

Newsletter  
|47<sup>th</sup> Edition, August 2024|

Welcome to the forty-seven edition of our newsletters. In this edition, we will present to our readers the following:

- i) In **Section A**, in this edition, we will address the topic of Foreign Non-Operating Companies under Jordanian law. This topic was selected due to its capability to enrich the industry specific knowledge of the readers; especially those who are interested in setting up a regional office, which operates outside Jordan, but with offices that are registered in Jordan, in accordance with the legal framework elaborate below.
- ii) In **Section B**, which is dedicated to matters pertinent to the jurisdiction of Iraq, in this edition, we will address two topics; the topic of issuing residency permits for foreign employees in Iraq (Topic 1) and the topic of E – Commerce (Topic 2), as part of the regular updates provided to readers by the firm’s Iraq office.
- iii) In **Section C**, which is dedicated to matters pertinent to our Start-ups and SMEs Department, in this edition, we will address the topic of international patent registration to provide the readers with knowledge on a very important topic that many readers may find of interest.

*“The registration of a Foreign Non–Operating Company in the Kingdom may be made for the purpose of establishing regional or representative offices, providing services, or technical or scientific offices.”*



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## SECTION A: A GLIMPSE INTO JORDANIAN LEGISLATION

### First: Definition of the Foreign Non-Operating Companies

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A Foreign Non-Operating Company “is a Company or an entity, which has its regional or representative office in the Kingdom for operations that it conducts outside the Kingdom, for the purpose of using such a regional or representative office for managing its operations and coordinating those with its headquarters.”

The registration of a Foreign Non-Operating Company in the Kingdom may be made for the purpose of establishing regional or representative offices, providing services, or technical or scientific offices.

### Second: Registration of the Foreign Non-Operating Companies

a) **Online registration:** The process of registering this type of Company may now be carried out electronically. The Companies Control Department (hereinafter referred to as the

“CCD”) has launched an electronic portal, which enables the investors to establish companies electronically, and after obtaining the registration approval, the legal representative (as per the requirements below) must attend at the registration department in the Companies Control Department and deposit the Company’s documents to be attached to the Company’s file at the Department. (The Ministry of Industry, Trade and Supply is now working on the electronic registration for all the companies, unless there is a special case, which requires a more detailed study, in which case a physical presence at the CCD might be required).

b) **Requirements for registration:** The registration of the Company has two types of requirements; the first being the registration application itself and the other being the number of Jordanian employees in the Company; both of which are described as follows:

1. **Firstly, the Registration Application:** An application for registration is submitted to the Companies Controller with the documents



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mentioned below and translated in Arabic language and dully certified by a Notary Public in the Kingdom:

- i. The registration certificate of the Company at its headquarters.
- ii. The Company`s (head office) Articles and Memorandum of Association, which indicates its objects/objectives, share capital and type.
- iii. A Power of Attorney (hereinafter referred to as “**POA**”) signed by an individual who is physically present in the Kingdom and who is authorised by the parent company to carry out the Company`s activities and register it in accordance with the Law.
- iv. The Company`s (head office) financial statements for the last two fiscal years in the country where its headquarters are located, certified by a licensed auditor/chartered accountant. The competent Minister may, upon a justified recommendation by the Controller, exempt the Company from submitting those documents, if the Company is exempted from submitting the financial statements in its jurisdiction (where the head office is located), or if the Company was newly registered and it did not issue its financial statements yet. In that case, the Companies Control Department shall require a written undertaking by the Company to deposit its financial statements immediately upon issuance.
- v. Any other data of information that the Controller deems necessary to be submitted.
- vi. A certified copy of the Power of Attorney by virtue of which the Foreign Non-Operating Company authorizes a named lawyer to proceed with registering the Company in the Kingdom.
- vii. A Board of Directors decision to establish a Non-Operating Foreign Company in Jordan to operate as a regional branch, and to assign the



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authorised signatory on behalf of the Company to sign the aforementioned Power of Attorney.

- viii. All the documents mentioned above should be notarized and then legalised by the Ministry of Foreign Affairs at the Company's country of origin (or a legalization office at the Company's country of origin if there is one) and then by the Jordanian Embassy/Consulate in that country. Following the completion of this step, legalisation of said documents shall be completed in the Kingdom by the Jordanian Ministry of Foreign Affairs and the Jordanian Ministry of Justice. If such documents are not in the Arabic language, then those will need to be translated into Arabic, and certify the translation from a Notary Public in the Kingdom. This document can then be submitted.

