.

1-(2). Laws

Are those instruments which are promulgated by the parliament as purposed to organize relations and business in a certain sphere of life and such laws cannot be amended or nullified but by the parliament exclusively. Such laws might include some texts that allow drafting of regulations or guidelines to organize some relevant matters

1-(3). Regulations

Are such instruments which are promulgated or drafted by the executive authority as purposed to organize some specific matters therein and which might be enlisted within the powers of Council of Ministers. The promulgation of such regulations does not require any specific statute or the laws stipulate their drafting in order to facilitate their implementation

1-(4). Instructions

These are orders of an executive nature which are promulgated by the concerned Minister subject to his vested authorities by laws and regulations in order to facilitate, explain and set the implementation mechanisms of such laws and regulations provided not to conflict with law provisions or constitution.



2. Foreign Branches and Representative Offices Regulation

2-(1).Two Options for Foreign Company Office

The foreign economic entity registration in Iraq could be conducted by either one of the following procedures:

A - Representative Office: This one could be done in case the entity has no kind of signed contract(s) directly with a Governmental Sector or as a subcontractor with such a sector. The objective is doing markets study, work and production feasibility, display of its products and services or to facilitate communications with its head office. This entity shall be prohibited from making any trading activities including the works of agent and trade mediators



B - Branch Office: This option must be conducted when the company is contracted to execute a specific project with State Departments or Socialist Sector.

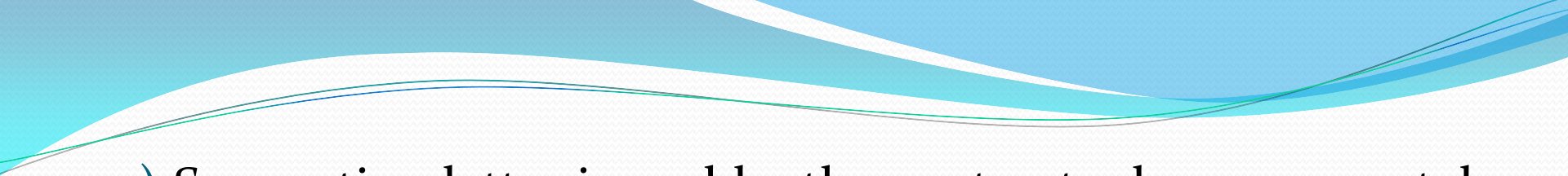
(More details mentioned in Regulation No. 5 of 1985 amended -attached)

2-(2).Documents Procedure

The foreign company or economic institution intended to license should present the following documents.

- 1) A copy of the Memorandum and the Articles of Association of the parent company.
- 2) A copy of the power of attorney for the Branch or the Representative office manager. This POA must not include the signing of any contract in the interest of representative office. (Model attached to be used subject to any changes)
- 3) Copy of the certificate of the company registration duly issued where it had been incorporated.
- 4) Copy of Head Office Final Accounts for the previous year.

- 5) Copy of the authorization of the attorney (advocate - registration agent) to proceed with the registration formalities. (Model attached to be used subject to any changes)
- 6) Letter of appointment of the branch/representative offices' manager and legal affairs representative in Iraq. (Model attached)
- 7) A Commitment Letter signed by the head office to bear all the legal and financial responsibilities of the branch or the representative office (Model attached)
- 8) A Commitment Letter signed by the head office undertaking that the representative office's manager shall not sign any business contracts (Model attached).
- 9) Registration form as the specimen laid out by the Registration of Companies department. (Model attached).

