



**USAID** | **IRAQ**  
FROM THE AMERICAN PEOPLE

THE USAID-TIJARA PROVINCIAL ECONOMIC GROWTH PROGRAM

# GUIDE FOR COMPANY REGISTRATION IN IRAQ



JUNE 2012

This report was produced for review by the U.S. Agency for International Development (USAID). It was prepared by The Louis Berger Group, Inc.

Contract No. 267-C-00-08-00500-00

The USAID-TIJARA PROVINCIAL ECONOMIC GROWTH PROGRAM

# GUIDE FOR COMPANY REGISTRATION IN IRAQ



This guide provides information of the procedures required on how to establish a company in Iraq. It includes guidance on obtaining licenses and permits as well as other useful information, such as company, branch of a foreign company or representative office registration procedures, fees, and required supporting documentation.

**This guide was prepared by the Ministry of Trade  
in cooperation with USAID-Tijara**

## **DISCLAIMER**

The author's views expressed in this publication do not necessarily reflect the views of the U.S. Agency for International Development (USAID) or the United States Government.

# CONTENTS

<b>1. ESTABLISHING A COMPANY .....</b>	<b>2</b>
<b>1.1 Background/Governing Laws.....</b>	<b>2</b>
<b>1.2 Forms of Companies .....</b>	<b>2</b>
<b>1.3 Incorporating a Company .....</b>	<b>3</b>
1.3.1 Background on Registering Foreign Companies in Iraq .....	3
1.3.2 Incorporating a Local Company .....	4
1.3.3 Registration of a Representation Office or a Branch of Foreign Company...8	
1.3.4. Registering Commercial Agency for a Foreign Company .....	10
<b>2. ADDITIONAL REPORTING REQUIREMENTS FOR COMPANIES .....</b>	<b>12</b>
<b>2.1 Sectoral Approval .....</b>	<b>12</b>
<b>2.2 Special Requirements for Certain Types of Businesses and Public         Subscription of Capital .....</b>	<b>12</b>
<b>2.3 Ministry of Labor/Pension and Social Security Commission.....</b>	<b>14</b>
<b>2.4 Ministry of Finance/General Taxation Commission .....</b>	<b>15</b>
2.4.1 Registration to Pay Taxes.....	15
2.4.2 Corporation Income Tax .....	15
2.4.3 Personal Income Tax.....	16

## ESTABLISHING A COMPANY

### 1.1 BACKGROUND / GOVERNING LAWS

Iraq's Commercial Law No. 30 of 1984 (Articles 5 to 15) regulates all 'trading activities' undertaken by the Iraqi public and private sectors. 'Trading' is defined as for-profit economic activities in a wide range of industry sectors including importing/exporting, manufacturing, logistics and transportation, construction, tourism, banking, insurance, buying and selling of securities and stocks and contracting.

The Commercial Law differentiates between two categories of 'traders'. These are:

**Retail trader** - is a natural person who carries out commercial activities that are registered in his/her own name. He/she is a sole trader, buying and selling as an individual or as an intermediary. Retail traders/natural persons' activities are governed by Iraq's Commercial Law No. 30 of 1984

**Legal trader** - is a legal entity or company. Legal traders' activities, i.e. companies', are governed by Iraq's Companies Law No. 21 of 1997 as amended by CPA Order No. 64 which was issued in February 2004 and is still in force.

### 1.2 FORMS OF COMPANIES

This section of the report categorizes the types of companies that can be incorporated in Iraq in accordance with the Companies Law. There are five different types of company structures:

- **Joint stock companies— mixed or private.** Joint stock companies must be established by at least five natural or legal persons. They offer shares through public subscription. The shareholders are responsible for company debts to the extent of the value of their respective shares.

Iraqi law requires insurance, re-insurance, financial investment, banks, and money transfer firms to be joint stock companies (Article 10 of the Companies Law No. 21 of 1997 as amended). Founding shareholders must post an incorporation deposit (Article 28 of the Companies Law No. 21 of 1997) in a bank authorized to operate in Iraq.

