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33. Federal-Decree-Law-No.-60-of-2023-Amending-Certain-Provisions-of-the-Federal-Decree-Law-No.-47-of-2022-on-the-Taxation-of-Corporations-and-Businesses.pdf**Federal Tax Authority**
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46. Taxable Non-Resident Person - EN - 08 10 2023
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58. Extractive and Non-Extractive Natural Resource Business Guide - 12 12 2023

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Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

His Highness Sheikh Mohamed bin Zayed Al Nahyan, President of the United Arab Emirates, has issued the following Decree-Law:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Law No. 26 of 1981 on the Commercial Maritime Law, and its amendments,
- Federal Law No. 5 of 1985 promulgating the Civil Transactions Law, and its amendments,
- Federal Law No. 18 of 1993 promulgating the Commercial Transactions Law, and its amendments,
- Federal Law No. 4 of 2000 on the Emirates Securities and Commodities Authority and Market, and its amendments,
- Federal Law No. 8 of 2004 on the Financial Free Zones,
- Federal Law No. 6 of 2007 on the Regulation of Insurance Operations, and its amendments,
- Federal Law No. 2 of 2008 on the National Societies and Associations of Public Welfare, and its amendments,
- Federal Law No. 8 of 2011 on the Reorganisation of the State Audit Institution,
- Federal Law No. 4 of 2012 on the Regulation of Competition,
- Federal Law No. 2 of 2014 on Small and Medium Enterprises,
- Federal Law No. 12 of 2014 on the Organisation of the Auditing Profession, and its amendments,
- Federal Decree-Law No. 9 of 2016 on Bankruptcy, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Law No. 7 of 2017 on Excise Tax, and its amendments,
- Federal Decree-Law No. 7 of 2017 on Tax Procedures, and its amendments,
- Federal Decree-Law No. 8 of 2017 on Value Added Tax, and its amendments,
- Federal Decree-Law No. 14 of 2018 on the Central Bank and Organisation of Financial Institutions and Activities, and its amendments,
- Federal Decree-Law No. 15 of 2018 on the Collection of Public Revenue and Funds,
- Federal Decree-Law No. 26 of 2019 on Public Finance,
- Federal Decree-Law No. 19 of 2020 on Trust,
- Federal Decree-Law No. 31 of 2021 promulgating the Crimes and Penalties Law, and its amendments,
- Federal Decree-Law No. 32 of 2021 on Commercial Companies,
- Federal Decree-Law No. 37 of 2021 on Commercial Registry,
- Federal Decree-Law No. 46 of 2021 on Electronic Transactions and Trust Services,

- Federal Decree-Law No. 35 of 2022 promulgating the Law of Evidence in Civil and Commercial Transactions,
- Pursuant to what was presented by the Minister of Finance and approved by the Cabinet,

Chapter One – General provisions
Article 1 – Definitions

In the application of the provisions of this Decree-Law, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

State	:	United Arab Emirates.
Federal Government	:	The government of the United Arab Emirates.
Local Government	:	Any of the governments of the Member Emirates of the Federation.
Ministry	:	Ministry of Finance.
Minister	:	Minister of Finance.
Authority	:	Federal Tax Authority.
Corporate Tax	:	The tax imposed by this Decree-Law on juridical persons and Business income.
Business	:	Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.
Qualifying Income	:	Any income derived by a Qualifying Free Zone Person that is subject to Corporate Tax at the rate specified in paragraph (a) of Clause 2 of Article 3 of this Decree-Law.
Government Entity	:	The Federal Government, Local Governments, ministries, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.
Government Controlled Entity	:	Any juridical person, directly or indirectly wholly owned and controlled by a Government Entity, as specified in a decision issued by the Cabinet at the suggestion of the Minister.
Person	:	Any natural person or juridical person.
Business Activity	:	Any transaction or activity, or series of transactions or series of activities conducted by a Person in the course of its Business.
Mandated Activity	:	Any activity conducted by a Government Controlled Entity in accordance with the legal instrument establishing or

		regulating the entity, that is specified in a decision issued by the Cabinet at the suggestion of the Minister.
State's Territory	:	The State's lands, territorial sea and airspace above it.
Natural Resources	:	Water, oil, gas, coal, naturally formed minerals, and other non-renewable, non-living natural resources that may be extracted from the State's Territory.
Extractive Business	:	The Business or Business Activity of exploring, extracting, removing, or otherwise producing and exploiting the Natural Resources of the State or any interest therein as determined by the Minister.
Non-Extractive Natural Resource Business	:	The Business or Business Activity of separating, treating, refining, processing, storing, transporting, marketing or distributing the Natural Resources of the State.
Qualifying Public Benefit Entity	:	Any entity that meets the conditions set out in Article 9 of this Decree-Law and that is listed in a decision issued by the Cabinet at the suggestion of the Minister.
Qualifying Investment Fund	:	Any entity whose principal activity is the issuing of investment interests to raise funds or pool investor funds or establish a joint investment fund with the aim of enabling the holder of such an investment interest to benefit from the profits or gains from the entity's acquisition, holding, management or disposal of investments, in accordance with the applicable legislation and when it meets the conditions set out in Article 10 of this Decree-Law.
Exempt Person	:	A Person exempt from Corporate Tax under Article 4 of this Decree-Law.
Taxable Person	:	A Person subject to Corporate Tax in the State under this Decree-Law.
Licensing Authority	:	The competent authority concerned with licensing or authorising a Business or Business Activity in the State.
Licence	:	A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the State.
Taxable Income	:	The income that is subject to Corporate Tax under this Decree-Law.
Financial Year	:	The period specified in Article 57 of this Decree-Law.
Tax Return	:	Information filed with the Authority for Corporate Tax purposes in the form and manner as prescribed by the Authority, including any schedule or attachment thereto, and any amendment thereof.
Tax Period	:	The period for which a Tax Return is required to be filed.
Related Party	:	Any Person associated with a Taxable Person as

		determined in Clause 1 of Article 35 of this Decree-Law.
Revenue	:	The gross amount of income derived during a Tax Period.
Recognised Stock Exchange	:	Any stock exchange established in the State that is licensed and regulated by the relevant competent authority, or any stock exchange established outside the State of equal standing.
Resident Person	:	The Taxable Person specified in Clause 3 of Article 11 of this Decree-Law.
Non-Resident Person	:	The Taxable Person specified in Clause 4 of Article 11 of this Decree-Law.
Free Zone	:	A designated and defined geographic area within the State that is specified in a decision issued by the Cabinet at the suggestion of the Minister.
Free Zone Person	:	A juridical person incorporated, established or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.
Unincorporated Partnership	:	A relationship established by contract between two Persons or more, such as a partnership or trust or any other similar association of Persons, in accordance with the applicable legislation of the State.
Permanent Establishment	:	A place of Business or other form of presence in the State of a Non-Resident Person in accordance with Article 14 of this Decree-Law.
State Sourced Income	:	Income accruing in, or derived from, the State as specified in Article 13 of this Decree-Law.
Qualifying Free Zone Person	:	A Free Zone Person that meets the conditions of Article 18 of this Decree-Law and is subject to Corporate Tax under Clause 2 of Article 3 of this Decree-Law.
Investment Manager	:	A Person who provides brokerage or investment management services that is subject to the regulatory oversight of the competent authority in the State.
Corporate Tax Payable	:	Corporate Tax that has or will become due for payment to the Authority in respect of one or more Tax Periods.
Foreign Partnership	:	A relationship established by contract between two Persons or more, such as a partnership or trust or any other similar association of Persons, in accordance with laws of a foreign jurisdiction.
Foreign Tax Credit	:	Tax paid under the laws of a foreign jurisdiction on income or profits that may be deducted from the Corporate Tax due, in accordance with the conditions of Clause 2 of Article 47 of this Decree-Law.
Family Foundation	:	Any foundation, trust or similar entity that meets the

		conditions of Article 17 of this Decree-Law.
Interest	:	Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic financial instrument and other payments economically equivalent to interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.
Accounting Income	:	The accounting net profit or loss for the relevant Tax Period as per the financial statements prepared in accordance with the provisions of Article 20 of this Decree-Law.
Exempt Income	:	Any income exempt from Corporate Tax under this Decree-Law.
Connected Person	:	Any Person affiliated with a Taxable Person as determined in Clause 2 of Article 36 of this Decree-Law.
Tax Loss	:	Any negative Taxable Income as calculated under this Decree-Law for a given Tax Period.
Qualifying Business Activity	:	Any activity that is specified in a decision issued by the Cabinet at the suggestion of the Minister.
Foreign Permanent Establishment	:	A place of Business or other form of presence outside the State of a Resident Person that is determined in accordance with the criteria prescribed in Article 14 of this Decree-Law.
Market Value	:	The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.
Qualifying Group	:	Two or more Taxable Persons that meet the conditions of Clause 2 of Article 26 of this Decree-Law.
Net Interest Expenditure	:	The Interest expenditure amount that is in excess of the Interest income amount as determined in accordance with the provisions of this Decree-Law.
Bank	:	A Person licensed in the State as a bank or finance institution or an equivalent licensed activity that allows the taking of deposits and the granting of credits as defined in the applicable legislation of the State.
Insurance Provider	:	A Person licensed in the State as an insurance provider that accepts risks by entering into or carrying out contracts of insurance, in both the life and non-life sectors, including contracts of reinsurance and captive insurance, as defined in the applicable legislation of the State.
Control	:	The direction and influence over one Person by another Person in accordance with the conditions of Clause 2 of Article 35 of this Decree-Law.

Tax Group	:	Two or more Taxable Persons treated as a single Taxable Person according to the conditions of Article 40 of this Decree-Law.
Withholding Tax Credit	:	The Corporate Tax amount that can be deducted from the Corporate Tax due in accordance with the conditions of Clause 2 of Article 46 of this Decree-Law.
Withholding Tax	:	Corporate Tax to be withheld from State Sourced Income in accordance with Article 45 of this Decree-Law.
Tax Registration	:	A procedure under which a Person registers for Corporate Tax purposes with the Authority.
Tax Registration Number	:	A unique number issued by the Authority to each Person who is registered for Corporate Tax purposes in the State.
Tax Deregistration	:	A procedure under which a Person is deregistered for Corporate Tax purposes with the Authority.
Tax Procedures Law	:	The federal law that governs tax procedures in the State.
Administrative Penalties	:	Amounts imposed and collected under this Decree-Law or the Tax Procedures Law.

Chapter Two – Imposition of Corporate Tax and Applicable Rates

Article 2 – Imposition of Corporate Tax

Corporate Tax shall be imposed on Taxable Income, at the rates determined under this Decree-Law, and payable to the Authority under this Decree-Law and the Tax Procedures Law.

Article 3 – Corporate Tax Rate

1. Corporate Tax shall be imposed on the Taxable Income at the following rates:

   a) 0% (zero percent) on the portion of the Taxable Income not exceeding the amount specified in a decision issued by the Cabinet at the suggestion of the Minister.

   b) 9% (nine percent) on Taxable Income that exceeds the amount specified in a decision issued by the Cabinet at the suggestion of the Minister.

2. Corporate Tax shall be imposed on a Qualifying Free Zone Person at the following rates:

   a) 0% (zero percent) on Qualifying Income.

   b) 9% (nine percent) on Taxable Income that is not Qualifying Income under Article 18 of this Decree-Law and any decision issued by the Cabinet at the suggestion of the Minister in respect thereof.

Chapter Three – Exempt Person

Article 4 – Exempt Person

1. The following Persons shall be exempt from Corporate Tax:

    a) A Government Entity.

    b) A Government Controlled Entity.

    c) A Person engaged in an Extractive Business, that meets the conditions of Article 7 of this Decree-Law.

    d) A Person engaged in a Non-Extractive Natural Resource Business, that meets the conditions of Article 8 of this Decree-Law.

    e) A Qualifying Public Benefit Entity under Article 9 of this Decree-Law.

    f) A Qualifying Investment Fund under Article 10 of this Decree-Law.

    g) A public pension or social security fund, or a private pension or social security fund that is subject to regulatory oversight of the competent authority in the State and that meets any other conditions that may be prescribed by the Minister.

    h) A juridical person incorporated in the State that is wholly owned and controlled by an Exempt Person specified in paragraphs (a), (b), (f) and (g) of Clause 1 of this Article and conducts any of the following:

        1. Undertakes part or whole of the activity of the Exempt Person.

        2. Is engaged exclusively in holding assets or investing funds for the benefit of the Exempt Person.

        3. Only carries out activities that are ancillary to those carried out by the Exempt Person.

    i) Any other Person as may be determined in a decision issued by the Cabinet at the suggestion of the Minister.

2. A Person under paragraphs (a), (b), (c) and (d) of Clause 1 of this Article that is a Taxable Person insofar as it relates to any Business or Business Activity under Articles 5, 6, 7 or 8 of this Decree-Law, respectively, shall be treated as an Exempt Person for the purposes of Articles 26, 27, 38 and 40 of this Decree-Law.

3. Persons specified in paragraphs (f), (g), (h) and (i) of Clause 1 of this Article, as applicable, are required to apply to the Authority to be exempt from Corporate Tax in the form and manner and within the timeline prescribed by the Authority in this regard.

4. The exemption from Corporate Tax under paragraphs (f), (g), (h) and (i) of Clause 1 of this Article, as applicable, shall be effective from the beginning of the Tax Period specified in the application, or any other date determined by the Authority.

5. In the event that the Exempt Person failed to meet any of the conditions under the relevant provisions of this Decree-Law at any particular time during a Tax Period, such Person shall cease to be an Exempt Person for the purposes of this Decree-Law from the beginning of that Tax Period.

6. For the purposes of Clause 5 of this Article, the Minister may prescribe the conditions under which a Person may continue to be an Exempt Person, or cease to be an Exempt Person from a different date, in any of the following instances:

    a) Failure to meet the conditions is the result of the liquidation or termination of the Person.

    b) Failure to meet the conditions is of a temporary nature and will be promptly rectified, and appropriate procedures are in place to monitor the compliance with the relevant conditions of this Decree-Law.

    c) Any other instances as may be prescribed by the Minister.

Article 5 – Government Entity

1. A Government Entity shall be exempt from Corporate Tax and the provisions of this Decree-Law shall not apply to it.

2. Notwithstanding Clause 1 of this Article, a Government Entity shall be subject to the provisions of this Decree-Law if it conducts a Business or Business Activity under a Licence issued by a Licensing Authority.

3. Any Business or Business Activity conducted by a Government Entity under a Licence issued by a Licensing Authority shall be treated as an independent Business, and the Government Entity shall keep financial statements for this Business separately from the Government Entity's other activities.

4. The Government Entity shall calculate the Taxable Income for its Business or Business Activity specified in Clause 2 of this Article independently for each Tax Period, in accordance with the provisions of this Decree-Law.

5. Transactions between the Business or Business Activity specified under Clause 2 of this Article and the other activities of the Government Entity shall be considered Related Party transactions subject to the provisions of Article 34 of this Decree-Law.

6. A Government Entity may apply to the Authority for all its Businesses and Business Activities to be treated as a single Taxable Person for the purposes of this Decree-Law subject to meeting the conditions to be prescribed by the Minister.

Article 6 – Government Controlled Entity

1. A Government Controlled Entity shall be exempt from Corporate Tax and the provisions of this Decree-Law shall not apply to it.

2. Notwithstanding Clause 1 of this Article, a Government Controlled Entity shall be subject to the provisions of this Decree-Law if it conducts a Business or Business Activity that is not its Mandated Activities.

3. Any Business or Business Activity conducted by a Government Controlled Entity that is not its Mandated Activity shall be treated as an independent Business, and the Government Controlled Entity shall keep financial statements for this Business separately from its Mandated Activity.

4. The Government Controlled Entity shall calculate the Taxable Income for its Business or Business Activity that is not its Mandated Activity independently for each Tax Period, in accordance with the provisions of this Decree-Law.

5. Transactions between the Business or Business Activity specified in Clause 2 of this Article and the Mandated Activity of the Government Controlled Entity shall be considered Related Party transactions subject to the provisions of Article 34 of this Decree-Law.

Article 7 – Extractive Business

1. A Person shall be exempt from Corporate tax and the provisions of this Decree-Law shall not apply to its Extractive Business where all of the following conditions are met:

    a) The Person directly or indirectly holds or has an interest in a right, concession or Licence issued by a Local Government to undertake its Extractive Business.

    b) The Person is effectively subject to tax under the applicable legislation of an Emirate in accordance with the provisions of Clause 6 of this Article.

    c) The Person has made a notification to the Ministry in the form and manner agreed with the Local Government.

2. If a Person that meets the conditions of Clause 1 of this Article derives income from both an Extractive Business and any other Business that is within the scope of this Decree-Law, the following shall apply:

   a) The income derived from the Extractive Business shall be calculated and taxed according to the applicable legislation of the Emirate.

   b) The income derived from the other Business shall be subject to the provisions of this Decree-Law, unless that other Business meets the conditions to be exempt from Corporate Tax under Article 8 of this Decree-Law.

3. For the purposes of Clause 2 of this Article, a Person shall not be considered to derive income from any other Business where such other Business is ancillary or incidental to that Person's Extractive Business and the Revenue of such other Business in a Tax Period does not exceed 5% (five percent) of the total Revenue of that Person in the same Tax Period.

4. For the purposes of calculating the Taxable Income of the Person's other Business, the following shall apply:

   a) The other Business shall be treated as an independent Business, and financial statements shall be kept for this Business separately from the Extractive Business.

   b) Any common expenditure shared between the Extractive Business and the other Business of the Person shall be apportioned in proportion to their Revenue in the Tax Period, unless such expenditure is taken into account in different proportions for the purposes of calculating the tax payable by the Person under the applicable legislation of the relevant Emirate in respect of its Extractive Business, in which case the expenditure will be apportioned in the latter proportion.

   c) The Person shall calculate the Taxable Income for its other Business independently for each Tax Period in accordance with the provisions of this Decree-Law.

5. Transactions between the Extractive Business and the other Business of the same Person shall be considered Related Party transactions subject to the provisions of Article 34 of this Decree-Law, unless such other Business is exempt from Corporate Tax under Article 8 of this Decree-Law.

6. A Person shall be considered effectively subject to tax under the applicable legislation of the Emirate for the purposes of this Article if the Local Government imposes a tax on income or profits, a royalty or revenue tax, or any other form of tax, charge or levy in respect of such Person's Extractive Business.

7. The exemption under this Article shall not apply to contractors, subcontractors, suppliers or any other Person used or contemplated to be used in any part of the performance of the Extractive Business that does not in its own right meet the conditions to be exempt from Corporate Tax under this Article or Article 8 of this Decree-Law.

Article 8 – Non-Extractive Natural Resource Business

1. A Person shall be exempt from Corporate tax and the provisions of this Decree-Law shall not apply to its Non-Extractive Natural Resource Business where all of the following conditions are met:

    a) The Person directly or indirectly holds or has an interest in a right, concession or Licence issued by a Local Government to undertake its Non-Extractive Natural Resource Business in the State.

    b) The Person's income from its Non-Extractive Natural Resource Business is derived solely from Persons that undertake a Business or Business Activity.

    c) The Person is effectively subject to tax under the applicable legislation of an Emirate in accordance with the provisions of Clause 6 of this Article.

    d) The Person has made a notification to the Ministry in the form and manner agreed with the Local Government.

2. If a Person that meets the conditions of Clause 1 of this Article derives income from both a Non-Extractive Natural Resource Business and any other Business that is within the scope of this Decree-Law, the following shall apply:

    a) The income derived from the Non-Extractive Natural Resource Business shall be calculated and taxed according to the applicable legislation of the Emirate.

    b) The income derived from the other Business shall be subject to this Decree-Law, unless that other Business meets the conditions to be exempt from Corporate Tax under Article 7 of this Decree-Law.

3. For the purposes of Clause 2 of this Article, a Person shall not be considered to derive income from any other Business where such other Business is ancillary or incidental to that Person's Non-Extractive Natural Resource Business and the Revenue of such other Business in a Tax Period does not exceed 5% (five percent) of the total Revenue of that Person in the same Tax Period.

4. For the purposes of calculating the Taxable Income of the Person's other Business, the following shall apply:

a) The other Business shall be treated as an independent Business, and financial statements shall be kept for this Business separately from the Non-Extractive Natural Resource Business.

b) Any common expenditure shared between the Non-Extractive Natural Resource Business and other Business of the Person shall be apportioned in proportion to their Revenue in a Tax Period, unless such expenditure is taken into account in a different proportion for the purposes of calculating the tax payable by the Person under the applicable legislation of the relevant Emirate in respect of its Non-Extractive Natural Resource Business, in which case the expenditure will be apportioned in the latter proportion.

c) The Person shall calculate the Taxable Income for the other Business independently for each Tax Period in accordance with the provisions of this Decree-Law.

5. Transactions between the Non-Extractive Natural Resource Business and any other Business of the same Person shall be considered Related Party transactions subject to the provisions of Article 34 of this Decree-Law, unless such other Business is exempt from Corporate Tax under Article 7 of this Decree-Law.

6. A Person shall be considered effectively subject to tax under the applicable legislation of the Emirate, for the purposes of this Article if the Local Government imposes a tax on income or profits, a royalty or revenue tax, or any other form of tax, charge or levy in respect of such Person's Non-Extractive Natural Resource Business.

7. The exemption under this Article shall not apply to contractors, subcontractors, suppliers or any other Person used or contemplated to be used in any part of the performance of the Non-Extractive Natural Resource Business that does not in its own right meets the conditions to be exempt from Corporate Tax under this Article or Article 7 of this Decree-Law.

Article 9 – Qualifying Public Benefit Entity

1. A Qualifying Public Benefit Entity shall be exempt from Corporate Tax where all of the following conditions are met:

   a) It is established and operated for any of the following:

      1. Exclusively for religious, charitable, scientific, artistic, cultural, athletic, educational, healthcare, environmental, humanitarian, animal protection or other similar purposes.

      2. As a professional entity, chamber of commerce, or a similar entity operated

exclusively for the promotion of social welfare or public benefit.

b) It does not conduct a Business or Business Activity, except for such activities that directly relate to or are aimed at fulfilling the purpose for which the entity was established.

c) Its income or assets are used exclusively in the furtherance of the purpose for which it was established, or for the payment of any associated necessary and reasonable expenditure incurred.

d) No part of its income or assets is payable to, or otherwise available, for the personal benefit of any shareholder, member, trustee, founder or settlor that is not itself a Qualifying Public Benefit Entity, Government Entity or Government Controlled Entity.

e) Any other conditions as may be prescribed in a decision issued by the Cabinet at the suggestion of the Minister.

2. The exemption under Clause 1 of this Article shall be effective from the beginning of the Tax Period in which the Qualifying Public Benefit Entity is listed in the Cabinet decision issued at the suggestion of the Minister or any other date determined by the Minister.

3. For the purposes of monitoring the continued compliance by a Qualifying Public Benefit Entity with the conditions of Clause 1 of this Article, the Authority may request any relevant information or records from the Qualifying Public Benefit Entity within the timeline specified by the Authority.

Article 10 – Qualifying Investment Fund

1. An investment fund may apply to the Authority to be exempt from Corporate Tax as a Qualifying Investment Fund where all of the following conditions are met:

   a) The investment fund or the investment fund's manager is subject to the regulatory oversight of a competent authority in the State, or a foreign competent authority recognised for the purposes of this Article.

   b) Interests in the investment fund are traded on a Recognised Stock Exchange, or are marketed and made available sufficiently widely to investors.

   c) The main or principal purpose of the investment fund is not to avoid Corporate Tax.

   d) Any other conditions as may be prescribed in a decision issued by Cabinet at the suggestion of the Minister.

2. For the purposes of monitoring the continued compliance by a Qualifying Investment Fund with the conditions of Clause 1 of this Article, the Authority may request any relevant information or records within the timeline prescribed by the Authority.

Chapter Four – Taxable Person and Corporate Tax Base

Article 11 – Taxable Person

1. Corporate Tax shall be imposed on a Taxable Person at the rates determined under this Decree-Law.

2. For the purposes of this Decree-Law, a Taxable Person shall be either a Resident Person or a Non-Resident Person.

3. A Resident Person is any of the following Persons:

    a) A juridical person that is incorporated or otherwise established or recognised under the applicable legislation of the State, including a Free Zone Person.

    b) A juridical person that is incorporated or otherwise established or recognised under the applicable legislation of a foreign jurisdiction that is effectively managed and controlled in the State.

    c) A natural person who conducts a Business or Business Activity in the State.

    d) Any other Person as may be determined in a decision issued by the Cabinet at the suggestion of the Minister.

4. A Non-Resident Person is a Person who is not considered a Resident Person under Clause 3 of this Article and that either:

    a) Has a Permanent Establishment in the State as under Article 14 of this Decree-Law.

    b) Derives State Sourced Income as under Article 13 of this Decree-Law.

    c) Has a nexus in the State as specified in a decision issued by the Cabinet at the suggestion of the Minister.

5. A branch in the State of a Person referred to in Clause 3 of this Article, shall be treated as one and the same Taxable Person.

6. The Cabinet shall, upon a suggestion of the Minister and in coordination with the relevant competent authorities, issue a decision specifying the categories of Business or Business Activity conducted by a resident or non-resident natural person that are subject to

Corporate Tax under this Decree-Law.

Article 12 – Corporate Tax Base

1. A Resident Person, which is a juridical person, is subject to Corporate Tax on its Taxable Income derived from the State or from outside the State, in accordance with the provisions of this Decree-Law.

2. The Taxable Income of a Resident Person, which is a natural person, is the income derived from the State or from outside the State insofar as it relates to the Business or Business Activity conducted by the natural person in the State as set out in Clause 6 of Article 11 of this Decree-Law.

3. A Non-Resident Person is subject to Corporate Tax on the following:

   a) The Taxable Income that is attributable to the Permanent Establishment of the Non-Resident Person in the State.

   b) State Sourced Income that is not attributable to a Permanent Establishment of the Non-Resident Person in the State.

   c) The Taxable Income that is attributable to the nexus of the Non-Resident Person in the State as determined in a decision issued by the Cabinet pursuant to paragraph (c) of Clause 4 of Article 11 of this Decree-Law.

Article 13 – State Sourced Income

1. Income shall be considered State Sourced Income in any of the following instances:

   a) Where it is derived from a Resident Person.

   b) Where it is derived from a Non-Resident Person and the income received has been paid or accrued in connection with, and attributable to, a Permanent Establishment of that Non-Resident Person in the State.

   c) Where it is otherwise accrued in or derived from activities performed, assets located, capital invested, rights used, or services performed or benefitted from in the State.

2. Subject to any conditions and limitations that the Minister may determine, State Sourced Income shall include, without limitation:

   a) Income from the sale of goods in the State.

b) Income from the provision of services that are rendered or utilised or benefitted from in the State.

c) Income from a contract insofar as it has been wholly or partly performed or benefitted from in the State.

d) Income from movable or immovable property in the State.

e) Income from the disposal of shares or capital of a Resident Person.

f) Income from the use or right to use in the State, or the grant of permission to use in the State, any intellectual or intangible property.

g) Interest that meets any of the following conditions:

   1. The loan is secured by movable or immovable property located in the State.

   2. The borrower is a Resident Person.

   3. The borrower is a Government Entity.

h) Insurance or reinsurance premiums in any of the following instances:

   1. The insured asset is located in the State.

   2. The insured Person is a Resident Person.

   3. The insured activity is conducted in the State.

Article 14 – Permanent Establishment

1. A Non-Resident Person has a Permanent Establishment in the State in any of the following instances:

   a) Where it has a fixed or permanent place in the State through which the Business of the Non-Resident Person, or any part thereof, is conducted.

   b) Where a Person has and habitually exercises an authority to conduct a Business or Business Activity in the State on behalf of the Non-Resident Person.

   c) Where it has any other form of nexus in the State as specified in a decision issued by the Cabinet at the suggestion of the Minister.

2. For the purposes of paragraph (a) of Clause 1 of this Article, a fixed or permanent place in the State includes:

a) A place of management where management and commercial decisions that are necessary for the conduct of the Business are, in substance, made.

b) A branch.

c) An office.

d) A factory.

e) A workshop.

f) Land, buildings and other real property.

g) An installation or structure for the exploration of renewable or non-renewable natural resources.

h) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources, including vessels and structures used for the extraction of such resources.

i) A building site, a construction project, or place of assembly or installation, or supervisory activities in connection therewith, but only if such site, project or activities, whether separately or together with other sites, projects or activities, last more than (6) six months, including connected activities that are conducted at the site or project by one or more Related Parties of the Non-Resident Person.

3. Notwithstanding Clauses 1 and 2 of this Article, a fixed or permanent place in the State shall not be considered a Permanent Establishment of a Non-Resident Person if it is used solely for any of the following purposes:

a) Storing, displaying or delivering of goods or merchandise belonging to that Person.

b) Keeping a stock of goods or merchandise belonging to that Person for the sole purpose of processing by another Person.

c) Purchasing goods or merchandise or collecting information for the Non-Resident Person.

d) Conducting any other activity of a preparatory or auxiliary nature for the Non-Resident Person.

e) Conducting any combination of activities mentioned in paragraphs (a), (b), (c) and (d) of Clause 3 of this Article, provided that the overall activity is of a preparatory or auxiliary nature.

4. Clause 3 of this Article shall not apply to a fixed or permanent place in the State that is used or maintained by a Non-Resident Person if the same Non-Resident Person or its Related Party carries on a Business or Business Activity at the same place or at another place in the State where all of the following conditions are met:

   a) Where the same place or the other place constitutes a Permanent Establishment of the Non-Resident Person or its Related Party.

   b) The overall activity resulting from the combination of the activities carried out by the Non-Resident Person and its Related Party at the same place or at the two places is not of a preparatory or auxiliary nature and together would form a cohesive Business operation, had the activities not been fragmented.

5. For the purposes of paragraph (b) of Clause 1 of this Article, a Person shall be considered as having and habitually exercising an authority to conduct a Business or Business Activity in the State on behalf of a Non-Resident Person if any of the following conditions are met:

   a) The Person habitually concludes contracts on behalf of the Non-Resident Person.

   b) The Person habitually negotiates contracts that are concluded by the Non-Resident Person without the need for material modification by the Non-Resident Person.

6. The provisions of Paragraph (b) of Clause 1 of this Article shall not apply where the Person conducts a Business or Business Activity in the State as an independent agent and acts for the Non-Resident Person in the ordinary course of that Business or Business Activity, unless the Person acts exclusively or almost exclusively on behalf of the Non-Resident Person, or where that Person cannot be considered legally or economically independent from the Non-Resident Person.

7. For the purposes of Clause 3 of this Article, the Minister may prescribe the conditions under which the mere presence of a natural person in the State does not create a Permanent Establishment for a Non-Resident Person in any of the following instances:

   a) Where such presence is a consequence of a temporary and exceptional situation.

   b) Where the natural person is employed by the Non-Resident Person, and all of the following conditions are met:

      1. The activities being conducted in the State by the natural person are not part of the core income-generating activities of the Non-Resident Person or its Related Parties.

      2. The Non-Resident Person does not derive State Sourced Income.

Article 15 – Investment Manager Exemption

1. For the purposes of Clause 6 of Article 14 of this Decree-Law, an Investment Manager shall be considered an independent agent when acting on behalf of a Non-Resident Person, where all of the following conditions are met:

    a) The Investment Manager is engaged in the business of providing investment management or brokerage services.

    b) The Investment Manager is subject to the regulatory oversight of the competent authority in the State.

    c) The transactions are carried out in the ordinary course of the Investment Manager's Business.

    d) The Investment Manager acts in relation to the transactions in an independent capacity.

    e) The Investment Manager transacts on an arm's length basis with the Non-Resident Person and receives due compensation for the provision of services.

    f) The Investment Manager is not the Non-Resident Person's representative in the State in relation to any other income or transaction that is subject to Corporate Tax for the same Tax Period.

    g) Any such other conditions as may be prescribed in a decision issued by the Cabinet at the suggestion of the Minister.

2. For the purposes of Clause 1 of this Article, "transactions" means any of the following:

    a) Transactions in commodities, real property, bonds, shares, derivatives or securities of any other description.

    b) Transactions of buying or selling any foreign currency or placement of funds at interest.

    c) Such other transactions permissible to be carried out by the Investment Manager on behalf of a Non-Resident Person under the applicable legislation of the State.

Article 16 – Partners in an Unincorporated Partnership

1. Unless an application is made under Clause 8 of this Article, and subject to any conditions the Minister may prescribe, an Unincorporated Partnership shall not be considered a Taxable Person in its own right, and Persons conducting a Business as an Unincorporated

Partnership shall be treated as individual Taxable Persons for the purposes of this Decree-Law.

2. Where Clause 1 of this Article applies, a Person who is a partner in an Unincorporated Partnership shall be treated as:

   a) Conducting the Business of the Unincorporated Partnership.

   b) Having a status, intention, and purpose of the Unincorporated Partnership.

   c) Holding assets that the Unincorporated Partnership holds.

   d) Being party to any arrangement to which the Unincorporated Partnership is a party.

3. For the purposes of Clause 1 of this Article, the assets, liabilities, income and expenditure of the Unincorporated Partnership shall be allocated to each partner in proportion to their distributive share in that Unincorporated Partnership, or in the manner prescribed by the Authority where the distributive share of a partner cannot be identified.

4. The Taxable Income of a partner in an Unincorporated Partnership shall take into account the following:

   a) Expenditure incurred directly by the partner in conducting the Business of the Unincorporated Partnership.

   b) Interest expenditure incurred by the partner in relation to contributions made to the capital account of the Unincorporated Partnership.

5. Interest paid by an Unincorporated Partnership to a partner on their capital account shall be treated as an allocation of income to the partner and is therefore not a deductible expenditure for calculating the Taxable Income of the partner in the Unincorporated Partnership.

6. For the purposes of calculating and settling the Corporate Tax Payable of a partner in an Unincorporated Partnership under Chapter Thirteen of this Decree-Law, any foreign tax incurred by the Unincorporated Partnership shall be allocated as a Foreign Tax Credit to each partner in proportion to their distributive share in the Unincorporated Partnership.

7. A Foreign Partnership shall be treated as an Unincorporated Partnership for the purposes of this Decree-Law where all of the following conditions are met:

   a) The Foreign Partnership is not subject to tax under the laws of the foreign jurisdiction.

b) Each partner in the Foreign Partnership is individually subject to tax with regards to their distributive share of any income of the Foreign Partnership as and when the income is received by or accrued to the Foreign Partnership.

c) Any other conditions as may be prescribed by the Minister.

8. The partners in an Unincorporated Partnership can make an application to the Authority for the Unincorporated Partnership to be treated as a Taxable Person.

9. Where an application under Clause 8 of this Article is approved:

   a) The provisions of Clauses 1 to 6 of this Article shall no longer apply to the partners in the Unincorporated Partnership in respect of the Business conducted by the Unincorporated Partnership.

   b) Each partner in the Unincorporated Partnership shall remain jointly and severally liable for the Corporate Tax Payable by the Unincorporated Partnership for those Tax Periods when they are partners in the Unincorporated Partnership.

   c) One partner in the Unincorporated Partnership shall be appointed as the partner responsible for any obligations and proceedings in relation to this Decree-Law on behalf of the Unincorporated Partnership.

10. Where the application under Clause 8 of this Article is approved, the Unincorporated Partnership shall be treated as a Taxable Person effective from the commencement of the Tax Period in which the application is made, or from the commencement of a future Tax Period, or any other date determined by the Authority.

Article 17 – Family Foundation

1. A Family Foundation can make an application to the Authority to be treated as an Unincorporated Partnership for the purposes of this Decree-Law where all of the following conditions are met:

   a) The Family Foundation was established for the benefit of identified or identifiable natural persons, or for the benefit of a public benefit entity, or both.

   b) The principal activity of the Family Foundation is to receive, hold, invest, disburse, or otherwise manage assets or funds associated with savings or investment.

   c) The Family Foundation does not conduct any activity that would have constituted a Business or Business Activity under Clause 6 of Article 11 of this Decree-Law had the activity been undertaken, or its assets been held, directly by its founder, settlor, or any of its beneficiaries.

d) The main or principal purpose of the Family Foundation is not the avoidance of Corporate Tax.

e) Any other conditions as may be prescribed by the Minister.

2. Where the application under Clause 1 of this Article is approved, the Family Foundation shall be treated as an Unincorporated Partnership effective from the commencement of the Tax Period in which the application is made, or from the commencement of a future Tax Period, or any other date determined by the Authority.

3. For the purposes of monitoring the continued compliance by a Family Foundation with the conditions of Clause 1 of this Article, the Authority may request any relevant information or records from the Family Foundation within the timeline specified by the Authority.

Chapter Five – Free Zone Person

Article 18 – Qualifying Free Zone Person

1. A Qualifying Free Zone Person is a Free Zone Person that meets all of the following conditions:

   a) Maintains adequate substance in the State.

   b) Derives Qualifying Income as specified in a decision issued by the Cabinet at the suggestion of the Minister.

   c) Has not elected to be subject to Corporate Tax under Article 19 of this Decree-Law.

   d) Complies with Articles 34 and 55 of this Decree-Law.

   e) Meets any other conditions as may be prescribed by the Minister.

2. A Qualifying Free Zone Person that fails to meet any of the conditions under Clause 1 of this Article at any particular time during a Tax Period shall cease to be a Qualifying Free Zone Person from the beginning of that Tax Period.

3. Notwithstanding Clause 2 of this Article, the Minister may prescribe the conditions or circumstances under which a Person may continue to be a Qualifying Free Zone Person, or cease to be a Qualifying Free Zone Person from a different date.

4. The application of paragraph (a) of Clause 2 of Article 3 of this Decree-Law to a Qualifying

Free Zone Person shall apply for the remainder of the tax incentive period stipulated in the applicable legislation of the Free Zone in which the Qualifying Free Zone Person is registered, which period may be extended in accordance with any conditions as may be determined in a decision issued by the Cabinet at the suggestion of the Minister, but any one period shall not exceed (50) fifty years.

Article 19 – Election to be Subject to Corporate Tax

1. A Qualifying Free Zone Person can make an election to be subject to Corporate Tax at the rates specified under Clause 1 of Article 3 of this Decree-Law.

2. The election under Clause 1 of this Article shall be effective from either of:

    a) The commencement of the Tax Period in which the election is made.

    b) The commencement of the Tax Period following the Tax Period in which the election was made.

Chapter Six – Calculating Taxable Income

Article 20 – General Rules for Determining Taxable Income

1. The Taxable Income of each Taxable Person shall be determined separately, on the basis of adequate, standalone financial statements prepared for financial reporting purposes in accordance with accounting standards accepted in the State.

2. The Taxable Income for a Tax Period shall be the Accounting Income for that period, and to the extent applicable, adjusted for the following:

    a) Any unrealised gain or loss under Clause 3 of this Article.

    b) Exempt Income as specified in Chapter Seven of this Decree-Law.

    c) Reliefs as specified in Chapter Eight of this Decree-Law.

    d) Deductions as specified in Chapter Nine of this Decree-Law.

    e) Transactions with Related Parties and Connected Persons as specified in Chapter Ten of this Decree-Law.

    f) Tax Loss relief as specified in Chapter Eleven of this Decree-Law.

    g) Any incentives or special reliefs for a Qualifying Business Activity as specified in a decision issued by the Cabinet at the suggestion of the Minister.

h) Any income or expenditure that has not otherwise been taken into account in determining the Taxable Income under the provisions of this Decree-Law as may be specified in a decision issued by the Cabinet at the suggestion of the Minister.

i) Any other adjustments as may be specified by the Minister.

3. For the purposes of calculating the Taxable Income for the relevant Tax Period, and subject to any conditions that the Minister may prescribe, a Taxable Person that prepares financial statements on an accrual basis may elect to take into account gains and losses on a realisation basis in relation to:

   a) all assets and liabilities that are subject to fair value or impairment accounting under the applicable accounting standards; or

   b) all assets and liabilities held on capital account at the end of a Tax Period, whilst taking into account any unrealised gain or loss that arises in connection with assets and liabilities held on revenue account at the end of that period.

4. For the purposes of paragraph (b) of Clause 3 of this Article:

   a) "Assets held on capital account" refers to assets that the Person does not trade, assets that are eligible for depreciation, or assets treated under applicable accounting standards as property, plant and equipment, investment property, intangible assets, or other non-current assets.

   b) "Liabilities held on capital account" refers to liabilities, the incurring of which does not give rise to deductible expenditure under Chapter Nine of this Decree-Law, or liabilities treated under applicable accounting standards as non-current liabilities.

   c) "Assets and liabilities held on revenue account" refers to assets and liabilities other than those held on a capital account.

   d) An "unrealised gain or loss" includes an unrealised foreign exchange gain or loss.

5. Notwithstanding Clauses 1 and 3 of this Article, the Minister may prescribe any of the following for the purposes of this Decree-Law:

   a) The circumstances and conditions under which a Person may prepare financial statements using the cash basis of accounting.

   b) Any adjustments to the accounting standards to be applied for the purposes of determining the Taxable Income for a Tax Period.

   c) A different basis for determining the Taxable Income of a Qualifying Business

Activity.

6. Subject to any conditions prescribed under Clause 5 of this Article, a Taxable Person can make an application to the Authority to change its method of accounting from cash basis to accrual basis from the commencement of the Tax Period in which the application is made or from the commencement of a future Tax Period.

7. In the case of any conflict between the provisions of this Decree-Law and the applicable accounting standards, the provisions of this Decree-Law shall prevail to that extent.

Article 21 – Small Business Relief

1. A Taxable Person that is a Resident Person may elect to be treated as not having derived any Taxable Income for a Tax Period where:

    a) the Revenue of the Taxable Person for the relevant Tax Period and previous Tax Periods does not exceed a threshold to be set by the Minister; and

    b) the Taxable Person meets all other conditions prescribed by the Minister.

2. Where Clause 1 of this Article applies to a Taxable Person, the following provisions of this Decree-Law shall not apply:

    a) Exempt Income as specified in Chapter Seven of this Decree-Law.

    b) Reliefs as specified in Chapter Eight of this Decree-Law.

    c) Deductions as specified in Chapter Nine of this Decree-Law.

    d) Tax Loss relief as specified in Chapter Eleven of this Decree-Law.

    e) Article 55 of this Decree-Law.

3. The Authority may take the necessary measures to verify the compliance with the conditions of Clause 1 of this Article, and may request any relevant information or records from the Taxable Person within the timeline prescribed by the Authority.

Chapter Seven – Exempt Income

Article 22 – Exempt Income

The following income and related expenditure shall not be taken into account in determining the Taxable Income:

1. Dividends and other profit distributions received from a juridical person that is a Resident

Person.

2. Dividends and other profit distributions received from a Participating Interest in a foreign juridical person as specified in Article 23 of this Decree-Law.

3. Any other income from a Participating Interest as specified in Article 23 of this Decree-Law.

4. Income of a Foreign Permanent Establishment that meets the condition of Article 24 of this Decree-Law.

5. Income derived by a Non-Resident Person from operating aircraft or ships in international transportation that meets the conditions of Article 25 of this Decree-Law.

Article 23 – Participation Exemption

1. Income from a Participating Interest shall be exempt from Corporate Tax, subject to the conditions of this Article.

2. A Participating Interest means, a 5% (five percent) or greater ownership interest in the shares or capital of a juridical person, referred to as a "Participation" for the purposes of this Chapter where all of the following conditions are met:

   a) The Taxable Person has held, or has the intention to hold, the Participating Interest for an uninterrupted period of at least (12) twelve months.

   b) The Participation is subject to Corporate Tax or any other tax imposed under the applicable legislation of the country or territory in which the juridical person is resident which is of a similar character to Corporate Tax at a rate not less than the rate specified in paragraph (b) of Clause 1 of Article 3 of this Decree-Law.

   c) The ownership interest in the Participation entitles the Taxable Person to receive not less than 5% (five percent) of the profits available for distribution by the Participation, and not less than 5% (five percent) of the liquidation proceeds on cessation of the Participation.

   d) Not more than 50% (fifty percent) of the direct and indirect assets of the Participation consist of ownership interests or entitlements that would not have qualified for an exemption from Corporate Tax under this Article if held directly by the Taxable Person, subject to any conditions that may be prescribed under paragraph (e) of this Clause.

   e) Any other conditions as may be prescribed by the Minister.

3. A Participation shall be treated as having met the condition under paragraph (b) of Clause 2 of this Article where all of the following conditions are met:

    a) The principal objective and activity of the Participation is the acquisition and holding of shares or equitable interests that meet the conditions of Clause 2 of this Article.

    b) The income of the Participation derived during the relevant Tax Period or Tax Periods substantially consists of income from Participating Interests.

4. A Participation in a Qualifying Free Zone Person or an Exempt Person shall be treated as having met the condition under paragraph (b) of Clause 2 of this Article, subject to any conditions that may be prescribed by the Minister.

5. Where the conditions of Clause 2 of this Article continue to be met, the following income shall not be taken into account in determining Taxable Income:

    a) Dividends and other profit distributions received from a foreign Participation that is not a Resident Person under paragraph (b) of Clause 3 of Article 11 of this Decree-Law.

    b) Gains or losses on the transfer, sale, or other disposition of a Participating Interest (or part thereof) derived after expiry of the time period specified in paragraph (a) of Clause 2 or Clause 9 of this Article.

    c) Foreign exchange gains or losses in relation to a Participating Interest.

    d) Impairment gains or losses in relation to a Participating Interest.

6. The exemption under this Article shall not apply to income derived by the Taxable Person from a Participating Interest insofar as:

    a) the Participation can claim a deduction for the dividend or other distributions made to the Taxable Person under the applicable tax legislation;

    b) the Taxable Person has recognised a deductible impairment loss in respect of the Participating Interest prior to the Participating Interest meeting the conditions of Clause 2 of this Article;

    c) the Taxable Person or its Related Party who is subject to Corporate Tax under this Decree-Law has recognised a deductible impairment loss in respect of a loan receivable from the Participation.

7. Where the impairment loss referred to in paragraph (c) of Clause 6 of this Article is

reversed in a subsequent Tax Period, the associated income of the Taxable Person shall be exempt from Corporate Tax in that Tax Period up to the amount of income from the Participating Interest that was not exempted under paragraph (c) of Clause 6 of this Article.

8. The exemption under this Article does not apply to a loss realised on the liquidation of a Participation.

9. The exemption under this Article shall not apply for a period of (2) two years where a Participation was acquired in exchange for the transfer of an ownership interest that did not meet the conditions of Clause 2 of this Article or a transfer that was exempted under Article 26 or 27 of this Decree-Law.

10. Where a Taxable Person fails to hold a 5% (five percent) or greater ownership interest in the Participation for an uninterrupted period of at least (12) twelve months, any income previously not taken into account under this Article shall be included in the calculation of the Taxable Income in the Tax Period in which the ownership interest in the Participation falls below 5% (five percent).

11. The Minister may prescribe that an ownership interest in the shares or capital of a juridical person meets the minimum ownership requirement under Clause 2 of this Article where the acquisition cost of that ownership interest exceeds a threshold specified by the Minister.

Article 24 – Foreign Permanent Establishment Exemption

1. A Resident Person can make an election to not take into account the income, and associated expenditure, of its Foreign Permanent Establishments in determining its Taxable Income.

2. Where Clause 1 of this Article applies, a Resident Person shall not take into account the following in determining its Taxable Income or Corporate Tax Payable for a Tax Period:

   a) losses in any of its Foreign Permanent Establishments, calculated as if the relevant Foreign Permanent Establishments were a Resident Person under this Decree-Law;

   b) positive income and associated expenditure in any of its Foreign Permanent Establishments, calculated as if the relevant Foreign Permanent Establishments were a Resident Person under this Decree-Law; and

   c) any Foreign Tax Credit that would have been available under Article 47 of this Decree-Law had the election under Clause 1 of this Article not been made.

3. For the purposes of this Article, “income and associated expenditure” of a Taxable Person’s Foreign Permanent Establishments for a Tax Period is the aggregate of the income and associated expenditure in each of the relevant foreign jurisdictions.

4. In determining the income and associated expenditure of a Foreign Permanent Establishment, a Resident Person and each of its Foreign Permanent Establishments shall be treated as separate and independent Persons.

5. For the purposes of Clause 4 of this Article, a transfer of assets or liabilities between a Resident Person and its Foreign Permanent Establishment shall be treated as having taken place at Market Value at the date of the transfer for the purposes of determining the Taxable Income of that Resident Person.

6. The exemption under Clause 1 of this Article shall apply to all Foreign Permanent Establishments of the Resident Person that meet the condition specified in Clause 7 of this Article.

7. The exemption under Clause 1 of this Article shall only apply to a Foreign Permanent Establishment that is subject to Corporate Tax or a tax of a similar character under the applicable legislation of the relevant foreign jurisdiction at a rate not less than the rate specified in paragraph (b) of Clause 1 of Article 3 of this Decree-Law.

Article 25 – Non-Resident Person Operating Aircraft or Ships in International Transportation

Income derived by a Non-Resident Person from the operation of aircraft or ships in international transportation shall not be subject to Corporate Tax where all of the following conditions are met:

1. The Non-Resident Person is in the Business of any of the following:

   a) International transport of passengers, livestock, mail, parcels, merchandise or goods by air or by sea.

   b) Leasing or chartering aircrafts or ships used in international transportation.

   c) Leasing of equipment which are integral to the seaworthiness of ships or the airworthiness of aircrafts used in international transportation.

2. A Resident Person that performs any of the activities under Clause 1 of this Article would be exempt, or not be subject to tax that is of a similar character to Corporate Tax, under the applicable legislation of the country or territory in which the Non-Resident Person is resident.

Chapter Eight – Reliefs

Article 26 – Transfers Within a Qualifying Group

1. No gain or loss needs to be taken into account in determining the Taxable Income in relation to the transfer of one or more assets or liabilities between two Taxable Persons that are members of the same Qualifying Group.

2. Two Taxable Persons shall be treated as members of the same Qualifying Group where all of the following conditions are met:

   a) The Taxable Persons are juridical persons that are Resident Persons, or Non-Resident Persons that have a Permanent Establishment in the State.

   b) Either Taxable Person has a direct or indirect ownership interest of at least 75% (seventy-five percent) in the other Taxable Person, or a third Person has a direct or indirect ownership interest of at least 75% (seventy-five percent) in each of the Taxable Persons.

   c) None of the Persons are an Exempt Person.

   d) None of the Persons are a Qualifying Free Zone Person.

   e) The Financial Year of each of the Taxable Persons ends on the same date.

   f) Both Taxable Persons prepare their financial statements using the same accounting standards.

3. For the purposes of this Decree-Law, where a Taxable Person applies Clause 1 of this Article:

   a) the asset or liability shall be treated as being transferred at its net book value at the time of transfer so that neither a gain nor a loss arises; and

   b) the value of any consideration paid or received against the transfer of the asset or liability shall equal the net book value of the transferred asset or liability.

4. The provision of Clause 1 of this Article shall not apply where, within (2) two years from the date of the transfer, any of the following occurs:

   a) There is a subsequent transfer of the asset or liability outside of the Qualifying Group.

   b) The Taxable Persons cease to be members of the same Qualifying Group.

5. Where Clause 4 of this Article applies, the transfer of the asset or liability shall be treated

as having taken place at Market Value at the date of the transfer for the purposes of determining the Taxable Income of both Taxable Persons for the relevant Tax Period.

Article 27 – Business Restructuring Relief

1. No gain or loss needs to be taken into account in determining Taxable Income in any of the following circumstances:

   a) A Taxable Person transfers its entire Business or an independent part of its Business to another Person who is a Taxable Person or will become a Taxable Person as a result of the transfer in exchange for shares or other ownership interests of the Taxable Person that is the transferee.

   b) One or more Taxable Persons transfer their entire Business to another Person who is a Taxable Person or will become a Taxable Person as a result of the transfer in exchange for shares or other ownership interests of the Taxable Person that is the transferee, and the Taxable Person or Taxable Persons that are the transferor cease to exist as a result of the transfer.

2. Clause 1 of this Article applies where all of the following conditions are met:

   a) The transfer is undertaken in accordance with, and meets all the conditions imposed by, the applicable legislation of the State.

   b) The Taxable Persons are Resident Persons, or Non-Resident Persons that have a Permanent Establishment in the State.

   c) None of the Persons are an Exempt Person.

   d) None of the Persons are a Qualifying Free Zone Person.

   e) The Financial Year of each of the Taxable Persons ends on the same date.

   f) The Taxable Persons prepare their financial statements using the same accounting standards.

   g) The transfer under Clause 1 of this Article is undertaken for valid commercial or other non-fiscal reasons which reflect economic reality.

3. For the purposes of this Decree-Law, where a Taxable Person applies Clause 1 of this Article, all of the following must be observed:

   a) The assets and liabilities transferred shall be treated as being transferred at their net book value at the time of transfer so that neither a gain nor a loss arises.

b) The value of the shares or ownership interests received under paragraph (a) of Clause 1 of this Article shall not exceed the net book value of the assets transferred and liabilities assumed, less the value of any other form of consideration received.

c) The value of the shares or ownership interests received under paragraph (b) of Clause 1 of this Article shall not exceed the book value of the shares or ownership interests surrendered, less the value of any other form of consideration received.

d) Any unutilised Tax Losses incurred by the Taxable Person that is the transferor prior to the Tax Period in which the transfer under Clause 1 of this Article completes may become carried forward Tax Losses of the Taxable Person that is the transferee, subject to conditions to be prescribed by the Minister.

4. The provisions of this Article shall apply, as the context requires, where, in the case of a transfer under Clause 1 of this Article:

   a) shares or ownership interests are received by a Person other than the Taxable Person that is the transferor;

   b) shares or ownership interests are issued or granted by a Person other than the Taxable Person that is the transferee; or

   c) no shares or ownership interests are received by the Taxable Person who is a partner in an Unincorporated Partnership that is treated as a Taxable Person under Clause 9 of Article 16 of this Decree-Law.

5. Where a Taxable Person transfers an independent part of its Business, paragraph (d) of Clause 3 of this Article shall apply only to those unutilised Tax Losses that can be reasonably attributed to the independent part of the Business being transferred.

6. The provision of Clause 1 of this Article shall not apply where, within (2) two years from the date of the transfer, any of the following occurs:

   a) The shares or other ownership interests in the Taxable Person that is the transferor or the transferee are sold, transferred or otherwise disposed of, in whole or part, to a Person that is not a member of the Qualifying Group to which the relevant Taxable Persons belong.

   b) There is a subsequent transfer or disposal of the Business or the independent part of the Businesses transferred under Clause 1 of this Article.

7. Where Clause 6 of this Article applies, the transfer of the Business or the independent part of the Business shall be treated as having taken place at Market Value at the date of

the transfer.

Chapter Nine – Deductions

Article 28 – Deductible Expenditure

1. Expenditure incurred wholly and exclusively for the purposes of the Taxable Person's Business that is not capital in nature shall be deductible in the Tax Period in which it is incurred, subject to the provisions of this Decree-Law.

2. For the purposes of calculating the Taxable Income for a Tax Period, no deduction is allowed for the following:

   a) Expenditure not incurred for the purposes of the Taxable Person's Business.

   b) Expenditure incurred in deriving Exempt Income.

   c) Losses not connected with or arising out of the Taxable Person's Business.

   d) Such other expenditure as may be specified in a decision issued by the Cabinet at the suggestion of the Minister.

3. If expenditure is incurred for more than one purpose, a deduction shall be allowed for:

   a) Any identifiable part or proportion of the expenditure incurred wholly and exclusively for the purposes of deriving Taxable Income.

   b) An appropriate proportion of any unidentifiable part or proportion of the expenditure incurred for the purposes of deriving Taxable Income that has been determined on a fair and reasonable basis, having regard to the relevant facts and circumstances of the Taxable Person's Business.

Article 29 – Interest Expenditure

Notwithstanding paragraph (b) of Clause 2 of Article 28 of this Decree-Law, Interest expenditure shall be deductible in the Tax Period in which it is incurred, subject to the other provisions of Article 28 and Articles 30 and 31 of this Decree-Law.

Article 30 – General Interest Deduction Limitation Rule

1. A Taxable Person's Net Interest Expenditure shall be deductible up to 30% (thirty percent) of the Taxable Person's accounting earnings before the deduction of interest, tax, depreciation and amortisation (EBITDA) for the relevant Tax Period, excluding any Exempt Income under Article 22 of this Decree-Law.

2. A Taxable Person's Net Interest Expenditure for a Tax Period is the amount by which the Interest expenditure incurred during the Tax Period, including the amount of any Net Interest Expenditure carried forward under Clause 4 of this Article, exceeds the taxable Interest income derived during that same period.

3. The limitation under Clause 1 of this Article shall not apply where the Net Interest Expenditure of the Taxable Person for the relevant Tax Period does not exceed an amount specified by the Minister.

4. The amount of Net Interest Expenditure disallowed under Clause 1 of this Article may be carried forward and deducted in the subsequent (10) ten Tax Periods in the order in which the amount was incurred, subject to Clauses 1 and 2 of this Article.

5. Interest expenditure disallowed under any other provision of this Decree-Law shall be excluded from the calculation of Net Interest Expenditure under Clause 2 of this Article.

6. Clauses 1 to 5 of this Article shall not apply to the following Persons:

    a) A Bank.

    b) An Insurance Provider.

    c) A natural person undertaking a Business or Business Activity in the State.

    d) Any other Person as may be determined by the Minister.

7. The Minister may issue a decision to specify the application of Clauses 1 and 2 of this Article to a Taxable Person that is related to one or more Persons through ownership or control and there is an obligation on them under applicable accounting standards for their financial statements to be consolidated.

Article 31 – Specific Interest Deduction Limitation Rule

1. No deduction shall be allowed for Interest expenditure incurred on a loan obtained, directly or indirectly, from a Related Party in respect of any of the following transactions:

    a) A dividend or profit distribution to a Related Party.

    b) A redemption, repurchase, reduction or return of share capital to a Related Party.

    c) A capital contribution to a Related Party.

    d) The acquisition of an ownership interest in a Person who is or becomes a Related

Party following the acquisition.

2. Clause 1 of this Article shall not apply where the Taxable Person can demonstrate that the main purpose of obtaining the loan and carrying out the transaction referred to under Clause 1 of this Article is not to gain a Corporate Tax advantage.

3. For the purposes of Clause 2 of this Article, no Corporate Tax advantage shall be deemed to arise where the Related Party is subject to Corporate Tax or a tax of a similar character under the applicable legislation of a foreign jurisdiction on the Interest at a rate not less than the rate specified in paragraph (b) of Clause 1 of Article 3 of this Decree-Law.

Article 32 – Entertainment Expenditure

1. Subject to Article 28 of this Decree-Law, a Taxable Person shall be allowed to deduct 50% (fifty percent) of any entertainment, amusement, or recreation expenditure incurred during a Tax Period.

2. Clause 1 of this Article applies to any expenditure incurred for the purposes of receiving and entertaining the Taxable Person's customers, shareholders, suppliers or other business partners, including, but not limited to, expenditure in connection with any of the following:

   a) Meals.

   b) Accommodation.

   c) Transportation.

   d) Admission fees.

   e) Facilities and equipment used in connection with such entertainment, amusement or recreation.

   f) Such other expenditure as specified by the Minister.

Article 33 – Non-deductible Expenditure

No deduction is allowed for:

1. Donations, grants or gifts made to an entity that is not a Qualifying Public Benefit Entity.

2. Fines and penalties, other than amounts awarded as compensation for damages or breach of contract.

3. Bribes or other illicit payments.

4. Dividends, profit distributions or benefits of a similar nature paid to an owner of the Taxable Person.

5. Amounts withdrawn from the Business by a natural person who is a Taxable Person under paragraph (c) of Clause 3 of Article 11 of this Decree-Law or a partner in an Unincorporated Partnership.

6. Corporate Tax imposed on a Taxable Person under this Decree-Law.

7. Input Value Added Tax incurred by a Taxable Person that is recoverable under Federal Decree-Law No. (8) of 2017 referred to in the preamble and what replaces it.

8. Tax on income imposed on the Taxable Person outside the State.

9. Such other expenditure as specified in a decision issued by the Cabinet at the suggestion of the Minister.

Chapter Ten – Transactions with Related Parties and Connected Persons

Article 34 – Arm's Length Principle

1. In determining Taxable Income, transactions and arrangements between Related Parties must meet the arm's length standard as specified in Clauses 2, 3, 4 and 5 of this Article and any conditions that may be prescribed in a decision issued by the Authority.

2. A transaction or arrangement between Related Parties meets the arm's length standard if the results of the transaction or arrangement are consistent with the results that would have been realised if Persons who were not Related Parties had engaged in a similar transaction or arrangement under similar circumstances.

3. The arm's length result of a transaction or arrangement between Related Parties must be determined by applying one or a combination of the following transfer pricing methods:

    a) The comparable uncontrolled price method.

    b) The resale price method.

    c) The cost-plus method.

    d) The transactional net margin method.

    e) The transactional profit split method.

4. The Taxable Person may apply any transfer pricing method other than the methods listed

in Clause 3 of this Article where the Taxable Person can demonstrate that none of the above methods can be reasonably applied to determine an arm's length result and that any such other transfer pricing method used satisfies the condition of Clause 2 of this Article.

5. The choice and application of a transfer pricing method or combination of transfer pricing methods under Clause 3 or 4 of this Article must be made having regard to the most reliable transfer pricing method and taking into account following factors:

   a) The contractual terms of the transaction or arrangement.

   b) The characteristics of the transaction or arrangement.

   c) The economic circumstances in which the transaction or arrangement is conducted.

   d) The functions performed, assets employed, and risks assumed by the Related Parties entering into the transaction or arrangement.

   e) The business strategies employed by the Related Parties entering into the transaction or arrangement.

6. The Authority's examination as to whether income and expenditures resulting from the Taxable Person's relevant transactions or arrangements meet the arm's length standard shall be based on the transfer pricing method used by the Taxable Person in accordance with Clause 3 or 4 of this Article, provided such transfer pricing method is appropriate having regard to the factors mentioned in Clause 5 of this Article.

7. Application of the selected transfer pricing method or combination of transfer pricing methods in accordance with Clause 3 or 4 of this Article may result in an arm's length range of financial results or indicators acceptable for establishing the arm's length result of a transaction or arrangement between Related Parties, subject to any conditions specified in a decision issued by the Authority.

8. Where the result of the transaction or arrangement between Related Parties does not fall within the arm's length range, the Authority shall adjust the Taxable Income to achieve the arm's length result that best reflects the facts and circumstances of the transaction or arrangement.

9. Where the Authority makes an adjustment to the Taxable Income pursuant to Clause 8 of this Article, the Authority shall rely on information that can or will be made available to the Taxable Person.

10. Where the Authority or a Taxable Person adjusts the Taxable Income for a transaction or

arrangement to meet the arm’s length standard, the Authority shall make a corresponding adjustment to the Taxable Income of the Related Party that is party to the relevant transaction or arrangement.

11. Where a foreign competent authority makes an adjustment to a transaction or arrangement involving a Taxable Person to meet the arm’s length standard, such Taxable Person can make an application to the Authority to make a corresponding adjustment to its Taxable Income.

Article 35 – Related Parties and Control

1. For the purposes of this Decree-Law, “Related Parties” means any of the following:

    a) Two or more natural persons who are related within the fourth degree of kinship or affiliation, including by way of adoption or guardianship.

    b) A natural person and a juridical person where:

        1. the natural person or one or more Related Parties of the natural person are shareholders in the juridical person, and the natural person, alone or together with its Related Parties, directly or indirectly owns a 50% (fifty percent) or greater ownership interest in the juridical person; or

        2. the natural person, alone or together with its Related Parties, directly or indirectly Controls the juridical person.

    c) Two or more juridical persons where:

        1. one juridical person, alone or together with its Related Parties, directly or indirectly owns a 50% (fifty percent) or greater ownership interest in the other juridical person;

        2. one juridical person, alone or together with its Related Parties, directly or indirectly Controls the other juridical person; or

        3. any Person, alone or together with its Related Parties, directly or indirectly owns a 50% (fifty percent) or greater ownership interest in or Controls such two or more juridical persons;

    d) A Person and its Permanent Establishment or Foreign Permanent Establishment.

    e) Two or more Persons that are partners in the same Unincorporated Partnership.

    f) A Person who is the trustee, founder, settlor or beneficiary of a trust or foundation, and its Related Parties.

2. For the purposes of this Decree-Law, “Control” means the ability of a Person, whether in their own right or by agreement or otherwise to influence another Person, including:

   a) The ability to exercise 50% (fifty percent) or more of the voting rights of another Person.

   b) The ability to determine the composition of 50% (fifty percent) or more of the Board of directors of another Person.

   c) The ability to receive 50% (fifty percent) or more of the profits of another Person.

   d) The ability to determine, or exercise significant influence over, the conduct of the Business and affairs of another Person.

Article 36 – Payments to Connected Persons

1. Without prejudice to the provisions of Article 28 of this Decree-Law, a payment or benefit provided by a Taxable Person to its Connected Person shall be deductible only if and to the extent the payment or benefit corresponds with the Market Value of the service, benefit or otherwise provided by the Connected Person and is incurred wholly and exclusively for the purposes of the Taxable Person’s Business.

2. For the purposes of this Decree-Law, a Person shall be considered a Connected Person of a Taxable Person if that Person is:

   a) An owner of the Taxable Person.

   b) A director or officer of the Taxable Person.

   c) A Related Party of any of the Persons referred to in paragraphs (a) and (b) of Clause 2 of this Article.

3. For the purposes of paragraph (a) of Clause 2 of this Article, an owner of the Taxable Person is any natural person who directly or indirectly owns an ownership interest in the Taxable Person or Controls such Taxable Person.

4. Where the Taxable Person is a partner in an Unincorporated Partnership, a Connected Person is any other partner in that same Unincorporated Partnership, and any Person that is a Related Party of that partner.

5. To determine that a payment or benefit provided by the Taxable Person corresponds with the Market Value of the service or otherwise provided by the Connected Person in

exchange, the relevant provisions of Article 34 of this Decree-Law shall apply as the context requires.

6. Clause 1 of this Article shall not apply to any of the following:

   a) A Taxable Person whose shares are traded on a Recognised Stock Exchange.

   b) A Taxable Person that is subject to the regulatory oversight of a competent authority in the State.

   c) Any other Person as may be determined in a decision issued by the Cabinet at the suggestion of the Minister.

Chapter Eleven – Tax Loss Provisions

Article 37 – Tax Loss Relief

1. A Tax Loss can be offset against the Taxable Income of subsequent Tax Periods to arrive at the Taxable Income for those subsequent Tax Periods.

2. The amount of Tax Loss used to reduce the Taxable Income for any subsequent Tax Period cannot exceed 75% (seventy-five percent) or any other percentage as specified in a decision issued by the Cabinet at the suggestion of the Minister of the Taxable Income for that Tax Period before any Tax Loss relief, except in circumstances that may be prescribed in a decision issued by the Cabinet at the suggestion of the Minister.

3. A Taxable Person cannot claim Tax Loss relief for:

   a) Losses incurred before the date of commencement of Corporate Tax.

   b) Losses incurred before a Person becomes a Taxable Person under this Decree-Law.

   c) Losses incurred from an asset or activity the income of which is exempt, or otherwise not taken into account under this Decree-Law.

4. A Tax Loss carried forward to a subsequent Tax Period must be set off against the Taxable Income of that subsequent Tax Period, before any remainder can be carried forward to a further subsequent Tax Period, or any Tax Loss transferred under Article 38 of this Decree-Law can be utilised.

Article 38 – Transfer of Tax Loss

1. A Tax Loss or a portion thereof may be offset against the Taxable Income of another Taxable Person where all of the following conditions are met:

a) Both Taxable Persons are juridical persons.

b) Both Taxable Persons are Resident Persons.

c) Either Taxable Person has a direct or indirect ownership interest of at least 75% (seventy-five percent) in the other, or a third Person has a direct or indirect ownership interest of at least 75% (seventy-five percent) in each of the Taxable Persons.

d) The common ownership under paragraph (c) of Clause 1 of this Article must exist from the start of the Tax Period in which the Tax Loss is incurred to the end of the Tax Period in which the other Taxable Person offsets the Tax Loss transferred against its Taxable Income.

e) None of the Persons are an Exempt Person.

f) None of the Persons are a Qualifying Free Zone Person.

g) The Financial Year of each of the Taxable Persons ends on the same date.

h) Both Taxable Persons prepare their financial statements using the same accounting standards.

2. Where a Taxable Person transfers its Tax Loss to another Taxable Person under Clause 1 of this Article:

   a) the Taxable Person which the Tax Loss is transferred to shall reduce its Taxable Income for the relevant Tax Period;

   b) the total Tax Loss offset shall not exceed the amount allowed under Clause 2 of Article 37 of this Decree-Law; and

   c) the Taxable Person shall reduce its available Tax Losses by the amount of the Tax Loss transferred to the other Taxable Person for the relevant Tax Period.

Article 39 – Limitation on Tax Losses Carried Forward

1. Tax Losses can only be carried forward and utilised in accordance with the provision of Clause 2 of Article 37 of this Decree-Law provided that:

   a) From the beginning of the Tax Period in which the Tax Loss is incurred to the end of the Tax Period in which the Tax Loss or part thereof is offset against Taxable Income of that period, the same Person or Persons continuously owned at least a 50% (fifty percent) ownership interest in the Taxable Person.

   b) The Taxable Person continued to conduct the same or a similar Business or Business Activity following a change in ownership of more than 50% (fifty percent).

2. For the purposes of paragraph (b) of Clause 1 of this Article, relevant factors for determining whether a Taxable Person has continued to conduct the same or a similar Business or Business Activity following a change in the direct or indirect ownership include:

   a) the Taxable Person uses some or all of the same assets as before the ownership change;

   b) the Taxable Person has not made significant changes to the core identity or operations of its Business since the ownership change; and

   c) where there have been any changes, these result from the development or exploitation of assets, services, processes, products or methods that existed before the ownership change.

3. Clause 1 of this Article shall not apply to a Taxable Person whose shares are listed on a Recognised Stock Exchange.

Chapter Twelve – Tax Group Provisions

Article 40 – Tax Group

1. A Resident Person, which for the purposes of this Decree-Law shall be referred to as a "Parent Company", can make an application to the Authority to form a Tax Group with one or more other Resident Persons, each referred to as a "Subsidiary" for the purposes of this Chapter, where all of the following conditions are met:

   a) The Resident Persons are juridical persons.

   b) The Parent Company owns at least 95% (ninety-five percent) of the share capital of the Subsidiary, either directly or indirectly through one or more Subsidiaries.

   c) The Parent Company holds at least 95% (ninety-five percent) of the voting rights in the Subsidiary, either directly or indirectly through one or more Subsidiaries.

   d) The Parent Company is entitled to at least 95% (ninety-five percent) of the Subsidiary's profits and net assets, either directly or indirectly through one or more Subsidiaries.

   e) Neither the Parent Company nor the Subsidiary is an Exempt Person.

f) Neither the Parent Company nor the Subsidiary is a Qualifying Free Zone Person.

g) The Parent Company and the Subsidiary have the same Financial Year.

h) Both the Parent Company and the Subsidiary prepare their financial statements using the same accounting standards.

2. Notwithstanding paragraph (e) of Clause 1 of this Article, one or more Subsidiaries in which a Government Entity directly or indirectly owns at least a 95% (ninety-five percent) ownership interest as specified in paragraphs (b), (c) and (d) of Clause 1 of this Article can form a Tax Group, subject to the conditions to be prescribed by the Authority.

3. An application made under Clause 1 of this Article shall be made to the Authority by the Parent Company and each Subsidiary seeking to become members of the Tax Group.

4. A Tax Group formed under Clause 1 of this Article is treated as a single Taxable Person for the purposes of this Decree-Law, represented by the Parent Company.

5. The Parent Company shall comply with all obligations set out in Chapters Fourteen, Sixteen and Seventeen of this Decree-Law on behalf of the Tax Group.

6. The Parent Company and each Subsidiary shall be jointly and severally liable for Corporate Tax Payable by the Tax Group for those Tax Periods when they are members of the Tax Group.

7. The joint and several liability under Clause 6 of this Article for a Tax Period can be limited to one or more members of the Tax Group following approval by the Authority.

8. The Parent Company and each Subsidiary shall remain responsible for complying with the provisions under Article 45 of this Decree-Law.

9. A Subsidiary can join an existing Tax Group following submission of an application to the Authority by the Parent Company and the relevant Subsidiary.

10. A Subsidiary shall leave the Tax Group in the following circumstances:

    a) Following approval by the Authority of an application by the Parent Company and the relevant Subsidiary.

    b) Where the relevant Subsidiary no longer meets the conditions to be a member of the Tax Group as specified in Clause 1 of this Article.

11. A Tax Group shall cease to exist in any of the following circumstances:

a) Following approval by the Authority of an application by the Parent Company.

b) Where the Parent Company no longer meets the conditions to form a Tax Group as specified in Clause 1 of this Article, subject to the provisions of Clause 12 of this Article.

12. The Parent Company of a Tax Group can make an application to the Authority to be replaced by another Parent Company without a discontinuation of the Tax Group, in any of the following circumstances.

    a) The new Parent Company meets the conditions under Clause 1 of this Article relating to the former Parent Company.

    b) The former Parent Company ceases to exist and the new Parent Company or a Subsidiary is its universal legal successor.

13. Notwithstanding Clauses 11 and 12 of this Article, the Authority may, at its discretion, dissolve a Tax Group or change the Parent Company of a Tax Group based on information available to the Authority, and notify the Parent Company of such action taken.

Article 41 – Date of Formation and Cessation of a Tax Group

1. For the purposes of Article 40 of this Decree-Law, a Tax Group shall be formed, or a new Subsidiary shall join an existing Tax Group from the beginning of the Tax Period specified in the application submitted to the Authority, or from the beginning of any other Tax Period determined by the Authority.

2. For the purposes of paragraph (a) of Clause 10 of Article 40 and paragraph (a) of Clause 11 of Article 40 of this Decree-Law, the relevant member of a Tax Group shall be treated as leaving that Tax Group from the beginning of the Tax Period specified in the application submitted to the Authority, or from the beginning of any other Tax Period determined by the Authority.

3. For the purposes of paragraph (b) of Clause 10 of Article 40 and paragraph (b) of Clause 11 of Article 40 of this Decree-Law, the relevant member of a Tax Group shall be treated as leaving that Tax Group from the beginning of the Tax Period in which the conditions under Clause 1 of Article 40 of this Decree-Law are no longer met.

Article 42 – Taxable Income of a Tax Group

1. For the purposes of determining the Taxable Income of a Tax Group, the Parent Company shall consolidate the financial results, assets and liabilities of each Subsidiary for the relevant Tax Period, eliminating transactions between the Parent Company and each

Subsidiary that is a member of the Tax Group.

2. The relevant provisions of this Decree-Law shall apply as the context requires to the Tax Group.

3. Unutilised Tax Losses of a Subsidiary that joins a Tax Group (referred to in this Article as "pre-Grouping Tax Losses") shall become carried forward Tax Losses of the Tax Group, and can be used to offset the Taxable Income of the Tax Group insofar this income is attributable to the relevant Subsidiary.

4. Where a new Subsidiary joins an existing Tax Group, unutilised Tax Losses of the existing Tax Group cannot be used to offset the Taxable Income of the Tax Group insofar this income is attributable to the new Subsidiary.

5. The application of Clauses 3 and 4 of this Article is subject to the conditions of Articles 37 and 39 of this Decree-Law.

6. Where a Subsidiary leaves a Tax Group, Tax Losses of the Tax Group shall remain with the Tax Group, with the exception of any unutilised pre-Grouping Tax Losses of the relevant Subsidiary.

7. On cessation of a Tax Group, unutilised Tax Losses of the Tax Group shall be allocated as follows:

   a) Where the Parent Company continues to be a Taxable Person, all Tax Losses shall remain with the Parent Company.

   b) Where the Parent Company ceases to be a Taxable Person, Tax Losses of the Tax Group shall not be available for offset against future Taxable Income of individual Subsidiaries, with the exception of any unutilised pre-Grouping Tax Losses of such Subsidiaries.

8. Paragraph (b) of Clause 7 of this Article shall not apply where there is a continuation of the Tax Group under Clause 12 of Article 40 of this Decree-Law.

9. Clause 1 of this Article shall not apply where an asset or liability has been transferred between members of the Tax Group and either the transferor or transferee leaves the Tax Group within (2) two years from the date of the transfer, unless the associated income would have been exempt from Corporate Tax or not taken into account under any other provisions of this Decree-Law.

10. Any income that was not taken into account with regards to a transfer described in Clause 9 of this Article shall be taken into account on the date the transferor or transferee leaves

the Tax Group, and shall result in a corresponding adjustment of the cost base for Corporate Tax purposes of the relevant asset or liability.

11. The Tax Group must prepare consolidated financial statements in accordance with accounting standards applied in the State.

Chapter Thirteen – Calculation of Corporate Tax Payable

Article 43 – Currency

For the purposes of this Decree-Law, all amounts must be quantified in the United Arab Emirates dirham. Any amount quantified in another currency must be converted at the applicable exchange rate set by the Central Bank of the United Arab Emirates, subject to any conditions that may be prescribed in a decision issued by the Authority.

Article 44 – Calculation and Settlement of Corporate Tax

The Corporate Tax due under this Decree-Law is settled in the following order:

1. First, by using the Taxable Person's available Withholding Tax Credit, as determined under Article 46 of this Decree-Law.

2. To the extent there is a residual amount after Clause 1 of this Article, by using the Taxable Person's available Foreign Tax Credit as determined under Article 47 of this Decree-Law.

3. To the extent there is a residual amount after Clause 2 of this Article, by using any credits or other forms of relief as specified in a decision issued by the Cabinet at the suggestion of the Minister.

4. To the extent there is a residual amount after Clause 3 of this Article, this amount of Corporate Tax Payable must be settled in accordance with Article 48 of this Decree-Law.

Article 45 – Withholding Tax

1. The following income shall be subject to Withholding Tax at the rate of 0% (zero percent) or any other rate as specified in a decision issued by the Cabinet at the suggestion of the Minister:

    a) The categories of State Sourced Income derived by a Non-Resident Person as prescribed in the decision issued by the Cabinet pursuant to this Article, insofar such income is not attributable to a Permanent Establishment of the Non-Resident Person in the State.

    b) Any other income as specified in a decision issued by the Cabinet at the suggestion of the Minister.

2. The Withholding Tax payable under Clause 1 of this Article shall be deducted from the gross amount of the payment and remitted to the Authority in the form and manner and within the timeline prescribed by the Authority.

Article 46 – Withholding Tax Credit

1. If a Person becomes a Taxable Person in a Tax Period, the Person's Corporate Tax due under Article 3 of this Decree-Law can be reduced by the amount of Withholding Tax Credit for that Tax Period.

2. The maximum Withholding Tax Credit under this Decree-Law is the lower of:

   a) The amount of Withholding Tax deducted under Clause 2 of Article 45 of this Decree-Law.

   b) The Corporate Tax due under this Decree-Law.

3. Any excess Withholding Tax Credit for a Tax Period as a result of Clause 2 of this Article shall be refunded to the Taxable Person in accordance with Article 49 of this Decree-Law.

Article 47 – Foreign Tax Credit

1. Corporate Tax due under Article 3 of this Decree-Law can be reduced by the amount of Foreign Tax Credit for the relevant Tax Period.

2. The Foreign Tax Credit under this Decree-Law cannot exceed the amount of Corporate Tax due on the relevant income.

3. Any unutilised Foreign Tax Credit as a result of Clause 2 of this Article cannot be carried forward or carried back.

4. A Taxable Person shall maintain all necessary records for the purposes of claiming a Foreign Tax Credit.

Chapter Fourteen – Payment and Refund of Corporate Tax

Article 48 – Corporate Tax Payment

A Taxable Person must settle the Corporate Tax Payable under this Decree-Law within (9) nine months from the end of the relevant Tax Period, or by such other date as determined by the Authority.

Article 49 – Corporate Tax Refund

1. A Taxable Person may make an application to the Authority for a Corporate Tax refund

in accordance with the provisions of the Tax Procedures Law in the following circumstances:

a) The Withholding Tax Credit available to a Taxable Person exceeds the Taxable Person's Corporate Tax Payable.

b) Where the Authority is otherwise satisfied that the Taxable Person has paid Corporate Tax in excess of the Taxable Person's Corporate Tax Payable.

2. The Authority shall issue the Taxable Person a notice of the Authority's decision on an application under Clause 1 of this Article in accordance with the Tax Procedures Law.

Chapter Fifteen – Anti-Abuse Rules

Article 50 – General anti-abuse rule

1. This Article applies to a transaction or an arrangement if, having regard to all relevant circumstances, it can be reasonably concluded that:

   a) the entering into or carrying out of the transaction or arrangement, or any part of it, is not for a valid commercial or other non-fiscal reason which reflects economic reality; and

   b) the main purpose or one of the main purposes of the transaction or arrangement, or any part of it, is to obtain a Corporate Tax advantage that is not consistent with the intention or purpose of this Decree-Law.

2. For the purposes of this Article, a Corporate Tax advantage includes, but is not limited to the following:

   a) A refund or an increased refund of Corporate Tax.

   b) Avoidance or reduction of Corporate Tax Payable.

   c) Deferral of a payment of Corporate Tax or advancement of a refund of Corporate Tax.

   d) Avoidance of an obligation to deduct or account for Corporate Tax.

3. Where the provisions of this Article apply to a transaction or arrangement, the Authority may make a determination that one or more specified Corporate Tax advantages obtained as a result of the transaction or arrangement are to be counteracted or adjusted.

4. If a determination is made under Clause 3 of this Article, the Authority must issue an

assessment giving effect to the determination, which may include:

a) allowing or disallowing any exemption, deduction or relief in calculating the Taxable Income or the Corporate Tax Payable, or any part thereof;

b) allocating any such exemption, deduction or relief, or any part thereof, to any other Persons;

c) recharacterising for the purposes of this Decree-Law the nature of any payment or other amount, or any part thereof; or

d) disregarding the effect that would otherwise result from the application of other provisions of this Decree-Law,

and can make compensating adjustments to the Corporate Tax liability of any other Person affected by the determination made by the Authority.

5. For the purpose of determining whether this Article applies to a transaction or arrangement, the following must be considered:

   a) The manner in which the transaction or arrangement was entered into or carried out.

   b) The form and substance of the transaction or arrangement.

   c) The timing of the transaction or arrangement.

   d) The result of the transaction or arrangement in relation to the application of this Decree-Law.

   e) Any change in the financial position of the Taxable Person that has resulted, will result, or may reasonably be expected to result, from the transaction or arrangement.

   f) Any change in the financial position of another Person that has resulted, will result, or may reasonably be expected to result, from the transaction or arrangement.

   g) Whether the transaction or arrangement has created rights or obligations which would not normally be created between Persons dealing with each other at arm's length in respect of the relevant transaction or arrangement.

   h) Any other relevant information and circumstances.

6. In any proceeding concerning the application of this Article, the Authority must

demonstrate that the determination made under Clause 3 of this Article is just and reasonable.

Chapter Sixteen – Tax Registration and Deregistration

Article 51 – Tax Registration

1. Any Taxable Person shall register for Corporate Tax with the Authority in the form and manner and within the timeline prescribed by the Authority and obtain a Tax Registration Number, except in circumstances prescribed by the Minister.

2. For the purposes of an exemption from Corporate Tax under this Decree-Law or for purposes of Clause 6 of Article 53 of this Decree-Law, the Authority may require the relevant Person under paragraphs (e), (f), (g), (h) and (i) of Clause 1 of Article 4 of this Decree-Law, or the Unincorporated Partnership, as applicable, to register for Corporate Tax and obtain a Tax Registration Number.

3. The Authority shall, at its discretion and based on information available to the Authority, have the ability to register a Person for Corporate Tax effective from the date the Person became a Taxable Person.

Article 52 – Tax Deregistration

1. A Person with a Tax Registration Number shall file a Tax Deregistration application with the Authority where there is a cessation of its Business or Business Activity, whether by dissolution, liquidation, or otherwise, in the form and manner and within the timeline prescribed by the Authority.

2. A Taxable Person shall not be deregistered unless it has paid all Corporate Tax and Administrative Penalties due and filed all Tax Returns due under this Decree-Law, including its Tax Return for the Tax Period up to and including the date of cessation.

3. If the Tax Deregistration application is approved, the Authority shall deregister the Person for Corporate Tax purposes with effect from the date of cessation or from such other date as may be determined by the Authority.

4. Where a Person does not comply with the Tax Deregistration requirements under this Article, the Authority may, at its discretion and based on information available to the Authority, deregister the Taxable Person effective from the later of either:

    a) the last day of the Tax Period in which it became apparent to the Authority that the conditions under Clause 2 of this Article have been met; or

    b) the date the Taxable Person ceases to exist.

Chapter Seventeen – Tax Returns and Clarifications

Article 53 – Tax Returns

1. Subject to Article 51 of this Decree-Law, a Taxable Person must file a Tax Return, as applicable, to the Authority in the form and manner prescribed by the Authority no later than (9) nine months from the end of the relevant Tax Period, or by such other date as directed by the Authority.