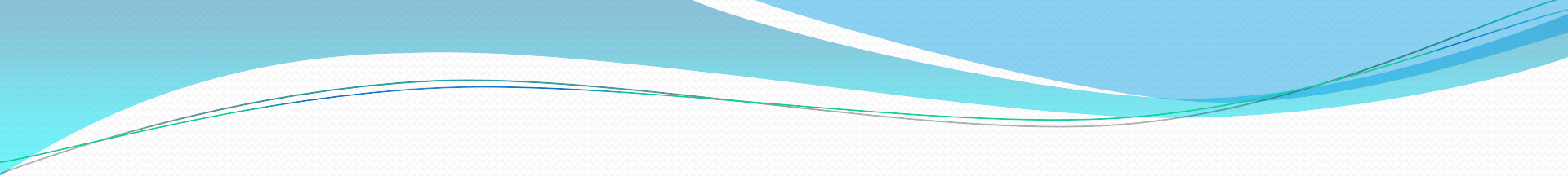
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- 10) Supporting letter issued by the contractual governmental department should include all the information related to the contract. (For Branches only).
 - 11) Personnel information form as the specimen laid out by the Registration of Companies department for the manager and the registration agent (Model attached)
 - 12) Photocopy of the manager passport and his personal photo.

Remarks:-

1. The above documents must be duly certified by all authorities concerned at company's parent country e.g. the Notary Public + Ministry of Foreign Affairs + Iraqi Embassy, and should be translated (In Iraq) to Arabic language if they were written in a foreign language After getting these documents it must be legalized by Income tax, Central Bank and Ministry of Foreign affairs in Iraq
2. The branch or office manager and the representative manager should be residing in Iraq.
3. The branch or the office is run by a manager or his deputy during his absence, which must be authorized by the management of the foreign company or economic institution and be resident in Iraq and who shall bear similar responsibilities to those granted to the manager.
4. All registration formalities must be followed by a Lawyer authorized as Registration agent.

2-(3) Requirements after Registration Done:

- 1) Lease an office through a lease contract anywhere in Iraq depending on its business location.
- 2) Open a bank account in any Iraqi bank.
- 3) Appoint a Certified Public Accountant CPA who should be listed in accountants and auditors union.

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- 4) Appoint a legal adviser after obtaining approval of Iraqi Bar Association.
 - 5) Each Branch or Representative office must display on all its papers, documents, and printings the complete name, as it is stated in the license of the foreign company or economic establishment, as well as its address of branch office in Iraq.
 - 6) The Branch or the Representative office should keep regular accounting records in Arabic for its complete activity related with its business in Iraq as per accepted accounting policies in Iraq.

2-(4). Maintaining and Update of Registration

- 1) Each Branch or Representative office must provide an annual account prepared by an accountant and audited by the chartered accountant CPA according to the Iraqi accounting system as it has to be submitted to the income tax department and companies registrar office.
- 2) As for the Branches **only**; Accounts of the head office for the financial year
- 3) Information about any changes that took place in the head office, board of directors etc. certified from all authorities concerned in company's parent country e.g. the Notary Public + Ministry of Foreign Affairs + Iraqi Embassy, and should be translated (In Iraq) to Arabic language in case of being in foreign language.

2-(5) Closing of Branches or Representative Offices

When the head office (Mother company) decide to close its Branch or Representative office

- It must nominate its legal adviser or any Lawyer (Registration Agent) to act for the closing after grant him a power of attorney.
- To issue by the chartered accountant an account from the beginning of that year till the decided date of liquidation called (Account before closing) .

Based on the request; The Registrar shall and within a week as from the date of receiving the application, refer it to the concerned authorities must like:

- Income Tax Department
- Custom Department
- Social Security Department
- Central Bank of Iraq
- Iraqi Bar Association
- Al-Rasheed Bank

- Al-Rafidain Bank
- The Department contracted with. (For the Branches only).
- Iraqi Insurance Company

In order to obtain their approval on the closing; these authorities should reply within 30 days from the date of receiving Registrars' circular. This period could be extended by decision of the Registrar of Companies. After getting all the approvals another accounts to be issued as final closing account.

Then the Branch or Representative office to be considered as closed.