Financial investment companies operate as financial intermediaries investing in financial securities. They are governed by the Companies Law as any other joint stock company. Their operations, however, are supervised by the Central Bank of Iraq in accordance with the Iraqi Central Bank Law No. 56 of 2003 and Financial Investment Companies Regulations No. 6 of 2011.

- **Sole Proprietorships.** Sole proprietorships may be established by a single natural person. In sole proprietorships the owner assumes personal, unlimited liability. This company is called a "sole owner enterprise".
- **Joint liability companies.** Joint liability companies are established by a number of persons ranging between two and twenty five natural or legal. The liability of

the owners is unlimited and they participate in proportion to their respective shares in the company.

- **Simple companies.** Simple companies are established by a number of persons ranging between two and five, each of whom contributes capital to the company in the form of cash or labor. The Companies Law requires simple companies to have notarized incorporation papers. Simple company's partners must deposit a copy of the incorporation charter, delineating the partners and their quotas with the Iraqi Office of Company Registration (OCR) at the Ministry of Trade (MOT).
- **Limited liability companies— mixed or private.** Limited liability companies may be formed by no less than two and no more than twenty five natural or legal persons. Limited liability companies may also be established by a single natural person. Founders are responsible for company debts to the extent of the nominal value of their respective shares. A mixed company may be formed by agreement between one or more legal persons from the public sector and one or more from other sectors, i.e., private, mixed, and/or cooperative, provided that public sector shares represent no less than 25 percent of the total company capital. If the percentage of state-owned shares falls below 25 percent, the company is considered a private company. The vast majority of registered enterprises in Iraq are limited companies.

### 1.3 INCORPORATING A COMPANY

#### 1.3.1 Background on Registering Foreign Companies in Iraq

Foreign entities may incorporate companies and trade representation offices/branches, and operate in Iraq under the Companies Law 21 of 1997 as amended, MoT Instruction No.196 of 2004 regarding the registration of Iraqi companies, and Regulations No. 5 of 1989 for the registration of branches and trade representative offices of foreign companies.

On the other hand, foreigners are not allowed to engage in retail sales activities before fulfilling the following requirements:

- Depositing a US \$100,000 surety in a non-interest-bearing account with an authorized bank in Iraq 30 days prior to registration<sup>1</sup>
- Obtaining a certificate of authorization from the MOT

The foreign retailer may apply to the OCR who in turn provides him with a letter to the relevant bank approving the reimbursement of the surety deposit. However, this can only be done after the retail activity in question has ceased.

---

<sup>1</sup> This requirement which was stipulated by the annulled CPA Order No. 39 of September 2003 on foreign investment was supposed to be cancelled from the MoT regulations No. 196 mentioned above, but they are still in force, but the requirement is not being implemented (frozen).

It is worthy to note here that any natural or legal person has the right to trade with shares at the Iraq Stock Exchange (ISX). This is true of Iraqi residents, Iraqis who live abroad, and foreigners.

Foreigners wishing to conduct business in Iraq may now enter the market in any of the following ways:

- Establishing a wholly foreign-owned business entity or subsidiary in Iraq.
- Establishing a business entity jointly with an Iraqi.
- Establishing a branch office and registering it with the OCR.
- Acquiring shares of an existing Iraqi company.

### **1.3.2 INCORPORATING A LOCAL COMPANY**

In this section we review the company registration processes and associated fees necessary to register a company name with local Chambers of Commerce and obtain a registration certificate from the OCR. The appeal process, in case of rejecting of the application, is also discussed in this section.

Iraqi or foreign persons, natural or legal, willing to establish a company must register with the OCR prior to commencing business activities. Companies must also meet other requirements and licensing procedures (as detailed in the following section) prior to starting their economic activities. Companies may choose to complete all procedures by themselves, or alternatively they may choose to do so, through a designated lawyer (registration agent) authorized by a power of Attorney.

