



ALSAIF

Advocates & Legal Consultants

Profile



AlSaif Advocates & Legal Consultants is the first law firm established in Iraq under Company Law No. 21 for the year 1997 (amended according to the regulations issued by the Coalition Provisional Authority No. 64 for the year 2004) with legal services provided from Baghdad to the North of Iraq (Erbil & Sulaminyia), South of Iraq (Basrah) and Middle of Iraq (Najaf & Karbala). AlSaif is a firm that is founded on a strong group of advocates and legal consultants possessing vast experience in various legal areas.

Alsaif Advocates & Legal Consultants place the highest value on details, diversity, collaboration, and team spirit providing clients with seamless representation and thus attaining exceptional results. Each member of our team of professionals and qualified administrative staff is fully committed to providing our clients with accurate, thorough and cost effective advice.

We are specialists in:

- Corporate & Commercial (Company Registration & Foundation)
- Arbitration.
- Agreement Drafting \Revising.
- Property & Real Estate.
- Legal Consultation.
- Banking & Finance.
- Construction.
- Taxation & Custom Duties.
- Labor & Employment.
- Intellectual Property.
- Maritime & Aviation.
- Trade & Insurance.
- Litigation in Competent Iraqi Courts all stages: First Instance, Appeal & Cassation Courts.

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We are also a legal guide for the national and international companies looking to invest in Iraq according to the new investment

Law No.13 for the year 2006.



We possess a solid background and complete knowledge of the laws and regulations applicable in our new legal system which has expanded after 2003 with the issuing of new laws especially in the field of investments.

The new laws grant a unique opportunity for foreign companies to enter Iraq and invest in all kind fields (Oil and Gas, Insurance, Banking & Finance and more).

The firm also has deep expertise with legal services required for local and international companies to apply for business licenses and establish operations in Iraq.



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of Businesses in Iraq (Representative, Branch and Local Companies). Collaboration with Accounting firms to assist with Taxes, Social Security, Work Permits, Labor issues. Employment & Labor Law.

- Taxation & Custom Services. Insurance Law.
- Intellectual Property Law. Legal Consultation.
- Property & Real Estate.
- Assistance with navigating National Investment Commission procedures Expropriation And Compensation Dispute
- Settlement
- Compliance with requirements of Private Security Companies at Ministry of Interior Assistance with visas for expat employees and foreign business entities
- Commercial Agencies, Distributorships, Licensing and Franchising. Agreement Drafting/ Revising. Arbitration and Alternative forms of Dispute Resolution.
- Bank Related Issues.
- Business Planning/ Financial Planning . Civil Law.

Services

- Establishing and Licensing

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AlSaif Advocates & Legal Consultants provides comprehensive legal services and has the expertise to assist you in addressing and dealing with the diverse and complex issues related to establishing, structuring and running your business Iraq.

Understanding your requirements, challenges, and business goals is the foundation of our customer-centric solutions. Our team of legal experts builds solutions that will best suit your needs and assist you in achieving your goals.

Solving your most challenging business related problems and enabling your success is our mission. To facilitate such objectives we structure, draft, negotiate and review all the necessary documentation related to your business, and assist you in resolving related disputes, whether this be through negotiation skills, mediation, conciliation and adjudication, arbitration or litigation.

Our Services Include:

Establishing and Licensing of Businesses in Iraq (Representative, Branch and Local Companies). Collaboration with Accounting firms to assist with Taxes, Social Security, Work Permits, Labor issues. Employment & Labor Law.

Taxation & Custom Services. Insurance Law.

Intellectual Property Law. Legal Consultation.

Property & Real Estate.




Assistance with navigating National Investment Commission procedures Expropriation And Compensation Dispute

Settlement

Compliance with requirements of Private Security Companies at Ministry of Interior

Assistance with visas for expat employees and foreign business entities

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Business in Iraq

ament

Iraq's first post-conflict perm government passed a new investment law in October 2006, opening up its economy to foreign investment. While Iraq is making great strides to develop a more investor-friendly business environment, much work remains. Inflation and stagnant economic growth will be challenges that Iraq will need to overcome, but the Government of Iraq (GOI) is in the process of making the necessary economic reforms to lead the country in

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a new direction. Pension reform and further reductions of the refined oil price subsidy are just a few of these economic policies. In addition to passing a new investment law, Iraq's commitment to rejoin the international community can also be seen in its progress towards World Trade Organization (WTO) accession.

Openness to Foreign Investment

The Government of Iraq's (GOI's) Council of Representatives passed an investment law, and the Presidency Council subsequently approved Law No.(13) in November 2006 with the following aims:

- To promote investment and transfer modern technologies in order to contribute to the process of developing and enhancing Iraq and expanding and diversifying its production and service base.
- To encourage the Iraqi and foreign private sector to invest in Iraq by providing the required facilities for establishing investment projects and enhancing its competitive capacities in the local and foreign markets for projects included in this law.
- To develop human resources based on market demands and provide work opportunities for the Iraqis.
- To protect the rights and properties of investors.
- To expand exports and improve the balance of payments and the balance of trade of Iraq.

The new investment law grants the foreign investors great privileges and guarantees as Article(10) of that law states that "The Investor irrespective of his/her nationality shall enjoy all privileges, facilitations and guarantees and shall be subject to the obligations stated in this law. The Iraqi and foreign investor shall have the right for the purposes of housing projects, the use of the land for a sum to be determined between him and the land owner without land speculation according to conditions set forth by the National Commission for Investment and the approval of the Council of Ministers. The Commission shall facilitate the allocation of the required lands for the housing projects. The housing units shall be allocated for ownership by the Iraqis after the completion of the project".

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The question in mind for all investors is what kind of benefits shall the foreign investor be granted ? The investment Law No.

(13) answers that question and states in Article(11) that the investor shall enjoy the following benefits:

First: The investor shall have the right to take out the capital he brought into Iraq and its proceeds in accordance with the provisions of this law and pursuant to the instructions of the Central Bank of Iraq in an exchangeable currency after paying taxes and debts to the Iraqi Government and all other authorities.