2. The Tax Return shall include at least the following information, as applicable:

   a) The Tax Period to which the Tax Return relates.

   b) The name, address and Tax Registration Number of the Taxable Person.

   c) The date of submission of the Tax Return.

   d) The accounting basis used in the financial statements.

   e) The Taxable Income for the Tax Period.

   f) The amount of Tax Loss relief claimed under Clause 1 of Article 37 of this Decree-Law.

   g) The amount of Tax Loss transferred under Article 38 of this Decree-Law.

   h) The available tax credits claimed under Articles 46 and 47 of this Decree-Law.

   i) The Corporate Tax Payable for the Tax Period.

3. A Taxable Person shall provide the Authority with any such information, documents or records as shall be reasonably required by the Authority for the purposes of implementing the provisions of this Decree-Law.

4. As an exception to the provisions of this Article and any other relevant provision of this Decree-Law, the Minister may prescribe the form and manner in which a Tax Return and other information is to be filed with the Authority by a Taxable Person where the disclosure of information may impede national security or may be contrary to the public interest.

5. The Authority may request a Person under paragraphs (e), (f), (g), (h) and (i) of Clause 1 of Article 4 of this Decree-Law to submit a declaration.

6. The Authority may, by notice or through a decision issued by the Authority, request the authorised partner in an Unincorporated Partnership that has not had an application

approved under Clause 8 of Article 16 of this Decree-Law to be treated as a Taxable Person to file a declaration on behalf of all the partners in the Unincorporated Partnership.

7. The Parent Company must file a Tax Return to the Authority on behalf of the Tax Group.

Article 54 – Financial Statements

1. The Authority may, by notice or through a decision issued by the Authority, request a Taxable Person to submit the financial statements used to determine the Taxable Income for a Tax Period in the form and manner and within the timeline prescribed by the Authority.

2. The Minister may issue a decision requiring categories of Taxable Persons to prepare and maintain audited or certified financial statements.

3. For the purposes of Clause 1 of this Article, the Authority may request a partner in an Unincorporated Partnership to provide financial statements showing all of the following:

   a) The total assets, liabilities, income and expenditure of the Unincorporated Partnership.

   b) The partner’s distributive share in the Unincorporated Partnership’s assets, liabilities, income and expenditure.

Article 55 – Transfer Pricing Documentation

1. The Authority may, by notice or through a decision issued by the Authority, require a Taxable Person to file together with their Tax Return a disclosure containing information regarding the Taxable Person’s transactions and arrangements with its Related Parties and Connected Persons in the form prescribed by the Authority.

2. If a Taxable Person’s transactions with its Related Parties and Connected Persons for a Tax Period meet the conditions prescribed by the Minister, the Taxable Person must maintain both a master file and a local file in the form prescribed by the Authority.

3. The documentation under Clause 2 of this Article must be submitted to the Authority within (30) thirty days following a request by the Authority, or by any such other later date as directed by the Authority.

4. Upon request by the Authority, a Taxable Person shall provide the Authority with any information to support the arm’s length nature of the Taxable Person’s transactions or arrangements with its Related Parties and Connected Persons, within (30) thirty days following the request by the Authority, or by any such other later date as directed by the

Authority.

Article 56 – Record Keeping

1. Notwithstanding the provisions of the Tax Procedures Law, a Taxable Person shall maintain all records and documents for a period of (7) seven years following the end of the Tax Period to which they relate that:

    a) Support the information to be provided in a Tax Return or in any other document to be filed with the Authority.

    b) Enable the Taxable Person's Taxable Income to be readily ascertained by the Authority.

2. Notwithstanding the provisions of the Tax Procedures Law, an Exempt Person shall maintain all records that enable the Exempt Person's status to be readily ascertained by the Authority for a period of (7) seven years following the end of the Tax Period to which they relate.

Article 57 – Tax Period

1. A Taxable Person's Tax Period is the Financial Year or part thereof for which a Tax Return is required to be filed.

2. For the purposes of this Decree-Law, the Financial Year of a Taxable Person shall be the Gregorian calendar year, or the (12) twelve-month period for which the Taxable Person prepares financial statements.

Article 58 – Change of Tax Period

Notwithstanding Article 57 of this Decree-Law, a Taxable Person can make an application to the Authority to change the start and end date of its Tax Period, or use a different Tax Period, subject to conditions to be set by the Authority.

Article 59 – Clarifications

1. A Person may make an application to the Authority for a clarification regarding the application of this Decree-Law or the conclusion of an advance pricing agreement with respect to a transaction or an arrangement proposed or entered into by the Person.

2. The application under Clause 1 of this Article shall be made in the form and manner prescribed by the Authority.

Chapter Eighteen – Violations and Penalties

Article 60 – Assessment of Corporate Tax and penalties

1. A Person may be subject to a Corporate Tax assessment in accordance with the Tax Procedures Law and the decisions issued in the implementation of its provisions.

2. Notwithstanding the provisions of the Tax Procedures Law and the decisions issued in the implementation of its provisions, the Authority may prescribe the circumstances and conditions under which a Corporate Tax assessment may be requested by a Taxable Person or issued by the Authority.

3. The Tax Procedures Law referred to in the preamble and the decisions issued in the implementation of its provisions shall determine the relevant penalties and fines relevant to the implementation of this Decree-Law.

Chapter Nineteen – Transitional Rules

Article 61 – Transitional Rules

1. A Taxable Person's opening balance sheet for Corporate Tax purposes shall be the closing balance sheet prepared for financial reporting purposes under accounting standards applied in the State on the last day of the Financial Year that ends immediately before their first Tax Period commences, subject to any conditions or adjustments that may be prescribed by the Minister.

2. The opening balance sheet referred to in Clause 1 of this Article shall be prepared taking into consideration the arm's length principle in accordance with Article 34 of this Decree-Law.

3. For the purposes of Clauses 1 and 2 of this Article, and as an exception to the provisions of Article 70 of this Decree-Law, the provisions of Article 50 of this Decree-Law shall apply to transactions or arrangements entered into on or after the date this Decree-Law is published in the Official Gazette.

4. The Cabinet may, at the suggestion of the Minister, issue a decision prescribing other transitional measures related to the implementation of this Decree-Law and the application of its provisions.

Chapter Twenty – Closing provisions

Article 62 – Delegation of Power

The Minister may delegate his powers under this Decree-Law, in full or in part, to the

Authority, where the Minister deems appropriate.

Article 63 – Administrative Policies and Procedures

The administrative policies, procedures and general instructions in relation to the requirements imposed on a Person under this Decree-Law shall be issued by the Authority in coordination with the Ministry.

Article 64 – Cooperating with the Authority

All governmental authorities in the State shall fully cooperate with the Authority to carry out whatever is required to implement the provisions of this Decree-Law and provide the Authority with any data, information and documentation in respect of a Taxable Person or an Exempt Person as may be requested by the Authority.

Article 65 – Revenue Sharing

Corporate Tax revenues and Administrative Penalties collected under this Decree-Law shall be subject to sharing between the Federal Government and the Local Governments based on the provisions of a federal law issued in this regard.

Article 66 – International Agreements

To the extent the terms of an international agreement that is in force in the State are inconsistent with the provisions of this Decree-Law, the terms of the international agreement shall prevail.

Article 67 – Implementing Decisions

1. Subject to the powers conferred to the Cabinet under this Decree-Law, the Minister and the Authority shall issue the necessary decisions, within their respective powers, to implement the provisions of this Decree-Law.

2. The Cabinet may, at the suggestion of the Minister, issue implementing decisions for this Decree-Law.

Article 68 – Cancellation of Conflicting Provisions

Any text or provisions contrary to or inconsistent with the provisions of this Decree-Law shall be abrogated.

Article 69 – Application of this Decree-Law to Tax Periods

This Decree-Law shall apply to Tax Periods commencing on or after 1 June 2023.

Article 70 – Publication and Application of this Decree-Law

This Decree-Law shall be published in the Official Gazette and shall come into effect (15) fifteen days following the date of publication.

Explanatory Guide

On

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

May 2023

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Introduction

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("**Corporate Tax Law**") was signed on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("**UAE**") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and business profits ("**Corporate Tax**") in the UAE. It comprises 20 Chapters and 70 Articles, covering, inter alia, the scope of Corporate Tax, its application, and rules pertaining to compliance and the administration of the Corporate Tax regime.

This Explanatory Guide has been prepared by the Ministry of Finance (the "**Ministry**") and provides an explanation of the meaning and intended effect of each Article of the Corporate Tax Law. It may be used in interpreting the Corporate Tax Law and how particular provisions of the Corporate Tax Law may need to be applied.

This Explanatory Guide must be read in conjunction with the Corporate Tax Law and the relevant decisions issued by the Cabinet, the Ministry and the Federal Tax Authority (the "**Authority**") for the implementation of certain provisions of the Corporate Tax Law. It is not, and is not meant to be, a comprehensive description of the Corporate Tax Law and its implementing decisions.

This document may be updated and changed periodically. Updates will be posted on www.mof.gov.ae and www.tax.gov.ae.

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Chapter One: General Provisions

Article 1: Definitions

This Chapter discusses certain key terms used in the Corporate Tax Law. Other terms are considered self-explanatory and as such, are not further explained in this Explanatory Guide.

Where the particular context or Article in which a defined term is used requires a different interpretation or meaning, the definitions given in **Article 1** do not preclude a more appropriate interpretation or meaning of the relevant term suited to that context.

"Government Entity"

The term "Government Entity" refers to the Federal Government and each of the Local Governments and their respective ministries, departments, authorities, agencies and other bodies that exercise legislative, regulatory, executive, administrative and other government related functions.

"Government Controlled Entity"

The term "Government Controlled Entity" refers to an incorporated entity that is directly or indirectly wholly owned and controlled by one or more Government Entities and that undertakes activities that are an extension of the primary function of the Government Entity or Government Entities owning it.

An entity must be a separate juridical person incorporated or otherwise established by the Federal Government or a Local Government and must be listed in a Cabinet Decision before it can be considered a "Government Controlled Entity".

"Business" and "Business Activity"

The terms "Business" and "Business Activity" identify when the activities of certain Persons give rise to a Corporate Tax liability by considering the Person to be a "Taxable Person".

"Business" means any activity, whether continuous or for a set period of time, conducted by any natural or juridical person in any location. It is implied in the definition that the activity is conducted with the intention of generating profits, and that some degree of planning and coordinated effort exists for the activity conducted. A Business or Business Activity does not lose its identity simply because it does not make a profit.

The definition expressly includes any industrial, commercial, agricultural, vocational, professional or service activity, excavation activity and any other activity of an independent character related to the use of tangible and intangible properties. This should be interpreted broadly to include any activity related to the development, sale, production, manufacturing, exploitation, marketing or distribution of tangible and intangible properties.

The term "vocational" is to be interpreted as a skilled craft or trade, and "profession" is an occupation in which skill is applied to the affairs of others to meet their needs. Common examples of professional activities include accountancy, consulting, architecture, and legal services.

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Whilst the term “Business” is defined to include both vocational and professional activities, it does not include employment, and Corporate Tax will not apply to an individual’s salary, wages and other employment income.

Whilst typically a Business is carried on continuously and there is repetition of commercial activity, the definition allows for a short-term commercial activity to be considered a Business for Corporate Tax purposes. This is why the Corporate Tax Law refers to the “conduct” of a Business rather than the “carrying on” of a Business.

The definition of a “Business Activity” is wider than that of a “Business”, and includes any transaction, step, or other element or action undertaken by or as part of a Business, which may be carried out entirely or partially within the UAE.

For the application of the Corporate Tax Law to companies and other juridical persons, all activities conducted and assets used or held will generally be considered activities conducted, and assets used or held, for the purposes of a Business or Business Activity.

Natural persons can earn income from employment, investments or from practising a commercial, industrial or professional activity, in their personal capacity, through a partnership or as sole proprietors of a Business. Employment and personal investment income are not intended to be within the scope of Corporate Tax.

It is noted that the characterisation of income as income from a Business or Business Activity does not preclude the income from retaining its nature and characterisation as State Sourced Income under Article 13 and the application of Withholding Tax under Article 45.

“Person”

The definition of a “Person” includes both a natural person and a juridical person.

A “natural person” means an individual or individuals. As discussed above, natural persons would only be subject to Corporate Tax insofar as they conduct a Business or Business Activity in the UAE.

For certain types of Business Activities, natural persons can form a sole establishment or a civil company. For Corporate Tax purposes, these entities will be disregarded and treated as the natural person or persons owning them because of their direct relationship and control over the Business and their unlimited liability for the debts and other obligations of the Business. The relevant natural person or persons may be subject to Corporate Tax and required to register in their individual capacity where a Cabinet Decision issued in accordance with **Article 11(6)** specifies the Business or Business Activity that brings a natural person within the scope of Corporate Tax.

A “juridical person” refers to an entity established or otherwise recognised under the laws and regulations of the UAE, or under the laws of a foreign jurisdiction, that has a legal personality separate from its founders, owners and directors. Separate legal personality means that the entity has its own rights, obligations and liabilities, and that the entity would normally continue to exist irrespective of changes in the Person or Persons owning it. As a consequence, the owners of a juridical person (including those involved in managing its affairs) would generally have no liability for the debts and obligations of the entity over and above their investment in the juridical person, with the exception of the cases that the UAE law states otherwise.

Examples of UAE juridical persons include a limited liability company, a foundation, a public or private joint stock company, and other entity forms that have separate legal personality under the applicable federal or Emirate level laws and regulations. Branches of a UAE or a non-UAE juridical person are regarded as an extension of their “head office” and, therefore, are not considered separate juridical persons for Corporate Tax purposes.

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Limited liability partnerships and other types of incorporated partnerships and associations where none of the relevant Persons have direct and unlimited liability for the entity's obligations or other partners or members' actions would ordinarily be subject to Corporate Tax in the same manner as any other corporate entity.

"State's Territory"

The term "State" is defined as the UAE's lands, territorial sea and airspace above it. This definition is not meant to be limiting and means the entire territory of the UAE, including its territorial waters, airspace, islands, free zones and economic zones, seabed, continental shelf, subsoil and their natural resources over which the UAE exercises its sovereign rights in accordance with UAE legislation and international law.

"Taxable Person"

A "Taxable Person" is any Person that is subject to Corporate Tax under the Corporate Tax Law.

Insofar as an Exempt Person engages in an activity which is specifically identified as incurring a Corporate Tax liability for such a Person, the Exempt Person will be regarded as a Taxable Person to the extent of its taxable Business or Business Activity (see **Article 4**).

"Licensing Authority"

For the purposes of the Corporate Tax Law, a "Licensing Authority" refers to an authority in the UAE that is responsible for and authorised to licence or permit the conduct of a Business or Business Activity in the UAE. This includes both "mainland" licensing authorities as well as the authorities responsible for issuing business licences and regulating the activities of entities within a free trade zone or special economic zone. Examples of Licensing Authorities include the Department of Economic Development in each Emirate, the Dubai International Financial Centre Authority, the Dubai Development Authority, Abu Dhabi Global Market, the Central Bank and the Securities and Commodities Authority.

"Revenue"

The term "Revenue" refers to the total amount of gross income or gross receipts derived during a Tax Period as recorded in the Taxable Person's books and records prepared in accordance with applicable accounting standards. Gross income means all income earned from sources within and outside of the UAE, whether in cash or in kind, and without deducting any type of costs or expenditure.

Revenue includes, for example, receipts from the sale of goods and services, royalties, Interest, premiums, dividends and other amounts received or recognised. In the context of the sale of goods or services, revenue means the gross income from sales or services without deducting the cost of goods sold or the cost of services supplied, exclusive of Value Added Tax ("**VAT**").

For the avoidance of doubt, gross income does not mean Taxable Income.

"Free Zone"

This term is relevant to Article 18, which enables juridical persons that are formed or registered in a geographic area that has been designated in a Cabinet Decision as a "Free Zone" to benefit from a 0% Corporate Tax rate on income from certain qualifying activities and transactions.

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"Free Zone Person"

The term "Free Zone Person" refers to a juridical person that is incorporated, established or otherwise registered in a Free Zone. This includes a branch of a UAE mainland or foreign juridical person that is registered in a Free Zone.

This term is relevant to Articles 3(2) and 18 as the 0% Corporate Tax rate under Article 3(2)(a) is available only to Free Zone Persons that meet the relevant conditions to be considered a Qualifying Free Zone Person.

The reference to "otherwise registered" in the definition of "Free Zone Person" means that a foreign juridical person that transfers its place of incorporation to a Free Zone and as a result becomes subject to the applicable laws and regulations of the UAE as an entity registered in a Free Zone shall also be considered a Free Zone Person.

A foreign juridical person that is a Resident Person under Article 11(3)(b) by virtue of being effectively managed and controlled in the UAE shall not be considered a Free Zone Person solely on the basis of the place of effective management and control of that juridical person being situated in a Free Zone.

"Dividend"

Subject to the context in which the term is used, the term "dividend" refers to any payment or distribution that is declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which does not constitute a return of capital or a return on debt claims. A dividend may be paid in cash, securities or other property out of profits, retained earnings or any other legal, capital or revenue reserve or account. This includes any payment or benefit which in substance or effect constitutes a distribution of profits made or provided in connection with the acquisition, redemption, cancellation or termination of shares or other ownership interests or rights or any transaction or arrangement with a Related Party or Connected Person that does not comply with **Article 34**.

"Interest"

The term "Interest" is defined broadly to reflect the fact that there is considerable flexibility as to how financing arrangements may be structured. In general terms, Interest means the compensation earned by a creditor for the use of their money, whether under a conventional financing arrangement or a financing arrangement that is compliant with Islamic Sharia law.

The definition is inclusive so that the term otherwise has its ordinary meaning, that is, an amount that is calculated by reference to the principal sum of a debt obligation, including any commonly used interest substitutes such as discounts and premiums and other amounts functionally equivalent to or in the nature of interest.

"Market Value"

To prevent the manipulation of Taxable Income, various Articles in the Corporate Tax Law require the pricing of transactions between Persons under common ownership or between Persons that are otherwise related or connected (see **Chapter Ten** of the Corporate Tax Law) to be determined by reference to the "Market Value" (also commonly referred to as fair value or fair market value).

For example, and unless the Corporate Tax Law specifically allows for a different value to be used, a Taxable Person disposing of an asset to a Related Party or a Connected Person would be treated for Corporate Tax purposes as having received consideration for the disposal equal to the Market Value of the asset at the time of the disposal, irrespective of the value reported in the financial statements of the Taxable Person. The same amount must then be treated as the cost base of the asset for Corporate Tax purposes for the acquiring Person.

The Market Value of an asset, service or benefit provided is the value that the asset, service or benefit would ordinarily have in the open market at the time and place of the transaction taking place. The value should be determined as if the parties are independent from each other as per the arm's length principle. If it is not possible to determine the Market Value of the actual asset, service or benefit, the definition allows for the Market Value to be determined by reference to the consideration for a similar asset, service or benefit in the open market at that time, as adjusted for any differences between the transactions being compared or between the parties undertaking those transactions.

"Tax Procedures Law"

The in-force law that governs the general procedural or administrative rules relating to federal taxes in the UAE is the Federal Decree-Law No. 28 of 2022 on Tax Procedures. The Tax Procedures Law provides for harmonised procedural and administrative rules applicable to federal taxes applicable in the UAE.

The Corporate Tax Law is a "Tax Law" for the purposes of the Tax Procedures Law and hence the relevant provisions of the Tax Procedures Law govern the administration, collection and enforcement of Corporate Tax by the Authority.

The application of the Tax Procedures Law is supplemented by the procedural and administrative rules that are specific to Corporate Tax imposed under the Corporate Tax Law. This means that any procedural or administrative rules that are specific to Corporate Tax imposed under the Corporate Tax Law are provided for in the Corporate Tax Law, while any procedural or administrative rules that are common across all federal taxes in the UAE are governed by the Tax Procedures Law.

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Chapter Two: Imposition of Corporate Tax and Applicable Rates

Article 2: Imposition of Corporate Tax

This Article sets out the general scope of the Corporate Tax Law. It establishes that Corporate Tax is imposed on the Taxable Income earned by a Taxable Person in a Tax Period.

This Article also provides that Corporate Tax shall be imposed at the rates specified in **Article 3**, and that any Corporate Tax due shall be payable to the Authority.

Corporate Tax would ordinarily be imposed annually, with the Corporate Tax liability calculated by the Taxable Person on a self-assessment basis. This means that the calculation and payment of Corporate Tax is done through the filing of a Corporate Tax Return by the Taxable Person followed by payment of any amount due, to the Authority.

Article 3: Corporate Tax Rate

This Article specifies the rates of Corporate Tax which shall apply to the Taxable Income of a Taxable Person in each Tax Period.

Clause 1 sets the rate of Corporate Tax at 9% for Taxable Income in excess of a threshold amount specified in a Cabinet Decision. Taxable Income below this threshold will be subject to Corporate Tax at 0%.

Cabinet Decision No. 116 of 2022 on the Annual Taxable Income Subject to Corporate Tax has set the threshold amount for the purposes of **Clause 1** at AED 375,000.

As such, the rates of Corporate Tax set by this Article will apply as follows:

- 0% on Taxable Income up to and including AED 375,000; and
- 9% on Taxable Income above AED 375,000.

A Qualifying Free Zone Person will not be able to benefit from the 0% tax threshold as mentioned above.

Clause 2 determines the rates of Corporate Tax that shall apply to Qualifying Free Zone Persons that meet the conditions of **Article 18**.**Clause 2(a)** provides that Qualifying Free Zone Persons can benefit from a 0% Corporate Tax rate on their Qualifying Income. The income that constitutes Qualifying Income is discussed under **Article 18(1)(b)**.

Clause 2(b) sets the rate of Corporate Tax at 9% for any income earned by a Qualifying Free Zone Person that is not Qualifying Income.

Chapter Three: Exempt Person

Article 4: Exempt Person

This Article specifies the Persons that are exempt from Corporate Tax.

Exemptions from Corporate Tax are provided for particular categories of Persons where there are public interest and policy justifications for not subjecting these categories of Persons to taxation.

The exemption from Corporate Tax provided under this Article is a so-called “subject exemption” that excludes the relevant entity from being within the scope of Corporate Tax, as opposed to an “object exemption” that would only exempt specific types of income earned by an otherwise Taxable Person. Examples of object exemptions under the Corporate Tax Law are the Participation Exemption under **Article 23** and the Foreign Permanent Establishment Exemption under **Article 24**.

A distinction is made between Persons that are automatically exempt by reason of this Article, and Persons that must make an application to the Authority to claim Exempt Person status.

Government Entities, Government Controlled Entities, Persons engaged in Extractive Businesses that meet the conditions under **Article 7**, Persons engaged in Non-Extractive Natural Resource Businesses that meet the conditions under **Article 8** and Qualifying Public Benefit Entities will not have to apply to the Authority for Exempt Person status. These Persons will generally be exempt from the application of the Corporate Tax Law unless they engage in an activity which is specifically identified as incurring a Corporate Tax liability for such a Person. Further information on these Exempt Persons can be found under the explanation of **Articles 5, 6, 7**, **8** and **9**.

Clause 1 introduces the following categories of Persons who are exempt from Corporate Tax.

Clause 1(a) *Government Entities*

Government Entities include the Federal Government, the Government of each Emirate, and any associated ministries, departments and other public bodies or agencies that are an integral part of the respective Government. Examples of Government Entities include the State’s ministries and federal authorities and the municipalities, departments and agencies of each Local Government. These and other Government Entities are considered administrative bodies that carry out government functions under the control of the Federal Government or Local Government. Juridical persons that are used by Government Entities to carry out certain activities of the Federal or Local Governments under outsourcing and other arrangements shall not be considered Government Entities in their own right.

It is internationally common for a government to exempt its own activities from taxation, as those activities are generally conducted as part of the government’s duties.

Government Entities automatically qualify for an exemption, without needing to be listed in a Cabinet Decision or having to submit an application to the Authority.

How the exemption from Corporate Tax under this Clause will apply to Government Entities that also engage in an activity which incurs a Corporate Tax liability is discussed in more detail under **Article 5**.

Clause 1(b) *Government Controlled Entities*

The Corporate Tax Law makes a distinction between a "Government Entity" and a "Government Controlled Entity".

The difference with a Government Entity is that a Government Controlled Entity is a separate juridical person and not an unincorporated part or body of the Government. Further, Government Entities automatically qualify for an exemption from Corporate Tax, whilst a Government Controlled Entity would need to be listed in a Cabinet Decision issued in accordance with **Article 1** in order to be exempt from Corporate Tax.

The exemption under **Clause 1(b)** recognises that whilst a Government Controlled Entity is legally distinct from the Government, it may undertake activities that are the same or similar to those of the Government Entity owning it, or that can otherwise be considered part of the remit of the relevant Government Entity. A juridical entity that carries out its mandate to fulfil a government's responsibility in accordance with the law or other instrument under which it was established will have its mandated activities assimilated to a government function rather than a taxable Business. It is internationally common to exempt such entities from taxation.

A Government Controlled Entity would typically be established by way of federal or local law, decree or resolution. In addition, a Government Controlled Entity is required to be wholly owned and controlled by one or more Government Entities. The term "ownership" refers to the full legal and beneficial ownership of the shares or other ownership interests in the Government Controlled Entity, with unrestricted entitlement to profit and liquidation proceeds and other ownership entitlements.

Ownership of a Government Controlled Entity can either be directly held by one or more Government Entities or indirectly held through one or more other Government Controlled Entities. Whilst a Government Controlled Entity would ordinarily be expected to be held directly by a Government Entity, there may be instances where this is not the case due to a past restructuring of the relevant Government Entity's activities or investments, or because of other reasons.

The earnings of the Government Controlled Entity must ultimately be credited to the account of the Government, without a private Person having a claim or entitlement over the entity's income, assets or ownership interests by virtue of ownership or a beneficial interest in the entity.

Determining whether a Government Controlled Entity is "controlled" by the Government would, among other factors, involve consideration of the composition of the entity's board of directors. The board of a Government Controlled Entity would generally be expected to comprise Government and public sector officials and other members appointed by the Government.

How the exemption from Corporate Tax under this Clause applies to Government Controlled Entities is discussed in more detail under **Article 6**.

Clause 1(c) *Persons engaged in an Extractive Business and* ***Clause 1(d)*** *Persons engaged in a Non-Extractive Natural Resource Business*

The UAE Constitution considers the Natural Resources in each Emirate to be the public property of that Emirate. Persons engaged in the extraction and exploitation of Natural Resources are often subject to some form of Emirate-level taxation. Accordingly, **Articles 4(1)(c)** and **4(1)(d)** exempt Persons engaged in the extraction of the UAE's Natural Resources and in the non-extractive aspects of the Natural Resources value chain from Corporate Tax, subject to the conditions and safeguards specified in **Articles 7** and **8** being met.

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"Natural Resources" are defined as water, oil, gas, coal, naturally formed minerals and other non-renewable, non-living natural resources that may be extracted from the State's Territory. The definition specifically excludes renewable resources such as solar energy, wind, animals, and plant materials which would not qualify a Person to benefit from a Corporate Tax exemption under this Article.

For the purposes of **Clause 1(c)**, an Extractive Business is one engaged in the activity of exploring, extracting, removing or otherwise producing and exploiting Natural Resources. This sector is also commonly referred to as exploration and production, and covers activities such as oil and gas extraction, mining, dredging and quarrying. The extraction of Natural Resources is often done by companies that are wholly or partially privately owned under long-term concessions or contracts entered into with the respective Local Government.

The definition of Non-Extractive Natural Resources Business for the purposes of Corporate Tax and **Clause 1(d)**, explained in the context of the oil and gas sector, covers activities that form part of the midstream and downstream subsectors. This would include the processing, transportation and storage of Natural Resources, as well as the marketing, distributing, and selling of Natural Resource products.

Clause 1(e) *Qualifying Public Benefit Entities*

The UAE actively promotes social responsibility, volunteering activities and community service, and is the home of many philanthropic and public benefit organisations. These organisations play an important role by taking a shared responsibility with the Government for the advancement of social and public welfare, and communal or group interests.

Organisations formed for carrying out social, cultural, religious, charitable or other public benefit activities that meet the conditions specified in **Article 9** can apply to the Ministry to be treated as a Qualifying Public Benefit Entity and be exempt from Corporate Tax. If the application is approved, the organisation will be listed in a Cabinet Decision. The exemption will be effective from the beginning of the Tax Period in which the Qualifying Public Benefit Entity is listed in the Cabinet Decision signifying that it is a Qualifying Public Benefit Entity or from any other date determined by the Minister of Finance (the "**Minister**").

Clause 1(f) *Qualifying Investment Funds*

It is internationally accepted for a tax system to provide for neutrality between direct investments and investment through collective investment funds by not subjecting the income of the investment fund to taxation. This ensures that the investor in the fund, whether domestic or foreign, is in the same or a similar tax position as if they had invested directly in the underlying assets of the fund.

The Corporate Tax Law seeks to protect the tax neutrality of UAE investment funds in two ways.

First, an investment fund that is structured as an Unincorporated Partnership will not be treated as a Taxable Person in its own right (i.e., fiscally transparent for Corporate Tax purposes) under **Article 16** with income derived by such an investment fund being treated as earned by the investors. Depending on their tax profile and residence for tax purposes, the investors may be subject to Corporate Tax on the income derived through the investment fund.

Second, **Clause 1(f)** allows investment funds that are structured as incorporated entities, such as real estate investment trusts and investment companies, to apply to the Authority for an exemption from Corporate Tax, subject to meeting the conditions specified in **Article 10**.

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The exemption from Corporate Tax under **Clause 1(f)** may also extend to UAE juridical persons wholly owned and controlled by a Qualifying Investment Fund to hold the Qualifying Investment Fund's assets or invest their funds under **Clause 1(h)**.

Clause 1(g) *Pension or social security funds*

There are various public pension and social security funds in the UAE that manage publicly mandated pensions and social security benefits for certain categories of Persons. Whilst these funds are initiated, sponsored and governed by the Federal or Local Government, they would typically not be wholly owned and controlled by a Government Entity. This is because the entitlement to receive pension or social security benefits and any surplus assets of the fund would normally rest with the beneficiaries for which the fund was established. This may prevent a public pension and social security fund from benefiting from Exempt Person status under Clause 1(b).

Given the importance and relevance of public pension and social security funds for the country and its population, **Clause 1(g)** excludes public pension and social security funds from the application of the Corporate Tax Law.

The same Exempt Person status may be available to private pension or social security funds that are subject to regulatory oversight of a competent authority in the UAE such as the DIFC Dubai Financial Services Authority, and that meet any other conditions that may be prescribed by the Minister. Such conditions may detail any operational and other requirements to ensure the exemption under **Clause (1)(g)** only benefits private employee retirement and end of service gratuity schemes.

The Corporate Tax treatment of pension or social security funds is consistent with international practice and takes into account that the beneficiaries may be taxed on the pension or social security benefits outside of the UAE, depending on their tax status and the applicable tax regime at the time of receipt.

Clause 1(h) *Juridical persons incorporated in the UAE that are wholly owned and controlled by certain Exempt Persons*

An Exempt Person may incorporate one or more wholly owned subsidiary companies to carry out part or all of its activities. For example, a Qualifying Investment Fund may establish a holding company to own certain assets, or a Government Controlled Entity may establish a subsidiary to provide administrative support services. Whilst such subsidiaries would not be considered Exempt Persons in their own right, it would not be consistent from a policy perspective to deny these juridical persons the same Corporate Tax relief provided to their owners where they are merely carrying out part or all of the same functions and activities.

Accordingly, **Clause 1(h)** allows a UAE juridical person that is wholly owned and controlled by an exempted Government Entity, Government Controlled Entity, Qualifying Investment Fund or a pension or social security fund to apply to the Authority for an exemption from Corporate Tax where its activities are limited to:

- undertaking part or whole of the activity of the Exempt Person to the extent that those activities do not relate to the taxable Business or Business Activities of that Exempt Person; and/or

- holding assets or investing funds for the benefit of the Exempt Person; and/or

- activities that are ancillary to those carried out by the Exempt Person.

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The exemption from Corporate Tax under this Clause is available to juridical persons meeting the conditions specified above that are directly or indirectly wholly owned and controlled by the Exempt Person through one or more juridical persons that have been granted Exempt Person status under this Clause.

Clause 1(i) *Any other Person as may be determined by a Cabinet Decision*

The Corporate Tax Law allows for further strategically focused exemptions to be introduced in the future through one or more Cabinet Decisions. This is to ensure that the Corporate Tax Law is sufficiently dynamic to respond to domestic and international changes and developments. Until any such decision is issued, only those Persons described above will be exempt from Corporate Tax.

Clause 2 establishes that whilst Government Entities, Government Controlled Entities, Persons engaged in an Extractive Business and Persons engaged in a Non-Extractive Natural Resource Business can have the status of a Taxable Person insofar as it relates to their taxable Business or Business Activity, they will continue to be treated as an Exempt Person for the purposes of certain relief provisions under the Corporate Tax Law.

Specifically, the ability to transfer assets and liabilities within a Qualifying Group, the ability to transfer assets and liabilities as part of a business restructuring, the ability to transfer Tax Losses, and the ability to form or join a Tax Group under **Articles 26, 27, 38** and **40** will not be available to an Exempt Person that is also engaged in a taxable Business or Business Activity.

Clause 3 specifies that Qualifying Investment Funds, pension or social security funds, and juridical persons incorporated in the UAE that are wholly owned and controlled by an Exempt Person do not automatically qualify for an exemption. Instead, these categories of entities and any other categories of Exempt Persons as may be determined at a later stage in a Cabinet Decision must make an application to the Authority to be exempt from Corporate Tax.

It is the responsibility of entities that fall within the scope of **Clause 3** to self-assess whether they meet the conditions to be exempt from Corporate Tax, and to apply to the Authority to be approved for Exempt Person status. Until approval is granted by the Authority on such application, the entity will remain subject to Corporate Tax as a Taxable Person.

The form and manner in which the application needs to be made will be prescribed by the Authority.

Clause 4 establishes that Persons making an application under **Clause 3** will be treated as an Exempt Person from the beginning of the Tax Period specified in their application to the Authority, or from any other date as determined by the Authority.

The ability for the Authority to set any other date provides flexibility for the Authority to allow an exemption to become effective during a Tax Period, where appropriate, or to suggest an earlier or later effective date depending on the specific situation of the applicant.

A Person may apply for Exempt Person status to be granted for Tax Periods before the period in which the application is filed. Retrospective approval as an Exempt Person is at the discretion of the Authority and would be granted only if the Authority is satisfied that the Person met all applicable conditions during the entire period and agrees with the reason(s) why the application was not filed at an earlier point of time.

Clause 5 provides that an Exempt Person that fails to meet any of the conditions which determine their exempt status will cease to be an Exempt Person from the beginning of the Tax Period in which the relevant condition or conditions are no longer met. The reason for the exemption ceasing to apply from the beginning of the relevant period is to avoid administrative complexities associated with a change in tax status at a point in time that does not coincide with the beginning of a Tax Period.

Clause 6 allows the Minister to prescribe the conditions and instances under which a Person can continue to be exempt from Corporate Tax despite not meeting the conditions set out in the Corporate Tax Law, or to prevent a Person from losing its exempt status for the entire relevant Tax Period. This exception to the general rule under **Clause 5** recognises that there may be situations where the failure to meet the conditions is due to extenuating circumstances such as the termination or liquidation of the Person, or because the failure is of a temporary nature and is expected to be rectified within a reasonable timeframe.

Article 5: Government Entity

Government Entities are generally exempt from Corporate Tax.

It is internationally accepted that Government entities are outside the scope of corporate income tax insofar as they conduct activities that are an extension or part of the Government's sovereign and public functions. Equally, it is internationally accepted that such an exemption would not extend to commercial activities that would result in the Government entity enjoying an inequitable advantage over a private sector entity engaged in the same activities.

Article 5 gives effect to the above policy principles and sets out instances where this exemption does not apply.

Clause 1 provides a general rule that a Government Entity is exempt from the application of the Corporate Tax Law. This means that unless specifically provided otherwise in the Corporate Tax Law or any implementing decision issued thereunder, a Government Entity would not have any registration obligation under the Corporate Tax Law.

Clause 2 establishes that notwithstanding **Clause 1**, a Government Entity will be within the scope of Corporate Tax insofar as it conducts a Business or Business Activity under a trade licence or equivalent permit issued by the relevant Licensing Authority concerned with the licensing of commercial activities in the UAE. Maintaining a business licence would be seen as an indication of the conduct of a commercial activity that is not related to the core activities of the Government.

Clause 3 establishes that where a Government Entity conducts a licensed Business or Business Activity, such activity will be treated as a separate and independent Business for Corporate Tax purposes. The Government Entity must maintain financial statements for this Business, separate from its other activities.

This Clause, which should be read together with **Clauses 4** and **5**, provides that for the purposes of the computation of Taxable Income, income and expenditure should be attributed to the Business or Business Activity as if it was a distinct and separate entity from the Government Entity. The arm's length principle under **Article 34** would apply to any interactions between the taxable Business and the other Tax exempted functions and activities of the Government Entity.

Clause 4 determines that the Government Entity must calculate the Taxable Income of its Business independently for each Tax Period according to the provisions of the Corporate Tax Law. This would need to be done on the basis of separate financial statements referred to in **Clause 3**. The Government Entity will not be able to benefit from the reliefs provided under Chapter Eight of the Corporate Tax Law or use losses from its sovereign and public activities to reduce the Taxable Income of its taxable Business (under **Article 38**) or join or form a Tax Group (under **Article 40**).

Clause 5 specifies that any transactions between the taxable Business of the Government Entity and its other activities will be treated as Related Party transactions subject to the transfer pricing rules under **Article 34**.

Based on the position under **Clause 3** that the licensed Business or Business Activity is treated as a separate and independent entity, it can be involved in "dealings" with other parts of the Government Entity. **Clause 5** provides that the arm's length principle under **Article 34** would be applicable to any such dealings, and the attribution of income and related expenditure to the Business would need to be done through the performance of a functional analysis and application of prescribed transfer pricing methods.

Further details on the treatment of Related Party transactions and the application of the arm's length principle can be found in **Chapter Ten** of the Corporate Tax Law.

Clause 6 provides that a Government Entity can make an application to the Authority to have all of its Businesses or Business Activities treated as a single Taxable Person. This Clause is intended for situations where the Federal Government or a Local Government has multiple departments, authorities, agencies or other public institutions carrying on activities that are within the scope of Corporate Tax. In this case, and in accordance with Ministerial Decision No. 68 of 2023 on the Treatment of all Businesses and Business Activities Conducted by a Government Entity as a Single Taxable Person, the relevant Federal or Local Government Entity may apply to the Authority to treat the relevant taxable Businesses of the Federal Government or Local Government as a single Taxable Person. This would allow the Federal or Local Government Entity to file a single Tax Return for all its taxable Businesses.

The ability for a Federal or Local Government Entity to consolidate its taxable Businesses for Corporate Tax purposes is subject to the conditions that have been specified in Ministerial Decision No. 68 of 2023 on the Treatment of all Businesses and Business Activities Conducted by a Government Entity as a Single Taxable Person. These conditions are:

- the application should include all of the taxable Businesses and Business Activities of the Federal Government Entity or the Local Government Entity; the Businesses and Business Activities of the Federal Government Entities or the Local Government Entities should be conducted under a Licence issued by a Licensing Authority.

- the Federal Government or the Local Government will be required to nominate a Federal Government Entity or a Local Government Entity to act as a representative for the Federal Government or the Local Government, respectively. This representative will be responsible for making the application to the Authority to be treated as a single taxable person, the Corporate Tax compliance and payment obligations of all respective taxable Businesses and Business Activities; and

- in the case of the Local Government Entity, the application can only cover those Businesses and Business Activities that are conducted within the same Emirate.

Where an application has been approved by the Authority to consolidate the taxable Businesses and Business Activities of a Federal Government Entity or a Local Government Entity, any new Business or Business Activity conducted by the same Federal or Local Government Entity that meets the required conditions will be treated as being a part of the same Taxable Person.

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Article 6: Government Controlled Entity

The Corporate Tax Law makes a distinction between a “Government Entity” and a “Government Controlled Entity” as explained under **Article 4**. Whilst both types of entities can benefit from an exemption from Corporate Tax, Government Controlled Entities would need to be listed in a Cabinet Decision together with their “Mandated Activities” to benefit from Exempt Person status.

Where a Government Controlled Entity is listed in the relevant Cabinet Decision, this Article exempts that Government Controlled Entity from the application of the Corporate Tax Law whilst establishing the limited circumstances in which a Government Controlled Entity will be subject to Corporate Tax to prevent such entity from enjoying an inequitable advantage over the private sector.

Government Controlled Entities are exempt from Corporate Tax in broadly the same circumstances that Government Entities are exempt. As such, this Article and the provisions contained therein broadly mirror the rules regarding Government Entities as set out in **Article 5**.

Clause 1 provides the basic rule that a Government Controlled Entity is exempt from Corporate Tax and the application of the Corporate Tax Law. This means that unless specifically provided otherwise in any other Article of the Corporate Tax Law or any implementing decision issued thereunder, a Government Controlled Entity would not have any registration obligations under the Corporate Tax Law.

Clause 2 establishes that, notwithstanding **Clause 1**, a Government Controlled Entity will be subject to Corporate Tax insofar as it conducts a Business or Business Activity which is not its Mandated Activity.

A Mandated Activity is an activity or activities conducted by a Government Controlled Entity in accordance with the legal instrument establishing or regulating the entity, and that is listed in the Cabinet Decision issued in accordance with **Article 1**.

Not all activities listed in the legal instrument establishing or regulating the Government Controlled Entity would automatically be considered a Mandated Activity. For an activity to be considered a “Mandated Activity”, it must be an extension of the Government Entity’s primary function and duties and the income derived from the Mandated Activity must ultimately be credited to its own account or to the account of any other Government Entity.

A Mandated Activity may include activities performed by the Government Controlled Entity that serve no independent function and are necessary for, the performance of the primary activity or activities of the Government Entity.

The Mandated Activity does not in itself prohibit the Government Controlled Entity from engaging in a commercial activity and generating profits. However, unless such activity is recognised as a Mandated Activity in the Cabinet Decision exempting the Government Controlled Entity, the entity would face the same taxation on the activity as potential competitors in the private sector, irrespective of its government ownership and the source of its funds.

Clause 3 establishes that a Business or Business Activity conducted by a Government Controlled Entity that is not its Mandated Activity listed in the Cabinet Decision, will be treated as a separate and independent Business for Corporate Tax purposes. The Government Controlled Entity must maintain financial statements for the Business, separate from its other activities.

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This Clause, which should be read together with **Clauses 4** and **5**, provides that for the purposes of the computation of Taxable Income, income and expenditure should be attributed to the Business or Business Activity as if it was a distinct and separate entity from the Government Controlled Entity. The arm's length principle under **Article 34** would apply to any interactions between the taxable Business and the other Mandated Activities of the Government Controlled Entity.

Where a Government Controlled Entity has more than one Business or Business Activity that is not its Mandated Activity, all relevant Business Activities will be treated as a single Business for the purposes of this Article.

Clause 4 determines that the Government Controlled Entity must calculate the Taxable Income of its Business or Business Activity that is not its Mandated Activity independently for each Tax Period. This would need to be done on the basis of separate financial statements referred to in **Clause 3.** The Government Controlled Entity will not be able to benefit from the reliefs provided under Chapter Eight of the Corporate Tax Law or use losses from its mandated activity to reduce the Taxable Income of its taxable Business (under **Article 38**) or join or form a Tax Group (under **Article 40**).

Clause 5 provides that any transaction undertaken between the Business of the Government Controlled Entity and its Mandated Activities will be treated as Related Party transactions subject to the transfer pricing rules under **Article 34.**

Based on the position under **Clause 3**, the arm's length principle under **Article 34** would be applicable to any dealings between the Business and other parts of the Government Controlled Entity, and the attribution of income and related expenditure to the Business would need to be done through the performance of a functional analysis and application of prescribed transfer pricing methods.

Further details on the treatment of Related Party transactions and the application of the arm's length principle can be found in **Chapter Ten** of the Corporate Tax Law.

Article 7: Extractive Business

To prevent double taxation, and to respect the sovereignty of Emirates over their Natural Resources, this Article sets out the conditions for satisfying the definition of being an Extractive Business for the purposes of Exempt Person status under **Article 4(1)(c)** and the circumstances that would lead to any other Business of an otherwise exempt Extractive Business being subject to Corporate Tax.

Any share of income from the extraction and exploitation of Natural Resources earned directly by a Government Entity, or royalties and other fiscal levies raised by a Government Entity from the extraction or production of Natural Resources by private sector companies will be outside the scope of the Corporate Tax under **Article 4(1)(a)**.

Clause 1 specifies that a Person shall be exempt from Corporate Tax in respect of activities related to its Extractive Business where all of the following conditions are met.

- The Person either directly or indirectly holds or has an interest in a right, concession or Licence issued by a Local Government to undertake its Extractive Business.

  Whilst certain aspects of the Natural Resources sector are federally regulated, each Emirate is responsible for regulating the exploration and production of its oil and gas reserves and other Natural Resources. Rights to the exploration and production of Natural Resources are typically awarded to companies that

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are wholly privately or government owned or to joint ventures between a Local Government and private sector enterprises by way of a licence or concession agreement entered into with the relevant Government Entity.

Irrespective of the nature and proportion of government ownership, a necessary condition for a Person to qualify for Exempt Person status under **Article 4(1)(c)** is that they are the direct or indirect holder of, or beneficiary under, a Natural Resources licence or concession agreement. The reference to "directly or indirectly" in this Clause recognises that the procedures and contractual structures for obtaining Natural Resources exploration and production rights vary between the Emirates and on a case-by-case basis, and that a Person may be or become a holder or beneficiary under a Natural Resources licence or concession agreement by virtue of assignment, participation or sub-participation.

- The Person is effectively subject to tax in the Emirate in which they operate as set out in **Article 7(6)**.

  Local Governments derive income from Natural Resources through their participation in companies or partnerships with other investors and through taxation. The taxation of Natural Resource activities is regulated by the individual Emirates and is typically agreed on a case-by-case basis under the relevant concession agreement or similar arrangement with the Local Government.

  In addition to being the direct or indirect holder of or beneficiary under a Natural Resources licence, concession agreement or similar arrangement, a Person shall be exempt from the application of the Corporate Tax Law only where it is effectively subject to Emirate-level taxation. Effectively subject to tax means that the Person has to actually pay some level of tax to the relevant Local Government. This could be an income tax levied under the relevant Emirate-level tax decree, a royalty on production or sales or other fiscal measure provided for in the agreement entered into with the relevant Government Entity, or other form of tax, charge or levy issued by the respective Local Government.

- A Person seeking to claim an exemption from Corporate Tax under **Article 4(1)(c)** must notify the Ministry of its Exempt Person status and its compliance with the conditions set forth in **Article 7**. The form and manner to make this notification will be agreed between the Ministry and the Government of the relevant Emirates to ensure alignment around the requirements and the process to validate the eligibility of the exempt status in accordance with the provisions of **Article 7**.

Clause 2 establishes that where a Person satisfies the conditions of **Clause 1** and derives income from both an Extractive Business and any other Business or Business Activity that is subject to Corporate Tax, the Person will be considered to have a dual status for Corporate Tax purposes and will be within the scope of Corporate Tax insofar as the income is derived from its other Business.

The income from the Extractive Business will remain outside the scope of the Corporate Tax Law and will be taxed in accordance with the applicable legislation of the relevant Emirate, and the income from the other Business will be subject to Corporate Tax under the Corporate Tax Law, unless the other Business is an exempted Non-Extractive Natural Resource Business (see **Article 8**).

Clause 3 provides that for the purposes of **Clause 2,** a Person will not be considered to have earned income from any other Business where such other Business is ancillary or incidental to the Person's Extractive Business.

All facts and circumstances must be considered in determining whether any other Business is ancillary or incidental to the Person's Extractive Business, but relevant indicators may include the relative size and value of the other Business and the duration and frequency of the activity. Examples of earning income from an ancillary or incidental Business would include earning rental income from letting out vacant parts of a property or equipment used in the Person's Extractive Business or earning interest from placing excess funds at the disposal of a Related Party.

For any other Business to be considered ancillary or incidental to the Person's Extractive Business, the aggregate Revenue from such other Businesses cannot exceed 5% of the Person's total Revenue for the Tax Period in question.

Clause 4 sets out how a Person with income from both an Extractive Business and any other Business is treated under the Corporate Tax Law.

Clause 4(a) specifies that the other Business will be treated as a separate and independent Business for Corporate Tax purposes for which separate financial statements will need to be maintained. This Clause, which should be read together with **Clause 5**, provides that for the purposes of the computation of Taxable Income from the other Business, income and expenditure should be attributed to the other Business as if it was a distinct and separate entity from the Person's Extractive Business, unless **Clause 4(b)** provides otherwise.

Where the Person has more than one other Business that is not the Person's Extractive Business, all other Business Activities will be treated as a single Business for the purposes of this Article.

The arm's length principle under **Article 34** would apply to any interactions between the Extractive Business and the other Business of the Person.

Clause 4(b) addresses how any common expenditure between the Extractive Business and the other Business of the same Person should be apportioned.

Persons engaged in both an Extractive Business and any other Business are required to separate the income, expenses, and losses attributable to their Extractive Business and their other Business, with the Taxable Income from the other Business determined in accordance with the provisions of the Corporate Tax Law.

Common expenses that cannot be attributed individually should be apportioned according to the Revenue of each Business in a Tax Period, unless the expenditure is taken into account in a different proportion for the purposes of calculating the tax payable on the income of the Person's Extractive Business under the applicable legislation of the respective Emirate. In this case, the apportionment shall follow this latter proportion. Any such different apportionment is not intended to allow for an attribution of common expenditure to the other Business in excess of the relative proportion of Revenue from the other Business.

Clause 4(c) confirms that for the other Business, the Person must perform a separate calculation of Taxable Income and Corporate Tax payable for each Tax Period in accordance with the provisions of the Corporate Tax Law. The Person will not be able to benefit from the reliefs provided under **Chapter Eight** of the Corporate Tax Law or use losses from the Extractive Business to reduce the Taxable Income of its other Business (under **Article 38**) or join or form a Tax Group (under **Article 40**).

Clause 5 provides that transactions undertaken between the Extractive Business and the other Business of the same Person are treated as Related Party transactions. Based on the position under **Clause 4(a)**, the arm's length principle under **Article 34** will be applicable to any transactions or dealings between the Person's Extractive Business and any other Business.

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Chapter Ten of the Corporate Tax Law provides further detail on the treatment of Related Party transactions.

Clause 6 clarifies what constitutes a "tax" for the purposes of satisfying the condition of being effectively subject to Emirate-level taxation under **Clause 1**.

The fiscal regime applicable to Natural Resource exploration and production may involve income taxes levied under Emirate-level tax decrees, royalties on production, levies on revenues and other fiscal measures. Acknowledging that the taxation of an Extractive Business at Emirate level can take many different forms, this concept is meant to be interpreted widely, and includes all forms of tax, charge or levy payable on income, profits or revenues to the Local Government.

Clause 7 confirms that the scope of the Extractive Business exemption for Corporate Tax purposes does not extend to Persons who do not, in their own right, meet the conditions to be exempt under **Article 7** or **8** of the Corporate Tax Law.

Accordingly, where a Person that meets the conditions of **Article 7(1)** engages another Person to undertake any part of the exploration and production activities, such other Person will not be able to avail the Extractive Business exemption, and the income derived by this other Person will be subject to Corporate Tax in accordance with the provisions of the Corporate Tax Law.

Article 8: Non-Extractive Natural Resource Business

Similar to the exploration and production of Natural Resources, whilst certain non-extractive aspects of the Natural Resources sector are regulated at the federal level (e.g., the transportation and storage of crude oil), the Emirates are also responsible for regulating activities related to their Natural Resources beyond exploration and production.

In particular, each Emirate regulates access to the relevant infrastructure and facilities for the processing, transportation and storage of Natural Resources and may give access to such infrastructure or grant the right to market, distribute, and sell the Emirate's Natural Resources to companies that are wholly or partially privately or government owned pursuant to concessions or commercial agreements. These agreements may provide that the income from the Non-Extractive Natural Resource Business is subject to taxation at the Emirate level.

Further, a Person wishing to engage in, among other things, the distribution, processing, transport, sale, or storage of Natural Resources must first obtain an authorisation to do so from the Licensing Authority of the applicable Emirate. Such authorisation would generally specify the Natural Resource products that the licensee is permitted to manage or sell.

To prevent double taxation, and to respect the sovereignty of Emirates over their Natural Resources, this Article sets out the activities that satisfy the definition of a Non-Extractive Natural Resource Business for the purposes of being an Exempt Person under the provisions of **Article 4(1)(d)**, as well as the circumstances that would lead to other Business Activities of an otherwise Non-Extractive Natural Resource Business being subject to Corporate Tax under the Corporate Tax Law.

The provisions of this Article extend an exemption similar to the one available under **Article 7** to the separation, treatment, refinement, processing, storage, transportation, marketing, and distribution of Natural Resources. To the extent tax is payable to the Local Government in respect of such activities, and provided the relevant other

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conditions are met, the Person engaged in a Non-Extractive Natural Resource Business would be exempt from the application of the Corporate Tax Law.

The definition of Natural Resource as discussed above in relation to **Article 7** of the Corporate Tax Law also applies for the purposes of this Article.

Clause 1 specifies that a Person will be exempt in respect of activities related to a Non-Extractive Natural Resource Business where all of the following conditions are met:

- the Person directly or indirectly holds or has an interest in a right, concession or Licence issued by a Local Government to undertake a Non-Extractive Natural Resource Business;

- the Person's income from its Non-Extractive Natural Resource Business is solely derived from Persons undertaking a Business or Business Activity;

  The exemption from Corporate Tax under **Article 4(1)(d)** is limited to Persons that engage solely in transactions with other businesses, as opposed to with the end customer or consumer. In other words, if the Person derives income from anyone who is not within the scope of the Corporate Tax Law (e.g. natural persons who do not undertake a Business or Business Activity) or from any other Person that is not a business or other organised entity, the exemption from Corporate Tax under **Article 4(1)(d)** will not be available.

- the Person is effectively subject to tax in the Emirate in which they operate as set out in **Article 8(6)**; and

  Similar to the requirement under **Article 7**, "effectively subject to tax" means that the Person has to actually pay some level of tax to the relevant Local Government. This could be an income tax levied under the relevant Emirate-level tax decree, a royalty on production or sales or other fiscal measure provided for in the agreement entered into with the relevant Government Entity, or other form of tax, charge or levy issued by the respective Local Government.

- the Person has notified the Ministry in the form and manner as agreed between the Ministry and the Government of the relevant Emirates to ensure alignment around the requirements and the process to validate the eligibility of the exempt status in accordance with the provisions of **Article 8**.

Clause 2 establishes that where a Person satisfies **Clause 1** and derives income from both a Non-Extractive Natural Resource Business and any other Business that is subject to Corporate Tax, the Person will be considered to have a dual status for Corporate Tax purposes and be within the scope of Corporate Tax insofar of the income derived from its other Business.

The income from the Non-Extractive Natural Resource Business will remain outside the scope of the Corporate Tax Law and be taxed in and in accordance with the applicable legislation of the relevant Emirate, and the income from the other Business will be subject to Corporate Tax under the Corporate Tax Law, unless the other Business is an exempted Extractive Business (see **Article 7**).

Clause 3 provides that for the purposes of **Clause 2,** a Person will not be considered to have earned income from any other Business where such other Business is ancillary or incidental to the Person's Non-Extractive Natural Resource Business.

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All facts and circumstances must be considered in determining whether any other Business is ancillary or incidental to the Person's Non-Extractive Natural Resource Business, but relevant indicators may include the relative size and value of the other Business and the duration and frequency of the activity. Examples of earning income from an ancillary or incidental Business would include earning rental income from letting out vacant parts of a property or equipment used in the Person's Non-Extractive Natural Resource Business or earning interest from placing excess funds at the disposal of a Related Party.

For any other Business to be considered ancillary or incidental to the Person's Non-Extractive Natural Resource Business, the aggregate Revenue from such other Business cannot exceed 5% of the Person's total Revenue for the relevant Tax Period.

Clause 4 sets out how a Person with income from both a Non-Extractive Natural Resource Business and any other Business is treated under the Corporate Tax Law.

Clause 4(a) specifies that the other Business will be treated as a separate and independent Business for Corporate Tax purposes for which separate financial statements will need to be maintained. This Clause, which should be read together with **Clause 5**, provides that for the purposes of the computation of Taxable Income from the other Business, income and expenditure should be attributed to the other Business as if it was a distinct and separate entity from the Person's Non-Extractive Natural Resource Business, unless **Clause 4(b)** provides otherwise.

Where the Person has more than one other Business that is not the Person's Non-Extractive Natural Resource Business, all other Business Activities will be treated as a single Business for the purposes of this Article.

Clause 4(b) addresses how any common expenditure between the Non-Extractive Natural Resource Business and the other Business of the same Person should be apportioned.

Persons engaged in both a Non-Extractive Natural Resource Business and any other Business are required to separate the income, expenses, and losses attributable to their Non-Extractive Natural Resource Business and their other Business, with the Taxable Income from the other Business determined in accordance with the provisions of the Corporate Tax Law.

Common expenses that cannot be attributed individually should be apportioned according to the Revenue of each Business in a Tax Period, unless the expenditure is taken into account in a different proportion for the purposes of calculating the tax payable on the income of the Person's Non-Extractive Natural Resource Business under the applicable legislation of the respective Emirate. In this case, the apportionment shall follow this latter proportion. Any such different apportionment is not intended to allow for an attribution of common expenditure to the other Business in excess of the relative proportion of Revenue from the other Business.

Clause 4(c) confirms that for the other Business, the Person must perform a separate calculation of Taxable Income and Corporate Tax payable for each Tax Period in accordance with the provisions of the Corporate Tax Law. The Person will not be able to benefit from the reliefs provided under **Chapter Eight** of the Corporate Tax Law, use losses from the Non-Extractive Natural Resource Business to reduce the Taxable Income of the taxable Business (under **Article 38**), or join or form a Tax Group (under **Article 40**).

Clause 5 provides that transactions undertaken between the Non-Extractive Natural Resource Business and the other Business of the same Person are treated as Related Party transactions. Based on the position under **Clause 4(a)**, the arm's length principle under **Article 34** would apply to any interactions between the Non-Extractive Natural Resource Business and the other Business of the Person.

Chapter Ten of the Corporate Tax Law provides further detail on the treatment of Related Party transactions.

Clause 6 clarifies what constitutes a “tax” for the purposes of satisfying the condition of being effectively subject to Emirate-level taxation under **Clause 1**.

Acknowledging that the taxation of a Non-Extractive Natural Resource Business at an Emirate level can take many different forms, this concept is meant to be interpreted widely, and include all forms of tax, charge or levy payable on income, profits or revenues to the Local Government.

Clause 7 confirms that the scope of the exemption from Corporate Tax for Non-Extractive Natural Resource Business does not extend to Persons who do not, in their own right, meet the conditions to be exempt under **Article 7** or this Article of the Corporate Tax Law.

Accordingly, where a Person that meets the conditions of **Clause 1** engages another Person to undertake any part of its Non-Extractive Natural Resource Business, such other Person will not be able to avail of the exemption under **Article 4(1)(d)**, and the income derived by this other Person will be subject to Corporate Tax in accordance with the provisions of the Corporate Tax Law.

Article 9: Qualifying Public Benefit Entity

The term “public benefit entity” refers to an organisation formed by private individuals or government or non-governmental bodies for carrying out charitable, social, cultural, religious, or other public benefit activities without the motive of making profit for distribution to private Persons.

The exemption from Corporate Tax for Qualifying Public Benefit Entities recognises the important role these entities play by taking a shared responsibility with the Government for the promotion of social or public welfare, or communal or group interests. Internationally, charities and other public benefit organisations are also generally exempt from taxation.

To provide certainty, and in line with the treatment adopted for VAT, public benefit entities that meet the relevant conditions under this Article will need to be listed in a Cabinet Decision to be exempt from Corporate Tax.

In this regard, the Cabinet has issued Cabinet Decision No. 37 of 2023 Regarding the Qualifying Public Benefit Entities for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses, which specifies the Qualifying Public Benefit Entities for Corporate Tax purposes. This Cabinet Decision also provides that the list of Qualifying Public Benefit Entities will be updated from time to time to add or remove entities from the list. Government Entities must notify the Ministry of any changes to the list of Qualifying Public Benefit Entities by way of notification made within (20) twenty business days from the occurrence of any change.

Clause 1 introduces the conditions which relate to the entity’s purpose. Specifically, this Clause determines that a Qualifying Public Benefit Entity must be established and operated for one of two purposes as discussed below.

Clause 1(a)(1) sets out that the entity must be established and operated exclusively for religious, charitable, scientific, artistic, cultural, athletic, educational, healthcare, environmental, humanitarian, animal protection or other similar purposes.

This Clause presents a non-exhaustive list of worthy purpose categories that may entitle a public benefit entity to an exemption from Corporate Tax. The categories listed are umbrella terms that would cover any related public benefit activities. The term “humanitarian”, for example, may include distributing food to those in need or providing shelter or natural disaster relief, and “cultural” may include museums, heritage organisations or entities supporting the advancement of arts and heritage by providing grants. Additionally, the term “athletic” refers to sporting and other activities involving physical exertion.

For an activity to be for public benefit, the benefit must be for, or be widely accessible to, the general public or where the benefit is restricted to a sufficiently large section of the public, such restriction must be based on specific characteristics related to the worthy purpose of the entity. Where the entity’s purpose would only be for the private benefit of a few individuals as opposed to the whole or a sufficiently large section of the public, the entity may not meet the requirements to qualify as an exempted Qualifying Public Benefit Entity.

Clause 1(a)(2) provides that the entity must be established as a professional entity, chamber of commerce, or similar and operated exclusively for the promotion of social or public welfare.

This Clause provides a non-exhaustive list of other types of organisations such as social clubs, chambers of commerce, consumer rights organisations and professional associations whose purpose and not-for-profit activities are aimed at enhancing or promoting economic, social or cultural development and other issues of the interest or well-being of the general public or sufficiently large groups of specific individuals or organisations.

Whether an entity is deemed to be established and operated exclusively for any of the purposes set out in **Clause 1(a)(1)** or **Clause 1(a)(2)** will be a matter of fact and be determined by the circumstances of such an entity.

Clause 1(b) establishes that, in order to be exempt from Corporate Tax, the entity must not carry on any Business or Business Activity, unless such activity is directly related to or aimed at fulfilling the entity’s charitable or public benefit purpose.

Qualifying Public Benefit Entities generally derive their income from public or private subscriptions and donations and are not supposed to conduct a Business or Business Activity aimed at making a profit. This is to prevent a Qualifying Public Benefit Entity from competing with other non-exempt entities that engage in a similar commercial activity.

The requirement under **Clause 1(b)** does not in itself limit a Qualifying Public Benefit Entity from engaging in any form of commercial activity or from making a surplus, as long as the activity is directly related or aimed at fulfilling the entity’s worthy purpose, and the surplus is not distributed as a dividend or other benefit beyond the sole or principal object for which the Public Benefit Entity was established.

A Business or Business Activity can be considered directly related or aimed at fulfilling the entity’s charitable or public benefit purpose where the commercial activity is either necessary or a means of achieving the entity’s purpose. Examples of commercial activities that would not constitute an unrelated Business or Business Activity may include organising events to raise funds, the sale of admission tickets by a museum, or the sale of refreshments in the canteen of a sports club.

Clause 1(c) provides that the entity’s income and assets must be used in support of the cause which the entity was established to support, or to meet any reasonable and necessary expenditure.

This Clause provides that the income and assets of the Qualifying Public Benefit Entity must be used solely for the purposes of carrying on the stated public benefit activities. The Qualifying Public Benefit Entity may conduct these public benefits activities itself or make its assets and resources available to enable another Person to carry on part or all of these activities. Further, a Qualifying Public Benefit Entity can make and retain a surplus on which it generates income, as long as such surplus and any income earned thereon is or will be deployed towards the entity's worthy purpose.

The requirement under this Clause does not prohibit a Qualifying Public Benefit Entity from paying reasonable and necessary expenditure. Reasonable and necessary expenditure may include rent, utilities, insurance premiums and remuneration paid to employees and officers of the Qualifying Public Benefit Entity for services actually rendered, provided that such remuneration is not excessive taking into account the particular service rendered and the amount generally charged for such a service. Whether an expenditure is reasonable and necessary is a matter of fact and should be determined with regards to the specific circumstances of the entity, and its purpose and operating model.

Clause 1(d) establishes that no part of the entity's income or assets can be payable to, or otherwise available for, the personal benefit of any shareholder, member, trustee, founder or settlor that is not itself a Qualifying Public Benefit Entity, a Government Entity or a Government Controlled Entity.

Similar to **Clause 1(c)**, the intention of this provision is to ensure that the income and assets of the Qualifying Public Benefit Entity are used solely in support of the charitable or public benefit cause which the entity was set up to support, rather than to directly or indirectly promote the economic self-interest of any fiduciary or employee or for any other personal pecuniary gains. As discussed under **Clause 1(c)**, this provision does not preclude the payment of salaries or reimbursement of expenditure to Persons involved in the establishment or operation of the entity, provided that such expenditure is reasonable and necessary.

The requirement under this Clause applies throughout the existence of the Qualifying Public Benefit Entity up to and including the date on which the entity ceases to exist. This means that upon dissolution of the Qualifying Public Benefit Entity, the entity must transfer any remaining funds and income to one or more of the following entities:

- Another Qualifying Public Benefit Entity
- A Government Entity
- A Government Controlled Entity

An exception to this general requirement may apply, for example, where assets were made available to the Qualifying Public Benefit Entity by a Person under a right of use, or where assets were transferred to the Qualifying Public Benefit Entity for use in its stated purpose on the condition that they would revert back to the original owner once the assets cease to be used for that purpose.

Clause 1(e) provides that in order to be exempt from Corporate Tax, the entity must also meet any further conditions that the Cabinet may prescribe. Any such conditions would generally apply prospectively from the date of issuance of the relevant Cabinet Decision or any other date mentioned in the decision.

Clause 2 provides that the exemption from Corporate Tax established by **Clause 1** is effective from the beginning of the Tax Period in which the Qualifying Public Benefit Entity is listed in a Cabinet Decision. Alternatively, the exemption may become effective at any other date determined by the Minister.

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The approval of an organisation as a Qualifying Public Benefit Entity would generally be effective from the beginning of the Tax Period in which the Qualifying Public Benefit Entity is included in the relevant Cabinet Decision. However, **Clause 2** provides flexibility for the Minister to allow, for example, an earlier start date where the Minister is satisfied that the entity complied with the requirements of this Article in prior Tax Periods.

Clause 3 establishes that, in order to monitor the ongoing compliance of a Qualifying Public Benefit Entity with the conditions set out in **Clause 1**, the Authority may request any relevant information records from the entity. Cabinet Decision No. 37 of 2023 also requires a Qualifying Public Benefit Entity to provide any information to the Ministry in order to verify that the entity continues to meet the relevant conditions to be exempt from Corporate Tax.

The information requested must be provided within the timeline specified by the Authority and may include, for example, books and records to demonstrate that the resources of the Qualifying Public Benefit Entity were used only for its stated public benefit purpose, copies of agreements entered into by the Qualifying Public Benefit Entity, and details of its employees, officers and fiduciaries.

Article 10: Qualifying Investment Fund

This Article establishes the qualifying conditions under which an investment fund will be exempt from Corporate Tax.

Whilst there are various structures that managed investment schemes and collective investment vehicles may take, the term “investment fund” refers to an arrangement or juridical person whose primary purpose and activity is to pool investor funds and invest such funds in accordance with a defined investment policy. This could include, for example, real estate investment trusts, mutual funds, private equity funds, or other alternative investment funds.

The type of vehicle used for the investment fund is generally driven by legal and regulatory considerations and may be influenced by the tax profile and other requirements of the sponsor and investors. However, regardless of the type of investment fund, the Corporate Tax Law seeks to ensure the tax neutrality of investment funds so that investors, whether domestic or foreign, are in the same or a similar tax position as if they had invested directly in the underlying assets of the fund. It is internationally common for a tax system to provide for neutrality between direct investments and investment through collective investment vehicles by not subjecting the income of such entities to taxation.

Where an investment fund is not structured as an Unincorporated Partnership that is treated as fiscally transparent for Corporate Tax purposes under **Article 16**, the investment fund can apply to the Authority for an exemption from Corporate Tax under **Article 4(1)(f)**, subject to meeting the conditions specified under **Article 10(1)**. The same would apply to an investment fund structured as a limited partnership, unit trust or other form of fiscally transparent arrangement that has applied to the Authority to be treated as a Taxable Person under **Article 16(8)**.

Under **Article 4(1)(h)**, the exemption from Corporate Tax for Qualifying Investment Funds under **Article 4(1)(f)** may also extend to wholly owned and controlled UAE entities that are used by a Qualifying Investment Fund to hold their assets or invest their funds.

The exemption under **Article 10** does not extend to Persons providing management services to a Qualifying Investment Fund. Such Persons will be subject to Corporate Tax as ordinary Taxable Persons, unless they are exempt or outside the scope of Corporate Tax under other provisions of the Corporate Tax Law or any implementing decision issued thereunder.

Clause 1 sets out the conditions that an investment fund must meet in order to be treated as a Qualifying Investment Fund that is exempt from Corporate Tax.

Clause 1(a) provides that the investment fund or the investment fund's manager must be subject to the regulatory oversight of a competent authority in the UAE, or a recognised foreign competent authority.

Depending on the legal form of the investment fund and the applicable regulatory regime, either the investment fund or the Person who manages the fund would be undertaking the regulated activity of fund or investment management. Where these activities are performed in the UAE, the investment fund or the investment fund manager must be subject to the regulatory oversight of the relevant mainland or Free Zone authority concerned with the licensing and supervision of the operation of investment funds or the performance of fund or investment management activities, as applicable. Examples of such competent authorities in the UAE include the Securities and Commodities Authority, the ADGM Financial Services Regulatory Authority, and the DIFC Dubai Financial Services Authority.

A UAE-domiciled investment fund may be managed by a Person who is based outside the UAE. Whilst, in practice, it may be difficult for a non-resident fund manager of a UAE investment fund to carry on all its activities without requiring a licence or registration in the UAE, the exemption from Corporate Tax under **Article 4(1)(f)** would be available where the foreign fund manager is duly regulated in its place of residence or business by a foreign authority that is recognised as competent to regulate fund management activities.

Clause 1(b) provides that interests in the investment fund must be traded on a Recognised Stock Exchange or must be marketed and made available sufficiently widely to investors.

A Recognised Stock Exchange includes a stock exchange established in the UAE that is licensed and regulated by the relevant competent authority, or a foreign stock exchange that is licensed and regulated by the relevant foreign competent authority and has equal standing to that of a UAE stock exchange as described above.

Whether a fund is marketed and made available sufficiently widely to investors would need to be determined taking into account the type of investment fund and the relevant requirements under the applicable regulatory regime. Where the applicable regulatory regime does not impose specific listing or investor requirements, the investment fund must identify and specify a target category or categories of investors, and the fund must be marketed and made available to investors within that category or those categories. The method of marketing and making interests in the fund available must be appropriate in light of the respective category or categories of targeted investors.

The application of **Clause 1(b)** shall take into account that during the period of formation and initial funding rounds and during the period of winding down the investment fund the number of investors in the fund may be limited, as well as that certain investors (such as pension funds) ultimately represent many investors. Further, in the case of a master fund which has feeder funds, the test under **Clause 1(b)** should take into account the ownership of (and investors in) each feeder fund to determine whether the master fund is marketed and made available sufficiently widely to investors.

Clause 1(c) confirms that the main or principal purpose of the investment fund should not be the avoidance of Corporate Tax.

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The exemption from Corporate Tax under **Article 4(1)(f)** is meant for investment funds as opposed to collective investment arrangements entered into with the main or principal purpose of avoiding the payment of Corporate Tax. The determination of whether an investment fund is established and operated for *bona fide* reasons and not primarily for Corporate Tax avoidance purposes should take into consideration all relevant facts and circumstances. That the exemption from Corporate Tax and other forms of relief provided by the Corporate Tax Law were factors that influenced the structure and location of the investment fund, in itself, will not impact the availability of the exemption under **Article 4(1)(f)**.

Clause 1(d) provides that the investment fund must also meet any other conditions which may be prescribed by a Cabinet Decision to be exempt from Corporate Tax.

Whilst the conditions of **Clause 1(a)** to **1(c)** are intended to provide certainty to investment funds with regards to their Corporate Tax treatment, **Clause 1(d)** recognises that there may be other situations in which the exemption under **Article 4(1)(f)** should (or should not) apply.

Clause 2 requires a Qualifying Investment Fund to provide the Authority with information relevant for the purposes of confirming that it has continued to meet the requirements to be exempt from Corporate Tax. Such information may include, for example, financial records, regulatory filings and information on the manager and investors of the fund.

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Chapter Four: Taxable Person and Corporate Tax Base

Article 11: Taxable Person

This Article determines which Persons are subject to Corporate Tax.

Taxable Persons cover a variety of Persons, but there are different rules for juridical persons and natural persons determining who is within scope of the Corporate Tax Law and on which basis they are subject to Corporate Tax.

In summary, this Article provides that Corporate Tax applies to:

- UAE juridical persons (including Free Zone Persons) such as private or public joint stock companies or limited liability companies that are incorporated or otherwise established or recognised under the applicable legislation in the UAE;

- non-UAE juridical persons that are incorporated outside the UAE but effectively managed and controlled in the UAE;

- natural persons (i.e. individuals) who conduct a Business or Business Activity in the UAE as per a Cabinet Decision to be issued in accordance with **Article 11(6)**; and

- Non-Resident Persons that have a Permanent Establishment in the UAE or that earn UAE sourced income that is within the scope of Corporate Tax.

Clause 1 provides for Taxable Persons to be subject to Corporate Tax at the rates set out in **Article 3** of the Corporate Tax Law.

Clause 2 establishes that there are two categories of Taxable Persons for the purpose of the Corporate Tax Law. These are a Resident Person and a Non-Resident Person, which are each defined within this Article.

Whether a Person is a Resident Person for Corporate Tax purposes is determined by the specific factors that are set out in this Article, and not by any other indicia or factors. This determination is principally applicable only to the application of the Corporate Tax Law, as distinct from ordinary tax residency and legal residency.

If a Person does not satisfy the conditions for being either a Resident or a Non-Resident Person as provided in the Corporate Tax Law, then they will not be a Taxable Person and therefore not be within the scope of Corporate Tax.

International agreements such as agreements for the avoidance of double taxation may specify rules for determining the tax residence of a juridical or natural person, which may differ from those set out in this Article. Such rules and any restrictions that may result from their application under **Article 66** need to be considered where a Person that is subject to Corporate Tax as a Resident Person for Corporate Tax purposes is (also) a resident for tax purposes in another jurisdiction.

Clause 3 sets out the circumstances in which Persons are considered to be Resident Persons for the purposes of Corporate Tax.

Clause 3(a) provides that where a juridical person is incorporated, or otherwise established or recognised under the laws of the UAE, it will automatically be considered a Resident Person for purposes of the Corporate Tax

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Law. This covers juridical persons incorporated in the UAE under either mainland legislation or applicable free zone regulations, and would also include juridical persons created by a specific statute (e.g. by a decree).

Unless specifically exempted from its application, resident juridical persons are within the scope of the Corporate Tax Law, irrespective of the type of and level of activity performed. This is because for the application of the Corporate Tax Law to companies and other juridical persons, all activities conducted and assets used or held would generally be considered activities conducted, and assets used or held, for the purposes of taxable activities.

Clause 3(b) establishes that juridical persons that are incorporated, or otherwise established or recognised under the laws of a foreign jurisdiction, but that are effectively managed and controlled in the UAE, will be treated as Resident Persons for Corporate Tax purposes. Additionally, whilst the concepts of residency under the Corporate Tax Law and under Cabinet Decision No. 85 of 2022 differ, a juridical person that is effectively managed and controlled in the UAE will also be a “Tax Resident” for the purposes of Article 3(2) of Cabinet Decision No. 85 of 2022.

Businesses are free to choose where to incorporate their legal entities, and tax considerations may not necessarily predominate in choosing where to do so. However, determining residence for Corporate Tax purposes solely on the basis of place of incorporation may allow for manipulation in terms of where profits get taxed without having regard to where the mind and management of the juridical person and the activities it undertakes to generate the income reside.

Accordingly, residence for Corporate Tax purposes takes into account where the juridical person is effectively managed and controlled, in line with tax regimes in other countries that apply similar concepts for this same purpose.

Whether a juridical person is effectively managed and controlled in the UAE needs to be determined with regard to the specific circumstances of the juridical entity and its activities, with a key factor being where key management and commercial decisions concerned with broader strategic and policy matters necessary for the conduct of the company’s business as a whole are regularly and predominantly made and given. This will ordinarily be where a company’s board of directors (or any equivalent body for other types of juridical persons) make these decisions. However, depending on the specific circumstances, other factors such as where the controlling shareholders make decisions, the location of another Person or body to which the board has delegated its decision-making functions, or the location where the directors or executive management of the juridical person reside may also need to be considered.

For a juridical person to be considered effectively managed and controlled in the UAE, it is not necessary for its board members (or equivalent) to be domiciled or resident in the UAE.

Clause 3(c) provides that a natural person who conducts a Business or a Business Activity in the UAE will be treated as a Resident Person for Corporate Tax purposes in respect of the income derived from that Business or Business Activity, subject to the application of **Clause 6**.

In light of the absence of a personal income tax on natural persons in the UAE, **Clause 3(c)** is meant to create parity across incorporated businesses and natural persons carrying on commercial activity in the UAE. It provides that irrespective of where a natural person is ordinarily resident for tax purposes and regardless of whether the income is sourced in the UAE or from abroad, a natural person will be subject to Corporate Tax in the UAE on any income generated from a taxable Business or a Business Activity performed in the UAE. This will include a Business or Business Activity conducted through a sole establishment and individual partners in an Unincorporated Partnership that conducts a Business or Business Activity in the UAE. Similar approaches are taken in other jurisdictions without a parallel personal income tax on business profits.

Any income not related to a Business or Business Activity may be subject to Withholding Tax as State Sourced Income (see **Article 13**) under **Article 45**.

Clause 3(d) provides that other Persons may be determined to be included within the scope of a Resident Person by virtue of a Cabinet Decision.

Clause 4 describes the circumstances in which a Person that is not a Resident Person under **Clause 3** will be subject to Corporate Tax as a Non-Resident Person.

Clause 4(a) provides that a Person that is not a Resident Person but that carries on activities through a Permanent Establishment in the UAE will be subject to Corporate Tax as a Non-Resident Person. The criteria to determine whether a Non-Resident Person has a Permanent Establishment in the UAE are set out under **Article 14.**

Clause 4(b) establishes that a Person that is not a Resident Person and receives State Sourced Income will also be treated as a Non-Resident Person for Corporate Tax purposes. This Clause extends the application of the Corporate Tax Law to income arising from certain activities or transactions that have a connection with the UAE, but that are not carried on through a Permanent Establishment. Such income may be subject to Corporate Tax in the form of a Withholding Tax under **Article 45**.

Examples of circumstances which may cause income to be sourced in the UAE for Corporate Tax purposes are set out in **Article 13**.

Clause 4(c) provides that a Cabinet Decision may prescribe other circumstances in which a Person that is not a Resident Person would become a Non-Resident Person by virtue of having a nexus to the UAE. This clause allows the Cabinet to determine that a Person can be a Non-Resident Person, and as such within the scope of Corporate Tax, through some other form of connection to the UAE. **Clause 5** specifies that a UAE branch of a Resident Person will be treated as the same Taxable Person, recognising that branches are an extension of their "head office" as opposed to being a separate juridical person. This means that a Resident Person should include the income and expenditure of all its domestic branches in its Tax Return.

Clause 6 provides that the Cabinet will issue a decision specifying what constitutes a Business or Business Activity for natural persons to be within the scope of Corporate Tax.

Article 12: Corporate Tax Base

This Article determines the basis on which Resident Persons and Non-Resident Persons are subject to Corporate Tax. Specifically, Resident Persons and Non-Resident Persons are each taxed on a different basis.

In line with the tax regimes of most countries, the Corporate Tax Law applies both the source and residence basis of taxation. That is, a Resident Person is taxed on income derived from both UAE and non-UAE sources (subject to a resident natural person only being taxed on income insofar as it relates to the Business or Business Activity conducted by the natural person in the UAE), whilst a Non-Resident Person is taxed only on income derived from sources within the UAE. These principles apply unless a separate provision in the Corporate Tax Law, or subsequent implementing decision, prescribes a different Corporate Tax treatment for either a specific type of Person or a specific type of income.

For Resident Persons, the meaning of the term “derived” would generally depend on whether a Person uses the cash or accrual basis method of accounting. For the application of Withholding Tax on State Sourced Income earned by Non-Resident Persons under **Article 45**, “derived” would generally refer to a payment that is made or to income that is otherwise made available to the Non-Resident Person.

The tax base for Resident Persons and Non-Resident Persons is determined by reference to the concept of “Taxable Income”. This is further specified under **Chapter Six** of the Corporate Tax Law.

Clause 1 provides that a resident juridical person is subject to Corporate Tax on both its UAE Taxable Income as well as on Taxable Income sourced outside the UAE (earned abroad). The mechanism to determine Taxable Income is set out in **Chapter Six** of the Corporate Tax Law.

Under **Article 11**, a juridical person will be considered a Resident Person if it is incorporated or otherwise recognised under the laws of the UAE, or if the place of effective management and control of the non-UAE juridical person is in the UAE.

Whilst both UAE and non-UAE-sourced income derived by a Resident Person is within the scope of Corporate Tax, to eliminate or reduce potential international double taxation, the Corporate Tax Law exempts certain income earned from overseas. In particular, income earned abroad by foreign subsidiary entities would generally be outside the scope of Corporate Tax, and the repatriation of such income to the UAE may benefit from an exemption under **Article 23.** Similarly, a Resident Person may elect to claim an exemption from Corporate Tax under **Article 24** for income earned by a Foreign Permanent Establishment that is subject to tax in the relevant foreign jurisdiction.

For foreign sourced income that cannot benefit from an exemption from Corporate Tax, **Article 47** allows the Resident Person to claim a credit for the tax paid in the foreign jurisdiction. Examples of income earned from abroad that may not qualify for an exemption from Corporate Tax include interest, royalties, fees and rents.

Clause 2 provides that a natural person who conducts a Business or Business Activity in the UAE is also subject to Corporate Tax on income from both UAE and non-UAE sources, but only insofar as such income is derived from such Business or Business Activity.

Accordingly, if a natural person carries on a wholly separate Business in a foreign jurisdiction, which is not related or connected to the Business conducted in the UAE, the income from such other Business will not be taxable in the UAE. Similarly, any income earned from activities and assets that are not related or connected to the Business or Business Activity conducted in the UAE will not be within the scope of Corporate Tax under this Clause.

A natural person will only be subject to Corporate Tax as a Resident Person if they undertake a taxable Business or Business Activity in the UAE as per a Cabinet Decision that will be issued in accordance with **Article 11(6)**.

Clause 3 specifies the basis on which a Non-Resident Person is subject to Corporate Tax. It introduces the fundamental principle that a Non-Resident Person is only subject to Corporate Tax on income that is derived from sources within the UAE.

Clause 3(a) establishes that a Non-Resident Person is subject to Corporate Tax on the Taxable Income that is attributable to its Permanent Establishment in the UAE. Generally, a Permanent Establishment arises where a Non-Resident Person has a fixed place of Business or other form of presence in the UAE that warrants the

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direct taxation of the business profits of the Non-Resident Person. The concept of a Permanent Establishment is further defined under **Article 14**.

Clause 3(b) determines that a Non-Resident Person is subject to Corporate Tax on State Sourced Income that is not attributable to its Permanent Establishment in the UAE. In broad terms, State Sourced Income is income derived from a Resident Person or from activities or contracts performed in the UAE, assets located in the UAE, or rights used or services performed in the UAE, subject to an implementing decision. The concept of State Sourced Income is further defined under **Article 13**.

Clause 3(c) provides that if a Person is treated as a Taxable Person due to a nexus in the UAE as specified in a Cabinet Decision under **Article 11(4)(c)**, then this Person is taxable on the Taxable Income attributable to that nexus.

Article 13: State Sourced Income

This Article provides rules for determining whether income is derived in or from a source in the UAE and considered State Sourced Income. This is primarily relevant to the taxation of Non-Resident Persons; Persons that receive State Sourced Income but are not Resident Persons are considered Non-Resident Persons and are subject to tax on their State Sourced Income under **Article 12(3)(b)**.

The definition of State Sourced Income is widely drawn with income generally considered to be "State Sourced" if the income is earned from a Resident Person or is derived from activities or assets located in the UAE. For example, dividend income is sourced in the UAE where the payor of the dividend is resident in the UAE for Corporate Tax purposes. It is intended to include income which may be specified in an implementing decision as being subject to Corporate Tax in the form of Withholding Tax under **Article 45**.