2-(6).Reactivation of Registered Company

Any foreign company which had previously registered a Branch or Representative office and didn't maintain or update the yearly information requested by the Law, It doesn't have the right to register a new branch or representative office under same name and business title. Such companies should reactivate the old registration by submittal:

- The Branch's or Representative annual Accounts of the Branch/Representative Office and the Head office (Mother company) since 2004 and not the period before.
- New power of attorney (POA) for the branch /office manager

- Copy of the other (Up dated certified)previous documents such as original registration documents of the mother company and the branch or representative office (copy is accepted).
- To pay the penalty of ID 10 000 (Around now to Us 10) a day for the delay of submitting the legal information started from 2004 January 1st
- Nominate a legal adviser and auditor.
- Certified less agreement of the new office.

In case that the company change its name, activity or status; which is deferent than the name of the previous registered name; it could be registered as a new company without mentioning the history of the old one.

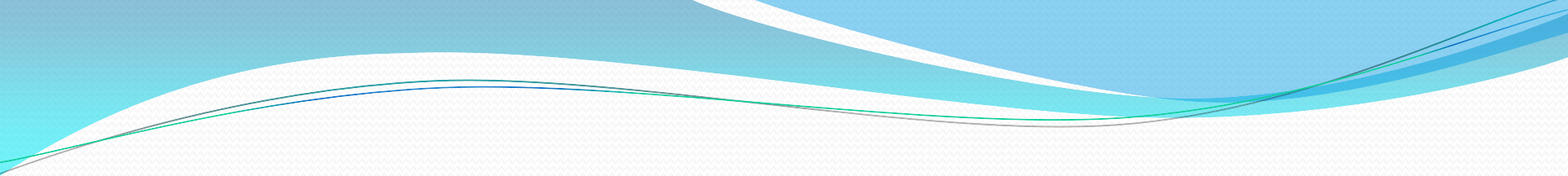


3. Legislation related to Foreign Companies operating in Iraq

3-(1.) Companies Act

The local Iraqi companies are classified as follows:

- Stock Companies
- Mixed Companies
- Limited Liability Companies
- Corporate companies
- Individual Enterprise



It is worth mentioning that the registration or participation in local companies was restricted to Iraqis who bear the Iraqi Nationality Certificate, but since 2003 it became possible that a non Iraqi entity (Persons or Companies) can participate in Iraqi local companies without any restriction or limits except some specifically defined types of businesses.

Also it is worth mentioning that the registration of any company to be done in the central registration in Baghdad where ever it is activates in Iraq, but In Kurdistan region of Iraq requires only some specific procedures to officially document the mutual registration.

3-(2). Custom Duty Law

Please refer JCCME HP.

3-(3). Income Tax Law

Please refer JCCME HP.

3-(4). Labor Code

Please refer JCCME HP.

3-(5). Registration of Trademarks and Trade Names Laws

Please refer JCCME HP.

3-(6). List of recommended Legal Advisors, Lawyer, (Registration agents) and Auditors.

1) List of recommended Legal Advisors, Lawyer,

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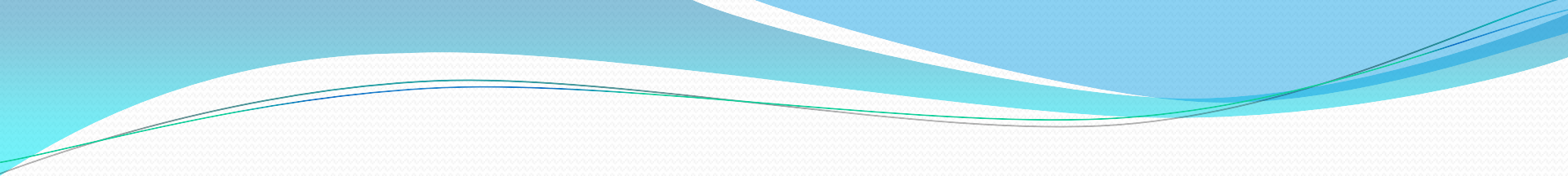
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Thank you

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