The steps required by the Iraqi laws to register a company in Iraq are presented below.

#### **Step 1: file a request for a name search at the local Chamber of Commerce.**

As a first step of registering a company in Iraq, the founders are expected to submit a request at the local Chamber of Commerce containing:

- Proposed name of the company
- Type of business
- Names and nationalities of founders

The Chamber of Commerce then checks whether the proposed name has been registered by any other company, using a computerized database of registered names within that particular Chamber.

**Step 2: pay registration fees.** The founders are then required to pay a registration fee of IQD 130,750 at the Chamber of Commerce. Payment is made either in cash or by certified check.

**Step 3: Local Chamber of Commerce sends the request to the Union of Iraqi Chambers of Commerce.** After checking for the name locally, the local Chamber forwards the request to the Union of Iraqi Chambers of Commerce to check whether the name has been registered elsewhere in Iraq, i.e., with other local Chambers. Each local Chamber of Commerce in Iraq shares the data of registered names with the Union of

Chambers of Commerce periodically. The various local databases are not electronically connected with each other, i.e., a particular Chamber would not have access to the databases of registered names nationwide, hence the need to forward the request to the Union of Chambers of Commerce.

**Step 4: The Union of Iraqi Chambers of Commerce issues a letter.** If the name is not registered by any other company in the country, the Union of Chambers of Commerce would issue a letter certifying that the requested name belongs to the investor and collects IQD 125,000 fee.

**Step 5: The company obtains the relevant sectoral approval.**

Companies are not obliged to get the sectoral approval prior to registration except for:

- a. In case one of the founders holds a foreign citizenship, then the Ministry of Interior is approached.
- b. Financial services companies which must get the Central Bank approval prior to registration (banks, financial investment, and money transfer).
- c. The Ministry of Transport is approached if the company activity is transport.
- d. In the event that the company's activity includes communications then the Ministry of Interior is approached.
- e. In the event that the company's activity is oil services and one of the founders holds a foreign citizenship, then the Ministry of Oil is approached.
- f. If the activity of the company is escorts and security services, then the Ministry of Interior and the National Security Service are approached.
- g. In case the activity of the company is mine removal, then the Ministry of Interior and the Ministry of Defense and the Ministry of Environment and the National Security Service are approached. In case one of the founders is a foreigner, then the Iraqi National Intelligence Service is approached.

**Step 6: Company deposits capital in an authorized bank in Iraq.** The company is required to deposit the company's capital as a surety in an authorized bank in Iraq. The bank will in turn provide the company with a letter, addressed to the OCR, indicating that the capital has been deposited in the bank, in order to proceed with the subsequent registration steps.

Article 28 of the Companies Law No. 21 of 1997 specifies minimum capital requirements for the various types of companies as follows:

- Joint stock company— the minimum capital is ID 2 million
- Limited company— the minimum capital is ID 1 million
- Other types of companies— the minimum capital is ID 500,000

**Step 7: Founders draft a Memorandum of Incorporation.** The law requires that company founders create and sign a Memorandum of Incorporation for the company, which at minimum must contain the following details:

- The company name and business type— with the word "mixed" added if it is a mixed sector company (state-owned and private);
- The company head office address, which must be in Iraq;
- The purposes for which the company is established and the general nature of the business to be transacted;
- The company capital;
- For joint liability companies: The method of distributing profits and losses;
- For private joint stock companies: The number of members to be elected on the board of directors;
- The names of the founders and their nationalities, professions, permanent addresses, and the number of shares they own, as well as their respective ownership as a percentage of company capital.

**Step 8: Company submits to OCR application form and its attachements.** After receiving the letter from the Union of Chambers of Commerce and depositing the required capital, the company fills out an application form provided by the OCR for a minimal fee, and submits the completed form to the OCR. The company is also required to attach the following documents along with the completed OCR application form.