The characterisation of income as income from Business or Business Activity does not preclude the income from retaining its nature and characterisation as State Sourced Income and the application of Withholding Tax.

Clause 1 provides the basic rules for determining whether income is State Sourced Income.

Clause 1(a) establishes that any amount of income derived by a Non-Resident Person from a Resident Person shall be considered State Sourced Income.

This Clause specifies that the income must be derived from a Person who is within the scope of Corporate Tax in the UAE as a Resident Person under **Article 11(3)**. Such Resident Person would generally be allowed a deduction under **Article 28** where the amount is an expenditure incurred for the purposes of deriving Taxable Income.

An exception to the general rule that income derived from a Resident Person is State Sourced Income may apply where an amount received is an expenditure of a Business conducted by the Resident Person outside of the UAE through a Foreign Permanent Establishment.

Clause 1(b) provides that an amount derived by a Non-Resident Person from another Non-Resident Person will also be considered State Sourced Income to the extent it is attributable to a Business or Business Activity conducted by that other Non-Resident Person through a Permanent Establishment in the UAE as defined under **Article 14**. Similar to the situation under **Clause 1(a)**, the Non-Resident Person would generally be allowed a deduction under **Article 28** where the amount paid is an expenditure incurred for the Business or Business Activity conducted through its Permanent Establishment in the UAE.

Clause 1(c) provides that any income which is otherwise derived from activities performed, assets located, capital invested, rights used, or services performed or benefitted from in the UAE would be considered State Sourced Income. This establishes that irrespective of the location and residence of the Person from whom the income is received, income may be considered to have a UAE source for Corporate Tax purposes where the place of use or performance of the income generating activity or the tangible or intangible assets generating the income are located in the UAE.

By means of a non-exhaustive list, **Clause 2** provides examples of what shall be considered State Sourced Income, subject to any further conditions and limitations that may be prescribed by the Minister.

Clause 2(a) to **2(f)** specify that State Sourced Income encompasses income arising from a series of situations with different factors determining the source of the income, including:

- Income from the sale of goods. The general rule for the sale of goods is that the income is sourced to where the sale and resulting transfer of title takes place.

- Income from services. Income from services would generally be considered State Sourced Income where the service is rendered in the UAE or where the ultimate recipient or beneficiary of the service is located in the UAE. The ultimate recipient or beneficiary of the services would be the Person who economically utilised the service in the UAE.

- Income from a contract. Similar to the factors that determine the source of income from services, income from the performance of contracts would generally be sourced to the place where the contract is performed or to where the ultimate recipient or beneficiary of the performance under the contract is located. This is not intended to cover income earned under an employment contract or income from a contract involving movable or immovable property which will be sourced to where the property is located.

- Income from movable or immovable property. Income arising from the use or sale of tangible property is sourced to the place where the property is located. For example, rental income from property located in the UAE (or from an interest in such property) would generally be considered State Sourced Income.

- Income from the disposal of shares or capital rights. Capital gains and other income from the disposal of shares or other rights in the capital of a juridical person is sourced to the UAE where the juridical person is incorporated or resident in the UAE for Corporate Tax purposes.

- Income from intellectual or intangible property. Irrespective of the location and residence for Corporate Tax purposes of the payor and recipient of the income, amounts paid for the use, the right to use, or the granting of the permission to use in the UAE patents, trademarks, trade brands, copyrights, goodwill and other such intangible or intellectual property in the UAE would generally be sourced to the UAE.

- Interest income. Interest income is sourced to the UAE if the Interest is paid by a Resident Person or Government Entity. Interest may also be considered State Sourced Income where the collateral that secures the relevant loan or financing arrangement is located in the UAE.

- Insurance income. Similar principles to those underpinning the source of Interest income under **Clause 2(g)** are applied when determining whether insurance or reinsurance premiums are considered State Sourced Income. These will be considered State Sourced Income where the insured Person is a Resident Person, or where the insured asset or activity is located in the UAE.

Article 14: Permanent Establishment

This Article determines when a Non-Resident Person has a Permanent Establishment in the UAE. Determining whether a Permanent Establishment exists has implications for the taxation of Non-Resident Persons under **Article 12(3)**. The criteria set out in this Article also apply when determining the existence of a Foreign Permanent Establishment for the purposes of **Article 24.**

The definition of Permanent Establishment in the Corporate Tax Law follows the principles provided in Article 5 of the OECD Model Tax Convention on Income and Capital. A Non-Resident Person may consider these principles and the relevant provisions of any bilateral tax agreement between the country of residence of the Non-Resident Person and the UAE, in their assessment of whether they have a Permanent Establishment in the UAE.

Clause 1 introduces the basic notion of what constitutes a Permanent Establishment, subject to the other Clauses of this Article.

Specifically, **Clause 1(a)** provides that a Non-Resident Person has a Permanent Establishment if they have a fixed or permanent place in the UAE through which their Business is wholly or partly conducted. This Clause sets two main tests, namely (1) there must be a fixed or permanent place in the UAE; and (2) there must be a Business conducted through that fixed or permanent place.

A fixed or permanent place implies the existence of a physical location in the UAE with some degree of permanency. The Corporate Tax Law does not prescribe any minimum requirements in terms of the size or nature of the physical location, nor is there a specific time limit for a fixed place to constitute a Permanent Establishment other than under **Clause (2)(i)**. It is also not required that the fixed place is owned or used exclusively by the Non-Resident Person or is at the disposal of the Non-Resident Person for an extended period of time. Examples of what may constitute a fixed place are set out in **Clause 2**.

For a fixed place in the UAE to constitute a Permanent Establishment, the Non-Resident Person must conduct its Business wholly or partly through it. Generally, a Non-Resident Person would be seen as conducting its Business through its employees and other Persons receiving instructions from the Non-Resident Person, although the absence of employees and other forms of human involvement would not preclude a fixed place from giving rise to a Permanent Establishment, depending on the nature of the Business of the Non-Resident Person.

Clause 1(b) provides that in the absence of a physical location in the UAE that constitutes a fixed or permanent place of Business, a Non-Resident Person has a UAE Permanent Establishment if a Person has, and habitually exercises, an authority to conduct a Business or Business Activity in the UAE on behalf of the Non-Resident Person. This is intended to cover situations where employees or other Persons act on behalf of the Non-Resident Person and habitually exercise the authority to conclude contracts or otherwise enter into legal obligations on behalf of the Non-Resident Person while being in the UAE. This is regardless of whether the contracts are concluded in the name of the Non-Resident Person or the agent or representative representing the Non-Resident Person.

Clauses 5 and **6** determine whether a Person is considered as having and habitually exercising an authority to do Business in the UAE on behalf of the Non-Resident Person.

Clause 1(c) establishes that a Permanent Establishment also exists if a Non-Resident Person has any other form of nexus to the UAE, as may be defined in a Cabinet Decision. This Clause provides the Cabinet with the

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flexibility to determine that a Person can have a Permanent Establishment in the UAE through any other economic or business link to the UAE that is considered sufficient to bring such a Person within the scope of Corporate Tax.

Clause 2 provides a non-exhaustive list of fixed or permanent places that can qualify as a Permanent Establishment under **Clause 1(a)**. Each case is to be interpreted taking into account the nature of the Business of the Non-Resident Person and all other relevant facts and circumstances.

Clause 2(a) confirms that a place of management in the UAE where decisions that are necessary for the day-to-day conduct of the foreign entity's Business are (in substance) made, may constitute a Permanent Establishment.

For the purposes of **Clause 2(a)**, a distinction should be made between the board or equivalent senior management of an entity, which takes the strategic decisions, and the day-to-day management, which takes the implementing decisions. To determine whether a place of management exists for the purposes of this Article, one would need to look at where the day-to-day operational management and decisions relating to execution of decisions given by the board of directors (or equivalent governing body) are carried out.

A foreign entity could have multiple places of management in different locations, but generally only one place of effective management and control for the purposes of **Article 11(3)(b)** at any one time, which is where the strategic decisions and powers regarding the management of the entity (as opposed to the day-to-day operations) are regularly and predominantly exercised.

Clause 2(b) confirms that a branch is a Permanent Establishment. The term "branch" is not defined in the Corporate Tax Law but is customarily meant to refer to a branch office that a foreign entity registers with the relevant Licensing Authority in the UAE to conduct a Business or Business Activity in the UAE. A branch office would legally be regarded as an extension of the foreign entity as opposed to a separate juridical person.

Clauses 2(c) to **2(i)** specify that, subject to **Clause 3**, a Permanent Establishment includes an office, a factory, a workshop, land, buildings and other real property, various structures and installations, places where natural resources are extracted, building sites, and construction, assembly or installation projects located in the UAE. These examples are illustrative of the types of places that can constitute a Permanent Establishment under the general concept stated in **Clause 1(a)**.

The relevant terms used in these Clauses are not defined in the Corporate Tax Law and as such should take their natural meanings in the appropriate contexts. In particular, for the purposes of **Clauses 2(g)** and **2(h)**, the term "natural resources" does not follow the definition provided in **Article 1** of the Corporate Tax Law, but should be taken to have its ordinary meaning, namely, any natural occurring materials, substances or components that have economic value, including renewable energy resources.

Clause 2(i) provides that for the purposes of the six-month threshold for a building site or a construction, assembly, or installation project to constitute a Permanent Establishment, the activities undertaken by the Non-Resident Person during one or more periods of time and across different sites or projects in the UAE must be aggregated. In addition, the periods of time during which Related Parties of the Non-Resident Person carry on connected activities at the same building site or project would also need to be taken into account. This is intended to prevent fragmentation of project activities among Related Parties so as to avoid crossing the six-month threshold.

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Whether activities carried on by Related Parties are connected will need to be assessed on a case-by-case basis taking into account the relevant facts and circumstances. Relevant factors for this purpose may include whether the nature of the work performed by the Related Parties is the same or similar, or whether some or all of the same employees are performing the relevant activities.

Clause 3 sets out the circumstances under which a fixed or permanent place in the UAE shall not be considered a Permanent Establishment of a Non-Resident Person. These situations overrule the examples in **Clause 2** and the definition of a Permanent Establishment in **Clause 1** and are largely similar to those outlined in the OECD Model Tax Convention on Income and Capital.

No Permanent Establishment would arise if the activities carried out through the fixed or permanent place in the UAE are preparatory or auxiliary in nature. Generally, preparatory or auxiliary activities are those performed in preparation or in support of more substantive Business Activities of the foreign company, and do not in itself form an essential and significant part of the Business of the foreign enterprise as a whole. Examples of preparatory and auxiliary activities include limited marketing and promotional activities or performing market research. A fixed or permanent place in the UAE would also not be considered a Permanent Establishment if it is used only to store, display or deliver the Non-Resident Person's goods or for keeping a stock of goods in the UAE for the purposes of processing by another Person. Where the general purpose of the fixed or permanent place in the UAE is identical to the general purpose of the foreign enterprise, it will not be considered to conduct a preparatory or auxiliary activity.

Clause 4 disapplies **Clause 3** where the same Non-Resident Person or a Related Party carries on a Business or Business Activity in the UAE through a separate Permanent Establishment that when such Business or Business Activity is combined would form a cohesive Business that does not satisfy the requirements of **Clause 3**.

This Clause clarifies that the restriction of **Clause 3** to the general definition of a Permanent Establishment contained in **Clause 1** is intended to prevent a Permanent Establishment from arising only where the Non-Resident Person exclusively carries on activities of a purely preparatory or auxiliary character in the UAE. Consideration as to whether this is the case will need to take into account any other activities carried on through the same or any other fixed or permanent place in the UAE by the Non-Resident Person or by any of its Related Parties.

Clause 4 is meant to prevent a foreign enterprise from fragmenting its Business by, for example, storing goods in one place, and distributing those goods through another place in the UAE. Such fragmentation would not allow the Non-Resident Person to argue that each place or operation in isolation is merely engaged in a preparatory or auxiliary activity. Where the activities conducted in the UAE, when taken together, go beyond the threshold of being preparatory or auxiliary, the Non-Resident Person would be seen as operating in the UAE through a Permanent Establishment. This should take into account any complementary functions and activities carried on by Related Parties of the foreign enterprise at the same place or at different places in the UAE.

Clause 5 determines what constitutes a Person having and habitually exercising an authority to conduct Business or a Business Activity in the UAE on behalf of a Non-Resident Person (subject to **Clause 6**). As mentioned, the activities of a Person in the UAE may give rise to a Permanent Establishment of a Non-Resident Person where such Person acts on behalf of the Non-Resident Person and habitually exercises the authority to conclude contracts or otherwise enters into legal obligations on behalf of the Non-Resident Person in the UAE.

Where the Person regularly negotiates contracts on behalf of the Non-Resident Person, the determination of whether this gives rise to a Permanent Establishment should focus on the Person's role in the negotiation of contracts and not on the formal act of signing or concluding a contract. A Person who is authorised to negotiate all elements and details of a contract in a way that is binding on the Non-Resident Person can be said to exercise that authority in the UAE even if the contract is signed by another Person elsewhere without material modification by the Non-Resident Person. Further, a Permanent Establishment of the Non-Resident Person would arise regardless of whether the contracts are concluded in the name of the Non-Resident Person or in the name of the relevant Person. This means that commissionaire or undisclosed principal arrangements can also give rise to a Permanent Establishment in the UAE.

The mere attendance or participation in the negotiation of a contract by a Person in the UAE would generally, by itself, not trigger a Permanent Establishment. Further, contracts or other legal obligations entered into on behalf of the Non-Resident Person would need to be in respect of the core business operations of the Non-Resident Person, rather than ancillary activities.

Clause 6 provides an exception to **Clause 1(b)**, and stipulates that even if **Clause 5** is satisfied, if the agent has an independent status, as defined by **Clause 6**, no Permanent Establishment would arise.

Whether a Person acting as an agent is independent from the Non-Resident Person depends on the extent of the obligations which the Person has vis-à-vis the Non-Resident Person. Independent status is generally understood as meaning independent from the Non-Resident Person both legally and economically. Accordingly, an employee of the Non-Resident Person would typically not be considered an independent agent, and independent status is also unlikely where the relevant Person acts exclusively or almost exclusively on behalf of the Non-Resident Person (or its Related Parties) or where the Person is subject to detailed instructions by the Non-Resident Person.

Clause 7 allows the Minister to prescribe conditions where the presence of a natural person in the UAE does not create a Permanent Establishment for a Non-Resident Person because such presence is the consequence of a temporary and exceptional situation. What constitutes a temporary and exceptional situation has been clarified in Ministerial Decision No. 83 of 2023 on the Determination of the Conditions under which the Presence of a Natural Person in the State would not Create a Permanent Establishment for a Non-Resident Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Article 15: Investment Manager Exemption

This Article is relevant to **Article 11(4)(a)**, which provides that a Non-Resident Person that has a Permanent Establishment in the UAE will be subject to Corporate Tax on any income that is attributable to that Permanent Establishment under **Article 12(3)(a)**. Specifically, it is meant to prevent a foreign Person from being considered as having a Permanent Establishment in the UAE or income acquiring a source in the UAE as a result of engaging a Person in the UAE that provides investment management or brokerage services. This also takes into account that any income earned by such a Person for the services performed would ordinarily be subject to Corporate Tax.

This Article allows regulated UAE based investment managers and brokers to provide discretionary investment management services and to enter into transactions on behalf of foreign customers without triggering a Permanent Establishment for the foreign investor or a foreign investment entity. This is achieved by providing that a UAE based Investment Manager shall be treated as an independent agent for the purposes of **Article 14(6)** when acting on behalf of a foreign or Non-Resident Person where the conditions of **Clause 1** are met.

The conditions of **Clause 1** seek to ensure that the Investment Manager is carrying on its Business independently from the foreign Person and on its own account.

Clauses 1(a) to **1(g)** set out the conditions for an Investment Manager to be treated as an independent agent for the purposes of **Article 14(6)**.

- The Investment Manager must provide investment management or brokerage services and be subject to the regulatory oversight of the competent authority in the UAE. This condition would ordinarily be met where the Investment Manager is appropriately licensed to perform investment management or brokerage services in the UAE, and their activities are subject to the regulatory oversight of the relevant mainland or free zone authority concerned with the licensing and supervision of investment managers and brokerage firms, as applicable. Examples of such competent authorities include the Securities and Commodities Authority, the ADGM Financial Services Regulatory Authority, and the DIFC Dubai Financial Services Authority.

- Transactions must be carried out in the ordinary course of the Investment Manager's Business. The Investment Manager must act and enter into transactions on behalf of the foreign Person in the ordinary course of a Business of providing investment management or brokerage services. For example, a UAE based and regulated investment management firm that provides portfolio management services to a foreign Person or Persons as part of their ordinary investment management function should generally be considered an independent Investment Manager when undertaking these activities for the purposes of this Article.

- The Investment Manager must act in an independent capacity. Whilst the Investment Manager may not be legally and economically independent from the foreign Person (e.g., because the Investment Manager acts exclusively or almost exclusively on behalf of a single foreign investment fund), the Investment Manager must demonstrate that it acts in an independent capacity in relation to the transactions carried on for the foreign Person to satisfy the independent agent criteria under **Article 14(6)**. This should be determined having regard to the contractual and commercial relationship between the Investment Manager and the foreign Person and other relevant facts and circumstances.

  Indicators that the Investment Management acts in an independent capacity from the foreign Person could include the foreign Person being a widely held collective investment vehicle or the Investment Manager (and its Related Parties or Connected Persons) not holding a significant beneficial interest in the foreign Person.

- The Investment Manager's remuneration must be at arm's length. The Investment Manager and the foreign Person must transact with each other on arm's length terms in order for the relationship between the Investment Management and the foreign Person to be considered that of independent parties. This means that the Investment Manager's remuneration structure must reflect arm's length commercial terms and result in the Investment Manager receiving fees or other remuneration that is customary or appropriate for and commensurate with the services provided. Whether the remuneration is at a customary rate will depend, among other things, on the level of services provided, whether the foreign Person is an institutional or individual investor, and the investment strategy of the foreign Person (passive portfolio management or active and alternative investment strategies).

- The Investment Manager must not be an agent in the UAE in relation to other income or transactions. The exception to **Article 14(1)(b)** provided by this Article does not extend to activities of the Investment Manager in relation to any other Business carried out by the foreign Person in the UAE or to transactions not covered by **Clause 2** that are (or would otherwise be) subject to Corporate Tax under **Article 12.**

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- The Investment Manager must meet any such other conditions as may be prescribed by the Minister. Whilst the conditions of **Clauses 1(a)** to **1(f)** are intended to provide certainty to foreign and Non-Resident Persons with regards to the Corporate Tax treatment of transactions carried out through a UAE based Investment Manager, **Clause 1(g)** recognises there may be other cases or circumstances in which this Article should apply.

Clause 2 provides a non-exhaustive definition of "transactions" for the purposes of **Clause 1**.

Qualifying transactions include transactions in commodities, real property, secured and unsecured debt obligations, warrants, foreign currency, futures, options, swaps and other derivatives or securities. The Investment Manager Exemption under **Article 15** may also apply to transactions in carbon emission credits, crypto-assets and other investment transactions that are permitted to be carried out for and on behalf of a foreign or Non-Resident Person by the Investment Manager under the applicable legislation of the UAE.

Article 16: Partners in an Unincorporated Partnership

This Article specifies the treatment of Unincorporated Partnerships and the partners in relation to the imposition and payment of Corporate Tax under the Corporate Tax Law.

Unincorporated Partnerships are defined as a relationship established between two or more Persons by contract, such as a partnership, trust or any other similar association of Persons in accordance with the applicable legislation in the UAE. This definition is then expanded under **Clause 7** to include Foreign Partnerships that meet certain conditions. The definition for a Foreign Partnership encompasses Unincorporated Partnerships that are recognised as such for tax purposes under the applicable legislation in a foreign jurisdiction.

There are numerous types of entities that can exist for a variety of business, legal and commercial purposes. The definition of Unincorporated Partnership in the Corporate Tax Law is intentionally broad so as to include a wide variety of unincorporated relationships. An Unincorporated Partnership does not require the relationship between the relevant Persons to adopt the form of a limited or general partnership that is formalised in a written partnership agreement. The contractual relationship can be a verbal arrangement and even the conduct between the parties may give rise to an Unincorporated Partnership.

The reference to a contractual relationship in the definition of Unincorporated Partnership means that, legally, the Business of the Unincorporated Partnership and its owners is or can be considered the same. For example, a joint business venture between two or more Persons that takes the form of a limited liability company that is formed specifically for the intended purpose would be treated as a Taxable Person in its own right under **Article 11(3)**. On the other hand, a pure contractual joint venture between two or more Persons under which each Person agrees to share (in the manner agreed) the profits, losses and management in a particular undertaking would not constitute a Taxable Person in its own right. Persons conducting a Business as an Unincorporated Partnership shall be treated as individual Taxable Persons for the purposes of the Corporate Tax Law.

Whilst the absence of separate legal personality is generally an indicator that an entity or arrangement is an Unincorporated Partnership, the categorisation of a business entity as a separate juridical person is not necessarily determinative of its status for Corporate Tax purposes. An important factor in determining whether an arrangement or entity is an Unincorporated Partnership is whether one or more of the partners that participate in the management of the relevant Business have direct and unlimited liability for the debts and other obligations of the Unincorporated Partnership and its Business.

Clause 1 provides that, unless an application is made to the Authority, an Unincorporated Partnership shall not be considered a Taxable Person in its own right, subject to meeting conditions that the Minister may prescribe. Instead, an Unincorporated Partnership is treated as fiscally transparent for Corporate Tax purposes, and the activities of the Unincorporated Partnership are treated as carried on by the partners and not by the partnership for Corporate Tax purposes.

The Corporate Tax Law essentially looks through Unincorporated Partnerships, and the Corporate Tax applies based on the allocation of the Unincorporated Partnership's entire income and expenditure to each of its partners proportionately. Any resulting Taxable Income must be determined separately for each partner in accordance with their status for Corporate Tax purposes. This treatment may result in different partners having different treatment for Corporate Tax purposes. For example, resident juridical persons would generally be subject to Corporate Tax on their distributive share of income or loss from the Unincorporated Partnership, whilst natural persons may not be subject to Corporate Tax on their allocation from the Unincorporated Partnership if the activities of the Unincorporated Partnership do not bring a natural person within the scope of Corporate Tax under **Article 11(6)**.

Clause 2 establishes that for Corporate Tax purposes, each partner in an Unincorporated Partnership shall be treated as having the same attributes and legal standing as the partnership. This means that for Corporate Tax purposes, the Unincorporated Partnership is treated as an aggregation of Persons whereby each Person (partner) is treated as carrying on, and being a part owner of, the Business and the assets and liabilities of the partnership in accordance with the contract underlying the Unincorporated Partnership.

Clause 3 specifies that the assets, liabilities, income and expenditure of an Unincorporated Partnership shall be allocated to each of its partners relative to their distributive share in that Unincorporated Partnership for the purposes of **Clause 1**.

Partners are taxed individually on their distributive share of income or losses of the Unincorporated Partnership. Similarly, where an asset or liability of the Unincorporated Partnership is disposed of, each partner is treated as owning a fractional share in such asset or liability and will be subject to Corporate Tax on any Taxable Income apportioned to them.

Generally, the distributive share of each partner is determined in the contract that formed the Unincorporated Partnership. There may be situations, however, where the distributive share of a partner in an Unincorporated Partnership cannot be identified, either because it has not yet been determined or because the ultimate beneficiaries of the Unincorporated Partnership's income and assets are not yet known. In such cases, the Authority may prescribe the manner in which the income or loss of the Unincorporated Partnership should be allocated for Corporate Tax purposes.

Clause 4 provides that the Taxable Income of a partner in an Unincorporated Partnership shall include both expenses incurred directly by the partner in conducting the Business of the Unincorporated Partnership, as well as Interest expenditure incurred by the partner in relation to contributions made to the capital account of the Unincorporated Partnership.

Clause 5 confirms that Interest paid by an Unincorporated Partnership to a partner on their capital account is not deductible expenditure for calculating the Taxable Income of the partner, as this amount is to be treated as an allocation of income to the partner.

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Clause 6 specifies that for the purposes of allocating a Foreign Tax Credit under **Chapter Thirteen** of the Corporate Tax Law, any foreign tax incurred by the Unincorporated Partnership shall be allocated as a Foreign Tax Credit to each partner relative to their distributive share in that Unincorporated Partnership.

Clause 7 determines that a Foreign Partnership shall be treated as an Unincorporated Partnership for Corporate Tax purposes if it is considered as not taxable in its own right in the country or territory where it was formed, with each partner in the Foreign Partnership being taxed on their distributive share of income received by or accrued to the Foreign Partnership, subject to the tax residence of the partners and the respective tax treatment of the income earned by the Foreign Partnership in the country of formation.

The UAE applying a different treatment to a Foreign Partnerships that is treated as fiscally transparent in the relevant foreign jurisdiction(s) could result in unintended and unwanted tax consequences, not only for the UAE resident partners in the Foreign Partnership, but also for any non-resident partners whose UAE tax position can be impacted as a result.

To prevent issues arising for Resident Persons and Non-Resident Persons investing in or operating through a Foreign Partnership, **Clause 7** seeks to align the Corporate Tax treatment of Foreign Partnerships with the tax treatment applied in the relevant foreign jurisdiction(s), subject to any conditions that may be prescribed by the Minister.

Clause 8 provides that the partners in an Unincorporated Partnership can make an application to the Authority for the Unincorporated Partnership to be treated as a Taxable Person (i.e. to be treated as being "opaque" for Corporate Tax purposes).

Clause 9 provides that, where an application made by the partners in an Unincorporated Partnership under **Clause 8** is approved by the Authority, **Clauses 1** to **6** will no longer apply to the partners of the Unincorporated Partnership. This would result in the partners in the Unincorporated Partnership ceasing to be seen as carrying on, and directly being a part owner of, the Business and assets and liabilities of the Unincorporated Partnership for Corporate Tax purposes.

In addition:

- Each partner in the Unincorporated Partnership shall remain jointly and severally liable for the Corporate Tax Payable by the Unincorporated Partnership for those Tax Periods when they are partners in the Unincorporated Partnership; and
- One partner in the Unincorporated Partnership shall be appointed as the partner responsible for any obligations and proceedings in relation to the Corporate Tax Law on behalf of the Unincorporated Partnership.

Clause 10 stipulates that, where the application under **Clause 8** is approved, the Unincorporated Partnership shall be treated as a Taxable Person from the commencement of either the Tax Period during which the application is made, or the Tax Period immediately following the Tax Period during which the application is made. The Authority can determine an earlier or later effective date for the Unincorporated Partnership to be treated as a Taxable Person where deemed appropriate or necessary for administrative purposes.

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Article 17: Family Foundation

As discussed under the definition of Business (Article 1), a natural person's employment income and personal investment income are not intended to be within the scope of Corporate Tax. This Article recognises that natural persons use different structures to manage their personal wealth and investments for asset protection, succession and other reasons, which may include, for example, using a contractual trust, a private trust company or a foundation to hold and manage personal assets and investments.

Whilst some of these structures and arrangements will by default be treated as fiscally transparent for Corporate Tax purposes, trusts and foundations that have separate legal personality would in principle be treated as any other juridical person, with their income being subject to Corporate Tax. Such treatment would not be consistent from a policy perspective where the trust or foundation is merely used to hold and manage assets and wealth on behalf and for the benefit of beneficiaries who are natural persons. This is irrespective of whether the assets and wealth are managed by the relevant natural person or persons themselves, or by any other Person.

For this reason, Clause 1 allows a Family Foundation to apply to the Authority to be treated as an Unincorporated Partnership, and hence not be subject to Corporate Tax. A Family Foundation is defined in **Article 1** as a foundation, trust or similar entity established under the applicable legislation of the UAE.

Clause 1 allows a foundation or a trust that meets the conditions of Article 17 to apply to the Authority to be treated as an Unincorporated Partnership, and hence not be subject to Corporate Tax in its own right.

Approval of the application by the Authority would result in the beneficiary or beneficiaries of the Family Foundation being seen as directly owning or benefiting from the activities and assets of the Family Foundation for the purposes of the Corporate Tax Law.

A Family Foundation that seeks to be treated as fiscally transparent is not permitted to undertake activities that would have constituted a taxable Business or Business Activity under **Article 11(6**) if undertaken by the founders, settlors or beneficiaries of the Family Foundation.

An application under **Clause 1** can be made where a Family Foundation meets all of the following conditions.

- The Family Foundation must be established for the benefit of identified or identifiable natural persons, or for the benefit of a public benefit entity, or both. Whilst the beneficiaries are not required to be individually named when a Family Foundation is established, they must be a category of persons that could be identified if required (e.g. the children or grandchildren of the settlor of the Family Foundation).

  For the purposes of **Clause 1(a)**, the "public benefit entity" is not required to be listed in a Cabinet Decision as a Qualifying Public Benefit Entity. Instead, "public benefit entity" in the context of this Article should be taken to have its ordinary meaning, namely any not-for-profit organisation that carries out charitable, social, cultural, religious, educational or other public benefit activities.

- The principal activity of the Family Foundation is to receive, hold, invest, disburse, or otherwise manage assets or funds associated with savings and investment. The foundation must not be established for the purposes of conducting Business and must solely conduct the management of cash, publicly traded securities, private stock, real estate and other assets held or investments made by the Family Foundation.

  A separate Person may act as the fiduciary, agent or trustee on behalf of the Family Foundation for the purpose of the administration, management and the eventual transfer of assets and income to the beneficiaries of the Family Foundation. Where a Person (typically referred to as the 'trustee') would hold the legal title, but not the beneficial ownership, of the assets of the Family Foundation for the use of, or transfer to, the beneficiary or beneficiaries of the Family Foundation, any Taxable Income of such Person would not include the income derived from the assets they hold in their capacity as fiduciary owner.

- The Family Foundation does not conduct any activity that would constitute a Business or Business Activity were it to be undertaken, or its assets held, directly by its founder, settlor, or any of its beneficiaries. As discussed above, a Family Foundation that seeks to be treated as fiscally transparent for Corporate Tax purposes is not permitted to undertake activities that, if attributed to the natural person who created the Family Foundation or its beneficiaries who are natural persons, would constitute a taxable Business or Business Activity under **Article 11(6)**.

- The Family Foundation must not have a main or principal purpose of the avoidance of Corporate Tax. **Clause 1(d)** should be read together with **Article 50** and provides that a Family Foundation will not be treated as an Unincorporated Partnership but instead be a Taxable Person in its own right where the main or principal purpose of the Family Foundation and the application made under **Clause 1** is the avoidance of Corporate Tax that is not consistent with the intention of this Article.

- The Family Foundation must meet any other conditions as may be prescribed by the Minister in accordance with **Clause 1(e)**.

Chapter Five: Free Zone Person

Article 18: Qualifying Free Zone Person Article 19: Election to Be Subject to Corporate Tax

Further details of the conditions that a Free Zone Person must meet in order to be treated as a Qualifying Free Zone Person for the purpose of Corporate Tax will be released by way of the relevant decisions issued by the Cabinet and the Minister.

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Chapter Six: Calculating Taxable Income

Article 20: General Rules for Determining Taxable Income

Most businesses in the UAE are required under applicable federal or Emirate level legislation to keep records and financial statements reflecting the assets and liabilities of the entity or business, as well as the profits for the relevant financial period, which need to be prepared in accordance with accounting standards accepted in the UAE.

Although the basic purpose of measuring profit is shared by commercial accounting practices and by tax rules, different countries apply different tax and accounting rules. In some countries, there is close alignment between accounting income and taxable income, whilst in other countries taxable income is determined according to an entirely self-contained set of rules stipulated in the relevant tax law and regulations. In practice, most countries adopt a hybrid or combination of rules.

For Corporate Tax purposes, the accounting net profit (or loss) as stated in the financial statements of a Taxable Person forms the starting point for determining their Taxable Income. Using accounting standards accepted in the UAE (as specified in a Decision issued by the Minister for the purposes of the Corporate Tax Law) provides for a common definition of income, which promotes efficiency, reduces compliance costs and provides a base which follows international standards. A Person subject to Corporate Tax must compute their Taxable Income by reference to their Tax Period (see **Article 57**), which, in most cases, will be the financial accounting period of the Taxable Person. The requirement to compute Taxable Income by reference to a Person's Tax Period means that it is necessary to allocate income and expenditure to particular time periods. In broad terms, this Article provides that financial accounting rules would determine when income is "derived", and expenditures and losses are "incurred", subject to any adjustments prescribed or allowed for Corporate Tax purposes under this Article or other provisions of the Corporate Tax Law.

Clause 1 provides that Taxable Income should be determined based on the financial statements of a Taxable Person that have been prepared using the accounting standards and principles that are acceptable in the UAE. This ensures that each Taxable Person uses common accounting standards to determine their Taxable Income, while providing some flexibility. The general rule is that for Corporate Tax purposes, the treatment in the financial statements applies, unless there is a specific rule in the Corporate Tax Law or its implementing regulations that prescribes a different treatment.

Clause 2 clarifies that the accounting net profit (or loss) before tax as stated in the financial statements must be used as the starting point to calculate Taxable Income for a Tax Period, to which the following adjustments as provided for in the Corporate Tax Law may or should then be applied.

- Unrealised gains or losses as determined under **Clause 3**. Gains and losses are the inevitable outcomes of holding assets and liabilities. Unrealised accounting gains and losses reflect changes in the value of an asset or liability before it is sold or settled. The treatment of unrealised gains or losses is further discussed in the following paragraphs.

- Exempt Income as specified in **Chapter Seven** of the Corporate Tax Law, which includes dividends, gains and other income from a Participating Interest (**Article 23**), income earned through a qualifying Foreign Permanent Establishment (**Article 24**), and income from the operation of aircraft and ships in international transportation (**Article 25**).

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- Reliefs provided under **Chapter Eight** of the Corporate Tax Law. These reliefs are intended to remove obstacles from a Corporate Tax perspective with regards to intra-group transfers of assets and liabilities and other qualifying business restructuring transactions.

- Deductions as specified in **Chapter Nine** of the Corporate Tax Law. In principle, all legitimate business expenditures incurred wholly and exclusively for the purposes of the Taxable Person's Business are deductible for Corporate Tax purposes, although the timing of the deduction may vary for different types of expenditure and the accounting method applied. For capital assets, expenditure would generally be recognised by way of depreciation or amortisation deductions over the economic life of the asset or benefit. Certain limitations to the deduction of business expenditure may apply to ensure fair taxation and prevent tax base erosion.

- Adjustments for any transactions with Related Parties and Connected Persons as specified in **Chapter Ten** of the Corporate Tax Law. To prevent the manipulation of Taxable Income, the Corporate Tax Law requires the consideration of transactions between Persons under common ownership or that are otherwise related to be determined by reference to the Market Value, irrespective of the value reported in the financial statements of the Taxable Person.

- Tax Loss relief as specified under **Chapter Eleven** of the Corporate Tax Law. **Articles 37** and **38** allow the use of a Tax Loss to reduce Taxable Income, either by offsetting the Tax Loss against the Taxable Income of subsequent Tax Periods, or by transferring the Tax Loss to another Taxable Person.

- Incentives or special reliefs for a Qualifying Business Activity that would be specified in a Cabinet Decision.

- Income or expenditure that has not otherwise been taken into account in determining Taxable Income as may be specified in a Cabinet Decision.

- Any other adjustments that may be specified by the Minister. The Minister may specify other adjustments or make regulations to address particular types of transactions whose accounting treatment may be vulnerable to manipulation of the determination of Taxable Income.

Clause 3 provides that where financial statements are prepared on an accrual basis, an election can be made to take gains or losses into account for Corporate Tax purposes on a realisation basis. This election will be subject to any conditions as may be set by the Minister.

Where the accrual method is used as the basis for a Taxable Person to prepare its accounts, unrealised gains or losses may arise where a change in the value of an asset or liability is recorded in the Person's financial statements, but no transaction to realise a gain or loss has yet taken place. It is therefore possible that profits (or losses) could arise where there has been no actual disposal or settlement (i.e. realisation) of the relevant asset or liability, and therefore no receipts that could be used to pay any Corporate Tax liability that may arise as a result. An example of this would be a change in the exchange rate for a foreign currency contract yet to be settled at the end of an accounting period.

To prevent a Corporate Tax liability arising where there is no receipt of consideration to fund the resulting Corporate Tax payable, Taxable Persons who prepare their financial statements on an accrual basis may elect to take into account gains and losses on a realisation basis. This means that for the purposes of calculating their Taxable Income for a Tax Period, instead of profits and losses in respect of assets and liabilities being determined on the basis of either revaluations or book value, losses or profits are instead determined when an asset is disposed of or a liability is settled, or a different realisation event occurs.

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The election under this Clause can either be made so that all unrealised accounting gains or losses are not taken into account (**Clause 3(a)**), or only unrealised gains and losses in relation to those assets and liabilities held on the Person's capital account (**Clause 3(b)**). In the latter case, gains or losses in relation to assets and liabilities held on that Person's revenue account would remain to be taken into account and be subject to Corporate Tax on a current basis. In broad terms, the revenue account relates to assets held on a short-term basis such as trade receivables or inventory, with the capital account relating to longer term assets such as plant and machinery or buildings.

An election to be taxed on a realisation basis must specify whether the election is being made either in respect of all assets and liabilities or only in respect of assets and liabilities held on capital account. Additional conditions for the purposes of the election under **Clause 3**, and how unrealised gains and losses that have previously been excluded for Corporate Tax purposes will come into account when the gain or loss is realised, or the election revoked, will be specified in a Ministerial Decision.

Clause 4 clarifies which assets and liabilities would be considered as being held on capital account or on revenue account for the purpose of **Clause 3(b)** above, as follows.

- Assets held on capital account are non-current assets that a Person does not trade such as property held for investment purposes or intangible assets developed by the Person for use within its own Business. Essentially, capital items are items that have a long-term impact on a Business.

- Liabilities held on capital account are non-current liabilities which the Business expects to hold over the long term such as long-term loans or other debt obligations, and liabilities which do not give rise to deductions under **Chapter Ten** of the Corporate Tax Law.

- Assets and liabilities held on a revenue account are items that have a short-term impact on a Business, such as trading stock and inventory, and any associated expenditure.

This Clause also clarifies that an unrealised gain or loss for the purposes of **Clause 3** includes any gain or loss that arises as a result of changes in the value of a foreign currency (versus the UAE dirham or the Person's functional currency), for example when outstanding debtor and creditor balances held in foreign currency are restated at the end of a Tax Period at the prevailing foreign exchange rate.

Clause 5 provides that the Minister may prescribe:

- specific circumstances where a Taxable Person can prepare their financial statements on a cash basis;

- adjustments to be made to the calculation of Taxable Income that could be an exception to the general rules of calculating Accounting Income on an accrual basis or the treatment of unrealised gains or losses for Corporate Tax purposes;

- a mechanism to calculate Taxable Income for specific Qualifying Business Activities that may be different from the general rules to determine Taxable Income under the Corporate Tax Law.

Clause 6 allows a Taxable Person to make an application to the Authority to change their accounting method from a cash basis to an accrual basis, subject to any conditions and adjustments the Minister may prescribe under **Clause 5**. Once approved, a change in accounting method will take effect from the beginning of the Tax Period in which the application is made, or the beginning of a future Tax Period.

Clause 7 clarifies that the provisions of the Corporate Tax Law would prevail over any accounting standards where there is a conflict between both.

Article 21: Small Business Relief

This Article allows a Resident Person to elect for Small Business Relief, resulting in the Resident Person being treated as having no Taxable Income in respect of each relevant Tax Period where the conditions of this Article are satisfied. The relief is intended to support start-ups and other small or micro businesses by reducing their Corporate Tax burden and compliance costs.

Any Person who qualifies and avails the Small Business Relief under this Article remains a Taxable Person for the purposes of the Corporate Tax Law, and as such, will be required to meet the compliance obligations provided for in the Corporate Tax Law for each Tax Period. This includes the obligation to register for Corporate Tax purposes, file a Tax Return and retain all relevant documents and records to support their Corporate Tax filings.

Clause 1 sets out the two conditions that a Resident Person must meet in order to qualify for Small Business Relief. These are that (i) the Resident Person has Revenue (as defined under **Article 1**) for the relevant and prior Tax Periods below the threshold to be set by the Minister, and (ii) the Resident Person meets any other conditions as may be prescribed by the Minister.

These conditions have been set out under Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses as follows:

- the relief under this Article will only apply in Tax Periods ending on or before 31 December 2026;
- the Revenue threshold for the relevant and prior Tax Periods is AED 3,000,000; and
- the Resident Person must not be one of the following:
  - a member of a multinational group that is required to prepare a Country-by-Country Report under the UAE's Country-by-Country Reporting legislation[1], or
  - a Qualifying Free Zone Person.

Clause 2 clarifies that for the Tax Period that a Resident Person elects to benefit from the Small Business Relief, the Resident Person will not be subject to certain provisions under the Corporate Tax Law that are relevant to the calculation of Taxable Income and will not be required to maintain Transfer Pricing documentation under Article 55. This is intended to further reduce the compliance burden.

Clause 3 empowers the Authority to monitor compliance of a Resident Person that applied for Small Business Relief by requesting any relevant documents and records.

[1] Cabinet Decision No. 44 of 2020 on Organising Reports Submitted by Multinational Companies

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Chapter Seven: Exempt Income

Article 22: Exempt Income

This Article specifies the types of income and related expenditure that shall not be taken into account in determining Taxable Income, provided the applicable conditions are satisfied or when a Taxable Person elects to claim the exemption from Corporate Tax under **Article 24.**

The purpose of the exemption from Corporate Tax for the types of income mentioned in **Clauses 1** to **4** is, broadly, to prevent income derived from the activity of another resident or non-resident juridical person, or a Foreign Permanent Establishment of a Resident Person, from potentially being subject to economic or juridical double taxation.

Dividends and other profit distributions received from a Resident Person are exempt from Corporate Tax without the Corporate Tax Law prescribing any specific conditions or requirements. For dividends and other profit distributions paid by a foreign juridical person, the exemption from Corporate Tax is subject to the conditions of **Article 23**. The exemption from Corporate Tax on gains derived from the disposal of shares and other ownership interests in both UAE and non-UAE juridical persons is subject to these same conditions under **Article 23**.

The income of a Foreign Permanent Establishment is exempt from Corporate Tax following an election, subject to meeting the conditions of **Article 24**. The exemption from Corporate Tax provided in **Clause 5** is to ensure the Corporate Tax Law aligns with international standards for the taxation of international transportation by recognising the “reciprocity” principle.

Article 23: Participation Exemption

This Article provides that income from a Participating Interest, such as dividends and capital gains, is exempt from Corporate Tax. A Participating Interest is defined as a significant, long-term ownership interest in a juridical person (the “Participation”) that suggests some degree of control or influence over the Participation and that meets the conditions of this Article.

As discussed under **Article 12**, whilst Resident Persons are subject to Corporate Tax on income from both UAE and non-UAE sources, the Corporate Tax Law incorporates important elements of a territorial tax system by exempting certain income that is unrelated to activity or sources in the UAE from Corporate Tax. The exemption from Corporate Tax under this Article for income received from the ownership interest in a Participation is a common mechanism to reduce or eliminate economic double taxation under a residence-based tax system. Specifically, it provides a relatively simple mechanism to prevent both domestic and international double taxation in situations where the juridical person that distributes a profit or whose shares or other ownership interests are being sold may have already been taxed on its profits.

The exemption from Corporate Tax under this Article also extends to expenditure incurred in relation to the exempted income derived from a Participating Interest, rendering such expenditure non-deductible in accordance with **Articles 22** and **28(2)(b)**, except for Interest expenditure as per **Article 29**.

In addition to the Participation Exemption being a net income exemption, the Participation Exemption is a symmetrical exemption of income from a Participation Interest. That is, qualifying capital, revaluation and foreign exchange gains are exempt from Corporate Tax, and equally no deduction for Corporate Tax is allowed for capital losses, foreign exchange losses or impairment losses (except for losses realised on the liquidation of a Participation under **Clause 8**).

Clause 1 provides that the Participation Exemption applies without the need for the Taxable Person to make an election or file an application with the Authority. Accordingly, if the relevant conditions are met, the Participation Exemption will apply with regards to all relevant income derived from the Participating Interest, without the Taxable Person having the option or needing to elect for the relevant income to be exempt.

As a Taxable Person, a UAE Permanent Establishment could claim the Participation Exemption in respect of income from ownership interests that meet the conditions of **Article 23** that can be attributed to the Permanent Establishment as per **Article 12(3)(a)**.

Clause 2 sets out the following cumulative conditions under which an ownership interest in a Participation will be considered a Participating Interest.

- The Participating Interest represents a 5% or greater ownership interest in the Participation. The opening sentence of **Clause 2** specifies that a Participating Interest must represent a 5% or greater ownership of the shares or capital of the juridical person. This indicates that the Participation must have a capital divided into shares, membership interests, or other securities or rights that entitle the holder to profits and liquidation proceeds of the entity. Different types of shares or similar instruments can be aggregated to determine whether a Participating Interest exists, provided the condition under **Clause 2(c)** continues to be met.

  Unless the ownership interest qualifies as a Participating Interest by having an acquisition cost that exceeds the threshold under **Clause 11**, a less than 5% ownership interest in a juridical person will be deemed to be a passive or portfolio investment that does not qualify for the Participation Exemption.

- The Participating Interest must be held, or intended to be held, for an uninterrupted period of at least 12 months. Under **Clause 2(a)**, a Participating Interest must be held for an uninterrupted period of 12 months. There is no requirement for the Participating Interest to be held for the full Tax Period, nor is it required for the minimum holding period to be met at the time the income is derived. Income received from a Participating Interest before the minimum holding period is completed can benefit from the Participation Exemption as long as the Taxable Person has the intention to hold the Participating Interest for at least 12 months. Whether the Participating Interest is held with the intention of long-term investment or not may generally be inferred from the relevant facts and circumstances, including, for example, whether the Taxable Person is engaged in the business of buying and selling securities.

- The Participation must be subject to Corporate Tax (or equivalent) of 9% or more. The condition under **Clause 2(b)** ("subject to tax test") requires the Participation to be subject to Corporate Tax or any other tax imposed under the applicable legislation of the country or territory in which the juridical person is resident which is of a similar character to Corporate Tax.

- The ownership interest in the Participation entitles the holder to at least 5% of the profits and liquidation proceeds. The term "ownership interest" in the context of this Article is generally meant to refer to the legal and beneficial ownership of the shares or other ownership interests in the Participation. The ownership interest must entitle the holder to at least 5% of the Participation's profits available for distribution and at least 5% of the liquidation proceeds upon cessation of the Participation.

- 50% or less of the assets of the Participation consist of non-qualifying ownership interests. An ownership interest in a Participation will be deemed a passive or portfolio investment that does not qualify for the Participation Exemption if 50% or more of the Participation's assets, on a consolidated basis, consist of ownership interests or entitlements that by themselves do not meet the conditions of this Article had they been held directly by the Taxable Person.

Assets that would not qualify for the Participation Exemption include, for example, ownership interests in foreign juridical persons that are not subject to a corporate income tax in the relevant foreign jurisdiction, unless such ownership interests meet the conditions of **Clause 3**, or any other conditions as may be prescribed by the Minister under **Clause 2(e).**

- The Participating Interest must meet any other conditions as may be prescribed by the Minister. The Minister may prescribe such other conditions and requirements as it considers appropriate for the application of the provisions of this Article.

Clause 3 establishes that even if a Participation is not subject to Corporate Tax or a similar tax of at least 9%, the Participation can nevertheless be treated as having met the subject to tax test under **Clause 2(b)** where its principal objective and activity is the acquisition and holding of shares or equitable interests, provided such ownership interests meet the conditions of **Clause 2**. In addition, under **Clause 3(b)**, the income of the Participation must for the most part consist of dividends, capital gains and other qualifying income from Participating Interests.

Clause 4 confirms that a Participation in a Qualifying Free Zone Person or an Exempt Person shall be treated as having met the subject to tax test under **Clause 2(b)**, subject to any conditions that may be prescribed by the Minister.

Where the previous conditions are met, the following income specified under **Clause 5** shall not be taken into account by a Taxable Person in calculating their Taxable Income for Corporate Tax.

- Dividends and profit distributions received from a foreign Participation that is not a Resident Person.

  In the context of **Clause 5(a)**, dividends are not limited to only cash dividends, but also include stock dividends, bonus shares, dividends in kind, and other forms of actual or constructive profit distributions, subject to the provisions of **Clause 6**. In broad terms, constructive dividends or profit distribution are payments or benefits provided to the owner of the Participation that are an assignment of income to the owner, despite the absence of a formal distribution. This could arise, for example, as a result of a transaction under which the owner of the Participating Interest receives compensation that exceeds the fair value of the goods or services provided by it to the Participation.

- Gains or losses on the transfer, sale, or other disposition of a Participating Interest (or part thereof), taking into account the twelve-month period stipulated under **Clause 2(a)** or the two-year period specified in **Clause 9**.

- Foreign exchange or impairment gains or losses in relation to a Participating Interest.

Losses and expenditure incurred in relation to a Participating Interest are also exempt and hence non-deductible, with the exception of Interest expenditure which is governed under **Articles 29** and **30(1)**, and losses realised on the liquidation of a Participation that may be deducted under **Clause 8**.

Other income that is not directly related to the ownership of a Participating Interest, such as income from services provided to the Participation or Interest income earned under a loan granted to the Participation, will not be exempt from Corporate Tax.

Clause 6 provides that the Participation Exemption does not apply in the following circumstances.

- Insofar as the Participation can claim a deduction for the dividend or other profit distribution made to the Taxable Person under an applicable tax legislation. **Clause 6(a)** is intended to prevent situations of potential double non-taxation that would arise if the Participation can claim a deduction for the dividend or other distribution made to the Taxable Person, and that same dividend or other distribution is not taxed in the hands of the Taxable Person under this Article.

- The Taxable Person has recognised a deductible impairment loss in respect of the Participating Interest prior to the Participating Interest meeting the conditions of **Clause 2**. As the impairment loss recognised prior to the ownership interest becoming a qualifying Participating Interest would have been deductible from Taxable Income, **Clause 6(b)** provides that any subsequent income and gains will not be exempt under the Participating Exemption up to the amount of the impairment loss that was deducted.

- The Taxable Person or a Related Party who is subject to Corporate Tax has recognised a deductible impairment loss in respect of a loan receivable from the Participation. **Clause 6(c)** applies where the Taxable Person has impaired a receivable from a juridical person in which the Taxable Person or a Related Party of the Taxable Person holds a Participating Interest. It is not relevant whether the Taxable Person or its Related Party held the Participating Interest at the time of the impairment, and **Clause 6(c)** also applies to any indirectly held Participations.

Clause 7 confirms that the reversal of an impairment loss mentioned in **Clause 6(c)** is exempted from Corporate Tax up to the amount of income from the Participating Interest that did not benefit from the Participation Exemption under **Clause 6(c)**.

Clause 8 provides an exception to the general rule that gains and losses in relation to a Participating Interest are exempt from Corporate Tax for losses realised on the liquidation of a Participation. Where the proceeds from the liquidation of the Participation are less than the cost base for Corporate Tax purposes of the shares or other ownership interests in the Participation, the difference, or realised loss, can be deducted from the Taxable Income in the relevant Tax Period.

Clause 9 disapplies the exemption under **Article 23** for a period of two years where the Participation is acquired under the following circumstances:

- Where the Participation is acquired in exchange for the transfer of an ownership interest that is not a Participating Interest; or

- Where the Participation is acquired in exchange for a transfer of assets and liabilities within a Qualifying Group at no gain or no loss under **Article 26**; or

- Where the Participation is acquired in a Business restructuring transaction and the Business restructuring relief is applied under **Article 27**.

Clause 10 provides that if a Taxable Person did not hold the Participating Interest for an uninterrupted period of at least twelve months, and there was in fact no intention to do so, any income previously not taken into account under the Participation Exemption will be included in the calculation of Taxable Income under **Article 20** in the Tax Period in which the ownership interest in the Participation ceases to meet the relevant conditions of **Clause 2** or **Clause 11**.

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Clause 11 allows the Minister to prescribe a minimum acquisition value above which an ownership interest in a juridical person will be treated as having met the minimum ownership requirement of **Clause 2**. Any minimum acquisition cost threshold prescribed by the Minister would serve as an administrative simplification, recognising that a material investment in a juridical person is often representative of the long-term nature of the investment and would generally provide the holder with some degree of control or influence over the entity.

Article 24: Foreign Permanent Establishment Exemption

Whilst both UAE and non-UAE-sourced income derived by a Resident Person is within the scope of Corporate Tax, this Article allows a Resident Person to elect and claim an exemption from Corporate Tax for income derived through a Foreign Permanent Establishment that meets the conditions under this Article.

Similar to the exemption under **Article 23**, the Foreign Permanent Establishment exemption is intended to eliminate or reduce potential international double taxation and would equally apply to any expenditure of (or that is attributable to) the Foreign Permanent Establishment.

A Foreign Permanent Establishment is defined as a branch or other presence or activities of the Resident Person in a foreign jurisdiction that would constitute a Permanent Establishment when applying the conditions of **Article 14**, and that is acknowledged as such by the relevant foreign jurisdiction.

Clause 1 provides that where an election under this Article is made, both the income and associated expenditure of a Resident Person’s Foreign Permanent Establishments are not taken into account in determining the Resident Person’s Taxable Income, making the exemption from Corporate Tax under this Article a net income exemption.

Clause 2 confirms that if an election is made, the Resident Person shall not take into account any profits or losses in any of its Foreign Permanent Establishments, as well as any Foreign Tax Credits that would have been available had the election under **Clause 1** not been made. This Clause also confirms that the income or loss in each Foreign Permanent Establishment must be calculated using the rules for the calculation of Taxable Income under the Corporate Tax Law as if the Foreign Permanent Establishment was a separate Resident Person that is a Related Party.

Clause 3 confirms that references made to the “income and associated expenditure” of a Taxable Person’s Foreign Permanent Establishments under this Article refer to the total income and associated expenditure of all of the qualifying Foreign Permanent Establishments of the Resident Person in the relevant Tax Period. As such, a Resident Person cannot minimise their Corporate Tax liability for a Tax Period by only electing to exempt the income of those Foreign Permanent Establishments that are profitable, and not elect to exempt the losses of Foreign Permanent Establishments that meet the condition of **Clause 7**.

When determining the income and associated expenditure of a Foreign Permanent Establishment, **Clause 4** requires that the Resident Person and each of its Foreign Permanent Establishments shall be treated as separate and independent Persons. This means that in order to identify the income and expenditure which relates to a Foreign Permanent Establishment, each Foreign Permanent Establishment is treated as though it is an entirely independent Business from the UAE head office.

The arm’s length principle under **Article 34** would apply to any dealings between the Resident Person and its Foreign Permanent Establishment and to any dealings of the Foreign Permanent Establishment with Related Parties of the Resident Person.

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As an extension of the position under **Clause 4** that the Foreign Permanent Establishment is a separate and independent Person, the arm's length principle under **Article 34** would also apply to any "transfers" of assets or liabilities between a Resident Person and its Foreign Permanent Establishment. **Clause 5** requires such transfers to be treated as having taken place at Market Value at the date of the transfer when determining the Taxable Income of the Resident Person.

Clause 6 confirms that any election made under **Clause 1** must apply to all Foreign Permanent Establishments that meet the requirement of **Clause 7**. It is not possible to specify different treatments for different Foreign Permanent Establishments unless **Clause 7** disallows the exemption under this Article for a specific Permanent Establishment.

Clause 7 provides that an exemption from Corporate Tax only applies to Foreign Permanent Establishments that are subject to a sufficient level of tax imposed under the applicable legislation of the jurisdiction in which they are located. Accordingly, whilst the determination of whether a Foreign Permanent Establishment exists must be done by reference to the conditions of **Article 14** (before the application of any applicable agreement for the avoidance of double taxation), a Foreign Permanent Establishment must be acknowledged as such by the relevant foreign jurisdiction by virtue of being within the scope of corporate tax (or equivalent) in that foreign jurisdiction.

Article 25: Non-Resident Person Operating Aircraft or Ships in International Transportation

This Article exempts income derived by a Non-Resident Person from operating or leasing aircraft or ships (and associated equipment) used in international transportation. This exemption from Corporate Tax is provided under the proviso that the same tax treatment is granted to a UAE Resident Person in the relevant foreign jurisdiction under the reciprocity principle.

This Article provides that income derived by a Non-Resident Person from the operation of a ship or aircraft in international transportation is not subject to Corporate Tax, provided certain conditions are met.

Clause 1 specifies the types of Business carried on by a Non-Resident Person that fall within the scope of the exemption for international transport.

Clauses 1(a) and **1(b)** require that the Non-Resident Person is in the Business of the international transportation of passengers, livestock, mail, parcels, merchandise or goods by air or by sea, or the leasing or chartering of aircraft or ships used in international transportation.

Beyond the direct operation or leasing of aircraft and ships for international transportation, **Clause 1(c)** provides that Businesses involved in the leasing of equipment which is integral to the seaworthiness of ships or the airworthiness of aircrafts used in international transportation are also exempt from Corporate Tax under this Article (provided the conditions under **Clause 2** are met).

Clause 2 provides that the exemption from Corporate Tax only applies where an equivalent exemption or exclusion from a tax that is similar in character to Corporate Tax would be provided to a UAE Resident Person engaged in the operation or leasing of aircraft or ships used in international transportation, as applicable, by the country in which the Non-Resident Person resides. This is consistent with international norms and ensures there is reciprocity in the taxation of income from international transportation and related services.

Chapter Eight: Reliefs

Article 26: Transfers Within a Qualifying Group

This Article provides for Corporate Tax neutrality where one or more assets or liabilities are transferred between closely related Taxable Persons, defined as members of a Qualifying Group.

The Corporate Tax Law establishes two different types of 'groups':

- Qualifying Groups (defined in this Article); and
- Tax Groups (discussed under **Article 40**).

Two or more juridical persons shall be treated as a Qualifying Group if all of the following conditions are met:

- The juridical persons are Resident Persons, or Non-Resident Persons that have a Permanent Establishment in the UAE;
- There is direct or indirect common ownership of at least 75% between the juridical persons, or a third Person owns at least 75% in all the juridical persons;
- None of the juridical persons are an Exempt Person or a Qualifying Free Zone Person; and
- The juridical persons have the same Financial Year end and prepare their financial statements using the same accounting standards.

Where the conditions above are met, the juridical persons will automatically be treated as part of a Qualifying Group. However, juridical persons that are members of a Qualifying Group will remain separate Taxable Persons for the purposes of the Corporate Tax Law.

Whilst ordinarily there would be a gain or loss for Corporate Tax purposes in cases where a Taxable Person transfers an asset or liability at a value different to its net book value for Corporate Tax purposes, **Clause 1** allows for the elimination of the Corporate Tax impact of transfers of assets and liabilities between members of a Qualifying Group.

Clauses 4 and **5** provide that relief from Corporate Tax under this Article will only apply to transfers between members of a Qualifying Group that will continue to be part of that same Qualifying Group for at least two years from the end of the relevant Tax Period. This is to prevent circumstances where a transfer occurs immediately prior to the sale of the transferee group company which would ordinarily be exempt from Corporate Tax under **Article 23**, with the relief then being utilised despite there being no intention for both parties to the transaction to continue to be members of the same Qualifying Group.

The non-recognition rule under **Clause 1** provides that the Corporate Tax position of a Taxable Person in respect of the asset(s) or liability(ies) being transferred may be "rolled over" to the transferee member of the Qualifying Group. This is achieved by deeming the asset(s) or liability(ies) to have been transferred for consideration equal to their net book value for Corporate Tax purposes, and for the other Taxable Person to have acquired the asset(s) or liability(ies) equal to that cost. The intention is to avoid what could economically be a "dry" Corporate Tax charge, or an allowable Tax Loss, where there has not been an economic realisation of the relevant asset(s) or liability(ies) from the perspective of the Qualifying Group as a whole.

Clause 2 sets out the conditions discussed above under which two or more Taxable Persons will be treated as members of the same Qualifying Group.

Clause 2(a) requires a Taxable Person seeking relief under this Article to be subject to Corporate Tax as either a Resident Person, or as a Non-Resident Person with a Permanent Establishment in the UAE. This is to ensure that any gain or loss that benefits from relief under this Article remains within the scope of Corporate Tax.

Clause 2(b) establishes the minimum common ownership requirement that must be met in order for two or more Taxable Persons to be considered members of a Qualifying Group. This requirement shall be met where one of the Taxable Persons owns a direct or indirect 75% or greater ownership interest in the other Taxable Person that is party to the relevant transaction, or where a third Taxable Person that is not party to the relevant transaction directly or indirectly owns a 75% or greater ownership in each of the relevant Taxable Persons.

Clauses 2(c) and **2(d)** both relate to the Corporate Tax status of the Taxable Persons seeking to benefit from relief from Corporate Tax under **Clause 1**. Specifically, neither party to the relevant transaction can be an Exempt Person, as defined in **Article 4**, or a Qualifying Free Zone Person, as defined in **Article 18** (unless the Qualifying Free Zone Person has made an election under **Article 19** to be subject to Corporate Tax at the rates specified under **Article 3(1)**).

Clauses 2(e) and **2(f)** require the Taxable Persons involved in a transfer seeking to benefit from relief under this Article to have the same Financial Year (as defined under **Article 57**) and to prepare their financial statements using the same accounting standards.

Clause 3(a) provides that where relief from Corporate Tax under **Clause 1** is sought, the relevant assets or liabilities shall be treated as being transferred at their net book value for Corporate Tax purposes at the time of the transfer. The net book value of an asset is the cost of the asset reduced by the accumulated depreciation deductions (if any) allowed in respect of the asset, as reported for Corporate Tax purposes. The resulting impact is that no gain or loss arises for Corporate Tax purposes on the transfer of the asset(s) or liability(ies) between two members of a Qualifying Group.

Clause 3(b) provides that any consideration paid or received against the qualifying transfer will be treated for Corporate Tax purposes as being equal to the net book value of the transferred asset or liability.

The application of relief from Corporate Tax under this Article requires all relevant conditions to continue to be met by all parties to the transaction for a minimum of two years. In particular, **Clause 4(a)** provides that the asset or liability cannot be transferred outside the Qualifying Group within two years of the initial transfer, and **Clause 4(b)** requires that all parties to the transfer must remain within the same Qualifying Group for a minimum of two years following the transfer. These conditions are meant to prevent situations where an asset or liability is transferred to a member of the Qualifying Group followed by that member exiting the Qualifying Group, resulting in any gain on the asset or liability transfer not being taxed, whereas Corporate Tax would have applied if the asset or liability was sold directly to a party that is not a member of the Qualifying Group.

Clause 5 provides that if any of the conditions set out in **Clause 4** are not met, the transfer of the asset(s) or liability(ies) must be treated as having taken place at Market Value at the date on which the first transfer took place, which, if different from either the net book value or cost prescribed by **Clause 3(a)** and **Clause 3(b)**, will adjust the Taxable Income of the Taxable Persons involved in the transfer.

Article 27: Business Restructuring Relief

This Article eliminates the Corporate Tax impact of certain transactions undertaken as part of the restructuring or reorganisation of a Business.

Ordinarily, business restructuring transactions such as mergers or demergers could result in a taxable gain or loss, even where the ultimate ownership of the Business or Taxable Person does not change, or the original owners of the Business or Taxable Person retain an ownership in the restructured Business. In order not to hamper restructuring transactions undertaken for valid commercial or other non-tax reasons, this Article allows certain types of restructuring transactions to take place in a tax neutral manner, subject to meeting the conditions prescribed in the Article.

Examples of business restructuring transactions that are intended to benefit from relief under this Article include a business merger, a legal merger or a legal demerger.

- A business merger occurs when a Taxable Person transfers its Business or an independent part of its Business to another Taxable Person in exchange for shares or other ownership interests of the other Person. This may include, for example, a situation where a natural person converts its Business to an incorporated entity, or where an Unincorporated Partnership applies to the Authority to become a Taxable Person in its own right under **Article 16(8),** in which case the Partners in the Unincorporated Partnership will be considered as having transferred their part ownership of the Businesses to a separate Taxable Person in which they receive an ownership interest.

- A legal merger occurs when a Taxable Person (the “transferor”) transfers its entire Business to another Taxable Person (the “transferee”) under universal title, after which:

  - The transferor is dissolved by, or ceases to exist under, law without going into liquidation, and the shares or ownership interests of the transferor are cancelled by law; and

  - The owner(s) of the transferor become the owner(s) of the transferee, for example, the transferee issues new shares to the owner(s) of the transferor in exchange for the transfer.

- A legal demerger can either be a full demerger or a partial demerger.

  - In a full demerger, a Taxable Person (the “transferor”) would transfer its entire Business under universal title to at least two other Persons (the “transferees”), whereby the transferor is dissolved without going into liquidation and shares or ownership interests in the transferor are cancelled by law. The owner(s) of the transferor become owner(s) of the transferees.

  - In a partial demerger, a Taxable Person (the “transferor”) would transfer its Business under universal title to at least one other Person (the “transferees”), and the transferor continues to exist after the transfer. The owner(s) of the transferor also become owner(s) of the transferees following the transfer.

Clause 1(a) provides that no gain or loss needs be taken into account where a Taxable Person transfers its entire Business or an independent part of its Business in exchange for shares or other ownership interests in the transferee entity. An independent part of a Business refers to a part of the Business that may be operated independently and separately from the other Business of the Taxable Person.

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Under **Clause 1(b)**, relief from Corporate Tax may also apply in instances where the transferring party ceases to be Taxable Persons as a result of transferring their entire Business to another Person who is either currently a Taxable Person or would become a Taxable Person as a result of the transfer. This may be the case under a legal merger or “full demerger” case discussed above.

In either case, the consideration received by the transferring entity (or entities) or their owner(s) must be shares or other ownership interests of the transferee entity, and the transfer must be to a Person who is either currently a Taxable Person or would become a Taxable Person as a result of the transfer.

Clause 2 provides a number of conditions that must be met by all parties involved in the restructuring transaction in order to apply the relief under this Article. These conditions are meant to prevent relief under this Article from being used for purposes other than a business restructuring and to ensure that any gain or loss that benefits from relief under this Article remains within the scope of Corporate Tax.

Clause 2(a) requires that the business restructuring transaction complies with all applicable legislation in the UAE. This means that the business merger, legal merger, legal demerger or other restructuring transaction must comply with any and all requirements of any UAE Federal and/or Emirate level laws and regulations in order to benefit from relief under the Corporate Tax Law.

Clause 2(b) requires that any Taxable Person eligible for the relief under this Article must be subject to Corporate Tax as either a Resident Person, or as a Non-Resident Person with a Permanent Establishment in the UAE. This condition is meant to ensure that any potential gain or loss which is shielded by the relief under this Article remains within the scope of Corporate Tax.

Clauses 2(c) and **2(d)** both relate to the Corporate Tax status of the Taxable Persons seeking to benefit from relief from Corporate Tax under **Clause 1**. Specifically, neither party to the restructuring transaction can be an Exempt Person, as defined in **Article 4**, or a Qualifying Free Zone Person, as defined in **Article 18** (unless the Qualifying Free Zone Person has made an election under **Article 19** to be subject to Corporate Tax at the rates specified under **Article 3(1)**).

Clauses 2(e) and **2(f)** require the Taxable Persons involved in the business restructuring seeking to benefit from relief under this Article to have the same Financial Year (as defined under **Article 57**) and to prepare their financial statements using the same accounting standards.

Clause 2(g) provides that restructuring relief is only available to transfers undertaken for valid commercial or other non-fiscal reasons which reflect economic reality.

The adjustments required by the relief under this Article may alter the tax book value of the assets and liabilities being transferred as part of the restructuring transaction. **Clause 3(a)** provides that where relief from Corporate Tax under **Clause 1** is sought, the assets and liabilities transferred must be transferred at their net book value for Corporate Tax purposes at the time of transfer.

The net book value of a business asset is the cost of the asset for Corporate Tax purposes reduced by the accumulated depreciation or amortisation deductions (if any) in respect of the asset. In the absence of any such deductions or adjustments to the value of the asset, the net book value of the asset would generally be the historical cost of the asset. The resulting impact is that neither a gain or loss would arise for Corporate Tax purposes on the transfer of the asset(s) or liability(ies) in the context of a qualifying restructuring transaction.

Clause 3(b) provides that in applying business restructuring relief where the condition in **Clause 1(a)** is met, the shares or ownership interests received from the transferee cannot be recorded as exceeding the net book value of the assets transferred and any liabilities assumed, less the value of any other form of consideration received for Corporate Tax purposes.

The result of this Clause is that the total value of consideration received by the transferor shall be treated as not exceeding the net book value of the Business or independent part of the Business being transferred for the purposes of applying the Corporate Tax Law.

Clause 3(c) provides that in applying business restructuring relief where the condition in **Clause 1(b)** is met, the shares or ownership interests received from the transferee cannot be recorded as exceeding the book value for Corporate Tax purposes of the shares or other ownership interests of the Taxable Person that ceases to exist, less the value of any other form of consideration received.

The result of this Clause is that the existing Corporate Tax basis in the shares of the Taxable Person that ceases to exist rolls over to the shares or other ownership interests received in the Taxable Person that is created or that is the surviving entity under the business restructuring transaction for the purposes of applying the Corporate Tax Law. Whilst generally no Corporate Tax would be due under **Article 23** on the exchange of shares in the transferor for shares in the transferee or a future transfer of shares in the transferee, this Clause is meant to prevent a tax neutral increase in the cost price of a Participation which may be used for calculating any tax-deductible loss upon a future liquidation of the transferee entity under **Article 23(8)**.

Clause 3(d) provides that any unutilised Tax Losses incurred by the transferring Taxable Person in Tax Periods prior to the transfer may subsequently become carried forward Tax Losses of the transferee, subject to any conditions as prescribed by the Minister.

In instances where the shares or ownership interests received as part of the transfer are received by a Person other than the transferor, or the shares are issued by a Person other than the transferee, **Clause 4** would apply. **Clause 4** enables a third party to be the recipient or the issuer of the consideration for the transfer, provided the transfer continues to meet all other conditions of this Article.

Clause 5 provides that where an independent part of a Business is transferred, only the unutilised Tax Losses that can be reasonably attributed to the independent part of the Business being transferred may become carried forward Tax Losses of the transferee.

Clause 6 requires all conditions of the relief under this Article to continue to be met by all parties to the transaction for a minimum of two years. This requirement is meant to provide assurance that the business restructuring relief will only apply to business restructuring transactions as opposed to providing for a tax neutral transfer of assets and liabilities as part of, or in anticipation of, an ordinary sale transaction. This Clause limits the extent to which potential Corporate Tax liabilities can be avoided in advance of a planned transfer or disposal of a Business or independent part thereof.

Specifically, **Clause 6(a)** requires that the shares or ownership interests in the transferor or transferee may not be transferred to a Person outside a Qualifying Group within two years of the initial transfer, and **Clause 6(b)** requires that there cannot be a subsequent transfer or disposal of the Business or independent part of the Business transferred under the business restructuring relief within two years of the original transfer.

Clause 7 provides that if any of the conditions set out in **Clause 6** are not met, the transfer of the Business or independent part of the Business must be treated as having taken place at Market Value at the date of the

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transfer, with resulting adjustments to be made to the Taxable Income and available Tax Losses of the Taxable Persons involved in the transfer.

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Chapter Nine: Deductions

Article 28: Deductible Expenditure

This Article specifies the expenditure deductions that are allowable in computing Taxable Income under **Article 20**. It also sets out circumstances in which expenditure is not allowed to be deducted. The intention of the Article is to allow Taxable Persons to deduct expenditure that is a necessary part of arriving at an amount that is subject to Corporate Tax.

Article 1 defines Accounting Income as the accounting net profit or loss for the relevant Tax Period as per the standalone financial statements prepared for financial reporting purposes in accordance with accounting standards that are accepted in the UAE. Taxable Income is defined in **Article 20(2)** as the Accounting Income which has been subject to the adjustments as provided for in the Corporate Tax Law and any implementing decision issued thereunder, including any adjustments resulting from this Chapter.

Accordingly, Taxable Income is computed after allowing for expenditure accounted for under the relevant accounting standards, and after making the necessary adjustments to the Accounting Income for items of expenditure which do not meet the conditions of this Article and hence cannot be taken as a deductible expenditure for Corporate Tax purposes.

Clause 1 sets out what is allowed as a deduction either as items deducted in arriving at the Accounting Income or that may be deducted from such income.

This Clause provides the basic rule that a deduction is allowed for expenditure incurred wholly and exclusively by a Taxable Person for the purposes of their Business, unless specifically disallowed under any other provision of the Corporate Tax Law. This establishes that to qualify for a deduction, there must be a direct connection between the expenditure and the Business or Business Activity (i.e. the expenditure would not have been incurred had the Person not undertaken the Business or Business Activity). An expenditure or loss incurred for a purpose other than the Taxable Person's Business such as a personal expenditure is not allowed as a deduction. This is further confirmed in **Clauses 2** and **3**.

An amount of expenditure is allowed as a deduction in the Tax Period in which it is incurred. When a cost or expenditure is incurred will depend on the Person's basis of financial accounting (see **Article 20**). In broad terms, a Person accounting on a cash basis incurs expenditure when it is paid and a Person accounting on an accruals basis incurs expenditure when the obligation to pay arises (i.e. when it is irrevocably committed for payment).

Clause 1 also specifies that a deduction is not allowed for expenditure that is capital in nature. For capital expenditure, deductible amounts would generally be recognised by way of depreciation or amortisation of the relevant asset or benefit over its economic life.

Capital expenditure is expenditure that is incurred for the enduring benefit of a business rather than expenditure incurred and expended in generating profits. So, while expenditure incurred in acquiring materials used to produce items that will be sold will be a revenue expenditure, the costs of acquiring the machines that produce such products will be a capital expenditure as long as the machines have an expected enduring benefit for the business.

Clause 1 shall be applied subject to other provisions of the Corporate Tax Law. This means that a provision of the Corporate Tax Law may preclude an amount of expenditure from being deductible or modify the amount of

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the deduction. For example, deduction for Interest expenditure is specifically limited under **Articles 30** and **31** of the Corporate Tax Law.

Expenditure which does not meet the conditions of **Clause 1** will be disallowed and must be added back to a Taxable Person's Taxable Income if this expenditure has been included in the Taxable Person's Accounting Income. **Clause 2** sets out circumstances under which expenditure is not allowed to be deducted.

Clause 2(a) denies a deduction for expenditure that is incurred for purposes other than for the Taxable Person's Business, such as for a private purpose (e.g. personal consumption).

Clause 2(b) denies a deduction for expenditure incurred in deriving an amount that is Exempt Income as specified in **Article 22** of the Corporate Tax Law.

Clause 2(c) confirms that losses not connected with or arising out of a Taxable Person's Business are similarly not deductible.

Clause 2(d) provides for other non-deductible expenditure to be specified by a Cabinet Decision.

As set out in **Clause 1**, a deduction is allowed only for expenditure that is "wholly" incurred in deriving amounts included in Taxable Income. Thus, an expenditure incurred partly to derive Taxable Income and partly for some other purpose (such as to derive Exempt Income or for a private purpose) must be apportioned so that only that part relating to the derivation of Taxable Income is taken as a deduction for Corporate Tax purposes.

The basis of the apportionment will depend on the nature of the expenditure. Some expenditure may have separate parts which are clearly attributable between a taxable and non-taxable use. However, other expenditures may require more judgement to apportion the expenditure on a fair and reasonable basis. **Clause 3** confirms that expenditure that is only partly incurred for the purposes of deriving Taxable Income must be apportioned having regard to all relevant facts and circumstances of the Taxable Person's Business.

Article 29: Interest Expenditure

Interest expenditure and other similar financing costs incurred for the purposes of the Taxable Person's Business are deductible for Corporate Tax purposes within certain limits.

This Article provides that Interest is a deductible expenditure and should be deducted in the Tax Period it is incurred, subject to the general Interest deduction limitation rule provided for in **Article 30**, the specific Interest deduction rule for Related Party loans under **Article 31** and the conditions of **Article 28** discussed above.

Interest is defined in **Article 1** and is intended to capture a broad range of payments with the characteristics of interest to ensure a consistency of treatment across the payments.

This Article disapplies **Article 28(2)(b)** in respect of Interest expenditure with the effect that Interest paid in relation to Exempt Income is *prima facie* deductible unlike other expenditure incurred in deriving Exempt Income. However, the general Interest deduction limitation rule limits Interest expenditure to a portion of the Taxable Person's accounting earnings before the deduction of interest, tax, depreciation and amortisation ("**EBITDA**"), excluding any Exempt Income (see **Article 30(1)**), and subject to any other adjustments as prescribed under the Corporate Tax Law. This has the effect of limiting Interest deductions where a Taxable Person generates significant Exempt Income without requiring complex tracing rules that would be needed if **Article 28(2)(b)** did apply.

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Article 30: General Interest Deduction Limitation Rule

This Article provides for a general limitation on Net Interest Expenditure deductions. Such limitation is common in other jurisdictions and is intended to prevent the use of excessive debt financing to artificially reduce the Taxable Income base.

Clause 1 limits the amount of Net Interest Expenditure that can be deducted up to 30% of the Taxable Person's adjusted EBITDA for the relevant Tax Period, to prevent the different tax treatment of equity and debt being exploited through the use of excessive levels of debt. This is in line with the interest capping rules proposed by Action 4 of the OECD's Base Erosion and Profit Shifting project, which have been implemented by many countries around the world.

The accounting EBITDA of the Taxable Person must be adjusted for any income that is exempt from Corporate Tax under **Article 22** such as qualifying dividend income. The purpose of this adjustment is to restrict the deductibility of Interest expenditure incurred in deriving Exempt Income without requiring the Taxable Person to 'track and trace' Interest expenditure to individual assets and the income that they generate.

"Net Interest Expenditure" is defined in **Article 1** as the amount of Interest expenditure that is in excess of the Interest income amount. **Clause 2** provides that the Net Interest Expenditure for a Tax Period is the amount of Net Interest Expenditure incurred in that period, in addition to any carried forward Net Interest Expenditure that was disallowed under this Article in previous Tax Periods.

The deduction of allowable Net Interest Expenditure must be taken in the order that the Net Interest Expenditure was incurred (as specified in **Clause 4**). In other words, the deduction of Interest expenditure follows a "first in first out" rule, where carried forward Net Interest Expenditure incurred in earlier Tax Periods is deducted to the fullest extent allowable before the deduction of Net Interest Expenditure incurred in more recent Tax Periods or in the current Tax Period.

Clause 3 confirms that the limitation of the deductibility of Net Interest Expenditure under **Clause 1** only applies where the Net Interest Expenditure amount exceeds a certain threshold to be specified by the Minister. This Clause is meant to reduce the administrative burden associated with the interest capping rules by allowing a Taxable Persons to deduct up to a safe harbour or de minimis amount of Net Interest Expenditure, irrespective of the deductibility limit based on the EBITDA rule. If a Taxable Person's Net Interest Expenditure is below the threshold, the limitation under **Clause 1** will not apply. This means that the Taxable Person would be able to deduct the Interest expenditure incurred for the Tax Period in full, without the need to undertake further calculations.

Clause 4 provides that the amount of Net Interest Expenditure disallowed under **Clause 1** may be carried forward and deducted in the subsequent 10 Tax Periods. The deduction of Net Interest Expenditure in such subsequent Tax Periods must be applied in the order in which the amounts were incurred, subject to **Clauses 1** and **2**.

Clause 5 provides that the Net Interest Expenditure that has been disallowed under any other provision of the Corporate Tax Law (such as **Article 31**) shall be excluded from the calculation of Net Interest Expenditure under **Clause 2**.

Recognising that different sectors have different capital needs and risk profiles, and that financial institutions will commonly be in a net Interest income receipt position, **Clause 6** specifies that the general Interest deduction limitation rules will not apply to banks and insurance businesses. Additionally, the general Interest deduction

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limitation rules under this Article also do not apply to natural persons who are within the scope of Corporate Tax.

Clause 7 allows the Minister to specify the application of **Clauses 1** and **2** to Taxable Persons that are related to one or more Persons through ownership or control such that they are required to prepare consolidated financial statements under applicable accounting standards.

Consolidated groups for the purposes of this Article are separate from Qualifying Groups and Tax Groups as defined under the Corporate Tax Law. Whether a Taxable Person forms part of a consolidated group would be dictated by the consolidation requirements under the applicable accounting standards.

Article 31: Specific Interest Deduction Limitation Rule

As an exception to the general rule under **Article 29** which provides that Interest expenditure is deductible when incurred, subject to any restriction of the quantum of the allowable deduction under **Article 30**, this Article stipulates specific situations in which no deduction can be made for Interest expenditure incurred.

The purpose of this Article is to prevent the Corporate Tax base from being eroded by transactions and arrangements between Taxable Persons and their Related Parties for the sole or main purpose of creating deductible Interest expenditure where the income derived from the relevant transaction or arrangement can benefit from an exemption from Corporate Tax.

Specifically, a deduction will not be allowed for Interest expenditure incurred by a Taxable Person on a loan obtained from a Related Party in respect of certain transactions. This includes, but is not limited to, a dividend or profit distribution, a change in the capital structure of the Taxable Person or their Related Party(ies), a capital contribution, or the acquisition of shares of another juridical person that becomes a Related Party following the acquisition. However, the restriction in the deduction of Interest expenditure shall not apply where the Taxable Person can demonstrate that the main purpose of obtaining the loan and carrying out these transactions is not to gain a Corporate Tax advantage.

Clause 1 provides that Interest expenditure is not deductible when the following two conditions are met:

- Firstly, the amount must be borrowed, either directly or indirectly, from a Related Party. The term “Related Party” is defined under **Article 35** of the Corporate Tax Law.

- Secondly, the borrowing must be in respect of a transaction specified in **Clauses 1(a)** to **1(d)**.

Clause 2 provides an exception to the rule under **Clause 1** and allows the Taxable Person to claim an Interest deduction where it can be demonstrated that the main purpose of borrowing the amount and carrying out the transaction is not to obtain a Corporate Tax advantage. This will be based on the specific facts and circumstances applicable to each transaction.

For the purposes of **Clause 2**, **Clause 3** provides that the transaction and the related financing are deemed not to have been entered into for the main purpose of obtaining a Corporate Tax advantage where the Taxable Person can demonstrate that the recipient of the Interest is subject to Corporate Tax or a tax of a similar character under the applicable legislation of a foreign jurisdiction at a rate not less than the Corporate Tax rate under **Article 3(1)(b)**.

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Notwithstanding the provisions of this Article, the loan and transaction may still be subject to the general anti-abuse rule provided in **Article 50**.

Article 32: Entertainment Expenditure

The Corporate Tax Law recognises that as part of conducting a Business or Business Activity, costs could be incurred, for example, to entertain existing or potential customers or to promote products and services. A deduction for Corporate Tax purposes should generally be allowed for such type of expenditure following the general rules for deductible expenditure under **Article 28(1)**.

However, entertainment expenditure will ordinarily involve some degree of personal consumption, requiring the expenditure to be apportioned in accordance with **Article 28(3)**. As an administrative simplification, this Article allows a partial deduction of certain entertainment expenditure incurred in a Tax Period without the Taxable Person needing to apportion the expenditure between Business and personal use.

Specifically, **Clause 1** provides that 50% of any entertainment, amusement, or recreation expenditure incurred during a Tax Period by a Taxable Person may be deducted from the Taxable Income in the relevant Tax Period. This Clause is subject to the general provisions of **Article 28**, which may reduce the amount of expenditure before the 50% deduction under this Clause is then allowed.

The deductibility limitation under this Article does not apply to expenditure incurred for staff entertainment and such expenditure is fully deductible.

Clause 2 provides a non-exhaustive list of categories of expenditure that are not allowed as a full deduction against Taxable Income.

Entertainment expenditure for the purposes of this Article includes, but is not limited to, expenditure on the following items when incurred for the purposes of receiving and entertaining the Taxable Person's customers, shareholders, suppliers or other business partners:

- Meals;
- Accommodation, such as hotels and other temporary accommodation;
- Transportation, such as taxis, flights and other forms of transport;
- Admission fees, such as the costs of tickets to concerts, sporting events, golf outings and theatres;
- Facilities and equipment used in connection with such entertainment, amusement or recreation; and
- Any such other expenditure as specified by a Ministerial Decision.

Article 33: Non-Deductible Expenditure

This Article specifies certain types of expenditure that are not deductible for Corporate Tax purposes. Similar restrictions are common in other jurisdictions and help clarify when an amount cannot be taken as a deduction in the calculation of Taxable Income to prevent profits being reduced in ways that are not desirable for public policy reasons or through payments that can be artificially manipulated.

- To encourage social and public welfare activities that are subject to regulatory oversight in the UAE, **Clause 1** provides that a deduction for Corporate Tax purposes is only permitted where donations, grants and gifts are made to Qualifying Public Benefit Entities.

- **Clause 2** denies a deduction for fines and penalties which are not payments that are awarded or otherwise set as compensation or for a breach of contract. Similarly, no deduction is allowed for bribes or other illicit payments under **Clause 3**.

