

The Endless Puzzling Question: What Type of Company Should I Set Up in Jordan?

by Hala Qutteineh

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The Jordanian Companies Law (Law No. 22 of 1997) (the 'Companies Law') provides for several types of entities, which can mainly be categorised into (i) Jordanian entities holding a Jordanian nationality, where the entity has a separate legal liability from its shareholders (the 'Jordanian Entity') and (ii) foreign entities (whether operating or non-operating) holding the nationality of the parent company, where the concerned entity will be deemed as an extension of the parent company and where both entities will not have separate legal liability (the 'Foreign Entity').

The Jordanian Entity

The Companies Law provides for a number of different types of Jordanian companies that can be established in Jordan. The most common types of Jordanian companies established are Private Shareholding Companies ('PSC') and Limited Liability Companies ('LLC').

PSCs and LLCs may operate on a permanent basis and perform any of the activities that are provided for under their incorporation documents. The difference between PSCs and LLCs, however, is mainly in the minimum share capital requirements. Whereas the minimum share capital requirement of PSCs is 50,000 Jordanian Dinars, LLCs are permitted low share capital requirement of not less than One Jordanian Dinar. This LLC feature, however, comes with a barrier of required standard-form, and fairly strict, articles and memorandum of association, as provided for under the Companies Law, the shareholders of which are obliged to adhere. PSCs, on the other hand, are recognised for the flexibility their shareholders enjoy by being able, to the extent permitted by the Companies Law, to tailor the articles and memorandum of association of the same to suit their needs, as the shareholders deem fitting. This feature is mainly utilised by foreign shareholders wishing to invest in Jordan and who are required, by virtue of foreign ownership restrictions, to engage with a Jordanian partner.

To clarify further, the Regulation Regulating Non-Jordanian Investments (Regulation No. 77 of 2016) (the 'FI Regulation') provides for ownership barriers depending on the economic sectors in which LLCs or PSCs operate. These ownership restrictions are divided into the following categories:

- Companies in which foreign ownership is completely prohibited;
- Companies in which foreign ownership is limited to a maximum of 50%; and
- Companies in which foreign ownership is limited to a maximum of 49%.

Previously, non-Jordanian investors were required to have a minimum share capital of 50,000 Jordanian Dinars whether investing in a PSC or an LLC. Nonetheless, the amended FI Regulation discarded such requirement and non-Jordanian investors are now entitled to invest in any Jordanian Entity (whether LLCs or PSCs) without a specific minimum share capital required to be paid by the non-Jordanian investor (except if legally required by virtue of other applicable laws), depending on the activity of the Jordanian Entity. For instance, a company intending to carry out export and import activities is required by virtue of the respective laws and regulations to have a

minimum share capital of 5,000 Jordanian Dinars.

Now, Do I Have to Establish My Company in a Normal Customs Area? Or Does Jordan Afford a Special Zone?

The Jordanian Investment Law (Law No. 30 of 2014) (the 'Investment Law') aims to encourage and bolster investments in Jordan as it recognises the benefits derived therefrom. By doing so, the Investment Law provides for provisions that encourage foreign, as well as domestic, entrepreneurs to invest in Jordan by designating certain zones throughout Jordan where an investor may carry out its business and enjoy various privileges.

There are different zones that serve as enabling platforms by offering differentiated advantages to investors in Jordan, including, but not limited to, the Development Zones ('DZ;') and the Free Zones (the 'FZ'). Upon registration with the regulatory authorities at the said zones (depending on the activities that the investor will carry out in Jordan), the investor can benefit from an array of advantages and benefits that are provided by virtue of the applicable laws, such as the removal of the requirement to engage a local partner, along with reduced tax rates.

Companies (whether a Jordanian Entity or Foreign Entity) may only be able to register in the specific economic zones and, consequently, benefit from the specified exemptions in the event their objectives/activities permit such registration. Any company wishing to register with a DZ or a FZ can only carry out the activities within the perimeters of the DZ and/or the FZ in order to take advantage of the specific privileges. In other words, should any company registered with a DZ or FZ carry out the activities outside the DZ or the FZ (even if the activities carried out by the concerned company are permitted), then the concerned company will be subject to the normal applicable laws.

