

Voluntary suspension of trade licence

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Introduction

In the United Arab Emirates the option of voluntary suspension of trade licenses is offered by a number of licensing authorities to business owners undergoing temporary financial difficulties that prevent them from being able to continue operating in the normal course. The option is availed mainly by individual establishments and limited liability companies.

The first section of this article will tackle the concept of and conditions for temporary suspension, and the second section will focus on the effects and termination of temporary suspension of a licence.

The concept of and conditions for temporary suspension

The concept of temporary suspension of a trade licence is generally similar across all licensing authorities that offer the service. The conditions and procedures for applying for a temporary suspension are also usually similar, but with differences in the detail.

The concept of temporary suspension

The temporary suspension of a licence is commonly recognised as an administrative measure which the licensing authorities have put in place to help investors who face temporary difficulties that prevent them from being able to continue business operations and meet licensing expenses over a certain period of time. The temporary suspension option allows investors to suspend their business operations for a limited period of time without having to pay licensing and operating expenses. At the same time, investors are able to maintain their business track record and rights already acquired in the course of business, including their trade name, without incurring any fines upon the resumption of normal operations. The duration of suspension varies among authorities. Some allow up to a year while others allow up to five years.

Conditions for temporary suspension

The conditions and procedures for applying for approval to temporarily suspend a licence are essentially similar across the various licensing authorities with some minor differences. The basic conditions can be summarised as follows:

- a letter from the owner of the individual establishment addressed to the licensing authority requesting a temporary suspension for a specific period of time, or minutes of a partners' meeting, if the establishment is a limited liability company;
- a copy of the establishment's licence;
- a letter from the Department of Human Resources and Emiratisation stating that there are no residence visas under the establishment's sponsorship;
- payment of the fee for the required approval. The fee differs among licensing authorities, but it is generally a nominal amount; some authorities may request a "release" from the owner of the leased premises (the establishment's registered office) to avoid potential future complications should the establishment owner fail to timely file an application to reactivate the licence after the temporary suspension ends; and
- additional approvals may be required for establishments that are subject to other regulatory authorities, in addition to the relevant licensing authority, such as healthcare establishments that are subject to the Health Authority and establishments with fleets of vehicles that are subject to the RTA.

The effects and termination of temporary suspension of a licence

The relevant authority's approval of the investor's application for temporary suspension of a licence has a number of positive effects for the investor. Firstly, the licensing authority would have provided the investor with a safe exit from the temporary financial difficulties being faced. Secondly, the investor may, during or after the suspension, apply to reactivate the licence and return to normal business operations without incurring any financial costs or additional fees.

Effects of temporary suspension

The main effects of temporary suspension of a licence are as follows:

- the licence is suspended, barring the establishment from carrying on any business activity during the suspension period;
- the suspension is valid for the period of temporary suspension indicated on the application for temporary suspension, as approved by the licensing authority. Permitted suspension periods vary among authorities and range from one to five years;
- the investor may apply to reactivate the trade licence and end the temporary suspension at any time, even before the end of the approved suspension period. The investor may also apply to renew the suspension at the end of its specified period. A renewal period cannot exceed the maximum period specified by the relevant licensing authority;
- the establishment retains proprietary control of its trade name, barring other investors from using it before the relevant licensing authority;
- the establishment is not required to hold a current lease for its registered office during the period of temporary suspension and all utility connections may be disconnected; and
- the establishment may not retain any staff or apply for any residence visas under its sponsorship during the suspension period.

The temporary suspension measure also has positive effects for the licensing authority. As a smart solution, the relevant authority uses the measure to retain investors who provide significant contributions to liquidity and sustainable economic growth in the UAE without the risk of losing their existing privileges.

Termination of temporary suspension

The procedure for ending a temporary suspension varies according to the economic situation of the investor. An investor who manages to recover from a financial setback before the end of the suspension period may apply to the licensing authority for the reactivation and renewal of his licence. The investor would have to enclose, with the application, a new lease for the registered office and satisfy all the other general requirements, as well as pay the usual renewal fee (but no additional fees). This procedure also applies to investors who apply to renew their licenses at the end of the period of temporary suspension. If, on the other hand, an investor's financial setback lasts beyond the approved maximum period of temporary suspension, the investor should then proceed with the formalities required to cancel his or her licence before the relevant licensing authority, according to the legal form he or she is licensed to operate under and without incurring any additional financial costs. Failure to complete these formalities will result in the fines usually payable for not renewing the licence.

Conclusion

The option of temporarily suspending a licence can be described as a stop gap solution to help investors overcome temporary setbacks in business, through cost-effective mitigation measures over a fixed period of time during which the establishment would continue to exist as a legal entity positioned to directly and promptly resume business operations after the setback. The relevant authorities, in offering a temporary suspension of licence, take into particular account the position of investors and the issues they face due to fluctuations in the local and external markets, as well as supply and demand shifts in the market, and aim to help investors to return to financial stability and resume their operations. While the formalities and conditions attached to the licence suspension application vary from one licensing authority to another, the concept and general conditions are the same.

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