  Under accounting principles, a business may usually deduct expenditure resulting from illegal acts where the expenditure was incurred for the purposes of gaining or producing income. However, this Clause disallows such expenditure to prevent a Taxable Persons from receiving a benefit (in the form of a reduction of Corporate Tax payable) from committing an illegal act and to prevent diminishing the deterrence value of fines and penalties.

- **Clause 4** denies a deduction for dividends, profit distributions and similar payments or benefits provided to the owner or owners of the Taxable Person.

  Dividends and other profit distributions are payments from the net income or profit of the Taxable Person, and not expenditure incurred for the purposes of the Taxable Person's Business. In the absence of a formal distribution of dividends or share of profits, a deduction for Corporate Tax purpose will also not be allowed for payments that are in substance a distribution of profits because of their direct relation with, and dependence on, the financial results of the Taxable Person. This may apply, for example, to the issuance of bonus shares or other non-cash entitlements in the Taxable Person (or any of its Related Parties) to its direct or indirect owners or to (the portion of) compensation paid to the direct or indirect owner of a Taxable Person that is not fixed and determinable but instead contingent on the financial performance of the Taxable Person.

- To prevent profits of natural persons undertaking a Business or Business Activity (directly or through an Unincorporated Partnership) being reduced through drawings or other amounts taken from the Business for personal use, **Clause 5** denies a deduction for amounts withdrawn from the Business. The same disallowance applies to amounts allocated or distributions made to a partner in an Unincorporated Partnership.

- Recoverable input VAT and payments for Corporate Tax or taxes on income imposed by authorities outside of the UAE are not deductible for Corporate Tax purposes under **Clauses 6**, **7** and **8**. Such taxes are not expenditure incurred in deriving Taxable Income.

- **Clause 9** allows the Cabinet to specify other categories of non-deductible expenditure.

There is no materiality or de minimis threshold for non-deductible expenditure, and any expenditure that falls within the types of expenditure specified under this Article will be non-deductible.

Chapter Ten: Transactions with Related Parties and Connected Persons

Article 34: Arm's Length Principle

The Corporate Tax Law contains transfer pricing rules to ensure that the price of a transaction is not influenced by the relationship between the parties involved. In order to achieve this outcome, this Article prescribes the application of the internationally recognised "arm's length" principle to transactions and arrangements between Related Parties (see **Article 35**).

The UAE's transfer pricing rules are intended to be aligned with the OECD internationally accepted transfer pricing standard, and allow Taxable Persons to use relevant guidance as a reference in the application of this Article.

Clause 1 requires the "arm's length principle" to be followed to establish the prices of transactions and arrangements between Related Parties. **Clause 2** specifies the meaning of the "arm's length principle" and clarifies that a transfer price would be considered to meet the "arm's length principle" if the price between Related Parties is consistent with the results that would have been realised if parties to the transaction were independent from each other and had engaged in a similar transaction, or arrangement, under similar circumstances.

Clause 3 lists the acceptable transfer pricing methods that can be used to determine the arm's length result. As the determination of an appropriate arm's length price for each transaction or arrangement is facts and circumstances dependent, and differs for each transaction or arrangement, **Clause 3** allows the use of one or more transfer pricing methods to determine the arm's length transfer price. The order of the methods listed under **Clause 3** does not indicate nor imply a hierarchy of methods that should be used.

Clause 4 provides that transfer pricing methods other than those stipulated under **Clause 3** can be applied as long as the Taxable Person can demonstrate that none of the methods listed in **Clause 3** can be reasonably applied to determine an arm's length result and that any such other transfer pricing method used satisfies the condition of **Clause 2**.

Clause 5 specifies that, when choosing the applicable transfer pricing method, the most reliable method must be chosen, and five factors must be taken into account when determining reliability.

Clause 6 provides that as long as the transfer pricing method used by a Taxable Person can be considered appropriate, the Authority should base their assessment on whether a transfer price meets the arm's length principle based on the transfer pricing method used by the Taxable Person.

Clause 7 confirms that following the application of the transfer pricing methods in accordance with **Clauses 3** and **4**, an acceptable arm's length price may be a range of results or indicators (rather than an absolute number).

Clause 8 provides that the Authority may adjust a Taxable Person's Taxable Income where the result of any transaction or arrangement with a Related Party does not fall within the arm's length range referred to in **Clause 7**. The Authority is required to adjust the Taxable Income for an arm's length price that best reflects the facts and circumstances of the transaction or arrangement.

Clause 9 specifies that where an adjustment to Taxable Income is made under **Clause 8**, the information used by the Authority to make the adjustment decision can or will be made available to the relevant Taxable Person.

Clauses 10 and **11** provide that when a transfer pricing adjustment is made, a corresponding adjustment to the Taxable Income of the affected counterparty can or should also be made in order to achieve a tax neutral outcome.

Specifically, as the application of the arm's length principle may result in the terms of a transaction being altered, **Clause 10** allows for the Authority to make a corresponding adjustment to the Taxable Income of the Related Party to the relevant transaction or arrangement. **Clause 11** provides that where the application of the arm's length principle results in an adjustment to the transfer price made by a foreign competent authority, a Taxable Person can apply to the Authority to make a corresponding adjustment to their Taxable Income.

Article 35: Related Parties and Control

This Article defines Related Parties and Control for the purposes of the Corporate Tax Law. These concepts are relevant to the application of various provisions of the Corporate Tax Law, including the transfer pricing rules provided in **Article 34**.

Broadly, a Related Party is an individual or juridical person that has a pre-existing relationship with another Person through ownership, Control or kinship (in the case of natural persons). With respect to ownership and Control, it is internationally common to set the Related Party ownership threshold at 50% or more, on the basis that a simple majority is typically sufficient to exert influence and direction over another entity.

Clause 1 defines the situations in which two parties (natural or juridical) may be related to each other.

In the context of the UAE[2], under **Clause 1(a)**, two natural persons are considered to be related to each other for Corporate Tax purposes if their relationship is within the fourth degree of kinship or affiliation, including by way of adoption or guardianship. In this regard, kinship includes common blood ties, and affiliation includes relationship by marriage, or if one natural person's spouse is related by kinship to the other natural person.

By way of example, the degrees of kinship and affiliation are:

- The first-degree of kinship and affiliation includes a natural person's parents and children, as well as the parents and children of their spouse;
- The second-degree of kinship and affiliation additionally includes a natural person's grandparents, grandchildren, and siblings, as well as the grandparents, grandchildren, and siblings of their spouse;
- The third-degree of kinship and affiliation additionally includes a natural person's great-grandparents, great grandchildren, uncles, aunts, nieces and nephews, as well as the great-grandparents, great grandchildren, uncles, aunts, nieces and nephews of their spouse.
- The fourth-degree of kinship and affiliation additionally includes a natural person's great-great-grandparents, great-great-grandchildren, grand uncle, grand aunt, grandniece, grandnephew and first cousins, as well as the great-great-grandparents, great-great-grandchildren, grand uncle, grand aunt, grandniece, grandnephew and first cousins of their spouse.

Under **Clause 1(b)**, a natural person and a juridical person are considered related to each other where the natural person (alone or together with one or more Related Parties of the natural person) directly or indirectly

[2] Federal Law No. 5 of 1985 on the Issuance of Civil Transactions Law, and its amendments.

owns at least a 50% ownership interest in, or Controls, the juridical person. A similar test exists under Clause 1(c) to determine whether two juridical persons are Related Parties of each other. Specifically, under Clause 1(c), two or more juridical persons are Related Parties even where any Person, alone or together with its Related Parties, directly or indirectly owns a 50% (fifty percent) or greater ownership interest in or Controls such two or more juridical persons.

Clause 1(d) specifies that a Person and their UAE or Foreign Permanent Establishment will be considered Related Parties for Corporate Tax purposes. This ensures that the transfer pricing rules under **Article 34** apply to transactions between a Person and their UAE or Foreign Permanent Establishment, and such transactions will be required to be undertaken in accordance with the arm's length principle.

Given the direct relationship that exists between partners in an Unincorporated Partnership, as exemplified by, for example, their shared control over the Business of the Unincorporated Partnership and their unlimited liability for the Business' debts, **Clause 1(e)** specifies that partners in the same Unincorporated Partnership will be considered Related Parties for Corporate Tax purposes. This ensures that transfer pricing rules will apply to transactions between a Person and other Persons where there is a close business relationship between them, and such transactions will be required to be undertaken in accordance with the arm's length principle. Where such partners are not otherwise related because of common ownership or control or through or kinship (in the case of natural persons), and they transact with each other and the Unincorporated Partnership in accordance with the economic terms agreed under the contract establishing the Unincorporated Partnership, it can generally be assumed that the partners transact with each other and the Unincorporated Partnership on an arm's length basis.

Clause 1(f) specifies that a Person who is the trustee, founder, settlor or beneficiary of a trust or foundation will be considered Related Parties of the trust or foundation and its Related Parties. This is intended to ensure that where the trustee, founder, settlor or beneficiary is a Taxable Person, transactions with the trust or foundation and its Related Parties, including for example other trustees or beneficiaries, are conducted on an arm's length basis.

Clause 2 defines Control, as it applies to the Corporate Tax Law, as the ability of a Person, whether in their own right or by agreement or otherwise, to influence another Person. This Clause provides a non-exhaustive list of how such influence could be exerted through, for example:

- exercising 50% or more of the voting rights, or
- the ability to appoint the majority of directors of the other Person, or
- the entitlement to the majority of the profits of the other Person, or
- the ability to significantly influence the conduct of a Business.

Article 36: Payments to Connected Persons

Generally, payments made by a Taxable Person during the course of conducting its Business (and that are not capital in nature) are deductible under **Article 28**. Examples of these payments include amounts for provision of services, or any salary and wages paid. However, and supplementary to the arm's length principle that must be observed for transactions between Related Parties under **Article 34**, this Article provides that amounts paid to a Taxable Person's "Connected Persons" are deductible only if (and insofar) such amounts correspond with the Market Value of the transaction. In other words, a deduction would be denied on any portion in excess of the Market Value.

The purpose of this Article is to prevent Taxable Persons reducing their Corporate Tax liability by allocating excessive payments to natural persons who have a close connection to the Taxable Person (defined under **Clause 2** as "Connected Persons"), particularly where any income derived by such natural persons in their personal capacity would not be subject to Corporate Tax in the UAE.

In this context, **Clause 1** specifies that a deduction for Corporate Tax purposes shall only be allowed to the extent the amount paid for the service or benefit provided by the Connected Person does not exceed the Market Value of the service or benefit provided.

Clauses 2 and **3** provide a definition for Connected Persons that links Taxable Persons to other Persons more widely than the definition provided for Related Parties in **Article 35**. Under **Clause 2**, a Connected Person includes an owner of the Taxable Person, a director or officer of the Taxable Person, or a Related Party of either of these Persons referred to. Under **Clause 3**, a Person will be considered an owner of a Taxable Person if they are a natural person who directly or indirectly owns an ownership interest in the Taxable Person or who controls the Taxable Person.

Where a Taxable Person is a partner in an Unincorporated Partnership, **Clause 4** provides that any other partner in that Unincorporated Partnership is a Connected Person of that Taxable Person, as is any Person who is a Related Party of that partner.

Clause 5 specifies that the relevant provisions of **Article 34** will apply when determining that a payment or benefit provided by a Taxable Person to a Connected Person corresponds with the Market Value of the service or benefit (or otherwise) provided by the Connected Person.

To ease the compliance burden associated with complying with this Article, **Clause 6** specifies that **Clause 1** shall not apply to a Taxable Person whose shares are traded on a Recognised Stock Exchange or that is subject to regulatory oversight of a competent authority in the UAE. This on the basis that there should be sufficient oversight from independent parties to ensure that the pricing of transactions between the Taxable Person and its Connected Persons should not be influenced by the relationships of the parties.

Chapter Eleven: Tax Loss Provisions

Article 37: Tax Loss Relief

The Corporate Tax Law allows Tax Losses incurred in one Tax Period to be offset against the Taxable Income of a subsequent Tax Period under certain conditions. The purpose of providing this relief is to ensure that businesses are taxed consistently regardless of the profile of their profits over time, and the amount of Corporate Tax paid by a business over its lifetime would (subject to certain conditions) be the same no matter when such profits and losses are earned or incurred.

Specifically, this Article provides for a deduction to be made for Tax Losses and specifies the conditions under which available Tax Losses may be used to reduce the Taxable Income of a Taxable Person in subsequent Tax Periods.

A Tax Loss, as defined in **Article 1**, is any negative Taxable Income for a given Tax Period as computed in accordance with the rules set out in **Article 20**. Negative Taxable Income may arise, for example, where a Taxable Person incurred more expenditure than they generated Revenue in the relevant Tax Period.

Clause 1 provides that if a Taxable Person incurred a Tax Loss in a given Tax Period, this Tax Loss may be used to reduce the Taxable Income of subsequent Tax Periods. This provision ensures that a Taxable Person is able to carry forward and utilise their accumulated Tax Losses to reduce the Taxable Income earned in subsequent Tax Periods.

Clause 2 limits the amount of Tax Losses that can be utilised to reduce the Taxable Income for each Tax Period. Specifically, the amount of Tax Losses that can be used is limited to 75% of the Taxable Income in any Tax Period before any Tax Loss relief has been applied. For example, if the Taxable Income for a Tax Period is AED 1,000,000, the amount of the Tax Losses that can be used to reduce this Taxable Income cannot exceed AED 750,000, being 75% of AED 1,000,000.

This Clause also allows the Cabinet to determine another percentage for the Tax Loss limitation and prescribe the circumstances in which the amount of Tax Losses that can be used to reduce the Taxable Income for a subsequent Tax Period may exceed the 75% threshold.

Clause 3 provides that certain types of losses cannot be considered Tax Losses for the purposes of the Corporate Tax Law. These types of losses are essentially losses where businesses have not suffered economic loss for Corporate Tax purposes.

Clause 4 provides that if a Taxable Person is not able to fully utilise its available Tax Losses in the following Tax Period, such Tax Losses may be carried forward to a subsequent Tax Period until the Tax Losses are fully utilised. This Clause also clarifies that to the extent there are Tax Losses brought forward from prior Tax Periods, such Tax Losses must be used to offset against the Taxable Person's Taxable Income first, before any excess amount can be utilised by other group companies under **Article 38** or carried forward under **Article 39**.

Article 38: Transfer of Tax Loss

This Article allows Tax Losses to be transferred between Resident Persons with a common ownership of at least 75%.

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The ability to transfer Tax Losses covers both Tax Losses arising in a current Tax Period and those brought forward from a previous Tax Period. Similar rules exist in other jurisdictions and help ensure that Corporate Tax is applied to the economic unit that generates Taxable Income as a whole.

The ability to transfer Tax Losses under this Article supplements the rules on Tax Groups in **Chapter Twelve**, which provides another opportunity for Tax Losses to be utilised amongst Taxable Persons that are (practically) wholly commonly owned. The provisions of this Article ensure that where juridical persons are not 95% or more held by the same shareholders, but are still at least 75% commonly owned, they can benefit from the Tax Losses transfer rules.

Clause 1 defines when a relationship between two Taxable Persons is sufficiently close to allow a Tax Loss to be transferred by one Taxable Person and used to reduce the Taxable Income of the other Taxable Person. These conditions mirror to some extent those that identify a Qualifying Group (see **Article 26**) insofar as they apply to Resident Persons (except that **Article 38** does not cover UAE Permanent Establishments of Non-Resident Persons).

Clause 1(d) requires that the common ownership of at least 75% must exist from the start of the Tax Period in which the Tax Loss is incurred to the end of the Tax Period in which the other Taxable Person offsets the Tax Loss transferred against its Taxable Income.

Clause 2 specifies the corresponding effects where a transfer of Tax Losses from one Taxable Person to another Taxable Person takes place. **Clause 2(a**) provides that when Tax Losses are transferred, the transferred Tax Losses may be used by the other Taxable Person as a deduction to reduce their Taxable Income for the relevant Tax Period. A single Taxable Person may transfer their Tax Losses to more than one Taxable Person provided that in each case the relationship of the recipient Taxable Person with the Taxable Person transferring their Tax Losses meets the conditions specified under **Clause 1**.

Clause 2(b) confirms that the total Tax Loss offset used by the receiving Taxable Person must be within the 75% limit provided for in **Article 37(2)**. Where a single Taxable Person transfers Tax Losses to more than one Taxable Person, this threshold applies separately to each recipient of the Tax Loss based on the Taxable Income (before utilising any form of Tax Loss relief) of the receiving Taxable Person in the relevant Tax Period.

Clause 2(c) provides that the Taxable Person who transfers Tax Losses to another Taxable Person must reduce their available Tax Losses by the amount of the Tax Losses transferred. For instance, if a Taxable Person (Person One) has available Tax Losses of AED 1,000,000 and AED 200,000 of these Tax Losses are transferred to another Taxable Person, Person One will be left with AED 800,000 (being AED 1,000,000 less AED 200,000) of Tax Losses available to reduce their own Taxable Income in future Tax Periods.

Article 39: Limitation on Tax Losses Carried Forward

This Article provides that Tax Losses can only be carried forward by a Taxable Person from one Tax Period to a subsequent Tax Period where there is either a continuity of ownership or a continuity of the Business or Business Activity of the Taxable Person.

The purpose of placing a continuity requirement on the ability to utilise Tax Losses is to prevent the benefits of Tax Losses being enjoyed by those that did not suffer the economic costs when the Tax Losses were incurred in the first place. In addition, introducing a rule to restrict the ability to carry forward Tax Losses represents a specific anti-abuse measure to prevent the practice of 'loss trading', where entities could artificially reduce their Corporate Tax liability through acquiring entities with Tax Losses.

The above policy objectives have been reflected in this Article, with **Clause 1** providing that a Tax Loss can only be carried forward and utilised in accordance with **Article 37** if a continuity of ownership or Business continuity test is met.

Clause 1(a) clarifies what conditions must be met for there to be sufficient continuity of ownership in the Taxable Person. Specifically, in order for a Tax Loss to be carried forward, the same Person or Persons must have continuously owned at least a 50% ownership interest in the Taxable Person from the beginning of the Tax Period in which the Tax Losses are incurred to the end of the Tax Period in which the Tax Losses are to be utilised.

If a Taxable Person does not maintain sufficient ownership continuity, under **Clause 1(b)**, Tax Losses can nevertheless be carried forward where the Taxable Person continues to conduct the same or a similar Business or Business Activity in the Tax Period that the Tax Losses are to be utilised before the change of ownership occurred. This is further specified in **Clause 2**.

Having the ability to carry forward Tax Losses where there is either sufficient continuity of ownership or where the core Business or Business Activity of the Taxable Person continues (even if in a different manner) is meant to support economic activity by encouraging businesses to seek out new opportunities and ventures in an attempt to return to profit.

Clause 2 provides a non-exhaustive list of relevant factors for determining whether or not a Taxable Person has continued to conduct the same or a similar Business or Business Activity. In this context, “similar” does not mean similar “kind” or “type” to the previous Business or Business Activity; rather, one should consider all of the commercial operations of the previous Business or Business Activity and compare that of the new Business or Business Activity to determine whether the two activities are “similar” through using the non-exhaustive factors listed under **Clause 2**.

This determination is dependent on the specific facts and circumstances. However, for the current Business or Business Activity to be considered the same or similar to the former Business or Business Activity, there should be a clear closeness in the identity of the operations of the former Business or Business Activity and the current Business or Business Activity. If a Business or Business Activity changes its core characteristics, or if there is a change as a result of either the commencement, the acquisition or the cessation of activities, then the new Business or Business Activity may not be considered to be the same or similar to the previous one.

Clause 3 provides that **Clause 1** shall not apply to a Taxable Person whose shares are listed on a Recognised Stock Exchange. This is an administrative simplification that assumes that entities listed on a Recognised Stock Exchange have maintained sufficient continuity, and will be able to utilise Tax Losses brought forward from prior Tax Periods, irrespective of the extent of changes in their ownership or activities.

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Chapter Twelve: Tax Group Provisions

This chapter contains the provisions concerning the formation of a Tax Group between a Resident Person and one or more resident juridical persons. A Tax Group for Corporate Tax purposes is different from a Tax Group for VAT purposes.

Article 40: Tax Group

In principle, every Taxable Person is independently subject to Corporate Tax, which is the expression of the internationally accepted separate entity approach. An exception to this approach is provided in this Article which prescribes the rules for multiple Resident Persons to apply to act as one Taxable Person with regards to the provisions of the Corporate Tax Law.

Within a Tax Group, the resident juridical persons that make up the Tax Group are treated as a single Taxable Person for Corporate Tax purposes. As a result, transactions between the members of the Tax Group are, mostly, disregarded, and the Taxable Income of a member is generally automatically offset against any Tax Loss of another member.

Although the members of a Tax Group remain formally subject to Corporate Tax, the financial statements of the individual members of the Tax Group must be consolidated for Corporate Tax purposes, and the representative member of the Tax Group (the "**Parent Company**") will settle the Corporate Tax payable by and on behalf of the Tax Group.

To form a Tax Group, **Clause 1** provides that all of the following conditions must be met:

- The Parent Company and the Subsidiaries are resident juridical persons;
- The Parent Company must own 95% or more of the share capital and voting rights of the other resident juridical persons wishing to form the Tax Group with the Parent Company (each called a "**Subsidiary**"), be it directly or indirectly through one or more Subsidiaries;
- The Parent Company must be entitled to 95% or more of the Subsidiary's profits and net assets, be it directly or indirectly through one or more Subsidiaries;
- Neither the Parent Company nor the Subsidiary can be an Exempt Person or a Qualifying Free Zone Person; and
- The Parent Company and the Subsidiary must have the same Financial Year and prepare their financial statements using the same accounting standards.

The 95% threshold allows for situations in which there is a minority interest holder, for example where applicable law requires at least two shareholders for the incorporation of the juridical person.

As an exception to the condition under **Clause 1(e)**, **Clause 2** allows one or more Subsidiaries in which a Government Entity directly or indirectly holds a 95% or greater ownership interest to form a Tax Group, as long as each ownership interest meets the conditions under **Clauses 1(b)** to **1(d)** and any other conditions that may be prescribed by the Authority.

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Where all of the conditions under **Clause 1** are met, an application shall be submitted to the Authority by the Parent Company and each Subsidiary wishing to form or join a Tax Group in accordance with **Clause 3**.

Once approved, **Clause 4** provides that the Tax Group shall be treated as one single Taxable Person for the purposes of the Corporate Tax Law from the date specified in **Article 41**, represented by the Parent Company.

Clause 5 clarifies that the formation of a Tax Group would require the Parent Company to comply with all the obligations set out in **Chapters Fourteen, Sixteen** and **Seventeen** of the Corporate Tax Law, being:

- The Parent Company will be responsible for settling the Tax Group's Corporate Tax due and applying for any Corporate Tax refund (as provided for under **Chapter Fourteen** of the Corporate Tax Law);
- The Parent Company will be responsible for complying with the requirement to register and deregister for Corporate Tax purposes on behalf of the Tax Group (as stipulated under **Chapter Sixteen** of the Corporate Tax Law); and
- The Parent Company will be responsible for filing a Tax Return, maintaining relevant financial statements, keeping the required records, maintaining transfer pricing documentation, and submitting a clarification to the Authority (if required) (as required under **Chapter Seventeen** of the Corporate Tax Law).

Without prejudice to the above, **Clause 6** clarifies that the Parent Company and each of the Subsidiaries shall remain jointly and severally liable for any Corporate Tax Payable (and any associated penalties) of the Tax Group for those Tax Periods in which they are members of the Tax Group. Jointly and severally means that all of the members of the Tax Group together are liable to meet the Corporate Tax liability of the Tax Group, and at the same time each individual member of the Tax Group has a standalone obligation to meet the Corporate Tax liability of the Tax Group. Such liability can, however, be limited to one or more members of the Tax Group following approval by the Authority as per **Clause 7**.

As provided in **Clause 8**, all the members of the Tax Group will remain responsible for the provisions under **Article 45** of the Corporate Tax Law regarding Withholding Tax. This means that as and when the Withholding Tax rate is increased from 0%, each member of the Tax Group will be responsible for deducting Withholding Tax and remitting amounts deducted to the Authority on payments subject to Withholding Tax made by them. It will not be the responsibility of the Parent Company to fulfil the Withholding Tax obligations on behalf of the Subsidiaries of the Tax Group.

Clause 9 stipulates that a Subsidiary can join an existing Tax Group following submission of an application to the Authority by the Parent Company and the relevant Subsidiary. The Subsidiary should meet the other requirements to be a member of a Tax Group as specified in **Clause 1**.

In case a Subsidiary no longer meets the conditions under **Clause 1**, that Subsidiary shall leave the Tax Group under **Clause 10**. Additionally, a Subsidiary can voluntarily leave the Tax Group following approval by the Authority of an application by the Parent Company and the relevant Subsidiary.

Clause 11 determines that a Tax Group shall cease to exist when the Authority approves an application by the Parent Company, or the Parent Company no longer meets the conditions to form a Tax Group as specified in **Clause 1**.

As set out in **Clause 12**, a Parent Company can apply to the Authority to be replaced by another Parent Company without discontinuation of the Tax Group when the new Parent Company meets the conditions

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specified in **Clause 1** (in relation to the existing Tax Group), or the former Parent Company ceases to exist and the new Parent Company or a Subsidiary is its universal legal successor.

Clause 13 stipulates that the Authority has the right, at its discretion, to dissolve a Tax Group or change the Parent Company of a Tax Group based on information available to the Authority. The Authority is required to notify the Parent Company when it exercises this discretionary power to dissolve the Tax Group or change the Parent Company.

Article 41: Date of Formation and Cessation of a Tax Group

This Article specifies the date on which a Tax Group becomes effective and ceases to exist, and when a Subsidiary is treated as having joined or having left a Tax Group.

Clause 1 provides that a Tax Group will be formed (or a Subsidiary can join an existing Tax Group) from the beginning of the Tax Period specified in the application submitted to the Authority. However, the Authority has the right to determine another Tax Period that a Tax Group may be formed (or a Subsidiary may join an existing Tax Group).

In case a Subsidiary leaves the Tax Group following approval by the Authority of an application made under **Article 40(10)(a)** or **Article 40(11)(a)**, the Subsidiary shall be treated as leaving the Tax Group from the beginning of the Tax Period specified in the application submitted or any other Tax Period determined by the Authority. The same applies in case a Tax Group ceases to exist following approval of an application made to the Authority.

In case a Parent Company or a Subsidiary fails to meet the conditions under **Article 40(1),** for instance when the shares in a Subsidiary are sold to a third party and the subsidiary no longer meets the ownership test, the subsidiary shall be treated as leaving the Tax Group from the beginning of the Tax Period in which it no longer meets these conditions.

Article 42: Taxable Income of a Tax Group

As a result of forming the Tax Group, one (consolidated) Taxable Income will be calculated for the Tax Group. **Clause 1** stipulates that the Parent Company shall consolidate the financial results, assets and liabilities of each Subsidiary with the Parent Company for the relevant Tax Period, thereby eliminating transactions between the members of a Tax Group.

The Tax Group must prepare consolidated financial statements in accordance with accounting standards as defined in **Clause 11**.

Clause 2 clarifies that the Corporate Tax Law shall apply to the Tax Group rather than to the individual group members subject to any necessary alterations. For example, the Taxable Income threshold under **Article 3(1)** will apply to the Taxable Income of the Tax Group, and not to each member individually.

As a rule, the Tax Group takes effect from the beginning of a Tax Period. In order to prevent retroactive effect of the Tax Group and its consolidation, **Clause 3** provides that pre-Grouping Tax Losses of an individual Subsidiary cannot be used to offset the Taxable Income of other members of the Tax Group. Whilst such pre-Grouping Tax Losses will become the Tax Losses of the Tax Group, they can only be used to offset the Taxable Income of the Tax Group insofar this income is attributable to the relevant Subsidiary. Similarly, **Clause 4** specifies that in case a new Subsidiary joins an existing Tax Group, the unutilised Tax Losses of the existing

Tax Group cannot be used to offset the Taxable Income of the Tax Group insofar this income is attributable to the new Subsidiary.

Clause 5 clarifies that the utilisation of pre-Grouping Tax Losses or the utilisation of Tax Losses of the Tax Group under **Clause 4** is subject to the Tax Loss provisions in **Articles 37** and **39.**

Clause 6 provides that in case a Subsidiary leaves a Tax Group, Tax Losses of the Tax Group shall remain with the Tax Group, unless that relevant Subsidiary has any unutilised Tax Losses that originate from the period before joining the Tax Group. Any such remaining pre-Grouping Tax losses will stay with that relevant Subsidiary.

Clause 7 confirms that where a Tax Group ceases to exist, unutilised Tax Losses of the Tax Group shall be allocated as follows:

- In case the Parent Company continues to be a Taxable Person, the Tax Losses will remain with the Parent Company; or

- In case the Parent Company ceases to be a Taxable Person, the unutilised Tax Losses shall not be available to offset against future Taxable Income of individual Subsidiaries. This rule does not apply where these losses consist of unutilised Tax Losses of a Subsidiary from the period before joining the Tax Group. Further, where the Parent Company is replaced by another Parent Company under **Article 40(12)**, **Clause 8** provides that the Tax Losses shall remain with the Tax Group.

As a result of the consolidation under **Clause 1**, transactions between members of a Tax Group will generally not be considered when determining the Taxable Income of the Tax Group. An exception to this is given in **Clause 9** for situations where an asset or liability is transferred between members of a Tax Group, and either of these members involved in the transaction leaves the Tax Group within two years. In such a case, any taxable gain or loss that would otherwise have arisen on the relevant transfer must be included in the Taxable Income of the Tax Group. This is to prevent a direct sale of an asset or liability being transformed into an indirect sale, i.e. through the sale of a Subsidiary owning the asset or liability that would be exempt under the Participation Exemption.

Clause 10 provides that the Taxable Income associated with this transaction shall be taken into account on the date any of the members involved in the transaction leave the Tax Group. Additionally, it will result in a corresponding adjustment of the cost base for Corporate Tax purposes of the relevant asset or liability.

Chapter Thirteen: Calculation of Corporate Tax Payable

Article 43: Currency

This Article confirms that all amounts taken into account for the purpose of the Corporate Tax Law must be quantified in the United Arab Emirates dirham. This provides for a consistent approach and, internationally, taxable income is generally calculated, and resulting taxes payable are generally settled in the domestic currency.

This Article also provides for the conversion of foreign currencies to the United Arab Emirates dirham for the purposes of the Corporate Tax Law. Any amount in a foreign currency must be converted, at the applicable exchange rate set by the Central Bank of the United Arab Emirates, to United Arab Emirates dirhams. This will

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be relevant, for example, when an amount is paid in a currency other than the United Arab Emirates dirhams, such as in Euro. This also applies to foreign tax for which a credit is claimed under **Article 47**.

In principle, Taxable Persons are expected to translate the amounts denominated in a foreign currency at the time the relevant income is derived or expenditure incurred is taken into account for the purposes of the Corporate Tax Law. This is subject to any conditions that may be prescribed in a decision issued by the Authority.

When converting a foreign currency to the United Arab Emirates dirham, businesses should use a reasonable and consistent approach throughout the entirety of the Tax Period.

Article 44: Calculation and Settlement of Corporate Tax

This Article provides for the order in which the Corporate Tax due should be settled.

Clause 1 provides that, in the first instance, a Taxable Person's Corporate Tax due will be settled by using the Taxable Person's available Withholding Tax Credit as determined under **Article 46**. If the amount of the Taxable Person's Withholding Tax Credit is greater than the amount of Corporate Tax payable for the Tax Period, then the excess Withholding Tax Credit shall be refunded to the Taxable Person in accordance with **Article 49**.

If there is any remaining Corporate Tax due after fully utilising the Withholding Tax Credit, **Clause 2** provides that the Taxable Person can utilise its available Foreign Tax Credit as determined under **Article 47** to settle their Corporate Tax due.

If the amount of the Taxable Person's Foreign Tax Credit is greater than the amount of Corporate Tax payable for the Tax Period, any excess Foreign Tax Credit will be forfeited, and no refund will be given by the Authority for the excess Foreign Tax Credit amount. For further details on Foreign Tax Credits, please refer to **Article 47**.

To the extent there is any remaining Corporate Tax due after fully utilising the Taxable Person's available Foreign Tax Credit, **Clause 3** provides that the Taxable Person can utilise any credits or other forms of relief as specified in a Cabinet Decision.

To the extent there is any amount of Corporate Tax due that remains after utilising available tax credits under **Clauses 1, 2** and **3**, **Clause 4** requires the Taxable Person to settle this balance in accordance with **Article 48**. That is, the remaining Corporate Tax Payable amount must be settled within nine months from the end of the relevant Tax Period.

Article 45: Withholding Tax

Withholding taxes are a common form of imposing income tax on cross-border transactions and other payments involving non-residents, and in other situations where a withholding tax would provide a means of protecting the tax base.

This Article provides the basis for the imposition of Withholding Tax, sets the applicable rate, determines its scope and provides for its payment.

Clause 1 provides that the following income shall be subject to Withholding Tax:

- The categories of State Sourced Income derived by a Non-Resident Person as prescribed in a Cabinet Decision issued pursuant to this Article, insofar as such income is not attributable to a Permanent Establishment of the Non-Resident Person in the UAE; and

- Any other income as specified in a Cabinet Decision.

At the time of enactment of the Corporate Tax Law, the applicable Withholding Tax is 0%. However, the applicable Withholding Tax rate could be changed through a Cabinet Decision.

Clause 2 specifies that the amount of Withholding Tax payable under **Clause 1** is deducted from the gross amount of the relevant payment being made and the amount withheld should be remitted to the Authority within a prescribed timeline. This Clause also specifies that the Authority will prescribe the processes, procedures and timeline that will be followed to withhold and remit the tax deducted.

Article 46: Withholding Tax Credit

This Article provides that when a Person becomes a Taxable Person during a Tax Period, by for example forming a Permanent Establishment in the UAE under **Article 14**, they can claim a Withholding Tax Credit in relation to any Withholding Tax paid in that same Tax Period under **Article 45.**

Clause 1 specifies that if a Person becomes a Taxable Person in a Tax Period, its Corporate Tax due under the Corporate Tax Law under **Article 3** can be reduced by the amount of Withholding Tax Credit for that Tax Period, as specified in **Clause 2**.

Clause 2 stipulates that the amount of Withholding Tax Credit will be equal to Withholding Tax in that Tax Period, unless the amount of Withholding Tax paid is greater than Corporate Tax due, in which case the Withholding Tax Credit can only be claimed up to the amount of Corporate Tax due.

Clause 3 provides that a refund will be available to the Taxable Person if their Withholding Tax Credit exceeds the amount of Corporate Tax due in the same Tax Period. In accordance with **Article 49**, this refund will equal the difference between the amount of Withholding Tax Credit and the amount of Corporate Tax due.

The provisions of this Article will become relevant and applicable when the UAE decides to activate its Withholding Tax mechanism and levy Withholding Tax at a rate higher than 0%.

Article 47: Foreign Tax Credit

As discussed under **Article 12**, the Corporate Tax regime applies both the source and residence basis of taxation, where Resident Persons are taxed on their income irrespective of the source of such income. To mitigate or prevent potential double taxation of such income, the Corporate Tax Law exempts qualifying foreign sourced income via the Participation Exemption regime (see **Article 23**) and the Foreign Permanent Establishment exemption regime (see **Article 24**).

To the extent an exemption for foreign sourced income cannot be claimed, and foreign sourced income is included in the Taxable Income of a Resident Person, potential double taxation can nevertheless be reduced or eliminated under this Article by allowing the Taxable Person to claim a credit for income tax paid in the foreign jurisdictions in respect of such foreign sourced income against the Corporate Tax Payable on that same income. This is also confirmed in **Article 1** which defines “Foreign Tax Credit” as the amount of tax paid under the laws

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of a foreign jurisdiction on income or profits that may be used to reduce the amount of Corporate Tax payable in the UAE.

A Foreign Tax Credit is available for any foreign tax that is of a similar character to Corporate Tax. An amount of tax paid in a foreign jurisdiction may be considered to be of a similar character to Corporate Tax where the amount is imposed by, and payable to, a non-UAE government, and the payment of such an amount is compulsory and enforceable by law in that foreign jurisdiction. In addition, the amount should be imposed on profit or net income (i.e. income less deductions).

It is not relevant whether the amount is imposed under a separate legislation from the primary taxing legislation of the foreign jurisdiction. The name given to the tax paid in the foreign jurisdiction is also not relevant in determining whether such an amount is of a similar character to Corporate Tax.

Further, the method by which an amount is collected is not a decisive factor in determining whether an amount can be considered to be of similar character to Corporate Tax. That is, should a foreign jurisdiction collect its corporate or business profits tax by way of a withholding tax mechanism (which is typically calculated and collected as a percentage of a gross amount of payment), such a collection mechanism does not alter the nature of the foreign jurisdiction's tax on business profits.

Some jurisdictions impose amounts calculated on different components to the tax base, and such components may be based on both an income and a non-income element. Where the tax in the foreign jurisdiction is, for the most part, imposed on or by reference to income, and it would be administratively burdensome to split the amount into separate elements, provided the amount can meet the other conditions outlined above and none of the exclusions apply, such an amount should be considered to be of a similar character to Corporate Tax.

The following is a non-exhaustive list of items that are not considered to be of a similar character to Corporate Tax:

- Consumption taxes such as Value Added Tax / Goods and Services Tax / Sales Tax;
- Customs duty / Excise Tax / other forms of import duties;
- Transaction taxes such as stamp tax and capital duty;
- Property taxes and wealth taxes calculated based on ownership of specified items or value of assets without regard to income; and
- Estate Tax / other forms of inheritance taxes and duties.

Clause 1 provides that Corporate Tax due under **Article 3** may be reduced by the amount of Foreign Tax Credit for the relevant Tax Period.

Clause 2 provides that the amount of Foreign Tax Credit to be claimed by a Taxable Person cannot exceed the amount of Corporate Tax payable in respect of the foreign sourced income that is included in Taxable Income.

For example, if the amount of Corporate Tax due on the foreign sourced income is AED 100,000, then the maximum amount of the Foreign Tax Credit that can be claimed will be the lower of (1) the actual amount of tax (that is of similar character to Corporate Tax) paid in the foreign jurisdiction, or (2) AED 100,000 (being the amount of the Corporate Tax due on the foreign sourced income).

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It is noted that agreements for the avoidance of double taxation to which the UAE is a party may specify the methods for providing relief from double taxation which may be different to those set out in **Article 47**. In accordance with **Article 66**, the rules specified under an applicable agreement for the avoidance of double taxation would prevail in such instances.

Clause 3 specifies that, should any unutilised Foreign Tax Credit exist as a result of **Clause 2**, such amount would be forfeited, and would not be able to be carried forward to be used in the next period or carried back to an earlier period.

For instance, and to continue from the earlier example, if the actual amount of tax (that is of similar character to Corporate Tax) paid in the foreign jurisdiction is equal to AED 150,000, but the Corporate Tax due on the foreign sourced income is only AED 100,000, then the difference of AED 50,000 will be forfeited, and will not be able to be utilised by the Taxable Person to reduce their Corporate Tax payable.

Consistent with Corporate Tax being a self-assessment regime, it is the responsibility of a Taxable Person seeking to claim a credit under this Article to demonstrate that the amount paid in a foreign jurisdiction is eligible to be a Foreign Tax Credit. This responsibility is specified under **Clause 4**, where it is confirmed that it is the responsibility of the Taxable Person to maintain all the records necessary for the purposes of claiming a Foreign Tax Credit. This would include, for instance, proof of the tax paid under the laws of a foreign jurisdiction.

In this regard, “paid” means the amount that has been remitted or otherwise accrued to the tax authorities in the foreign jurisdiction (and as such represents a committed amount to the foreign tax authority). The amount would not be considered as paid to the foreign tax authority if the tax liability in the foreign jurisdiction is contingent or has not yet formally accrued. An amount of tax paid in a foreign jurisdiction that has been refunded or has been confirmed as being refundable will also not be considered as “paid”.

Chapter Fourteen: Payment and Refund of Corporate Tax

Article 48: Corporate Tax payment

This Article sets the timeline and a deadline for the payment of Corporate Tax. This provides Taxable Persons with clarity over their obligations and ensures that the Authority is able to collect the Corporate Tax due within a reasonable timeframe.

This Article provides that the Corporate Tax Payable under the Corporate Tax Law must be settled within nine months from the end of the relevant Tax Period, or by such other date as directed by the Authority. This coincides with the due date for filing of Tax Returns (see **Article 53**) and means that Taxable Persons will be able to pay Corporate Tax at the same time as filing their Tax Return. This is consistent with Corporate Tax being a self-assessed tax and is meant to minimise the compliance burden for taxpayers.

A Person who fails to pay Corporate Tax by the due date will be in violation of the Corporate Tax Law and the Tax Procedures Law, and in such cases shall be liable for the applicable penalties.

Article 49: Corporate Tax Refund

It is necessary to allow for refunds in cases where Taxable Persons have overpaid and are owed money by the Authority. This Article details the circumstances in which a Taxable Person can apply to the Authority to obtain a refund of Corporate Tax.

Clause 1 provides that a Taxable Person may apply to the Authority for a refund in accordance with the processes and procedures set out in the Tax Procedures Law, this being the law that governs the administrative aspects of Corporate Tax and other federal taxes in the UAE. This Clause also confirms that Corporate Tax will be refunded by the Authority under the following circumstances:

- The amount of Withholding Tax Credit (**Article 46(1)**) available to a Taxable Person in a Tax Period exceeds the amount of Corporate Tax that is due in the same Tax Period; or

- The Authority is satisfied that the Taxable Person has paid Corporate Tax in excess of their Corporate Tax Payable.

Clause 2 specifies that the Authority will respond to the refund application made under **Clause 1** by issuing a decision in accordance with the Tax Procedures Law. This is the standard practice in the UAE with respect to a refund request.

Chapter Fifteen: Anti-Abuse Rules

Article 50: General Anti-Abuse Rule

This Article provides for a general anti-abuse rule applicable to Corporate Tax.

Any tax system can create incentives and opportunities for taxpayers to alter their behaviours to reduce their tax liabilities. Under most circumstances, such behaviours are acceptable, as taxpayers are permitted to optimise their tax position in a manner consistent with the purpose and provisions of the legislation. However, in some cases, taxpayers may seek to reduce their tax liabilities in a way that is not consistent with the original intent and purpose of the law whilst still complying with the letter of the law. Such activity is typically considered abusive, and it is internationally common for tax laws to include rules designed to curb such behaviour.

Although the Corporate Tax Law is designed to be business friendly and to encourage and maintain a stable investment environment, it is also necessary that the Corporate Tax Law contains the relevant and adequate safeguards to protect the integrity of the Corporate Tax regime. On this basis, the Corporate Tax Law includes not only targeted tax base protection measures (e.g. interest capping rules), but also a general anti-abuse rule.

The reason for a general anti-abuse rule is so that the Corporate Tax Law can be kept simple and permissive. It means that the Corporate Tax Law does not have to consider every possible way that taxpayers could seek to exploit the scope and reliefs of the Corporate Tax Law and any attempts to achieve a Corporate Tax benefit through abusive tax avoidance schemes may be addressed under this Article.

On this basis, this Article has been designed to allow the Authority to counteract transactions or arrangements for Corporate Tax purposes where it can be reasonably concluded that there is not a valid non-tax reason for the transaction, and one of the main purposes is to secure a Corporate Tax advantage that is not consistent with the intention or the purpose of the Corporate Tax Law. The Article thus provides for a power that can be exercised by the Authority to take action against tax abuse in a defined set of circumstances.

Clause 1 sets out the circumstances under which the anti-abuse rule would apply. This is based on a test of whether it can be reasonably concluded that the transaction is not entered into or carried out for a valid commercial or other non-fiscal reason which reflects economic reality, and where the main purpose of it is to obtain a Corporate Tax advantage (explained under **Clause 2**) that is not consistent with the intention or purpose of the Corporate Tax Law. The Article requires that this test is made having full regard of all relevant circumstances and **Clause 5** further specifies the facts that must be taken into account in determining whether the Article applies.

Importantly, the Person who has the requisite purpose and the Person who obtained the tax benefit need not be the same Person. In other words, this Article can apply when a Person enters into a transaction or arrangement if the main purpose (or one of the main purposes) of the transaction or arrangement is to allow another Person to obtain a tax benefit.

Clause 2 provides a non-exhaustive list of examples of circumstances that are considered a Corporate Tax advantage for the purposes of **Clause 1**. The following are a “Corporate Tax advantage” for the purposes of this Article:

- a refund or an increased refund of Corporate Tax; or
- the avoidance or reduction of Corporate Tax Payable; or

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- the deferral of a payment of Corporate Tax or the advancement of a refund of Corporate Tax. The advantage here may not be to achieve additional monetary benefit, as overall the fiscal position will often be correct. However, there will be a time and cash flow advantage gained through, for example, accelerating Tax Losses in a way that goes against the spirit of the Corporate Tax Law, where the correct amount of Corporate Tax should be paid at the right time; or

- the avoidance of an obligation to deduct or account for Corporate Tax.

When the Authority is satisfied that a Corporate Tax advantage has been unduly obtained under **Clause 1**, **Clause 3** empowers the Authority to make a determination that the Corporate Tax advantages obtained as a result of the transaction or arrangement within the scope of this Article are to be counteracted or adjusted. In other words, **Clause 3** allows the Authority to "unwind" the tax outcome and treat the transaction or arrangement based on its economic reality. In practice, this will be given effect through the issuance of an assessment by the Authority.

Clause 4 provides a non-exhaustive list of the actions that can be taken by the Authority to give effect to the determination made under **Clause 3**. These can include:

- allowing or disallowing an exemption, deduction or relief in calculating Taxable Income or the Corporate Tax Payable, or any part thereof, or allocating it to any other Person; or

- recharacterising the nature of a payment (or any part thereof) or other amount for the purposes of the Corporate Tax Law; or

- disregarding the effect for the purposes of the Corporate Tax Law that would otherwise result from the application of other provisions of the Corporate Tax Law.

Clause 4 also empowers the Authority to make compensating adjustments to the tax liability of any other Person affected by the transaction or arrangement. For a compensating adjustment to be made in relation to a Person, the Person need not be a party to the transaction or arrangement; it is required only that they are affected by the transaction or arrangement.

Clause 5 provides a non-exhaustive list of the relevant facts and circumstances that must be taken into account when the Authority makes a determination.

Clause 6 confirms that where there is a proceeding regarding the application of this Article, it is the responsibility of the Authority to demonstrate that the determination made by the Authority is just and reasonable. In this context, "just and reasonable" takes the ordinary definition of fair and appropriate based on the facts and circumstances of the case.

Chapter Sixteen: Tax Registration and Deregistration

Article 51: Tax Registration

This Article provides for an obligation on Taxable Persons to register for Corporate Tax with the Authority and provides the basis for the Authority to require certain Exempt Persons to also register. It further provides the Authority with the discretionary power to register a Person for Corporate Tax.

Clause 1 requires a Taxable Person to register with the Authority for Corporate Tax purposes and specifies that the Person must register in the form and manner, and according to the timeline, prescribed by the Authority.

Once registered, the Person will be issued with a Tax Registration Number by the Authority. This number is unique to each Person, and forms part of the Person's identifying information when engaging with the Authority (e.g. when filing a Tax Return, as set out in **Article 53(2)(b)**).

Generally, all Taxable Persons are required to register for Corporate Tax purposes. However, the Minister may exclude certain categories of Taxable Persons from the requirement to register. In this regard, Ministerial Decision No. 43 of 2023 Concerning Exception from Tax Registration for the Purpose of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses has specified that the following Persons are not required to register for Corporate Tax purposes:

- a Government Entity; or
- a Government Controlled Entity; or
- a Person engaged in an Extractive Business that meets the conditions of Article 7; or
- a Person engaged in a Non-Extractive Natural Resource Business that meets the conditions of Article 8; or
- a Non-Resident Person that derives only State Sourced Income under Article 13 and does not have a Permanent Establishment in the UAE.

The Ministerial Decision also confirms that the requirement not to register for Corporate Tax purposes only applies to the extent that the above Persons are exempt for Corporate Tax purposes. Where any of these Persons undertake a Business or Business Activity that is subject to Corporate Tax, they will need to register for Corporate Tax with the Authority.

Under **Clause 2**, certain categories of Exempt Persons will be required to register for Corporate Tax and obtain a Tax Registration Number. This requirement will apply to any of the following types of Exempt Persons:

- a Qualifying Public Benefit Entity (see **Article 9**); or
- a Qualifying Investment Fund (see **Article 10**); or
- a pension or social security fund that is subject to regulatory oversight of the competent authority in the UAE and that meets any other conditions that may be prescribed by the Minister; or
- a juridical person incorporated in the UAE that is wholly owned and controlled by an exempt Government Entity, a Government Controlled Entity, a Qualifying Investment Fund, or a pension or social security fund meeting the conditions specified above; or
- any other Person as may be determined by a Cabinet Decision.

Clause 2 also allows the Authority to require the authorised partner in an Unincorporated Partnership to register the Unincorporated Partnership for Corporate Tax on behalf of all partners for the purposes of providing a declaration to the Authority if such information is requested by the Authority.

Clause 3 specifies that the Authority, at its discretion and based on the information available to it, may register a Person for Corporate Tax effective from the date the Person became a Taxable Person by meeting the conditions provided for in **Article 11** of the Corporate Tax Law. This discretionary power is given to the Authority to unilaterally register someone in order to allow the Authority to effectively administer and enforce the Corporate Tax Law.

Article 52: Tax Deregistration

This Article provides the basis for a Person with a Corporate Tax Registration Number to be deregistered for Corporate Tax purposes, whether once their Business or Business Activity has ceased to exist, and provided that they have paid all outstanding Corporate Tax and Administrative Penalties due and completed the necessary filing requirements, or through the Authority exercising their discretionary power to deregister this Person for Corporate Tax.

Clause 1 provides the basis for a Person to deregister for Corporate Tax purposes by filing a Tax Deregistration application. Such an application should be filed by any Person with a Tax Registration Number when their Business ceases to exist or when they no longer conduct any Business Activity. The form, manner and timeline for this deregistration application will be specified by the Authority.

Clause 2 requires that a Person registered for Corporate Tax purposes can only be deregistered once this Person has paid all Corporate Tax and Administrative Penalties due as provided for in **Article 60**. It further requires that a Taxable Person may not be deregistered unless it has filed all Tax Returns due. These Tax Returns include the Tax Return for the Tax Period up to and including the date the Person ceases to exist or operate.

Clause 3 specifies how the Tax Deregistration would be processed by the Authority. Specifically, this Clause provides that if the Authority approves the Taxable Person's Tax Deregistration application, the Authority will then deregister the Person for Corporate Tax. This deregistration will take effect either from the date of cessation of the Business or Business Activity, or from another date that may be determined by the Authority.

Clause 4 provides that the Authority may, at its discretion and based on the information available to it, deregister a Person who does not comply with the tax deregistration requirements under this Article. If the Authority does exercise its power under this Clause and deregisters a Person, this deregistration will take effect from the later of:

- the last day of the Tax Period in which the Authority became satisfied that the conditions under **Clause 2** have been met (i.e. when all Tax Returns have been filed and all Corporate Tax liabilities and Administrative Penalties due have been fully discharged by the Person); or
- the date the Taxable Person ceases to exist.

Chapter Seventeen: Tax Returns and Clarifications

Article 53: Tax Returns

This Article sets out the requirements for the filing of Corporate Tax Returns. Tax Returns (and related disclosures) are important for the efficient administration and enforcement of the Corporate Tax regime. It specifies dates of filing, the minimum information requirements, implications for Exempt Persons and the requirements for Unincorporated Partnerships and Tax Groups.

Clause 1 requires a Taxable Person to file a Tax Return for each Tax Period, and this Tax Return must be filed no later than nine months from the end of the relevant Tax Period. As an example, the Tax Return for a Tax Period ending 31 December in Year One will need to be filed by 30 September in Year Two. This clause also allows the flexibility for the Authority to set a different filing due date.

A Tax Return must be filed in the form issued, and in the manner prescribed, by the Authority.

Clause 2 specifies the minimum information which a Taxable Person must provide to the Authority as part of their Tax Return. This includes, but is not limited to:

- The Tax Period to which the Tax Return relates (see **Article 57**);
- The name, address and Tax Registration Number (a unique number issued by the Authority to each Person who is registered for Corporate Tax in the UAE, obtained under **Article 51**) of the Taxable Person;
- The date of submission of the Tax Return;
- The accounting basis used in the financial statements (see **Article 20**);
- The Taxable Income (the income that is subject to Corporate Tax in accordance with **Article 20** for the Tax Period;
- The amount of Tax Loss relief claimed (if any) under **Article 37(1)**;
- The amount of Tax Loss transferred in from other group company(ies) or transferred out to other group company(ies) (if any) under **Article 38**;
- The amount of Withholding Tax Credit and Foreign Tax Credit (if any) claimed under **Articles 46** and **47**; and
- The amount of Corporate Tax Payable for the Tax Period.

Clause 3 creates a legal obligation on a Taxable Person to provide the Authority with any information, documents or records that may be required by the Authority for the purposes of administering and enforcing the Corporate Tax Law. Such information, documents or records shall be provided as part of the Tax Return, or as and when requested by the Authority.

Where the disclosure of information through the standard information reporting channel and format by a Taxable Person may impede national security or may be contrary to public interest, **Clause 4** allows the Minister to establish an alternative information disclosure mechanism for such Taxable Persons. Specifically, the Minister

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may specify an alternative format or manner (or both) in which a Tax Return or other information is to be submitted to the Authority.

Under **Clause 5**, Persons exempt from Corporate Tax by way of application (see **Article 4(1)(e)** to **Article 4(1)(i)**) may be required to submit a declaration if requested by the Authority. The purpose of requiring these categories of Exempt Persons to submit a declaration, rather than a full-scale Tax Return, to the Authority is to balance the need for the Authority to obtain information to verify that these Persons continue to fulfil the conditions of allowing them to be exempt from Corporate Tax with the compliance burden of these Exempt Persons.

In the case of Unincorporated Partnerships that have not applied to the Authority to be treated as a Taxable Person separate from their partners under **Article 16(8)**, **Clause 6** empowers the Authority to request the authorised partner of the Unincorporated Partnership to file a declaration on behalf of all the partners in the Unincorporated Partnership. The obligation to disclose is placed on the authorised partner of the Unincorporated Partnership (rather than on all the partners). This is to balance the need for the Authority to obtain information on the Unincorporated Partnership with the compliance burden associated with complying with the disclosure requirement.

As members of a Tax Group are treated as one single Taxable Person, **Clause 7** clarifies that it is the Parent Company of a Tax Group that is responsible for filing the Tax Return to the Authority on behalf of the Tax Group. This is consistent with the role of a Parent Company of a Tax Group, where the Parent Company is the representative of the Tax Group as per **Article 40**.

Article 54: Financial Statements

This Article sets out the requirements for the preparation, maintenance, and submission of financial statements to the Authority when requested. This is to allow the Authority to have access to necessary information to administer and enforce the Corporate Tax Law.

Clause 1 specifies that the Authority may request a Taxable Person to submit the financial statements prepared for financial reporting purposes in accordance with accounting standards accepted in the UAE that were used to determine their Taxable Income for a Tax Period. If requested, these statements must be provided in the form and manner and within the timeline prescribed by the Authority.

Certain categories of Taxable Persons may be also required to prepare and maintain financial statements that are audited, or to have the financial statements used for determining their Taxable Income certified by a licensed public accountant, under **Clause 2**. Having an independent third party examining the financial statements of certain categories of Taxable Persons provides an additional layer of oversight on the quality of the financial information used for Corporate Tax purposes. In this regard, Ministerial Decision No. 82 of 2023 on the Determination of Categories of Taxable Persons Required to Prepare and Maintain Audited Financial Statements for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses has specified that the following Persons are required to maintain audited financial statements:

- A Taxable Person deriving Revenue exceeding AED 50,000,000 during the relevant Tax Period; and
- A Qualifying Free Zone Person.

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In the case of an Unincorporated Partnership, **Clause 3** provides that (for the purposes of **Clause 1**) the Authority may request a partner in the Unincorporated Partnership to provide financial statements showing all of the following information in respect of the unincorporated partnership:

- The total assets, liabilities, income and expenditure of the Unincorporated Partnership; and
- The partner's distributive share in the Unincorporated Partnership's assets, liabilities, income and expenditure.

Article 55: Transfer Pricing Documentation

This Article confers the power to the Authority whereby it may require a Taxable Person to maintain and disclose, along with their Tax Return, information regarding the Taxable Person's transactions with their Related Parties and Connected Persons. The purpose of maintaining transfer pricing related information is to describe how the Taxable Person has determined the transfer prices of transactions with Related Parties and Connected Persons, and why those transfer prices are sufficiently comparable to prices applied by independent parties in a similar situation.

Specifically, under **Clause 1**, a Taxable Person may be required by the Authority to disclose information on transactions and arrangements they have with their Related Parties and Connected Persons together with their Tax Return. This disclosure will need to be made in the form prescribed by the Authority.

Clause 2 provides that if a Taxable Person's transactions with its Related Parties and Connected Persons for a Tax Period meet certain conditions to be prescribed by the Minister, this Taxable Person will be required to maintain both a master file and local file.

The format of the master file and the local file will also be prescribed by the Authority. Generally, a master file should provide an overview of the Business and include information such as the corporate structure of the Business. A local file, on the other hand, typically contains more detailed information on the Related Party transactions.

If a Taxable Person is requested by the Authority to provide a copy of the master file and the local file to the Authority, **Clause 3** specifies that these documents must be submitted to the Authority within 30 days following a request by the Authority, or by such later date as directed by the Authority.

Clause 4 stipulates that a Taxable Person must comply with a request issued by the Authority to provide information which supports the arm's length nature of its transactions or arrangements with its Related Parties and Connected Persons. This information must be submitted within 30 days following the request, or by any such other later date as directed by the Authority.

The requirement to maintain and submit transfer pricing related information under this Article is subject to **Article 53(4)**, which allows the Minister to prescribe an alternative form and manner of how the transfer pricing information will be filed with the Authority where such a disclosure of information may impede national security or may be contrary to the public interest. **Article 21(2)(e)** also exempts Taxable Persons which qualify for the small business relief under **Article 21(1)** from the obligations under this Article.

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Article 56: Record Keeping

Business record-keeping forms a vital component of an effective taxation regime by providing the Authority access to relevant information to assess whether a Person has complied with its necessary Corporate Tax obligations.

This Article sets out the record-keeping obligations of a Taxable Person under the Corporate Tax Law.

Where applicable, businesses are required to keep records such as:

- a cash book recording daily sales, including credit sales;
- a salary and wages register if the business has employees;
- related records that support the information provided in the Tax Return or other documents filed with the Authority; and
- any other records that will allow the Taxable Income to be calculated.

Clause 1 obliges a Taxable Person to keep all documents and records that support the information provided in the Tax Return or any other document filed with the Authority, and that enable the Taxable Income of the Taxable Person to be readily ascertained by the Authority. **Clause 1** further requires these records and documents to be maintained for seven years following the end of the relevant Tax Period to which they relate.

Clause 2 requires an Exempt Person to keep any information, accounts, documents and records to enable the Exempt Person's status to be readily ascertained by the Authority. Similar to a Taxable Person, an Exempt Person should also keep such records for seven years following the end of the Tax Period to which they relate.

Failure to comply with the conditions set out in **Clauses 1** and **2** may result in penalties being imposed in accordance with the provisions of the Tax Procedures Law. Please refer to **Article 60** on the Assessment of Corporate Tax and penalties for further details.

Article 57: Tax Period

Corporate Tax is imposed annually by reference to the Taxable Person's Tax Period. **Article 57** provides the basis for identifying what a Taxable Person's Tax Period is and how it relates to a Taxable Person's Tax Return.

Given Corporate Tax is imposed on an annual basis, it is necessary to specify a Tax Period that applies to each Person. Generally, a Taxable Person's Tax Period is the period of 12 months ending on 31 December (i.e. the Gregorian calendar year), unless the Taxable Person prepares financial statements using a different time period.

Allowing a Taxable Person to align their Tax Period to the period for which they prepare financial accounts avoids the compliance cost that would otherwise be incurred if the Taxable Person has to prepare two sets of accounts based on different periods. It is particularly relevant for Taxable Persons (whether incorporated in the UAE or elsewhere) that form part of a multinational group.

In this context, **Clause 1** defines a Taxable Person's Tax Period as the Financial Year or part thereof for which a Tax Return is required to be filed.

Clause 2 provides that for the purpose of the Corporate Tax Law, the Financial Year of a Taxable Person is the Gregorian calendar year, or the 12-month period for which the Taxable Person prepares financial statements. On this basis, if a Taxable Person does not already prepare financial statements, they will by default have a January to December Tax Period.

Article 58: Change of Tax Period

A Taxable Person may change its Financial Year during its business operations - e.g. after an acquisition or merger to align the Financial Year with its new parent company. The Corporate Tax Law permits a Taxable Person to substitute a different 12-month period as their Tax Period with the approval from the Authority.

The Article allows for a Taxable Person to make an application to the Authority to change the start and end date of its Tax Period to another 12-month period, or to use a different Tax Period.

The application may be made subject to conditions to be set by the Authority.

Article 59: Clarifications

Taxpayer certainty is an important hallmark to an efficient tax regime and is seen as international best practice. Tax clarifications (commonly referred to as “rulings” in other jurisdictions) provide an opportunity for taxpayers to obtain certainty on their tax position upfront. Similar certainty may also be achieved in due course over whether the transfer prices used in Related Party transactions are consistent with the arm’s length principle through the conclusion of an advanced pricing agreement once the UAE’s advanced pricing agreement programme is activated.

Clause 1 stipulates that a Person may apply to the Authority to obtain a clarification on the application of the Corporate Tax Law or to enter into an advance pricing agreement with respect to a transaction or an arrangement proposed or entered into by that Person. The Person referred to is not required to be a Taxable Person at the point in time the clarification is sought, and as such a clarification may be sought pre or post the relevant transaction or arrangement has taken place. However, the Person seeking a clarification would need to meet the administrative requirements and follow the procedure as prescribed by the Authority.

Clause 2 provides that the Authority will prescribe the form and manner under which the application for a clarification or an advance pricing agreement should be made, and a Person wishing to obtain a clarification or an advance pricing agreement under **Clause 1** must follow the prescribed process.

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Chapter Eighteen: Violations and Penalties

Article 60: Assessment of Corporate Tax and Penalties

Corporate Tax is normally self-assessed, which means that the responsibility for calculating the Taxable Income and the Corporate Tax Payable in the first instance rests with the Taxable Person. However, the Authority should be able to issue an assessment in the course of administering and enforcing the Corporate Tax Law if a Person does not self-assess their Corporate Tax liability, e.g. in the absence of a filed Tax Return. This power is provided under **Article 60**. Specifically, this Article provided that, within the rules provided under the Tax Procedures Law, the Authority can issue a Corporate Tax assessment to any Person (not necessarily a Taxable Person).

Clause 1 confirms that a Corporate Tax assessment may be issued to a Person in accordance with the Tax Procedures Law, the Executive Regulations to the Tax Procedures Law and other implementing decisions relating to enforcement of the Tax Procedures Law.

Clause 2 further empowers the Authority to issue a Corporate Tax assessment by allowing the Authority to prescribe situations and conditions where either a Taxable Person can request the Authority to issue a Corporate Tax assessment, or an assessment can be issued unilaterally by the Authority without a request (or receiving a Corporate Tax Return).

In order to ensure the proper functioning of the Corporate Tax system, it is necessary to empower the Authority to issue and impose administrative penalties in respect of the failure to comply with the obligations set out in the Corporate Tax Law, the Tax Procedures Law and other related legislation. In this respect, **Clause 3** clarifies that any applicable penalties and fines to be imposed for violating any provisions of the Corporate Tax Law are determined based on the Tax Procedures Law and any associated implementing decisions.

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Chapter Nineteen: Transitional Rules

Article 61: Transitional Rules

This Article sets out the transitional provisions to the Corporate Tax Law.

Clause 1 determines how a Taxable Person should prepare their opening balance sheet for Corporate Tax purposes. Specifically, a Taxable Person is required to use their closing balance sheet prepared for financial reporting purposes for the period immediately before their first Tax Period as the opening balance sheet for Corporate Tax purposes, subject to any conditions and adjustments as may be prescribed by the Minister.

Clause 2 requires a Taxable Person to take into account the arm's length principle under the transfer pricing rules when preparing their opening balance sheet (see **Chapter Ten** of the Corporate Tax Law). This requirement is intended to prevent non-arm's length transactions and arrangements entered into prior to the introduction of Corporate Tax from impacting the calculation of Taxable Income.

Clause 3 confirms that **Article 50** (the General Anti-Abuse Rule) applies to the preparation of the opening balance sheet in respect of transactions or arrangements entered into on or after the date the Corporate Tax Law is published in the Official Gazette.

This Clause allows the Authority to counter arrangements put in place or transactions entered into by a Person before they become subject to Corporate Tax where such arrangements or transactions would result in undue Corporate Tax advantages, benefits, or Corporate Tax relief in the future.

Clause 4 expressly empowers the Cabinet to issue additional transitional regulations if required. This general power is necessary to facilitate the implementation of the Corporate Tax Law, as it is not possible to anticipate all transitional issues that may arise.

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Chapter Twenty: Closing Provisions

Article 62: Delegation of Power

This Article allows the Minister to delegate the powers provided to him under the Corporate Tax Law to the Authority where he deems appropriate.

Article 63: Administrative Policies and Procedures

This Article confirms that the Authority will determine the administrative policies, processes and procedures in respect of the compliance obligations and requirements imposed on a Person by the Corporate Tax Law. Examples of these administrative policies, processes and procedures include the tax return format and the type of information that should be disclosed to the Authority at the time of filing the return, and the processes that businesses should follow in filing their tax returns.

This Article also specifies that these Corporate Tax related administrative policies, processes and procedures will be determined by the Authority in consultation with the Ministry. This approach ensures that there is coordination between the policy intent (set by the Ministry and as reflected in the Corporate Tax Law) and how such policy intent is practically implemented via the processes and procedures (set by the Authority).

Article 64: Cooperating with the Authority

The Corporate Tax system is a self-assessment regime, and as such, information about a Person is generally collected from the Person themselves. However, for the purpose of monitoring compliance with the Corporate Tax Law, this Article provides that all other governmental entities in the UAE are required to cooperate fully with the Authority in order to support the Authority in administering and enforcing the Corporate Tax Law.

Examples of governmental entities covered by this Article include other ministries of the Federal Government, as well as government departments at the Local Government level (e.g. the Departments of Finance at each of the Emirates, regulatory authorities in free zones, etc.). The type of cooperation that the Authority may request in this context can include, but is not limited to, providing the Authority with any data, information, or documentation that the Authority might need in the course of administering and enforcing the Corporate Tax Law.

Article 65: Revenue Sharing

This Article provides the legal basis for sharing the Corporate Tax revenues between the Federal Government and the Governments of the respective Emirates and specifies that the revenues to be shared include both the Corporate Tax collected, as well as any associated administrative penalties collected.

Article 66: International Agreements

This Article provides that where there is a conflict between the provisions of the Corporate Tax Law and the terms of an international agreement (e.g. double tax treaties) that are recognised as having the force of law in the UAE through ratification, the terms of the international agreement will generally take precedence.

An international agreement is a contract between governments of different jurisdictions in written form and governed by international law. Consistent with the practice applicable to a contract between private parties,

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parties to an International Agreement should be bound by the provisions of the agreement and should fulfil their obligations in good faith.

For the purposes of the Corporate Tax Law, reference to the term "international agreement" means any duly ratified and in-force bilateral or multilateral treaty, convention, agreement or other instrument for the avoidance of double taxation or any other international taxation agreement or arrangement to which the UAE is a party. This includes the various agreements for the avoidance of double taxation entered into between the UAE and other countries and the multilateral instruments adopted by the UAE.

International agreements are in principle directly applicable in the UAE following their ratification and enactment. As there may be situations where the provisions of an international agreement conflict with the provisions of the Corporate Tax Law, this Article ensures that priority is given to the UAE's international obligations and confirms that the UAE will honour its obligations under an international agreement. In respect to taxation, the approach of ranking double tax treaty obligations above domestic provisions is internationally common and accepted.

Article 67: Implementing Decisions

Clauses 1 and **2** provide that the Cabinet, the Minister and the Authority can, within their respective competencies, issue any necessary decisions to implement the Corporate Tax Law.

Article 68: Cancellation of Conflicting Provisions

This Article confirms that the provisions of the Corporate Tax Law supersede other laws apart from international agreements. That is, if there are provisions in other laws that are contrary to or inconsistent with the provisions of the Corporate Tax Law, the provisions in the Corporate Tax Law prevail over the provisions in the other laws.

Notwithstanding this Article, in the case of a conflict between the Corporate Tax Law and an international agreement with respect to the right to tax a certain item of income, the relevant international agreement may limit the application of Corporate Tax as per **Article 66**.

Article 69: Application of the Corporate Tax Law to Tax Periods

This Article specifies that the provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023. This means that Persons who are within the scope of the Corporate Tax regime will become subject to Corporate Tax on a "rolling" basis, and the time of their entry into the Corporate Tax regime will depend on their Financial Year (i.e. the period for which the Person prepares their financial statements - see **Article 57**).

The purpose of a staggered entry into the Corporate Tax regime is to minimise the compliance burden by avoiding the need for Taxable Persons to apportion income earned and expenditure incurred during an accounting period to periods where Corporate Tax is not applicable and where such income and expenditure become subject to Corporate Tax.

Persons that prepare their financial statements based on a calendar Financial Year (1 January - 31 December) will become subject to Corporate Tax from 1 January 2024, being the commencement date of their first Tax Period after 1 June 2023.

Persons whose Financial Year does not align with the calendar year will become subject to Corporate Tax from the commencement date of their first Financial Year starting on or after 1 June 2023. For example, Taxable

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Persons with a Financial Year ending 31 March will become subject to Corporate Tax from 1 April 2024, and Taxable Persons with a Financial Year ending 30 September will become subject to Corporate Tax from 1 October 2023.

Article 70: Publication and Application of the Corporate Tax Law

This Article sets out how the Corporate Tax Law is promulgated.

The Corporate Tax Law is published in the UAE Official Gazette, which is the official channel in the UAE to publish laws and decrees issued by the Federal Government.

This Article also confirms that the Corporate Tax Law comes into effect 15 days after the law is published in the Gazette. As the Corporate Tax Law was published in Issue #737 of the UAE Official Gazette on 10 October 2022, the provisions of the law came into force on 25 October 2022.

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Cabinet Decisions

Cabinet Decision No. 37 of 2023 Regarding the Qualifying Public Benefit Entities for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

The Cabinet:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Pursuant to what was presented by the Minister of Finance and approved by the Cabinet,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses (referred to in this Decision as "**Corporate Tax Law**") unless the context requires otherwise.

Article (2)
Qualifying Public Benefit Entities

1. The entities specified in the schedule annexed to this Decision are considered Qualifying Public Benefit Entities for the purposes of the Corporate Tax Law.

2. The Government Entities shall notify the Ministry of any changes occurring to the public benefit entities specified in the schedule annexed to this Decision that impact the entity's continuity in meeting the conditions set out in the Corporate Tax Law. The notification shall be in the form and manner prescribed by the Ministry and made within (20) twenty business days from the occurrence of any change.

Article (3)
Amendment to the Schedule of Public Benefit Entities

1. Any Government Entity may file an application to the Ministry to suggest an amendment, whether by addition or deletion, to the schedule annexed to this Decision, in the form and manner prescribed by the Ministry, subject to the Ministry being provided with any data, information and documentation as may be requested to process the application.

2. The Cabinet may, at the suggestion of the Minister, amend this Decision and the schedule annexed to it, whether by addition or deletion.

Article (4)
Request for Information

1. A Qualifying Public Benefit Entity shall provide all relevant documents, data and information to the Ministry and the Authority to verify that the Qualifying Public Benefit Entity meets the requirements stipulated in the Corporate Tax Law.

2. All Government Entities in the State shall fully cooperate with the Ministry and the Authority to provide them with all data, information and documentation related to a Qualifying Public Benefit Entity and its activities.

3. The Ministry and the Authority may, for the purposes of implementing the provisions of this Decision, exchange with each other data, information, and documents in respect of any Qualifying Public Benefit Entity and its activities.

Article (5)
Implementing Decisions

The Minister shall issue the necessary decisions for the implementation of the provisions of this Decision.

Article (6)
Publication and Application of this Decision

This Decision shall be published in the Official Gazette and shall come into effect on the day following the date of publication.

Mohammed Bin Rashid Al Maktoum

Prime Minister

Issued by us:

Date: 16 Ramadan 1444 AH

Corresponding to: 07 April 2023 AD

جدول جهات النفع العام المرفق بقرار مجلس الوزراء رقم (37) لسنة 2023
بشأن جهات النفع العام المؤهلة لأغراض المرسوم بقانون اتحادي (47) لسنة 2022
في شأن الضريبة على الشركات والأعمال

Qualifying Public Benefit Entities (Federal Entities)	جهات النفع العام (الجهات الاتحادية)	م
Zakat Fund	صندوق الزكاة	1.
Emirates Red Crescent Authority	هيئة الهلال الأحمر لدولة الإمارات العربية المتحدة	2.
Arab Youth Center	مركز الشباب العربي	3.
The Supreme Council of Motherhood & Childhood	المجلس الأعلى للأمومة والطفولة	4.
UAE University	جامعة الإمارات العربية المتحدة	5.
Higher College of Technology (HCT)	مجمع كليات التقنية العليا	6.
Zayed University	جامعة زايد	7.
Anwar Gargash Diplomatic Academy	أكاديمية أنور قرقاش الدبلوماسية	8.
Mohammed Bin Rashid Smart Leading Program	برنامج محمد بن راشد للتعلم الذكي	9.
Corporate Social Responsibility UAE Fund	الصندوق الوطني للمسؤولية المجتمعية	10.
Federation of UAE Chamber of Commerce & Industry	اتحاد غرف التجارة والصناعة	11.
Ju-Jitsu Asian Union	الاتحاد الآسيوي للجو جيتسو	12.
Asian Chess Federation	الاتحاد الآسيوي للشطرنج	13.

