

Guide to Hotel Operations in the Middle East: Part Two

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The guide has been compiled on the basis of information provided as at the date of its publication, and therefore may be subject to amendments from time to time. Please note that this guide is intended to provide a high-level overview of current laws, regulations and procedures. Separate legal advice on matters specific to the hotel property and the regulatory framework under which it operates should always be sought, including undertaking enquiries with the relevant Ministries and Authorities having jurisdiction over the property as necessary. If, based on the above, you require any further information, please do not hesitate to contact our Hospitality team at hospitality@tamimi.com.

| | Kuwait | Oman | Qatar | KSA | UAE |
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| HOTEL OPERATOR RELATED | | | | | |
| Is the Operator required under the local legal requirements to establish a Special Purpose Vehicle ("SPV"), i.e. a branch company, a representative office or a permanent establishment in order to provide Hotel Management Services? | Pursuant to Commercial Law No. 68 of 1980 (the "Commercial Law"), the Operator is required to incorporate an SPV in Kuwait. The Operator cannot provide services without setting up a company or through a Kuwaiti agent. | Under Foreign Capital Investment Law promulgated by Sultani Decree No. 102/94 dated 16 October 1994, the Operator is required to incorporate an SPV in order to undertake commercial business in Oman. | Pursuant to the Foreign Capital Investment Law (No. 13 of 2000), the Proxy Law (No. 25 of 2004) and the Qatari Commercial Register Law (No. 25 of 2005), the Operator is required to incorporate an SPV in Qatar and to be registered in the Commercial Registry of the Ministry of Economy and Commerce. | Any foreign (non GCC) entity or individual carrying out business in KSA is required to obtain a foreign investment licence ("SAGIA licence") from the Saudi Arabian General Investment Authority ("SAGIA") through an SPV. | The Operator does not need to incorporate an SPV. The Operator manages the Hotel based on the Hotel Management Agreement with the Owner holding the Hotel licence and sponsoring the Hotel employees. |

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| <p>Is a local partner/sponsor required?</p> | <p>If the business is in the form of a Kuwaiti commercial entity, a Kuwaiti partner is required and the Operator will be limited to owning 49% of shares in the SPV. Alternatively, if the business is not in the form of a Kuwaiti commercial entity, the Operator may only do business in Kuwait through the use of a Kuwaiti agent.</p> | <p>Pursuant to the Foreign Capital Investment Law, an Omani national must hold at least 30% of shares in the SPV.</p> | <p>The Operator must adhere with the capital requirements, as established by the Foreign Capital Investment Law, which restricts foreign investors to owning a maximum of 49% of any company. Failure to do so may result in criminal offences.</p> | <p>The Operator is exempt from a local partner requirement and is entitled to own 100% of the entity.</p> | <p>Where the Operator incorporates an SPV in the UAE, if the Operator is not a GCC national or an entity wholly owned by GCC nationals, a local partner is required and the Operator will be limited to owning 49% of shares in the SPV.</p> |
| <p>May the Operator be able to establish within a 'free zone' where 100% foreign ownership of the legal establishment is permitted?</p> | <p>The Kuwait government had previously established a Kuwait Free Trade Zone which has since stopped issuing new licences for establishment of new entities. The Foreign Direct Investment Law No. 116 of 2013 ("FDI Law") allows foreigners, under certain conditions, to directly own up to 100% of a commercial entity in Kuwait and benefit from tax holidays and customs exemptions.</p> | <p>An SPV is not entitled to have 100% foreign ownership in Oman. However, the effect of the Foreign Capital Investment Law can be minimised by granting a different allocation of profit to the shareholders of the SPV.</p> | <p>An exemption to the 49% limit may be obtained by investing in certain economic sectors, which sectors include tourism. An international Operator may also be eligible to set up a Qatar Financial Center licensed entity with 100% foreign ownership in order to provide qualified business services.</p> | <p>The Operator who is granted a SAGIA licence is allowed to own 100% of the service entity.</p> | <p>In certain circumstances and for certain activities, the SPV may establish within a Free Zone where 100% foreign ownership of the legal establishment is allowed. If the Operator incorporates an SPV in the UAE within a free zone, it is allowed to open a Representative Office outside the free zone with 100% foreign ownership for marketing purposes.</p> |