Second: The foreign investor shall have the right to: 1) trade in shares and bonds listed in the Iraqi Stock Exchange; and 2) form investment portfolios and bonds.


Third: Renting or leasing lands needed for the project for the term of the investment project, provided that it does not exceed 50 years renewable with the agreement of the Commission, and provided that the nature of the project and its benefit for the national economy is taken into consideration when determining the period.

Fourth: Insuring the investment project with any foreign or national insurance company it deems suitable.

Fifth: Opening accounts in Iraqi or foreign currency or both at a bank inside or outside Iraq for the licensed project.

The law also guarantees the foreign investors the right to:

- Employ and use non-Iraqi workers in case it is not possible to employ an Iraqi with the required qualifications and capable of performing the same task in accordance with guidelines issued by the Commission.
- Grant the foreign investor and non-Iraqis working in the investment projects the right of residency in Iraq and facilitating his/her entry and exit to and from Iraq.
- Non-seizure or nationalization of the investment project covered by the provisions of this law in whole or in part, except for projects on which a final judicial judgment was issued.

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- Non-Iraqi technicians and administration employees working in any project shall have the right to transfer their salaries and compensations outside Iraq in accordance with the law after paying their dues and debts to the Iraqi government and all other entities.


Currency Conversion And Transfer Policies

The currency of Iraq is the Dinar (IQD - sometimes referred to as the New Iraqi Dinar). The Iraqi currency is fully convertible and can be exchanged freely with any other currency. The new investment law allows investors to bank and transfer capital inside or outside of Iraq, which provides considerable flexibility for foreign investors.

The Government of Iraq's monetary policy since 2003 has focused on maintaining price stability and a stable exchange rate. Banks may engage in spot transactions in any currency, but are not allowed to engage in forward transactions in Iraqi Dinar for speculative purposes. The Central Bank of Iraq (CBI) can intervene, when necessary, in order to maintain stability in the foreign exchange market. There are no taxes or subsidies on purchases or sales of foreign exchange.

Performance Requirements And Incentives

The new GOI investment law allows both domestic and foreign investors to qualify for incentives equally. It also allows for investors to take out capital brought into Iraq and its proceeds in accordance with the law. Foreign investors are able to exchange shares and bonds listed on the Iraqi Stock Exchange. The new law also allows investors who have obtained an investment license to enjoy exemptions from taxes and fees for a period of ten years. Hotels, tourist institutions, hospitals, health institutions, rehabilitation centers and scientific organizations also are granted additional exemptions from duties and taxes on

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their imports of furniture and other furnishings. The exemption increases to fifteen years if the Iraqi investor share is more than fifty percent of the project.

Right To Private Ownership And Establishment

The new GOI investment law does not allow foreigners to own land. Foreign investors are permitted to rent or lease land for up to fifty years (renewable). Foreign investors are also able to form investment portfolios in shares and bonds but regulations are different in Kurdistan of Iraq as the investment laws allow for foreign investors to own lands.

Protection Of Property Rights


The GOI is in the process of developing a new intellectual property rights (IPR) law in line with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), but the exact structure of this and related legislation is still being determined. IPR functions are currently spread across several ministries. The patent registry and industrial design registry remain a part of the Central Organization on Standards and Quality Control (COSQC), an agency of the Ministry of Planning and Development Cooperation. Copyrights are under the Ministry of Culture, and trademarks under the Ministry of Industry and Minerals. The GOI's ability to enforce intellectual property rights laws.

Iraq is also a member of several international intellectual property conventions, and of regional or bilateral arrangements which include:

- Paris Convention for the Protection of Industrial Property (1967 Act) ratified by Law No. 212 of 1975.
- World Intellectual Property Organizations (WIPO) Convention; ratified by Law No. 212 of 1975. Iraq became a member of the WIPO in January 1976.
- Arab Agreement for the Protection of Copyrights; ratified by Law No. 41 of 1985.
- Arab Intellectual Property Rights Treaty (Law No. 41 of 1985).

Efficient Capital Markets And Portfolio Investment

The Central Bank of Iraq (CBI) is responsible for conducting monetary policy in Iraq. The CBI was re-organized by CPA Order No. 56 as a legal public entity that has financial and administrative independence. The Iraqi banking system includes seven state- owned banks,

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the two largest being Rafidain and Rasheed, which account for about 96 percent of banking sector assets. The vast majority of banking transactions, however, are confined to basic consumer transactions rather than business loans. There are also 20 private banks Three foreign banks have also been licensed in Iraq.



The Trade Bank of Iraq (TBI) was established as an independent government entity under CPA Order No. 20 in 2003. TBI's main purpose is to provide financial and related services to facilitate the importation. The payments system began limited operation in August 2006, with five banks participating. It is anticipated that by year-end another six to eight banks will begin to participate as well.

The new GOI investment law allows for foreign investors to exchange shares and bonds listed in the Iraqi Stock Exchange (ISX). It also allows foreign investors to form investment portfolios. Trading transactions and buy and sell orders are presently written by hand on grease boards in trading sessions. This system does not always allow for full transparency in terms of timing of market participants or knowledge of who has placed the bid. The coming automation of the ISX will provide much greater transparency as well as pave the way for foreign investment on the exchange.

Bilateral Investment Agreements And Regional Cooperation

Iraq is a signatory to thirty-two bilateral, and nine multilateral agreements within the Arab League arrangements on Investments Promotion and Protection (IPPA). Some of the bilateral agreements with other countries include Afghanistan, Bangladesh, India, Iran, Japan, Jordan, Kuwait, Mauritania, Republic of Korea, Sri Lanka, Syria, Tunisia, Turkey, the United Kingdom, Vietnam and Yemen. These agreements include general provisions on promoting and protecting investments, including clauses on profit repatriation, access to arbitration and dispute settlements, fair expropriation rules and compensation for losses.

In addition, Iraq has bilateral free trade area (FTA) agreements with the following eleven countries: Algeria, Egypt, Jordan, Lebanon, Oman, Qatar, Sudan, Syria, Tunisia, Yemen, and the United Arab Emirates. Iraq is also a signatory to several multilateral agreements, including the "Taysir" agreement with Arab countries dated February 27, 1982, and ratified in January 11, 1982.