UAE Jiu Jitsu Federation	اتحاد الإمارات للجو جيتسو	.14
UAE Equestrian and Racing federation UAEERF	اتحاد الإمارات للفروسية	.15
UAE disabled sports federation	اتحاد الإمارات للمعاقين	.16
UAE Muaythai & Kickboxing Federation	اتحـاد الإمـارات لمواي تـاي والكيـك بوكسنج	.17
UAE Judo Federation	اتحاد الجودو والمصارعة	.18
Industrialists Union Society	جمعية اتحاد الصناعيين	.19
Emirates Association for Women Entrepreneurs	جمعية الإمارات لرائدات الأعمال	.20
Emirates Society for Public Administration	جمعية الإمارات للإدارة العامة	.21
UAE Resuscitation Council	جمعية الإمارات للإنعاش القلبي	.22
UAE Social Media Association	جمعية الإمارات للتواصل الاجتماعي	.23
Emirates Quality Association	جمعية الإمارات للجـــودة	.24
Emirates Arabian Horse Society	جمعية الامارات للخيول العربية	.25
Emirates Traffic Safety Society	جمعية الإمارات للسلامة المرورية	.26
Emirates Aviation Association	جمعية الإمارات للطيران	.27
Emirates Public Relations Association	جمعية الإمارات للعلاقات العامـــة	.28
Emirates Astronomy Society	جمعية الإمارات للفلـــك	.29
Emirates Angels Investors Association	جمعيــة الإمــارات للمســـتثمرين المبادرين	.30
Indian Ladies Association – Abu Dhabi	جمعية السيدات الهنديات - أبوظبي	.31

Emirates Women Police Association	جمعية الشرطة النسائية الإماراتية	.32
Sudanese Women Association	جمعية المرأة السودانية	.33
National Multiple Sclerosis Society	الجمعية الوطنية للتصلب المتعدد	.34
Emirates Giving	جمعية إمارات العطاء	.35
Harvard Kennedy School Alumni Association of the UAE	جمعية خريجي جامعة هارفرد كلية كينيدي الحكومية في الإمارات	.36
The Emirati Entrepreneurs Association	جمعية رواد الأعمال الإماراتيين	.37
Saaed Association for Prevention of Traffic Crashers	جمعية ســـاعد للحد من الحوادث المرورية	.38
Mohammed bin Khalid Al Nahyan Future Generation Society	جمعيــة محمــد بن خــالــد آل نـهيــان لأجيال المستقبل	.39
Emirates Agricultural Pioneers Association	جميعة رواد الزراعة الإماراتية	.40
AWPOD (All With People of Determination)	جمعية كلنا مع أصحاب الهمم	.41
Kerala Social Center	مركز كيرلا الاجتماعي	.42
UAE Banks Federation	اتحاد مصارف الإمارات	.43
UAE Football Association	اتحاد الإمارات لكرة القدم	.44
UAE Falcons Federation	اتحــاد الإمــارات العربيــة المتحــدة للصقور	.45
UAE Athletics Federation	اتحاد الإمارات لألعاب القوى	.46
Emirates Bodybuilding &Fitness Federation	اتحاد الامارات لبناء الاجسام واللياقة البدنية	.47
Emirates Weightlifting Federation	اتحاد الإمارات لرفع الاثقال	.48

UAE Women Sport's Federation	اتحاد الإمارات لرياضة المرأة	.49
UAE Basketball Association	اتحاد الإمارات لكرة السلة	.50
UAE Table Tennis Association	اتحاد الإمارات لكرة الطاولة	.51
UAE Handball Federation	اتحاد الإمارات لكرة اليد	.52
UAE Squash Association	اتحاد الإمارات للاسكواش	.53
UAE Padel Association	اتحاد الإمارات للبادل تنس	.54
UAE Billiards & Snooker Association	اتحاد الإمارات للبلياردو	.55
UAE Polo Federation	اتحاد الإمارات للبولو	.56
UAE Bowling Federation	اتحاد الإمارات للبولينج	.57
UAE Taekwondo Federation	اتحاد الإمارات للتايكواندو	.58
UAE Triathlon Federation	اتحاد الإمارات للترايثلون	.59
UAE Tennis Federation	اتحاد الإمارات للتنس	.60
Emirates Golf Federation	اتحاد الإمارات للجولف	.61
UAE Modern Pentathlon Federation	اتحاد الإمارات للخماسي الحديث	.62
UAE Darts Federation	اتحاد الإمارات للدارتس	.63
UAE Cycling Federation	اتحاد الإمارات للدراجات	.64
UAE Shooting Federation	اتحاد الإمارات للرماية	.65
Emirates Esports Federation	اتحاد الإمارات للرياضات الالكترونية	.66
UAE Marine Sports Federation	اتحاد الإمارات للرياضات البحرية	.67
Emirates Aerosports Federation	اتحاد الإمارات للرياضات الجوية	.68
UAE Winter Sports Federation	اتحاد الإمارات للرياضات الشتوية	.69
UAE Sports Of All Federation	اتحاد الإمارات للرياضة للجميع	.70
UAE Badminton Federation	اتحاد الإمارات للريشة الطائرة	.71
UAE Swimming Federation	اتحاد الإمارات للسباحة	.72

UAE Sailing & Rowing Federation	اتحاد الإمارات للشـــراع والتجديف الحديث	.73
UAE Chess Federation	اتحاد الإمارات للشطرنج	.74
UAE Archery Federation	اتحاد الإمارات للقوس والسهم	.75
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EMIRATES CANOE AND RAFTING FEDERATION	اتحاد الإمارات للكانوي والرافتنج	.77
UAE Volleyball Association	اتحاد الإمارات للكرة الطائرة	.78
Emirates Cricket Union	اتحاد الإمارات للكريكيت	.79
UAE Fencing Federation	اتحاد الإمارات للمبارزة	.80
UAE Judo Federation	اتحاد الإمارات للمصارعة والجودو	.81
UAE Boxing Federation	اتحاد الإمارات للملاكمة	.82
UAE Netball Association	اتحاد الإمارات للنت بول	.83
Camel Race Federation	اتحاد الإمارات للهجن	.84
UAE Hockey Federation	اتحاد الإمارات للهوكي	.85
UAE Federation for School and University Education Institutes	اتحاد الإمارات لمؤســـســـات التعليم المدرسي والجامعي	.86
UAE Police Sports Federation	اتحاد الشرطة الرياضي	.87
Khalifa International Award for Date Palm and Agricultural Innovation	جائزة خليفة الدولية لنخيل التمر والابتكار الزراعي	.88
Animal Welfare Abu Dhabi (AWAD)	جمعية أبوظبي لرعاية الحيوان	.89
Abu Dhabi Society Folk Art and Theater	جمعية أبوظبي للفنون الشعبية والمسرح	.90
Environment Friends Society	جمعية أصدقاء البيئة	.91

Friends of Patients Society in Umm Al Quwain	جمعية أصدقاء المرضى ام القيوين	.92
Date Palm Friends Society	جمعية أصدقاء النخلة	.93
Emirates Association of Friends of Patients with Multiple Sclerosis	جمعية اصدقاء مرض التصلب اللويحي المتعدد	.94
Women Union Association Sharjah	جمعية الاتحاد النسائية الشارقة	.95
Sociological Association	جمعية الاجتماعيين	.96
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Emirates Friends of Senior Citizens Association	جمعية الإمارات لأصدقاء كبار المواطنين	.101
UAE IBD Society	جمعية الإمارات لداء الأمعاء الالتهابي	.102
Emirates Society for Parents Care and Relief	جمعية الامارات لرعاية وبر الوالدين	.103
Emirates Creative Association	جمعية الإمارات للإبداع	.104
UAE Sports Media Association	جمعية الامارات للإعلام الرياضي	.105
UAE Rare Disease Society	جمعية الإمارات للأمراض النادرة	.106
Emirates Safer Internet Society (eSafe)	جمعية الإمارات للإنترنت الآمن	.107
Emirates Happiness Positiveness Association	جمعية الإمارات للإيجابية والسعادة	.108

Emirates Strategic Planning and Foresight Future Association	جمعية الامارات للتخطيط الاستراتيجي	.109
Emirates Planning Association (EPA)	جمعية الإمارات للتخطيط الحضري	.110
Emirates Nutrition Association	جمعية الإمارات للتغذية	.111
Emirates Autism Society	جمعية الإمارات للتوحد	.112
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UAE Deaf Association	جمعية الإمارات للصم	.115
Emirates Nature WWF	جمعية الامارات للطبيعة	.116
Emirates Diving Association	جمعية الإمارات للغوص	.117
Emirates Fine Arts Society	جمعية الامارات للفنون التشكيلية	.118
Emirates Association for Management Consultants and Trainers	جمعية الإمارات للمستشارين والمدربين الإداريين	.119
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Al Habous Association for Arts and Folklore	جمعية الحبوس للفنون والتراث الشعبي	.129
Humanities Studies Association	جمعية الدراسات الإنسانية	.130
Al Shuhooh Cultural & Heritage Association	جمعية الشحوح للتراث الوطني	.131
UAE Journalists Association	جمعية الصحفيين الإماراتية	.132
Retired Military Personnel Association	جمعية العسكريين المتقاعدين	.133
Al Ain Society for Folklore and Heritage	جمعية العين للفنون الشعبية والتراث	.134
Jordanian Women's Association	جمعية المرأة الأردنية	.135
Sanad Al Watan Women Society	جمعية المرأة سند للوطن	.136
Theatrical Association	جمعية المسرحيين	.137
Almathaf Traditional Boat Rowing Arts Society	جمعية المطاف للتراث والفنون البحرية	.138
Teachers Association UAE	جمعية المعلمين	.139
UAE Contractor's Association	جمعية المقاولين	.140
Indian Islamic Centre Association	جمعية المقر الهندي الإسلامي	.141
Society of Engineers UAE	جمعية المهندسين بدولة الإمارات العربية المتحدة	.142
Emirates Publishers Association	جمعية الناشرين الإماراتيين	.143

Al Nakheel Society For Art & Popular Heritage	جمعية النخيل للفن والتراث الشعبي	.144
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Women Association of Umm Al Quwain	الجمعية النسائية أم القيوين	.146
Al Noor Rehabilitation & Welfare Association for People of Determination	جمعية النور لرعاية وتأهيل أصحاب الهمم	.147
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Dibba Society for Culture Art & Theater	جمعية دبا للثقافة والفنون والمسرح	.153
Dubai Folklore Society	جمعية دبي للفنون الشعبية	.154
Ras Al Khaimah Folk Arts Association	جمعية رأس الخيمة للفنون والتراث الشعبي	.155
Royati Family Society	جمعية رؤيتي للأسرة	.156
Egyptian ladies association	جمعية سيدات مصر	.157
Shamal Folk Arts and Theatre Society	جمعية شمل للفنون التراث الشعبي والمسرح	.158

Ajman Society of social and cultural development	جمعية عجمان للتنمية الاجتماعية والثقافية	.159
Kelna Al Emarat Association	جمعية كلنا الإمارات	.160
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Dubai National Theater	جمعية مسرح دبي الوطني	.162
Mawalif Association	جمعية مواليف	.163
Republic of Egypt Association Club	جمعية نادى جمهورية مصر العربية	.164
GCC Road & Transport Engineering Society	جمعية هندسة الطرق والنقل لدول مجلس التعاون لدول الخليج العربية	.165
Wajeb Volunteering Association	جمعية واجب التطوعية	.166
Social Security Fund for Dubai Islamic Bank Employees	صندوق التكافل الاجتماعي للعاملين في بنك دبي الإسلامي	.167
Faraj Fund	صندوق الفرج	.168
Emirates Committee for Nurturing Sports Talents & Support of National Sport	لجنة الإمارات لرعاية المواهب الرياضية ودعم الرياضة الوطنية	.169
UAE Paralympic Commitee	اللجنة البارالمبية الوطنية	.170
Emirates Committee for Advanced Sports	لجنة النخبة والمستوى العالي	.171
Mohammed bin Al-Qashati Center	مركز محمد بن مفتاح القشاطي	.172
Sheikh Mohammed bin Zayed center for the memorization of the Holy Quran	مركز الشيخ محمد بن زايد لتحفيظ القرآن الكريم	.173

Sheikha Mozah Bint Butti Religious Center	مركز الشيخة موزة بنت بطي الديني	.174
Sheikha Wadima bint Zayed for the memorization of the Holy Quran	مركز الشيخة وديمة بنت زايد لتحفيظ القرآن الكريم	.175
Al Noor Training Centre for Persons with Disabilities	مركز النور لتدريب وتأهيل الأشخاص ذوي الإعاقة	.176
Bin Harmal Quran Centre / Al Maqam Branch	مركز بن حرمل لتحفيظ القرآن الكريم / فرع المقام	.177
Dar Al Khair	مركز دار الخير	.178
Ras Al Khaimah Social Center	مركز رأس الخيمة الاجتماعي	.179
Ramlet Al-Rai Center for the memorization of the Holy Quran	مركز رملـــة الراعي لتحفيظ القرآن الكريم	.180
Umm Al-Mumineen Aisha Center for The Memorization Of The Holy Quran	مركز عائشـــة أم المؤمنين رضـــي الله عنها لتحفيظ القرآن الكريم	.181
Umar bin al-Khattab Center for the Memorization of the Holy Quran	مـركـز عـمـر بـن الـخـطــاب الـخـيـري لتحفيظ القرآن الكريم والسنه النبوية	.182
Awad bin Saeed Al Ketbi Center	مركز عوض بن سعيد الكتبي	.183
Quba Center for the memorization of the Holy Quran	مركز قباء لتحفيظ القرآن الكريم	.184
Al Ain Theater	مسرح العين	.185
Indian Social Centre – Al Ain	المقر الهندي الاجتماعي - العين	.186
India Social & Cultural Centre (ISC) Abu Dhabi	المقر الهندي الثقافي الاجتماعي- ابوظبي	.187

Emirates Motorsports Organization	منظمة الإمارات للسيارات والدراجات النارية	.188
Humaid Charitable Foundation of Retinopathy	مؤسسة حميد الخيرية لاعتلال الشبكية	.189
Rewaq Ousha Educational Institute	مؤسسة رواق عوشه بنت حسين الثقافي الاجتماعي	.190
Abdul Jalili Al Fahim & Family Charitable Foundation	مؤسسة عبدالجليل الفهيم عائلته الخيرية	.191
Mohamed Bin Butti Al Hamed Charitable Foundation	مؤسسة محمد بن بطي آل حامد للأعمال الخيرية	.192
Mohammed Bin Ham Charitable Foundation	مؤسسة محمد بن حم الخيرية	.193
Muslim Bin Ham Charitable Foundation	مؤسسة مسلم بن حم الخيرية	.194
Sudanese Social Club	النادي الاجتماعي السوداني	.195
Emirati Palestinian Friendship Club	نادي الصداقة الإماراتي الفلسطيني	.196
The Cultural & Scientific Association	ندوة الثقافة والعلوم	.197
UAE Anti-Doping Agency	الوكالة الوطنية لمكافحة المنشطات	.198

Qualifying Public Benefit Entities (Abu Dhabi)	جهات النفع العام (حكومة ابوظبي)	م
Family Care Authority	هيئة الرعاية الأسرية	.1
Zayed House for Islamic Culture	دار زايد للثقافة الإسلامية	.2
International Fund for Houbara Conservation	الصندوق الدولي للحفاظ على الحبارى	.3
Sandooq Al Watan	صندوق الوطن	.4
General Women's Union	الاتحاد النسائي العام	.5
The Mohamed Bin Zayed Species Conservation Fund	صندوق محمد بن زايد الدولي لحماية الأنواع وإثراء الطبيعة	.6
Abu Dhabi Chamber of Commerce & Industry	غرفة تجارة وصناعة أبوظبي	.7
Fatima Bint Mubarak Ladies Sports Academy	أكاديمية الشيخة فاطمة	.8
Sorbonne University - Abu Dhabi	جامعة السوربون - أبوظبي	.9
Khalifa University	جامعة خليفة للعلوم والتكنولوجيا	.10
Mohamed bin Zayed University of Artificial Intelligence	جامعة محمد بن زايد للذكاء الاصطناعي	.11
Mohammed Bin Zayed University for Humanities	جامعة محمد بن زايد للعلوم الإنسانية	.12
Abu Dhabi Center for Technical and Vocational Education and Training	مركز أبوظبي للتعليم والتدريب التقني والمهني	.13
Abu Dhabi Vocational Education and Training Institute	معهد أبوظبي للتعليم والتدريب المهني	.14
Institute of Applied Technology	معهد التكنولوجيا التطبيقية	.15
Emirates International Endurance Village	قرية الإمارات للقدرة	.16
St. Joseph's Cathedral	كاتدرائية القديس يوسف	.17
Emirates College For Advanced Education	كلية الإمارات للتطوير التربوي	.18
The House of Prayer Synagogue	كنيس بيت الصلاة	.19

The Armenian Church of Abu Dhabi	الكنيسة الأرمنية	.20
Evangelical Community Church – Abu Dhabi	الكنيسة الانجيلية – أبوظبي	.21
Evangelical Congregation - Al Ain	الكنيسة الانجيلية – العين	.22
Jacobite Syriac Orthodox Church, St. George's Church	الكنيسة السريانية الأرثوذكسية اليعقوبية كنيسة القديس جورج	.23
Church of the Virgin and Saint Paul the Apostle	كنيسة العذراء والقديس بولس الرسول	.24
The Coptic Orthodox Church	الكنيسة القبطية	.25
Egyptian Coptic Orthodox Church	الكنيسة القبطية الأرثوذكسية المصرية	.26
St. Andrew's Church – Al Ain	كنيسة القديس أندرو – العين	.27
St. Andrew's Church - Musaffah	كنيسة القديس أندرو – مصفح	.28
St. Paul's Church	كنيسة القديس بولس	.29
ST. GEORGE'S ORTHODOX CATHEDRAL	كنيسة القديس جورج الأرثوذكسية	.30
St. John the Baptist Catholic Church	كنيسة القديس يوحنا المعمدان الكاثوليكية	.31
Saint Mary's Church	كنيسة القديسة مريم	.32
Mar Thoma church – Abu Dhabi	كنيسة المار توما – أبوظبي	.33
Mar Thoma church – Al Ain	كنيسة المار توما – العين	.34
Jesus Christ Church of Saints / Latter Day Saints	كنيسة المسيح عيسى للقديسين / اليوم الأخير	.35
Assembly of Christians Church	كنيسة جمعية المسيحين	.36
South Indian Parish Church – Abu Dhabi	كنيسة جنوب الهند باريش – أبوظبي	.37
St Andrew's Church	كنيسة سانت أندرو	.38

Malankara Orthodox Syrian Church	كنيسة مالانكارا الأرثوذكسية السورية	.39
The Greek Orthodox Church of Antioch	مطرانية الروم الأرثوذكس	.40
BAPS Hindu Mandir Temple	معبد بي أيه بي اس هندو مانديرِ	.41
Guru Nanak Dirbar Sik Temple	معبد غورو نانك ديربار سيك	.42
Malayalee Samajam – Abu Dhabi	مقر ماليالي سماجم - أبوظبي	.43
ABU DHABI THEATRE	مسرح أبوظبي	.44
Zayed Theater for Talents and Youth	مسرح زايد للمواهب والشباب	.45
YAS Association, Culture, Art, and Theatre	مسرح ياس	.46
Ebtessama Foundation	مؤسسة ابتسامة	.47
Higher Committee for Human Fraternity	اللجنة العليا للأخوة الانسانية	.48
Abu Dhabi Center for Sheltering & Humanitarian Care - Ewaa	مركز ابوظبي للإيواء والرعاية الإنسانية - إيواء	.49
Sheikh Mohammed Bin Khalid Al Nahyan Cultural Center	مركز الشيخ محمد بن خالد آل نهيان الثقافي	.50
Ahmed Bin Khalifa Al Suwaidi Charitable Foundation	مؤسسة أحمد بن خليفة السويدي الخيرية	.51
Emirates Foundation	مؤسسة الإمارات	.52
Special Olympics UAE	مؤسسة الأولمبياد الخاص الاماراتي	.53
Family Development Foundation	مؤسسة التنمية الأسرية	.54
Social Care & Minors Affairs Foundation	مؤسسة الرعاية الاجتماعية وشؤون القصّر	.55
Ahmad Bin Zayed Charitable & Humanitarian Foundation	مؤسسة الشيخ أحمد بن زايد للأعمال الخيرية والإنسانية	.56

Make A Wish Foundation	مؤسسة أمنية	.57
Khalifa Bin Zayed Al Nahyan Foundation	مؤسسة خليفة بن زايد آل نهيان للأعمال الإنسانية	.58
Zayed Higher Organization for People of Determination	مؤسسة زايد العليا لأصحاب الهمم	.59
Zayed Charitable & Humanitarian Foundation	مؤسسة زايد بن سلطان آل نهيان للأعمال الخيرية	.60
SEDRA Foundation for Inclusion	مؤسسة سدرة لدمج ذوي الإعاقة	.61
H.H. Sheikh Sultan Bin Khalifa Al Nahyan Humanitarian & Scientific Foundation	مؤسسة سمو الشيخ سلطان بن خليفة زايد آل نهيان للبحوث العلمية والإنسانية	.62
Maitha Bint Ahmed Al Nahyan Foundation	مؤسسة ميثاء بنت أحمد للمبادرات المجتمعية والثقافية	.63
Abu Dhabi Country Club	نادي أبوظبي الرياضي	.64
Abu Dhabi Agricultural Club	نادي أبوظبي الزراعي	.65
Abu Dhabi Weightlifting Club	نادي أبوظبي لرفع الأثقال	.66
Abu Dhabi Racket Games Club	نادي أبوظبي لكرة المضرب	.67
Abu Dhabi Athletics Club	نادي أبوظبي للألعاب القوى	.68
Abu Dhabi Cycling Club	نادي أبوظبي للدراجات	.69
Abu Dhabi Marine Sports Club	نادي أبوظبي للرياضات البحرية	.70
Abu Dhabi Ice Sports Club	نادي أبوظبي للرياضات الجليدية	.71
Abu Dhabi Sports Aviation Club	نادي أبوظبي للرياضات الجوية	.72
Abu Dhabi Aqua Sports Club	نادي ابوظبي للرياضات المائية	.73
Abu Dhabi Chess Club & Mind Games	نادي أبوظبي للشطرنج والألعاب الذهنية	.74
Abu Dhabi falconers club	نادي أبوظبي للصقارين	.75
Abu Dhabi Equestrian Club	نادي أبوظبي للفروسية	.76
UAE ARCHERY FEDERATION	نادي أبوظبي للقوس والسهم	.77
Abu Dhabi Cricket	نادي أبوظبي للكريكيت	.78
Abu Dhabi Fencing Club	نادي أبوظبي للمبارزة	.79
Al Jazira Club	نادي الجزيرة الرياضي	.80

Al Dhafra FC	نادي الظفرة الرياضي	.81
Al Dhafra Shooting Club	نادي الظفرة للرماية	.82
Al Ain FC	نادي العين الرياضي	.83
Al Ain Chess Club	نادي العين للشطرنج والألعاب الذهنية	.84
Al Ain Equestrian, Shooting and Golf Club	نادي العين للفروسية والرماية	.85
Al-Wahda SC	نادي الوحدة الرياضي	.86
Baniyas Club	نادي بني ياس الرياضي	.87
Emirates Heritage Club	نادي تراث الإمارات	.88
Republic of Egypt Club – Al Ain	نادي جمهورية مصر العربية -العين	.89
Ghantoot Racing & Polo Club	نادي غنتوت	.90
Liwa sport club	نادي ليوا للسيارات	.91
Camel Race Federation	نادي أبو ظبي لسباقات الهجن	.92
Abu Dhabi Club for People with Special Needs	نادي أبوظبي لذوي الاحتياجات الخاصة	.93
Women's Association	جمعية المرأة الظبيانية	.94
Cancer Patient Care Society - Rahma	جمعية رعاية مرضي السرطان - رحمة	.95

Qualifying Public Benefit Entities (Dubai)	جهات النفع العام (حكومة دبي)	م
Dubai Chambers	غرف دبي	.1
Dubai Women Establishment	مؤسسة دبي للمرأة	.2
UAE Food Bank	بنك الإمارات للطعام	.3
Dubai Appreciation Award for Community Service	جائزة دبي التقديرية لخدمة المجتمع	.4
Mohammed Bin Rashid Library	مكتبة محمد بن راشد آل مكتوم	.5
Mohammed bin Rashid Al Maktoum Knowledge Foundation	مؤسسة محمد بن راشد آل مكتوم للمعرفة	.6
Dubai Women's Association	جمعية النهضة النسائية بدبي	.7
Dar al Ber Society	جمعية دار البر	.8
Dubai Charity Association	جمعية دبي الخيرية	.9
Beit Al Khair Society	جمعية بيت الخير	.10
MOHAMMED BIN RASHED AL MAKTOUM HUMANITARIAN & CHARITY EST	مؤسسة محمد بن راشد آل مكتوم للأعمال الخيرية والإنسانية	.11
Dubai Foundation for Women and Children	مؤسسة دبي لرعاية النساء والأطفال	.12
Easa Saleh Al Gurg Charity Foundation	مؤسسة عيسى صالح القرق الخيرية	.13
Noor Dubai Foundation	مؤسسة نور دبي	.14
Emirates Airline Foundation	مؤسسة طيران الإمارات الخيرية	.15

.16	مؤسسة دبي العطاء	Dubai Cares
.17	هيئة الهلال الأحمر - دبي	UAE Red Crescent Authority – Dubai
.18	مؤسسة البركة الخيرية	Albaraka Charity Association
.19	مؤسسة محمد عمر بن حيدر الخيرية	Mohammad Omar Bin Haider Charity Est.
.20	مؤسسة ماجد الفطيم الخيرية	Majid Al Futtaim Charity Foundation
.21	مؤسسة تراحم الخيرية	Tarahum Charity Foundation
.22	مؤسسة إعمار الخيرية	Emaar Charitable Foundation
.23	مؤسسة سقيا الإمارات	UAE Water AID
.24	الكنيسة الإنجيلية	Evangelical Church
.25	(الثالوث المقدس) كنيسة دبي الشارقة	Holy Trinity Church – Chaplaincy of Sharjah and Dubai
.26	كنيسة سانت توماس	St. Thomas Orthodox Cathedral
.27	كنيسة المسيح - فرع من كنيسة دبي الشارقة	Church of Christ branch of Chaplaincy of Sharjah and Dubai
.28	كنيسة مار توما باريش	Mar Thoma Parish Church
.29	كنيسة سانت فرانسيس	St. Francis Church
.30	القديسة مريم الكاثوليكية	St. Mary's Catholic Church
.31	كنيسة ايبارشية الأقباط الأرثوذكس	Coptic Orthodox Parish Church

Mor Ignatius Jacobite Syrian Orthodox Cathedral	كنيسة مار غناطيوس للسريان الأرثوذكس اليعاقية	.32
Greek Orthodox Church	كنيسة مطرانية الروم الأرثوذكس	.33
Guru Darbar Sikh Temple	معبد السند غورودربار	.34
GuruNanak Darbar Sikh Temple	غرو ناتك ديربار سينخ تيمبل	.35
Sindhi Ceremonial Centre	مركز سندهي رسمي	.36
Senses Residential and Day Care for Special Needs	المشاعر الإنسانية لرعاية وإيواء لذوي الاحتياجات الخاصة	.37
Al Jalila Foundation Supporting Education and Research in the Medical Fields	مؤسسة الجليلة لدعم التعليم والأبحاث في المجالات الطبية	.38
Dubai International Holy Quran Award	جائزة دبي الدولية للقرآن الكريم	.39
Islamic Affairs & Charitable Activities Department	دائرة الشؤون الإسلامية والعمل الخيري	.40
Awqaf and Minors Affairs Foundation	مؤسسة الأوقاف وإدارة أموال القصر	.41
Sultan Bin Ali Al Owais Cultural Foundation	مؤسسة سلطان بن علي العويس الثقافية	.42
Musabah Al Fattan Charitable Foundation	مؤسسة مصبح الفتان الخيرية	.43
Mohammed bin Rashid Al Maktoum Knowledge Award	جائزة محمد بن راشد آل مكتوم للمعرفة	.44

Ja’afariya Endowments Charitable Council of Dubai	مجلس إدارة الأوقاف الجعفرية الخيرية	.45
Rashid Center for People of Determination	مركز راشد لأصحاب الهمم	.46
Dubai Club for People of Determination	نادي دبي لأصحاب الهمم	.47
Dubai Autism Center	مركز دبي للتوحد	.48
Hamdan Bin Rashid Al Maktoum Award For Distinguished Academic Performance	مؤسسة حمدان بن راشد آل مكتوم للأداء التعليمي المتميز	.49
St. Mark & Ava Bishoy Coptic Orthodox Church	كنيسة الأقباط الأرثوذكس المصريين	.50
UAE Girl Guides Association – Dubai	جمعية مرشدات الإمارات دبي	.51
Emirates Literature Foundation	مؤسسة الإمارات للآداب	.52
Mohammed Bin Rashed Al Maktoum Global Initiatives	مؤسسة مبادرات محمد بن راشد آل مكتوم العالمية	.53

Public Benefit Entity (Government of Sharjah)	جهات النفع العام (حكومة الشارقة)	م
Department Of Islamic Affairs in Sharjah	دائرة الشؤون الإسلامية في امارة الشارقة	.1
Sharjah Children	أطفال الشارقة	.2
Sharjah Academy of Astronomy, Space sciences & Technology	أكاديمية الشـــــارقة لعلوم وتكنولوجيا الفضـــــاء والفلك	.3
Arab Academy for Science, Technology and Marine Transportation	الأكـاديميـة العربيـة للعلوم والتكنولوجيـا والنقـل البحري	.4
Patient's Friends Charitable House	بيت أصدقاء المرضى الخيري	.5
Poetry House – Culture	بيوت الشعر -الثقافة	.6
Family Development Foundation	التنمية الأسرية	.7
American University of Sharjah	الجامعة الأمريكية في الشارقة	.8
University of Sharjah	جامعة الشارقة	.9
Al Qasimia University	الجامعة القاسمية	10
University Of Khorfakkan	جامعة خورفكان	11
Sharjah Cultural Award	جائزة الشارقة الثقافية	12
Sharjah Prize for Arab Culture – (UNESCO)	جائزة الشارقة للثقافة العربية -اليونسكو	13

Sharjah Prize for Voluntary Work	جائزة الشارقة للعمل التطوعي	14
Breastfeeding Friends Society	جمعية أصدقاء الرضاعة الطبيعية	15
Friend for Diabetes Association	جمعية أصدقاء السكري	16
Friends of Kidney Patients Society	جمعية أصدقاء الكلى	17
Friends of Arthritis Patients Society	جمعية أصدقاء مرضى التهاب المفاصل	18
Emirates Association for Disabled Care and Rehabilitation	جمعية الإمارات لرعاية وتأهيل المعاقين	19
Sharjah Charity International	جمعية الشارقة الخيرية	20
Sharjah Charity House	جمعية بيت الشارقة الخيري	21
UAE Girls Guides Association	جمعية مرشدات الإمارات الشارقة	22
Dar Hudhaifa Bin Al-Yaman for the memorization of the Holy Quran	دار حذيفة بن اليمان لتحفيظ القرآن الكريم	23
Sharjah Chamber of Commerce and Industry	غرفة تجارة وصناعة الشارقة	24
St. Philip Russian Orthodox Church	أبرشية القديس سانت فليب الروسية الأرثوذكسية	25
St. Gregorios Orthodox Church	أبرشية القديس غريغوري المنورة الأرمينية الأرثوذكسية	26

Virgin Mary Church, St. Philopateer Coptic Orthodox Parish	أبرشـــية ســـانت فيلوباتير القبطية الأرثوذكســـية ومريم العذراء	27
St.Thomas Marthoma Parish Sharjah	أبرشية مارثوما بالشارقة	28
Chrissy Filipino Miracle Life Church Sharjah	كريسي فليبينو معجزة الحياة الكنيسة الشارقة	29
Ward Church	كنيسة Ward	30
Union Church	كنيسة الاتحاد	31
Russian Orthodox Church	الكنيسة الأرثوذكسية الروسية	32
Saint Gregory the Illuminator Armenian Church of Sharjah	الكنيسة الأرمينية	33
Apostolic Church	الكنيسة الرسولية	34
Christian Marriage Church	كنيسة الزواج المسيحي	35
St Mary & Martyr Abou Sefein Church in Sharjah	كنيسة السيدة العذراء والشهيد أبي سيفين	36
St. Gregory's Orthodox Church	كنيسة القديس سانت غريغوريوس الأرثوذكسية	37
St. Michaels Church	كنيسة القديس مايكل	38
Church of Saint Mary of Kanania	كنيسة القديس مريم كنانيا	39
Grace Evangelical Church	كنيسة النعمة الإنجيلية	40
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Center Mrs. Aisha for the memorization of the Holy Quran	مركز السيدة عائشة لتحفيظ القرآن الكريم	55
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Sharjah Vocational Training Center for Airport Sciences	مركز الشارقة للتدريب المهني لعلوم المطارات	58
Companions Charity Center for the memorization of the Holy Quran	مركز الصحابة الخيري لتحفيظ القرآن الكريم	59
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Furqan Center for the memorization of the Holy Quran	مركز الفرقان لتحفيظ القرآن الكريم	61
Al Huda Quran Study Centre	مركز الهدى لتحفيظ القرآن الكريم	62
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Mother of the Believers Khadija Bint Khuwaylid Center for Quran Memorization	مركز أم المؤمنين خديجة بنت خويلد لتحفيظ القرآن	64

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Sharjah Institute for Heritage	معهد الشارقة للتراث	75
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Islamic World Educational, Scientific and Cultural Organization – ISESCO	المنظمة الاســـلامية للتربية والعلوم والثقافة - ايسيسكو	79
Ruwad Establishment	مؤسسة الشارقة لدعم المشاريع الريادية - رواد	80
Sharjah Social Empowerment Foundation	مؤسسة الشارقة للتمكين الاجتماعي	81
Sharjah Noble Quran & Sunnah Est.	مؤسسة الشارقة للقرآن الكريم والسنة النبوية	82
The Big Heart Foundation	مؤسسة القلب الكبير	83
Sajaya young ladies of Sharjah	مؤسسة سجايا فتيات الشارقة	84
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Al Batayih Cultural & Sports Club	نادي البطائح الثقافي الرياضي	86
Al Thiqah Club for Handcapped	نادي الثقة للمعاقين	87
Sharjah International Marine Sports Club	نادي الشارقة الدولي للرياضات البحرية	88
Sharjah FC	نادي الشارقة الرياضي	89
Sharjah Self-Defense Sports Club	نادي الشارقة لرياضات الدفاع عن النفس	90
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Sharjah Falconers Club	نادي الشارقة للصقارين	92
Sharjah Equestrian & Racing Club	نادي الشارقة للفروسية والسباق	93
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Public Benefit Entity (Government of Ajman)	جهات النفع العام (حكومة عجمان)	م
Umm Al Moumineen Women Association	جمعية أم المؤمنين النسائية	1.
Emirates Council Ambassadors Association	جمعية سفراء مجلس الإمارات	2.
Ajman Co-operative Society for Fishermen	جمعية عجمان التعاونية لصيادي الأسماك	3.
Al Ihsan Charity Association	جمعية الإحسان الخيرية	4.
Ajman Folklore & Theater Society	جمعية عجمان للفنون الشعبية والمسرح	5.
Ajman Chamber of Commerce and Industry	غرفة تجارة وصناعة عجمان	6.
Mabrat Rashed Abdullah Al Nuaimi for Charity	مبرة راشد عبدالله النعيمي للأعمال الخيرية	7.
Mabrat Zayed Bin Saqr Al Nahyan Charity	مبرة زايد بن صقر آل نهيان الخيرية	8.

Coordination Board for Charitable Activities and Awqaf in Ajman	مجلس تنســـيق العمل الخيري والأوقاف بإمارة عجمان	.9
Al Rashidiyah Private School	المدرسة الراشدية الخاصة	.10
Ajman Awqaf Center	مركز أوقاف عجمان	.11
Humaid bin Rashid Al Nuaimi Center for Serving the Holy Quran	مركز حميد بن راشـــد النعيمي لخدمة القرآن الكريم	.12
Etihad Charity Organization	مؤسسة الاتحاد الخيرية	.13
Al Ajmani Charity Foundation	مؤسسة العجماني للأعمال الخيرية	.14
Al-Nafa Foundation for Humanitarian Work & Charity	مؤسسة النفع للأعمال الخيرية والإنسانية	.15
Himaya Foundation for Women and Child	مؤسسة حماية المرأة والطفل	.16
Humaid bin Rashid Al Nuaimi Foundation	مؤسسة حميد بن راشد النعيمي الخيرية	.17
Ajman Club for Disabled	نادى عجمان لذوى الإعاقة	.18
Ajman Cultural & Sports Club	نادي عجمان الثقافي الرياضي	.19
Ajman Chess & Culture Club	نادي عجمان للشطرنج	.20
Ajman Equestrian, Racing and Shooting Club	نادي عجمان للفروسية والسباق والرماية	.21
Masfout Cultural & Sports Club	نادي مصفوت الثقافي الرياضي	.22
Masfout Shooting and Equestrian Club	نادي مصفوت للرماية والفروسية	.23

Human Appeal International (HAI)	هيئة الاعمال الخيرية العالمية	24.
Charitable Endowment of the Local Police in Ajman	الوقف الخيري للشـــرطـة المحليـة في إمـارة عجمان	25.

Public Benefit Entity Government of Umm Al) (Quwain	جهات النفع العام (حكومة أم القيوين)	م
Sheikh Saud Bin Rashid Program for Youth Project Support	برنـامج الشـيخ سـعود بن راشـد لدعم مشـاريع الشباب	1.
Rashid bin Ahmed Award for Holy Quran	جائزة راشد بن أحمد للقرآن الكريم	2.
Umm Al Quwain Cooperative Society for fishermen	جمعية أم القيوين التعاونية لصيادي الاسماك	3.
Umm Al Quwain Charity Association	جمعية ام القيوين الخيرية	4.
Women Association of Umm Al Quwain	جمعية أم القيوين النسائية	5.
Umm Al Quwain National Art and Heritage Association	جمعية أم القيوين للفنون والتراث	6.
Camel racing	سباق الهجن	7.
Umm Al Quwain Chamber of Commerce & Industry	غرفة تجارة وصناعة أم القيوين	8.

Umm Al Quwain Folklore Art & Theater	الفنون الشعبية والمسرح بأم القيوين	.9
Umm Al Quwain Arbitration Center	مركز أم القيوين للتحكيم	.10
Umm Al Quwain National Theater	مسرح أم القيوين الوطني	.11
Saud Bin Rashid Al Mualla Charitable and Humanitarian Est	مؤسسة سعود بن راشد المعلا للأعمال الخيرية والإنسانية	.12
Umm Al Quwain Marine Club	النادي البحري	.13
Al Arabi Sports Club	النادي العربي الرياضي	.14
Falaj Al Mualla Club	نادي فلج المعلا	.15

Qualifying Public Benefit Entities (RAK)	جهات النفع العام (حكومة رأس الخيمة)	م
Emirates Association for Social Development	جمعية الإمارات للتنمية الاجتماعية	.1
Al Nahda Women's Association – RAK	جمعية نهضة المرأة برأس الخيمة	.2
RAK Chamber of Commerce of Industry	غرفة تجارة وصناعة رأس الخيمة	.3
Al Wafa Social Center	مركز الوفاء الاجتماعي	.4
Aman Shelter for Women and Children	مركز أمان لإيواء النساء والأطفال	.5

Sheikh Saud Bin Saqr Charitable Educational Foundation	مؤسسة الشيخ سعود بن صقر التعليمية الخيرية	.6
Ras AL Khaimah Charity Association	مؤسسة رأس الخيمة للأعمال الخيرية	.7
Ras Al Khaimah Foundation for the Holy Quran and its Sciences	مؤسسة رأس الخيمة للقران الكريم وعلومه	.8
Saqr Bin Mohammed Al Qasimi Charity and Humanitarian Foundation	مؤسسة صقر للأعمال الخيرية	.9
Abdullah Ali Al Sharhan Charity Association	مؤسسة عبدالله علي الشرهان الخيرية	.10
Sheikh Mohammed Bin Saud Al Qasimi Humanitarian Foundation	مؤسسة محمد بن سعود القاسمي الإنسانية	.11

Qualifying Public Benefit Entities (Fujairah)	جهات النفع العام (حكومة الفجيرة)	م
Fujairah Islamic Scientific Academy	أكاديمية الفجيرة العلمية الاسلامية	1.
Bidiyah Fishermen Cooperative Association	جمعية البدية التعاونية لصيادي الأسماك	2.
Bidiyah Association for Culture and folklore	جمعية البدية للثقافة والفنون الشعبية	3.
Fujairah Cultural & Social Association	جمعية الفجيرة الثقافية الاجتماعية	4.
Fujairah Charity Association	جمعية الفجيرة الخيرية	5.
Fujairah Fisherman Association	جمعية الفجيرة لصيادي الأسماك	6.
Fujairah Fine Arts Academy	جمعية الفجيرة للفنون الشعبية	7.
Dibba Al Fujairah Fishermen Cooperative Association	جمعية دبا الفجيرة التعاونية لصيادي الأسماك	8.
Dibba Association for Culture, Arts and Theater	جمعية دبا للثقافة والفنون الشعبية	9.
Alorooba Football Company LLC	شركة العروبة لكرة القدم ذم م	10.
Fujairah Football Company LLC	شركة الفجيرة لكرة القدم ذ م م	11.
Dibba Football Company (FC)	شركة دبا الفجيرة لكرة القدم	12.
Youth Care Fund	صندوق رعاية الشباب	13.
Fujairah Chamber of Commerce & Industry	غرفة تجارة وصناعة الفجيرة	14.

15	الفجيرة للشفاء	Fujairah Healing
16	مجلس شباب الفجيرة	Fujairah Youth Council
17	مسرح الفجيرة	Fujairah Theater
18	مفوضية كشافة الفجيرة	Fujairah Scout mission
19	مؤسسة الفجيرة لتنمية المناطق	Fujairah Foundation For Region Development
20	مؤسسة الفجيرة للتنمية	Fujairah Development Foundation
21	مؤسسة حمد بن محمد الشرقي للأعمال الخيرية	Hamad Bin Mohammed Al Sharqi Foundation for Humanitarian Affairs
22	مؤسسة دار الشمس المشرقة للرعاية الاجتماعية	Sunshine House for Social Welfare
23	مؤسسة سعيد محمد الرقباني للأعمال الخيرية	Saeed Mohammed Al Raqbani Foundation for Charitable Works
24	نادي الرياضات البحرية - الفجيرة	International Marine Club – Fujairah
25	نادي الشطرنج	Fujairah Chess & Culture Club
26	نادي الفجيرة الرياضي	Al-Fujairah SC
27	نادي الفجيرة العلمي	Fujairah Science Club
28	نادي الفجيرة للرماية والفروسية	Fujairah Shooting and Horsing Club
29	نادي الفجيرة للفنون القتالية	Fujairah Martial Arts Club
30	نادي دبا الرياضي الثقافي	Dibba Sport and Cultural Club

Cabinet Decision No. (49) of 2023

On Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax

The Cabinet of Ministers:

- **Having reviewed the Constitution,**
- **Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,**
- **Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,**
- **Federal Decree-Law No. 28 of 2022 on Tax Procedures,**
- **Federal Decree-Law No. 47 of 2022 on Taxation of Corporations and Businesses,**
- **Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law,**
- **Based on what was presented by the Minister of Finance and approved by the Cabinet,**

Has decided:

Article (1)

Definitions

1. In the application of the provisions of this Decision, the following words and expressions shall have meanings assigned against each, unless the context otherwise requires:

Turnover	:	The gross amount of income derived during a Gregorian calendar year.

Wage	**:**	**The wage that is given to the employee in consideration of their services under the employment contract, whether in cash or in kind, payable annually, monthly, weekly, daily, hourly, or by piece-meal, and includes all allowances, and bonuses in addition to any other benefits provided for, in the employment contract or in accordance with the applicable legislation in the State.**
Personal Investment	**:**	**Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the State, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022.**
Real Estate Investment	**:**	**Any investment activity conducted by a natural person related to, directly or indirectly, the sale, leasing, sub-leasing, and renting of land or real estate property in the State that is not conducted, or does not require to be conducted through a Licence from a Licensing Authority.**
Corporate Tax Law	**:**	**Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.**

2. **Other words and expressions in this Decision shall have the same meanings specified in the Corporate Tax Law, unless the context requires otherwise.**

Article (2)
Categories of Businesses or Business Activities Conducted by a Natural Person that are Subject to Corporate Tax

1. **For the purposes of Clause (6) of Article (11) of the Corporate Tax Law, Businesses or Business Activities, conducted by a resident or non-resident natural person, shall be subject to Corporate Tax only where the total Turnover derived from such Businesses**

or Business Activities exceeds AED 1,000,000 (one million United Arab Emirates dirhams) within a Gregorian calendar year.

2. Notwithstanding Clause (1) of this Article, activities that give rise to Turnover from the following sources shall not be considered as Businesses or Business Activities conducted by a resident or non-resident natural person subject to Corporate Tax, regardless of the amount of Turnover derived from such activities:
   a. Wage.
   b. Personal Investment income.
   c. Real Estate Investment income.
3. The natural person that is not conducting a Business or Business Activities subject to Corporate Tax in accordance with this Article shall not be required to register for Corporate Tax.

Article (3)

Implementing Decisions

The Minister of Finance may issue the necessary decisions to implement the provisions of this Decision.

Article (4)

Publication and Application of this Decision

This Decision shall be published in the Official Gazette and shall come into effect on 1 June2023.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us :

Date : 18 Shawwal 1444 AH

Corresponding to : 8 May 2023 AD

Cabinet Decision No. 116 of 2022 on the Determination of Annual Income Subject to Corporate Tax

The Cabinet:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of the Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Law No. 7 of 2017 on Tax Procedures, and its amendments,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 36 of 2017 on the Executive Regulation of Federal Law No. 7 of 2017 on Tax Procedures, and its amendments,
- Pursuant to what was presented by the Minister of Finance and approved by the Cabinet,

Has decided:

Article (1)
Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:
State: United Arab Emirates.

Ministry: Ministry of Finance.

Minister: Minister of Finance.

Authority: Federal Tax Authority.

Person: Any natural person or juridical person.

Taxable Person: A Person subject to Corporate Tax in the State under the Corporate Tax Law.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Return: Information filed with the Authority for Corporate Tax purposes in the form and manner as prescribed by the Authority, including any schedule or attachment thereto, including any amendment thereof.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or series of activities conducted by a Person in the course of its Business.

Article (2)
Income Subject to Corporate Tax at 0% (Zero Percent)

1. For the purposes of Paragraph (a) of Clause 1 of Article 3 of the Corporate Tax Law, the portion of Taxable Income of the Taxable Person not exceeding (375,000) three hundred seventy-five thousand dirhams shall be subject to Corporate Tax at the rate of (0%) zero percent in the Tax Period irrespective of whether the Taxable Person conducts multiple Businesses or Business Activity in that Tax Period.

2. Where it is established to the Authority that one or more Persons have artificially separated their Business or Business Activity and the Taxable Income across their entire Business or Business Activity was subject to Corporate Tax at (0%) zero percent in the Tax Period on an amount exceeding (375,000) three hundred seventy-five thousand dirhams, this would be considered an arrangement to obtain a benefit in relation to Corporate Tax under Clause 1 of Article 50 of the Corporate Tax Law.

3. For the purpose of verifying whether two or more Persons have artificially separated their Business or Business Activity, the Authority shall consider whether the arrangement was undertaken for a legitimate commercial purpose and whether the Persons substantially carry on the same Business or Business Activity taking into account all relevant facts and circumstances, including for example without limitation their financial, economic and regulatory ties.

Article (3)
Income Subject to Corporate Tax at (9%) Nine Percent

For the purposes of Paragraph (b) of Clause 1 of Article 3 of the Corporate Tax Law, the Taxable Income of a Taxable Person that exceeds the amount of (375,000) three hundred seventy-five thousand dirhams shall be subject to Corporate Tax at (9%) nine percent in the relevant Tax Period.

Article (4)
Implementing Decisions

The Minister of Finance shall issue the necessary decisions for the implementation of this Decision.

Article (5)
Publication and Enforcement

This Decision shall be published in the Official Gazette and shall come into effect (15) fifteen days after the date of its publication.

Mohammed bin Rashid Al Maktoum
Prime Minister

Issued by us,
On: 6 Jumada al-Akhar 1444
Corresponding to: 30 December 2022

Cabinet Decision No. 55 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

The Cabinet:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Pursuant to what was presented by the Minister of Finance and upon the approval of the Cabinet,

Decided:

Article (1)
Definitions

Definitions in Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses shall be applied to this Decision, with exception to that, the following words and expressions shall have the meaning assigned against each, unless the context requires otherwise:

Domestic Permanent Establishment: A place of business or other form of presence of a Qualifying Free Zone Person outside the Free Zone in the State.

Qualifying Activities: Any activities determined by a decision issued by the Minister and conducted by a Qualifying Free Zone Person from which Qualifying Income is derived.

Excluded Activities: Any activities determined by a decision issued by the Minister and conducted by a Qualifying Free Zone Person from which non-Qualifying Income is derived.

Non-Free Zone Person: Any Person who is not a Free Zone Person.

Commercial Property: Immovable property or part thereof:

(a) used exclusively for a Business or Business Activity.
(b) not used as a place of residence or accommodation including hotels, motels, bed and breakfast establishments, serviced apartments and the like.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Article (2)
Scope of Application

The provisions of this Decision shall apply to Qualifying Free Zone Persons.

Article (3)
Qualifying Income

1. For the purposes of application of Article (18) of the Corporate Tax Law, Qualifying Income of the Qualifying Free Zone Person shall include the below categories of income, provided that such income is not attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment in accordance with Article (5) of this Decision or to the ownership or exploitation of immovable property in accordance with Article (6) of this Decision:

    a. Income derived from transactions with other Free Zone Persons, except for income derived from Excluded Activities.

    b. Income derived from transactions with a Non-Free Zone Person, but only in respect of Qualifying Activities that are not Excluded Activities.

    c. Any other income provided that the Qualifying Free Zone Person satisfies the de minimis requirements under Article (4) of this Decision.

2. For the purposes of paragraph (a) of Clause (1) of this Article, income will be considered as derived from transactions with a Free Zone Person where that Free Zone Person is the Beneficial Recipient of the relevant services or Goods.

3. For the purposes of this Article, the term **"**Beneficial Recipient**"** shall mean a Person who has the right to use and enjoy the service or the Good and does not have a contractual or legal obligation to pass on such service or Good to another person and the term "Good" shall mean tangible or intangible property that has economic value in dealing including moveable and immovable property.

4. Qualifying Income shall include income derived from any Person where such income is incidental to the income under paragraph (a) or (b) of Clause (1) of this Article.

5. For the purposes of determining whether a Qualifying Free Zone Person has a Domestic Permanent Establishment, the provisions of Article (14) of the Corporate Tax Law shall apply and the expression "Qualifying Free Zone Person" shall be used instead of the expression "Non-Resident Person", and the expression "geographical areas outside the Free Zones in the State" shall be used instead of the word "State", wherever used in that Article.

Article (4)

De minimis Requirements

1. The de minimis requirements shall be considered satisfied where the non-qualifying Revenue derived by the Qualifying Free Zone Person in a Tax Period does not exceed a percentage of the total Revenue of the Qualifying Free Zone Person in that Tax Period as specified by the Minister, or an amount specified by the Minister, whichever is lower.

2. Subject to Clause (3) of this Article, the following provisions shall apply:

   a. Non-qualifying Revenue is Revenue derived in a Tax Period from any of the following:

      1) Excluded Activities.

      2) Activities that are not Qualifying Activities where the other party to the transaction is a Non-Free Zone Person.

   b. Total Revenue is all Revenue derived by a Qualifying Free Zone Person in a Tax Period.

3. The following Revenue shall not be included in the calculation of non-qualifying Revenue and total Revenue:

   a. Revenue attributable to immovable property located in a Free Zone derived from the following transactions:

      (1) Transactions with Non-Free Zone Persons in respect of Commercial Property.

      (2) Transactions with any Person in respect of immovable property that is not Commercial Property.

   b. Revenue attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment of the Qualifying Free Zone Person.

4. For the purposes of this Article, a Qualifying Free Zone Person and its Domestic Permanent Establishment or Foreign Permanent Establishment shall be treated as if the establishment was a separate and independent Person that is a Related Party of the Qualifying Free Zone Person.

Article (5)
Income Attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment

1. Income attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment of the Qualifying Free Zone Person shall be considered Taxable Income and taxed in accordance with paragraph (b) of Clause (2) of Article (3) of the Corporate Tax Law.
2. The income attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment of a Qualifying Free Zone Person for a Tax Period is the Taxable Income of any such establishment for that period calculated as if the establishment was a separate and independent Person that is a Related Party of the Qualifying Free Zone Person.

Article (6)
Income Attributable to Immovable Property Located in a Free Zone

1. Income attributable to immovable property located in a Free Zone that is derived from the below transactions shall be considered Taxable Income and taxed in accordance with paragraph (b) of Clause (2) of Article (3) of the Corporate Tax Law:
   a. Transactions with Non-Free Zone Persons in respect of Commercial Property.
   b. Transactions with any Person in respect of immovable property that is not Commercial Property.
2. For the purposes of Clause (1) of this Article, the Taxable Income for a Tax Period shall be the income that is attributable to the immovable property referred to in paragraphs (a) and (b) of Clause (1) of this Article calculated in accordance with the relevant provisions of the Corporate Tax Law.

Article (7)
Maintaining Adequate Substance in a Free Zone and Outsourcing

1. A Qualifying Free Zone Person shall undertake its core income-generating activities in a Free Zone and, having regard to the level of the activities carried out, have adequate assets, an adequate number of qualified employees, and incur an adequate amount of operating expenditures.
2. Activities can be outsourced to a Related Party in a Free Zone or a third party in a Free Zone, provided the Qualifying Free Zone Person has adequate supervision of the outsourced activity.

Article (8)
Implementing Decisions

The Minister shall issue the necessary decisions to implement the provisions of this Decision.

Article (9)
Publication and Application this Decision

This Decision shall be published in the Official Gazette and shall come into effect on 1 June 2023.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us,
On: 10 Dhi al-Qi`dah 1444 H
Corresponding to: 30 May 2023

Cabinet Decision No. 56 of 2023 on Determination of a Non-Resident Person's Nexus in the State for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

The Cabinet:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Pursuant to what was presented by the Minister of Finance and approved by the Cabinet,

Decided:

Article (1)
Definitions

Definitions in Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses shall be applied to this Decision, with exception to that, the following expressions shall have the meaning assigned against each, unless the context requires otherwise**:**

Immovable Property: Means any of the following:

a. Any area of land over which rights or interests or services can be created.

b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.

c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Article (2)
Nexus in the State

1. For the purposes of paragraph (c) of Clause (4) of Article (11) of the Corporate Tax Law, any juridical person that is a Non-Resident Person shall have a nexus in the State if it earns income from any Immovable Property in the State.

2. For the purposes of paragraph (c) of Clause (3) of Article (12) of the Corporate Tax Law, the Taxable Income that is attributable to the Immovable Property in the State shall include income derived from the right in rem, sale, disposal, assignment, direct use, letting, including subletting and any other form of exploitation of Immovable Property.

Article (3)

Artificial Transfer of Rights in Immovable Property

If a Non-Resident Person artificially transfers or otherwise disposes of its right in rem in any Immovable Property in the state to another person and that transfer or disposal is not for a valid commercial or other non-fiscal reason which reflects economic reality, this would be considered an arrangement to obtain a Corporate Tax advantage under Clause (1) of Article (50) of the Corporate Tax Law.

Article (4)

Requirement to Register for Corporate Tax

A Non-Resident Person that has a nexus in the State in accordance with Article (2) of this Decision shall be required to register with the Authority in accordance with Article (51) of the Corporate Tax Law.

Article (5)

Implementing Decisions

The Minister shall issue the necessary decisions to implement any of the provisions of this Decision.

Article (6)

Publication and Application of this Decision

This Decision shall be published in the Official Gazette and shall come into effect on 1 June 2023.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us,
On: 10 Dhi al-Qi`dah 1444 H
Corresponding to: 30 May 2023

Cabinet Decision No. (74) of 2023

On the Executive Regulation of Federal Decree-Law No. (28) of 2022 on Tax Procedures

The Cabinet:

- Having reviewed the Constitution,
- Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. (7) of 2017 on Excise Tax, and its amendments,
- Federal Decree-Law No. (8) of 2017 on Value Added Tax, and its amendments,
- Federal Decree-Law No. (28) of 2022 on Tax Procedures,
- Cabinet Decision No. (37) of 2017 on the Executive Regulation of Federal Decree-Law No. (7) of 2017 on Excise Tax,
- Cabinet Decision No. (52) of 2017 on the Executive Regulation of Federal Decree-Law No. (8) of 2017 on Value Added Tax, and its amendments,
- Cabinet Decision No. (36) of 2017 on the Executive Regulation of Federal Law No. (7) of 2017 on Tax Procedures, and its amendments,
- Based on what was presented by the Minister of Finance and approved by the Cabinet,

Has decided:

Article (1)
Definitions

The definitions of the Federal-Decree Law No. (28) of 2022 referred to above shall apply to this Decision, and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Decree-Law: Federal Decree-Law No. (28) of 2022 on Tax Procedures.

Premises: The place of Business of the Person subject to Tax Audit, any other place in which it conducts his Business, or where it stores goods or records.

Assets: Tangible and intangible assets, including equipment, machinery, goods and others, which the Authority considers to be owned, leased or used in connection with the conduct of Business by any Person.

Article (2)
Keeping Records

1. Accounting records and commercial books shall include the following:

   a. Records and books in relation to Business, which evidence or in which payments and receipts, purchases and sales, revenues and expenditures are recorded, as well as any matters as may be required under the Tax Law or any other applicable law, including but not limited to:

      (1) Balance sheet and profit and loss accounts.

      (2) Records of wages and salaries.

      (3) Records of fixed assets.

      (4) Inventory records and statements (including quantities and values) at the end of any relevant Tax Period and records of stock counts related to inventory statements.

   b. All documents supporting the entries in the accounting records and commercial books, including but not limited to:

      (1) Correspondence, invoices, licences and contracts related to the Business.

      (2) Documents containing details of any election, assessment, determination or calculation made by a Taxpayer in relation to the Tax affairs of its Business, including the basis, or method of assessment, determination or calculation made.

2. In addition to the accounting records and commercial books referred to in Clause (1) of this Article, the Authority may request any other information in order to verify, through a series of auditable documents, the Person's Tax obligations, including their responsibility to register for Tax purposes.

Article (3)
Period of Record Keeping

1. All accounting records, commercial books and information shall be retained and maintained in a way that enables the Authority or any employee authorised by it to verify the Tax obligations imposed on the Person concerned for the following periods, unless the Tax Law states otherwise:

   a. A period of (5) five years following the Tax Period to which they relate in respect of a Taxable Person.

   b. A period of (5) five years from the end of the calendar year in which the concerned document was created in respect of all Persons other than Taxable Persons.

   c. A period of (7) seven years from the end of the calendar year in which the concerned document was created for real estate records.

2. In addition to the periods specified in Clause (1) of this Article, the Person shall retain the books and records for the following additional periods, in the following cases:

a. For an additional period of (4) four years or until the dispute is finally settled, whichever is later in case of dispute between the Person and the Authority in respect of the Person's Tax obligations.

b. For an additional period of (4) four years in case the Person is subject to an ongoing Tax Audit.

c. For an additional period of (4) four years in case the Authority notified the Person of its intention to conduct a Tax Audit prior to the expiry of the period set out in Clause (1) of this Article.

d. For an additional period of (1) one year starting from the date of submission of a Voluntary Disclosure in respect of the Taxable Person that submits a Voluntary Disclosure in the fifth year from the end of the relevant Tax Period.

3. Subject to Clauses (1) and (2) of this Article, the Legal Representative shall retain the books and records of the Person he is representing for a period of (1) one year from the date on which such legal representation expires.

Article (4)
Method of Keeping Accounting Records and Commercial Books

1. The obligation to keep accounting records and commercial books shall be met by either:

   a. Creating a record and retaining the original documents which support the entries contained in the record.

   b. Creating a record and retaining the information contained in the original documents, provided that the following is met:

      (1) The information contained in the record is identical to the data contained in the original document, and shall be available during the periods referred to in Article (3) of this Decision.

      (2) The information is retained or stored in either photocopy or electronic copy, and an easily readable copy of which can be reproduced, if requested by the Authority, within the period as specified by the Authority in accordance with the provisions Article (48) of the Decree-Law.

      (3) The information is retained or stored in a manner that enables the Authority to verify the Person's Tax obligations.

2. The Authority may specify the rules for maintaining the information contained in accounting records and commercial books, and impose reasonable requirements for ensuring that the information will be available as if the original records themselves had been preserved.

Article (5)
Language

1. The Authority may accept data, information, records and any other documents related to any Tax that are submitted to the Authority in English, and the Authority may, at its discretion, request the Person to translate some or all of them into Arabic.

2. The translation of any Tax Return, data, information, records, documents or other books into Arabic must be approved in accordance with the law regulating translation in the State, and submitted to the Authority within the period it specifies.

Article (6)
The Procedures of Tax Registration, Deregistration and Amendment of Registration Data

1. A Tax Registration application shall be submitted to the Authority in the form and manner approved by it, and the Authority may specify any supporting documents to be submitted for that purpose.

2. The Authority shall review the Tax Registration application in accordance with the rules adopted by the Authority in this regard.

3. Tax Registration shall be finalised by issuing the Tax Registration Number for the applicant or by reactivating a previous Tax Registration Number if the applicant has a suspended Tax Registration Number.

4. A Registrant shall notify the Authority, in the form and manner approved by it, within (20) twenty Business Days of any change to its data kept with the Authority, including:

    a. Name, address and email address.

    b. Trade licence activities.

    c. Legal entity type, partnership agreement for unincorporated partnerships and articles of association or its equivalent.

    d. Nature of the Business of the Registrant.

    e. The address from which any Business is conducted by the Registrant.

5. A Tax deregistration application shall be submitted to the Authority in the form and manner approved by it, and the Authority may specify any supporting documents to be submitted for that purpose.

6. The Authority shall review the Tax deregistration application, in accordance with the rules approved by it in this regard.

7. In cases where the Registrant does not submit a deregistration application, the Authority may deregister such Registrant in accordance with the controls and procedures stated in the Tax Law.

8. Tax deregistration shall be finalised by suspending the Tax Registration Number.

9. The Authority shall notify the Person of its Tax Registration, deregistration or reactivation based on

the mechanism adopted by the Authority in this regard.

Article (7)
Obligations of Licensing Authorities in the State

The government entities that grant licences to Persons carrying out Business shall, within (20) twenty Business Days of the issuance or renewal of the licence, notify the Authority in the manner specified by it. The notification shall include the following:

1. The name of the licensee.

2. The type, number and date of issuance of the trade licence.

3. The registered address of the licensee.

4. Description of the activities of the Business.

5. The details of the owners, partners and directors.

6. Any other information requested by the Authority.

Article (8)
Legal Representative

1. A Person who has been appointed as a Legal Representative of a Taxable Person shall notify the Authority according to the mechanism it specifies, provided that an appropriate document is attached to the Notification to prove his appointment, and the Notification must include the following:

    a. The name and address of the Legal Representative.

    b. The name, address and Tax Registration Number, if applicable, of the Taxable Person represented by the Legal Representative.

    c. The duration of the appointment, in the case of fixed-term appointment.

    d. The responsibilities of the Legal Representative.

2. The Authority may require additional information about the appointment of the Legal Representative and may obtain such information from the Legal Representative, the relevant Taxable Person and any other Person to verify the appointment.

3. Where the Authority accepts the request of appointment of the Legal Representative, it shall, within (20) twenty Business Days from the date of that, notify the Legal Representative.

Article (9)
Allocation of Payments and Credit

1. If the Taxable Person pays any amount to the Authority without specifying the type of Tax or Tax Period to which it relates, the Authority may allocate the amount, or part thereof, for settling any amounts due to the Authority based on the seniority of such amounts due to the Authority.

2. If the amount received by the Authority under Clause (1) of this Article, exceeds the Taxable Person's existing liabilities, the Authority shall treat the excess amount as a credit against future liabilities of the Taxable Person, unless the Taxable Person requests the excess amount to be refunded pursuant to Article (38) of the Decree-Law.

3. The Authority may allocate the credit balance, or part thereof, to settle any amounts due to the Authority by the Taxable Person according to the seniority of such amounts due to the Authority.

4. The Authority shall notify the Taxable Person of the allocation of payments and credit according to Clauses (1) and (3) of this Article.

Article (10)
Submission of Voluntary Disclosure

1. If a Taxable Person becomes aware that a Tax Return submitted to the Authority or a Tax Assessment issued to the Taxable Person by the Authority is incorrect, resulting in a calculation of the Payable Tax according to the Tax Law being less than it should have been, the following shall apply:

   a. If the amount is more than (10,000) ten thousand Dirhams, the Taxable Person shall submit a Voluntary Disclosure to the Authority within (20) twenty Business Days from the date when the Taxable Person became aware of the error.

   b. If the amount is equal to (10,000) ten thousand Dirhams or less, the Taxable Person shall do the following:

      (1) If the Taxable Person is obligated to submit a Tax Return to the Authority, correct the error in the Tax Return that has not become due for submission for a previous Tax Period or in the Tax Return for the Tax Period in which the error has been discovered, whichever is earlier.

      (2) Submit a Voluntary Disclosure to the Authority within (20) twenty Business Days from the date of becoming aware of the error, in the event that there is no Tax Return through which the error can be corrected according to subparagraph (1) of this paragraph.

2. If a Taxpayer becomes aware that a Tax Refund application submitted to the Authority is incorrect, resulting in a calculation of a Refund to which it is entitled according to the Tax Law being more than the correct amount, the Taxpayer shall submit a Voluntary Disclosure to the Authority within (20) twenty Business Days from the date when the Taxpayer became aware of the error, unless the error was a result of an incorrect Tax Return or Tax Assessment, in which case the provisions of Clause (1) of this Article shall apply.

3. If a Taxpayer becomes aware of an error or omission in the Tax Return submitted to the Authority without there being a difference in Due Tax, the Taxpayer shall correct the error or submit a Voluntary Disclosure to the Authority as may be specified by the Authority.

4. For the purposes of implementing the provisions of this Article, the Voluntary Disclosure shall be submitted in the form and manner specified by the Authority.

Article (11)
Means of Notification

1. The Authority shall notify the Person, its Tax Agent or Legal Representative, as applicable, at the address registered with the Authority by any of the following means:

   a. Post, registered post, email, mobile text message, smart applications or the electronic system of the Authority.

   b. Posting in a prominent place in the Premises of the Person.

   c. Any other means as may be agreed in writing by the Person and the Authority.

2. For the purposes of this Article, the address registered with the Authority includes, but not limited to, the address provided by the Person to the Authority or the address of its usual or last known place of residence or Business.

Article (12)
Conditions and Controls for Registration of Tax Agents

1. A natural person wishing to be listed in the Register of Tax Agents shall satisfy all of the following conditions:

   a. Be of good conduct and behaviour.

   b. Have never been convicted of a crime or misdemeanour prejudicial to honour or honesty, even if he has been rehabilitated.

   c. Have the minimum education and relevant experience in Tax, accounting or law, in any of the following forms:

      (1) Experience of at least (3) three years obtained in the last (5) five years and hold at least a certified bachelor degree or Masters in tax, accounting or law from an education institution recognised by the competent authority in the State.

      (2) Experience of at least (3) three years obtained in the last (5) five years and hold a certified bachelor degree in any other field from an educational institution recognised by the competent authority in the State, in addition to a valid professional qualification from a recognised institution, as may be prescribed by the Authority.

      (3) Experience of at least (5) five years obtained in the last (8) eight years and hold a certified bachelor degree in any other field from an education institution recognised by the competent authority in the State.

   d. Complete any necessary training specified by the Authority and pass any qualifying examination specified by the Authority.

   e. Have the ability to communicate orally and in writing in Arabic or English.

   f. Hold or be covered under a valid professional indemnity insurance that is appropriate to the nature and size of the Tax Agent’s Business.

g. Has a licence or works for an entity which has a licence from the competent authority.

h. Must not be a current member of the Committee.

2. A juridical person wishing to be listed in the Register of Tax Agents shall satisfy all of the following conditions:

   a. Be licenced as an audit, tax or law firm.

   b. Hold or be covered under a valid professional indemnity insurance that is appropriate to the nature and size of its Business.

   c. At least one director or partner that meets all of the natural person requirements in Clause (1) of this Article, is supervising the services provided by the juridical person and does not work for another juridical person or for its benefit.

   d. Meet any additional conditions prescribed by the Authority.

3. The listing application shall be submitted to the Authority in the form and manner prescribed by the Authority.

4. The Authority may, prior to deciding on the listing application in the Register, request further information from the applicant, request an interview with the natural person in accordance with Clause (1) of this Article, or the partner or director in accordance with paragraph (c) of Clause (2) of this Article, as the case may be, or check references and documents provided in the application.

5. The Authority may specify the provisions related to procedures for listing Tax Agents, continuation, renewal, suspension and cancellation of the listing.

Article (13)
Procedures for Tax Agent Listing and Delisting in the Register

1. The Authority shall review the listing applications and shall either issue its decision or request further information within (15) fifteen Business Days from the date of receiving the application.

2. If the Authority requests further information under Clause (1) of this Article, the Authority shall issue its decision within (15) fifteen Business Days from the date of receiving the additional information.

3. If the Authority approves the listing application in the Register, it shall inform the applicant within (5) five Business Days and request the payment of due fees.

4. The fees due in accordance with Clause (3) of this Article must be paid within (20) twenty Business Days from the date of Notification of the approval. If the fees due are not paid within this period, the application shall be considered cancelled.

5. The Authority shall list the Person in the Tax Agents Register within (5) five Business Days from the date of payment of the fees.

6. The Authority may reject an application for listing a Person in the Register in any of the following cases:

   a. The Person fails to meet any of the conditions specified in Article (12) of this Decision.

   b. If the listing the Person would adversely affect the integrity of the Tax system in the State.

7. If the application is rejected, the Authority shall notify the applicant of that within (5) five Business Days from the date of the Authority's decision to reject the application.

8. The listing in the Register shall be for three (3) three years for natural person and (1) one year for a juridical person from the date of listing and the Tax Agent may apply to the Authority to renew the listing no later than (20) twenty Business Days before the expiration of its listing and shall pay the required fees by the date specified by the Authority.

9. Any renewal request submitted after the elapse of the period set out in Clause (8) of this Article shall be treated as a new application and must meet the conditions set out in Article (12) of this Decision.

10. If the Tax Agent does not make an application to renew its listing before the expiration of the durations referred to in Clause (8) of this Article, its registration shall be cancelled and its link to all the Persons it represents with the Authority shall be revoked, as of the expiration date of its listing in the Register.

11. The Tax Agent shall notify the Authority in the event that it has ceased to practise as a Tax Agent in accordance with Clause (2) of Article (13) of the Decree-Law in the form and manner specified by the Authority.

12. The Authority may delist the Tax Agent upon its own request.

13. The Authority shall delist the Tax Agent from the Register in any of the following cases:

    a. If the Authority has determined that the Tax Agent is unable to fulfil its duties or functions, or is no longer meeting the conditions specified in Article (12) of this Decision.

    b. If the Authority has serious grounds to believe that the continued listing of the Person as a Tax Agent would adversely affect the integrity of the Tax system in the State.

    c. If the Tax Agent committed a serious violation of the provisions of the Decree-Law or the Tax Law or committed or participated in Tax Evasion.

    d. If the Authority found out that the Tax Agent is a current member of the Committee.

14. The Authority shall notify the Tax Agent and its principals of the delisting within (5) five Business Days of the decision, and to notify the Tax Agent of the reasons for this decision.

15. Clause (14) of this Article shall result in the Tax Agent being delinked from all Persons it represents with the Authority, after (5) five Business Days from the date of Notification of the Authority's decision.

Article (14)
Obligations and Rights of Tax Agents

1. In performing its duties, the Tax Agent shall:

    a. Assist the Person whom the Tax Agent is representing with the Authority with its Tax obligations, according to the agreement concluded between them.

    b. Maintain the confidentiality of any information obtained in the course of performing its duties as a Tax Agent, without prejudice to any obligation to disclose such information under the law.

    c. Continue to meet its Continuing Professional Development requirements, as may be specified by the Authority.

    d. Refuse to participate in any work or plan which may result in a breach of any law by any Person or may adversely impact the integrity of the Tax system.

    e. Keep information, documents, records and data in respect of any Person represented by the Tax Agent.

2. In the course of performing its duties, the Tax Agent may rely on information provided to it by the Person it represents unless the Tax Agent has grounds to believe that such information is incorrect.

Article (15)
Conducting Tax Audit

1. Prior to deciding to conduct a Tax Audit, the Authority shall consider the following:

    a. That the Tax Audit is necessary for protecting the integrity of the Tax system.

    b. The responsibility of the Person, or any Person associated with it, to comply with the Decree-Law and Tax Law.

    c. Tax revenue expected to be collected.

    d. The compliance and administrative burdens on both the Person and the Authority, related to performing the Tax Audit.

2. The Authority may decide to audit a Person previously audited and shall take the following into consideration:

    a. The results of the previous Tax Audit.

    b. Any new information or data which may change the position of the Authority.

3. The Authority's decision to conduct a Tax Audit is at its sole discretion, and may not be objected or challenged by any Person.

Article (16)
Notice of Tax Audit

1. The Authority shall notify the Person of a Tax Audit, at least (10) ten Business Days prior to the Tax Audit, and the Notification shall set out the possible consequences of obstructing the Tax Auditor in the exercise of his duty.

2. For the purposes of implementing the provisions of Clause (4) of Article (16) of the Decree-Law, the Authority shall notify the Person in writing of the beginning of the Tax Audit through any of the following Persons:

    a. The occupying tenant of the Premises, if he is present at the time of beginning the Tax Audit.

    b. The Person who appears to be in charge at the Premises, in the absence of such occupying tenant.

3. If the Authority considers that notifying the Person of the Tax Audit by the means referred to in this Article is ineffective, the Person may be notified by posting the Notification in a prominent place at the Premises where the Tax Audit will take place.

Article (17)
Tax Audit Procedures

1. For the purposes of conducting a Tax Audit, the Authority may inspect:

    a. The Premises, documents and Assets available at the Premises.

    b. Data and records stored electronically.

    c. Accounting systems used by the Person subject to the Tax Audit.

2. For the purposes of application of the provisions of Clause (1) of this Article, the occupying tenant of the Premises, or any Person the Authority considers as having control over the Premises in the absence of such occupying tenant, shall provide the Authority with all facilitations necessary for the effective exercise of its powers.

3. Any employee of the Authority may accompany the Tax Auditor if the Tax Auditor considers the employee's presence necessary for enabling the Tax Auditor exercise of the Tax Auditor's powers effectively.

4. The Authority may notify a Person to provide any information or any documents in relation to itself or another Person, if such documents or information is considered necessary by the Authority.

5. If a Person has been notified under Clause (4) of this Article to provide information or documents, the Person shall do so within the period, by the means and in the form and location specified in the Notification.

6. A Tax Auditor carrying out a Tax Audit based on a permit of the public prosecutor shall present such permit, as well as the approval issued by the Authority, in addition to the proof of identity if requested.

Article (18)
Seizure and Retain of Documents and Assets

1. The Tax Auditor in exercising his functions may do the following:

   a. Make copies of documents.

   b. Mark the original documents and Assets for the purpose of indicating that they have been inspected.

   c. Seize documents and Assets.

   d. Obtain and record information relating to the Premises, Assets, documents and accounting systems that have been inspected and recorded.

2. The Tax Auditor may seize any Assets or documents for the periods specified by him for the purposes of completing the Tax Audit.

3. Where a document or an Asset is seized under paragraph (c) of Clause 1 of this Article, the Authority shall provide a record of what was seized within (10) ten Business Days or any other period as specified by the Authority, from the date of the seizure to any of the following:

   a. The owner of the document or the Asset.

   b. The occupying tenant of the Premises from which the document or the Asset were seized.

   c. The Person who had custody or control of the document or the Asset immediately prior to its seizure.

4. The record referred to in Clause (3) of this Article shall include the following:

   a. The purpose for seizing the document or the Asset.

   b. The nature and description of the document or the Asset.

   c. The location where the document or the Asset is stored and the conditions of storage.

   d. The period during which it is expected to be seized by the Authority.

5. The Authority may move, keep and store any document or Asset seized under Clause (1) or (2) of this Article for the duration required for the completion of the Tax Audit in accordance with the following conditions:

   a. The documents or Assets seized and retained shall be returned to the Person to whom the record under Clause (3) of this Article was provided in a condition as good as practically possible.

   b. The Authority may dispose of naturally perishable and deteriorating Assets in accordance with the internal procedures of the Authority.

6. The Authority shall notify the owner of the Asset or, if the owner cannot be contacted, any other Persons specified in paragraph (b) or (c) of Clause 3 of this Article of its intention to dispose of the Asset in whole or in part, and give such owner or specified Person an opportunity to take back the Asset in whole or in part, (10) ten Business Days prior to disposing of the Asset, in accordance with paragraph (b) of Clause (5) of this Article.

7. The Authority shall not be liable for any loss resulting from the disposal of Assets under paragraph (b) of Clause (5) of this Article.

8. Where a Person from whom the document or Asset was seized submits a request to access the documents or the Assets seized, the Authority may:

   a. Allow the Person to access the document or the Asset under the supervision of the Authority or photocopy or photograph the document or photograph the Asset, and provide the photocopy or the photograph to the Person concerned.

   b. Reject the request where the Authority is of the view that it would prejudice any of the following:

      (1) The Tax Audit.

      (2) The Tax Audit of another Person.

      (3) Any investigation related to any of the documents or Assets requested to be accessed.

      (4) Any criminal proceedings related to the document or the Asset requested to be accessed.

9. In the event that the Authority needs to keep records and books for a period longer than is the period stated in Clause (3) of Article (3) of this Decision, the Authority may seize and keep them for the period it determines.

Article (19)
Results of the Tax Audit

1. The Person subject to the Tax Audit shall be notified of the results of the Tax Audit within (10) ten Business Days from the end of the Tax Audit.

2. The Person subject to a Tax Audit may request to access or obtain documents, data and information on which the Authority based the assessment of Due Tax contained in the results of the Tax Audit, according to an application submitted in the form specified by the Authority within (20) twenty Business Days from the date of Notification of the results of the Tax Audit.

3. Subject to Clause (4) of this Article, the Authority shall provide the Person with the documents, data and information requested under Clause (2) of this Article within (10) ten Business Days from the receipt of the application in the following manner:

   a. A paper or electronic copy of the documents, data and information requested.

   b. An original copy of the documents, data or information requested if such documents, data or information belongs to the Person subject to the Tax Audit who submitted the application.

4. The Authority shall not be obliged to provide the Person with the following:

   a. The documents, data and information which would reveal any internal correspondence or decisions made by the Authority.

   b. Any confidential documents, data and information related to any other Person.

   c. Any documents, data or information that can be in the possession of the Person subject to Tax Audit and who submitted the application. In such case, the Authority shall provide the Person subject to Tax Audit with sufficient information allowing him to identify the documents, data and information requested.

Article (20)
Tax Assessments

1. A Tax Assessment shall contain sufficient information to determine Payable Tax, refundable Tax or any other matters specified by the Tax Law, and include the following minimum information relating to the relevant Person:

   a. The name and address.

   b. The Tax Registration Number, if applicable.

   c. The Tax Assessment reference number.

   d. The Tax type to which the assessment relates.

   e. A Tax summary, which includes: the details of the Tax reported and adjustments made.

   f. Reasons on which the Tax Assessment is based.

   g. Net Tax due to the Authority or that refundable by it.

   h. The date any Due Tax is payable and the method of payment.

2. Where an amount of Tax due to the Authority has been assessed and notified to a Person, it shall be deemed a payable debt to the Authority, and can be collected accordingly.

Article (21)
Administrative Penalties Assessment

1. An Administrative Penalties Assessment shall include the following minimum information:

   a. The Person's name and address.

   b. The Taxable Person's Tax Registration Number, if applicable.

   c. The violation for which the Administrative Penalty has been assessed.

   d. The Administrative Penalty summary, including:

(1) The amount of Administrative Penalty imposed.

(2) The amount of Tax to which the imposed Administrative Penalty relates, if applicable.

e. Total of Administrative Penalties due to the Authority.

2. Where an amount of an Administrative Penalty has been assessed and notified to a Person, it shall be deemed a payable debt to the Authority as of the date of Notification, and can be collected accordingly.

Article (22)
Procedures and Measures

1. The Authority may sell seized and abandoned goods that are perishable, subject to shortage or leakage, or that are in a condition that might endanger the safety of other goods or facilities they are in, pursuant to the procedures in this Article.

2. The Authority shall:

a. Create a record of the seized goods, including reasons for the seizure.

b. Provide a copy of the record to the owner or, if the owner cannot be notified, any other Persons specified in paragraph (b) or (c) of Clause (3) of Article (18) of this Decision.

c. Notify the owner of the goods or, if the owner cannot be notified, any other Persons specified in paragraph (b) or (c) of Clause (3) of Article (18) of this Decision, of its decision to sell the goods, reason for such sale and the date specified for the sale.

3. The sale under this Article shall be conducted via a public auction in accordance with the procedures specified by the Authority.

4. The Authority may destroy or dispose of the seized goods, after notifying the owner, in the following cases:

a. The sale of such goods is not possible under this Article.

b. The seized goods naturally deteriorate or are perishable and hence cease to have value, in accordance with the internal procedures of the Authority.

5. The owner of seized goods may request their recovery after the payment of all outstanding Payable Tax, all outstanding Administrative Penalties and any other expenses associated with such goods, provided that the goods are of a kind permitted to be sold and circulated in the State, in accordance with the following conditions:

a. He shall notify the Authority within (5) five Business Days from the date of being notified of the seizure.

b. He shall provide the Authority with evidence of:

(1) His ownership of seized goods.

(2) Payment of all Tax, Administrative Penalties and associated expenses related to such seized goods.

6. The Authority may prescribe procedures and controls for storage and move of seized goods that are perishable or subject to shortage or leakage or are in a condition that might endanger the safety of other goods or facilities they are in.

Article (23)
Reconciliation in Tax Evasion Crimes

1. Prior to initiation of a criminal case, the Authority may reconcile in Tax Evasion crimes and deliberate failure to settle Administrative Penalties in return for full settlement of Payable Tax and Administrative Penalties.

2. Prior to initiating a criminal case, the Authority may reconcile in Tax crimes stipulated in Clause (4) of Article (25) of the Decree-Law, after the settlement of an amount of (50,000) fifty thousand Dirhams. If any of these crimes resulted in Tax Evasion or facilitated or concealed Tax Evasion, reconciliation shall be made by paying the amount set forth in Clause (1) of this Article.

3. The public prosecution may, after initiating the criminal case, during the investigation and trial phase and before the issuance of a conviction judgment and after seeking the opinion of the Authority, reconcile in Tax crimes in return for the following amounts:

   a. Full Payable Tax and Administrative Penalties, in addition to an amount equal to (50%) fifty percent of the evaded Tax in the crimes stipulated in Clause (2) of Article (25) of the Decree-Law.

   b. Full Payable Tax and Administrative Penalties in addition to an amount equal to (50%) fifty percent of the evaded Tax if applicable, in the crime of deliberate failure to pay Administrative Penalties stipulated in Clause (3) of Article (25) of the Decree-Law.

   c. An amount of (100,000) one hundred thousand Dirhams for each of the crimes stipulated in Clause (4) of Article (25) of the Decree-Law. If any of these crimes resulted in Tax Evasion or facilitated or concealed Tax Evasion, reconciliation shall be made by paying the amount set forth in paragraph (a) of this Clause.

4. The public prosecution may, after issuance of a conviction judgment, and after seeking the opinion of the Authority, reconcile in Tax crimes in return of the following amounts:

   a. Full Payable Tax and Administrative Penalties, in addition to an amount equal to (75%) seventy five percent of the Tax evaded in crimes stipulated in Clause (2) of Article (25) of the Decree-Law.

   b. Full Payable Tax and Administrative Penalties in addition to an amount equal to (75%) seventy-five percent of the evaded Tax if applicable, in the crime of deliberate failure to pay Administrative Penalties stipulated in Clause (3) of Article (25) of the Decree-Law.

   c. An amount of (200,000) two hundred thousand Dirhams for each of the crimes stipulated in Clause (4) of Article (25) of the Decree-Law. If any of these crimes resulted in Tax Evasion or facilitated or concealed Tax Evasion, reconciliation shall be made by paying the amount set forth in paragraph (a) of this Clause.

5. If more than one of the acts stipulated in Clause (4) of Article (25) of the Decree-Law were committed

for a single purpose, and they were indivisibly linked to each other, reconciliation for all of these acts shall take place in return for settlement of the amount set forth in paragraph (c) of Clause (3) or paragraph (c) of Clause (4) of this Article, as applicable.

Article (24)
Conditions, Controls and Procedures for Reconciliation

1. A reconciliation application shall be submitted by the Person to the Authority in the form prepared by the Authority for this purpose, before the initiation of a criminal case. The form must include the Person's undertaking to settle the full amounts due from him as consideration for reconciliation.

2. The Authority decides to accept or reject the reconciliation application, if the Authority decides to accept the application, a record shall be issued to that effect containing proof of reconciliation and its consideration, and signed by both parties. A copy of such record shall be handed to the Person after payment of the consideration for reconciliation.

3. A reconciliation application shall be submitted by the accused or convicted Person, as the case may be, at any stage of the criminal case to the competent federal public prosecution.

4. Prior to proceeding with the reconciliation procedures in Tax crimes, the public prosecution shall seek the opinion of the Authority, and in the event that no response is received from the Authority within (20) twenty Business Days, this shall be considered as an implicit approval of the reconciliation.

5. The public prosecution shall issue record of reconciliation after the settlement of full Tax and Administrative Penalties payable and the additional consideration for reconciliation. Such record shall be signed by both the competent public prosecution member and the accused or convicted Person, and shall be approved by the federal attorney general. The record must include the following:

   a. The details of the accused or convicted Person.

   b. A description of the charges attributed to the accused or convicted Person, the date and place of their occurrence and the articles of law applicable thereto.

   c. The value of the Tax and Administrative Penalties payable.

   d. The percentage and value of the additional amount for reconciliation.

   Evidence of settlement of the aforementioned amounts must be attached to the record. In the event that the Administrative Penalties are paid in instalments or waived in accordance with Article (50) of the Decree-Law, or if the payment of the additional consideration for reconciliation is deferred or paid in instalments in accordance with Clause (9) of this Article, a payment plan shall be attached to the record showing the deferred or installed payment, as applicable. The Authority and the Competent Court shall be notified of the approved reconciliation record, as applicable.

6. The public prosecution shall order a stay of execution of the adjudicated penalty if a reconciliation is reached during its execution, even after the sentence becomes conclusive.

7. The completion of the reconciliation in accordance with the foregoing shall result in the termination

of the criminal case for the incident subject to the reconciliation and the cancellation of its consequences.

8. The multiplicity of the accused or convicted Persons in a criminal case does not preclude the public prosecution from proceeding with reconciliation procedures with one or more of them. The effect of the reconciliation extends to all the accused or convicted Persons in the same incident.

9. The public prosecution, based on the request of the accused or convicted Person, may order the deferral of the payment of the reconciliation consideration and its payment in instalment according to the following conditions:

   a. The deferral or instalment does not include Payable Tax or Administrative Penalties.

   b. The period of deferral or instalment must not exceed (2) two years.

   c. The accused or convicted Person provide sufficient guarantees.

   The public prosecution shall have the right to withdraw and cancel the deferral or instalment order if the public prosecution finds a reason for that.

10. Reconciliation is considered as if it has not been taken place, and all effect it bears shall be ceased, in the event that the accused or convicted Person does not comply with Clause (9) of this Article, or if he violates the payment plan referred to in Clause (5) of this Article.

11. In all cases, the settlement of the amount of reconciliation in form of Payable Tax and Administrative Penalties shall be made to the Authority.

Article (25)
Extension of Deadlines

1. The Authority may extend the deadline for deciding on a Tax assessment review request and a request for reconsideration, which fulfil the formalities, for a period of (20) twenty Business Days if the extension is necessary to decide on the request.

2. The Committee may extend the deadline for deciding on a Tax objection, which fulfils the formalities, for a period of (60) sixty Business Days if the extension is necessary to decide on the objection.

3. The Authority may, at the request of the Persons concerned, extend the deadline for accepting the submission of a Tax assessment review request or a reconsideration request, in the cases deemed appropriate by the Authority.

4. The Committee may, upon the request of the Persons concerned, extend the deadline for accepting the submission a Tax objection if there is a reason beyond their control, sudden accident, emergency circumstances or force majeure that prevented them from submitting the Tax objection within the specified deadline.

5. For the purposes of Clauses (3) and (4) of this Article, the request must be submitted including justifications for extension and reasons related to the review, reconsideration or objection.

Article (26)
Tax Refund Procedures

1. A Taxpayer who is entitled to refund of Tax under the Tax Law or the Decree-Law may apply for the refund in the form and manner approved by the Authority.

2. The Authority shall decide on the refund application submitted under Clause (1) of this Article and notify the Taxpayer of its decision within (20) twenty Business Days from the date of submission of the refund application, or within any other period required to decide on the refund application, provided that the Taxpayer has been duly notified.

3. Where the Authority approves a refund application, it shall, within (5) five Business Days from the date of the Notification under Clause (2) of this Article, initiate the procedures of repayment to the Taxpayer in accordance with the mechanism determined by the Authority.

4. The Authority may defer the Tax refund until the receipt of Tax Returns that have not been submitted at the time its refund application is received, until such time when all due Tax Returns are submitted to the Authority. Any excess amount shall be refundable once such Tax Returns are submitted, in accordance with the Decree-Law and the Tax Law.

Article (27)
Payment of Tax and Administrative Penalties in Cases of Bankruptcy

1. Where a Business or part thereof is subject to bankruptcy, and a trustee is appointed, the trustee shall be treated as representing the Person in respect of its Business or part thereof until the expiration date of its appointment.

2. The appointed bankruptcy trustee shall notify the Authority of his appointment within (20) twenty Business Days from the appointment date in accordance with Article (8) of this Decision.

3. The Authority shall notify the appointed bankruptcy trustee of the amount of the Due Tax and of its intention to perform a Tax Audit for specific Tax Period(s), within (20) twenty Business Days after being notified of the trustee's appointment under Clause (2) of this Article.

4. The appointed bankruptcy trustee shall settle any Payable Tax to the Authority in accordance with the Payable Tax settlement mechanism under the Decree-Law and the Tax Law.

Article (28)

Confidentiality and Disclosure of Information

1. Employees of the Authority, and those who are mandated by the Authority, to implement the provisions of the Decree-Law or the Tax Law, both during and after cessation of their employment and mandate, shall not disclose information they obtained or to which they accessed during their employment or by virtue of conducting their mandated duties, except in the following cases:

    a. The disclosure is made pursuant to a decision of a judicial authority for the purposes of a civil or criminal case before the Competent Court with respect to a matter falling within the

Authority's scope of work/competencies.

b. The disclosure is made to a competent government entity, as determined by a decision of the Board, after concluding a memorandum providing for such disclosure, the permitted use of the information disclosed, the arrangements for the control, security, subsequent disclosure and the accuracy of the information, including the access to that information by the persons.

c. The disclosure is made in the implementation of international treaties or agreements.

d. The disclosure is requested by a Person, its Legal Representative or Tax Agent in relation to any part of the Person's file held by the Authority.

e. The disclosure is made to a competent employee of the Authority, at a place and in accordance with the confidentiality conditions under which the Authority expects that person to perform his duties and functions.

2. For purposes of Clause (1) of this Article, "employees of the Authority" shall mean all of the following:

   a. The Chairman and members of the Board.

   b. The Director General.

   c. Any other employee of the Authority.

3. For the purposes of implementing this Article, the Board may specify:

   a. The employees of the Authority and the persons who are mandated by the Authority whose functions permit them to disclose information, and the nature or type of information that may be disclosed.

   b. The date on which disclosure may be made.

Article (29)
Request of Information and Documents

The Authority may request the accounting records, commercial books and any other data and information from any Person in order to fulfil its duties and powers under the Decree-Law and the Tax Law and any executive decisions thereof.

Article (30)
Abrogation

1. The Cabinet Decision No. (36) of 2017 on the Executive Regulation of Federal Law No. (7) of 2017 on Tax Procedures, and its amendments, shall be abrogated.

2. Any provision contrary to or inconsistent with the provisions of this Decision shall be abrogated.

3. Decisions issued by the Authority and procedures applied by it for the implementation of the Cabinet Decision No. (36) of 2017 on the Executive Regulation of Federal Law No. (7) of 2017 on Tax Procedures and its amendments shall remain in force, insofar as they do not contradict with the provisions of this Decision until the issuance of decisions and procedures replacing them in accordance with the provisions of this Decision.

Article (31)
Publication and Enforcement

1. This Decision shall be published in the Official Gazette and shall come into effect as of 1 August 2023.

2. As an exception to Clause (1) of this Article, Clause (2) of Article (12) of this Decision shall come into effect as of 1 December 2023.

Mohammed Bin Rashid Al Maktoum

Prime Minister

Issued by us:

Date: 22/ Dhu Al Hijjah/ 1444 AH

Corresponding to: 10/ July / 2023 AD

Cabinet Decision No. (75) of 2023

On the Administrative Penalties for Violations Related to the Application of Federal Decree-Law No. (47) of 2022 on the Taxation of Corporations and Businesses

The Cabinet:

- Having reviewed the Constitution,
- Federal Law No. (1) of 1972 on the Competences of the Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Law No. (14) of 2016 on Violations and Administrative Penalties in the Federal Government,
- Federal Decree-Law No. (28) of 2022 on Tax Procedures,
- Federal Decree-Law No. (47) of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. (40) of 2017 on the Administrative Penalties for Violation of Tax Laws in the UAE, and its amendments,
- Pursuant to what was presented by the Minister of Finance and approved by the Cabinet,

Has decided:

Article (1)

Definitions

Definitions in Federal Decree-Law No. (28) of 2022 on Tax Procedures and in Federal Decree-Law No. (47) of 2022 on the Taxation of Corporations and Businesses shall apply to this Decision, otherwise, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Tax: Corporate Tax.

Tax Procedures Law: Federal Decree-Law No. (28) of 2022 on Tax Procedures.

Corporate Tax Law: Federal Decree-Law No. (47) of 2022 on the Taxation of Corporations and Businesses.

Due Tax: Tax that is calculated and imposed under the provisions of the Corporate Tax Law.

Administrative Penalties: Monetary amounts imposed upon the Person by the Authority for breaching the provisions of the Tax Procedures Law, the Corporate Tax Law or decisions issued by the Cabinet for execution thereof.

Tax Audit: A procedure undertaken by the Authority to inspect the commercial records, information, data or goods related to a Person to determine whether the Person has fulfilled his obligations under the Tax Procedures Law or the Corporate Tax Law.

Declaration: A declaration made pursuant to Clauses (5) and (6) of Article (53) or Clause (1) of Article (55) of the Corporate Tax Law.

Tax Difference: The difference between the Due Tax as calculated and the Due Tax as it should have been calculated.

Article (2)

Scope of Application

Notwithstanding the provisions of Cabinet Decision No. (40) of 2017 referred to above, the Administrative Penalties included in the table annexed to this Decision shall apply to violations related to the application of the Corporate Tax Law.