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| What is the most common form of legal entity used by an Operator in the Territory and how long does it usually take to set up such legal entity? | A Limited Liability Company ("LLC"), usually referred to as WLL, is the most common form of legal entity used in Kuwait. 3 to 4 months are approximately required to register the LLC. | An LLC is the most common form of legal entity used in Oman. 1 to 2 weeks from the date of submitting the required documents to the Ministry of Commerce are approximately required to register the LLC. | An LLC is the most common form of legal entity used in Qatar. 4 to 8 weeks from the time an agreement is reached with a suitable Qatari partner are approximately required to register the LLC. | An LLC is the most common form of legal entity used in KSA. 4 to 6 months are approximately required to register the LLC subject to SAGIA requirements. | An LLC is the most common form of legal entity used in the UAE. 4 to 6 weeks are approximately required to register the LLC. |
| What would the typical licensed activity be for the Operator? | Operating and managing a Hotel | Hotel management | Operating and managing a Hotel | Services | Hotel management services |
| Are there any requirements in terms of minimum capital applicable to the Operator? | The minimum capital requirement applicable to an SPV is KD 1000 (plus KD 50,000 as bank guarantee) subject to the conditions of the Ministry of Commerce. | The minimum capital requirement applicable to an SPV as an LLC is OMR 150,000. However, the Foreign Capital Investment Law will be reviewed and this floor may be dropped or removed for different sectors. | There are no minimum share capital requirements for an LLC under the new Commercial Companies Law 2014. | The minimum capital requirement applicable to an SPV is SAR 500,000 for a service entity. | There are no minimum share capital requirements for an SPV. |
| Are any licences/permits required for the Operator to undertake the business of managing hotels in the country where the Hotel is located? | A licence from the Kuwait Direct Investment Promotion Authority is required for the Operator where it owns 100% of a legal entity in Kuwait. A licence from the Kuwaiti Ministry of Commerce is required if the Operator is undertaking hotel business through a Kuwaiti partner who holds 51% of the company. | A tourism licence issued by the Ministry of Tourism is required for the Operator. It is obtained pursuant to the Ministry of Commerce and Industry commercial registration. | Pursuant to Article 2 of Law No. 6 of 2012 Regulating Tourism, it is prohibited to establish or operate a Hotel without obtaining a relevant licence from the Qatar Tourism Authority in accordance with the laws and the executive regulations. | No specific licences or permits are required for the Operator to undertake the business of managing hotels in KSA. | If the Operator incorporates an SPV, the approval of the Tourism Department is required and a manager holding a university degree in the hospitality sector and having at least 5 years' experience must be appointed. |

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| Is the Operator subject to withholding tax in respect of its services provided in the country where it has not incorporated a legal establishment there? | No withholding tax is imposed on hotel services provided by the Operator. | The Operator is subject to withholding tax imposed on hotel services provided at the rate of 10% on management fees and royalties. | The Operator is subject to withholding tax imposed on royalties and technical service fees and 7% on the cost of all other services. In the absence of any government ownership of the Qatari entities, grossing up clauses are perfectly acceptable under Qatar law. | The Operator is subject to withholding tax imposed on hotel services provided at the rate of 15% on royalties (unless the rate is reduced under a tax treaty) and 5% on technical service fees (unless the rate is reduced under a tax treaty). | No withholding tax is imposed on hotel services provided by the Operator. |
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| Are there any currency restrictions on transfer of funds by the Operator outside of the country? | There are no currency restrictions on transfer of funds by the Operator outside of Kuwait. | There are no currency restrictions on transfer of funds by the Operator outside of Oman. | There are no currency restrictions on transfer of funds by the Operator outside of Qatar. | There are no currency restrictions on transfer of funds by the Operator outside of KSA. | There are no currency restrictions on transfer of funds by the Operator outside of the UAE. |

HOTEL OPERATION RELATED

**Who is the tourism
classification
authority in the
Territory?**

The Ministry of
Commerce and
Industry. The
government has
recently called for
establishing a
Kuwait Tourism
Authority, but no
authority has
been established
so far.