- The letter from the Union of Chambers of Commerce indicating the registered name;
- The letter from the bank showing that capital has been deposited
- The Memorandum of Association;
- Completed form of founders bio-data that includes their names and addresses and authorized signatures;
- Founder clearance from the General Taxation Commission;
- Subscription document and a feasibility study for the project if the company to be registered is a joint stock company;
- A copy of the passport information pages (or personal Iraqi identification card) of the founders and of the company's legal representative, or their personal Iraqi identification card;
- Receipt for the payment of required fees.

**Step 9: Company pays for the application processing at OCR.** The company is required to pay a fee for processing the application to register the company at the OCR. The fees to be paid at the OCR according to the type of company are as follows:

#### **Joint Stock Company**

- IQD 200,000 registration fee;
- 0.002 of company capital as stamp duty;
- IQD 650 stamp duty for articles of incorporation and company application form;
- IQD 25,000 fee for documenting founders personal information;

- IQD 10,000 fee for publishing company incorporation decision;
- IQD 750 fee for archiving the application;
- IQD 25,000 fee for revision of company's feasibility study;
- IQD 1,000 fees for any confirmation letter.

### **Other Types of Companies**

- IQD 20,000 registration fee;
- 0.002 of company capital as stamp duty;
- IQD 650 stamp duty for articles of incorporation and application;
- IQD 1,000 consultancy fee on how to incorporate a simple company;
- IQD 5,000 fee for documenting founders personal information;
- IQD 10,000 fee for publishing company incorporation decision;
- IQD 750 fee for archiving the application;
- IQD 1,000 fees for any confirmation letter.

**Step 10: OCR accepts or rejects application.** The OCR must accept or decline the company application within ten days of submission. After paying the required fees by the company, the OCR publishes registration approval in its Bulletin., Thus, the company acquires legal personality.

**Step 11: Company holds a founding (inaugural) meeting.** After the issuance of the Certificate of Incorporation, the company must convene an initial company (founding) meeting within 30 days of OCR's approval. The law requires company owners to include the following statement in the minutes of this meeting: "Owners may not use their voting rights to harm the company or its associates in any way, nor may they use their voting rights to benefit themselves or to jeopardize creditors".

After payment of fees, the company may submit an application to the OCR to authenticate the registration documents and then the OCR will provide the company with a letter addressed to the relevant bank permitting the bank to release the deposited surety.

**Step 12: Company registers the business name in the Commercial Record.** The company must register in the Commercial Record Registrar within 30 days of receiving the registration certificate. The Commercial Record is maintained by the local Chambers of Commerce in Iraq.

To register in the Commercial Record the company must provide the local Chamber of Commerce with the following information:

- Names of the company founders, chairman of the board, and the managing director
- Company name
- Incorporation date
- Address of the company's headquarters and other branches, whether in Iraq or abroad

- Description of the company's commercial activity

Any decision of the Commercial Record Registrar (approval, denial, transferring of ownership or amendment and deletion of a commercial name) can be appealed at the competent court of first instance within 30 days following notification of the decision.

**Time Needed.** The time that the company needs to complete all steps detailed above is estimated to be:<sup>2</sup>

- Approximately two months for a joint stock company
- Approximately 20-25 days for all other company types. It should be mentioned here that registration of a limited liability company does not take more than 2-3 days if all documents were complete and adequate upon submission.

**Appeal process in case of application rejection.** If the OCR refuses the company application to obtain a registration certificate, the founders may appeal their case to the Minister of Trade within 30 days of application rejection. The founders must submit an appeal to the Minister detailing the reasons their application was rejected and also their response and/or actions to correct their status. If the Minister of Trade rejects the appeal, the founders may then appeal to the relevant court of first instance within 30 days of notification.

### 1.3.3 Registration of a Representation Office or a Branch of a Foreign Company

We detail here the steps necessary to register a representation office or a branch office of a foreign company to conduct business in Iraq.