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On July 11, 2005, Iraq and the U.S. signed a Trade and Investment Framework Agreement, a first step toward creating liberalized trade and increasing investment flows between the U.S. and Iraq.

OPIC And Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) finances a variety of investment projects in Iraq. Some of OPIC's basic programs include structured finance projects, political risk insurance, investment funds and financing for small and medium-sized enterprises. In addition, OPIC and the Government of Iraq have executed an Investment Incentive Agreement (IIA).



Labor

Article 12 of the Iraqi Law on Investment grants the right for foreign investors to employ and use non-Iraqi workers in case it is not possible to employ an Iraqi with the required qualifications and capable of performing the same task in accordance with guidelines issued by the Commission and also the right for foreign investor and non-Iraqis working in the investment projects the right of residency in Iraq and facilitating his/her entry and exit to and from Iraq..

Iraq is a party to both International Labor Organization (ILO) Conventions related to youth employment, including child labor abuse. The Ministry of Labor and Social Affairs (MOLSA) also sets a minimum monthly wage for unskilled workers. In addition, according to Iraqi law, all employers must provide some level of transport, accommodation, and food allowances for each employee. The law does not fix allowance amounts.

In addition, foreign investors are expected to help train Iraqi employees as well as to raise their efficiency, skill, and capabilities.

Foreign Trade Zones And Ports

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The Free Zone Authority Law No. 3/1998 (FZL) permitted investment in Free Zones (FZ) through industrial, commercial, and service projects. This law operates under the Instructions for Free Zone Management and the Regulation of Investors' Business No. 4/1999. Capital, profits, and investment income from projects in the FZ are exempt from all taxes and fees throughout the life of the project, including in the foundation and construction phases.

Activities permitted in Free Zones include: (a) industrial activities (both production and consumer), assembly, installation, sorting and refilling processes; (b) storage, re-export and trading operations; (c) service and storage projects and transport of all kinds; (d) banking, insurance and reinsurance activities; and (e) supplementary and auxiliary professional and service activities. Prohibited activities include actions disallowed by other laws in force, such as weapons manufacture, environmentally-polluting industries and those banned because of place of origin.

There are currently four Free Zones. The Basrah/Khor al-Zubair Free Zone is one million square mile and is located 40 miles southwest of Basrah on the Arab Gulf at the Khor al-Zubair seaport. This area has been operational since June 2004. The Ninewa/Falafel Free Zone is 400,000 square miles and is located in the north, near roads and railways that reach Turkey, Syria, Jordan and the Basrah ports. The Sulaymaniyah Free Zone is located in northern Iraq in the Kurdish area. The al-Qayam Free Zone has two sections located near the Iraqi– Syrian border

Witnessing various companies dealing with law firms outside Iraq has led to negative results; causing legal and financial damage. Dealing with legal industry outside the borders of Iraq is misleading, because they neither have the knowledge and expertise in Iraqi laws and regulations, especially because of the regular law changes that occur in Iraq, in addition, lawyers and law firm from outside Iraq are not licensed to be qualified to practice law according to the Iraq lawyers code. The Iraqi laws and regulations have their own nature and

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could only be understood by the legal industry working locally inside Iraq. Alsaif possesses the knowledge and expertise based on actual practice for numerous years and managed to deliver success deploying the best legal resolving methods extracted from 40 years of experience.

Company Registration

Local and foreign companies are regulated under Company Law No. 21 of 1997 as amended in 2004. The objective of the law is:

- To organize companies.
- To protect creditors from fraud.
- To protect shareholders from conflict of interest and related abuses by company officials, majority of owners and others with practical control over the affairs of the company; and
- To promote the provision of full information to owners in connection with a decision affecting their investment and their company.

FORMS OF COMPANIES

There are several different types of company structures:

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I. 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, reinsurance, 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.

II. 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.

III. Simple companies

Simple companies are established by a number of persons ranging between two and five, each of whom contributes capital to

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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).

IV. 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 liability companies.

COMPANY INCORPORATION AND FOUNDATION

Foreign entities may incorporate Iraqi 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 Obtaining a certificate of authorization from the MOT

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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.

COMPANY REGISTRATION

The first step for any foreign company to start a commercial business is to be registered under the Iraq law and regulation. The Company Registrar under the Ministry of Trade is the competent authority to register any foreign company. Various laws and regulations such as the amended Company Law No. 21 of 1997, Registration Agency Law No. 4 of 1999, General Company Law No.22 of 1997, Commercial Agency Regulating Law No.51 of 2000 apply. In order to register a Branch, the following requirements must be fulfilled:

- 1A copy of the memorandum of incorporation and articles of association of the mother company or corporation or any equivalent document provided it should include names of the board of directors and the individual authorized to sign on behalf of it.
- 2A copy of a valid registration certificate of the company or the corporation issued from the country of origin. 3- A copy of the latest final accounts of the company or the corporation together with the board of directors report attached with these accounts or a statement for the company or a foreign economic enterprise of the existence of the required financial deposits where a company is newly established.
- 4 A pledge from the mother company affirming it will bear the financial and legal responsibility of its branch.
- 5 A copy of the power of attorney of the branch or office manager in Iraq who actually resides in Iraq issued from the company or corporation management with an indication of his powers.
- 6 The authorization of the representative who will file with the registrar of companies.
- 7 A copy of the form of the license request provided by the law firm.
- 8 A confirmation letter from the government departments or contractual sources clarifying the contract nature or the rendered services together with the commencement and expiry date of the contract and the maintenance period (if any) concerning the companies which are seeking to get a branch license.

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Procedures to note:



-1 The above documents should be certified by the competent authorities (including a Notary Public + Ministry of Foreign Affairs + Iraqi Embassy) in the country of origin and then certified by the Iraqi Ministry of Foreign Affairs in Iraq. All documents must be translated to the Arabic language if these documents are in foreign language - the translation can be performed after the authentication process by certified legal translators in Iraq and can be handled by the law office.