The Ministry of
Tourism

The Qatar
Tourism
Authority

The Commission
for Tourism and
National Heritage
(which was
formally
recognised as the
Commission for
Tourism and
Antiquities)

Each Emirate
has a Tourism
Authority which
regulates the
Hotels and
Serviced
Apartments
classifications:
Abu Dhabi
Tourism and
Culture
Authority;
Dubai
Department of
Tourism and
Commerce
Marketing;
Sharjah
Commerce &
Tourism
Development
Authority;
Ajman Tourism
Development
Department;
Ras Al Khaimah
Tourism
Development
Authority;
Fujairah Tourism
and Antiquities
Authority;
Umm Al Quwain
- National
Council of
Tourism &
Antiquities.

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| What are the various classifications applicable to Hotels and Serviced Apartments (stars, grades, categories)? | Stars and grades are based on international classification and must be in accordance with the regulations of the Kuwaiti Ministry of Commerce. | Stars and grades are 3 stars upward based on international classification. | Qatar Tourism Authority only publishes minimum building requirements criteria which are based on the minimum criteria of the hotel & tourist apartment classification system. Such criteria must be met by developers or investors in order to receive a hotel licence/ classification for the desired category. | The current classification in place is divided into two categories: general classification and special classification. While the special classification regulates hotels in Makkah and Madina only, the general classification targets hotels in all other cities in KSA. Both classifications are based on stars system (2-5 stars). | The classification for hotels is from 1 to 5 stars, but some Emirates have additional classifications such as Beach Resort, Guest House, etc. Serviced Apartments are usually either Standard or Deluxe. |
| What other government departments are involved in the licensing of the hotel industry within the country? | Kuwait Chamber of Commerce and Industry; Ministry of Labour and Social Affairs; Ministry of Interior. | Ministry of Housing; Ministry of Commerce and Industry. | Ministry of Municipality and Environment; Department of Civil Defence; Ministry of Health; Ministry of Economy and Commerce; Qatar Distribution Company. | Commission for Tourism and National Heritage; Ministry of Commerce and Industry; Ministry of Interior; Ministry of Labour; Passport Office; General Office of Social Affairs; Civil Defence. | Municipality; Police; Civil Defence. |

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| <p>What permits/licences must the Owner obtain for operation of the Hotel? Can these be held in an individual's name or must it be a corporate entity?</p> | <p>The Owner must be a corporate entity and obtain a licence (for the activity of operating and managing of hotels) in the name of the entity.</p> | <p>The Owner must obtain: • Commercial registration (registration from Ministry of Commerce and Industry); and • Tourism licence. The licences can be held in an individual's name but are usually held in the name of a corporate vehicle.</p> | <p>The Owner must obtain a hotel business licence from the Qatar Tourism Authority. In addition, the Owner will generally apply for licences from the following relevant public authorities: • Ministry of Municipality and Environment: Commercial Permit; • Department of Civil Defence: Fire Safety Permit; • Ministry of Health: Health Permit; • Ministry of Economy and Commerce: Commercial registration/licence; • Qatar Distribution Company: Liquor Licence; • Qatar Tourism Authority: Hotel Establishment Activities Practice Licence. The licences can be held in an individual's name or a corporate entity.</p> | <p>The Owner must obtain a Commercial Registration Certificate from the Ministry of Commerce & Industry in the name of the entity or the individual who owns the Hotel.</p> | <p>The Owner must obtain a Hotel licence which is restricted to entities either owned by individuals or corporate bodies.</p> |
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| <p>Must the permits/licences be obtained prior to opening of the Hotel?</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> |