Article (3)

Date of Application of Monthly Administrative Penalties

For the purposes of Clauses (3), (6), (7), (8), and (13) of the table annexed to this Decision, if any penalty is to be imposed on the same date monthly, the date for a month, that does not have a corresponding date for that date, shall be considered to be the last day of that month, however, the penalty for all other months shall be imposed on the same date the monthly penalty was first imposed.

Article (4)

Publication and Entry into Force

This Decision shall be published in the Official Gazette and shall come into effect on 1 August 2023.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us,

Date: 22/ Dhu Al Hijjah/ 1444 AH

Corresponding to: 10/ July / 2023 AD

Table of Violations and Administrative Penalties Annexed to Cabinet Decision No. (75) of 2023 on Violations Related to the Application of Federal Decree-Law No. (47) of 2022 on the Taxation of Corporations and Businesses

No.	Description of Violation	Administrative Penalty Amount in AED
1.	Failure of the Person conducting a Business or Business Activity or having a Tax obligation under the Tax Procedures Law or the Corporate Tax Law to keep the required records and other information specified in the Tax Procedures Law and the Corporate Tax Law.	One of the following penalties shall apply: 1. 10,000 for each violation. 2. 20,000 in each case of repeated violation within 24 months from the date of the last violation.
2.	Failure of the Person conducting Business or Business Activity or having a Tax obligation under the Tax Procedures Law or the Corporate Tax Law to submit the data, records and documents related to Tax in Arabic to the Authority when requested.	5,000
3.	Failure of the Registrant to submit a deregistration application within the timeframe specified in the Corporate Tax Law and its implementing decisions.	1,000 in case of late submission of the application and on the same date monthly, up to a maximum of 10,000.
4.	Failure of the Registrant to inform the Authority of any case that may require the amendment of the information pertaining to his Tax record kept by the Authority.	One of the following penalties shall apply: 1. 1,000 for each violation. 2. 5,000 in each case of repeated violation within 24 months from the date of the last violation.
5.	Failure of the Legal Representative to provide notification of their appointment within the specified timeframes, in which case the penalties will be due from the Legal Representative's own funds.	1,000
6.	Failure of the Legal Representative to file a Tax Return within the specified timeframes, in which case the penalties will be due from the Legal Representative's own funds.	1. 500 for each month, or part thereof, for the first twelve months. 2. 1,000 for each month, or part thereof, from the thirteenth month onwards. This penalty shall be imposed from the day following the expiry date of the timeframe within which the Tax Return must be submitted, and on the same date monthly thereafter.
7.	Failure of the Registrant to submit a Tax Return within the timeframe specified in the Corporate Tax Law.	1. 500 for each month, or part thereof, for the first twelve months. 2. 1,000 for each month, or part thereof, from the thirteenth month onwards. This penalty shall be imposed from the day following the expiry date of the timeframe within which the Tax Return must be submitted, and on the same date monthly thereafter.
8.	Failure of the Taxable Person to settle the Payable Tax.	1. A monthly penalty of 14% per annum, for each month or part thereof, on the unsettled

No.	Description of Violation	Administrative Penalty Amount in AED
		Payable Tax amount from the day following the due date of payment and on the same date monthly thereafter. 2. For the purposes of this penalty, the due date of payment in the case of the Voluntary Disclosure and Tax Assessment, shall be as follows: a. 20 Business Days from the date of submission, in the case of a Voluntary Disclosure. b. 20 Business Days from the date of receipt, in the case of a Tax Assessment.
9.	The Registrant submits an incorrect Tax Return.	500, unless the Person corrects his Tax Return before the expiry of the deadline for the submission of the Tax Return according to the Corporate Tax Law.
10.	The submission of a Voluntary Disclosure by the Taxable Person in relation to errors in the Tax Return, Tax Assessment or Tax refund application pursuant to Clauses (1) and (2) of Article (10) of the Tax Procedures Law.	A monthly penalty of 1% on the Tax Difference, for each month or part thereof, to be applied as of the date following the due date of the relevant Tax Return, the submission of the Tax refund application, or the Notification of the Tax Assessment and until the date the Voluntary Disclosure is submitted.
11.	Failure of the Taxable Person to submit a Voluntary Disclosure in relation to errors in the Tax Return, Tax Assessment or Tax refund application pursuant to Clauses (1) and (2) of Article (10) of the Tax Procedures Law, before being notified by the Authority that it will be subject to a Tax Audit.	The following penalties shall apply: 1. A fixed penalty of 15% on the Tax Difference. 2. A monthly penalty of 1% on the Tax Difference, for each month or part thereof, to be applied as follows: a. Where the Taxable Person submits a Voluntary Disclosure after being notified that it will be subject to a Tax Audit by the Authority, the penalty shall be imposed for the period from the day following the due date of the relevant Tax Return, or the submission of the Tax refund application or Notification of the Tax Assessment and until the date the Voluntary Disclosure is submitted. b. Where the Taxable Person fails to submit a Voluntary Disclosure, the penalty shall be imposed as of the date following the due date of the relevant Tax Return, or the submission of the Tax refund application or Notification of the Tax Assessment and until the date of issuance of the Tax Assessment.

No.	Description of Violation	Administrative Penalty Amount in AED
12.	Failure of a Person subject to Tax Audit, his Tax Agent or Legal Representative to offer facilitation to the Tax Auditor in violation of the provisions of Article (20) of the Tax Procedures Law, in which case the penalties will be due from the Person's, Legal Representative's or Tax Agent's own funds, as applicable.	20,000
13.	Failure of a Person to submit, or late submission of a Declaration to the Authority, as required in accordance with the provisions of the Corporate Tax Law.	1. 500 for each month, or part thereof, for the first twelve months. 2. 1,000 for each month, or part thereof, from the thirteenth month onwards. This penalty shall be imposed from the day following the expiry date of the timeframe within which the Declaration must be submitted, and on the same date monthly thereafter.

Cabinet Decision No. (81) of 2023
On Conditions for Qualifying Investment Funds for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

The Cabinet:

- Having reviewed the Constitution,
- Pursuant to what was presented by the Minister of Finance and upon the approval of the Cabinet,

Decided:

Article (1)
Definitions

Definitions in Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses shall apply to this Decision, and the following words and expressions shall have the meaning assigned against each, unless the context requires otherwise:

Investment Business	:	The issuing of investment interests to raise funds or pool investor funds or establish a joint investment fund with the aim of enabling the holder of such an investment interest to benefit from the profits or gains resulting from the entity's acquisition, holding, management or disposal of investments, in accordance with the applicable legislation of the State.
Real Estate Gains	:	Gains derived from the sale or disposal of land or real estate.
Real Estate Income	:	Income derived from renting of land or real estate, excluding Real Estate Gains.
Real Estate Asset Percentage	:	The portion of the Real Estate Income generating assets as a percentage of the total value of the assets of the investment fund.
Real Estate Investment Trust ("REIT")	:	A real estate fund as defined in the applicable legislation of the State.
Corporate Tax Law	:	Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Article (2)
Conditions to Exempt an Investment Fund from Corporate Tax

1. Without prejudice to the conditions under Clause (1) of Article (10) of the Corporate Tax Law, an investment fund, excluding a Real Estate Investment Trust ("REIT"), shall meet all of the following conditions to apply to the Authority to be exempt from Corporate Tax as a Qualifying Investment Fund:
    a. The main Business or Business Activities conducted by the investment fund are Investment Business activities, and any other Business or Business Activities conducted by the investment fund are ancillary or incidental.

b. A single investor and its Related Parties do not own the following:

   1) More than 30% (thirty percent) of the ownership interests in the investment fund, where the investment fund has less than ten investors.

   2) More than 50% (fifty percent) of the ownership interests in the investment fund, where the investment fund has ten or more investors.

c. The investment fund is managed or advised by an Investment Manager that has a minimum of three investment professionals.

d. The investors shall not have control over the day-to-day management of the investment fund.

2. For the purposes of applying paragraph (a) of Clause (1) of this Article, the following must be observed:

   a. Where Business or Business Activities of a resident Investment Manager are attributed to a resident investment fund, the Taxable Income of the Investment Manager shall be adjusted to include the income attributed to the investment fund, in accordance with Article (20) of the Corporate Tax Law.

   b. Business or Business Activities of an Investment Manager that are attributed to a resident investment fund shall be considered to be Investment Business activities where they meet at least one of the following conditions:

      1) To be subject to Corporate Tax in the State through the Investment Manager.

      2) To be undertaken by an Investment Manager that would meet the conditions under Clause (1) of Article (15) of the Corporate Tax Law, had the reference to the Non-Resident Person in that Clause been related to a Resident Person.

   c. Other Business or Business Activities that the investment fund conducts shall be considered as ancillary or incidental if the combined Revenue of such Business or Business Activities does not exceed 5% (five percent) of the total Revenue of the investment fund in the same Financial Year.

3. The investment fund shall be considered to have met any of the ownership interests conditions under paragraph (b) of Clause (1) of this Article as the case may be, in the first two Financial Years of the establishment of the investment fund if there is sufficient evidence to demonstrate the intention of the investors to meet these conditions after the first two Financial Years, as determined by the Authority.

4. Where an investment fund does not meet the conditions under Clause (3) of this Article, the investment fund shall cease to be treated as an Exempt Person from the beginning of the third Financial Year of its establishment.

Article (3)
Conditions to Exempt a Real Estate Investment Trust from Corporate Tax

Notwithstanding the provisions of Article (2) of this Decision, a Real Estate Investment Trust (“REIT”) shall meet all of the following conditions, in addition to the conditions under Clause (1) of Article (10) of the Corporate Tax Law, to apply to the Authority to be exempt from Corporate Tax as a Qualifying Investment Fund:

1. The value of real estate assets, excluding land, under the management or ownership of the Real Estate Investment Trust (“REIT”) exceeds AED 100,000,000 (one hundred million United Arab Emirates dirhams).

2. At least 20% (twenty percent) of the share capital of the Real Estate Investment Trust ("REIT") is floated on a Recognised Stock Exchange, or it is directly wholly owned by two or more institutional investors specified in Article (5) of this Decision, provided that at least two of those institutional investors are not Related Parties.
3. The Real Estate Investment Trust ("REIT") has an average Real Estate Asset Percentage of at least 70% (seventy percent) during the relevant Gregorian calendar year, or the relevant (12) twelve-month period for which the financial statements are prepared.

Article (4)
Investor Income

1. Where a Taxable Person is an investor in the Qualifying Investment Fund in a Tax Period, the income of that Taxable Person for that relevant Tax Period shall be adjusted to include the income and the expenditure of the Qualifying Investment Fund as reflected in the financial statements of the Qualifying Investment Fund, and in proportion to its ownership interest, in accordance with Article (20) of the Corporate Tax Law.
2. The income of the investor shall not include any distribution they receive from a Qualifying Investment Fund in case it has been previously included as their income under Clause (1) of this Article.

Article (5)
Institutional Investor

An institutional investor is any of the following:

1. The Federal Government.
2. A Local Government.
3. A Government Entity.
4. A Government Controlled Entity.
5. A foreign government, its institutions and authorities or the companies fully owned by any of them.
6. International organisations.
7. A Bank.
8. An Insurance Provider.
9. A pension or social security fund.
10. An investment entity licensed by a relevant competent authority or a similar regulatory authority in or outside of the State.
11. Any other juridical person determined by the Authority.

Article (6)
Unincorporated Partnership

An Unincorporated Partnership that is considered a Taxable Person in its own right in accordance with Article (16) of the Corporate Tax Law shall be considered an entity under the definition of the Qualifying Investment Fund under the Corporate Tax Law.

Article (7)
Implementing Decisions

The Minister may issue the necessary decisions to implement the provisions of this Decision.

Article (8)
Publication and Application of this Decision

This Decision shall be published in the Official Gazette and shall come into effect the day following the date of its publication.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us:
Date: 30 Dhu al-Hijjah 1444 H
Corresponding to**:** 18 July 2023

Cabinet Decision No. 55 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

The Cabinet:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Pursuant to what was presented by the Minister of Finance and upon the approval of the Cabinet,

Decided:

Article (1)
Definitions

Definitions in Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses shall be applied to this Decision, with exception to that, the following words and expressions shall have the meaning assigned against each, unless the context requires otherwise:

Domestic Permanent Establishment: A place of business or other form of presence of a Qualifying Free Zone Person outside the Free Zone in the State.

Qualifying Activities: Any activities determined by a decision issued by the Minister and conducted by a Qualifying Free Zone Person from which Qualifying Income is derived.

Excluded Activities: Any activities determined by a decision issued by the Minister and conducted by a Qualifying Free Zone Person from which non-Qualifying Income is derived.

Non-Free Zone Person: Any Person who is not a Free Zone Person.

Commercial Property: Immovable property or part thereof:

(a) used exclusively for a Business or Business Activity.
(b) not used as a place of residence or accommodation including hotels, motels, bed and breakfast establishments, serviced apartments and the like.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Article (2)
Scope of Application

The provisions of this Decision shall apply to Qualifying Free Zone Persons.

Article (3)
Qualifying Income

1. For the purposes of application of Article (18) of the Corporate Tax Law, Qualifying Income of the Qualifying Free Zone Person shall include the below categories of income, provided that such income is not attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment in accordance with Article (5) of this Decision or to the ownership or exploitation of immovable property in accordance with Article (6) of this Decision:

    a. Income derived from transactions with other Free Zone Persons, except for income derived from Excluded Activities.

    b. Income derived from transactions with a Non-Free Zone Person, but only in respect of Qualifying Activities that are not Excluded Activities.

    c. Any other income provided that the Qualifying Free Zone Person satisfies the de minimis requirements under Article (4) of this Decision.

2. For the purposes of paragraph (a) of Clause (1) of this Article, income will be considered as derived from transactions with a Free Zone Person where that Free Zone Person is the Beneficial Recipient of the relevant services or Goods.

3. For the purposes of this Article, the term **"**Beneficial Recipient**"** shall mean a Person who has the right to use and enjoy the service or the Good and does not have a contractual or legal obligation to pass on such service or Good to another person and the term "Good" shall mean tangible or intangible property that has economic value in dealing including moveable and immovable property.

4. Qualifying Income shall include income derived from any Person where such income is incidental to the income under paragraph (a) or (b) of Clause (1) of this Article.

5. For the purposes of determining whether a Qualifying Free Zone Person has a Domestic Permanent Establishment, the provisions of Article (14) of the Corporate Tax Law shall apply and the expression "Qualifying Free Zone Person" shall be used instead of the expression "Non-Resident Person", and the expression "geographical areas outside the Free Zones in the State" shall be used instead of the word "State", wherever used in that Article.

Article (4)
De minimis Requirements

1. The de minimis requirements shall be considered satisfied where the non-qualifying Revenue derived by the Qualifying Free Zone Person in a Tax Period does not exceed a percentage of the total Revenue of the Qualifying Free Zone Person in that Tax Period as specified by the Minister, or an amount specified by the Minister, whichever is lower.

2. Subject to Clause (3) of this Article, the following provisions shall apply:

   a. Non-qualifying Revenue is Revenue derived in a Tax Period from any of the following:

      1) Excluded Activities.

      2) Activities that are not Qualifying Activities where the other party to the transaction is a Non-Free Zone Person.

   b. Total Revenue is all Revenue derived by a Qualifying Free Zone Person in a Tax Period.

3. The following Revenue shall not be included in the calculation of non-qualifying Revenue and total Revenue:

   a. Revenue attributable to immovable property located in a Free Zone derived from the following transactions:

      (1) Transactions with Non-Free Zone Persons in respect of Commercial Property.

      (2) Transactions with any Person in respect of immovable property that is not Commercial Property.

   b. Revenue attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment of the Qualifying Free Zone Person.

4. For the purposes of this Article, a Qualifying Free Zone Person and its Domestic Permanent Establishment or Foreign Permanent Establishment shall be treated as if the establishment was a separate and independent Person that is a Related Party of the Qualifying Free Zone Person.

Article (5)

Income Attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment

1. Income attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment of the Qualifying Free Zone Person shall be considered Taxable Income and taxed in accordance with paragraph (b) of Clause (2) of Article (3) of the Corporate Tax Law.
2. The income attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment of a Qualifying Free Zone Person for a Tax Period is the Taxable Income of any such establishment for that period calculated as if the establishment was a separate and independent Person that is a Related Party of the Qualifying Free Zone Person.

Article (6)

Income Attributable to Immovable Property Located in a Free Zone

1. Income attributable to immovable property located in a Free Zone that is derived from the below transactions shall be considered Taxable Income and taxed in accordance with paragraph (b) of Clause (2) of Article (3) of the Corporate Tax Law:
   a. Transactions with Non-Free Zone Persons in respect of Commercial Property.
   b. Transactions with any Person in respect of immovable property that is not Commercial Property.
2. For the purposes of Clause (1) of this Article, the Taxable Income for a Tax Period shall be the income that is attributable to the immovable property referred to in paragraphs (a) and (b) of Clause (1) of this Article calculated in accordance with the relevant provisions of the Corporate Tax Law.

Article (7)

Maintaining Adequate Substance in a Free Zone and Outsourcing

1. A Qualifying Free Zone Person shall undertake its core income-generating activities in a Free Zone and, having regard to the level of the activities carried out, have adequate assets, an adequate number of qualified employees, and incur an adequate amount of operating expenditures.
2. Activities can be outsourced to a Related Party in a Free Zone or a third party in a Free Zone, provided the Qualifying Free Zone Person has adequate supervision of the outsourced activity.

Article (8)

Implementing Decisions

The Minister shall issue the necessary decisions to implement the provisions of this Decision.

Article (9)

Publication and Application this Decision

This Decision shall be published in the Official Gazette and shall come into effect on 1 June 2023.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us,
On: 10 Dhi al-Qi`dah 1444 H
Corresponding to: 30 May 2023

Cabinet Decision No. 56 of 2023 on Determination of a Non-Resident Person's Nexus in the State for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

The Cabinet:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Pursuant to what was presented by the Minister of Finance and approved by the Cabinet,

Decided:

Article (1)
Definitions

Definitions in Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses shall be applied to this Decision, with exception to that, the following expressions shall have the meaning assigned against each, unless the context requires otherwise**:**

Immovable Property: Means any of the following:

a. Any area of land over which rights or interests or services can be created.

b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.

c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Article (2)
Nexus in the State

1. For the purposes of paragraph (c) of Clause (4) of Article (11) of the Corporate Tax Law, any juridical person that is a Non-Resident Person shall have a nexus in the State if it earns income from any Immovable Property in the State.

2. For the purposes of paragraph (c) of Clause (3) of Article (12) of the Corporate Tax Law, the Taxable Income that is attributable to the Immovable Property in the State shall include income derived from the right in rem, sale, disposal, assignment, direct use, letting, including subletting and any other form of exploitation of Immovable Property.

Article (3)

Artificial Transfer of Rights in Immovable Property

If a Non-Resident Person artificially transfers or otherwise disposes of its right in rem in any Immovable Property in the state to another person and that transfer or disposal is not for a valid commercial or other non-fiscal reason which reflects economic reality, this would be considered an arrangement to obtain a Corporate Tax advantage under Clause (1) of Article (50) of the Corporate Tax Law.

Article (4)

Requirement to Register for Corporate Tax

A Non-Resident Person that has a nexus in the State in accordance with Article (2) of this Decision shall be required to register with the Authority in accordance with Article (51) of the Corporate Tax Law.

Article (5)

Implementing Decisions

The Minister shall issue the necessary decisions to implement any of the provisions of this Decision.

Article (6)

Publication and Application of this Decision

This Decision shall be published in the Official Gazette and shall come into effect on 1 June 2023.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us,
On: 10 Dhi al-Qi`dah 1444 H
Corresponding to: 30 May 2023

Ministerial-Decision

Ministerial Decision No. 27 of 2023 on Implementation of Certain Provisions of Cabinet Decision No. 85 of 2022 on Determination of Tax Residency

The Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. (47) of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. (85) of 2022 on Determination of Tax Residency,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Cabinet Decision No. (85) of 2022 on Determination of Tax Residency unless the context requires otherwise.

Article (2)
Usual or Primary Place of Residence and Centre of Financial and Personal Interests in the State

1. A natural person's usual or primary place of residence is in the State if the State is the jurisdiction where the natural person habitually or normally resides.
2. The place where the natural person habitually or normally resides is the jurisdiction where he spends most of his time when compared to any other jurisdiction as part of his settled routine in a way that is more than transient and that should be taken into account in the determination of whether a natural person's usual or primary place of residence is in the State.
3. A natural person's centre of financial and personal interests is in the State if the State is the jurisdiction where the natural person's personal and economic interests are the closest or of the greatest significance to the natural person.
4. The place of the natural person's occupation, familial and social relations, cultural or other activities, place of business, place from which the property of the natural person is administered and any other relevant facts and circumstances should be taken into account in the determination of whether a natural person's centre of financial and personal interests is in the State.

Article (3)
Calculation of Time Periods

1. The term "day" means calendar day and the term "month" means calendar month.
2. All days or parts of a day on which a natural person is physically present in the State count towards the total number of days he is present in the State during a relevant consecutive (12) twelve-month period.

3. The days on which the natural person has been physically present in the State do not need to be consecutive in determining whether the (183) one hundred and eighty-three day or (90) ninety-day period has been met during the relevant consecutive (12) twelve-month period.

Article (4)
Exceptional Circumstances

1. Any day that the natural person's presence in the State was due to exceptional circumstances may be disregarded by the Authority in determining whether the (183) one hundred and eighty-three day or (90) ninety-day period has been met during the relevant consecutive (12) twelve-month period.

2. An exceptional circumstance is an event or situation beyond the natural person's control, occurring while he is already in the State, which he could not reasonably have predicted or prevented and which prevents him from leaving the State as originally planned.

Article (5)
Permanent Place of Residence

1. A Permanent Place of Residence is a furnished house, apartment, room or any other form of dwelling, made continuously available to the natural person.

2. The Permanent Place of Residence shall be considered as being available to the natural person where the natural person has the continuous right of occupation therein at all times and on a regular basis with some degree of permanency and stability and not just occasionally or for the purposes of a stay of a short duration.

3. A Permanent Place of Residence is not required to be owned by the natural person but can be rented or otherwise occupied by him as a dwelling.

Article (6)
Employment

1. A natural person shall be considered as carrying on employment in the State in either of the following two cases:
   (a) if he is party to a contract with an employer, which is incorporated or otherwise formed or recognised in the State, under which the natural person undertakes to offer a service to the employer under their administration or supervision for a promised remuneration paid by the employer in the State.
   (b) If he is in a continuing relationship where all or substantially all of his income for his labour is derived from one party whereby the income received by him constitutes remuneration for his labour performed in the State.
2. The nature of the employment can be limited or unlimited and the work may be carried out on a full time or part time basis.

3. A voluntary role for which the natural person does not enter into a contract does not constitute employment.

Article (7)
Clarifications and Directives

The Authority shall issue clarifications and directives for implementing any of the provisions of this Decision.

Article (8)
Publication and Application of this Decision

This Decision shall be published in the Official Gazette and shall come into force on 1 March 2023.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On: 02/ Shaban /1444H
Corresponding to: 22/02/2023

Ministerial Decision No. 43 of 2023 Concerning Exception from Tax Registration for the Purpose of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 on Taxation of Corporations and Businesses (referred to in this Decision as "**Corporate Tax Law**") unless the context requires otherwise.

Article (2)
Exception from Registration for Corporate Tax

1. The following Persons shall not register for Corporate Tax with the Authority:

   (a) A Government Entity.

   (b) A Government Controlled Entity.

   (c) A Person engaged in an Extractive Business that meets the conditions of Article 7 of the Corporate Tax Law.

   (d) A Person engaged in a Non-Extractive Natural Resource Business, that meets the conditions of Article 8 of the Corporate Tax Law.

   (e) A Non-Resident Person that derives only State Sourced Income under Article 13 of the Corporate Tax Law and that does not have a Permanent Establishment in the State according to the provisions of the Corporate Tax Law.

2. Paragraphs (a) to (d) of Clause (1) of this Article shall be without prejudice to the obligation of the Person to register for Corporate Tax in cases where the Person becomes a Taxable Person under the provisions of the Corporate Tax Law.

Article (3)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On: 18/ SHABAN /1444
Corresponding to: 10/03/2023

Ministerial Decision No. 68 of 2023
on the Treatment of all Businesses and Business Activities Conducted by a Government Entity as a Single Taxable Person

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority and its amendments,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Cabinet Decision No. 36 of 2017 on the Executive Regulation of Federal Law No. 7 of 2017 on Tax Procedures and its amendments,

Has decided:

Article (1)
Definitions

In the application of the provisions of this Decision, the following words and expressions shall have meanings assigned against each, unless the context requires otherwise:

Federal Government Entity: The Federal Government, ministries, government agencies, authorities and public institutions of the Federal Government.

Local Government Entity: The Local Governments, ministries, government departments, government agencies, authorities and public institutions of the Local Governments.

Representative Federal Government Entity: The Federal Government Entity that is mandated by the Federal Government to represent the Federal Government Entities that are treated as a single Taxable Person in accordance with the provisions of Article 2 of this Decision.

Representative Local Government Entity: The Local Government Entity that is mandated by the Local Government to represent the Local Government Entities that are treated as a single Taxable Person in accordance with the provisions of Article 3 of this Decision.

Other words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses (referred to in this Decision as the "**Corporate Tax Law**") unless the context requires otherwise.

Article (2)
Conditions to treat the Federal Government's Businesses and Business Activities as a Single Taxable Person

1. For the purposes of Clause 6 of Article 5 of the Corporate Tax Law, the Businesses and Business Activities conducted by the Federal Government Entities shall be treated as a single Taxable Person subject to meeting the following conditions:

a. The application to be treated as a Single Taxable Person shall include all Businesses and Business Activities conducted by the Federal Government Entities.

b. The Businesses and Business Activities of the Federal Government Entities shall be conducted under a Licence issued by a Licensing Authority.

c. The application to the Authority to be treated as a Single Taxable Person shall only be made by the Representative Federal Government Entity.

2. For the purposes of Clause 1 of this Article, the Authority shall be notified of the appointment of the Representative Federal Government Entity that is mandated to comply with all obligations set out in the Corporate Tax Law and this Decision.

3. An application shall be made to the Authority to replace the Representative Federal Government Entity without a discontinuation of the treatment as a single Taxable Person in accordance with Clause 1 of this Article.

4. Where Clause 1 of this Article applies, any new Businesses or Business Activities conducted by the Federal Government Entity that meet the conditions under Clause 1 of this Article shall be directly treated as part of the single Taxable Person, and the Representative Federal Government Entity shall notify the Authority within (20) twenty business days from the occurrence of such an event.

5. Where Clause 1 of this Article applies, the Representative Federal Government Entity shall notify the Authority within (20) twenty business days from the occurrence of any of the following circumstances:

   a. Any Business or Business Activity is no longer conducted by the Federal Government Entity.

   b. Any Business or Business Activity is no longer conducted under a Licence issued by a Licensing Authority.

6. The treatment as a single Taxable Person under Clause 1 of this Article shall cease in any of the following circumstances:

   a. Following approval by the Authority of an application made by the Representative Federal Government Entity to cease the treatment as a single Taxable Person.

   b. Failure to meet the conditions under Clause 1 of this Article.

Article (3)
Conditions to treat the Local Government's Businesses and Business Activities as a Single Taxable Person

1. For the purposes of Clause 6 of Article 5 of the Corporate Tax Law, the Businesses and Business Activities conducted by the Local Government Entities shall be treated as a single Taxable Person subject to meeting the following conditions:

   a. The application to be treated as a Single Taxable Person shall include all Businesses and Business Activities conducted by the Local Government Entities.

   b. The Businesses and Business Activities of the Local Government Entities shall be conducted under a Licence issued by a Licensing Authority.

   c. The Businesses and Business Activities of the Local Government Entities shall be conducted within the same Emirate.

   d. The application to the Authority to be treated as a Single Taxable Person shall only be made by the Representative Local Government Entity.

2. For the purposes of Clause 1 of this Article, the Authority shall be notified of the appointment of the Representative Local Government Entity that is mandated to comply with all obligations set out in the Corporate Tax Law and this Decision.

3. An application shall be made to the Authority to replace the Representative Local Government Entity without a discontinuation of the treatment as a single Taxable Person in accordance with Clause 1 of this Article.

4. Where Clause 1 of this Article applies, any new Businesses or Business Activities conducted by the Local Government Entity that meet the conditions under Clause 1 of this Article shall be directly treated as part of the single Taxable Person, and the Representative Local Government Entity shall notify the Authority within (20) twenty business days from the occurrence of such an event.

5. Where Clause 1 of this Article applies, the Representative Local Government Entity shall notify the Authority within (20) twenty business days from the occurrence of any of the following circumstances:

   a. Any Business or Business Activity is no longer conducted by the Local Government Entity.

   b. Any Business or Business Activity is no longer conducted under a Licence issued by a Licensing Authority.

6. The treatment as a single Taxable Person under Clause 1 of this Article shall cease in any of the following circumstances:

   a. Following approval by the Authority of an application made by the Representative Local Government Entity to cease the treatment as a single Taxable Person.

   b. Failure to meet the conditions under Clause 1 of this Article.

Article (4)
Start and End Dates of the Treatment as a Single Taxable Person

1. For the purposes of Articles 2 and 3 of this Decision, the treatment as a single Taxable Person shall start from the beginning of the Tax Period specified in the application submitted to the Authority, or from the beginning of any other Tax Period determined by the Authority.

2. For the purposes of paragraph (a) of Clause 6 of Article 2 and paragraph (a) of Clause 6 of Article 3 of this Decision, the treatment as a single Taxable Person shall end from the beginning of the Tax Period specified in the application submitted to the Authority, or from the beginning of any other Tax Period determined by the Authority.

3. For the purposes of paragraph (b) of Clause 6 of Article 2 and paragraph (b) of Clause 6 of Article 3 of this Decision, the treatment as a single Taxable Person shall end from the beginning of the Tax Period in which the conditions under Clause 1 of Article 2 or Clause 1 of Article 3 of this Decision, as applicable, are no longer met.

Article (5)
Taxable Income of the Single Taxable Person

For the purposes of determining the Taxable Income upon the application of Clause 1 of Article 2 or Clause 1 of Article 3 of this Decision, as applicable, the Representative Federal Government Entity or the Representative Local Government Entity shall consolidate the financial results, assets and liabilities of all Businesses and Business Activities attributable to the single Taxable Person for the relevant Tax Period, eliminating transactions between the Businesses and Business Activities of the Government Entities within the same single Taxable Person.

Article (6)
Publication and Application of this Decision

This Decision shall be published and shall come into effect (15) fifteen days following its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On: 07/ RAMADAN /1444
Corresponding to: 29/03/2023

Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Law No. 2 of 2014 on Small and Medium Enterprises,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 22 of 2016 Concerning the Unified Definition for Small & Medium Enterprises,
- Cabinet Decision No. 44 of 2020 on Organising Reports Submitted by Multinational Companies,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**").

Article (2)
Taxable Person's Revenue Threshold

1. For the purposes of the Small Business Relief referred to in Article 21 of the Corporate Tax Law ("**Small Business Relief**"), the Taxable Person's Revenue threshold for the relevant Tax Period and previous Tax Periods shall be AED 3,000,000 (three million dirhams) for each Tax Period.

2. The threshold set out in Clause (1) of the Article shall apply to Tax Periods commencing on or after 1 June 2023 and such threshold shall only continue to apply to subsequent Tax Periods that end before or on 31 December 2026.

3. A Taxable Person shall not be able to elect to apply the Small Business Relief if their Revenue in any relevant or previous Tax Period has exceeded the threshold set out in Clause (1) of this Article.

4. The Revenue for the purpose of this Article shall be determined in accordance with the applicable accounting standards accepted in the State.

Article (3)
Additional Conditions for Small Business Relief

A Resident Person that elects to apply the Small Business Relief must not be any of the following:

1. A Constituent Company of a Multinational Enterprises Group as defined in Cabinet Decision No. 44 of 2020 referred to above.

2. A Qualifying Free Zone Person.

Article (4)
Tax Loss Relief

1. Where an election to apply the Small Business Relief is made in a Tax Period, any Tax Losses incurred in such Tax Period cannot be carried forward to any subsequent Tax Periods.

2. Any unutilised Tax Losses incurred in previous Tax Periods where an election to apply the Small Business Relief was not made, may be carried forward to subsequent Tax Periods in which an election to apply the Small Business Relief is not made, subject to the conditions of Article 37 of the Corporate Tax Law.

Article (5)
General Interest Deduction Limitation Rule

1. Where an election to apply the Small Business Relief is made in a Tax Period, any Net Interest Expenditure incurred in such Tax Period cannot be carried forward to any subsequent Tax Periods.

2. Any Net Interest Expenditure incurred in previous Tax Periods where an election to apply the Small Business Relief was not made may be carried forward to subsequent Tax Periods in which an election to apply the Small Business Relief is not made, subject to the conditions of Article 30 of the Corporate Tax Law.

Article (6)
Artificial Separation of Business

1. Where the Authority establishes that one or more Persons have artificially separated their Business or Business Activity and the amount of Revenue across the Persons' entire Business or Business Activity exceeds the threshold specified under Clause (1) of Article 2 of this Decision in any Tax Period and such one or more Persons have elected to apply the Small Business Relief, this would be considered an arrangement to obtain a Corporate Tax advantage under Clause (1) of Article 50 of the Corporate Tax Law.

2. For the purposes of determining whether the Business or Business Activity has been artificially separated, the Authority shall consider whether the arrangement was undertaken for a valid commercial purpose and whether the Persons carry on substantially the same Business or Business Activity by taking into account all relevant facts and circumstances, including but not limited to their financial, economic and organisational links.

Article (7)
Publication and Application of this Decision

This Decision shall be published and shall come into effect (15) fifteen days following its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On: 12/ RAMADAN /1444
Corresponding to: 03/04/2023

Ministerial Decision No. 82 of 2023 on the Determination of Categories of Taxable Persons Required to Prepare and Maintain Audited Financial Statements for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**").

Article (2)
Categories of Taxable Persons Required to Prepare and Maintain Audited Financial Statements

For the purposes of Clause 2 of Article 54 of the Corporate Tax Law, the following categories of Taxable Persons shall prepare and maintain audited financial statements:

1. A Taxable Person deriving Revenue exceeding AED 50,000,000 (fifty million United Arab Emirates dirhams) during the relevant Tax Period.
2. A Qualifying Free Zone Person.

Article (3)
Publication and Application of this Decision

This Decision shall be published and shall come into effect (15) fifteen days following the date of its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On: 19/ RAMADAN /1444
Corresponding to: 10/04/2023

Ministerial Decision No. 83 of 2023 on the Determination of the Conditions under which the Presence of a Natural Person in the State would not Create a Permanent Establishment for a Non-Resident Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**").

Article (2)
Conditions of a Temporary and Exceptional Presence in the State

1. For the purposes of paragraph (a) of Clause 7 of Article 14 of the Corporate Tax Law, the presence of a natural person in the State shall be considered a consequence of a temporary and exceptional situation where all of the following conditions are met:

   a) The presence of the natural person in the State is a consequence of exceptional circumstances of a public or private nature.

   b) The exceptional circumstances cannot reasonably be predicted by the natural person or the Non-Resident Person.

   c) The natural person did not express any intention to remain in the State when the exceptional circumstances end.

   d) The Non-Resident Person does not have a Permanent Establishment in the State before the occurrence of the exceptional circumstances.

   e) The Non-Resident Person did not consider that the natural person is creating a Permanent Establishment or deriving income in the State as per the tax legislation applicable in other jurisdictions.

2. For the purposes of Clause 1 of this Article, an exceptional circumstance is a situation or an event beyond the natural person's control, which occurred while he was already in the State, which he could not reasonably predict or prevent and which prevented him from leaving the State as originally planned, including but not limited to any of the following circumstances:

a) With respect to the exceptional circumstances of a public nature:

1. Adoption of public health measures by the competent authorities in the State or in the jurisdiction of the original workplace or by the World Health Organization.
2. Imposition of travel restrictions by the competent authorities in the State or in the jurisdiction of the original workplace.
3. Imposition of legal sanctions on the natural person preventing them from leaving the State's Territory.
4. Acts of war or occurrence of terrorist attacks.
5. Occurrence of natural disasters or force majeure beyond reasonable control.
6. Any other circumstances similar to those provided for in this paragraph as prescribed by the Authority.

b) With respect to the exceptional circumstances of a private nature:

1. Occurrence of an emergency health condition affecting the natural person or their relatives up to the fourth degree, including by way of adoption or guardianship.
2. Any other circumstances similar to those provided for in this paragraph as prescribed by the Authority.

Article (3)
Publication and Application of this Decision

This Decision shall be published and shall come into effect (15) fifteen days following the date of its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On: 19/ RAMADAN /1444
Corresponding to: 10/04/2023

Ministerial Decision No. 97 of 2023 Requirements for Maintaining Transfer Pricing Documentation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 44 of 2020 on Organising Reports Submitted by Multinational Companies,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**") unless the context requires otherwise.

Article (2)
Conditions for Maintaining Master File and Local File

1. A Taxable Person that meets either of the following conditions shall maintain both a master file and a local file in accordance with Clause (2) of Article (55) of the Corporate Tax Law in the relevant Tax Period:

   a) Where the Taxable Person, for any time during the relevant Tax Period, is a Constituent Company of a Multinational Enterprises Group as defined in the Cabinet Decision No. 44 of 2020 referred to above that has a total consolidated group Revenue of AED 3,150,000,000 (three billion one hundred and fifty million United Arab Emirates dirhams) or more in the relevant Tax Period.

   b) Where the Taxable Person's Revenue in the relevant Tax Period is AED 200,000,000 (two hundred million United Arab Emirates dirhams) or more.

2. Subject to Clause (3) of this Article, the Taxable Person shall include transactions or arrangements with all of the following Related Parties and Connected Persons in the local file:

   a) A Non-Resident Person.

   b) An Exempt Person.

   c) A Resident Person that has made an election under Article (21) of the Corporate Tax Law and meets the conditions of such election.

d) A Resident Person whose income is subject to a different Corporate Tax rate from that applicable to the income of the Taxable Person.

3. The Taxable Person shall not include transactions or arrangements with the following Related Parties and Connected Persons in the local file:

a) Resident Persons other than those specified in paragraphs (b), (c) and (d) of Clause (2) of this Article.

b) A natural person, provided that the parties to the transaction or arrangement are acting as if they were independent of each other.

c) A juridical person that is considered to be a Related Party or a Connected Person solely by virtue of being a partner in an Unincorporated Partnership, provided that the parties to the transaction or arrangement are acting as if they were independent of each other.

d) A Permanent Establishment of a Non-Resident Person in the State whose income is subject to the same Corporate Tax rate as that applicable to the income of the Taxable Person.

4. For the purpose of paragraphs (b) and (c) of Clause (3) of this Article, the parties engaged in the transaction or arrangement shall be considered acting as if they were independent of each other where both of the following conditions are met:

a) The relevant transaction or arrangement is undertaken in the ordinary course of Business.

b) These parties are not exclusively or almost exclusively transacting with each other.

5. For the purpose of paragraphs (b) and (c) of Clause (3) of this Article, where the activities of one Person in the transaction or arrangement are subject to detailed instruction or to comprehensive control of the other Person in the same transaction or arrangement, such Persons shall not be regarded as acting as if they were independent of each other.

6. For the purposes of Clauses (4) and (5) of this Article, the Authority shall take into account all relevant facts and circumstances to determine whether the Persons shall be regarded as acting as if they were independent of each other.

Article (3)
Transfer Pricing Documentation Guidelines

The Authority shall issue guidelines for the application of the provisions of this Decision and maintaining transfer pricing documentation.

Article (4)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On: 07/ SHAWWAL /1444
Corresponding to: 27/04/2023

Ministerial Decision No. 105 of 2023 on the Determination of the Conditions under which a Person may Continue to be Deemed as an Exempt Person, or Cease to be Deemed as an Exempt Person from a Different Date for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**"), unless the context requires otherwise.

Article (2)
Conditions of Deeming the Person as an Exempt Person in Case of Liquidation or Termination

1. For the purposes of paragraph (a) of Clause (6) of Article (4) of the Corporate Tax Law, the Person may continue to be deemed as an Exempt Person from the date its liquidation or termination procedure starts until the date it is completed, provided that a notification has been submitted to the Authority within (20) twenty business days from the date of the beginning of the procedures.

2. Where Clause (1) of this Article applies, the Person shall cease to be deemed as an Exempt Person on the day following the date of the completion of the liquidation or termination procedure.

3. For the purposes of Clause (1) of this Article, the Person's liquidation or termination procedure shall be applied as per the applicable legislations in the State.

Article (3)
Conditions of Deeming the Person as an Exempt Person in Case the Failure to Meet the Conditions is of a Temporary Nature

1. For the purposes of paragraph (b) of Clause (6) of Article (4) of the Corporate Tax Law, the Person may continue to be deemed as an Exempt Person where all of the following conditions are met:

a. The failure to meet the conditions to be deemed as an Exempt Person is due to a situation or an event beyond the Person's control which he could not reasonably have predicted or prevented.

b. The Person has made an application to the Authority to continue to be treated as an Exempt Person within (20) twenty business days from the date it fails to meet the conditions to be exempt under the relevant provisions of the Corporate Tax Law.

c. It is reasonably expected to rectify the failure to meet the conditions within (20) twenty business days from the submission of the application under paragraph (b) of this Clause.

d. Upon request by the Authority, the Person provides evidence to support putting in place the appropriate procedures to monitor the compliance with the relevant conditions of the Corporate Tax Law, within (20) twenty business days from the date of the request by the Authority, or any other period as may be determined by the Authority.

2. The period specified in paragraph (c) of Clause (1) of this Article may be extended by an additional (20) twenty business days in the event that the failure to rectify is beyond the Person's reasonable control.

3. The Authority shall review the application submitted under paragraph (b) of Clause (1) of this Article and notify the Person of its decision within (20) twenty business days of the submission of the application, or such other time period required to review the application, provided that the Person has been notified.

Article (4)
Instances for Ceasing to Deem the Person as an Exempt Person from a Different Date

For the purposes of paragraph (c) of Clause (6) of Article (4) of the Corporate Tax Law, the Person shall cease to be deemed as an Exempt Person starting from the day it fails to meet the conditions to be exempt under the relevant provisions of the Corporate Tax Law, in case it can be reasonably concluded that the main purpose or one of the main purposes of this cessation is to obtain a Corporate Tax advantage as specified in Clause (2) of Article (50) of the Corporate Tax Law that is not consistent with the intentions or purposes of the Corporate Tax Law.

Article (5)
Publication and Application of this Decision

This Decision shall be published and shall come into effect on the date of its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On: 14/ SHAWWAL /1444
Corresponding to: 04/05/2023

Ministerial Decision No. 114 of 2023
on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**"), and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Article (2)
Preparing Financial Statements Using the Cash Basis of Accounting

For the purposes of paragraph (a) of Clause (5) of Article (20) of the Corporate Tax Law, a Person may prepare Financial Statements using the Cash Basis of Accounting, in any of the following instances:

1. Where the Person derives Revenue that does not exceed AED 3,000,000 (three million United Arab Emirates dirhams).
2. In exceptional circumstances and pursuant to an application submitted by the Person to the Authority.

Article (3)
Financial Statements

For the purposes of paragraph (b) of Clause (5) of Article (20) of the Corporate Tax Law, the reference to the preparation of consolidated Financial Statements of a Tax Group under Clause (11) of Article (42) of the Corporate Tax Law shall mean the preparation of standalone Financial Statements on the basis of the aggregation of the standalone Financial Statements of the Parent Company and each Subsidiary that is a member of the Tax Group, eliminating the transactions between them as required under Clause (1) of Article (42) of the Corporate Tax Law.

Article (4)
Applicable Accounting Standards

1. For the purposes of Clause (1) of Article (20) of the Corporate Tax Law, a Taxable Person shall apply the International Financial Reporting Standards ("**IFRS**").

2. Without prejudice to the provisions of Clause (1) of this Article, a Taxable Person deriving Revenue that does not exceed AED 50,000,000 (fifty million United Arab Emirates dirhams) may apply International Financial Reporting Standards for small and medium-sized entities ("**IFRS for SMEs**").

Article (5)
Publication and Application of this Decision

The Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini
Minister of State for Financial Affairs

Issued by us:
On:19/ SHAWWAL /1444
Corresponding to:09/05/2023

Ministerial Decision No. 115 of 2023 on Private Pension Funds and Private Social Security Funds for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Law No. 7 of 1999 on the Issuance of the Law of Pensions and Social Security, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree- Law No. 33 of 2021 Regulating Labour Relations, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**"), and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Disability: Means full disability and partial disability as defined in Federal Law No. 7 of 1999 referred to above.

Pension Plan: A contract having an explicit objective of providing benefits upon a defined retirement age in the State, prior to which the benefits cannot be paid without incurring a significant contractual penalty. It may also provide benefits in cases of Disability and death.

Pension Plan Member: A natural person who is making contributions, or on behalf of whom contributions are being made, to a private pension fund and is accumulating assets or entitlements in the private pension fund.

Beneficiary: Any Person entitled to a share in the Pension Plan due to the death of the Pension Plan Member.

End of Service Benefit: Benefits of an employee upon end of service as per the provisions of Federal Decree- Law No. 33 of 2021 and Federal Law No. 7 of 1999 referred to above.

Auditor: An independent Person licensed and registered by the competent authorities of the State, that is appointed and remunerated by a private pension fund or a private social security fund to audit its financial statements.

Article (2)
Private Pension Fund

A private pension fund may apply to the Authority to be exempt from Corporate Tax under paragraph (g) of Clause (1) and Clause (3) of Article (4) of the Corporate Tax Law where all of the following conditions are met:

1. The fund comprises a pool of assets which have been assigned by law or contract as Pension Plan assets or the acquisition of these assets has been financed by or with the use of contributions to a Pension Plan for the exclusive purpose of financing the Pension Plan benefits.

2. The fund grants Pension Plan Members or Beneficiaries a right or other contractual claim or entitlement, against its assets or earnings.

3. The income of the fund solely comprises income as specified in Article (4) of this Decision.

4. The fund must have an Auditor.

Article (3)
Private Social Security Fund

A private social security fund may apply to the Authority to be exempt from Corporate Tax under paragraph (g) of Clause (1) and Clause (3) of Article (4) of the Corporate Tax Law where all of the following conditions are met:

1. The fund comprises a pool of assets which have been assigned by law or contract as fund assets or the acquisition of these assets has been financed by or with the use of contributions to the fund for the exclusive purpose of financing the End of Service Benefit.

2. The income of the fund solely comprises income as specified in Article (4) of this Decision.

3. The fund must have an Auditor.

Article (4)
Income

For the purposes of Articles (2) and (3) of this Decision, a private pension fund and a private social security fund must earn their income from any of the following:

1. Investments or deposits, where the investments or deposits are held for the purposes of fulfilling the obligations of the fund, and the investments do not constitute a Business operated by the fund.

2. Underwriting commissions that are charged for the purposes of the fund.

3. Rebates of charges due or paid by the fund to Persons involved in managing part or all of the assets of the fund, that are not deemed as compensation for services provided by the fund.

4. Any other income derived in accordance with a defined investment policy for the benefit of Pension Plan Members or beneficiaries of the End of Service Benefit, as applicable.

Article (5)
Contributions to a Private Pension Fund

1. A Taxable Person who is an employer may deduct the total value of contributions made to a private pension fund in respect of its employees who are Pension Plan Members in the Tax Period in which such contributions are paid.

2. The value of contributions which may be deducted under Clause (1) of this Article for each Pension Plan Member shall not exceed (15%) fifteen percent of the total Pension Plan Member's remuneration that is deductible for Corporate Tax purposes in the relevant Tax Period.

Article (6)
Administration

1. The Auditor of a private pension fund or private social security fund shall confirm the compliance of the fund with the provisions of this Decision annually where the fund has made an application to the Authority under Clause (3) of Article (4) of the Corporate Tax Law to be exempt from Corporate Tax.

2. Where an exemption under paragraph (g) of Clause (1) of Article (4) of the Corporate Tax Law has been granted by the Authority, the Auditor shall report to the Authority any fact they have become aware of while carrying out the audit of accounting information contained in the annual report of a private pension fund or a private social security fund, where this fact constitutes a breach of the conditions specified in this Decision.

3. Subject to any other decisions issued by the Minister, the Authority shall have the right to withdraw the exemption provided for under paragraph (g) of Clause (1) of Article (4) of the Corporate Tax Law from a private pension fund or a private social security fund in any of the following circumstances:

   (a) The Auditor has confirmed that the fund no longer meets the conditions specified in this Decision.

   (b) The Auditor does not satisfy any of the conditions specified under Clauses (1) and (2) of this Article.

   (c) The Authority finds that the fund no longer meets the conditions specified in this Decision.

Article (7)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini
Minister of State for Financial Affairs

Issued by us:
On:20/ SHAWWAL /1444
Corresponding to:10/05/2023

Ministerial Decision No. 116 of 2023 on the Participation Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**"), and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Accounting Standards: The accounting standards specified in a decision issued by the Minister for the purposes of the Corporate Tax Law**.**

Participating Interest: Means an ownership interest in the shares or capital of a juridical person that meets the conditions referred to in Article (23) of the Corporate Tax Law.

Participation: The juridical person in which the Participating Interest is held.

Ordinary Shares: The category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.

Preferred Shares: The category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

Redeemable Shares: The category of capital stock or equity interest which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.

Dividend: Any payments or distributions that are declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which do not constitute a return on capital or a return on debt claims, whether such payments or distributions are in cash, securities, or other properties, and whether payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue. This will include any payment or benefit which in substance or effect constitutes a distribution of profits made in connection with the acquisition or redemption or cancellation of shares or termination of other ownership interests or rights or any transaction or arrangement with a Related Party or Connected Person which does not comply with Article (34) of the Corporate Tax Law.

Membership and Partner Interests: The equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.

Islamic Financial Instrument: A financial instrument which is compliant with Sharia principles.

Accounting and Auditing Organization for Islamic Financial Institutions: An Islamic international autonomous non-for-profit corporate body that prepares accounting, auditing, governance, ethics and Sharia standards for Islamic financial institutions.

Article (2)
Ownership Interest

1. For the purposes of Article (23) of the Corporate Tax Law, an ownership interest shall include, but not be limited to, holding any one or a combination of the following instruments:

   a. Ordinary Shares.

   b. Preferred Shares.

   c. Redeemable Shares.

   d. Membership and Partner Interests.

   e. Other types of securities, capital contributions and rights that entitle the owner to receive profits and liquidation proceeds.

2. An ownership interest as referred to in Clause (1) of this Article, shall only be treated as such if it is classified as equity interest under the Accounting Standards as applied by the Taxable Person holding the ownership interest.

3. For the purposes of Article (23) of the Corporate Tax Law, a Taxable Person shall be treated as holding an ownership interest where the ownership interest is controlled by the Taxable Person and the Taxable Person has the right to the

economic benefits produced by the ownership interest under the Accounting Standards as applied by the Taxable Person.

4. An Islamic Financial Instrument, or a combination of arrangements that form part of the same Islamic Financial Instrument shall be treated as an ownership interest for the purposes of Article (23) of the Corporate Tax Law where it is classified as equity interest under the accounting standards issued by the Accounting and Auditing Organization for Islamic Financial Institutions.

5. The percentage of ownership held through ownership interests as specified under Clause (1) of this Article shall be determined with reference to the total paid up capital of the Participation or the total equity interest contributions made to the Participation, as applicable.

Article (3)
Aggregation of Ownership Interests

1. For the purposes of determining whether a Taxable Person has a Participating Interest under Clause (2) of Article (23) of the Corporate Tax Law, the following shall apply:

    a. Different types of ownership interests in the same juridical person as specified under Article (2) of this Decision shall be aggregated.

    b. Ownership interests in the same juridical person held by members of a Qualifying Group as per Clause (2) of Article (26) of the Corporate Tax Law in which the Taxable Person is a member shall be aggregated with those of the Taxable Person.

2. The provisions of Clause (1) of this Article shall apply for the purposes of determining whether the minimum ownership requirement is satisfied under Clause (11) of Article (23) of the Corporate Tax Law.

Article (4)
Transfer of Ownership Interests

For the purposes of meeting the requirement under paragraph (a) of Clause (2) and Clause (9) of Article (23) of the Corporate Tax Law, where a Taxable Person exchanges an ownership interest in a juridical person held by the Taxable Person for an ownership interest in another juridical person, these ownership interests shall be treated as the same continuous ownership interest where all of the following conditions are met:

1. The original ownership interest has been exchanged for another ownership interest in accordance with paragraph (a) or paragraph (b) of Clause (1) of Article (27) of the Corporate Tax Law.

2. The ownership interest in the juridical person constitutes a Participating Interest under Article (23) of the Corporate Tax Law.

Article (5)
Debt Instruments Issued by the Participation

Where a Taxable Person has a Participating Interest in a Participation, income from a debt instrument issued by that Participation that is not an ownership interest under paragraph (e) of Clause (1) of Article (2) of this Decision shall be treated as income from a Participating Interest provided that such instrument is classified as equity interest under the Accounting Standards applied by the Taxable Person.

Article (6)
Subject to Tax

1. A Participation shall be considered to have met the requirement of paragraph (b) of Clause (2) of Article (23) of the Corporate Tax Law for a given Tax Period when it is resident for tax purposes throughout this same Tax Period in another country or foreign territory that levies a tax that meets all of the following requirements:

    a. The tax is applied on a similar basis to Corporate Tax, taking into account the conditions set out in Clauses (2), (3), (4) and (5) of this Article.

    b. The tax is levied at a rate not less than (9%) nine percent.

2. For the purposes of Clause (5) of Article (23) of the Corporate Tax Law, the Participation will be considered as having continued to meet the condition under paragraph (b) of Clause (2) of Article (23) of the Corporate Tax Law where the Participation meets the conditions of Clause (1) of this Article in the period in which the income or gains arise.

3. None of the following shall result in the tax imposed under the applicable legislation of the other country or the foreign territory in which the Participation is resident for tax purposes to not be considered a tax that is applied on a similar basis to Corporate Tax under paragraph (a) of Clause (1) of this Article:

    a. Differences in reductions and reliefs.

    b. Lower tax rates applicable to certain brackets of income.

    c. Targeted incentives or exemptions of a temporary nature.

    d. Application of alternative taxes on income or profits.

4. A tax imposed under the applicable legislation of the other country or foreign territory in which the Participation is resident for tax purposes shall not be

considered a tax which is of a similar nature to Corporate Tax in any of the following cases:

a. The tax is applicable only to selected activities.

b. The tax paid is refunded at the time of distribution of the relevant profits or income.

c. The tax is only due in the event of a distribution of profits or income.

5. A Participation shall also be considered to have met the requirement of paragraph (b) of Clause (2) of Article (23) of the Corporate Tax Law if it demonstrates to the Authority either of the following:

   a. It is subject to a tax on income or profits at an effective rate in the relevant Tax Period of not less than (9%) nine percent.

   b. If it recalculated its accounting net profits according to the basis provided for in the Corporate Tax Law, and the tax levied on such profits, then this would result in an effective tax rate of not less than (9%) nine percent.

6. A Participation that is resident for tax purposes in another country or foreign territory that does not impose a tax that meets the requirements of Clause (1) of this Article shall be considered to have met the requirement of paragraph (b) of Clause (2) of Article (23) of the Corporate Tax Law if it is subject to a tax charged in respect of income, equity or net worth, or a combination of any or all of these in that other country or foreign territory, and the tax levied results in an effective tax rate of not less than (9%) nine percent on the accounting profits of the Participation calculated in accordance with the Accounting Standards in the relevant Tax Period.

Article (7)
Conditions for Holding Companies

1. For the purposes of paragraph (a) of Clause (3) of Article (23) of the Corporate Tax Law, the Participation must satisfy all of the following conditions:

   a. Be directed and managed in the relevant other country or foreign territory.

   b. Comply with the requirement to submit any documents, records or information to the relevant authority under the laws and regulations applicable to such Participation in the relevant other country or foreign territory.

   c. Have adequate personnel and premises for the acquisition and holding of the shares or equitable interests in the relevant other country or foreign territory, having regard to the level of activity carried on by the Participation and the extent to which those activities are performed on behalf or for the benefit of the Participation by another Person in that other country or foreign territory.

d. Not conduct any other activities other than those that are incidental or ancillary to the acquisition and holding of shares or equitable interests.

2. A Participation shall be considered as having met the condition of paragraph (b) of Clause (3) of Article (23) of the Corporate Tax Law where its income during the relevant Tax Period and the preceding Tax Period on average consisted of (50%) fifty percent or more of Dividends, capital gains and other income from Participating Interests.

Article (8)
Minimum Acquisition Cost

1. For the purposes of Clause (11) of Article (23) of the Corporate Tax Law, a Taxable Person will be treated as having a Participating Interest in a Participation where the aggregated acquisition cost of the ownership interests in that juridical person as provided for in Article (2) of this Decision is equal to or exceeds AED 4,000,000 (four million dirhams).

2. In calculating whether the minimum acquisition cost threshold under Clause (1) of this Article has been met, all of the following amounts may be aggregated:

   a. The value of the equity interest or capital contribution made or consideration paid in cash or in kind for ownership interests in the Participation by the Taxable Person.

   b. The value of any subsequent equity interest and capital contributions made to the Participation less the value of any equity interest or capital repayments made by the Participation to the Taxable Person.

   c. Expenditure incurred by the Taxable Person in relation to the acquisition or transfer of ownership interests in the Participation that shall be capitalised as part of the acquisition cost of the ownership interest in the Participation in accordance with Clause (1) of Article (10) of this Decision.

3. The value of an equity interest or capital contribution, consideration paid or repayment of equity interest or capital for the purposes of Clause (2) of this Article shall be determined at the time that the contribution or repayment was made, or the consideration was paid by applying Article (43) of the Corporate Tax Law, without taking into account any subsequent value adjustments made under the Accounting Standards applied by the Taxable Person holding the ownership interest.

4. In determining the acquisition cost in respect of an ownership interest in a foreign Participation, the applicable exchange rate at the date of acquisition or formation of the relevant ownership interest shall be used.

5. Where an ownership interest is partly sold, transferred, or otherwise disposed of, the aggregated acquisition cost shall be reduced in proportion to the average acquisition cost attributable to the part of the ownership interest that is sold, transferred or otherwise disposed of.

6. Where a Taxable Person holding the ownership interest does not meet the minimum acquisition cost threshold under Clause (1) of this Article for an interrupted period of at least (12) twelve months, any income previously not taken into account under Article (23) of the Corporate Tax Law shall be included in the Taxable Income in the Tax Period in which the ownership interest in the Participation did not meet the minimum acquisition cost threshold under Clause (1) of this Article.

Article (9)
Assets of the Participation

1. The determination of whether the condition under paragraph (d) of Clause (2) of Article (23) of the Corporate Tax Law is satisfied shall be made on the basis of either of the following:

   a. The consolidated balance sheet of the Participation and the accounting asset values reflected therein.

   b. A Market Value valuation of the direct and indirect ownership interests and other assets of the Participation.

2. The condition under paragraph (d) of Clause (2) of Article (23) of the Corporate Tax Law should be met throughout the Tax Period.

Article (10)
Expenditure in Relation to the Acquisition and Disposal of a Participating Interest

1. Expenditure incurred in relation to the acquisition, sale, transfer, or disposal of an entire Participating Interest or part of a Participating Interest shall not be deductible in accordance with Article (22) and paragraph (b) of Clause (2) of Article (28) of the Corporate Tax Law.

2. Expenditure referred to in Clause (1) of this Article shall include, but not be limited to, any of the following:

a. Professional fees.

b. Due diligence costs.

c. Litigation costs.

d. Commissions and brokerage fees.

e. Stamp duty, registration duties and other irrecoverable taxes.

f. Appraisal and valuation costs.

g. Refinancing costs.

3. Interest expenditure incurred in relation to the acquisition and subsequent holding of a Participating Interest shall be deductible subject to Chapter Nine of the Corporate Tax Law.

4. The expenditure as specified in Clause (1) of this Article shall be capitalised as part of the acquisition cost of the Participating Interest.

Article (11)
Income from Ownership Interests in a Participation

1. Income provided for in Clause (5) of Article (23) of the Corporate Tax Law that is derived from a Participation shall be exempt insofar it is received by a Taxable Person in his capacity as owner of an ownership interest or ownership interests in the Participation.

2. Income derived in any other capacity than that mentioned in Clause (1) of this Article and income derived in relation to, but not directly from, an ownership interest in a Participation shall not be exempt from Corporate Tax.

Article (12)
Liquidation Proceeds and Losses

1. For the purposes of Clause (8) of Article (23) of the Corporate Tax Law, a Participation shall be considered liquidated if it ceases to have legal existence.

2. A liquidation loss shall be calculated as the difference between the acquisition cost of the Participating Interest, adjusted for any part disposals as per Clause (5) of Article (8) of this Decision, and the fair value of the liquidation proceeds received by the Taxable Person.

3. The provisions under Articles (26) and (27) of the Corporate Tax Law shall not apply where assets or liabilities are transferred to the Taxable Person as a result of a

liquidation as specified under Clause (1) of this Article.

4. The liquidation loss under Clause (1) of this Article shall be adjusted for the following in the relevant Tax Period and the preceding Tax Period, as applicable:

    a. Tax Losses transferred by the Participation to the Taxable Person.

    b. Exempt Dividends or other profit distributions received by the Taxable Person from the Participation.

    c. Income or gains on the transfer of assets or liabilities between the Taxable Person and the Participation not taken into account under Article (26) or Article (27) of the Corporate Tax Law.

Article (13)
Foreign Permanent Establishment Tax Losses

Where a Taxable Person has utilised a Tax Loss incurred in a Foreign Permanent Establishment of that same Taxable Person, that Tax Loss must be fully offset by the Taxable Income from the Foreign Permanent Establishment in a subsequent Tax Period or Tax Periods before either of the following:

1. The Taxable Person can elect to apply the Foreign Permanent Establishment exemption provided for in Article (24) of the Corporate Tax Law.

2. Any income arising upon or following incorporation of the Foreign Permanent Establishment can benefit from the provisions under Article (23) of the Corporate Tax Law.

Article (14)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On:20/ SHAWWAL /1444
Corresponding to:10/05/2023

Ministerial Decision No. 120 of 2023 on the Adjustments Under the Transitional Rules for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**"), and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Accounting Standards: The accounting standards specified in a decision issued by the Minister for the purposes of the Corporate Tax Law.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Immovable Property: Immovable property as defined in a decision issued by the Cabinet for the purposes of the Corporate Tax Law.

Qualifying Immovable Property: Immovable Property that meets the conditions under Clause (1) of Article (2) of this Decision.

Intangible Asset: An intangible asset as defined in the Accounting Standards applied by the Taxable Person.

Qualifying Intangible Asset: Intangible Asset that meets the conditions under Clause (1) of Article (3) of this Decision.

Financial Asset: Financial asset as defined in the Accounting Standards applied by the Taxable Person.

Financial Liability: Financial liability as defined in the Accounting Standards applied by the Taxable Person.

Qualifying Financial Asset: Financial Asset that meets the conditions under Clause (1) of Article (4) of this Decision.

Qualifying Financial Liability: Financial Liability that meets the conditions under Clause (1) of Article (4) of this Decision.

Article (2)
Taxable Income Adjustments Related to Gains Recognised on Immovable Property Owned Prior to the Taxable Person's First Tax Period

1. For the purposes of paragraph (i) of Clause (2) of Article (20) and Clause (1) of Article (61) of the Corporate Tax Law, a Taxable Person may elect to adjust its Taxable Income for calculating the gains on any Immovable Property that meets all of the following conditions:

    a. The Immovable Property is owned prior to the first Tax Period.

    b. The Immovable Property is measured in the Financial Statements on a historical cost basis.

    c. The Immovable Property is disposed of or deemed to be disposed of during or after the first Tax Period for the purposes of determining the Taxable Income for a value exceeding the net book value.

2. Where Clause (1) of this Article applies, upon the disposal of the Qualifying Immovable Property, the Taxable Person shall make one of the following adjustments in respect of each Qualifying Immovable Property:

    a. Exclude the amount of gain that would have arisen, at the start of the first Tax Period, had the Qualifying Immovable Property been disposed of at Market Value and the cost of the Qualifying Immovable Property was the higher of the original cost and the net book value.

    b. Exclude the amount of gain recognised in respect of the Qualifying Immovable Property calculated in accordance with Clause (4) of this Article.

3. For the purposes of paragraph (a) of Clause (2) of this Article, the amount used as the Market Value of the Qualifying Immovable Property shall be determined by the relevant government competent authority in the State.

4. For the purposes of paragraph (b) of Clause (2) of this Article, the excluded amount of gain shall be calculated as follows:

a. Calculate the amount of gain that would have arisen upon the disposal of the Qualifying Immovable Property, had its cost been equal to the higher of the original cost and the net book value at the start of the first Tax Period.

b. Divide the number of days the Qualifying Immovable Property is owned before the first Tax Period by the total number of days the Qualifying Immovable Property is owned.

c. Multiply the amount calculated in paragraph (a) of this Clause by the amount calculated in paragraph (b) of this Clause.

d. The amount calculated in paragraph (c) of this Clause shall be the amount of gain on the Qualifying Immovable Property excluded from the Taxable Income during the relevant Tax Period.

5. The election under Clause (1) of this Article shall be made in respect of each Qualifying Immovable Property upon the submission of the first Tax Return in the form and manner prescribed by the Authority and shall be deemed irrevocable except under exceptional circumstances and pursuant to approval by the Authority.

Article (3)
Taxable Income Adjustments Related to Gains Recognised on Intangible Assets Owned Prior to the Taxable Person's First Tax Period

1. For the purposes of paragraph (i) of Clause (2) of Article (20) and Clause (1) of Article (61) of the Corporate Tax Law, a Taxable Person may elect to adjust its Taxable Income for calculating the gains on all the Intangible Assets that meet all of the following conditions:

   a. The Intangible Assets are owned prior to the first Tax Period.

   b. The Intangible Assets are measured in the Financial Statements on a historical cost basis.

   c. The Intangible Assets are disposed of or deemed to be disposed of during or after the first Tax Period for the purposes of determining the Taxable Income for a value exceeding the net book value.

2. Where Clause (1) of this Article applies, the Taxable Person shall exclude the amount of the gain recognised on the Qualifying Intangible Asset calculated in accordance with Clause (3) of this Article upon its disposal.

3. For the purposes of Clause (2) of this Article, the excluded amount of gain shall be calculated as follows:

   a. Calculate the amount of gain that would have arisen upon the disposal of the Qualifying Intangible Asset, had its cost been equal to the higher of the original cost and the net book value at the start of the first Tax Period.

b. Divide the number of days the Qualifying Intangible Asset is owned before the first Tax Period by the total number of days the Qualifying Intangible Asset is owned.

c. Multiply the amount calculated in paragraph (a) of this Clause by the amount calculated in paragraph (b) of this Clause.

d. The amount calculated in paragraph (c) of this Clause shall be the amount of gain on the Qualifying Intangible Asset excluded from the Taxable Income during the relevant Tax Period.

4. The election under Clause (1) of this Article shall be made upon the submission of the first Tax Return and shall apply to all Qualifying Intangible Assets and be deemed irrevocable except under exceptional circumstances and pursuant to approval by the Authority.

5. The number of days the Qualifying Intangible Asset is owned before the first Tax Period under paragraph (b) of Clause (3) of this Article shall not exceed a period equivalent to a maximum of (10) ten years, except under exceptional circumstances and pursuant to approval by the Authority.

Article (4)
Taxable Income Adjustments Related to Gains and Losses Recognised on Financial Assets and Financial Liabilities Owned Prior to the Taxable Person's First Tax Period

1. For the purposes of paragraph (i) of Clause (2) of Article (20) and Clause (1) of Article (61) of the Corporate Tax Law, a Taxable Person may adjust its Taxable Income for the purposes of calculating the gains and losses on all the Financial Assets and Financial Liabilities that meet all of the following conditions:

   a. The Financial Assets or Financial Liabilities are owned prior to the first Tax Period.

   b. The Financial Assets or Financial Liabilities are measured in the Financial Statements on a historical cost basis.

2. Where Clause (1) of this Article applies, upon the disposal of the Qualifying Financial Assets and Qualifying Financial Liabilities, the Taxable Person shall exclude the amount of the gain or loss that would have arisen, at the start of the first Tax Period, had the Qualifying Financial Assets or Qualifying Financial Liabilities been disposed of at Market Value and the cost of these Assets or Liabilities had been equal to the net book value.

3. The election under Clause (1) of this Article shall be made upon the submission of the first Tax Return and shall apply to all Qualifying Financial Assets and Qualifying Financial Liabilities and be deemed irrevocable except under exceptional circumstances and pursuant to approval by the Authority.

Article (5)
Ownership of the Immovable Property, Intangible Assets and Financial Assets and Financial Liabilities by Members of a Qualifying Group or a Tax Group

1. This Article applies to Immovable Property, Intangible Assets, Financial Assets and Financial Liabilities that have been held solely by the Taxable Person and by one or more of the following Persons:

   a. A member of the same Qualifying Group of the Taxable Person that has acquired the relevant assets or liabilities in accordance with Clause (1) of Article (26) of the Corporate Tax Law.

   b. A member of the same Tax Group of the Taxable Person that has acquired the relevant assets or liabilities in accordance with Clause (1) of Article (42) of the Corporate Tax Law.

2. For the purposes of this Article:

   a. The assets, other than Financial Assets, under Clause (1) of this Article, shall be referred to as "Non-Financial Transferred Assets".

   b. All assets and liabilities under Clause (1) of this Article, including Non-Financial Transferred Assets, shall be referred to as "Transferred Assets and Liabilities".

   c. The transfer that is not covered, or would not have been covered had the Corporate Tax Law been effective, under Clause (1) of Article (26) and Clause (1) of Article (42) of the Corporate Tax Law shall be referred to as a "Non-Qualifying Transfer".

3. For the purposes of paragraph (a) of Clause (1) of Article (2), paragraph (a) of Clause (1) of Article (3) and paragraph (a) of Clause (1) of Article (4) of this Decision, the term "ownership" of the Transferred Assets and Liabilities shall include the ownership by any Person under Clause (1) of this Article.

4. For the purposes of paragraph (b) of Clause (4) of Article (2) and paragraph (b) of Clause (3) of Article (3) of this Decision, the period of the ownership of the Non-Financial Transferred Assets shall include the period of ownership by any Person under Clause (1) of this Article, other than any period of ownership before the most recent Non-Qualifying Transfer.

Article (6)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini
Minister of State for Financial Affairs

Issued by us:
On: 26/ SHAWWAL /1444
Corresponding to: 16/05/2023

Ministerial Decision No. 125 of 2023 on Tax Group for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above (**"Corporate Tax Law"**), and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Parent Company: A Resident Person that can make an application to the Authority to form a Tax Group with one or more Subsidiaries in accordance with Clause (1) of Article (40) of the Corporate Tax Law.

Subsidiary: A Resident Person in which the share capital or Membership or Partnership Capital, as applicable, is held by a Parent Company, in accordance with Clause (1) of Article (40) of the Corporate Tax Law.

Membership or Partnership Capital: The capital paid to a juridical person where the paid capital is divided into membership or partnership interests by a Person in order to be a member or partner and have the rights of membership or partnership in that juridical person.

Article (2)
Ownership Requirements

1. For a Tax Group to be formed or continue to exist, the conditions specified under Clause (1) of Article (40) of the Corporate Tax Law must be met continuously throughout the relevant Tax Period.
2. For the purposes of paragraph (b) of Clause (1) of Article (40) of the Corporate Tax Law, share capital shall mean the nominal issued and paid-up share capital, or Membership or Partnership Capital of each Subsidiary, as applicable.

Article (3)
Resident Person

1. For purposes of Article (40) of the Corporate Tax Law, a Parent Company and Subsidiary must be Resident Persons that are not considered resident for tax purposes in another country or foreign territory under a relevant international agreement in force in the State.

2. Where a member of a Tax Group becomes a resident for tax purposes in another country or foreign territory in accordance with Clause (1) of this Article, the relevant member shall be treated as leaving the Tax Group from the beginning of the Tax Period in which it became a resident for tax purposes in such other country or foreign territory.

3. A foreign juridical person that is considered a Resident Person under paragraph (b) of Clause (3) of Article (11) of the Corporate Tax Law or a juridical person that is incorporated or otherwise established or recognised under the applicable legislation of the State but that is effectively managed and controlled in another country or territory shall maintain documentation that supports the position that it is not resident for tax purposes in that other country or foreign territory as specified under Article (56) of the Corporate Tax Law.

4. The documentation to be maintained for the purposes of Clause (3) of this Article shall include either of the following:

    a. A confirmation issued by the relevant tax authority of that other country or foreign territory.

    b. A confirmation issued by the relevant competent authorities for the purposes of the application of the relevant international agreement in force in the State.

Article (4)
Rules in relation to Transactions prior to Forming or Joining a Tax Group

1. For the purposes of Clause (1) of Article (42) of the Corporate Tax Law, transactions between members of a Tax Group shall not be eliminated insofar as a member has recognised a deductible loss in a Tax Period in respect of those transactions prior to joining or forming the Tax Group, until such deductible loss is reversed in full.

2. If, as a result of Clause (1) of this Article, a relevant transaction is not eliminated, the Tax Group shall include any income in relation to that transaction in determining the Taxable Income of the Tax Group for the Tax Period in which that income arises up to the amount of the deductible loss that was previously deducted prior to joining or forming the Tax Group.

Article (5)
Date of Formation or Joining of a Tax Group

1. For the purposes of Clause (1) of Article (41) of the Corporate Tax Law, the application to form a Tax Group or to join an existing Tax Group must be submitted to the Authority before the end of the Tax Period within which the formation or joining of a Tax Group is requested.

2. Clause (1) of this Article shall also apply where a new Parent Company replaces a former Parent Company under Clause (12) of Article (40) of the Corporate Tax Law, including in cases where the new Parent Company is the legal successor of the former Parent Company.

3. For the purposes of Clause (2) of this Article, the new Parent Company should meet the conditions specified in Clause (1) of Article (40) of the Corporate Tax Law from the beginning of the relevant Tax Period.

4. For the purposes of paragraph (b) of Clause (12) of Article (40) of the Corporate Tax Law, where a Parent Company transfers its entire Business to another member of the same Tax Group and the Parent Company ceases to exist as a result of this transfer, the Parent Company shall be replaced by that other member as of the date the transfer is effective.

5. Subject to Clause (1) of this Article, a newly established juridical person may join an existing Tax Group from the date of incorporation where that juridical person is either of the following:

   a. A newly established Subsidiary.

   b. A newly established Parent Company, replacing the existing Parent Company of the Tax Group under paragraph (a) of Clause (12) of Article (40) of the Corporate Tax Law.

Article (6)
Assets, Liabilities and Financial Positions of Members of a Tax Group

1. For the purposes of Clause (1) of Article (42) of the Corporate Tax Law and Article (4) of this Decision, transactions between the Parent Company and each Subsidiary that is a member of the Tax Group shall include:

   a. Transactions between two or more Subsidiaries that are members of the same Tax Group.

   b. Valuation adjustments and provisions in relation to transactions between two or more members of the same Tax Group.

2. Where a gain or loss in respect of a transaction between members of the same Tax Group has been eliminated under Clause (1) of Article (42) of the Corporate Tax Law, such elimination shall also include any change in accounting value of the relevant assets and liabilities that may have arisen in consequence of that gain or loss.

Article (7)
Relief for Pre- Grouping Tax Losses

1. For the purposes of Clause (3) of Article (42) of the Corporate Tax Law, the amount of pre-Grouping Tax Losses of a Subsidiary that can be used to offset the Taxable Income of the Tax Group in a Tax Period shall be the lesser of the following two amounts:

   a. The Taxable Income of the Tax Group that is attributable to that Subsidiary.

b. The Tax Loss that can be used to reduce the Taxable Income of the Tax Group in the relevant Tax Period under Clause (2) of Article (37) of the Corporate Tax Law.

2. Where the calculation of the Taxable Income of a Tax Group as specified under Clause (1) of Article (42) of the Corporate Tax Law results in a Tax Loss and becomes a carried forward Tax Loss, any pre-Grouping Tax Losses available to be utilised in a subsequent Tax Period must be offset against the Taxable Income of the Tax Group in that Tax Period in accordance with Clause (1) of this Article before the other carried forward Tax Losses of the Tax Group can be utilised in that same Tax Period, subject to the provisions of Article (37) of the Corporate Tax Law.

3. Where the total pre-Grouping Tax Losses available to be utilised in a Tax Period exceed the amount specified under Clause (1) of this Article, the Parent Company shall determine which Subsidiary's pre-Grouping Tax Losses shall remain carried forward Tax Losses of the Tax Group.

4. The provisions of Clause (4) of Article (37) of the Corporate Tax Law shall also be applied to pre-Grouping Tax Losses.

Article (8)
Arm's Length Principle and Transfer Pricing Documentation Requirements and the Calculation of the Taxable Income of a Tax Group

1. The Tax Group shall calculate the Taxable Income that is attributable to one or more of its members in accordance with Clauses (2) and (3) of this Article where any of the following occurs:

   a. A member of the Tax Group has unutilised pre-Grouping Tax Losses.

   b. A member of the Tax Group has earned income for which the Tax Group can claim a Foreign Tax Credit against as specified under Article (47) of the Corporate Tax Law.

   c. A member of the Tax Group benefits from any Corporate Tax incentives as specified under paragraph (g) of Clause (2) of Article (20) of the Corporate Tax Law.

   d. A member of the Tax Group has unutilised carried forward pre-Grouping Net Interest Expenditure under Clause (4) of Article (30) of the Corporate Tax Law.

2. If the Tax Group is required to calculate the Taxable Income that is attributable to any of its members as per Clause (1) of this Article, the Tax Group must:

   a. Calculate the Taxable Income that is attributable to each relevant member of the Tax Group in accordance with Article (34) of the Corporate Tax Law.

   b. Disclose any information as may be required by notice or through a decision issued by the Authority regarding transactions and arrangements between the relevant members and other members of the Tax Group and between the relevant members and their Related Parties and Connected Persons.

Article (9)
Determination of Ownership Interest for the purposes of Transfer of Tax Loss and Qualifying Group Provisions

For the purposes of the ownership requirements under paragraph (b) of Clause (2) of Article (26) and paragraph (c) of Clause (1) of Article (38) of the Corporate Tax Law, the direct and indirect ownership interest held by members of the same Tax Group shall be determined on the basis of the aggregation of the assets and liabilities of the Parent Company and each Subsidiary in accordance with Clause (1) of Article (42) of the Corporate Tax Law.

Article (10)
Business Restructuring

1. For the purposes of Clause (3) of Article (41) of the Corporate Tax Law the following shall apply:

    a. Where a member of the Tax Group transfers its entire Business to another member of the same Tax Group and the first mentioned member ceases to exist as a result of that transfer, this member shall be deemed to remain a member of the Tax Group until the date it ceases to exist and the Tax Group shall continue to exist.

    b. Where the Tax Group is comprised of only two members, and one member transfers its entire Business to the other member and the first mentioned member ceases to exist as a result of that transfer, the Tax Group shall be considered to cease to exist on the date that the transfer is effective.

2. For the purposes of Article (40) of the Corporate Tax Law, where a member of a Tax Group transfers its entire Business or an independent part of its Business to a newly established juridical person, and this new juridical person joins the existing Tax Group under Clause (5) of Article (5) of this Decision from the date of its establishment, the transfer shall be considered as having taken place within the Tax Group.

3. No election for Business Restructuring Relief under Article (27) of the Corporate Tax Law shall be required for the situations described in Clauses (1) and (2) of this Article.

Article (11)
Income from Intra-Tax Group Transfers and Business Restructuring Transactions

1. For the purposes of Clause (9) of Article (42) of the Corporate Tax Law, where a transfer of one or more assets or liabilities between members of a Tax Group would have met the conditions under Articles (26) or (27) of the Corporate Tax Law if the parties to that transfer had not been members of a Tax Group, the associated income shall be considered as not having been taken into account for Corporate Tax purposes as if the relevant members of the Tax Group have chosen to apply Clause (1) of Article (26) or Clause (1) of Article (27) of the Corporate Tax Law, as the case may be.

2. Where Clause (1) of this Article applies and the conditions under Clause (4) of Article (26) or Clause (6) of Article (27) of the Corporate Tax Law are met, as the case may

be, Clause (10) of Article (42) of the Corporate Tax Law shall apply to any income that was not taken into account in respect of the transfer under Clause (1) of this Article.

Article (12)
Notification to the Authority of a Subsidiary Leaving or Termination of a Tax Group

Where a Subsidiary leaves a Tax Group or where a Tax Group ceases to exist as a result of no longer meeting the conditions under Article (40) of the Corporate Tax Law or this Decision, the Tax Group shall notify the Authority within (20) twenty business days from the date the conditions are no longer met.

Article (13)
Preparing Financial Statements upon Leaving or Cessation of a Tax Group

For the purposes of Article (20) of the Corporate Tax Law, where a Subsidiary leaves a Tax Group or a Tax Group ceases to exist, each Subsidiary leaving the Tax Group and the former Parent of the Tax Group, as the case may be, shall prepare its standalone financial statements on the same accounting basis as applied by the Tax Group and shall adopt the values of the relevant assets and liabilities as recorded by the Tax Group as the opening values of those assets and liabilities in the standalone financial statements.

Article (14)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On: 02/DHU‘L-QI‘DAH/1444
Corresponding to:22/05/2023

Ministerial Decision No. 126 of 2023 on the General Interest Deduction Limitation Rule for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**"), and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Accounting Standards: The accounting standards specified in a decision issued by the Minister for the purposes of the Corporate Tax Law**.**

Islamic Financial Instrument: A financial instrument which is in compliance with Sharia principles and is economically equivalent to any instrument provided for under Clause (2) of Article (2) of this Decision, or a combination thereof.

Qualifying Infrastructure Project: A project that meets the conditions of Article (14) of this Decision.

Qualifying Infrastructure Project Person: A Resident Person that meets the conditions of Clause (2) of Article (14) of this Decision.

General Interest Deduction Limitation Rule: The limitation provided under Article (30) of the Corporate Tax Law.

Article (2)
Interest Component on Financial Assets and Liabilities

1. Where the financial returns on a financial asset or liability comprise Interest or other payments economically equivalent to Interest, then the interest component on those returns shall be considered Interest expenditure or income for the purposes of the General Interest Deduction Limitation Rule, regardless of the classification and treatment of the interest component under the applicable Accounting Standards

unless stated otherwise in this Decision.

2. For purposes of Clause (1) of this Article, Interest shall include, but not be limited to, the interest component on any of the following:

   a. Performing and non-performing debt instruments.

   b. Interests held in collective investment schemes that primarily invest in cash and cash equivalents.

   c. Collateralised asset backed debt securities and similar instruments.

   d. Agreements for the sale and subsequent repurchase of the same security at a future date at an agreed upon price.

   e. Stock lending and similar agreements for the disposal of a security subject to an obligation or right to reacquire the same or a similar designated security.

   f. Securitisations and similar transactions involving the transfer of assets in exchange for the issuance of securities that entitle the holder to proceeds generated from these assets.

   g. Lease or hire purchase arrangements where all the risks and rewards incidental to the ownership of the underlying asset have been substantially transferred to the lessee.

   h. Factoring and similar accounts receivable purchase transactions.

Article (3)
Amounts Incurred in Connection with Raising Finance

1. Amounts incurred in connection with raising finance shall be considered Interest for the purposes of the General Interest Deduction Limitation Rule.

2. For purposes of Clause (1) of this Article, Interest shall include, but not be limited to, the following fees:

   a. Guarantee fees.

   b. Arrangement fees.

   c. Commitment fees.

   d. Any other fees similar in nature to those provided under paragraphs (a), (b) and (c) of this Clause.

3. For the purposes of Clause (1) of this Article, Interest shall include the interest component on forward contracts, futures contracts, options, interest rate and foreign exchange swap agreements or any other financial derivative instruments used to hedge risks directly connected with the raising of finance.

Article (4)
Islamic Financial Instruments

The interest equivalent component on Islamic Financial Instruments shall be treated as Interest for the purposes of the General Interest Deduction Limitation Rule.

Article (5)
Finance and Non-Finance Lease

1. The finance element of finance lease payments as documented in the accounts of a Taxable Person prepared in accordance with the Accounting Standards shall be considered Interest for the purposes of the General Interest Deduction Limitation Rule, and this includes both expenditure in relation to the finance cost element and income received therefrom.

2. The finance element of non-finance lease payments shall be considered as Interest for the purposes of the General Interest Deduction Limitation Rule, and this includes both expenditure in relation to the finance cost element and income received therefrom.

3. For the purposes of Clause (2) of this Article, the finance element is the share of any lease payment that is in proportion to the share of the total cost of the lease as attributable to the total finance element.