-2 A colored copy of the branch manager passport (for foreigners only) or copy of identity card and ration card for Iraqis.

-3 Colored copy Identity card and ration card for the representative of filing with the Registrar of Companies.

-4 The branch or office manager and the representative of filing with Registrar of Companies must reside in Iraq. Further Considerations:

-The difference between a branch and representation office of a foreign company as defined in article (1) of the regulation is - 1-A company branch or economic enterprises is allowed under this regulation of companies branches or foreign enterprises whose activities were always in Iraq under a treaty or a contract with the state or contracting for implementation of certain project with the state offices. 2- A representation office is allowed under this regulation for market study and the possibility of work or production or identification for the products and services or contact facilities. A representative office is prohibited from practicing any trading activities or agency.

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-The required period to finish the registration procedures: The approval shall be obtained to register a branch for a foreign company in compliance with the provisions of article (3-second) of above regulation. The registration procedures takes (3) days in case of submitting all documents required for regulation and relating instructions - The approval of the minister shall be obtained to register a representations office in conformity with the provisions of article (3-third) of branch of representative offices of foreign companies and economic corporations regulation No.(5) of 1989.


NEW COMPANY REGISTRATION PROCEDURES

The Council of Ministers in 2017 issued a new law that amended the system of registering branches in Iraq. The Law No.2 of 2017 has regulated that a foreign company can directly be registered as a branch in Iraq replacing regulation Law No. 5 of 1989. This system allows foreign companies to open their branches in Iraq and conduct commercial activities after presenting the registration form, Memorandum of Association, and all documents that authorize a director to be in charge of managing the Iraqi branch.

The law also stipulates that the registrar shall issue the registration permit within seven business days from the date of publication of the authorized person to register the branch in Iraq. The branch shall submit official documents showing the full address of the branch headquarters in Iraq in addition to proof of the opening of a current account in one of the licensed banks in Iraq.

The branch is also committed to stipulate full name as stated exactly in the certificate of registration clearly in Arabic language and must be printed on all its papers and documents in addition to the address of its office in Iraq, with the possibility of using a foreign language as an addendum. The Branch must maintain regular accounting records in the Arabic language for all its activities in Iraq according to the accounting system and laws related to.

IN PRACTICE

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The registration process can take a long time. The preparations of the documents require attention and specific wordings are required in most of the documents when drafted. Many clients have faced problems in preparing documents.

Part of the long-term registration problem is the long confirmation periods that are encountered by the Office of the

Company Registrar and other security checks.

AlSaif through its experience has managed to overcome such difficulties by following, drafting, preparing, translating and reviewing all documents in order facilitate the registration process. Our teams of lawyers are present on daily basis at the Office of the Company Registrar and are constantly updated so that any requirements or missing documents required by the Registrar will be identified directly by our lawyers and fulfilled.

Contract Law

Contracts for Works Construction

Contracts in Iraq are governed by Articles 864-890 of the ICC. These provisions provide the framework for the main requirements for the "muqawala" (contract for works). Any construction or engineering contract governed by Iraqi law must comply with these twenty-five articles, irrespective of what the parties agree in their contract. Article 864 defines contracts for works as contracts in which one of the contracting parties undertakes to perform certain works and/or services for a consideration that the other contracting party undertakes to provide. the main contractor has three principal obligations arising from a construction contract under Iraqi law:

(i) performance of the work assigned to him in accordance with the provisions of the construction contract between the parties,

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- (ii) delivery of the works on completion, and

- (iii) liability to guarantee the works upon delivery.


Decennial Liability

One of the most important obligations of a contractor under a muqawala contract is what is commonly known as 'decennial liability.' This is a joint liability imposed on the contractor and the designer for certain building defects. According to ICC Article 870, during a ten-year period from completion and delivery of the works, the designer and the contractor are jointly and severally liable for the total or

partial collapse of any building or other fixed structure erected by them, even if the collapse is due to the condition of the site, or if the employer (who may be either the owner of the building or the person or entity commissioning the works knowingly consented to the construction of a defective building). The liability includes damage resulting from inadequate ground conditions and damage resulting from inherently inadequate designs to which the employer has agreed. The parties to muqawala cannot agree to exclude or limit any obligations of decennial liability (Article 870). If the designer's role does not involve supervision and relates only to the preparation of drawings, he will only be liable for defects resulting from those drawings but not for defects as a result of the method used to implement the design (Article 871).

Termination

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A unilateral termination by the employer of the construction contract may also be permitted if so agreed by the parties. However, the employer must pay compensation to the contractor for all the expenses that the contractor has incurred and for that part of the contract that has been performed, as well as for the

contractor's loss of profit in respect of the work which he will have been prevented from undertaking. The parties may also obtain a court order to terminate the contract. Iraqi courts normally order termination of a muqawala when the contractor is in breach of a contractual obligation and fails to remedy the breach (e.g., defective work) even after being served with the notice under the contract. The court may also order that the contract is terminated if the contractor is in breach of contract by being in delay with no realistic prospect of completing the work by the contractual completion date.

Liquidated Damages

According to Article 170 of the Iraqi Civil Code, the parties may agree, either in the original contract or in a subsequent agreement, on liquidated damages for their respective contractual liability. The parties can agree on the compensation to be paid by the parties for the delay in performance and other breaches of contractual obligations. However, the parties cannot agree on limiting their liability for damages in tort, including those arising from gross negligence or fraud. Article 170 differentiates between the debtor (the party who owes the obligation) and creditor (the party to whom the obligation is owed) in terms of their ability to increase or decrease the contractual compensation. If the loss exceeds the amount fixed under the contract, the creditor may not claim an increased sum, unless the creditor establishes that the debtor's breach is due to the debtor's fraudulent behavior or gross negligence. However, the same Article 170 allows the debtor under a contractual compensation obligation to request a court to reduce—and even excuse the debtor from—the obligation to pay a contractual compensation if the debtor establishes that the compensation stipulated by the contract —grossly exceeds|| the loss sustained by the creditor or that the loss suffered by the creditor is not serious enough to justify the awarding of contractual compensation. In effect, liquidated damages provisions are always prone to be challenged by the debtor on the grounds that they exceed fair compensation

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Government Contracts:

It is important to consider the Implementation of Government Contracts No. (2) for the year 2014, as one of the most important regulations when implementing government contracts. The law is specified for contracts concluded by the Iraqi official contractual party represented by the Presidency of the Republic of Iraq, the Council of Ministers and other official parties and Ministries with Iraqi or foreign contractors.