## 2. Secondly; the number of Jordanian Employees: The number of Jordanian

employees in a Foreign Non-Operating Company in the Kingdom shall not be less than half of the total number of the Company's employees.

### Third: Documents that are Required to be Issued After Registration to Keep the Company Operating

1. A Lease Agreement for the Company's office and a valid Vocational License.
2. A Social Security Report for the Company's employees.
3. An Ultimate Beneficial Ownership Disclosure form for each year that the Company operates has to be submitted to the Companies Control Department following registration of the Foreign Non-Operating Company.
4. The registration of the Company in the Jordanian Bar Association under the name of a Jordanian licensed lawyer.



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#### Fourth: The Advantages of the Foreign Non-Operating Company (List is Indicative and Non-exhaustive)

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A Foreign Non-Operating company benefits from the following exceptions:

1. Exemption from registration and publication fees applicable to Foreign Operating Companies, as explained below.
2. Exemption from income tax for profits that are generated by the Foreign Non-Operating Company from businesses conducted outside the Kingdom.
3. Exemption from registration with the Jordan Chamber of Commerce, the Chamber of Industry, and professional associations, and their registration fees and from any obligations towards the same, including the trade vocational license.
4. Exemption from income tax for the salaries and wages payable by the Foreign Non-Operating Company to its non-Jordanian employees, who are working at its offices in the Kingdom.
5. Permission is granted to the Company to import into the Kingdom trade samples and models, free from customs and import taxes.
6. Exemption from customs and other fees and charges for imported furniture and equipment necessary to furnish the Company offices.
7. Permission is granted to the Company to import one motor-vehicle under a temporary entry status to be used by its non-Jordanian employees. Upon the Controller's recommendation in certain cases, the Minister of Industry, Trade and Supply may grant the Company a permit to import a second car under a temporary entry status.

#### Fifth: Exemptions for the Foreign Non-Operating Companies

The exemptions listed in the Second Section above shall be granted in accordance with the following terms:



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## 1) Foreign Non-Operating Companies are Exempt from tax on the purchase of necessary furniture and equipment.

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To obtain an exemption for the Company's furniture and equipment necessary to furnish the office, the following should be followed:

- 1- The Company must submit a written application to the Companies Control Department attaching to it the following:
  - i. a detailed report with the furniture and the equipment that is needed to set up the Company's office, signed and stamped by the Company or by its legal representative; and
  - ii. A valid copy of the Company's lease contract registered at the Greater Amman Municipality or at the competent Municipality, as applicable.
- 2- A field inspection is conducted by the Customs Department before granting the Company the exemption to ensure that the space of the Company's office and the number of the employees is in proportion

with the furniture quantity and imported equipment.

## 2) Temporary status car import permission

To obtain a permission to import one vehicle (car) under the status of temporary import to be used by its non-Jordanian employees, an application shall be made by the Company to obtain a permission to enter the vehicle to the Kingdom under a temporary entry status; said application shall be submitted to the Companies Controller signed by the Company or by its legal representative, accompanied by the following documents as attachments/enclosures:

- i. A letter by the Company or by its legal representative, which includes the type and make of the car, the year of its manufacture, the Vehicle's Identification Number (VIN), engine number and its capacity;
- ii. A copy of the residence permit and/or work permit of the non-Jordanian employee, who will use the car; and
- iii. A valid copy of the Company's lease contract registered at the Greater Amman



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Municipality or at the competent Municipality, as applicable.

### 3) Permission to import trade samples and models

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In order for the Company to obtain a permission to import into the Kingdom trade samples and models, the Company shall make an application to obtain a permission to be exempt from customs on the trade samples and models imported by the Company. Said application shall be submitted to the Companies Controller, signed by the representative of the Company with the following documents as attachments/enclosures:

- i. A valid copy of the Company's lease contract registered at the Greater Amman Municipality or the competent Municipality, as applicable; and
- ii. A detailed report of the requested samples and models, which indicates the nature of those samples and models and the purpose for which those samples and models are being imported.