4. For the purposes of Clause (3) of this Article, the total finance element is the total cost of the lease agreement less the value of the leased asset recognised on the date the lease was entered into less the expected depreciated value of the leased asset at the end of the lease. This shall be determined in accordance with the Accounting Standards and in accordance with the accounting policy of the Taxable Person in the year in which the lease was entered into.

5. For the purposes of Clause (4) of this Article, the finance element shall be calculated based on the values specified on the date the lease was entered into unless the terms of the lease are amended, in such case, the values shall be recalculated as if a new lease was entered into at the date of that amendment.

Article (6)
Foreign Exchange Movements

For the purposes of the General Interest Deduction Limitation Rule, all foreign exchange gains and losses accruing from Interest shall be considered Interest.

Article (7)
Capitalised Interest

Where an amount that is deemed to be Interest under this Decision is capitalised in the accounts of the Taxable Person in accordance with the Accounting Standards, income and expenditure attributable to the capitalised Interest amount shall be subject to the General Interest Deduction Limitation Rule.

Article (8)
De Minimis Net Interest Expenditure

1. The limitation on the deductible Net Interest Expenditure provided under Clause (1) of Article (30) of the Corporate Tax Law shall not apply where the Net Interest Expenditure for the relevant Tax Period does not exceed AED 12,000,000 (twelve million dirhams).

2. Where the Net Interest Expenditure exceeds the amount referred to in Clause (1) of this Article, a Taxable Person may deduct the higher of AED 12,000,000 (twelve million dirhams) or the percentage provided for under Clause (1) of Article (30) of the Corporate Tax Law.

3. For purposes of this Article, where the relevant Tax Period is more than or less than (12) twelve months, the amount stated in Clause (1) of this Article shall be adjusted in proportion to the length of the Tax Period.

Article (9)
Accounting Earnings Before Interest, Taxes, Depreciation, and Amortisation (EBITDA)

1. For the purposes of the General Interest Deduction Limitation Rule, accounting earnings before the deduction of interest, tax, depreciation and amortisation (EBITDA) for a Tax Period shall be the greater of AED 0 (zero dirham) or the amount calculated as the Taxable Income in accordance with Article (20) of the Corporate Tax Law and any implementing decision issued thereunder, with the addition of all of the following:

    a. Net Interest Expenditure for the relevant Tax Period.

    b. Depreciation and amortisation expenditure taken into account in determining the Taxable Income for the relevant Tax Period.

    c. Any Interest income or expenditure relating to historical financial assets or liabilities held prior to 9 December 2022.

2. Interest income and Interest expenditure in relation to Qualifying Infrastructure Projects exempted under Article (14) of this Decision should be excluded when calculating the Taxable Person's EBITDA for the purposes of the General Interest Deduction Limitation Rule.

3. In calculating EBITDA for the purposes of the General Interest Deduction Limitation Rule, any amount of income and expenditures attributable to the Interest capitalised by the Taxable Person in accordance with the Accounting Standards shall be included when the capitalised Interest is amortised over the useful life of the related asset, and not when the Interest is incurred.

Article (10)
Adjusting Accounting Income

Where a deduction from Taxable Income is claimed under Article (29) of the Corporate Tax Law, this deduction shall be applied after the Accounting Income for that period has been adjusted in accordance with Clause (2) of Article (20) of the Corporate Tax Law.

Article (11)
Historical Financial Liabilities

1. Persons who entered into debt instruments or other liabilities for which the terms were agreed prior to 9 December 2022, and any contract such Persons entered into before or after that date with the sole purpose of reducing the Interest rate risk on such debt instruments or other liabilities shall not be subject to the terms of the General Interest Deduction Limitation Rule.

2. For purposes of Clause (1) of this Article, the exemption from General Interest Deduction Limitation Rule shall only apply in relation to the Net Interest Expenditure attributable to the relevant debt instruments or other liabilities.

3. Where the terms of a debt instrument and other liabilities entered into prior to 9 December 2022 include provision for an amount of principal not yet drawn down at that date by the borrower, such amount shall only be considered a part of that debt instrument or liability to the extent the lender was legally obliged to make available such amounts upon the completion of pre-determined deliverables or project phases set out in the terms agreed prior to 9 December 2022 and not including a call by the borrower for a drawdown of the principal.

4. The Net Interest Expenditure attributable to debt instruments or other liabilities agreed prior to 9 December 2022 for a Tax Period is the lower of the following two values:

    a. The Net Interest Expenditure that arises on the debt instrument or other liability in the Tax Period.

    b. The Net Interest Expenditure that would have arisen on the debt instrument or other liability in the Tax Period in accordance with the terms of the debt instrument or other liability as they stood on 9 December 2022.

Article (12)
Tax Groups

1. For the purposes of Article (42) of the Corporate Tax Law, where a Subsidiary joins an existing Tax Group, any carried forward Net Interest Expenditure of the Subsidiary at the date the Subsidiary becomes a member of the Tax Group may only be utilised against the Taxable Income of the Tax Group that is attributable to that Subsidiary that joined an existing Tax Group.

2. Without prejudice to Clause (1) of this Article, where a Subsidiary leaves a Tax Group, any carried forward Net Interest Expenditure of the Tax Group shall remain with the Tax Group, with the exception of any unutilised carried forward Net Interest Expenditure of the relevant Subsidiary as referred to under Clause (1) of this Article.

3. On cessation of a Tax Group, any carried forward Net Interest Expenditure of the Tax Group shall be allocated as follows:

   a. Where the Parent Company continues to be a Taxable Person, any carried forward Net Interest Expenditure of the Tax Group shall remain with the Parent Company.

   b. Where the Parent Company ceases to be a Taxable Person, any carried forward Net Interest Expenditure of the Tax Group shall not be available for offset against future Taxable Income of individual Subsidiaries, with the exception of any unutilised pre-Grouping carried forward Net Interest Expenditure of such Subsidiaries.

4. Paragraph (b) of Clause (3) of this Article shall not apply where there is a continuation of the Tax Group under Clause (12) of Article (40) of the Corporate Tax Law.

5. Where a member of a Tax Group is a Bank or Insurance Provider, and is not subject to the General Interest Deduction Limitation Rule, then any income or expenditures of that member shall be disregarded for the calculation of total Net Interest Expenditure and EBITDA of the Tax Group for the purposes of the General Interest Deduction Limitation Rule.

Article (13)
Independent Business of an Exempt Person

An Exempt Person under paragraphs (a), (b), (c) and (d) of Clause (1) of Article (4) of the Corporate Tax Law that is a Taxable Person insofar as it relates to the Business or Business Activity under Articles (5), (6), (7) or (8) of the Corporate Tax Law, shall be subject to the General Interest Deduction Limitation Rule and the provisions of this Decision in respect of that Business or Business Activity.

Article (14)
Qualifying Infrastructure Projects

1. Net Interest Expenditure incurred by a Qualifying Infrastructure Project Person in relation to a Qualifying Infrastructure Project shall not be subject to the General

Interest Deduction Limitation Rule.

2. A Qualifying Infrastructure Project Person is a Resident Person that satisfies one of the following conditions in the relevant Tax Period:

    a. Is responsible for the provision, maintenance or operation of a Qualifying Infrastructure Project.

    b. Carries on any other activity that is ancillary to, or facilitates the provision, maintenance or operation of a Qualifying Infrastructure Project.

3. A Qualifying Infrastructure Project is a project that satisfies all of the following conditions:

    a. It is exclusively for the public benefit of the State.

    b. It is exclusively for the purposes of providing transport, utilities, education, healthcare or any other service within the State as may be specified by the Minister.

    c. Its assets may not be disposed of at the discretion of the relevant Qualifying Infrastructure Project Person.

    d. The assets provided, operated or maintained by the project should last, or be expected to last, not less than (10) ten years, or another period as may be specified by the Minister.

    e. All its assets must be situated in the State's Territory.

    f. All its Interest income and Interest expenditure must arise in the State.

    g. It satisfies any other conditions that may be prescribed by the Minister.

Article (15)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:
On: 03/DHU'L-QI'DAH/1444
Corresponding to: 23/05/2023

Ministerial Decision No. 127 of 2023 on Unincorporated Partnership, Foreign Partnership and Family Foundation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**"), unless the context requires otherwise.

Article (2)
Conditions for an Unincorporated Partnership not to be Considered a Taxable Person in its Own Right

For the purposes of Clause (1) of Article (16) of the Corporate Tax Law, and without prejudice to Clause (7) of Article (16) and Article (17) of the Corporate Tax Law, the Unincorporated Partnership shall not be considered as a Taxable Person in its own right, provided it is not a juridical person.

Article (3)
Treatment of the Unincorporated Partnership as a Taxable Person

Where an application for the Unincorporated Partnership to be treated as a Taxable Person in its own right under Clause (8) of Article (16) of the Corporate Tax Law is approved, the following shall apply:

1. The application shall be deemed irrevocable, except under exceptional circumstances and pursuant to the approval by the Authority.
2. The Unincorporated Partnership shall notify the Authority within (20) twenty business days from the occurrence of any of the following circumstances:
   a. Any partner joining the Unincorporated Partnership.

b. Any partner leaving the Unincorporated Partnership.

Article (4)
Other Conditions for a Foreign Partnership to be Treated as an Unincorporated Partnership

1. For the purposes of paragraph (c) of Clause (7) of Article (16) of the Corporate Tax Law, the following conditions shall be met:

   a. The Foreign Partnership submits an annual declaration to the Authority to confirm meeting the conditions specified in paragraphs (a) and (b) of Clause (7) of Article (16) of the Corporate Tax Law, in the form and manner and within the timeline prescribed by the Authority.

   b. Adequate arrangements exist for cooperation between the State and the jurisdiction under whose applicable laws the Foreign Partnership was established, for the purpose of sharing tax information of the partners in the Foreign Partnership.

2. For the purposes of paragraph (b) of Clause (7) of Article (16) of the Corporate Tax Law, each partner in the Foreign Partnership shall be considered to be subject to tax if they would be subject to tax on their distributive share of any income in the Foreign Partnership in the jurisdiction in which the partner is a tax resident.

Article (5)
Other Conditions for a Family Foundation to be Treated as an Unincorporated Partnership

For the purposes of paragraph (e) of Clause (1) of Article (17) of the Corporate Tax Law, where one or more of the beneficiaries are public benefit entities, the Family Foundation shall meet one of the following conditions:

1. Such beneficiaries are not deriving income that would be deemed as Taxable Income in the event they had derived it in their own right.
2. Where the condition under Clause (1) of this Article is not met, the income that would be deemed as Taxable Income is distributed to the relevant beneficiaries within (6) six months from the end of the relevant Tax Period.

Article (6)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini
Minister of State for Financial Affairs

Issued by us:
On: 04/DHU‘L-QI‘DAH/1444
Corresponding to:24/05/2023

Ministerial Decision No. 132 of 2023 on Transfers Within a Qualifying Group for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above (**"Corporate Tax Law"**), and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Accounting Standards: The accounting standards specified in a decision issued by the Minister for the purposes of the Corporate Tax Law.

Ordinary Shares: The category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.

Preferred Shares: The category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

Redeemable Shares: The category of capital stock or equity interest which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.

Membership and Partner Interests: The equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.

Transferor: A Taxable Person that transfers one or more assets or liabilities to another Taxable Person under Article (26) of the Corporate Tax Law.

Transferee: A Taxable Person to which one or more assets or liabilities of the Transferor is transferred under Article (26) of the Corporate Tax Law.

Islamic Financial Instrument: A financial instrument which is compliant with Sharia principles.

Article (2)
Ownership Interest

1. For the purposes of Article (26) of the Corporate Tax Law, an ownership interest shall include, but not be limited to, holding any one or a combination of the following instruments:

   a) Ordinary Shares.

   b) Preferred Shares.

   c) Redeemable Shares.

   d) Membership and Partner Interests.

   e) Other types of securities, capital contributions and rights that entitle the owner to receive profits and liquidation proceeds.

2. An ownership interest as referred to in Clause (1) of this Article shall only be treated as such if it is classified as equity interest under the Accounting Standards as applied by the Taxable Person holding the ownership interest.

3. For the purposes of Article (26) of the Corporate Tax Law, a Taxable Person shall be treated as holding an ownership interest where the ownership interest is controlled by the Taxable Person and the Taxable Person has the right to the economic benefits produced by the ownership interest under the Accounting Standards applied by the Taxable Person.

4. An Islamic Financial Instrument, or combination of arrangements that form part of the same Islamic Financial Instrument, shall be treated as an ownership interest for the purposes of Article (26) of the Corporate Tax Law where it is classified as equity interest under the Accounting Standards applied by the Taxable Person.

5. The percentage of ownership held through ownership interests as specified under Clause (1) of this Article shall be determined with reference to the total paid up capital of the Taxable Person or the total equity interest contributions made to the Taxable Person, as applicable.

Article (3)
Election to Apply Transfers Within a Qualifying Group

1. An election must be made by the Transferor to apply the provisions of Article (26) of the Corporate Tax Law to a transfer meeting the conditions of that Article. The election shall be in the form and manner as prescribed by the Authority and the Transferor and Transferee must maintain the records specified in Article (6) of this Decision.

2. The election under Clause (1) of this Article shall be made at the time of submission of the Tax Return for the Tax Period in which a transfer occurs for which the Taxable Person elects to apply the provisions of Article (26) of the Corporate Tax Law.

3. An election made under Clause (1) of this Article shall be irrevocable and shall have effect for the purposes of calculating Taxable Income for the Tax Period in relation to which the election is made and all subsequent Tax Periods, unless the Authority, having regard to the circumstances of the case, determines otherwise in response to an application made by the Taxable Person.

4. Where an election under Clause (1) of this Article is made, the provisions of Article (26) of the Corporate Tax Law shall apply to all transfers of assets and liabilities held on the capital account, as defined under paragraphs

(a) and (b) of Clause (4) of Article (20) of the Corporate Tax Law, by the Transferor where the conditions of Article (26) of the Corporate Tax Law are met.

5. Where Clause (1) of Article (26) of the Corporate Tax Law applies, any adjustments to the Taxable Income of the Transferor and the Transferee shall be made in accordance with the Ministerial Decision on the general rules for determining taxable income.

Article (4)
Exchange of Assets and Liabilities

1. Where the consideration paid for the transfer of the asset or liability is in the form of another asset or liability, the transfer shall be treated as two separate transfers for the purposes of applying Article (26) of the Corporate Tax Law.

2. Where Clause (1) of this Article applies, the provisions of Article (26) of the Corporate Tax Law and the Ministerial Decision on the general rules for determining taxable income shall apply to each transfer where at least one of the Taxable Persons that is party to the transfer has elected to apply Article (26) of the Corporate Tax Law.

Article (5)
Subsequent Transfer

1. Any gain or loss that arises as a result of applying Clause (5) of Article (26) of the Corporate Tax Law shall be taken into account for the purposes of calculating the Taxable Income of the Transferor and included in the Tax Return of the Transferor for the Tax Period in which any of the following occurs:

   a) There is a subsequent transfer of the asset or liability outside of the Qualifying Group.

   b) The Transferor or Transferee cease to be members of the same Qualifying Group.

2. Notwithstanding Clause (1) of this Article, any gain or loss that would have accrued to the Transferor under Clause (1) of this Article shall be attributed to the Transferee if the Transferor has ceased to be a Taxable Person.

3. Where Clause (2) of this Article applies, the Transferee shall take into account any gain or loss that arises for the purposes of calculating Taxable Income and such a gain or loss shall be included in the Tax Return of the Transferee for the Tax Period in which any of the following occurs:

   a) There is a subsequent transfer of the asset or liability outside of the Qualifying Group.

   b) The Taxable Persons cease to be members of the same Qualifying Group.

4. Paragraph (a) of Clause (4) of Article (26) of the Corporate Tax Law shall apply proportionately, as the context requires, to a subsequent transfer of part of the asset or liability outside of the Qualifying Group.

5. Where Clause (5) of Article (26) of the Corporate Tax Law applies to a transfer the following shall apply:

   a) The Transferee shall make any necessary adjustments to their Taxable Income during the relevant Tax Period in which Clause (5) of Article (26) of the Corporate Tax Law applies to reverse any depreciation, amortisation or other change in the value of an asset or liability that has been previously adjusted by the Transferee for this transfer subject to the Ministerial Decision on the general rules for determining taxable income.

b) The relevant provisions of the Ministerial Decision on the general rules for determining taxable income shall no longer apply for the current and future Tax Periods in relation to this transfer.

Article (6)
Record Keeping

For the purposes of Article (56) of the Corporate Tax Law, where Clause (1) of Article (26) of the Corporate Tax Law has been applied, both the Transferor and the Transferee must maintain a record of the agreement to transfer the asset or liability at the value prescribed under Article (26) of the Corporate Tax Law and that of the requirements to make any adjustments prescribed under the Ministerial Decision on the general rules for determining taxable income.

Article (7)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:

On: 05/DHU‘L-QI‘DAH/1444

Corresponding to: 25/05/2023

Ministerial Decision No. 133 of 2023 on Business Restructuring Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**"), and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Accounting Standards: The accounting standards specified in a decision issued by the Minister for the purposes of the Corporate Tax Law.

Ordinary Shares: The category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.

Preferred Shares: The category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

Redeemable Shares: The category of capital stock or equity interest, which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.

Membership and Partner Interests: The equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.

Transferor: A Taxable Person that transfers its entire Business or an independent part of its Business to another Taxable Person under Article (27) of the Corporate Tax Law.

Transferee: A Taxable Person to which the entire Business or an independent part of the Business of the Transferor is transferred under Article (27) of the Corporate Tax Law.

Article (2)
Transfers in Exchange for Shares and Other Forms of Consideration

A transfer will be considered to meet the conditions of Clause (1) of Article (27) of the Corporate Tax Law only where the Market Value of any other forms of consideration received in addition to shares or other ownership interests do not exceed the lower of:

1. The net book value of the assets and liabilities transferred; or

2. 10% (ten percent) of the nominal value of the ownership interests issued.

Article (3)
Ownership Interest

1. For the purposes of Article (27) of the Corporate Tax Law, an ownership interest shall include, but not be limited to, holding any one or a combination of the following instruments:

   a) Ordinary Shares.

   b) Preferred Shares.

   c) Redeemable Shares.

   d) Membership and Partner Interests.

   e) Other types of securities, capital contributions and rights that entitle the owner to receive profits and liquidation proceeds.

2. An ownership interest as referred to in Clause (1) of this Article shall only be treated as such if it is classified as equity interest under the Accounting Standards applied by the Taxable Person holding the ownership interest.

3. For the purposes of Article (27) of the Corporate Tax Law, a Taxable Person shall be treated as holding an ownership interest where the ownership interest is controlled by the Taxable Person and the Taxable Person has the right to the economic benefits produced by the ownership interest under the Accounting Standards applied by the Taxable Person.

Article (4)
Election to Apply Business Restructuring Relief

1. An election must be made by the Transferor to apply the provisions of Article (27) of the Corporate Tax Law to a transfer meeting the conditions of that Article. The election shall be in the form and manner as prescribed by the Authority and the Transferor and Transferee must maintain the records specified in Article (9) of this Decision.

2. Where Clause (1) of Article (27) of the Corporate Tax Law applies, any adjustments to the Taxable Income of the Transferor and the Transferee shall be made in accordance with the Ministerial Decision on the general rules for determining taxable income.

Article (5)
Transfer of Unutilised Tax Losses

1. For the purposes of paragraph (d) of Clause (3) of Article (27) of the Corporate Tax Law, any unutilised Tax Losses incurred by the Transferor prior to the Tax Period in which the transfer under Clause (1) of Article (27) of the Corporate Tax Law takes place may become carried forward Tax Losses of the Transferee provided that the Transferee continues to conduct the same or a similar Business or Business Activity that was conducted by the Transferor prior to the transfer.

2. For the purposes of Clause (1) of this Article, relevant factors for determining whether the Transferee has continued to conduct the same or a similar Business or Business Activity which was conducted by the Transferor prior to the transfer include:

   a) The Transferee uses some or all of the same assets that were used by the Transferor prior to the transfer;

   b) The Transferee has not made significant changes to the core identity or operations of the Business since the transfer; and

   c) Where there have been any changes, these result from the development or exploitation of assets, services, processes, products or methods that existed before the transfer.

Article (6)
Parties to the Transfer

1. For the purposes of paragraph (a) of Clause (4) of Article (27) of the Corporate Tax Law, the shares or other ownership interests must be received by a Person that has a direct or indirect ownership interest of at least 50% (fifty percent) in the Transferor.

2. For the purposes of paragraph (b) of Clause (4) of Article (27) of the Corporate Tax Law, the shares or other ownership interest must be issued by a Person that has a direct or indirect ownership interest of at least 50% (fifty percent) in the Transferee.

Article (7)
Unincorporated Partnerships

For the purposes of paragraph (c) of Clause (4) of Article (27) of the Corporate Tax Law, where an application has been made by an Unincorporated Partnership to be treated as a Taxable Person under Clause (8) of Article (16) of the Corporate Tax Law, no gain or loss needs to be taken into account in determining Taxable Income irrespective of whether any shares or ownership interests are received by the partners in the Unincorporated Partnership or whether all partners in the Unincorporated Partnership are Taxable Persons.

Article (8)
Subsequent Transfer

1. Any gain or loss that arises as a result of applying Clause (7) of Article (27) of the Corporate Tax Law shall be taken into account for the purposes of calculating the Taxable Income of the Transferor and included in the Tax Return of the Transferor for the Tax Period in which any of the following circumstances occurs:

   a) The shares or other ownership interests in the Taxable Person that is the Transferor or the Transferee are sold, transferred or otherwise disposed of, in whole or part, to a Person that is not a member of the Qualifying Group to which the relevant Taxable Persons belong.

b) There is a subsequent transfer or disposal of the Business or the independent part of the Business which was transferred.

2. Notwithstanding Clause (1) of this Article, any gain or loss that would have accrued to the Transferor under Clause (1) of this Article shall be attributed to the Transferee if any of the following applies:

   a) The Transferor has ceased to be a Taxable Person; or

   b) The Transferor is a natural person.

3. Where Clause (2) of this Article applies, the Transferee shall take into account any gain or loss that arises for the purposes of calculating Taxable Income and such a gain or loss shall be included in the Tax Return of the Transferee for the Tax Period in which any of the circumstances set out in paragraphs (a) and (b) of Clause (1) of this Article occurs.

4. Where Clause (7) of Article (27) of the Corporate Tax Law applies to a transfer the following shall apply:

   a) The Transferee shall make any necessary adjustments to their Taxable Income during the relevant Tax Period in which Clause (7) of Article (27) of the Corporate Tax Law applies to reverse any depreciation, amortisation or other change in the value of an asset or liability that has been previously adjusted by the Transferee for this transfer subject to the Ministerial Decision on the general rules for determining taxable income.

   b) The relevant provisions of the Ministerial Decision on the general rules for determining taxable income shall no longer apply for the current and future Tax Periods in relation to this transfer.

Article (9)
Record Keeping

For the purposes of Article (56) of the Corporate Tax Law, where Clause (1) of Article (27) of the Corporate Tax Law has been applied, both the Transferor and the Transferee must maintain a record of the agreement to transfer the Business or the independent part of the Business at the value prescribed under Article (27) of the Corporate Tax Law and that of the requirements to make any adjustments prescribed under the Ministerial Decision on the general rules for determining taxable income.

Article (10)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us:

On: 05/DHU'L-QI'DAH/1444

Corresponding to: 25/05/2023

Ministerial Decision No.134 of 2023 on the General Rules for Determining Taxable Income for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above ("**Corporate Tax Law**"), and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Accounting Standards: The accounting standards specified in a decision issued by the Minister for the purposes of the Corporate Tax Law.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Accrual Basis of Accounting: An accounting method under which the Taxable Person recognises income when earned and expenditure when incurred.

Financial Asset: Financial asset as defined in the Accounting Standards applied by the Taxable Person.

Financial Liability: Financial liability as defined in the Accounting Standards applied by the Taxable Person.

Equity Method of Accounting: The equity method of accounting as defined in the International Financial Reporting Standards ("**IFRS**"), or an equivalent method of accounting under the Accounting Standards applied by the Taxable Person.

Cost Method of Accounting: The cost method of accounting as defined in the International Financial Reporting Standards ("**IFRS**"), or an equivalent method of accounting under the Accounting Standards applied by the Taxable Person.

Article (2)
Other Adjustments to the Accounting Income for Determining the Taxable Income

For the purposes of paragraph (i) of Clause (2) of Article (20) of the Corporate Tax Law, the Accounting Income shall be adjusted for the following in the calculation of the Taxable Income:

1. To include any realised or unrealised gains and losses that are reported in the Financial Statements insofar as they would not be subsequently recognised in the statement of income.

2. To make adjustments to replace the effect of Equity Method of Accounting, if applied, with the effect of Cost Method of Accounting as allowed under the Accounting Standards.

3. Where the Taxable Person elects to take into account gains and losses on a realisation basis in accordance with paragraph (a) of Clause (3) of Article (20) of the Corporate Tax Law, to make the following adjustments for the assets and liabilities under that paragraph:

   a. In cases other than upon realisation, to exclude any depreciation, amortisation or other change in the value of the asset, other than a Financial Asset, to the extent that the adjustment amount relates to a change in the net book value exceeding the original cost of that asset.
   b. To exclude any change in the value of a liability or a Financial Asset, including any amortisation, except when calculating the gain or the loss upon the realisation of the liability or the Financial Asset.
   c. Upon the realisation of an asset or a liability, to include any amount that has not been recognised for Corporate Tax purposes under paragraphs (a) and (b) of this Clause and paragraph (a) of Clause (3) of Article (20) of the Corporate Tax Law, other than any such amount that arose prior to the most recent acquisition which was not under the application of either Clause (1) of Article (26) or Clause (1) of Article (27) of the Corporate Tax Law.

4. Where the Taxable Person elects to take into account gains and losses on a realisation basis in accordance with paragraph (b) of Clause (3) of Article (20) of the Corporate Tax Law, to make the following adjustments for the assets and liabilities under that paragraph:

   a. In cases other than upon realisation, to exclude any depreciation, amortisation or other change in the value of the asset, other than a Financial Asset, to the extent that the adjustment amount relates to a change in the net book value exceeding the original cost of that asset.

b. To exclude any change in the value of a liability or a Financial Asset, including any amortisation, except when calculating the gain or the loss upon the realisation of the liability or the Financial Asset.

c. Upon the realisation of an asset or a liability, to include any amount that has not been recognised for Corporate Tax purposes under paragraphs (a) and (b) of this Clause and paragraph (b) of Clause (3) of Article (20) of the Corporate Tax Law, other than any such amount that arose prior to the most recent acquisition which was not under the application of either Clause (1) of Article (26) or Clause (1) of Article (27) of the Corporate Tax Law.

Article (3)
Other Adjustments to the Accounting Income for Determining the Taxable Income in Relation to Transactions with Related Parties

1. For the purposes of paragraph (i) of Clause (2) of Article (20) of the Corporate Tax Law, and for the purposes of Chapter Ten of the Corporate Tax Law, the following adjustments shall be made by the transferee when calculating the Taxable Income in case of a transfer of an asset or a liability between Related Parties:

   a. Where the amount of consideration paid by the transferee exceeds the Market Value:

      1) In cases other than upon realisation, to exclude any depreciation, amortisation or other change in value of the asset or liability, to the extent that the adjustment amount relates to a change in value between the net book value of that asset or liability as recognised by the transferee upon the transfer and the Market Value.

      2) Upon the realisation of an asset or a liability by the transferee, to include any amount to which the net book value used by the transferee when calculating the gain or loss, exceeds the Market Value identified under subparagraph (1) of this paragraph.

   b. Where the amount of consideration paid by the transferee is lower than the Market Value, and where the transferor has included the difference between the Market Value and the consideration in its Taxable Income:

      1) In cases other than upon realisation, to exclude any change in value of the asset or liability, to the extent that the adjustment amount relates to a change in the value between the Market Value of that asset or liability and its net book value as recognised by the transferee upon transfer.

      2) Upon the realisation of an asset or a liability by the transferee, to reduce an amount of gain by the difference in the Market Value and the net book value at the time of transfer, other than any net amount that has not been included in the Taxable Income under subparagraph (1) of this paragraph.

2. Where subparagraph (1) of paragraph (a) of Clause (1) of this Article applies, the transferee may elect to recognise the excess derived from the difference between

the net book value of the asset or liability of the transferee and the Market Value as an adjustment in calculating the Taxable Income.

3. Where the net book value of the asset or liability under paragraph (a) of Clause (1) of this Article becomes equal or less than the Market Value, or an election is made under Clause (2) of this Article for that asset or liability, subparagraphs (1) and (2) of paragraph (a) of Clause (1) of this Article shall no longer apply to that asset or liability.

4. Where the net book value of the asset or liability under paragraph (b) of Clause (1) of this Article becomes equal or higher than the Market Value, subparagraphs (1) and (2) of paragraph (b) of Clause (1) of this Article shall no longer apply to that asset or liability.

Article (4)
Other Adjustments to the Accounting Income for Determining the Taxable Income in Relation to Transfers Within a Qualifying Group

For the purposes of paragraph (i) of Clause (2) of Article (20) of the Corporate Tax Law, and where there has been a transfer of assets or liabilities between Taxable Persons that are members of the same Qualifying Group that is not a Tax Group under Article (26) of the Corporate Tax Law, and where Clause (1) of Article (26) of the Corporate Tax Law applies, the following adjustments shall apply in the calculation of the Taxable Income of the transferee:

1. In cases other than upon realisation, to exclude any depreciation, amortisation or other change in the value of an asset or a liability, to the extent that it relates to a gain or loss that arose to the transferor that has not been recognised as a gain or loss under the application of Clause (1) of Article (26) of the Corporate Tax Law.

2. Upon the realisation of an asset or a liability, to include any amount that has not been recognised for Corporate Tax purposes under Clause (1) of this Article and Article (26) of the Corporate Tax Law, other than any such amount that arose prior to the most recent acquisition where Clause (1) of Article (26) of the Corporate Tax Law did not apply.

Article (5)
Other Adjustments to the Accounting Income for Determining the Taxable Income in Relation to Business Restructuring Relief

For the purposes of paragraph (i) of Clause (2) of Article (20) of the Corporate Tax Law, where there has been a transfer of assets or liabilities between a Taxable Person and any other Person that constitute a transfer of an entire Business or an independent part of the Business under Article (27) of the Corporate Tax Law, and where Clause (1) of Article (27) of the Corporate Tax Law applies, the following adjustments shall apply in the calculation of the Taxable Income of the transferee:

1. In cases other than upon realisation, to exclude any depreciation, amortisation or other change in the value of an asset or a liability, to the extent that it relates to a

gain or loss that arose to the transferor that has not been recognised as a gain or loss under the application of Clause (1) of Article (27) of the Corporate Tax Law.

2. Upon the realisation of an asset or a liability, to include any amount that has not been recognised for Corporate Tax purposes under Clause (1) of this Article and Article (27) of the Corporate Tax Law, other than any such amount that arose prior to the most recent acquisition where Clause (1) of Article (27) of the Corporate Tax Law did not apply.

Article (6)
Other Adjustments to the Accounting Income for Determining the Taxable Income of a Partner in an Unincorporated Partnership

For the purposes of paragraph (i) of Clause (2) of Article (20) of the Corporate Tax Law, the following adjustments shall apply in relation to a Taxable Person that is a partner in an Unincorporated Partnership where an application under Clause (8) of Article (16) of the Corporate Tax Law is approved:

1. To exclude from the Taxable Income of the partner any such income or loss that is recognised as Taxable Income for the Unincorporated Partnership.

2. To exclude any gains or losses on the transfer, sale, or other disposal of the interest of the Taxable Person in the Unincorporated Partnership, or part thereof, provided that the interest meets all the conditions under Clause (2) of Article (23) of the Corporate Tax Law.

Article (7)
Other Adjustments on Deductions

1. For the purposes of paragraph (i) of Clause (2) of Article (20) of the Corporate Tax Law, to the extent that any expenditure is determined as deductible under Chapter Nine of the Corporate Tax Law where certain conditions are met, any expenditure that does not meet these conditions shall not be deductible.

2. For the purposes of paragraph (i) of Clause (2) of Article (20) of the Corporate Tax Law, no deduction shall be allowed for depreciation, amortisation or other change related to capitalised expenditure, where such an expenditure would not have been deductible had it been an expenditure that is not capital in nature.

3. For the purposes of paragraph (i) of Clause (2) of Article (20) of the Corporate Tax Law, expenditures that are capital in nature that have not been deducted for the purpose of calculating the Taxable Income, other than those under Clause (2) of this Article, shall be deductible in the calculation of gains or losses upon the realisation of the asset or liability.

4. For the purposes of this Article, expenditures that are capital in nature shall be those treated as such under the Accounting Standards applied by the Taxable Person.

Article (8)
Conditions to Elect the Use of the Realisation Basis

1. For the purposes of Clause (3) of Article (20) of the Corporate Tax Law, a Taxable Person that prepares Financial Statements on an Accrual Basis of Accounting may elect to recognise gains and losses on a realisation basis, subject to the provisions of Clause (2) of this Article.

2. Banks and Insurance Providers that are Taxable Persons and that prepare Financial Statements on an Accrual Basis of Accounting may elect to recognise gains and losses only on a realisation basis in accordance with paragraph (b) of Clause (3) of Article (20).

3. For the purposes of Clauses (1) and (2) of this Article, the decision to make an election, or not to make an election, shall be made by the Taxable Person during the first Tax Period and shall be deemed irrevocable, except under exceptional circumstances and pursuant to approval by the Authority.

Article (9)
Realisation of Assets or Liabilities

1. For the purposes of this Decision, the following transfers of assets or liabilities shall not be considered as a realisation of the assets or the liabilities:

   a. The transfer of assets or liabilities between Taxable Persons that are members of the same Qualifying Group that is not a Tax Group under Article (26) of the Corporate Tax Law, where Clause (1) of Article (26) of the Corporate Tax Law applies.

   b. The transfer of assets or liabilities between a Taxable Person and any other Person that constitute a transfer of an entire Business or an independent part of the Business under Article (27) of the Corporate Tax Law, where Clause (1) of Article (27) of the Corporate Tax Law applies.

2. For the purposes of this Decision, a realisation of an asset or a liability shall include, but is not limited to, the following:

   a. The sale, disposal, transfer, other than the transfers under Clause (1) of this Article, settlement and complete worthlessness of an asset as per the Accounting Standards applied by the Taxable Person.

   b. The settlement, assignment, transfer, other than the transfers under Clause (1) of this Article, and forgiveness of a liability as per the Accounting Standards applied by the Taxable Person.

Article (10)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini
Minister of State for Financial Affairs

Issued by us:
On: 09/DHU'L-QI'DAH/1444
Corresponding to:29/05/2023

Ministerial Decision No. (247) of 2023 on the Issuance of Tax Residency Certificate for the Purposes of International Agreements

The Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. (28) of 2022 on Tax Procedures,
- Federal Decree-Law No. (47) of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. (85) of 2022 on Determination of Tax Residency,
- Ministerial Decision No. (27) of 2023 on Implementation of Certain Provisions of Cabinet Decision No. (85) of 2022 on Determination of Tax Residency,

Has decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. (28) of 2022 and Cabinet Decision No. (85) of 2022 referred to above, unless the context requires otherwise.

Article (2)
Issuance of Tax Residency Certificate for the Purposes of an International Agreement

1. For the purposes of Article (6) of Cabinet Decision No. (85) of 2022 referred to above, a Person who meets the conditions of tax residency in the State pursuant to the relevant International Agreement may make an application to the Authority to obtain a Tax Residency Certificate for the purposes of that International Agreement.

2. The application referred to in Clause (1) of this Article shall be submitted in the form and manner specified by the Authority and shall include all necessary information for the Authority to issue the Tax Residency Certificate.

3. If the Authority is satisfied that the applicant meets the conditions of tax residency in the State in accordance with the provisions of the relevant International Agreement, the Authority may approve the application and issue a Tax Residency Certificate in the form attached to this Decision or in any other form acceptable to the Authority.

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Article (3)
Publication and Application of this Decision

This Decision shall be published in the Official Gazette and shall come into effect from 1 March 2023.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us,

On: 01/ Rabi' Al Thani/ 1445 AH

Corresponding to: 16/ October/ 2023 AD

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Attachment to Ministerial Decision No. (247) of 2023 on the Issuance of Tax Residency Certificate for the Purposes of International Agreements

Tax Residency Certificate

Application number: […]

Application date: […]

Name of applicant: […]

Nationality (if applicable): […]

Passport number (if applicable): […]

Resident visa number(s) (if applicable): […]

Emirates ID number (if applicable): […]

Commercial licence number and licencing authority (if applicable): […]

Tax Registration Number for Corporate Tax purposes (if applicable): […]

The Federal Tax Authority to the best of its knowledge certifies that [name of applicant] is a resident of the United Arab Emirates pursuant to the provisions of [full name of the double taxation agreement] entered into between the United Arab Emirates and [name of the other country] on [signature date of agreement].

This certificate is valid from [../../…] to [../../…].

[Signature and Federal Tax Authority's stamp]

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Cabinet Decision No. 100 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

The Cabinet:

- Having reviewed the Constitution,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 55 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Pursuant to what was presented by the Minister of Finance and upon the approval of the Cabinet,

Decided:

Article (1)

Definitions

Definitions in Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses shall apply to this Decision, otherwise the following words and expressions shall have the meaning assigned against each, unless the context requires otherwise:

Domestic Permanent Establishment: A place of Business or other form of presence of a Qualifying Free Zone Person outside the Free Zone in the State.

Qualifying Activities: Any activities determined by a decision issued by the Minister and conducted by a Qualifying Free Zone Person from which Qualifying Income is derived.

Excluded Activities: Any activities determined by a decision issued by the Minister and conducted by a Qualifying Free Zone Person from which non-Qualifying Income is derived.

Non-Free Zone Person: Any Person who is not a Free Zone Person.

Qualifying Intellectual Property: Patents, Copyrighted Software and any right functionally equivalent to a Patent that is both legally protected and subject to a similar approval and registration process to a Patent, such as utility models, intellectual property assets that grant protection to plants and genetic material, orphan drug designations, and extensions of Patent protection, but not including any marketing related intellectual property assets, such as trademarks.

Patents: Any patent granted under the law regulating patents in the State or granted under the relevant law of a foreign jurisdiction.

Copyrighted Software: Any copyright subsisting in software granted under the law regulating copyrights in the State or granted under the relevant law of a foreign jurisdiction.

Commercial Property: Immovable property or part thereof used exclusively for a Business or Business Activity and not used as a place of residence or accommodation including hotels, motels, bed and breakfast establishments, serviced apartments and the like.

Designated Zone: A designated zone according to what is stated in Federal Decree-Law No. (8) of 2017 on Value Added Tax, and which has been included as a Free Zone in accordance with the Corporate Tax Law.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Article (2)

Scope of Application

The provisions of this Decision shall apply to Qualifying Free Zone Persons.

Article (3)

Qualifying Income

1. For the purposes of application of Article (18) of the Corporate Tax Law, Qualifying Income of the Qualifying Free Zone Person shall include the below categories of income, provided that such income is not attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment in accordance with Article (5) of this Decision, or derived from the ownership or exploitation of immovable property in accordance with Article (6) of this Decision, or considered Taxable Income under Clause (2) of Article (7) of this Decision:

   a. Income derived from transactions with a Free Zone Person, except for income derived from Excluded Activities.

   b. Income derived from transactions with a Non-Free Zone Person, but only in respect of Qualifying Activities that are not Excluded Activities.

   c. Income derived from the ownership or exploitation of Qualifying Intellectual Property under Clause (1) of Article (7) of this Decision.

   d. Any other income provided that the Qualifying Free Zone Person satisfies the de minimis requirements under Article (4) of this Decision.

2. For the purposes of paragraph (a) of Clause (1) of this Article, income will be considered as derived from transactions with a Free Zone Person where that Free Zone Person is the Beneficial Recipient of the relevant services or Goods.

3. For the purposes of this Article, the term **"**Beneficial Recipient**"** shall mean a Person who has the right to use and enjoy the service or the Good and does not have a contractual or legal obligation to supply such service or Good to another person and the term "Good" shall mean tangible or intangible property that has economic value in dealing including movable and immovable property.

4. For the purposes of determining whether a Qualifying Free Zone Person has a Domestic Permanent Establishment, the provisions of Article (14) of the Corporate Tax Law shall apply and the expression "Qualifying Free Zone Person" shall be used instead of the expression "Non-Resident Person", and the expression "geographical areas outside the Free Zones in the State" shall be used instead of the word "State", wherever used in that Article.

Article (4)

De minimis Requirements

1. The de minimis requirements shall be considered satisfied where the non-qualifying Revenue derived by the Qualifying Free Zone Person in a Tax Period does not exceed a percentage of the total Revenue of the Qualifying Free Zone Person in that Tax Period as specified by the Minister, or an amount specified by the Minister, whichever is lower.

2. Subject to Clause (3) of this Article, the following provisions shall apply:

a. Non-qualifying Revenue is Revenue derived in a Tax Period from any of the following:

   (1) Excluded Activities.

   (2) Activities that are not Qualifying Activities where the other party to the transaction is a Non-Free Zone Person.

   (3) Transactions with a Free Zone Person where such Free Zone Person is not the Beneficial Recipient of the relevant services or Goods.

b. Total Revenue is all Revenue derived by a Qualifying Free Zone Person in a Tax Period.

3. The following Revenue shall not be included in the calculation of non-qualifying Revenue and total Revenue:

   a. Revenue derived from the following transactions in relation to immovable property located in a Free Zone:

      (1) Transactions with a Non-Free Zone Person in respect of Commercial Property.

      (2) Transactions with any Person in respect of immovable property that is not Commercial Property.

   b. Revenue attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment of the Qualifying Free Zone Person.

   c. Revenue derived from the ownership or exploitation of intellectual property, except for the Revenue related to the Qualifying Income referred to in Clause (1) of Article (7) of this Decision.

4. For the purposes of this Article, a Qualifying Free Zone Person and its Domestic Permanent Establishment or Foreign Permanent Establishment shall be treated as if the establishment was a separate and independent Person that is a Related Party of the Qualifying Free Zone Person.

Article (5)

Income Attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment

1. Income attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment of the Qualifying Free Zone Person shall be considered Taxable Income and taxed in accordance with paragraph (b) of Clause (2) of Article (3) of the Corporate Tax Law.

2. The income attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment of the Qualifying Free Zone Person for a Tax Period is the Taxable Income attributable to any such establishment for that period calculated as if the establishment was a separate and independent Person that is a Related Party of the Qualifying Free Zone Person.

Article (6)

Income Derived From Immovable Property Located in a Free Zone

1. Income derived from immovable property located in a Free Zone from the below transactions shall be considered Taxable Income and taxed in accordance with paragraph (b) of Clause (2) of Article (3) of the Corporate Tax Law:

a. Transactions with a Non-Free Zone Person in respect of Commercial Property.

b. Transactions with any Person in respect of immovable property that is not Commercial Property.

2. For the purposes of Clause (1) of this Article, the Taxable Income for a Tax Period shall be the income that is derived from the immovable property referred to in paragraphs (a) and (b) of Clause (1) of this Article calculated in accordance with the relevant provisions of the Corporate Tax Law.

Article (7)

Income Derived from Qualifying Intellectual Property

1. Qualifying Income derived from the ownership or exploitation of Qualifying Intellectual Property shall be calculated in accordance with a decision issued by the Minister.

2. Income derived from the ownership or exploitation of intellectual property that is not Qualifying Intellectual Property and income in excess of Qualifying Income calculated in accordance with Clause (1) of this Article, shall be considered Taxable Income and taxed in accordance with paragraph (b) of Clause (2) of Article (3) of the Corporate Tax Law.

Article (8)

Maintaining Adequate Substance and Outsourcing in a Free Zone

1. A Qualifying Free Zone Person shall undertake its core income-generating activities in a Free Zone or a Designated Zone, depending on where such activities are required to be conducted, and having regard to the level of the activities carried out, have adequate assets, an adequate number of qualified full-time employees in a Free Zone or a Designated Zone depending on where such activities are required to be conducted, and incur an adequate amount of operating expenditures, in relation to each activity.

2. Core income-generating activities can be outsourced to another Person in a Free Zone or a Designated Zone depending on where such activities are required to be conducted, provided the Qualifying Free Zone Person has adequate supervision of the outsourced activity.

3. Notwithstanding Clause (2) of this Article, core income-generating activities in respect of Qualifying Intellectual Property can be outsourced to any other Person in the State and to any other Person who is not a Related Party outside the State, provided the Qualifying Free Zone Person has adequate supervision of the outsourced activity.

4. For the purposes of this Article, core income-generating activities may vary according to the specific activity but mainly consist of those significant functions that drive the business value for each activity carried out by a Qualifying Free Zone Person and are not exclusively or mostly support activities.

Article (9)

Implementing Decisions

The Minister shall issue the necessary decisions to implement the provisions of this Decision.

Article (10)

Repeals

Cabinet Decision No. 55 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses shall be repealed.

Article (11)

Publication and Application of this Decision

This Decision shall be published in the Official Gazette and shall come into effect on 1 June 2023.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us,

On: 10/ Rabiʿ al-Akhir/ 1445 H

Corresponding to: 25 / October / 2023

Ministerial Decision No. (265) of 2023
Regarding Qualifying Activities and Excluded Activities for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Law No. 6 of 2007 on the Organization of Insurance Operations, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 8 of 2017 on Value Added Tax, and its amendments,
- Federal Decree-Law No. 14 of 2018 Regarding the Central Bank and Organization of Financial Institutions and Activities, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 59 of 2017 on Designated Zones for the Purposes of the Federal Decree-Law No. 8 of 2017 on Value Added Tax, and its amendments,
- Cabinet Decision No. 100 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities for the Purposes of Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Decided:

Article (1)
Definitions

Definitions in Federal Decree-Law No. 47 of 2022 and Cabinet Decision No. 100 of 2023 referred to above shall apply to this Decision, otherwise the following words and expressions shall have the meaning assigned against each, unless the context requires otherwise.

Qualifying Commodities: Metals, minerals, energy and agriculture commodities that are traded on a Recognised Commodities Exchange Market in raw form.

Recognised Commodities Exchange Market: Any commodities exchange market established in the State that is licensed and regulated by the relevant Competent Authority, or any commodities exchange market established and recognised outside the State of equal standing.

Ship: Any structure normally operating, or set for operating in maritime navigation regardless of its power and tonnage.

Aircraft: Any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the surface of the earth.

Competent Authority: The Central Bank of the United Arab Emirates, the Dubai Financial Services Authority of the Dubai International Financial Centre, the Financial Services Regulatory Authority of the Abu Dhabi Global Market and the Securities and Commodities Authority as applicable.

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Corporate Tax Law: Federal Decree-Law No. 47 of 2022 referred to above.

Article (2)
Qualifying Activities and Excluded Activities

1. For the purposes of Cabinet Decision No. 100 of 2023 referred to above, and subject to Clauses (2) and (3) of this Article, the following activities conducted by a Qualifying Free Zone Person shall be considered Qualifying Activities:

   a. Manufacturing of goods or materials.

   b. Processing of goods or materials.

   c. Trading of Qualifying Commodities.

   d. Holding of shares and other securities for investment purposes.

   e. Ownership, management and operation of Ships.

   f. Reinsurance services.

   g. Fund management services.

   h. Wealth and investment management services.

   i. Headquarter services to Related Parties.

   j. Treasury and financing services to Related Parties.

   k. Financing and leasing of Aircrafts.

   l. Distribution of goods or materials in or from a Designated Zone.

   m. Logistics services.

   n. Any activities that are ancillary to the Qualifying Activities specified in paragraphs (a) to (m) of this Clause.

2. For the purposes of Cabinet Decision No. 100 of 2023 referred to above, the following activities shall be considered Excluded Activities:

   a. Any transactions with natural persons, except transactions in relation to the Qualifying Activities specified under paragraphs (e), (g), (h) and (k) of Clause (1) of this Article.

   b. Banking activities.

   c. Insurance activities, without prejudice to the Qualifying Activities specified under paragraphs (f) and (i) of Clause (1) of this Article.

   d. Finance and leasing activities without prejudice to the Qualifying Activities specified in paragraphs (e), (j) and (k) of Clause (1) of this Article.

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e. Ownership or exploitation of immovable property, other than Commercial Property located in a Free Zone where the transaction in respect of such Commercial Property is conducted with a Free Zone Person.

f. Any activities that are ancillary to the Excluded Activities specified in paragraphs (a) to (e) of this Clause.

3. For the purposes of Clauses (1) and (2) of this Article, the following shall apply:

   a. Manufacturing of goods or materials includes the production, improvement or assembly of products and materials from raw materials or components.

   b. Processing of goods or materials includes the preparation, treatment, transformation or conversion of goods or materials into another form of good or material for commercial or industrial use or sale.

   c. Trading of Qualifying Commodities means the physical trading activities of Qualifying Commodities and associated derivative trading used to hedge against risks involved in such activities.

   d. Holding of shares and other securities for investment purposes includes the holding of the following:

      1) Shares of any class in the share capital of another juridical person or other types of equitable interests that entitle the holder to receive profits and liquidation proceeds, whether as a legal or beneficial owner.

      2) Negotiable or non-negotiable financial instruments, including, derivative instruments, financial commodities, and other investment instruments that are or can be traded in a public or private market or that are convertible or exchangeable into a security or which confer a right to purchase a security, with the exception of the holding of financial or investment instruments that are issued pursuant to a securitization of receivables from a non-financial asset.

   Shares and other securities are deemed to be held for investment purposes when held for an uninterrupted period of at least (12) twelve months.

   e. Ownership, management and operation of Ships includes the ownership, management and operation of Ships used in the international transportation of passengers, goods or livestock, towing activities and the provision of general assistance to Ships at sea, dredging activities at sea, and leasing and chartering of Ships on a bareboat basis used in the international transportation of passengers, goods or livestock. This activity shall not include Ships used for local transportation or leisure or recreational purposes, or as floating hotels, restaurants or casinos.

   f. Reinsurance services means reinsurance operations that are regulated under Federal Law No. 6 of 2007 referred to above.

   g. Fund management services includes the activities of portfolio management, risk management, discretionary and non-discretionary fund management services and other services relating to the day-to-day management and operation of an investment fund by a fund manager that is appointed by the fund or its investors, including those activities that are delegated by an investment fund or its fund manager to an investment advisor or sub-advisor, that are subject to the regulatory oversight of the Competent Authority in the State.

   h. Wealth and investment management services includes the activities of providing discretionary and

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non-discretionary investment management and advisory services, portfolio management and wealth and investment advisory services, that are subject to the regulatory oversight of the Competent Authority in the State.

i. Headquarter services to Related Parties includes the administering, overseeing and managing of Business Activities of Related Parties, including the provision of senior and general management, captive insurance services, administrative services, procurement services, business planning and development, risk management, coordination of group activities, and in general incurring expenditures on behalf of Related Parties and providing other support services to Related Parties.

j. Treasury and financing services to Related Parties includes the provision of cash and liquidity management, financing, debt management, and financial risk management and related advisory services to Related Parties, including centralised payment and collection activities for or on behalf of Related Parties.

k. Financing and leasing of Aircraft includes the financing, leasing and securitisation of the financing and leasing of Aircraft, Aircraft engines or rotable components, granting the right to use Aircraft, Aircraft engines or rotable components in exchange for rental or other consideration pursuant to a finance lease, operating lease or other arrangement and related advisory and agency services for the procurement, sale or leasing of Aircraft, Aircraft engines or rotable components undertaken by the Qualifying Free Zone Person.

l. Distribution of goods or materials in or from a Designated Zone, includes the buying and selling of goods, materials, component parts or any other items that are tangible or movable and may include the importation, storage, inventory management, handling, transportation and exportation of those goods or materials to a customer that resells such goods or materials, or parts thereof or processes or alters such goods or materials or parts thereof for the purposes of sale or resale, provided such activities are conducted in or from a Designated Zone and the goods or materials entering the State are imported through the Designated Zone.

m. Logistics services includes the storage and transportation of goods or materials on behalf of another Person without taking title to the good or material of that other Person, including cargo handling, warehousing, container storage, transport agency services, customs brokerage services, order and inventory management, freight forwarding and brokerage services, document preparation, packing and unpacking and other related services.

n. Banking activities means the regulated financial activities specified under Article (65) of Federal Decree-Law No. 14 of 2018.

o. Insurance activities means insurance operations that are regulated under Federal Law No. 6 of 2007 referred to above.

p. Finance and leasing activities means the provision of credit or financing for any kind of consideration, and the letting or otherwise granting the right to use an asset in exchange for rental or other consideration pursuant to a finance lease, operating lease or other arrangement, that are subject to the regulatory oversight of the Competent Authority in the State.

4. For the purposes of paragraph (n) of Clause (1) and paragraph (f) of Clause (2) of this Article, an activity shall be considered ancillary where it is necessary for the performance of the main activity or where it makes a minor contribution to it and is so closely related to the main activity that it should not be regarded as a separate activity.

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Article (3)
De Minimis Requirements

For the purposes of Article (4) of Cabinet Decision No. 100 of 2023 referred to above, the de minimis requirements shall be considered satisfied where the non-qualifying Revenue derived by the Qualifying Free Zone Person in a Tax Period does not exceed 5% (five percent) of the total Revenue of the Qualifying Free Zone Person in that Tax Period or AED 5,000,000 (five million dirhams), whichever is lower.

Article (4)

Income Derived from Qualifying Intellectual Property

1. For the purposes of Clause (1) of Article (7) of Cabinet Decision No. 100 of 2023 referred to above, subject to the application of Clause (3) of this Article, the Qualifying Income shall be determined as follows:

$$\text{Qualifying Income} = \frac{\text{Qualifying Expenditures + Up-lift Expenditures}}{\text{Overall Expenditures}} \text{ X Overall Income}$$

2. For the purpose of Clause (1) of this Article the following provisions shall apply:

   a. 'Qualifying Expenditures' means expenditures incurred to fund research and development activities, conducted either by the Qualifying Free Zone Person or outsourced to any Person in the State or any Person outside the State that is not a Related Party, directly connected with the creation, invention or significant development of the Qualifying Intellectual Property.

   b. 'Overall Expenditures' means total expenditures incurred to fund research and development activities, conducted either by the Qualifying Free Zone Person or outsourced to any Person, directly connected with the creation, invention or significant development of the Qualifying Intellectual Property, including acquisition costs of the Qualifying Intellectual Property.

   c. ‘Overall Income’ means royalties or any other income derived from Qualifying Intellectual Property as determined according to the provisions of the Corporate Tax Law, including embedded intellectual property income derived from the sale of products and the use of processes directly related to the Qualifying Intellectual Property as determined in accordance with the arm’s length principle under Article (34) of the Corporate Tax Law.

   d. ‘Uplift Expenditures” means the Qualifying Expenditure increased by 30% (thirty percent), subject to the application of Clause (3) of this Article.

3. The Up-lift Expenditures shall be applicable only to the extent that Qualifying Expenditures, after being up-lifted is less than or equal to Overall Expenditures.

4. For the purposes of determining what income from Qualifying Intellectual Property is to be considered Qualifying Income, the Qualifying Free Zone Person must maintain all records, books and documents that prove the following and make them available to the Authority:

   a. Ownership and the right to exploit the Qualifying Intellectual Property.

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b. Qualifying Expenditures and Overall Expenditures incurred.

c. Overall Income derived from the Qualifying Intellectual Property.

d. The link between Qualifying Expenditures and Overall Income derived from Qualifying Intellectual Property**.**

Article (5)
Other Conditions

1. In addition to the conditions set out in Clause (1) of Article (18) of the Corporate Tax Law, a Qualifying Free Zone Person must meet the following two conditions:

   a. Its non-qualifying Revenue does not exceed the de minimis requirements set out in Article (3) of this Decision.

   b. It prepares audited financial statements in accordance with any decision issued by the Minister on the requirements to prepare and maintain audited financial statements for the purposes of the Corporate Tax Law.

2. A Qualifying Free Zone Person that at any particular time during a Tax Period fails to meet any of the conditions set out in Clause (1) of Article (18) of the Corporate Tax Law and this Decision and any other conditions prescribed by the Minister shall cease to be a Qualifying Free Zone Person from the beginning of the relevant Tax Period and for the subsequent (4) four Tax Periods.

Article (6)
Repeals

Ministerial Decision 139 of 2023 referred to above shall be repealed.

Article (7)
Publication and Application of this Decision

This decision shall be published and shall come into effect on 1 June 2023.

Mohamed bin Hadi Al Hussaini
Minister of State for Financial Affairs

Issued by us,

On: 12/Rabi' al-Akhir 1445 H
Corresponding to: 27/ 10/ 2023

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Federal Decree-Law No. 60 of 2023

Amending Certain Provisions of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

We Mohamed bin Zayed Al Nahyan President of the United Arab Emirates,

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Pursuant to what was presented by the Minister of Finance and approved by the Cabinet,

Have issued the following Decree-Law:

Article One

1. Two new definitions shall be added to the definitions under Article (1) of the Federal Decree-Law No. (47) of 2022 referred to above:

Top-up Tax: The top-up tax imposed on Multinational Enterprises in accordance with this Decree-Law and the rules and controls to be determined by the Cabinet under Article (3) of this Decree-Law for the purposes of the pillar two rules issued by the Organization for Economic Cooperation and Development.

Multinational Enterprise: An entity and/or one or more of its member entities located in the State or in a foreign jurisdiction, as specified in a decision to be issued by the Cabinet at the suggestion of the Minister.

2. A new Clause numbered (3) shall be added to Article (3) of the Federal Decree-Law No. (47) of 2022 referred to above, its text is as follows:

Article (3 Clause 3)

Without prejudice to the provisions of Clauses (1) and (2) of this Article, the Cabinet at the suggestion of the Minister shall issue a decision regulating all cases, provisions, conditions, rules, controls, and procedures for imposing the Top-up Tax on Multinational Enterprises and the exemptions therefrom, so that the total percentage of the effective tax imposed on them is (15%) fifteen percent.

Article Two

The text of Article (65) of the Federal Decree-Law No. (47) of 2022 referred to above, shall be replaced by the following text:

Corporate Tax and Top-up Tax revenues and Administrative Penalties collected under this Decree-Law shall be subject to sharing between the Federal Government and the Local Governments based on the provisions of a federal law in force in this regard.

Article Three

As an exception to the provisions of Article Four of this Decree-Law, the provisions of the Top-up Tax specified in Clause (2) of Article One of this Decree-Law shall come into effect as of the date specified in a decision issued by the Cabinet at the suggestion of the Minister, and such decision shall be published in the Official Gazette.

Article Four

This Decree-Law shall be published in the Official Gazette, and shall come into effect on the day following its publication.

Mohamed bin Zayed Al Nahyan

President of the United Arab Emirates

Issued by us in the presidential palace - Abu Dhabi:

Date: 17/ Rabi' al-Awwal /1445H

Corresponding: 02/October/2023

Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities for the Purposes of Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 8 of 2017 on Value Added Tax, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 59 of 2017 on Designated Zones for the Purposes of the Federal Decree-Law No. 8 of 2017 on Value Added Tax,
- Cabinet Decision No. 55 of 2023 on Determining Qualifying Income of the Qualifying Free Zone Person for the Purposes of Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses,

Decided:

Article (1)
Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 (**"Corporate Tax Law"**) and Cabinet Decision No. 55 of 2023 referred to above, and the following words and expressions shall have the meanings assigned against each:

Ship: Any structures normally operating, or set for operating in maritime navigation regardless of its power and tonnage.

Aircraft: Any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the surface of the earth.

Designated Zone: A designated zone as defined in Federal Decree-Law No. 8 of 2017 referred to above, and which has been specified as a Free Zone for the purposes of the Corporate Tax Law.

Article (2)
Qualifying Activities

1. For the purposes of Cabinet Decision No. 55 of 2023 referred to above, and subject to Clause (2) of this Article and Article (3) of this Decision, the following activities conducted by a Qualifying Free Zone Person shall be considered Qualifying Activities:

(a) Manufacturing of goods or materials.

(b) Processing of goods or materials.

(c) Holding of shares and other securities.

(d) Ownership, management and operation of Ships.

(e) Reinsurance services that are subject to the regulatory oversight of the competent authority in the State.

(f) Fund management services that are subject to the regulatory oversight of the competent authority in the State.

(g) Wealth and investment management services that are subject to the regulatory oversight of the competent authority in the State.

(h) Headquarter services to Related Parties.

(i) Treasury and financing services to Related Parties.

(j) Financing and leasing of Aircraft, including engines and rotable components.

(k) Distribution of goods or materials in or from a Designated Zone to a customer that resells such goods or materials, or parts thereof or processes or alters such goods or materials or parts thereof for the purposes of sale or resale.

(l) Logistics services.

(m) Any activities that are ancillary to the activities listed in paragraphs (a) to (l) of this Clause.

2. Unless otherwise prescribed in this Decision or any other decision issued by the Minister, the activities referenced in Clause (1) of this Article shall have the meaning provided under the respective laws regulating these activities.

3. In application of paragraph (k) of Clause (1) of this Article, the activity of distributing goods or materials must be undertaken in or from a Designated Zone and the goods or materials entering the State must be imported through the Designated Zone.

4. For the purposes of paragraph (m) of Clause (1) of this Article, an activity shall be considered ancillary where it serves no independent function but is necessary for the performance of the main Qualifying Activity.

Article (3)
Excluded Activities

1. For the purposes of Cabinet Decision No. 55 of 2023 referred to above, the following activities shall be considered Excluded Activities:

   (a) Any transactions with natural persons, except transactions in relation to the Qualifying Activities specified under paragraphs (d), (f), (g) and (j) of Clause (1) of Article (2) of this Decision.

   (b) Banking activities that are subject to the regulatory oversight of the competent authority in the State.

   (c) Insurance activities that are subject to the regulatory oversight of the competent authority in the State, other than the activity specified under paragraph (e) of Clause (1) of Article (2) of this Decision.

   (d) Finance and leasing activities that are subject to the regulatory oversight of the competent authority in the State, other than those specified under paragraphs (i) and (j) of Clause (1) of Article (2) of this Decision.

   (e) Ownership or exploitation of immovable property, other than Commercial Property located in a Free Zone where the transaction in respect of such Commercial Property is conducted with other Free Zone Persons.

   (f) Ownership or exploitation of intellectual property assets.

   (g) Any activities that are ancillary to the activities listed in paragraphs (a) to (f) of this Clause.

2. For the purposes of paragraph (g) of Clause (1) of this Article, an activity shall be considered ancillary where it serves no independent function but is necessary for the performance of the main Excluded Activity.

3. Unless otherwise prescribed in this Decision or any other decision issued by the Minister, the activities referenced in Clause (1) of this Article shall have the meaning provided under the respective laws regulating these activities.

Article (4)
De Minimis Requirements

For the purposes of Article (4) of Cabinet Decision No. 55 of 2023 referred to above, the de minimis requirements shall be considered satisfied where the non-qualifying Revenue derived by the Qualifying Free Zone Person in a Tax Period does not exceed 5% (five percent) of the total Revenue of the Qualifying Free Zone Person in that Tax Period or AED 5,000,000 (five million dirhams), whichever is lower.

Article (5)

Other Conditions

1. In addition to the conditions set out in Clause (1) of Article (18) of the Corporate Tax Law, a Qualifying Free Zone Person must meet the following two conditions:

   (a) Its non-qualifying Revenue does not exceed the de minimis requirements set out in Article (4) of this Decision.

   (b) It prepares audited financial statements in accordance with any decision issued by the Minister on the requirements to prepare and maintain audited financial statements for the purposes of the Corporate Tax Law.

2. A Qualifying Free Zone Person that at any particular time during a Tax Period fails to meet any of the conditions set out in Clause (1) of Article (18) of the Corporate Tax Law and this Decision and any other conditions prescribed by the Minister shall cease to be a Qualifying Free Zone Person from the beginning of the relevant Tax Period and for the subsequent (4) four Tax Periods.

Article (6)

Publication and Application of this Decision

This Decision shall be published and shall come into effect on 1 June 2023.

Mohamed bin Hadi Al Hussaini

Minister of State for Financial Affairs

Issued by us,
On: 12 Dhi al-Qi`dah 1444 H
Corresponding to: 01/06/2023

Federal Tax Authority

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

إمارات تاكس
EMARATAX

Corporate Tax Registration - Taxpayer User Manual

Date: 17 May 2023

Version 4.0.0.0

Document Control Information

Document Version Control

Version No.	Date	Prepared/Reviewed by	Comments
1.0	25-Jan-23	InvenioLSI Team	User Manual for Tax Payer on EmaraTax Portal – Corporate Tax Registration
2.0	24-Mar-23	InvenioLSI Team	Updated Screeshots
3.0	17-Apr-23	InvenioLSI Team	Updates based on PwC Review and CR Changes
4.0	17-May-23	InvenioLSI Team	Updates based on PwC/FTA Final Review

Navigating through EmaraTax

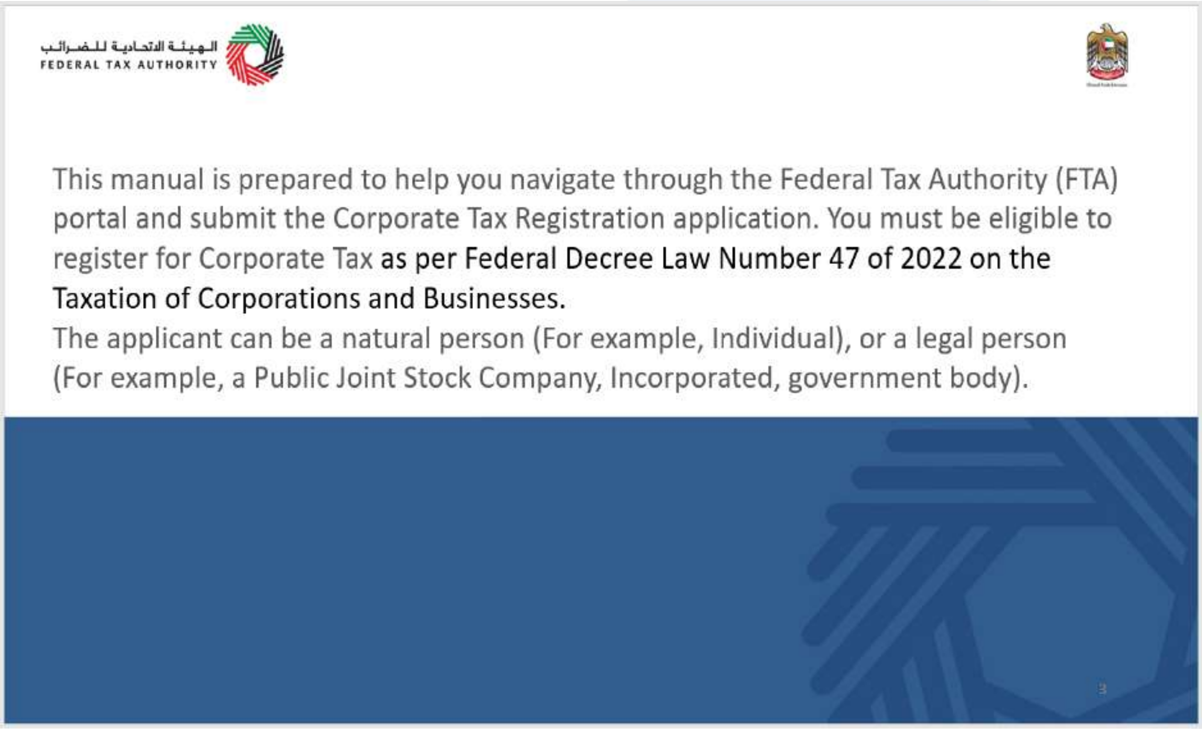
The Following Tabs and Buttons are available to help you navigate through this process

Button	Description
In the Portal	
User types	This is used to toggle between various personas within the user profile such as Taxable Person, Tax Agent, Tax Agency, Legal Representative etc
	This is used to enable the Text to Speech feature of the portal
English عربي	This is used to toggle between the English and Arabic versions of the portal
-A A +A	This is used to decrease, reset, and increase the screen resolution of the user interface of the portal
Manage Account	This is used to manage the user profile details such as the Name, Registered Email address, Registered Mobile number, and password
Log Out	This is used to log off from the portal
In the Business Process application	
Previous Step	This is used to go the Previous section of the Input Form
Next Step	This is used to go the Next section of the Input Form
Save as Draft	This is used to save the application as draft, so that it can be completed later
1 2	This menu on the top gives an overview of the various sections within the. All the sections need to be completed in order to submit the application for review. The Current section is highlighted in Blue and the completed sections are highlighted in green with a check

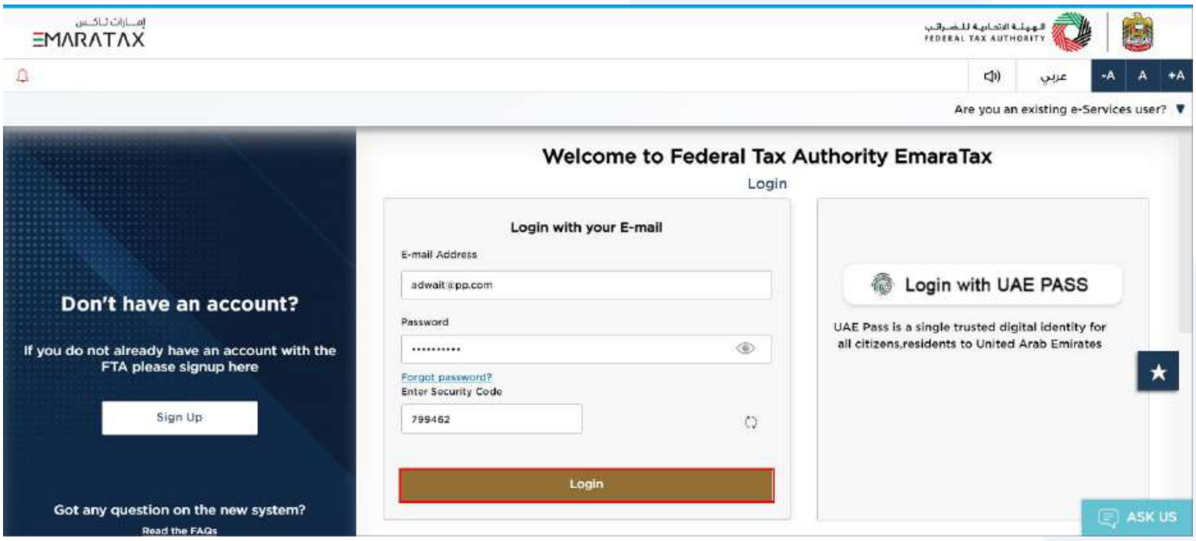
The Federal Tax Authority offers a range of comprehensive and distinguished electronic services in order to provide the opportunity for taxpayers to benefit from these services in the best and simplest ways.

Table of Contents

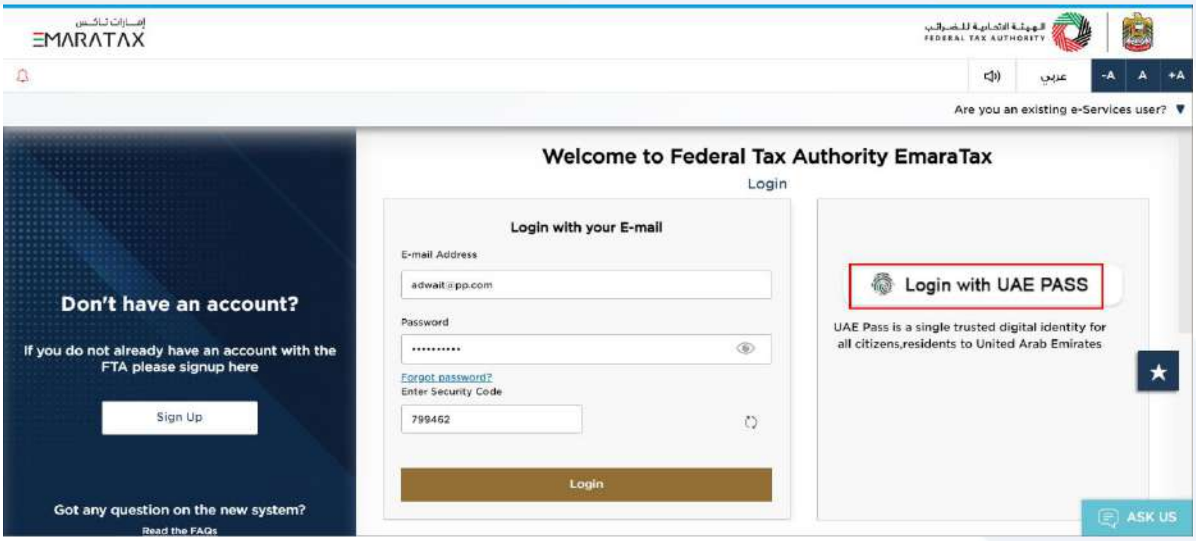
Introduction



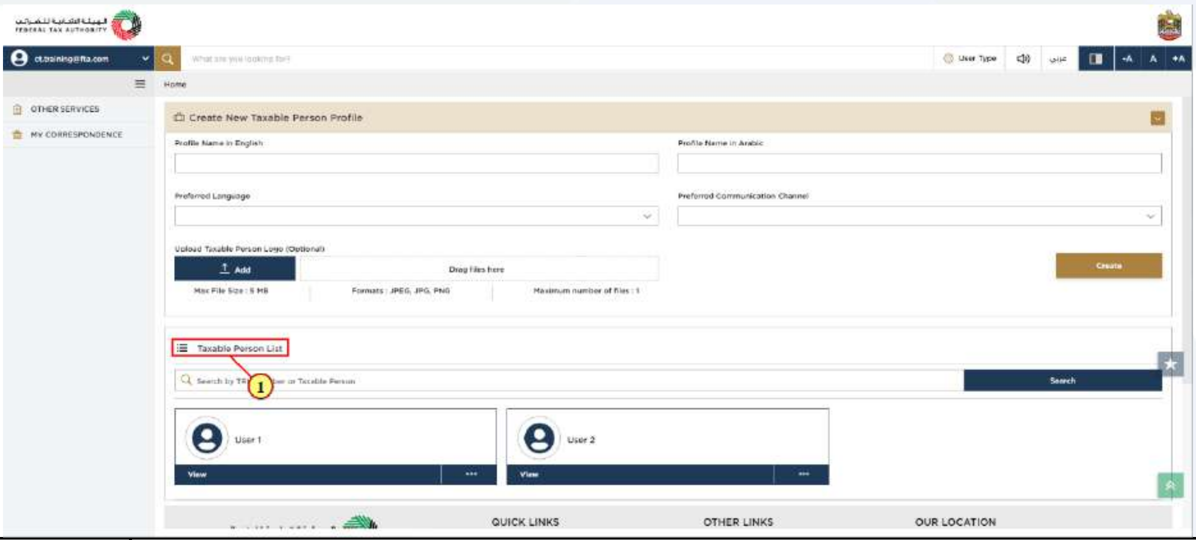
Login to EmaraTax



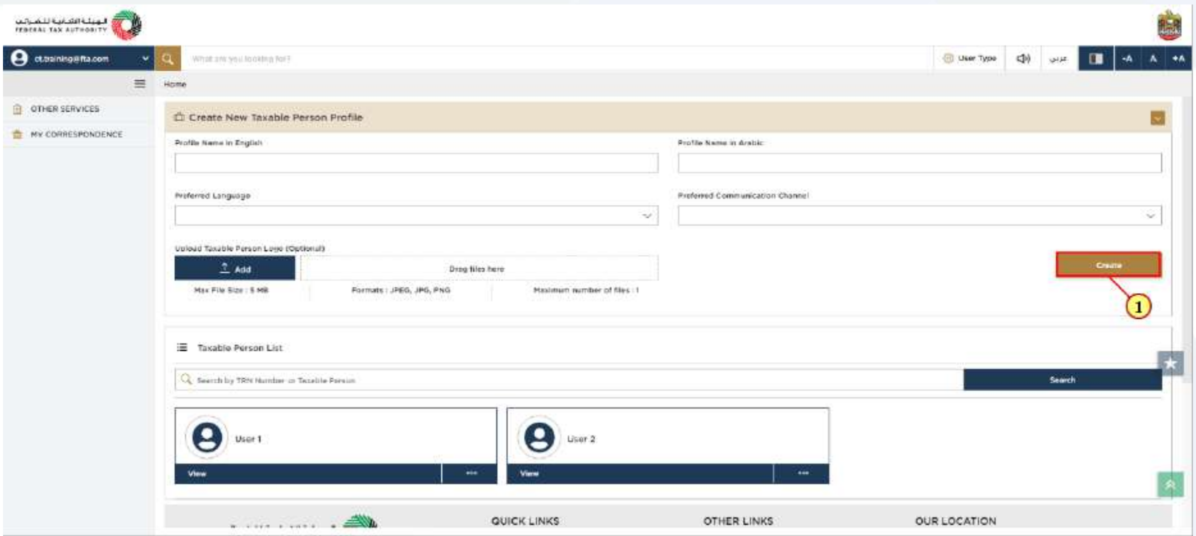
	You can login into the EmaraTax account using your login credentials or using UAE Pass. If you do not have an EmaraTax account, you can sign-up for an account by clicking the '**Sign Up'** button. If you have forgotten your password, you can use the 'Forgot password' feature to reset your password.



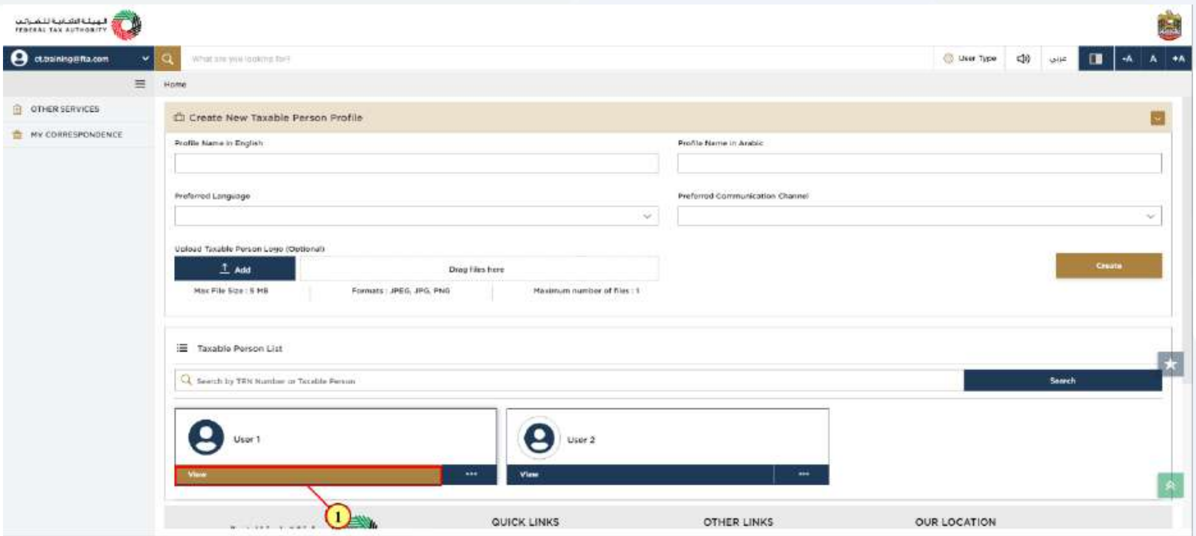
If you wish to login via UAE Pass, you will be redirected to UAE Pass. On successful UAE Pass login, you will be redirected back to the EmaraTax online user dashboard.



Step	Action
(1)	On successful login, the **Taxable Person List** screen is displayed. It displays the list of the Taxable Person linked to your EmaraTax user profile. If there are no Taxable Person linked to your user profile, this list will be empty and you would need to create a Taxable Person.

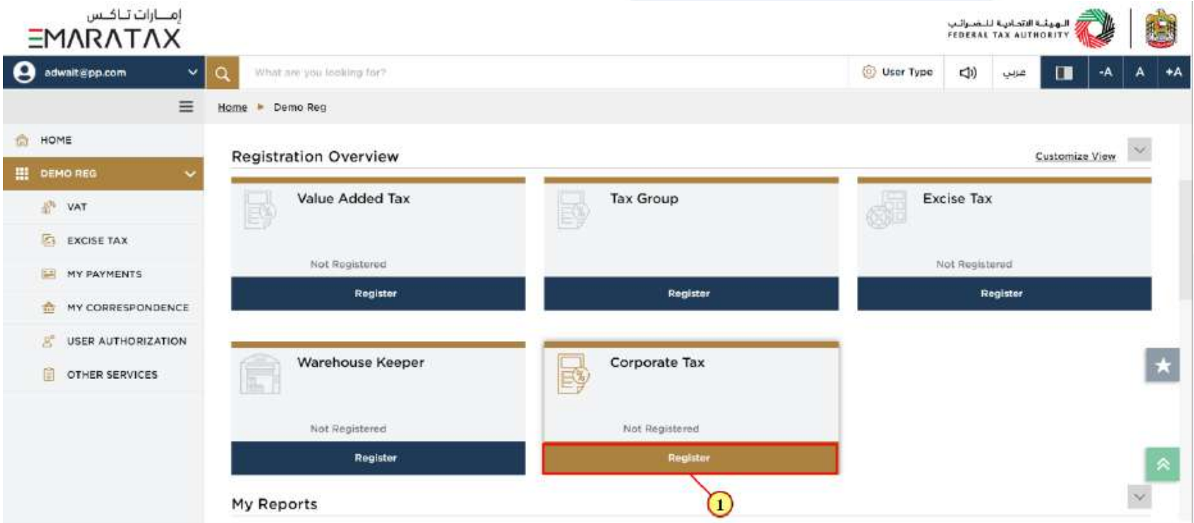


Step	Action
(1)	To create a new Taxable Person, enter the mandatory details and click **'Create'**. The new Taxable Person will be displayed in the list.



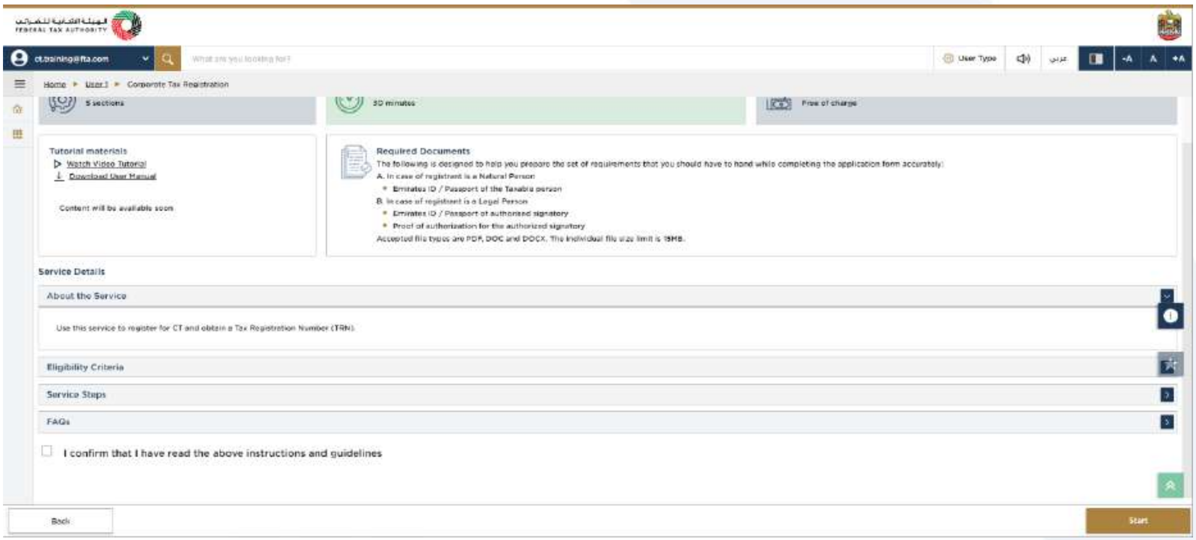
Step	Action
(1)	Select the Taxable Person from the list and click **'View'** to open the dashboard.