However, the law does not apply to certain official parties such as projects funded by foreign organizations, Ministry of Defense contracts, Ministry of Interior contracts and others (second of Article 1).

CONTRACTING METHODS

First: Public Tender

This approach is implemented by announcing the public invitation to all who like to participate in the implementation of various contracts, those who meet the conditions for participation, that the procedures are characterized by generality and Competitiveness, justice, openness and transparency and taking into account the financial allocations mentioned in the federal budget implementation instructions when adopting this approach.

Second: Limited Tender

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this approach is implemented when the goods or services, consulting or contracting of tender subject is available in limited entities in terms of jurisdiction for the purpose of submitting bids in accordance with the designs and conditions that prepared by the Contracting party and shall be announced to all who want to participate in the bids, those who meet the conditions for participation and pay the price, in accordance with the two following procedures.

A- The first procedure: includes receipt of the documentation for the legal, technical and financial rehabilitation of participants in the tender in order to be evaluated by a specialized committee of Contracting party according to the terms of technical, financial and Second: Limited tender: legal required qualification to select eligible to participate in the second procedure, the eligible shall not be less than three.




B - The second measure: the Contracting party shall invite all eligible for free to provide technical and commercial bids for the purpose of the study, evaluation and award, and in accordance with these instructions. Instructions for implementing governmental contracts No. 2 of 2014 8 of 25.

Third: The public tender by technical qualification methods

Implementation of this method is by announcing the tender to all who would like to participate in the bid to submit their technical and commercial bids in separate envelopes for a price, taking into account the following:

A- Opening technical bids to be studied by the analysis committees of the Contracting party to determine the qualified bidders that met the required conditions.

B- Opening the commercial bids of qualified bidders, not less than three to choose the best one by bid analysis committee, taking into account the financial authorities that adopted for the purpose of the award in this regard.

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C- The envelopes of the commercial bidding of non-qualified bidders technically, shall be returned to the applicants without opening and then complete the analysis procedures, contracting, according to the adopted contexts in this regard.

Fourth: The tender in two phases

This method shall be implemented by the following two phases it two phases, this measure may be preceded by implementation this technique prequalification, this method shall be used in the contracts that Contracting party cannot prepare its technical specifications or designs, the contracts with technological level complex and specialized

contracts with advanced scientific nature, as follows:

A- Phase I: by declaring public invitation to all those who like, for a price to provide their technical bids on the basis of preliminary designs and functional requirements or a general description of the phase of the implementation work to be studied by specialized technical committee for the purpose of selecting the appropriate tenders in accordance with the standards of technical, financial and legal rehabilitation and similar acts, Contracting party have to modify the first design or technical specifications and other requirements according to the technical amended bids after the technical negotiation, Contracting party have the right modify the speculative cost if necessary. Instructions for implementing governmental contracts No. 2 of 2014 9 of 25

B- Phase II: direct invitation for bidders that their technical bids were accepted according to the qualification criteria in the first phase to provide their commercial bids on the basis of the amended tender documents, then complete the contractual process in accordance with the procedures specified in these instructions

Fifth: Direct Invitation

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This method is implemented by direct invitation for free, to at least three (3) contractors or suppliers or accredited consultants for their sobriety, ability and technical and financial competence to implement the projects or contracts of the official authorities, as well as providing one or more of the following justifications:

- (A) If the contract requires confidentiality in contracting and implementation procedures.
- (B) There will be security reasons requires that.
- (C) Emergencies and natural disasters.
- (D) Providing of medicines and medical equipment and supplies for life-saving.
- (E) Bidders should refrain from participating in public tenders as advertised for the second time, or if the received bids did not meet the conditions and specifications for the second time.
- (F) Specialized contracts that its regulations identified by the department of public governmental contracts, in coordination with the competent sector committee in Council of Ministers.
- (G) Large strategic projects that require foreign expertise, which determined by the competent sector committee in Council of Ministers, in coordination with the Ministry of Planning and executed by reputable international companies has an experience in this specialty for a period not less than five years and a similar actions not less than three (3) projects in this field.

Sixth: Single Bid (one offer only)

Directing free invitation to one competent; supplier, contractor or consultant to fulfill the contract with Instructions of implementing governmental contracts No. 2 of 2014 10 of 25 the approval of the Central Committee to review and ratify the referral if one of the following two cases is provided:

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- (A) When the goods, advisory services or monopolistic contracting or available at one monopolistic party has patents, license or exclusive rights.
- (B) If the goods or contracting are required for maintenance or for the providing spare parts for previous contracts.

Seventh: Direct Contracting:

Directing free invitation, to contract directly, to one party to implement this method with the consent of the competent sector committee in Council of Ministers on the recommendation of the Central Committee to review and ratify the referral of import or local contracts to provide non-monopoly goods or services that the following conditions are met:

- .1 The contracts are related to the security and sovereignty of the state necessitated by the necessary conditions.
- .2 Those contracts characterized by high technology technical or developed specifications, and may accept more sophisticated technical or standard specifications and offered by the party may be contracted after being supported by a specialized technical entity of the Contracting Party.
- .3 The party may be contracted shall be reputable, accredited and manufacturer of the required material and services.
- .4 Providing a technical report illustrates the needs and specifications prepared by the \ specialized technical party, certified by the Central Committee to review and ratify the referral.
- .5 A tester reputable party was approved to ensure the accuracy of the required specifications and the extent of compliance with the required contracted conditions.

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.6 The competent sector committee shall issue the decision within (14) fourteen days from the date of application registration, otherwise, the approval shall be considered done implicitly.