### Sixth: Cancellation (Closedown) of the Foreign Non-Operating Company

- A) The Non-Operating Company shall be closed down (by way of a decision by the Minister of Industry, Trade & Supply based on a recommendation made by the Companies Controller) in any of the following circumstances:
- 1- If the Company conducts any commercial activities in the Kingdom; a Non-Operating Foreign Company is prohibited from carrying out any business or commercial activity inside the Kingdom, including the operations of commercial agents and middlemen. Otherwise, the Company shall be subject to having its registration cancelled, and the Company will be responsible for compensation of any loss or damage it may have caused to others.
  - 2- If the Company breaches the provisions of the Jordanian Companies Law and any regulations or instructions issued pursuant to it; such as the provision regarding the number of Jordanian employees in a Non-Operating



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Foreign Company in the Kingdom: said number of Jordanian employees shall not be less than half of the overall number of the Company employees). If it is found to be less than half of the overall number, then the Minister, upon the recommendation of the Companies Controller, may cancel the registration of the Company.

- 3- If the Company no longer has an actual location in the Kingdom, then the Minister upon the recommendation of the Companies Controller may cancel the registration of the Company.
- B) Required documents for the close down of the Company<sup>1</sup>:**
- 1- The parent Company's decision to close down the registration of the Company in the Kingdom, duly certified and translated in Arabic.
  - 2- A statement with the name of the person authorised to carry out the closing

<sup>1</sup> These documents are the documents that are required as of the date of this newsletter.

procedures, duly certified (notarized and legalised) and translated in Arabic.

- 3- Clearance from the Social Security Corporation, the Income Tax Department, the Greater Amman Municipality, and the Vehicles and Drivers Licensing Department and other relevant authorities.
  - 4- A legal liability clearance letter issued by the Jordanian Customs Department for the Company.
  - 5- A cover letter on the letter head of the Company, stating the name of the Company and its address and signed by the person authorised for the closedown, stating the completion of the Company's business and requesting to close down its registration with the Companies Control Department.
- C) The closedown of the Company will be carried out in accordance with the following procedure:**



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1. Depositing the aforementioned required documents at the Company's CCD account to be examined by the relevant personnel.
2. Upon first approval, the presence of the person authorised to cancel the Company is required, to sign before the competent employee, or to sign before a Jordanian Notary Public.
3. Providing all required documents that will be checked by the Companies Control Department.
4. The issuance of a 'To Whom It May Concern Certificate' to address all relevant authorities.
5. The receipt of clearance letters from the relevant authorities.
6. The Company's file is then sent to have its documentation and clearance letters archived.
7. A memorandum is sent to the Minister of Industry, Trade & Supply requesting his/her approval on the cancellation.
8. Payment of the required fees.
9. A certificate is issued.

## SECTION B: Hammouri & Partners' Iraq Office

### Issuance of Residence Permits for Foreign Employees in Iraq (Topic 1)

After obtaining a visa for the foreign workers, whether it is a commercial or a work visa, the Company can submit an application to obtain e permits for its foreign employees through the Iraqi Ministry of Interior. This is achieved by submitting the relevant documentation, which usually includes the passport, visa, work contract or permit, appointment letter, medical examinations, and personal photos, followed by paying the fees that are required. Those vary depending on the type of stay and its duration. Also, in some cases, additional security approvals may be required.

#### *Types of residency*

1-Temporary residence

2- Permanent residence

For permanent residency, in addition to the required papers and documentation, income and job stability must be proven.



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### Renewal of residency

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Foreign employees must renew their residence permit before its expiration by submitting a renewal request and by updating their data. Upon the expiration of the employment contract or upon the foreign employee leaving Iraq, the employer must inform the authorities and cancel the residence permit.

In the event of traveling and returning to Iraq, the employee must inform the employer in order to ensure the approval of the employer and have the employer document the leave. The employee should then obtain an exit and return permit from the Residency Directorate of the Ministry of Interior and submit the required documents. Further, the required fees must be paid to obtain the permit. The employee then obtains an exit visa from the competent Iraqi authorities, and upon return, the foreign employee must present the return permit and entry visa at the border crossings, and ensure that the work and residence permit is valid and that it has not been canceled during the period of absence.

Foreign companies and foreign employees must abide by the local laws and regulations of the country.