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| Is there a mandatory requirement to register the Hotel Management Agreement (and ancillary agreements) in the Territory? | <p>There is no mandatory requirement to register the Hotel Management Agreement in particular. However, registration occurs by either registering the trademark related to the corporate entity doing the business in Kuwait (whether through direct or indirect investment) or by the registration of the foreign entity by the Kuwaiti local agent.</p> | <p>Yes, the Hotel Management Agreement must be registered with the Ministry of Tourism and such registration is mandatory. Responsibility lies with the Owner.</p> | <p>There is no mandatory requirement to register the Hotel Management Agreement in Qatar.</p> | <p>There is no mandatory requirement to register the Hotel Management Agreement in KSA.</p> | <p>There is no mandatory requirement to register the Hotel Management Agreement in the UAE; however, the Operator being the owner of the trade name/ brand will need to provide a Non Objection Certificate to the Owner to use the trade name of the Operator for the Hotel.</p> |
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| <p>May the Hotel Management Agreement be subject to merger clearance under any competition and anti-trust legislation that may exist within the Territory?</p> | <p>Restrictive agreements and practices are regulated by the Commercial Law. The Competition Law (No. 10 of 2007) further regulates competition. Mergers and acquisitions which lead to an increase in the direct or indirect control of a particular market representing more than 35% of the relevant market are subject to the review of the Authority. Violators of the competition Law may be fined KD 100,000 or the amount of the illegally acquired gain, whichever is greater.</p> | <p>No merger clearance is required before signing a Hotel Management Agreement. However, if an Operator in Oman acquires or merges with another Operator in the Territory which results in more than 35% of market share, the Public Authority for Consumer Protection will need to approve the merger. Sanctions are applicable if the Hotel Management Agreement aims at restricting competition in Oman or creating a dominant position (more than 35% of market shares).</p> | <p>A merger clearance may be required subject to the particular nature of a transaction.</p> | <p>KSA adopted a Competition Law which came into force on 31 December 2004. Certain transactions would be subject to merger clearance, depending on the nature of the other interests of the Operator in KSA, e.g. if the Operator owns a chain of hotels which enables it to have a dominant position.</p> | <p>No merger clearance under competition and anti-trust legislation applies to the Hotel Management Agreement.</p> |
| <p>Can the Parties include an arbitration clause in the Hotel Management Agreement to settle disputes arising from the Agreement?</p> | <p>Yes, parties may agree to include an arbitration clause to settle disputes arising from the Hotel Management Agreement.</p> | <p>Yes, parties may agree to include an arbitration clause to settle disputes arising from the Hotel Management Agreement.</p> | <p>Yes, parties may agree to include an arbitration clause to settle disputes arising from the Hotel Management Agreement.</p> | <p>Yes, parties may agree to include an arbitration clause to settle disputes arising from the Hotel Management Agreement.</p> | <p>Yes, parties may agree to include an arbitration clause to settle disputes arising from the Hotel Management Agreement.</p> |

What arbitration institutes exist in the Territory?

The main arbitration body in Kuwait is the Kuwait Commercial Arbitration Centre. In addition, specialised bodies with expertise in particular areas, such as the Kuwait Stock Exchange and the Kuwaiti Society of Engineers, have established their own arbitration rules and committees.

There are no existing Arbitration institutes in Oman, but the government authorities are in the process of establishing an Arbitration Centre.

- Qatar International Center for Conciliation and Arbitration; and
- the Qatar International Court and Dispute Resolution Centre.

Chamber of Commerce and Industry

- Dubai International Arbitration Centre;
- Dubai International Financial Centre
- London Court of International Arbitration;
- The Abu Dhabi Commercial, Conciliation and Arbitration Centre;
- The International Islamic Centre for Reconciliation and Commercial Arbitration.

Would a foreign arbitral award rendered in connection with the Hotel Management Agreement be recognized and enforced by the local courts of the Territory without consideration of the merits of the case, or do the local courts have the power to reopen the matter?

Kuwait is a party to the NY Convention on the Recognition and Enforcement of Foreign Arbitral Awards. If a foreign award is rendered in a NY Convention member state, the courts of Kuwait will recognise and enforce it. Awards issued in non-signatory countries are subject to reciprocity.

Oman is a party to the NY Convention on the Recognition and Enforcement of Foreign Arbitral Awards. If a foreign award is rendered in a NY Convention member state, the courts of Oman will recognise and enforce it. If the award is from a country which is not a party to the NY Convention, the courts of Oman will recognise the judgment if:

- the country in which the award is issued recognises Omani law and would enforce Omani law in its jurisdiction;
- the award does not offend Omani law, public order or Shari'ah; and
- the award is final and not appealable.