The complicated contract laws of Iraq are based on a number of laws and regulations gathered together to control the contracting process in Iraq. Foreign companies have entered into various types of contracts and the drafting of many of these documents over the last several years without the support of proper legal advice has resulted in financial and legal damage to many businesses. Our special team of lawyers possess over 40 years of experience as a law firm and we

can assist not only in drafting proper legal documents for current and future needs, but also in reviewing and repairing older problematic contractual issues to provide successful outcomes and safeguard a company's assets and legal status. ALSaif can assist companies willing to participate in contracts both with the private sector and with the Government of Iraq. In addition, we can investigate and gather information on opportunities and existing contracts to help clarify strengths and weaknesses and solve longstanding problems.

Labor Law and Social Security

The Iraqi Parliament has issued a new Labor Law No. 37 of 2015. The law in force did not change radically in relation to the old canceled Law No. 71 of 1987. Most of the provisions of the new law mirror the same provisions as the old law with some updated modifications which have been incorporated from the international conventions.

With regard to the issue of separation committees, the new law is a change from the previous law, giving the worker the right to appeal without recourse to the judiciary, similar to Egyptian law. The update has proven to be an improvement especially in providing better

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tools to handle multiple irregularities. The law discusses various labor issues such as: Placement and Vocational Training, Foreign Workers Employment, Individual Employment Contracts, Wages, Working Hours, Leave Protection for Female Workers, Protection of Minors, Protection of Workers in Quarries, Mines and Minerals Extraction, Occupational Safety and Health and Labor inspection, Disciplinary Measures, Collective Agreements and Bargaining, Individual or Collective Labor Disputes, and Labor Jurisdiction.

Articles 30-36 stipulate important regulations regarding foreign workers. Article 30 states in part that “No foreign worker may be engaged in any capacity whatsoever ... before obtaining a work permit issued by the Ministry against the payment of a fee determined by instructions issued by the Minister”.


Article 31 stipulates that no foreign worker may be engaged in any occupation whatsoever before obtaining a work permit. While Article 32 stipulates various duties of the Employers including:

1 –The employer shall give to the foreign worker he recruited to work in Iraq, at his own expense, a ticket to the country from where he recruited him unless the worker stops working before the expiry of the contract due to illegal reasons.

2 –The employer shall, upon the death of the foreign worker, bear the costs of preparing the corpse of the deceased worker and his transportation to his home country or place of residence upon the request of his heirs.

Article 33 has granted power to the Minister of Labor which allow for further regulations to be established by the ministry stating: “The Minister may issue special instructions governing the recruitment and employment of foreign workers in Iraq”.

In article 34 the “foreign worker, legally residing in Iraq for work purposes is not considered in an illegal or irregular situation just because he lost his job, and the job loss in itself does not lead to the withdrawal of the residence permit or work permit unless the worker has violated the Iraqi laws.

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Any party or person who violates the provisions of the labor law provisions shall be punished by a fine of three (3) times the worker minimum daily wage to (3) three times his minimum monthly wage.

Considerations facing companies regarding Foreign Workers:


First: Social Security: The aim of this law is to ensure the health, safety and the future of all working class members in the Republic of Iraq. It aims to create conditions and provide services that help to develop the working class socially and professionally to a better level. The law achieves its stated objectives through the following branches of social security:

- A Section I: Health Insurance
- B Section II: Guarantees related to work injuries
- C Section III: Retirement Insurance
- D Section IV: Guarantee of Service.

the most important problems issued facing foreign companies is related to the process of understanding social security payments regarding their employees. The Workers Pensions and Social Security Law in

Article 27: (as amended by Law 155 of 1971) stipulated the workers' rights, and the amount to be deducted from their wages in term of social security.

The rate of 5% shall be deducted of the insured workers against his membership in the institute. This rate shall be included in full in the account of the pension security section, and the workers shall be exempted from paying any subscription for other social sections. The

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rate of contribution of the management and the employers in respect of their insured workers is specified in the following manner:

(1 A rate of 12% of the wages is payable by employers and all administrative, except employers whose have exceptions by provisions article 1 and 2 of law no 101 of 1964 as amended and the rate shall be distributed as follows:

%1to the Health Security Section.

%2to the Work Injuries Security Section. 9% to Pension Security Section.

(2 A rate of 25 % of the wages is payable by employers in Mixed and special sectors, this rate shall be distributed as follows:

%3to the Health Security Section.

%3to the Work Injuries Security Section. 15% to Pension Security Section. 4% to the Service Security section.

OUR SERVICES RELATED TO LABOR AND SOCIAL SECURITY:

Many foreign companies experience problems in the area of the process of requesting waivers and implementing payments with the Ministry of Labor (MOL). Lack of appropriately approved waivers and delays in payments have caused companies to be subject to heavy fines. Court decisions can be issued to attach precautionary holds on any assets owned by the company preventing the unrestricted operation of its business activities until such fines are paid fiully. The process of preparing employees deduction payments is complicated if not organized when the company starts any business activities in Iraq. The MOL has suppressive powers in order to collect any debts related to social security employee deductions.

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Visas to Iraq

Various types of visa are available according to the Iraqi laws and regulations, these types include:

- (1) An ordinary visa which entitles its bearer to enter Iraq only once within three months from the date of its granting and to reside therein for a period not exceeding three months.
- (2) A transit visa, entitling the bearer to enter Iraq only once within three months from the date of its granting and to reside therein for a period not exceeding seven days.
- (3) A transit visa without stop, entitling its bearer to pass through the Iraqi territory under the supervision of the competent authorities only once, without stop, within three months from the date of its granting.
- (4) A diplomatic visa, which shall be granted pursuant to instructions issued by the Minister of Foreign Affairs in accordance with the principle of reciprocity.
- (5) A service visa, which shall be granted to persons who are bearing service passports pursuant to instructions issued by the Minister of Foreign Affairs after taking the opinion of the Ministry of Interior, in accordance with the principle of reciprocity.
- (6) A visit or tourist visa, which shall entitle its bearer to enter Iraq one time within three months from the date of its granting and to reside therein for a period of one month.