**Step 1: Company submits an application.** The company starts the process of registering a representation/branch office in Iraq by filing and submitting a registration application form to the OCR, together with the registration documents. The company must submit two completed copies of this form, which is checked by the OCR.

The application form contains the following information:

- Legal name (Trade name to be acquired from the local Chamber of Commerce)
- Type of economic activity
- Company address in Iraq
- Name, address, and contact information of the branch or representative office manager who must be a resident of Iraq
- Name, address, and contact information of the mother company's Chief Executive Officer (CEO)
- The amount of authorized or registered capital
- The names and addresses of owners whose holdings exceed 10% of the company's equity

---

<sup>2</sup> In case one of the founders is a non-Iraqi citizen or the company activity is communications, or escorts and security, or mines removal then the time needed to complete all procedures shall be longer than the period mentioned above.

- False information statement signed on behalf of the foreign entity.

The following documents are to be submitted with every application related to a foreign entity intending to register in the companies' registrar:

- a. A copy of the Memorandum and Articles of Association of the Company or the parent organization or its substitute.
- b. A copy of a valid certificate of registration of the company or institution in the country of establishment.
- c. List of names of the members of the Board of Directors of the company or institution and nationality of each, and the names of persons authorized to sign.
- d. A copy of the power of attorney of the Director in charge of the management of the branch in Iraq and who is actually residing there, issued by the management of the company or institution.
- e. Copy of the institution or company's latest financial statement with the Board of Directors report attached to the statement.
- f. Letter from the parent company stating that it will bear all financial responsibilities and legal implications of the branch or representative office in front of the Iraqi authorities.
- g. Letter of support from contracted government departments, mixed sector companies, cooperative unions or syndicates, or JSC companies illustrating the nature of the contract with beginning and end dates, total amount, and the period of maintenance, if any (This condition is only in respect of companies opening a branch)..
- h. Color scanned copy of the passport (for foreign person) or identity card (for the Iraqi people) for the employee authorized with the OCR.
- i. Color scanned copy of the personal identity documents of the person authorized to deal with OCR and Branch or Representative Office manager...

The company must submit all documents in both Arabic and English. Documents should be certified by relevant authorities in the mother's company country and in Iraq.

**Step 2: OCR checks applications for completeness and correctness.** The OCR verifies the application and its attachments for completeness and correctness. The OCR then records the application receipt in case it meets legal requirements (for some of the activities and prior to registration procedures, the matter might require approaching entities related to the foreign company activity seeking their approval for the registration of the foreign office - such as mine-clearing activity, security services and telecommunications).

**Step 3: Company pays part of the registration fee.** After obtaining the approval of the Registrar for registering the branch office, and the approval of the Minister of Trade for

registering the representative office, company must pay the registration fees and charges amounting to ID 126250. Payment is made in cash or by certified check at the OCR.

**Step 4: Company collects registration certificate of branch or representation office.**

The company returns to the OCR after the application has been processed in order to obtain the registration decision. Then the decision of registration is published in the Official Gazette and Bulletin of the Registrar of Companies. After that the company submits the copy of the newspaper where the decision is published to enable the OCR issue and deliver to the company the registration certificate.

The OCR provides copies of the company's registration certificate to the General Taxation Commission of the Ministry of Finance, the Ministry of Labor and Social Affairs / Pension and Social Security General Commission, General Commission for Customs, Rafidain and Rasheed Banks, Bar Association, and the Iraqi National Intelligence Service.

**Time Needed.** The time needed to process the company's application for a registration certificate for a representation/branch office by the OCR is estimated at:

- 2-3 days to register a foreign company branch office
- 5-10 days to register a representation office.

**Appeal Process in case of application rejection.** If the OCR refuses an application for a registration certificate for a representation/branch office of a foreign company, the company may appeal to the Minister of Trade within 30 days of the rejection. If the Minister of Trade rejects the appeal, the company may appeal to the relevant court of first instance within 30 days of notification.