Qatar is a party to the NY Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Qatari courts will only recognise and give effect to foreign arbitral awards in accordance with the Convention's principles subject to the conditions of Article 380 of the Code of the Civil and Commercial Procedures (eg. if the award does not contradict a judgment or order previously issued by a Qatari Court and does not violate public order or morality in Qatar). Qatar has recently prepared a new law on arbitration based on the UNCITRAL Model Law. This law will likely abolish the current arbitration provisions referred to in articles 190 to 210 of the Code of the Civil and Commercial procedures.

KSA is a party to the NY Convention on the Recognition and Enforcement of Foreign Arbitral Awards. However, the Saudi courts have the power to reopen the matter and any foreign award that is not compliant with Shari'ah principles will not be enforceable in KSA.

The UAE is a party to the NY Convention on the Recognition and Enforcement of Foreign Arbitral Awards. If a foreign award is rendered in a NY Convention member state, the UAE courts will recognise and enforce it. If the awarding country is not a party to the NY convention, the UAE courts should (arguably) still enforce it as the UAE did not make any reservations to the NY Convention. In practice the UAE Courts will likely wish to see that the awarding country reciprocates enforcement. The UAE has also entered into a number of regional conventions and bilateral treaties regarding the enforcement of awards.

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| <p>Are there any restrictions on arbitration proceedings applying to government entities?</p> | <p>The arbitration councils have exclusive jurisdiction over disputes arising between governmental agencies, or between them and state-owned companies, and may hear disputes referred by individuals and corporate entities relating to claims against the Kuwaiti government and its ministries and other divisions, or wholly state-owned companies.</p> | <p>There are no restrictions on arbitration proceedings applying to government entities.</p> | <p>There are no restrictions on arbitration proceedings applying to government entities.</p> | <p>Contracts with government entities are subject to Saudi Law and the Saudi Courts and cannot be referred to arbitration. The government must own 100% of the shares of the company to qualify it as a government entity in KSA.</p> | <p>There are restrictions in respect of disputes against government entities. A party must obtain permission from the Ruler's Court in order to enforce an award against a government entity. However, there could be state immunity that prevents the award from being enforced.</p> |
| <p>Are there any restrictions on employment of foreign staff (ie. any roles reserved specifically for national employees), or a policy of nationalisation?</p> | <p>Yes, the private sector is obliged to employ a certain percentage of Kuwait nationals, the requirement varies from 1% to 70% depending on the business sector.</p> | <p>Yes, within the tourism sector (restaurants and hotels), the percentage of Omanisation to be met is at least 30%.</p> | <p>Yes, there is a policy of nationalisation in Qatar. Priority for employment is to be given to national employees and non-Qataris are employed in case of need.</p> | <p>Yes, there is a policy of nationalisation in KSA. Since 2005, the target rate has been set at 75% for the private sector, however in most sectors the actual rates are still much lower.</p> | <p>Emiratisation laws exist in the UAE but they are not regularly applied in the hospitality sector.</p> |

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| What work permits and visas are required for non-national employees? | <p>To work in Kuwait, an expatriate other than GCC citizens must obtain a valid entry visa. There are two main types of visa:</p> <ul style="list-style-type: none"> • Business Visa, generally issued to travel to Kuwait for a limited time and have a validity of 30 days; • Work permits, issued for the purpose of employment in Kuwait. | <p>Sponsored visa, resident card and registration with the Ministry of Manpower are required.</p> | <p>Any foreigner wishing to enter or reside in Qatar to work or practice a trade must be sponsored by a Qatari national or a registered legal entity. Additionally, the foreigner must be employed by his sponsor and should obtain a work permit and residence permit in order to work and reside in Qatar. Foreigners who wish to enter Qatar on business for a short period may be granted a business visa (without being employed by a sponsor).</p> | <p>A work permit and residency are required for all expat employees.</p> | <p>A work permit and a Residency Visa under the sponsorship of the Hotel Establishment (i.e. the Owner) are required.</p> |
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| Do Hotel staff generally belong to a trade union within the Country? | <p>Yes, the Kuwait Trade Union Federation by-law covers all workers in Kuwait, and it is a third party in the International Labor Organization (ILO).</p> | No | No | No | No |
| Is the Hotel obliged to provide a local rate for the room applicable to nationals paying in local currency, with a different (usually higher) US\$ rate for non-nationals? | No | No | No | No | No |