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(7) An emergency visa, which shall be granted by the Residence Officer to the foreigner who reaches Iraq with the intention of entering thereto and has not obtained an entry visa already, if he is convinced with the reasons that prevented him from obtaining the said visa provided that he must report to the director forthwith.

HOW TO APPLY FOR A BUSINESS VISA

Applications for visiting business members should be made at the Iraqi Consulate in the home country prior to departure. Consular officials at the Iraqi Embassy have indicated that visa approval can take two to six weeks from the date of submission. Visas are issued to business people, provided that they have official invitations from Iraqi authorities or are introduced as such by their respective Ministries of Foreign Affairs and are supplied with letters from the Chamber of Commerce. Applicants should also submit a letter of request from their own company stating the reason for their travel.

Investors can also submit their visa applications to the NIC – PR department exclusively and through the email address

provided and the completion of required forms.

For investors who wish to obtain visa through the Provincial Investment Commissions, the following steps shall be taken: The provincial Investment commission shall have to send a letter to the NIC signed by the PIC chairman or Vice Chairman "the letter must be original" Names and numbers of persons must be written clearly in the letter and in the closed list attached with the PIC Chairman signature on the letter and on the list (in English for foreigners and in Arabic and English

for Indians and Bengals with writing first name first and surname last in the format shown below. (

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The company undertaking letter must be stamped with the company and the PIC stamps with mentioning that the workers shall not be seeped during the work time or after finishing the project.

Passports copies must be colored, clear and same as the original size with taking into consideration the passport must be

valid for at least 6 months.

AlSaif provides visa services for all types of businesses.

Taxation in Iraq

The main source of tax law in Iraq is the Federal Income Tax Law, Law No. 113 of November 1982, as amended in 2003 (the Federal Income Tax Law). There are no state level or municipal taxes imposed in Iraq.

Article 2 of the Federal Income Tax Law broadly defines types of income which are subject to tax in Iraq. According to Article 2, the following types of income are included as taxable: • Profits from commercial activity or from activity having a commercial nature, vocations and professions, including contracts, undertakings and compensation for non-fulfilment thereof if not for making good a loss sustained by the taxpayer • Interest, commissions, discounts and profit arising from trading in bonds and securities • Any other source not exempted by law and not liable to any tax in Iraq Article 5 provides that —tax shall be imposed on income of the resident Iraqi person which arises inside or outside Iraq,

regardless of the place of receipt.|| ‘Person’ in this context refers to both natural persons and legal persons (i.e. companies, branches of foreign companies, etc). Tax is also imposed on the income of a non-resident which arises in Iraq, even if it is not received in Iraq

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The main provisions regarding tax retentions (withholding) are set out in Instruction No. 2 of 2008 which requires that information relating to contracts with foreign suppliers should be disclosed to the GCT in order for the tax office to determine whether the contractor is liable for tax and to confirm the rate of retention.



Retentions of tax on payments for certain contracts must be made by the payer, at various rates up to a maximum of 10% of the gross payments, depending on the nature of the contract/services performed, plus the whole of the final payment installment. Tax retentions under Instruction No. 2 of 2008 are not intended to be a 'final' withholding tax. Amounts retained on installment payments should be transferred to the tax authority (although no specific time frame is defined within which retentions on installment payments should be paid over to the tax authority). In addition, according to Instruction No. 2 of 2008, the whole of the final installment payment should be retained from the contractor, unless the contractor is able to obtain written approval, or a tax clearance, from the tax authority. Tax clearance can strictly only be awarded once the supplier has completed their tax filing obligations and settled any due taxes in Iraq. If no tax clearance is obtained within 90 or 180 days from the end of the contract (depending on the type of contract), then the amounts retained should strictly be transferred to the tax authority, in accordance with the Instructions.

Instruction No. 5 of 2011 covers Oil and gas contracts. Instruction No. 5 of 2011 provides that subcontractors to whom the Oil and Gas Tax Law applies should be subject to retentions of tax on their contract payments at a rate of 7% of the gross amounts for petroleum contracts and at a rate of 3.3% for non-petroleum contracts. The Instructions provide that the entity making the

payment should remit the retained amounts to the tax authority within 30 days of making the payment, with the amounts to be held by the tax authority to be reconciled with the contractor's final tax calculation.

In addition, the whole of the final installment payment should be withheld from the contractor until the contractor has completed the corporate tax filing and has obtained a tax clearance Filing and payment The tax year in Iraq is the calendar year. The corporate tax return must be filed by May 31 following the end of

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the year, with payment due following the tax authority's assessment of the tax return. The filing deadline for corporate income taxes in the Kurdistan Region is May 31, however a one month extension to June 30 is granted to all taxpayers.

Rates Under the Federal Income Tax Law, the headline corporate income tax rate is a flat rate of 15% of net profit. A separate tax law was passed in March 2010, Law No.19 of 2010 (the Oil and Gas Tax Law), which applies to upstream oil and gas companies and supporting industries operating in Federal Iraq. The Oil and Gas Tax Law provides for an increased corporate income tax rate of 35% on contracts concluded with foreign oil companies and their subcontractors operating in Iraq in the field of oil and gas production and associated industries.

OUR SERVICES RELATED TO TAX MATTERS

Alsaif's many year's legal practices have enabled us to diagnose predictable legal problems that companies and individuals may face. The Iraqi laws present many options for various interpretations of provisions. Only the best professional expertise can assure full compliance with the laws and regulations, and provide clients with the best strategies to protect their business interests while meeting all legal requirements.

Due to problems and obstacles that have caused tremendous financial and legal problems to companies based on accounting services, we also offer various accounting services cooperating with elite and reliable accountants and accounting firms. Alsaif will guarantee the outcome and be held responsible for these accounting services. Such step is important to merge the tremendous legal knowledge of tax law and other related laws that change regularly with the accounting services, preventing any present or future financial & legal problems.