### **1.3.4 Registering Commercial Agency for a Foreign Company**

**Step 1: Commercial Agent submits an application.** The Iraqi commercial agent, whether a natural person or company files an application with the required documents listed below, to the OCR/ Commercial Agencies Section to obtain a commercial agency license. The documents submitted are checked for correctness and registration fees and charges are marked on the application.

**Required documentation<sup>3</sup>**

- a) Commercial agency contract with a foreign company certified in accordance with the law
- b) Contract of office rental or title deed in the name of applicant
- c) Chamber of Commerce ID card (type of business-commercial agencies)
- d) Trade name registered in the commercial register

---

<sup>3</sup> As per Paragraph First/ Article 4 of the Commercial Agency Regulation Law No 51 of 2000

- e) Copy of nationality certificate, Identity Card and residence card of the commercial agent (or managing director in case of company).
- f) A commission's register to record the agent's commissions, according to business requirements.
- g) Written undertaking (non-convict, non-government employee)

If the applicant is a company, the following should also be submitted in addition to the above requirements:

- Company incorporation certificate.
- Company incorporation contract endorsed by the relevant section.
- Minutes of the founding meeting appointing the managing director, endorsed by the relevant section.

**Step 2: OCR acquires the approval of the Ministry of Interior.** The OCR after checking the application and attachments addresses the Ministry of Interior to acquire its approval to grant the license and register the commercial agency.

**Step 3: Paying registration fees and charges.** Applicant pays required registration fees and charges and as stated below:

**Fees and wages:**

- IQD 25000, as fees for issuing the license to practice the commercial agency activity.
- IQD 15000 for registering (each) commercial agency
- IQD 10000 for license renewing the
- IQD 1000 application duty stamp
- IQD 100 duty stamp for other applications
- IQD 15000 auditing fees (for each) commercial agency
- IQD 5000 auditing fees for the license documents
- IQD 2000 the commissions register certification charges
- IQD 2000 charges for closing a page in the commissions register
- IQD 2000 charges for auditing the statement of received commissions
- IQD 1000 certification fees
- IQD 5000 charges for appointing new managing director and issuing a certified license copy.

**Step 4) Issuance of OCR approval.** After receiving the approval of the Ministry of Interior the OCR shall decide to grant the licence within (30) days in accordance to the provisions of Article (5 / second) of the Commercial Agency Law No. 51 of 2000. Then the license and a th approval letter for registering the commercial agency are handed over to the agent.

## 2. ADDITIONAL REPORTING REQUIREMENTS FOR COMPANIES

We outline here other specific requirements necessary to register companies in Iraq. These include sectoral licensing (approvals) and other registration requirements pertinent to the Ministry of Labor/Pension and Social Security Commission, and Ministry of Finance/General Taxation Commission. Additionally, special requirements for certain types of businesses, public subscription of capital, and the transfer of ownership and disposal of shares are also discussed.

### 2.1 Sectoral Approval

In addition to registering a company with the OCR of the MOT and with the local Chamber of Commerce, companies must complete other registration processes, depending on the company's economic activity. For instance, a company interested in establishing tourism related company, e.g., a hotel, must get approval from the Ministry of Tourism, and a company interested in setting up and operating an investment services company must obtain an approval from the Central Bank of Iraq.

### 2.2 Special Requirements for Certain Types of Businesses and Public Subscription of Capital

Only joint stock companies, mixed or private, can issue publicly traded stock<sup>4</sup>. The founders of a mixed joint stock company shall subscribe to not less than 30% and not more than 55% of its nominal capital and it must include a minimum of 25% for the state (public) sector.

Founders of private joint stock companies must subscribe at least 20% of the initial capital, and offer the remaining shares through an **initial** public offering within 30 days of company registration. Joint stock companies commence a public offering through an announcement to be published in the Bulletin of OCR and at least two daily newspapers in Iraq. This takes place after receiving the OCR approval to do so. If the OCR finds the company's documents potentially misleading to investors it refers the case to the Securities Commission.