Other than the ultimate release from the application of foreign ownership restrictions onto investors wishing to invest within the DZ and/or the FZ, the Investment Law affords an array of exemptions and benefits to those investors. The same make the DZ and the FZ one of the top desired zones in which to invest within Jordan. Such exemptions and benefits differ as to whether the Jordanian Entity or the Foreign Entity is registered within the DZ or within the FZ. Such exemptions and benefits include, among other things, the following:

DA

Preferential income tax rate of five per cent applicable to all entities, except banks, financial companies, insurance and reinsurance companies, and land transport companies;
Zero per cent sales tax on goods and services purchased or imported by the entity registered in the DZ;
Tax exemptions on the export of goods and services from Jordan, in accordance with the exemptions on exports that are in effect at the time;
Exemption from dividends tax on shares and equity;
Inapplicability of the restrictions relating to the ratio of foreign ownership; and
Exempting all materials, instruments, machines and appliances relating to the construction, establishment, equipment and furnishing of all projects initiated by entities registered in the DZ from all customs, duties and other fees, and taxes.

FZ

Income tax exemptions on profits generated from (i) exporting goods outside Jordan; (ii) transit trade profits; and (iii) selling or transferring goods within the FZ;
Income tax exemptions on the salaries and allowances of non-Jordanian employees working within the FZ;
Exemptions from import fees and custom duties, including all taxes and duties applicable on goods imported to or exported from the FZ; and
Exemptions from licensing fees, building taxes, and land taxes apply to building and real estate constructions completed within the FZ.

In addition to the above, the non-Jordanian investor is entitled, by virtue of the Investment Law, to the following:

- Remittance abroad of all or part of the invested foreign capital, in a convertible currency, that was brought into Jordan for the purposes of investment, in accordance with the relevant laws and regulations;
- Repatriation of revenues and profits, in a convertible currency, earned by virtue of the investment; and
- Liquidation of its investment, selling its economic activity or shares or stocks, or otherwise disposing thereof, on the condition that the non-Jordanian investor has settled all outstanding debts to third parties.

In order to enjoy the privileges mentioned under the Investment Law, registering with the relevant authorities, however, is contingent upon the satisfaction of certain requirements. As clarified above, the investor should be carrying out specific activities within a specific 'permitted sector' to be able to be licensed by the Jordanian Investment Commission¹ to enjoy the privileges bestowed by virtue of the Investment Law. Therefore, in other words, entities that perform work outside the permitted sectors are not permitted the tax exemptions and privileges and may require the engagement of a local partner

Are These the Only Choices I have?

The investor will not run out of options if registration within the DZ or the FZ was not possible. Other than the DZ and the FZ, the investor is provided with other options, depending on the activities such investor is intending to carry out in Jordan. One of the most desired options for the investor is establishing an entity in the Aqaba Special Economic Zone and registering same with the Aqaba Special Economic Zone Authority ('ASEZA'). The location of the ASEZA makes it a regional hub for a number of transportation facilities, as it encompasses a full-serviced port and an international airport where the investors can export and import products to and from Jordan, hassle free.

The Aqaba Special Economic Zone Law (Law No. 32 of 2000) has been enacted with the intention of enhancing the economic capabilities of Jordan within the ASEZA. Similar to the entities to be registered within the DZ and the FZ, investments within the ASEZA are not subject to any foreign ownership restrictions. All entities registered within the ASEZA enjoy the following incentives and benefits:

- A reduced income tax rate of five per cent on the net income generated from any project, except for projects in the insurance, banking, and land transport sectors;
- All imports into the ASEZA region are exempt from customs duties;
- Exemption from building and land taxes applicable onto real estate owned by such entities within the ASEZA region;
- Simplified employment and immigration procedures; and
- Exemption from sales tax, with the exception of a seven per cent sales tax applicable to the hospitality sectors, car-rental services, and tobacco and alcoholic products.

In light of the above, making the decision with regards to the best choice of entity or with regards to the best zone of establishment would depend on several factors. Looking ahead, the Jordanian laws relating to best corporate structure will continue to mold Jordan's future, making it easier and a more friendly environment for the investor to invest therein, without any hurdles.

Notes:

¹ By virtue of the Investment Law, the Jordanian Investment Commission is supposed to be the regulatory body responsible for the registration and licensing of entities wishing to carry out

activities within the DA and the FZ as it has been declared that legal successor to each of the Jordan Investment Board, the Development and Free Zones Commission and the Export Promotion Directorate of the Jordan Enterprise Development Corporation. In practice, nonetheless, the Jordanian Investment Commission is only responsible for registration of entities wishing to carry out activities within the DA, as the Free Zone Corporation remains the entity responsible for registration of entities wishing to carry out activities within the FZ.