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ACCOUNTING SERVICES OFFERED:

- Bookkeeping
 - Corporation tax settlement
 - Year-end account and tax
 - Payroll
 - Annual Company's balance sheet (for annual tax settlement)
 - Tax Clearance Certificate
 - Monthly employees tax direct deductions (Social Security related to Ministry of Labor and social security)
- (

Litigation Services

Over the course of our work, have observed the myriad of problems encountered by companies who utilize law firms outside Iraq to support their Iraq litigation needs resulting in legal, reputational and financial damage. Large international legal firms have attempted to work in Iraq thru inexperienced agents. Their firms lack the institutional knowledge and expertise in Iraq laws and regulations and they do not track the many regular updates and

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changes in statute that have to be followed. ALSaif's understanding of Iraqi legal precedent is rooted in our 40 years of experience managing litigation at every level of the Iraqi judicial system, and we do track changes in all pertinent regulations and mandates on a daily basis. The Iraqi Bar Association has recognized the shortfalls of foreign representation, and has established regulations that prevent foreign lawyers and law firms from practicing law in Iraq. In addition, Law. No. 173 of 1963 also prohibits foreign lawyers from practicing law in Iraq.


It is important to understand that Iraq laws and regulations are underpinned by a complex system of procedures, both explicit and customary. There are formal actions required at various points of the legal procedures. Many of these actions must be taken within prescribed time-frames that are well understood by the seasoned practitioner, but easily missed by the inexperienced. Only experienced Iraqi lawyers understand the accurate and correct procedures that need to be taken in order to best serve the needs of their clients.

JUDICIAL PRECEDENT

Another important element is the recognition that the judicial system in Iraq is heavily weighted toward established case law. Paragraph (3) of Article I of the Iraqi Civil Code stipulates that "The courts shall be guided by all the provisions approved by the judiciary and jurisprudence in Iraq and then in other countries whose laws converge with Iraqi laws." The Court of Cassation, which is the highest court in the Iraqi Judicial system emphasized this point during its general assembly in January of 2006 when it again restated the duty of the courts to follow decisions made in prior similar decisions.

In other words, statutory law is adopted in many cases especially when such cases are similar in nature and subject. Hence, closely following the arc of legal decisions issued by the courts is one of the most important tools for a successful law firm in Iraq. It is clear from the foregoing that in the event that the General Authority retracts a previous decision, its final decision is the duty to follow in similar cases. The basis of this obligation is the text of the law.

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LITIGATION SERVICES

Our 40 years experienced litigation team managed to solve the most difficult and diverse cases in all stages of court. The intense legal knowledge mixed with practice and skills enables Alsaif to hold a premier position in number of succeeded cases. The firms data base is rich with the latest decisions issued by the courts, such collection of decision is important to understand any changes that may happen in case law. The firm has also managed to engage in international arbitration.

OUR MEMBERSHIP


Al- Saif Legal Consultancy & Law Firm has membership in- :

- Iraqi Bar Association
- Registrar of Companies
- Arab - German Chamber of Commerce
- ISOA- International Stability Operations Association
- IRAQI Canadian Chamber of Commerce and Industry

Al- Saif is also accredited in the following embassies- :

- German embassy

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- Greek Embassy
- Korean Embassy
- Swiss Embassy
- Turkish embassy

Administration





Senior Partner

Tareq Muhsin Al-Lami

Chairman of Board of Director: Baghdad – 1943 Bachelor in Law- Al Mustansiriya University
1971 Experience:

- Legal work since 1975
- Full authorization toward the Iraqi courts since 1978
- Company Registrar since 1978
- Member of court experts since 1991

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Raghad Alubaidi

Raghad is a litigation lawyer, possesses more than 13 years in company registration and company establishment, Raghad is a certified company register agent, also experienced in civil and commercial, advising investors on the best available structure, and working in various projects. Law.


Languages: Arabic





Eman Barghash

Eman is a tax lawyer seven years of progressive experience in solving tax related issues, Depth knowledge of state and federal tax laws, Familiar with tax code as well as changes in tax laws. Eman has good research and analytical skills.

Languages Arabic

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Bar Association Since: 2006

Rana Hanoodi

Is a motivated solicitor has more than 13 years of experience in labour issues , insurance , business licensing in Iraq, Commercial agencies and Dept. collection.

Languages

Arabic


Bar Association Since: 1998

Senior Partner

Saifuldeen T. Muhsin Al-Lami

Managing Director Qualifications: BSC. In law 1995. Experience:

- .1 Corporate lawyer since 1995.
- .2 Legal consultant in commercial and civil law.
- .3 National and international bank, non-organization governmental registration and incorporator.
- .4 Legal consultant to foreign investment companies.
- .5 commercial and civil litigation.
- .6 Prepare and review commercial and civil contracts.

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Affiliation:

- .1 Member of the Iraqi bar association since 1995.
- .2 Agent of company register in the Ministry of Trade.
- .3 Consultant of the economic committee in Iraqi chamber of commerce.
- .4 Member of human right organization.

Dr. Raad Ali Manager

Performance-driven professional with 17 years of combined expertise in Human Resources management, recruiting corporate and employment laws. Strategy architect in the development of innovative HR initiatives to streamline process and capitalize on organizational growth opportunities. Languages

Arabic & English

Zainab Abd Ulwahid

Legal Secretary, more than four years' experience, talented with Highly experienced in providing routine secretarial services to attorneys to ensure sound management of work, depth

knowledge of retrieving information and performing research duties.

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Languages

Arabic & English.

Attorney Sattar Jabbar Hassab


Highly experienced Government Lawyer

Admitted to Iraqi Bar Association 30/7/2009 File No. 2612/S

Attorney Hayder Al-Zubayd

Law School Graduate 1994

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Advocates & Legal Consultants

- Commercial lawyer.
- Legal translation.
- Fluent in Arabic & English.
- Litigation & petition preparation.
- Contract drafting in Arabic & English language.
- Revising legal documents.
- International experience

Attorney Karim Shaan

Consultant at the Ministry of Communications


Member of the Judiciary Committee in the Media and Communications Authority.

Languages: Arabic

Law School Graduate 1963



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