The announcement to be published in the Bulletin of OCR and newspapers shall include, at minimum, the following information:

- The text of the company's Memorandum of Association
- The number of shares offered for subscription, the value of each share, and the cost of each share
- The minimum and maximum number of shares one can purchase
- The place and period of subscription
- The expenses incurred in establishing the company
- The contracts and agreements which the founders have committed to in the interest of the company

---

<sup>4</sup> Public trading of the JSC shares after acquiring the approval of the Board of Governors of the Iraq Stock Exchange (ISX) to list the company at the ISX.

- The report of the evaluation committee in case some of the founders have subscribed their capital with property in-kind.

Companies must follow specific requirements in offering public shares and in managing unsold shares. For instance, according to Article 43 of the Companies Law No. 21 of 1997, as amended, "If the subscription does not reach 75% of the nominal capital at the end of the extension period, the founders must decrease the company's capital so that the value of the subscribed shares will be equal to 75% of the nominal capital, unless the founders cancel the establishment of the company. The founders shall inform the OCR of such a decision."

The capital of joint stock companies, limited companies, and sole proprietorships must be paid up before the issuance of the certificate of establishment.

The formation of mixed joint stock companies requires the OCR to form a technical committee tasked with valuing the company before the OCR can register paid in capital, which includes a legal expert and a certified accountant who are experts in company valuations. Within sixty days of its formation, the committee must report its findings to the OCR. The OCR subsequently reports to the Board of Supreme Audit (BSA)<sup>5</sup> within thirty days of receiving the committee's report. The BSA endorses the committee's findings or it may write a note indicating that the evaluation is not at market rate and will return it to the committee for reconsideration of the evaluation. This is only in case of companies that have in-kind capital, rather than cash.

Iraqi laws address transfer of ownership of shares or quotas in a detailed manner. The relevant aspects of ownership transfers of shares are discussed below.

(1) Founding shareholders of joint stock companies may not transfer ownership of their shares unless the following conditions are met:

- The company has been in existence for at least one year.
- The distributable profit/reserve is at 5% or more.

(2) Private sector shareholders in joint stock companies cannot transfer ownership of their shares in any of the following cases:

- The company is mortgaged, seized, or sequestered under a court decision.
- The company certificate is lost and a replacement has not yet been issued.
- The shareholders wishing to transfer their shares owe debts to the company.
- The transferee is prohibited from owning shares in the company under a law or a decision issued by a competent body.

---

<sup>5</sup> BSA is a separate and independent government institution, which currently reports to the Council of Ministers, with juridical personality working in conjunction with the Commission on Public Integrity and the Inspectors General of individual ministries to ensure that Iraqi government remains honest, transparent and accountable to the people of Iraq. ( CPA Order 77 of 2004, Article 2 section 2)

(3) Shareholders in a limited liability company may sell their shares to outsiders after offering them to the shareholders of the company. The law addresses this matter and requires the following:

- The seller must notify the other shareholders through the managing director of his/her desire to sell their shares. He/she must indicate the number of shares, the registration number of their shares' ownership certificate, and the price they are asking for, or the price a buyer has offered. Proper documentation must support the buyer's offer
- If 30 days after notification, none of the other shareholders has come forth to buy the shares, or if they have offered a lower price than the seller has proposed, the seller is free to sell his/her shares to others at the higher price. A sale of shares at a price lower than that offered by other shareholders of the company shall be considered null and void
- If several shareholders wish to buy the shares at the same price, the shares shall be divided among them in the ratio of their existing shareholding, allocated to the nearest full share

A sale of shares in a joint stock company or a limited liability company shall take place at a meeting between the seller and the buyer, or between their legal representatives, in the presence of a representative of the managing director. A contract shall be drafted containing the names of the seller and the buyer, their addresses, the shares' ownership certificate registration numbers, the transaction date, the share price, a statement from the seller indicating that he/she received the payment for the shares, and a verification by the buyer that he/she approves of this contract. The transaction contract shall be recorded in the company's share register, along with the signatures of the buyer(s) and seller(s) and of the representative of the company. Any transaction that is concluded in breach of these rules shall be considered null and void, and shall not be recorded.