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| <p>Is it possible to obtain an alcohol licence for the sale and supply of alcohol at the Hotel? Who applies for this licence, and what is the authorizing entity? Are there any restrictions on the grant of the licence?</p> | <p>No, all alcoholic beverages are denied entry into Kuwait.</p> | <p>Yes, an alcohol licence may be obtained. The Owner must apply to the Royal Oman Police and restrictions exist, e.g. if the Hotel is close to a mosque or in a built-up residential area.</p> | <p>With regard to 'liquor licensing' none of the procedures have any basis in law. The law bans alcohol, but Qatar Airways and its subsidiaries (including Qatar Duty Free and the Qatar Distribution Centre) have been allowed to sell alcohol or authorise the purchase of alcohol by 5 star hotels. Therefore, the Qatar Distribution Centre ("QDC") sets its own parameters for authorising sales to hotels.</p> | <p>No, all alcohol beverages are denied entry into KSA.</p> | <p>Yes, an alcohol licence may be obtained. The alcohol licence depends on the Emirate, on the location of the Hotel and on its classification. The Owner must apply for the licence and the manager of the Hotel must sign an undertaking that he will not misuse the licence and that he will commit to trade alcohol within the provided quota.</p> |
| <p>Are there any specific registrations applicable to Hotels within the country ie. segregation of male/female swimming/leisure facilities, female only floors etc.?</p> | <p>Yes, there are segregation rules in Kuwait, such as separate prayer rooms, restaurants, beaches and facilities for women only such as gyms, swimming pools and social clubs.</p> | <p>There are no specific registrations applicable to hotels in Oman.</p> | <p>Yes, specific enquiries would have to be made with the Qatar Tourism Authority.</p> | <p>Yes, there is strict segregation e.g. male and female leisure facilities, restaurants must have a family and a separate single male section, etc.</p> | <p>There are no specific registrations applicable to hotels in the UAE.</p> |
| <p>Can Operator employees be seconded to the Owner's employment under a local employment contract in respect of providing services from the Hotel?</p> | <p>Yes, a secondment agreement may be entered into between the Operator and the Owner.</p> | <p>Yes, a secondment agreement may be entered into between the Operator and the Owner provided that:</p> <ul style="list-style-type: none"> • the Owner sponsors such employees; and • consent to employment has been obtained upfront from the Ministry of Manpower. | <p>No, pursuant to Article 15 of the Sponsorship Law, all natural or juristic persons are prohibited from employing expatriates that are not under their sponsorship.</p> | <p>Yes, a secondment agreement may be entered into between the Operator and the Owner.</p> | <p>Yes, the employees may be seconded based on the Hotel Management Agreement; however, their residency visa and work permit shall be issued by the Owner at all times.</p> |

Are guests subject to payment of any tax/service charge/tourism fee upon reservation of a room in the Hotel?

No taxes/service charges/tourism fees are applicable to the reservation of a room in a Hotel.

Guests are subject to a total of 17% tax rate, including:

- 5% municipality fee;
- 4% tourism fee;
- 8% service charge.

- A service tax of 10% is charged on food purchased in restaurants.
- Hotels also impose a 10% service charge per night on room rates.
- Government levies a tax of 5% on hotels and restaurants.

No taxes/service charges/tourism fees are applicable to the reservation of a room in a Hotel.

Yes, a service charge, a tourism dirham tax or a municipality fee must be paid depending on each Emirate.

- Charges per room per night vary from AED 7 to AED 20 depending on each Emirate and on the type of accommodation.
- Hotels levy a service charge of 10 to 15 % per night on room rates.
- Municipal taxes of 10% are imposed on hotel services.