

RAK Offshore Companies

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Ras Al Khaimah is fast becoming one of the world's foremost tax free jurisdictions for confidential business formations. Uniquely positioned at the most northerly point of the United Arab Emirates, Ras Al Khaimah (RAK) offers a combination of both onshore and offshore solutions.

In 2007 the government of Ras Al Khaimah through the RAK Investment Authority (RAKIA), the emirate's sovereign wealth fund, launched an offshore facility - RAKOFFSHORE - with the aim to lure investors looking for an alternative to the traditional offshore financial centres. In the first two years of its existence it has registered well over 2000 IBCs.

RAKOFFSHORE has been developed to provide an alternative to setting up a fully fledged office in the UAE and to the only other IBC regime available in the UAE at the time: that for Jebel Ali offshore companies. The aim was to provide fast and cost efficient incorporations and flexibility in structuring the company. While a Jebel Ali offshore company has restrictions, for example, corporate directors and shareholders are not allowed, a minimum of 2 directors is required, a requirement to hold an AGM and to submit audited accounts; none of these restrictions apply to RAKIA IBCs. RAKIA is also less expensive and incorporations can be done in one day.

There is no requirement for the client to visit in person or to deposit the share capital in a bank account. While adhering to stringent KYC requirements, the regime offers maximum confidentiality; the only data on public record is the name of the company and date of incorporation.

If local business needs to be conducted or if local office premises are required then IBCs are not feasible. IBCs in the UAE come with the following restrictions:

- Staff cannot be employed locally.
- No visas can be allocated to the company.

- Office premises cannot be rented.
- The company may not trade with local customers or suppliers (with the exception of those suppliers offering accounting, audit, legal, and banking services).

The most feasible uses of RAKIA IBCs are any of the following:

- Top-holding of an international or local corporate structure.
- International trading.
- International consulting.
- Exploiting intellectual property.
- Intergroup financing.
- Acquiring local real estate (in freehold developments).
- E-commerce.
- Shipping.
- Portfolio investment.
- Accessing the UAE banking system.

It is interesting to place the RAKIA regime into the perspective of the policy of the RAK government. Sheikh Saud Bin Saqr al Qasimi, the crown prince and deputy ruler of Ras Al Khaimah is a US educated free marketer and is dedicated to making the strategically located emirate an attractive place to set up business by minimising the restrictions on entrepreneurs and business in general. RAK prides itself on creating a pro-business environment: an open door policy, no trade barriers, easy licensing procedures, no restrictions on hiring expatriates or other restrictive employment regulations are key features. The tag line of RAKOFFSHORE is 'an entrepreneur's paradise' and in its marketing materials it appeals to entrepreneurs seeking refuge from excessive taxation elsewhere. The RAK government also practices what it preaches and it is in this spirit that the RAK government has no problem with two competing freezones: RAK Free Trade Zone (RAKFTZ) and RAKIA, both offering an IBC regime.

So what are the differences between these two IBC regimes? Very few, but there

are some nonetheless: RAKIA requires less paperwork and offers more flexibility. RAKFTZ IBCs have to use a standard memorandum and articles from which no deviation is possible.

The question remains, why choose RAKIA IBCs instead of one of the more traditional offshore jurisdictions? Under various circumstances a RAKIA incorporation can confer a benefit not otherwise available:

- It is possible to hold UAE real estate (in the freehold developments and after obtaining permission).
- A local bank or brokerage account is desired (very few UAE banks allow foreign entities to open bank accounts, and for those who do, attestation charges will be prohibitive).
- Avoidance of attestation charges. Since the UAE is not a member of the apostille convention, attestation charges can be significant. If a foreign company holds shares in local entities or in Free Zone companies the attestation charges can add up.
- Enabling UAE tax treaties to be accessed. RAKIA IBCs can be issued tax residency certificates while this is impossible for foreign entities. The UAE does not have a federal corporation tax, however, Dubai, Sharjah and Abu Dhabi do have such a tax on the books, which is, however, only enforced on oil companies and branches of foreign banks. The Free Zones enjoy a special exemption regime. In RAK, however, there is no corporation tax on the books and no special exemption regime applies to RAKIA IBCs either. This has both advantages and disadvantages. The advantage is that RAKIA IBCs should have full access to tax treaties. This is not the case for exempted entities because under some tax treaties, entities that benefit from a special exemption regime are excluded from benefiting from the treaty. The disadvantage is that there is no guarantee against the imposition of taxes in the future. However, should this happen, it would hardly be problematic for a RAKIA IBC since redomiciliation is possible. It should be noted that the corporation tax regime on the books in the three mentioned emirates is territorial in nature, therefore profits derived from abroad would likely not be taxable anyway, assuming of course that the territorial basis would not be abandoned.
- Because there is no special tax regime for RAKIA IBCs, the OECD will not be able to classify it as undesirable on the grounds that it constitutes unfair tax competition.

Another consideration could be that the profile of a company operating from a major world trading centre like the UAE is considered desirable.