### E-Commerce (Topic 2)

E-Commerce means the electronic economic exchanges that include various commercial activities that take place between institutions, companies or individuals. It is a system that generates the movement of buying and selling of goods and services easily and smoothly via the Internet. E-commerce emerged in the last years of the twentieth century as a concept that began in a simple way and has continued to this day with rapid development and modernity.

#### The Importance of E-Commerce

Strengthening Iraq's role in the global economy and advancing the economy locally due to the rapid progress of electronic commerce as it allows freedom of movement and exchange of goods and materials in a simpler and less complicated manner. It also places Iraq in an advanced position in the world that enables it to come back strongly to the Arab and regional map, which results in restoring the country's equilibrium in general.



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### Obstacles that E-commerce may face

12 Notwithstanding the importance of this type of trade for the country's economy, obstacles also are encountered that may complicate its practice, including the lack of appropriate infrastructure for this type of trade in the field of technology, the Internet, and communications, in addition to reduced awareness among some users in general about the importance of this trade. Furthermore; the absence of clear commercial laws, that include and describe the concept of electronic commerce in Iraq or that define the applicable framework and controls for this concept.

### Central Bank meeting regarding electronic commerce

Regarding this subject and its importance for trade both inside and outside Iraq, the Central Bank of Iraq announced the submission of a "Regulation Paper" to the Council of Ministers regarding the regulation of electronic commerce in Iraq. Whereby, the Governor of the Central Bank (Mr. Ali Mohsen Al-Alaq) chaired the meeting of the Diwani Order Committee (24079), on 07/07/2024, to regulate electronic commerce in Iraq with the participation of the

concerned authorities. During the meeting, the project of the electronic commerce system and consumer protection and controls were discussed by the attendees, by way of registration procedures and obtaining a license for practising this trade via an electronic system established by the Ministry of Trade.

The committee members emphasized the need to establish controls for the granting of licenses to those wishing to practise e-commerce in a way that preserves the rights of all parties.

## SECTION C: START UPS & SMES

### International Patent Registration

As discussed in our previous newsletter, registering a patent in Jordan, will provide you with the necessary protection and rights over your invention within the borders of Jordan only. That means that this protection does not extend and these rights cannot be exerted outside Jordan. Accordingly, if one wishes to protect their patent in multiple jurisdictions, then they must register the patent internationally. Therefore, in this edition of Hammouri & Partners newsletter we will briefly discuss the international registration of patents.



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Unlike domestic patent registration, international patent registration is a process for securing patent protection in multiple countries. While there is no single unified patent that covers all countries, several systems can facilitate international patent protection, most notably the Patent Cooperation Treaty [“PCT”] administered by WIPO, which is an international agreement that simplifies and streamlines the process of simultaneously applying for patents in multiple countries. The PCT process provides a valuable tool for inventors and businesses looking to secure international patent protection, providing them with the time and flexibility to evaluate and decide where to pursue patents in different jurisdictions.

More to the point, to register your inventions under the PCT, you should file one initial patent application with a national or regional patent office in your home country [this application can be filed in any PCT member state<sup>2</sup>]. After you file the PCT application, the International Searching Authority [ISA] examines your application to determine whether or not your invention is novel, inventive, and industrially

applicable. Accordingly, you will receive an International Search Report [ISR] and a written opinion from the ISA, which provides insights on the potential patentability of your invention. Furthermore, approximately [18] months from the earliest filing date, your application is published, making it publicly available. Finally, within around [30] months from the priority date [the filing date of the earliest application], you enter the "national phase", this means you must file your application with individual national or regional patent offices where you seek patent protection. Each national or regional office then examines your application separately according to its own laws and procedures. This is where the final decision on patent grant is made.

Moving on, the PCT system offer many advantages for patentees, for instances, the PCT is considered a simplified process, which allows inventors to file a single international patent application that is recognized by all PCT member countries, rather than having to file separately in each country. Moreover, while the initial PCT filing can be expensive, it often results in cost savings compared to filing

<sup>2</sup> [https://www.wipo.int/pct/en/pct\\_contracting\\_states.html](https://www.wipo.int/pct/en/pct_contracting_states.html)



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separate national applications, especially if you later decide to pursue patents in multiple countries. Additionally, the PCT simplifies the administrative burden by allowing you to handle your international patent application through a single office, rather than dealing with multiple national patent offices.