Ownership of shares in joint stock companies that are trading on the Iraq Stock Exchange shall be transferred in accordance with the relevant by-laws and guidelines of the Exchange.

If an Iraqi shareholder in a joint stock company or a limited liability company dies, his/her shares shall revert to their heirs in accordance with the ratios specified by Islamic Shari'a Law. If the shareholder is a citizen of another country than Iraq, the shares shall revert to the shareholder's heirs in accordance with the applicable law of that country.

Distribution of inherited shares may not increase the number of partners in a limited liability company; inherited shares shall be considered as representing one legal person, and heirs must designate their representative within 60 days of the registration of the shares' transfer in the company's records.

### **2.3 Ministry of Labor / Pension and Social Security Commission**

Before commencing operations all companies must register with the Ministry of Labor/General Organization for Pension and Social Security and pay a deposit toward social security withholdings based on the number of employees and estimated payroll for

three months. The investor then obtains a letter from the ministry indicating that payments have been made. The letter includes the company's social security number. Social security payments are then made on a quarterly basis. Social security amounts to 17% of employee salaries. The employer's contribution is 12% and the employee's contribution is 5%. Payments are made by employers through certified checks to the Pension and Social Security Enterprise. The initial step of registering with the Ministry of Labor and obtaining the letter takes about one week. There are fees associated with this procedure.

## **2.4 Ministry of Finance / General Taxation Commission**

Here we deal with taxation for projects not governed by Investment Law No. 13 for 2006 as amended and Industrial Investment Law for Private and Mixed Sectors No. 20 for 1998 as amended. Investment projects governed by the said laws are exempt from payment of taxes for several years mentioned in the said laws.

There are four types of taxes in Iraq: corporation tax; personal income tax; real estate tax; and leased land tax. All taxes due are a legally binding obligation on the taxpayer. The tax assessment and payment process is usually initiated by the tax liable individual reporting his income during the preceding year on pre-printed returns to the taxation department in the area where his work or business activity is located.

### **2.4.1 Registration to Pay Taxes**

The procedures for registering an individual, natural person or company for all taxes has been retained as set out in the Income Tax Law No. 113 of 1982 and they are:

- The person should fill and present a basic tax return prepared and adopted by the General Tax Commission of the Ministry of Finance<sup>6</sup>. The form consists of information related to the taxpayer: type of work, estimated income, and marital status.
- A file for the taxpayer is opened at the General Taxation Commission (GTC).
- A tentative computation of tax and allowances is calculated.
- The tax is assessed on the person or company in accordance with income tax law.
- An electronic record is opened by the Tax Department after payment of tax.

Companies are issued a taxpayer ID number upon being licensed by the Office of Companies Registration. Companies receive a separate tax ID number for each tax. Tax registration normally must occur within one month of starting operations. Taxes are due three months after the close of the fiscal year.

### **2.4.2 Corporation Income Tax**

The tax rate applied on the net income earned by all corporations after April 1, 2004 is a flat rate of 15%. As provided for in Income Tax Law 113 of 1982, the rate is levied on the income of all private sector companies, including the income of foreign companies operating in Iraq (except those exempt according to prevailing Investment Laws).

---

<sup>6</sup>. There are three different forms for payment depending on the type of taxpayer: monthly direct income tax deduction (employee), direct annual income tax (personal), and corporation tax.

### **2.4.3 Personal Income Tax**

Personal income taxes have been capped at significantly reduced rates of no more than 15%. Employees are entitled to basic personal income exemptions, and rate bands range from 3% to a maximum of 15%. Administrative requirements with regard to collection, appeals and penalties for late payment or nonpayment of income taxes are as established in 1982 and remain in force.