Nevertheless, the PCT still has some disadvantages that need to be taken into consideration by all patentees, for example, the initial cost of filing a PCT application can be high, including international search and preliminary examination fees, as well as legal fees for drafting and filing. In particular, depending on the countries in which you seek patent protection, you may have to translate your application into different languages, which adds to the cost and complexity of patent protection. Another disadvantage of the PCT system is that its process can be complex, requiring careful

management of deadlines and adherence to different national requirements once you enter the national phase. Over and above, it is imperative to note that the PCT application itself does not grant a patent. It only provides a mechanism for seeking patent protection in member countries. You still need to enter the national phase and undergo the patent examination process in each country in which you seek protection.

To conclude, the PCT provides a valuable tool for managing international patent applications, but it comes with costs and complexities that require careful consideration. Furthermore, it is worth noting that Jordan is a member of the PCT system, so you can file a PCT application and enter the national phase in Jordan. This means you can use the PCT process to streamline your patent application if you wish to seek protection in Jordan and other countries.



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If you would like to discuss further any aspects of this Newsletter, please feel free to get in touch with one of our lawyers, using the contact details in the Contributors section below.

If you feel that other persons would be interested to read this Newsletter, please feel free to share this Newsletter.

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Warm regards,

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(Section A – A Glimpse into Jordanian Legislation “Foreign Non-Operating Companies under Jordanian law”)

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## ABOUT HAMMOURI & PARTNERS ATTORNEYS AT-LAW

Hammouri & Partners Attorneys at-Law, is a Jordanian multi-practice law firm, founded over two decades ago (established in 1994) by the late Professor Mohammad Hammouri. Professor Hammouri was a renowned Jordanian attorney and an arbitrator, a former Minister of Culture and National Heritage and a former Minister of Higher Education, who wrote a plethora of books, primarily on constitutional rights. Professor Mohammad Hammouri also founded the first School of Law in the Hashemite Kingdom of Jordan at The University of Jordan, in which he was its first dean. Today, the firm is managed by Dr. Tariq Hammouri, a distinguished academic and attorney and a former Minister of Industry, Trade and Supply. Dr. Tariq Hammouri is both an experienced attorney and an arbitrator, an expert in the Corporate sector, Commercial Transactions, Financial Markets, Banking Law and International Trade. He is an Associate Professor at the School of Law, University of Jordan and (formerly) the Dean of the School of Law. Dr. Hammouri is also an officially appointed member of the International Center for Settlement of Investment Disputes (ICSID) Panel of Arbitrators upon designation by the Government of the Hashemite Kingdom of Jordan, for the period of 2020 to 2026. Hammouri & Partners team consists of more than 30 attorneys and a number of other professionals working in the firm's specialized departments, providing professional legal services at a local, regional and international level. It should be noted that Hammouri & Partners have established a new office for the firm in the city of Baghdad in the Republic of Iraq and a branch in the city of Erbil in Kurdistan Region to provide fully fledged legal services. The Iraq office is operational since September 2023. The firm's legal services cover numerous areas of practice, including the following: Corporate and Commercial Law (whether that is corporate set-up or drafting of all types of commercial agreements), Intellectual Property Law, Banking and Finance Law (the Firm advises local and international banks regarding all Banking Transactions and Regulatory Compliance). Additionally, the Firm's Litigation and Arbitration department have the capabilities and competence to represent parties in the most complex and novel legal matters, as it encompasses expertise in several areas of law, whether it is before courts or arbitral tribunals. Hammouri & Partners Attorneys at-Law was one of the first firms in Jordan to establish a specialized International department to cater for the needs and requirements of international clients on an array of tasks with an international element, such as those regarding bilateral and international trade negotiations, projects, contracts and others. Furthermore, Hammouri & Partners provides legal advice and consultation to numerous industries such as those of Construction & Infrastructure, Manufacturing, Engineering, Trade, Securities and Energy, as some of its clients are major energy, healthcare, information technology and telecoms companies. Hammouri & Partners Attorneys at-Law provides its diversified legal services throughout Jordan and Iraq as well as worldwide, through established collaborations with reputable law firms in the MENA region, Europe, the United Kingdom and the USA. Hammouri & Partners has earned regional and international acclaim by the most reputable legal directories. Chambers and Partners Global, the International Financial Law Review (IFLR 1000) and the Legal 500, all highlight Hammouri & Partners as a leading law firm in the EMEA legal services industry.



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