EmaraTax Taxable Person Dashboard

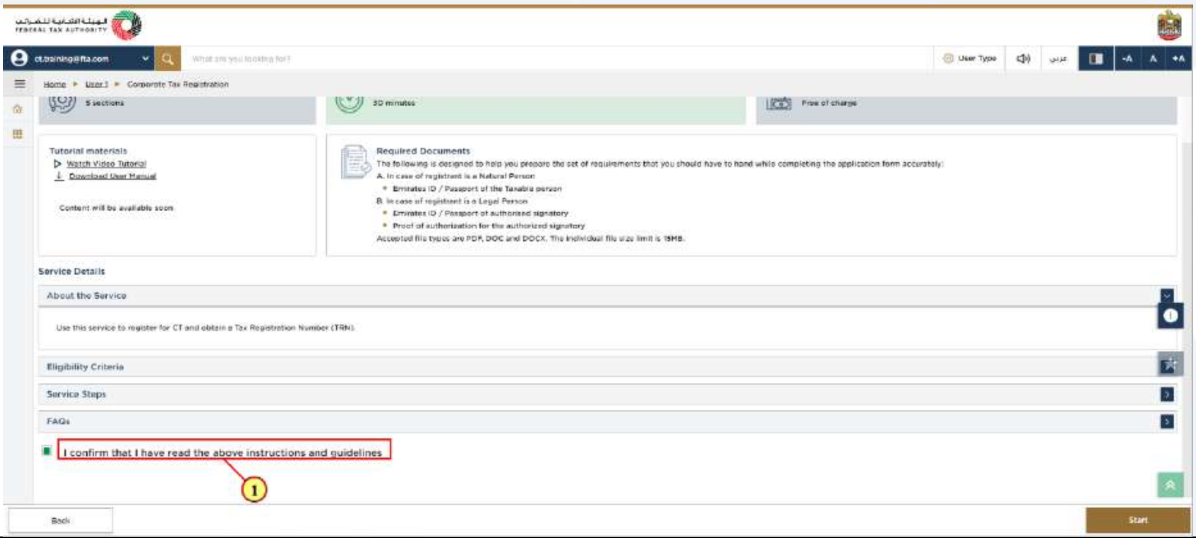


Step	Action
(1)	Click '**Register'** on the Corporate Tax tile within the Taxable Person Dashboard to initiate the Corporate Tax registration application.

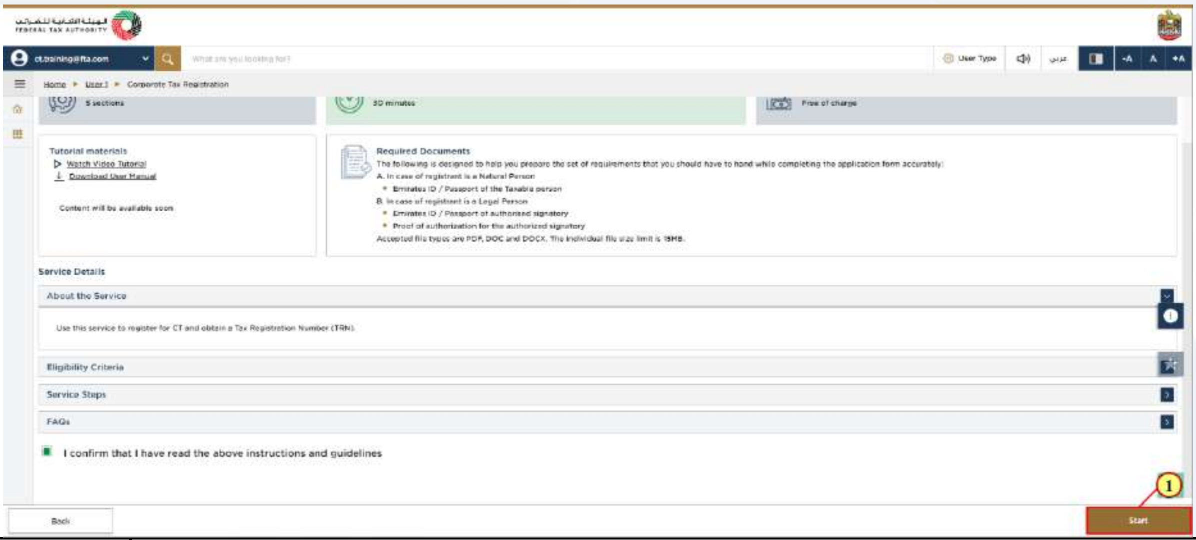
Instructions and Guidelines



	The **'instructions and guidelines'** page is designed to help you understand certain important requirements relating to Corporate Tax Registration in the UAE. It also provides guidance on what information you should have in hand when you are completing the registration application.

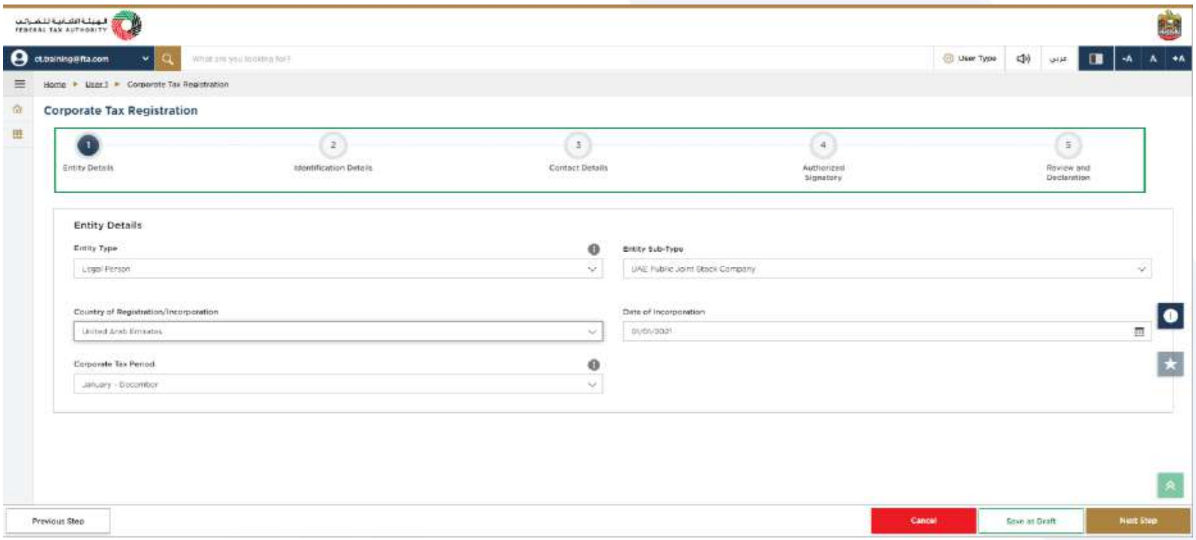


Step	Action
(1)	A screen will appear with instructions and guidelines. Read the instructions and guidelines for Corporate Tax Registration and mark the checkbox to confirm.

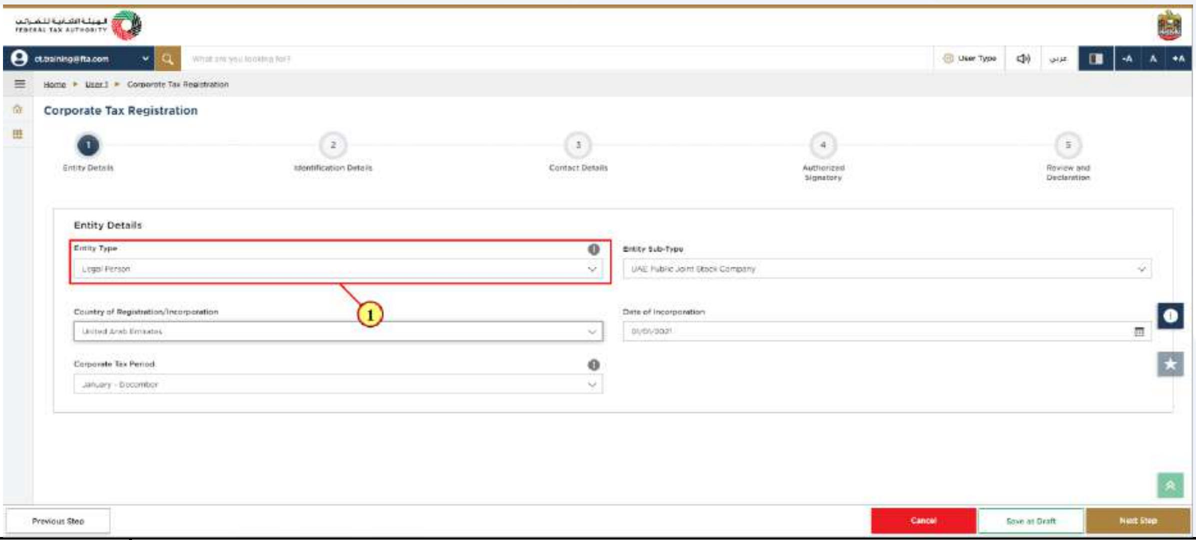


Step	Action
(1)	Click ‘**Start’** to initiate the Corporate Tax Registration application.

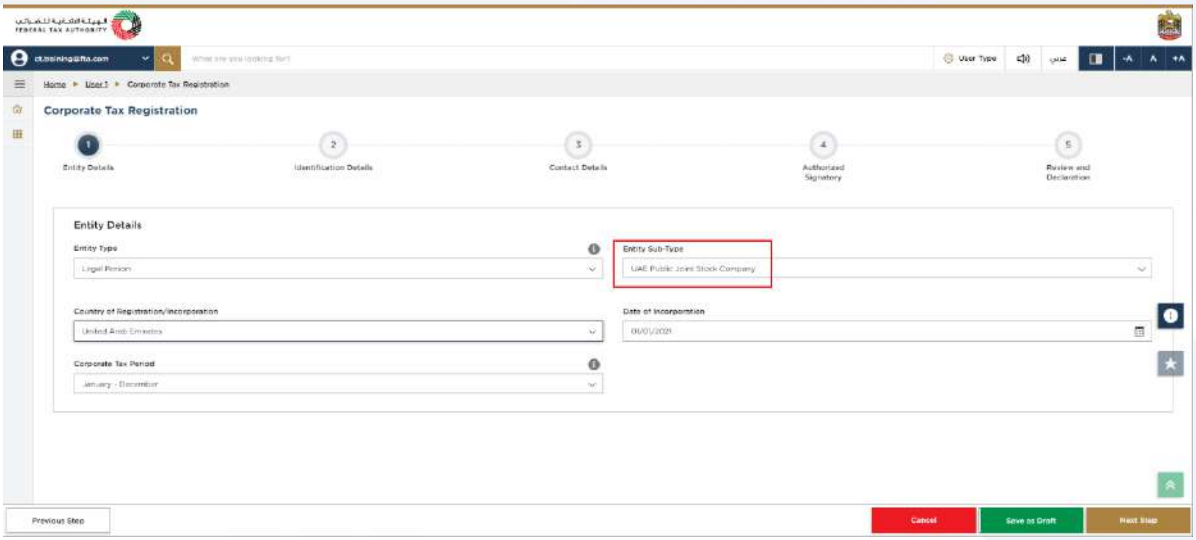
Entity Details Section



- The registration application has been divided into five short sections, each section being represented in the progress bar. The current section will get highlighted in blue color on the progress bar. As you move to the next steps, the completed sections will get highlighted in green color.
- In order to move from one section to the next, all mandatory fields of the current section must be entered. The fields which are optional are marked as optional next to the field name.
- You are requested to ensure that the documents submitted, supports the information entered by you in the application. This would help to avoid any rejection or resubmission of the application later.

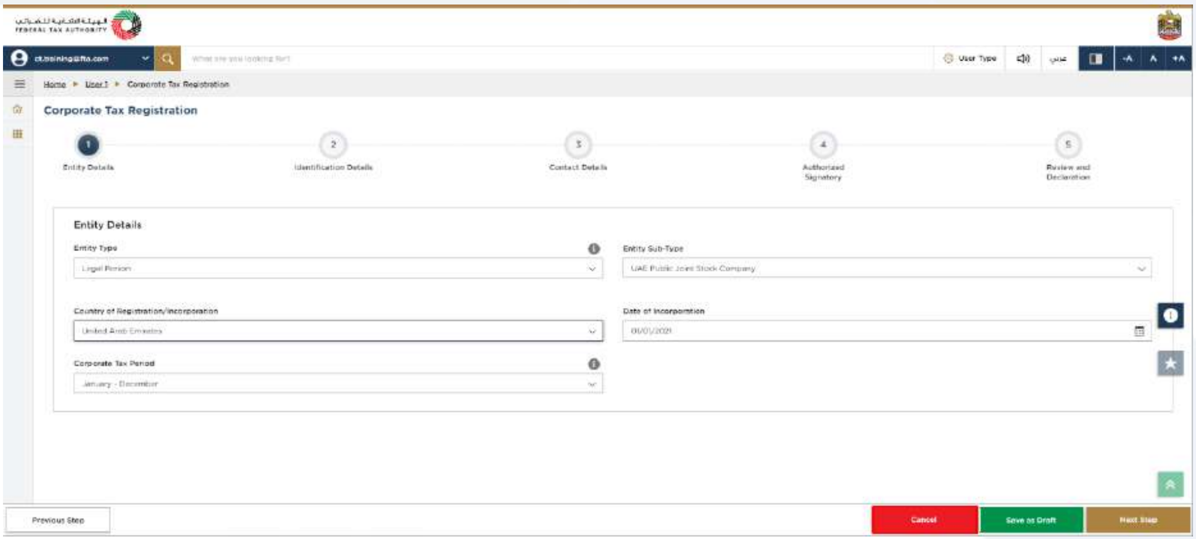


Step	Action
(1)	Select the Entity Type of your business from the list in the entity details section. Note that the input fields in this section may vary based on the entity type selected.

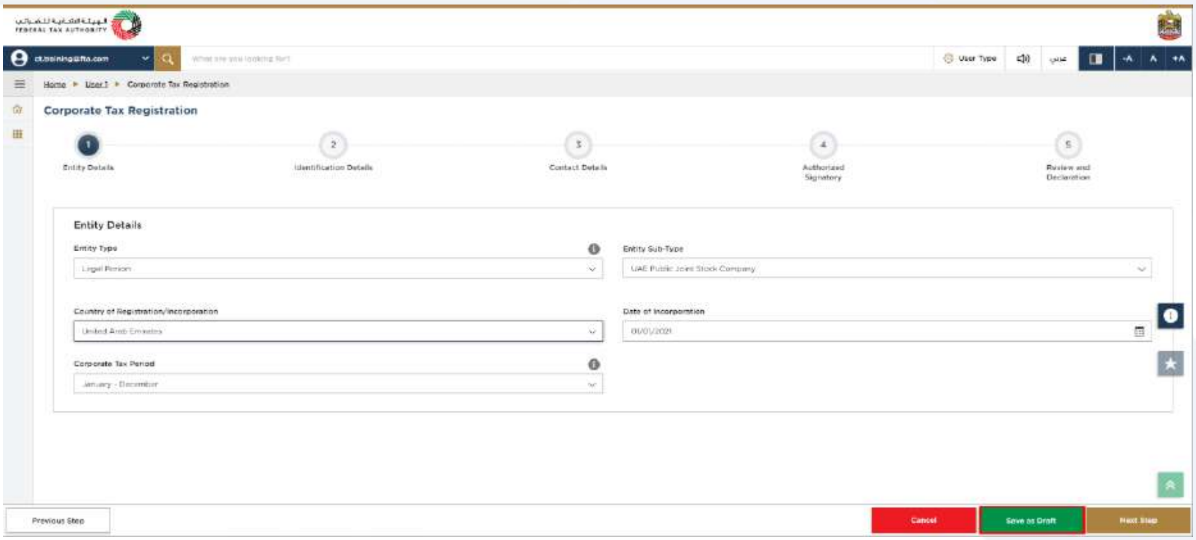


You will be able to see the following entity subtypes

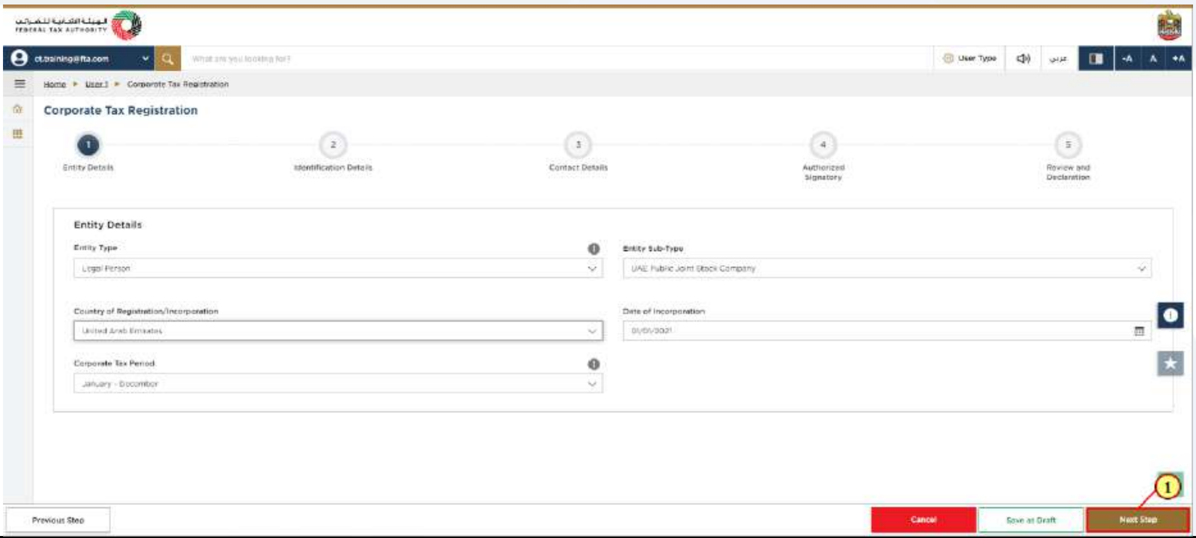
- UAE Public Joint Stock Company
- UAE Private Company (incl.an Establishment)
- UAE Partnership
- Foreign Company
- Foreign Partnership
- Club or Association or Society
- Trust
- Charity
- Foundation
- Federal Government Entity
- Emirate Government Entity
- Other



	You can cancel the application at any step by clicking the **'Cancel'** button.



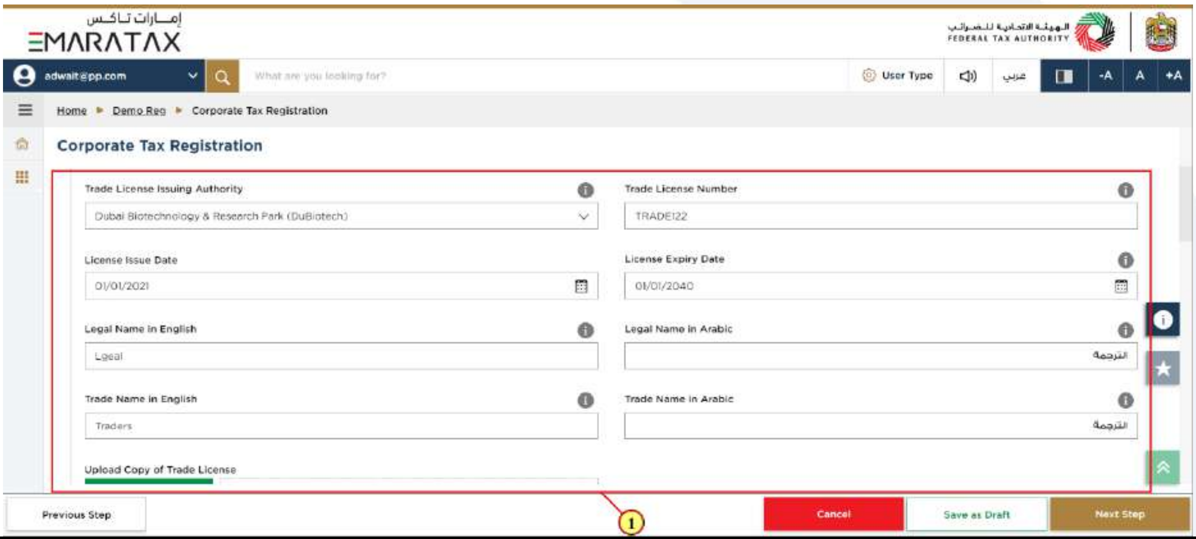
You may click on '**Save as Draft**' to save your application and return to continue working on your application later.



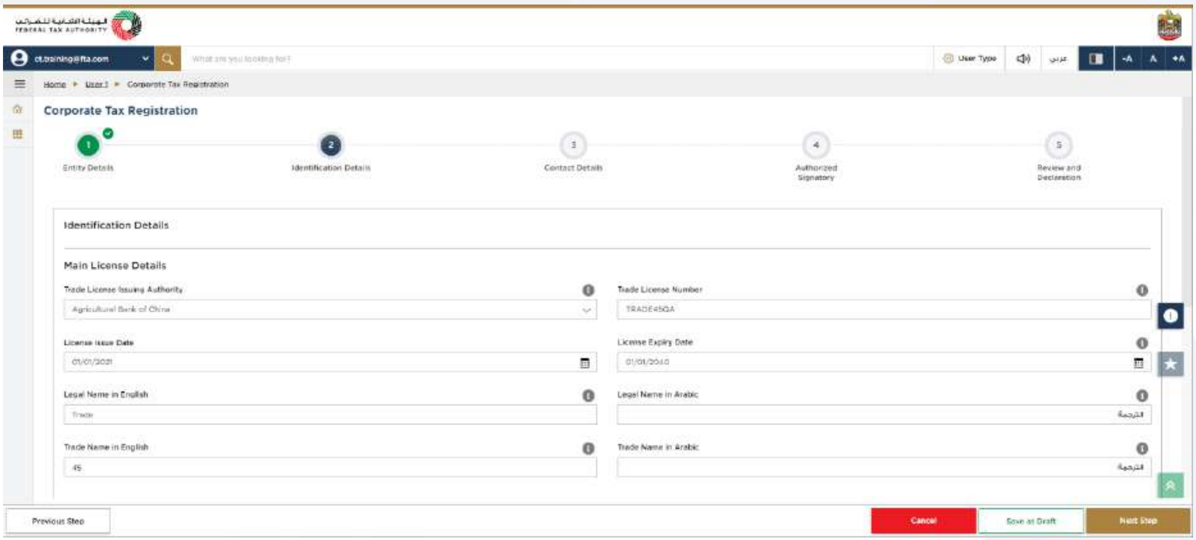
Step	Action
(1)	After completing all the mandatory fields, click **'Next Step'** to save and proceed to the 'Identification Details' section.

Identification Details

Main License Details

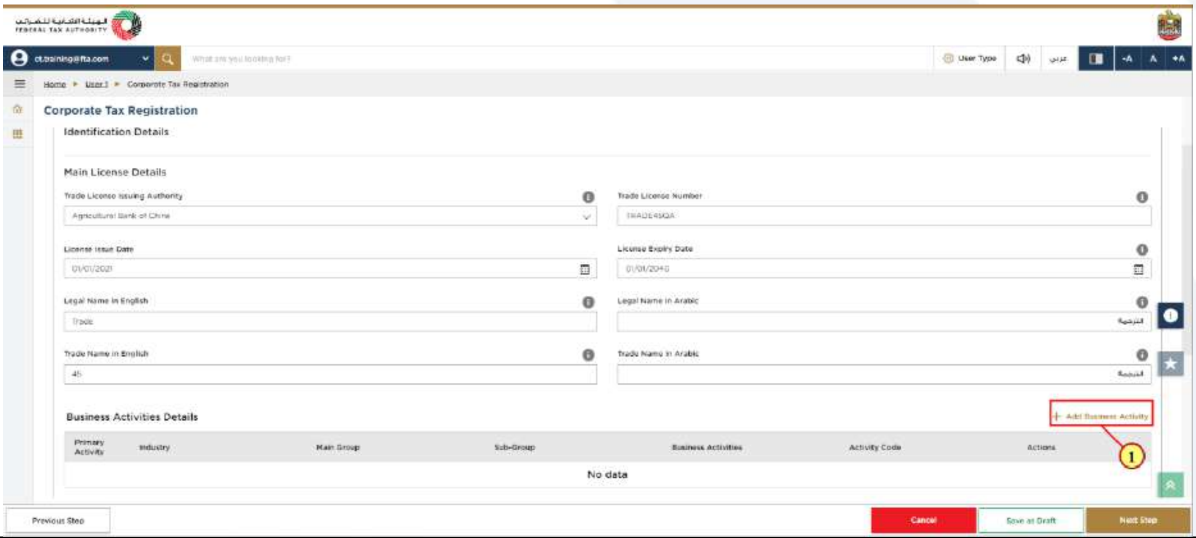


Step	Action
(1)	Depending on the ‘Entity Type’ selected, you are required to provide the main trade license details in the identification details section.

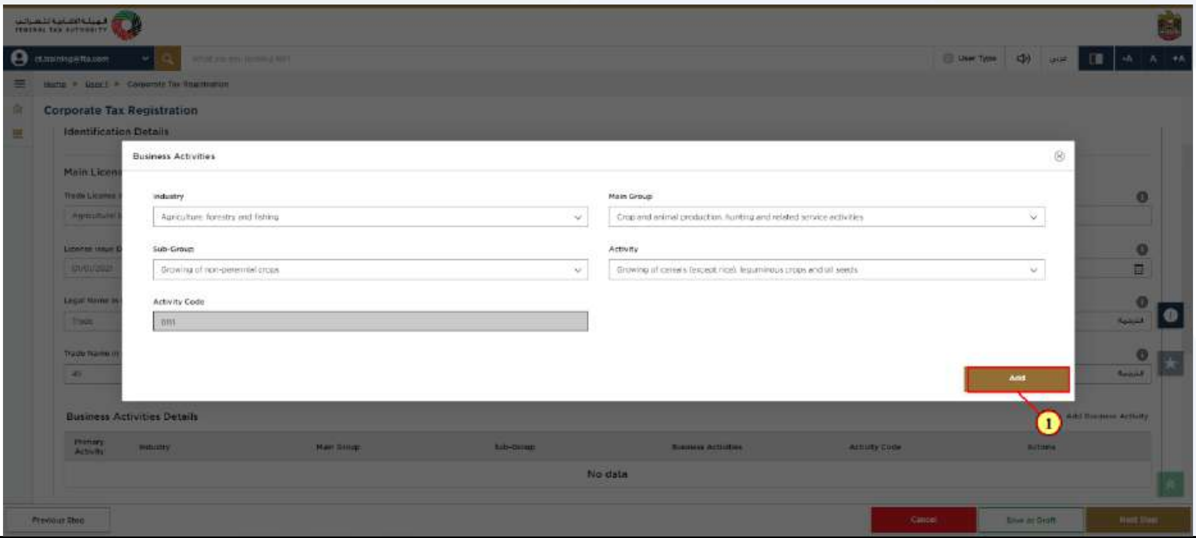


	Trade License is not applicable for the below entity subtypes: • Natural Person - Partnership or Heir • Legal Person - Foreign Business • Legal Person - Federal UAE Govt. Entity • Legal Person - Emirate UAE Govt. Entity

Business Activities

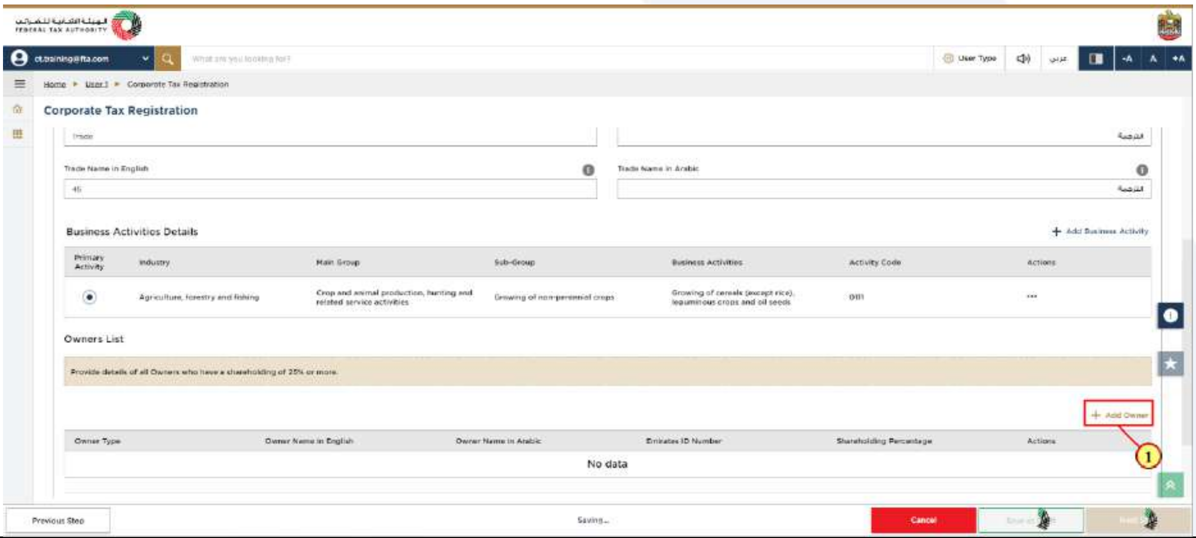


Step	Action
(1)	Click on '**Add Business Activity**' to enter all the business activity information associated to the trade license.

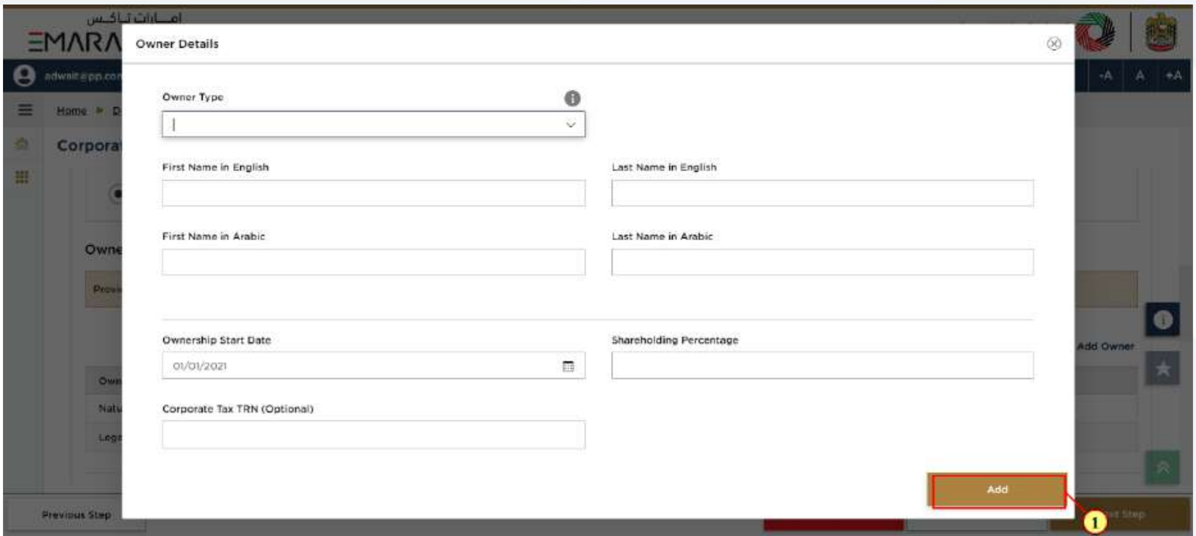


Step	Action
(1)	Enter the mandatory business activity information and click on **'Add'**. The Activity Code will get populated in the screen.

Owner Details

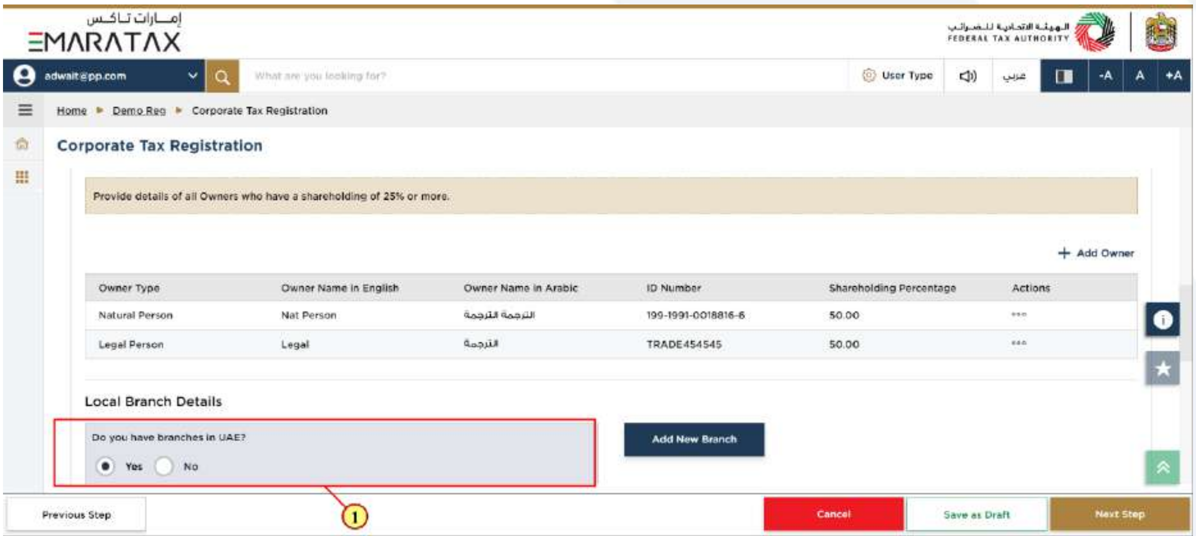


Step	Action
(1)	Click on **'Add Owner'** to enter all the owners' associated to the trade license.

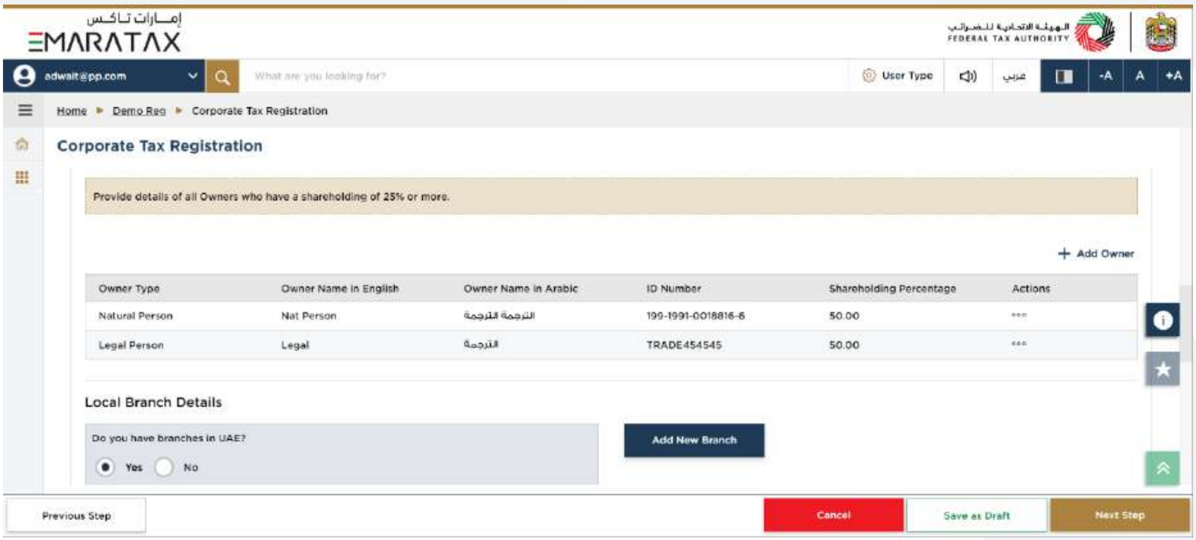


Step	Action
(1)	Enter the mandatory Owner information and click on **Add**. Owner Type can be a 'Legal Person' or a 'Natural Person'.

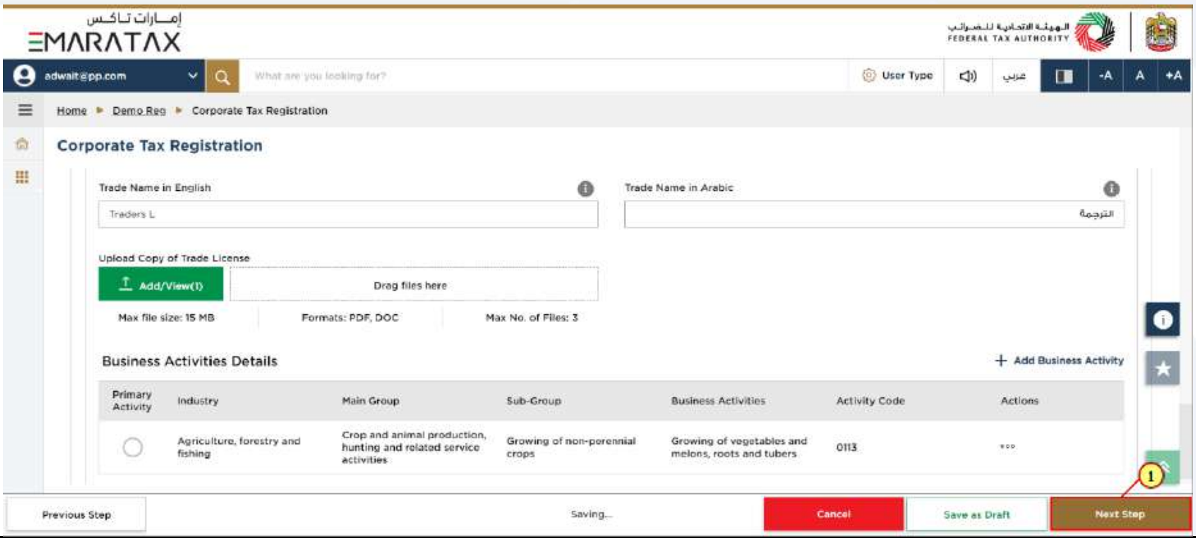
Branch Details



Step	Action
(1)	Select 'Yes', if you have one or more branches, and add the local branch details. For each branch, enter the trade license details and associated business activities and owners list.

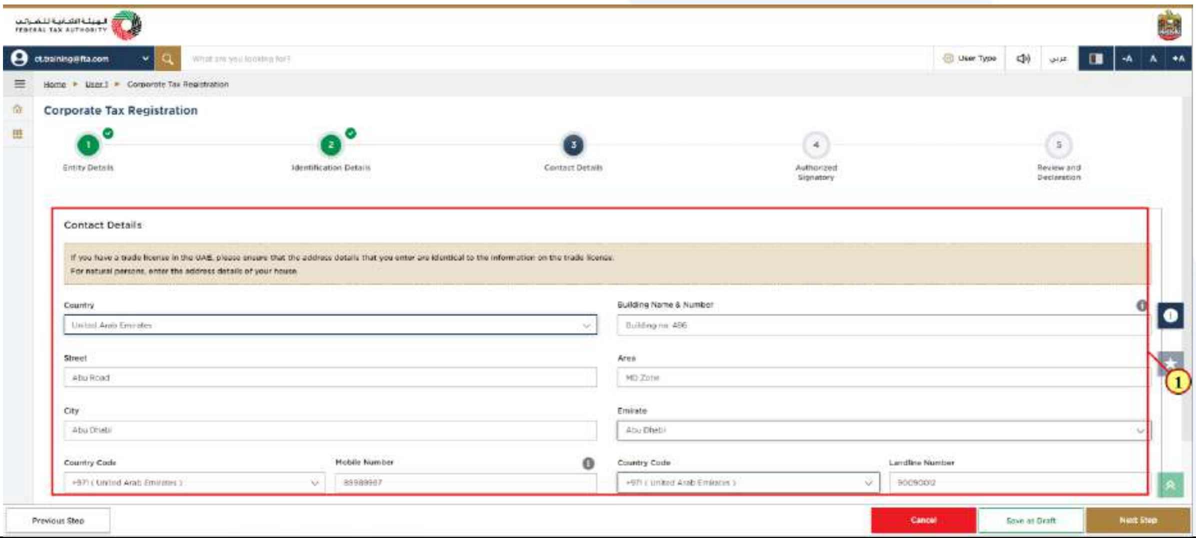


	The registration will be in the name of head office meeting the relevant criteria. Registration will not be performed in the name of Branch. Even if you are operating via branches in more than one Emirate, only one Corporate Tax Registration is required.

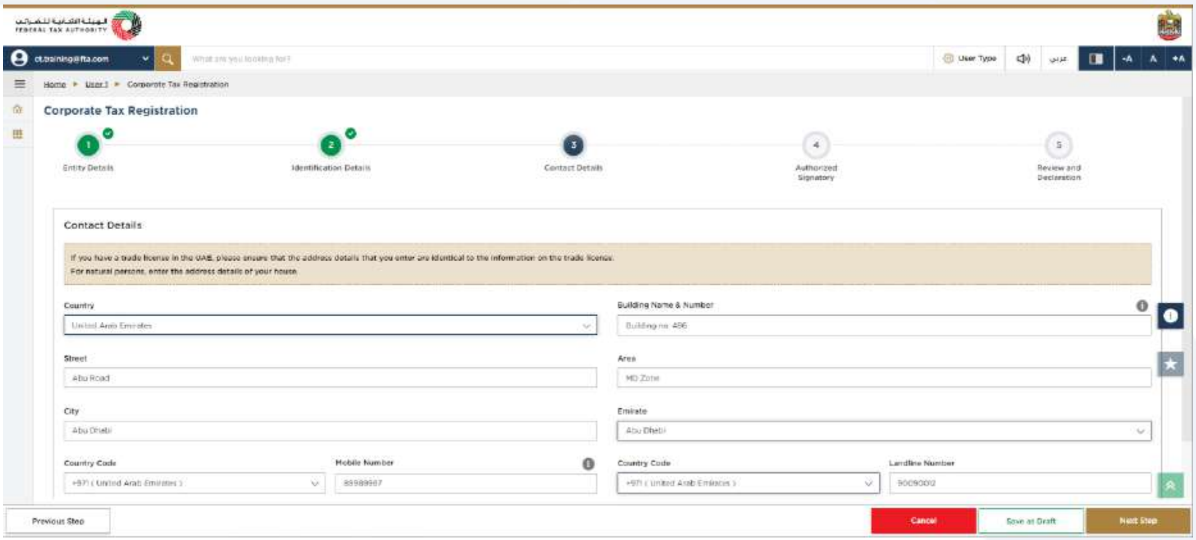


Step	Action
(1)	After completing all mandatory fields, click '**Next Step'** to save and proceed to the 'Contact Details' section

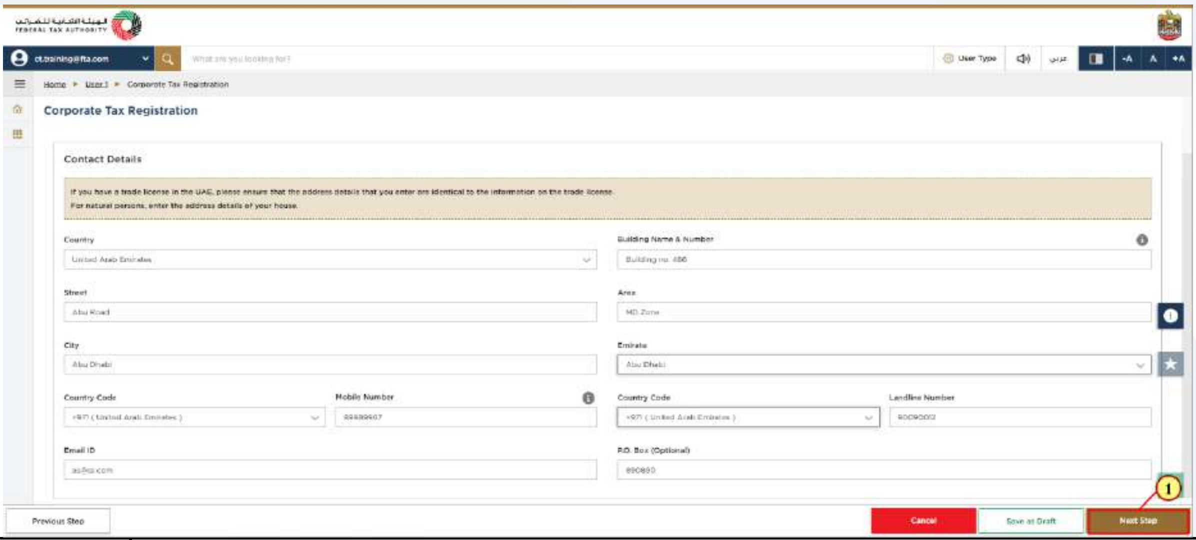
Contact Details



Step	Action
(1)	Enter the registered address details of the business.

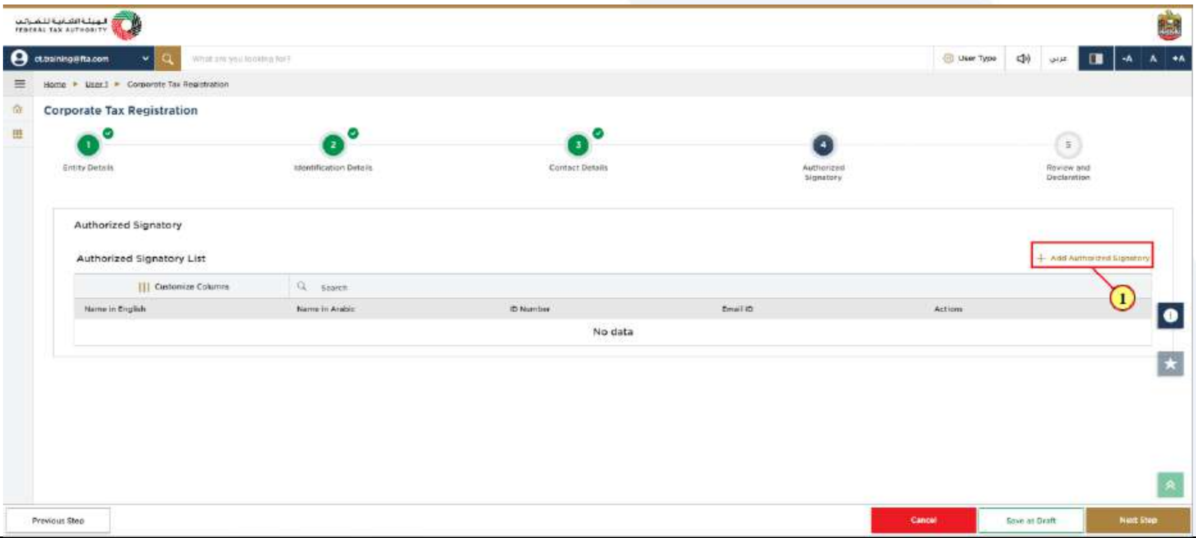


Do not use another Company's address (for example, your accountant). If you have multiple addresses, provide details of the place where most of the day-today activities of the business are carried out.

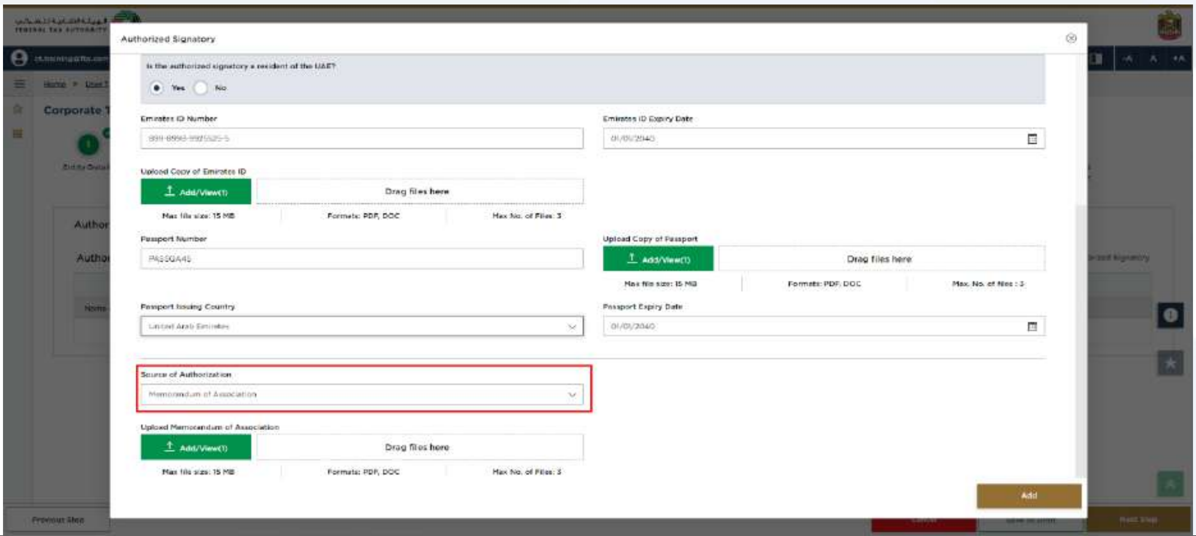


Step	Action
(1)	After completing all mandatory fields, click '**Next Step'** to save and proceed to the 'Authorized Signatory' section.

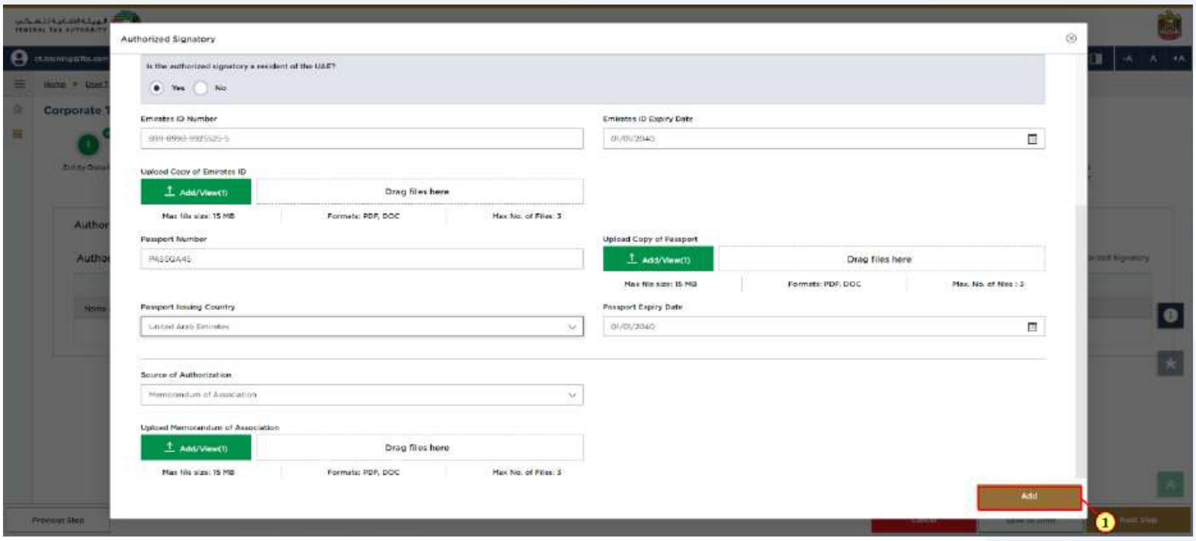
Authorized Signatory



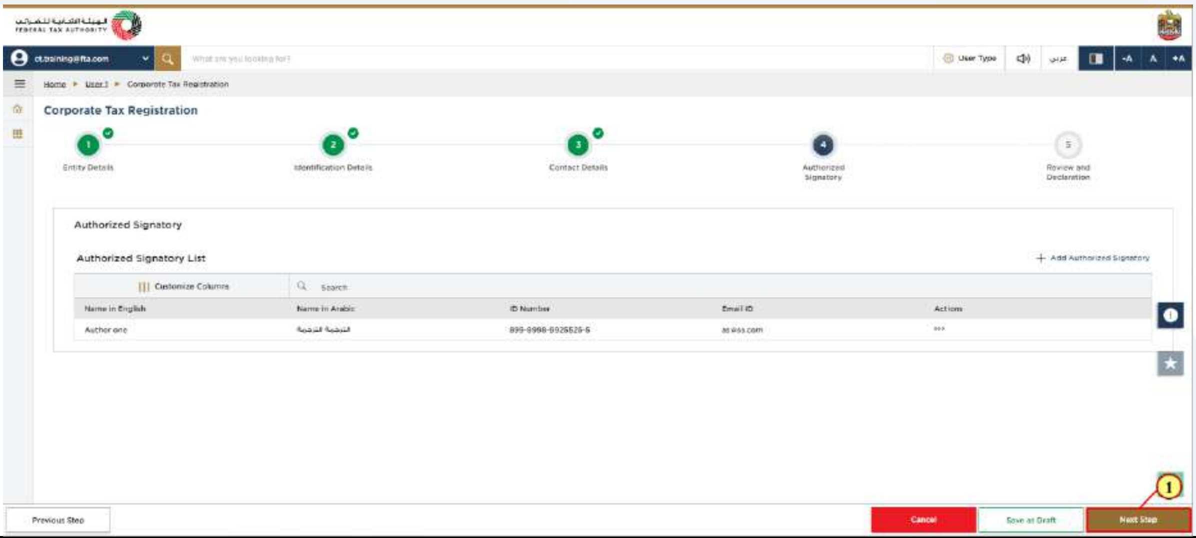
Step	Action
(1)	• Click **'Add Authorized Signatory'** to enter the Authorized Signatory details. • You can add one or more Authorized Signatory, if required.



	Evidence of Authorization may include a Power of Attorney in the case of a Legal Person.

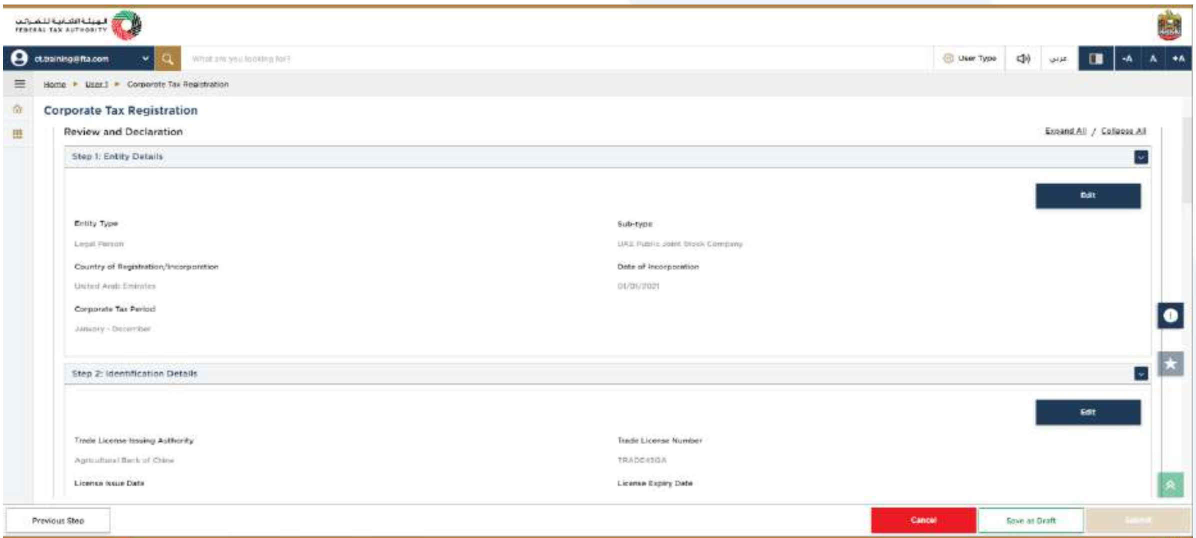


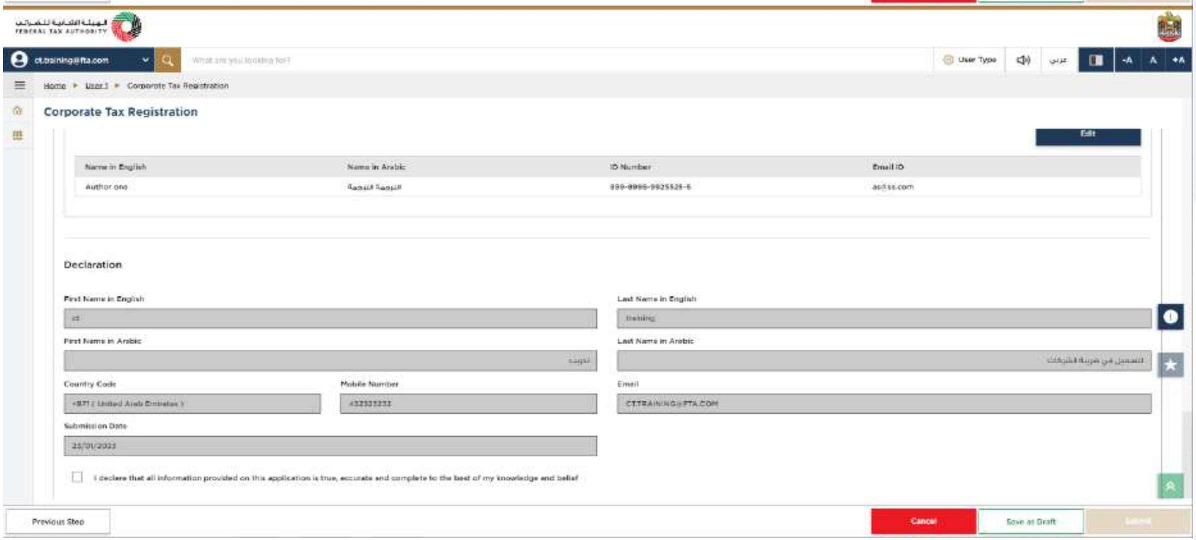
Step	Action
(1)	After completing all mandatory fields, click **'Add'**.



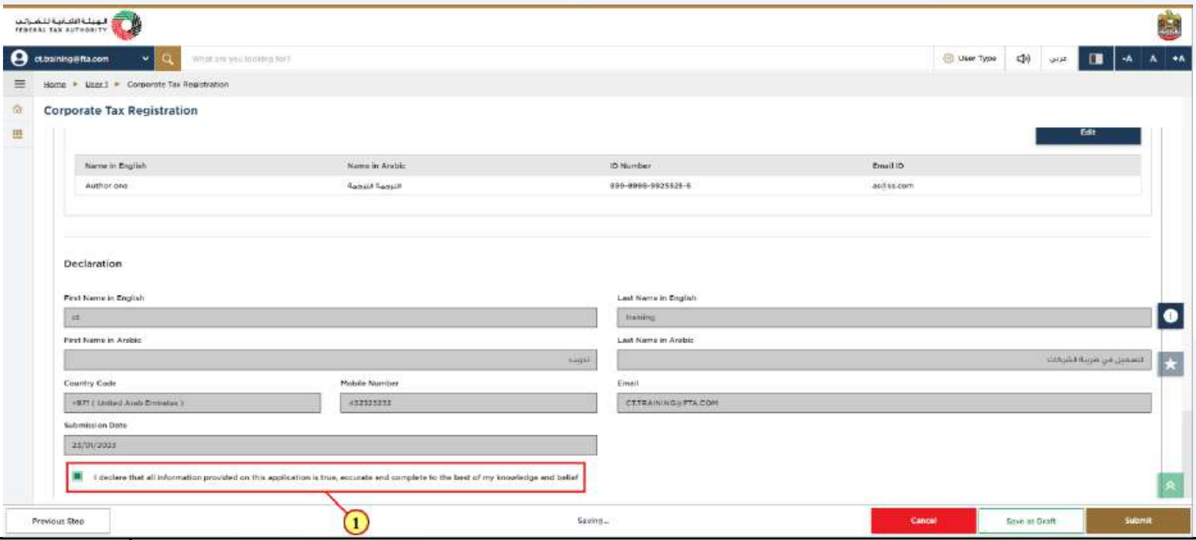
Step	Action
(1)	After completing all mandatory fields, click ‘**Next Step’** to save and proceed to the 'Review and Declaration' section.

Review and Declaration

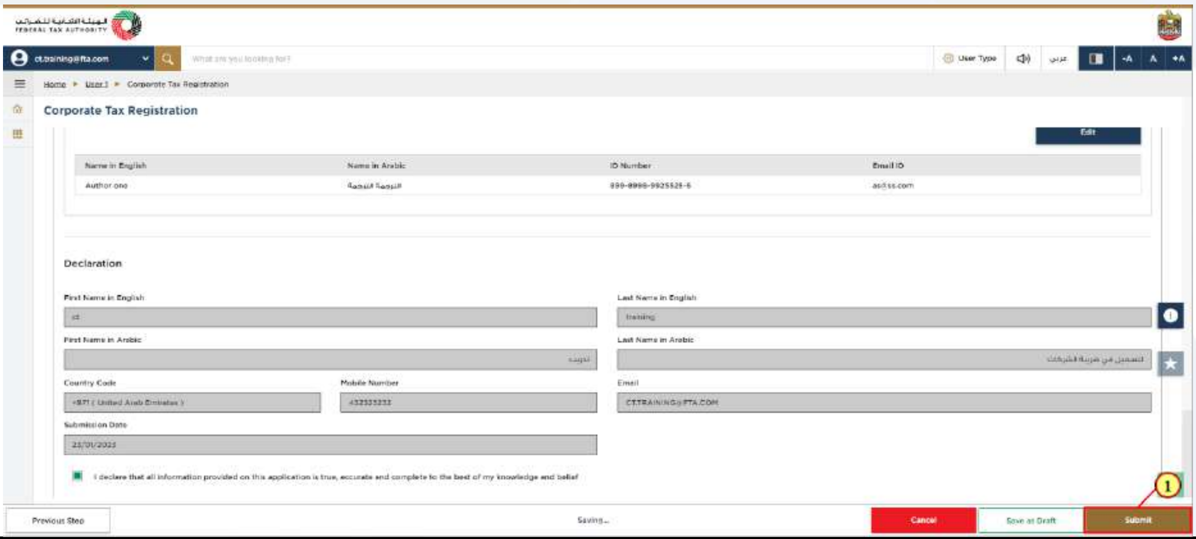




	This section highlights all the details entered by you across the application. You are required to review and submit the application.

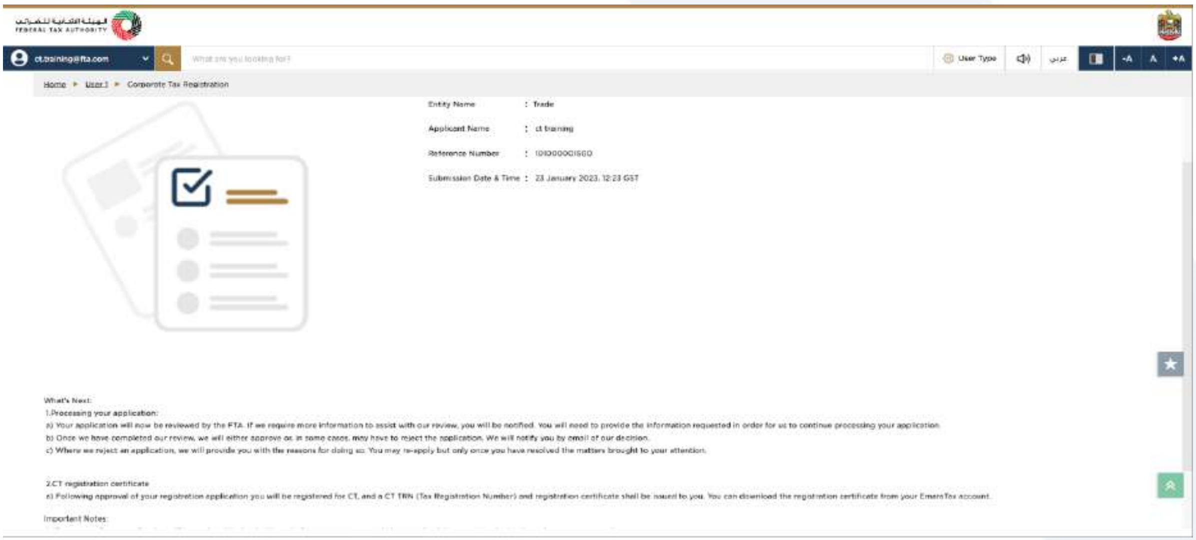


Step	Action
(1)	After carefully reviewing all of the information entered on the application, mark the checkbox to declare the correctness of the information provided in the application.



Step	Action
(1)	Click ‘**Submit’** to submit the Corporate Tax Registration application.

Post Application Submission



	After your application is submitted successfully, a Reference Number is generated for your submitted application. Note this reference number for future communication with the FTA. What’s next? • Once the application is submitted, the FTA shall approve, reject or resubmit for additional information and notify the applicant accordingly. • If the FTA requires any further details from you in order to assist with the verification of your application, you will receive an email notification setting out the information required from you. • Once the FTA confirms acceptance of your application, you will be notified on the decision. • The status of your application in the dashboard will be updated accordingly. You may check your application status in the dashboard from time to time. • Read the “What Next” and “Important Notes”.

Correspondences

Taxpayer receives the following correspondences:

- Application submission acknowledgment.
- Additional information notification (only if the FTA requires more information to assist with their review of your application).
- Application approval or rejection notification.

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

United Arab Emirates

Taxation Residency Certificate (TRC)

User Guide | Registration and Certificates Request

June 2022

الـهـيـئـة الاتحـاديـة لـلـضـرائـب
FEDERAL TAX AUTHORITY

1. Brief overview of this user guide

This guide is prepared to help you navigate through the Federal Tax Authority (FTA) Taxation Residency Certificate website and successfully complete your registration form as well as to avoid double taxation and combat tax evasion in cooperation with the concerned entities inside and outside the state. It is designed to help you

- **Create a Tax Certificate account** with the FTA;
- **Understand the icons and symbols** you might see as you complete the registration form.
- Generate two types of certificate namely :-
  - **Tax Residency Certificate**
  - **Certificates of Commercial Activities**

If you need help setting up your Tax Certificate account, or have questions on specific fields in the Tax Certificate registration form, please contact us.

✉ info@tax.gov.ae
✆ 600599994

2. Creating and using your Tax Certificate account

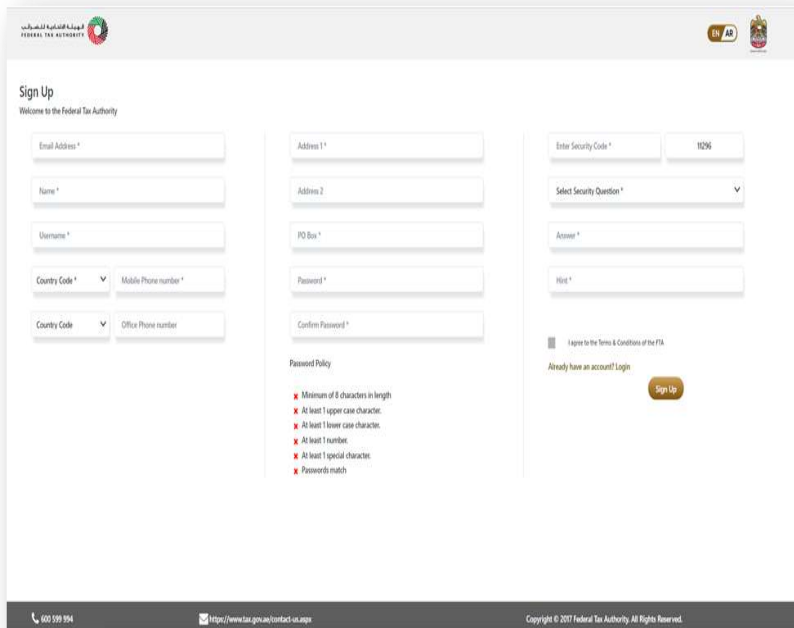
2.1 Create a Tax Certificate account (new users)

2.1.1 **Sign up**

To create an account, the user should simply click on the Create new account to create a new account with FTA.

The user will be re-directed into the login page by entering https://trc.tax.gov.ae/TRC_Th/ Link.

User will be navigated to the below screen for creating a new account.



User has to enter the following details for creating a new account,

- Email Address
- Name
- Username
- Country Code
- Address
- PO Box
- Password
- Confirm Password
- Security code
- Security Answer
- Answer Hint

Password and Confirm password should have the following criteria's,

- Password should be minimum of 8 characters
- Password should have at least one uppercase character
- Password should have at least one lowercase character
- Password should have at least one number
- Password should have at least special character

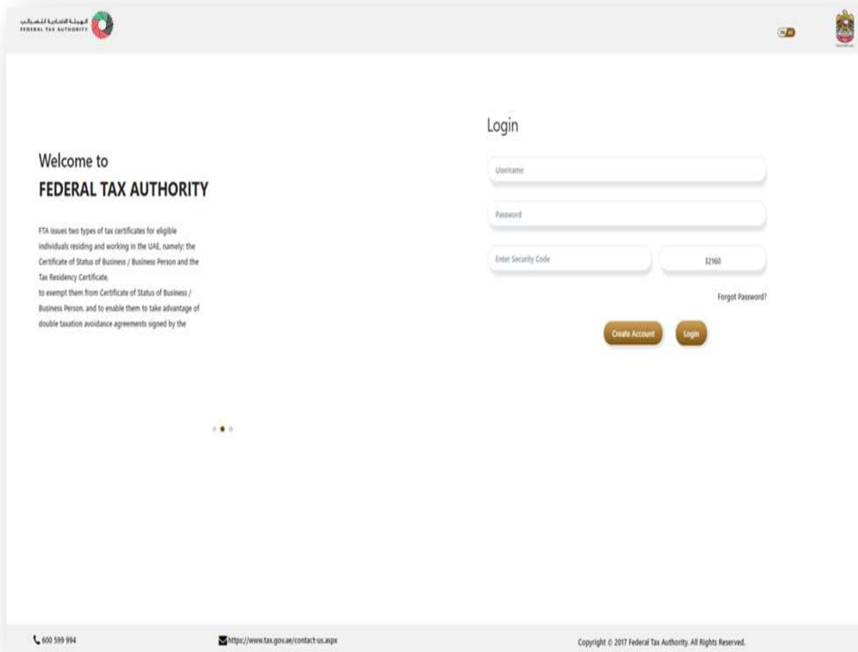
2.1.2 **Login**

- TRC user will be re-directed into the login page entering **https://trc.tax.gov.ae/TRC_Th/** Link. Which require username and password to login.

- If TRC user does not have account. He can register a new one by clicking on “Create account”

- In case TRC user forgot the password, then user can click on “Forgot Password” to change the password.

- The TRC user can change the password, by clicking on “Forgot Password” to change the password.



2.1.3 **User Main Page Dashboard**

- When successfully login, FTA user can see the previously submitted request.
- The user will be displayed with the following status for the submitted request,
    - **Draft** (means the form has not been completed or submitted by the Applicant)
    - **Draft – Awaiting Payment** (the user initiates payment but it did not go through. If it stayed for more than 30 minutes, please contact FTA to support)
    - **Pending** (Submitted and waiting for approval. To be processed within 3 Days)
    - **Returned** (Request has been returned, requesting for more information)
    - **Payment pending** (Request has been approved and User has to pay the balance fee to download the certificate)
    - **Payment Pending – Transaction Pending** (the user initiates payment but it did not go through. If it stayed for more than 30 minutes, please contact FTA to support)
    - **Issued** (the process is completed and the certificate has been issued)
    - **Waiting to Print** (the payment is completed, the soft copy of the certificate has been issued and FTA to issue a hard copy of the certificate. To be delivered within 7 business days from the date the payment is completed)
    - **Rejected** (Request has been rejected by FTA)

- User can create a new Tax Certificate request
- User can Review payment history

3. Tax Residency Certificate

3.1 Background

Public and private companies, investment firms, air transport firms and other companies operating in the UAE, as well as other types of UAE residents, may benefit from Avoidance of Double Taxation Agreements ("DTA").
An updated list of DTAs can be found on the Ministry of Finance's website at
https://www.mof.gov.ae/en/strategicpartnerships/doubletaxtionagreements/pages/doubletaxtion.aspx

In order to benefit from a DTA, a person generally requires to provide a TRC to prove that the person is resident in another country and subject to tax in that country. The TRC is a certificate issued for eligible government entities, companies and individuals to take advantage of agreements of double taxation avoidance on income to which the UAE is a signatory.

3.2 Eligibility Criteria

Natural persons

The applicant must have been a resident of the UAE for at least 180 days. Also an annual lease agreement officially documented by the competent authorities, such as EJARI in Dubai, municipalities in other Emirates and free zone authorities must be attached to the application.

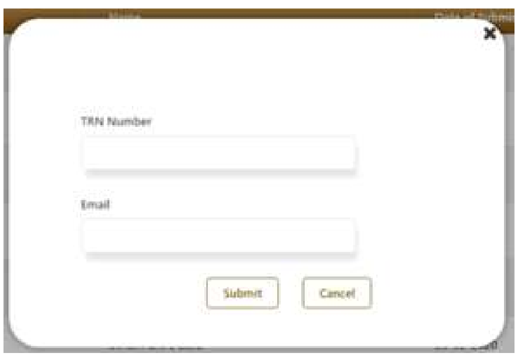
Legal persons

In order to be eligible to apply for a TRC, the legal person must have been established for a period of at least one year. Financial accounts must be audited or prepared by an accredited audit firm and attached with other required documents to the application. The report must be certified and stamped by the audit firm. The audited financial report to be attached to the application must cover the year for which the certificate is requested. If the certificate is requested for the present year, the audit report must be covering the past year.

* **Note:** Offshore companies are not allowed to apply for the service because they are not listed in the Double Taxation Avoidance agreements.

3.3 Applying for TRC

- When User click on “Create Tax Residency Certificate” from the dashboard, a pop-up will be displayed. User will be asked whether they are already registered Tax Payer with “Yes” or “No” option.[1]
- If User is not a registered Taxpayer in eServices then, they can click on “No” to proceed with the request.
- If User clicks on “Yes” then, they should enter the TRN Number and Email registered in eServices for eServices account verification.
- If the User is registered as Tax Group, and one of the members wants to apply for Tax Certificate, the User should enter the Member’s TRN/TIN and email address.
- If the entered details are matching with eServices then User will be navigated to request page for applying the certificate.
- If the entered details are not matching with eServices then User will be navigated to request page for applying the certificate and will be considered as **<u>non-registered</u>**.



(1) Certificate fees will be changed based on Cabinet Decision No. 65 of 2020 On Fees for the Services Provided by the Federal Tax Authority

3.3.1 Applying for Natural Person

- In order to apply for the TRC for Natural Person, the User should select “Natural Person” under “Certificate is for”
- The Applicant will be asked to select the Country which the Certificate is applied for from the drop-down list.
- Select the Start Date of required Financial Year which will be reflected in the Certificate (e.g. if the applicant selects 01-01-2018, the certificate will be valid from 01-01-2018 to 31-12-2018)
- The following documents are required for individual TRC applications:
  - Passport Copy
  - UAE Residence Visa Copy
  - Emirates ID Copy
  - A certified copy of (residential) lease agreement or Tenancy Contract Copy (an annual lease agreement officially documented by the competent authorities, such as EJARI in Dubai, municipalities in other Emirates and free zone authorities)
  - Source of income (e.g. Salary Certificate, Trade License etc)
  - Validated bank statements for 6 months from a local UAE Bank.
  - A report from the General Directorate of Residency and Foreigners Affairs or Federal Authority for Identity and Citizenship (ICA) specifying the number of days the resident has stayed in the UAE (The applicant must have been a resident of the UAE for at least 180 days).
  - Tax forms (if any) from the country in which the certificate is to be submitted. If the Tax form requires FTA Signature and Stamp, the user is requested to send the original form to FTA via courier with return service. The applicant should fill and sign the fields related to his details and information for FTA to attest the form.

- Please fill all required fields and click “Submit” button to submit the request or “Save as draft” if you need to edit later
- User can click on the Terms & Condition link to read the details.
- When the user clicks on “Submit”, Screen will show the details of the request. Please verify the details as the details will not be editable after completing the approval process.
- All fields marked with a red star (*) are mandatory in order to complete the request.
- Please click on the attachment icon (📎) to attach the required documents. [(1)]

*__Note__: for some countries, only UAE National are eligible to apply for TRC. Therefore, the user might get an ineligibility message when the country and nationality are selected.

(1) When you move cursor into the attachment sign, the required document in this field will be shown

3.3.2 Applying for Legal Person

- In order to apply for the TRC for Legal Person, the User should select “Legal Person” under “Certificate is for”
- The Applicant will be asked to select the Country which the Certificate is applied for from the drop-down list.
- Select the Start Date of required Financial Year which will be reflected in the Certificate (e.g. if the applicant selects 01-01-2018, the certificate will be issued valid from 01-01-2018 to 31-12-2018)
- The following documents are required for individual TRC applications:
  - A copy of the trade license and directors/shareholders' attachment.
  - Establishment contract certified by official authorities (if it is not a Sole Company).
  - A copy of the legal person’s owners/partners/directors' passports
  - A copy of the legal person’s owners/partners/directors' Emirates IDs
  - A copy of the legal person’s owners/partners/directors' permits of residence
  - A certified copy of the audited financial accounts (Financial accounts must be audited or prepared and stamped by an accredited audit firm and must cover the year for which the certificate is requested. If the certificate is requested for the present year, the audit report must be covering the past year).
  - Validated bank statements for 6 months from a local UAE Bank.
  - A certified copy of the lease agreement.
  - Tax forms (if any) from the country in which the certificate is to be submitted. If the Tax form requires FTA Signature and Stamp, the user is requested to send the original form to FTA.

- Please fill all required fields and click “Submit” button to submit the request or “Save as draft” if you need to edit later
- User can click on the Terms & Condition link to read the details
- When the user clicks on “Submit”, Screen will show the details of the request. please verify the details as the details will not be editable after completing the approval process.
- All fields marked with a red star (*) are mandatory in order to complete the request.
- Please click on the attachment icon (📎) to attach the required documents. [(1)]

(1) When you move cursor into the attachment sign, the required document in this field will be shown

4. Certificates of Commercial Activities (CCA)

4.1 Background

A CCA means as a document issued by the FTA based on a request from a VAT registered person to be used to support the recovery of VAT incurred by the registrant in a different country regardless of whether a double tax avoidance agreement exists or not. (1) The CCA therefore provides confirmation of the applicant's VAT registration and that the person is carrying on a business in the UAE or is government entity.

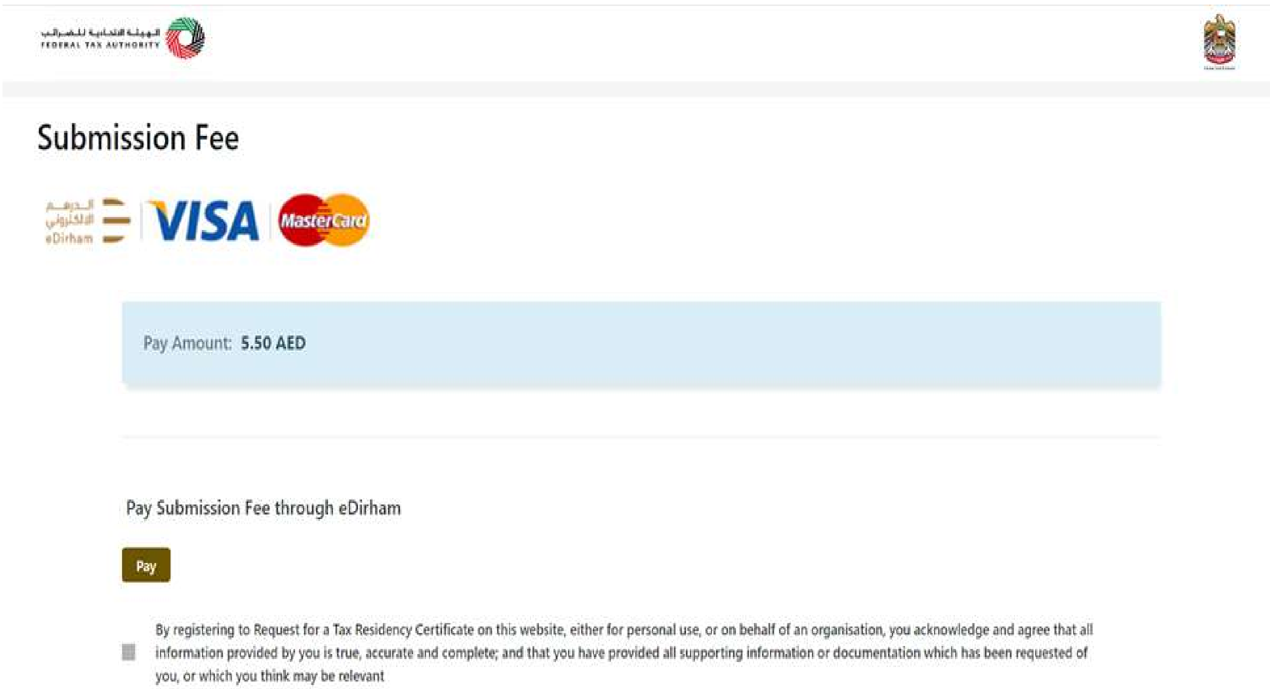
4.2 applying for Certificates of Commercial Activities

- When User click on "Create Commercial Activities Certificate" from the dashboard, a pop-up will be displayed. The applicant must have been registered on VAT and has an active TRN number. The User should enter the TRN Number and Email for eService account verification.
- If the entered details are matching with eServices then User will be navigated to request page for applying the certificate.
- The following documents are required:
  - A copy of the trade license.
  - A copy of the legal person's owners/partners/directors' passports
  - A copy of the legal person's owners/partners/directors' Emirates IDs
  - Requesting letter issued by the company (signed and stamped by the Authorized signatory)
- User can click on the Terms & Condition link to read the details.
- When the user clicks on "Submit", Screen will show the details of the request. please verify the details as the details will not be editable after completing the approval process.
- All fields marked with a red star (*) are mandatory in order to complete the request.
- Please click on the attachment icon (📎) to attach the required documents. (2)

(1) As defined in Article 1 of Cabinet Decision No. 65.
(2) When you move cursor into the attachment sign, the required document in this field will be shown

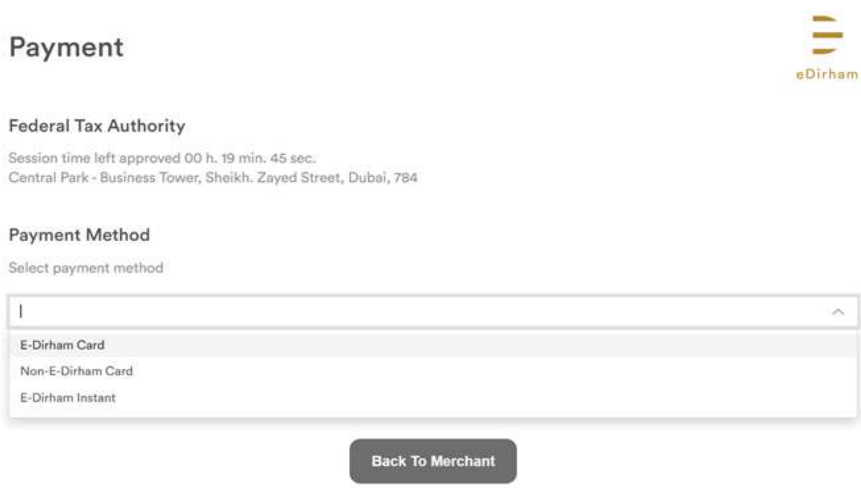
5. Submission Fees

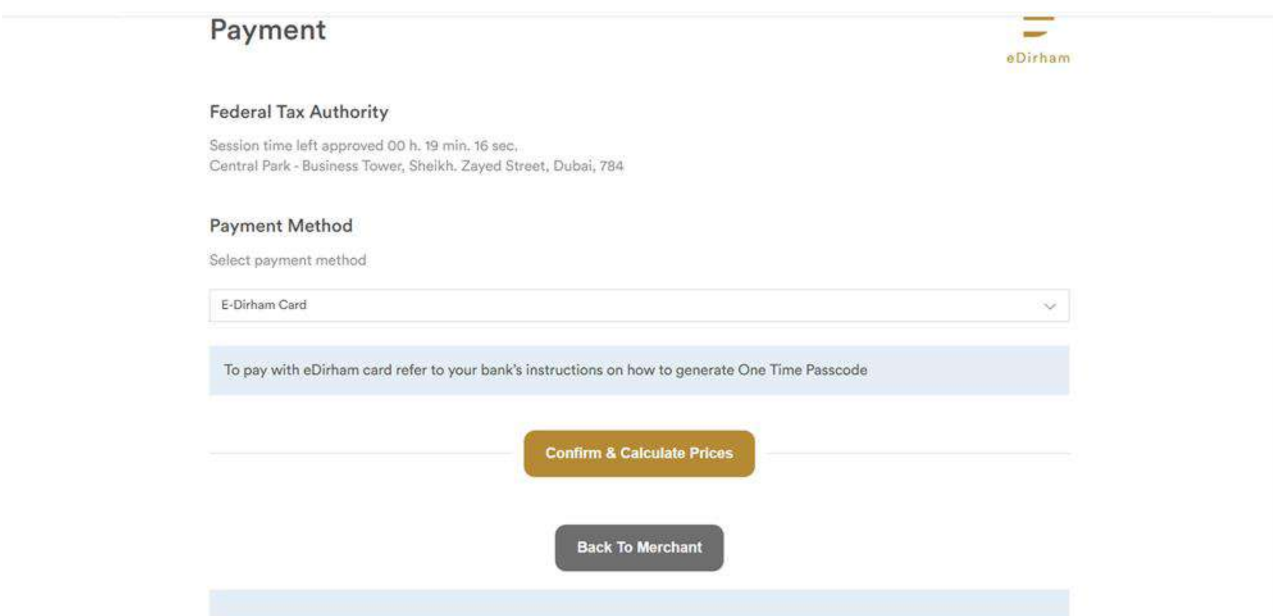
- User will be displayed with the amount that has to be paid for the submission fee.
- User has to select/click on the agreement that clarify about the clearance of the submitted information.
- When User completes filling the form, the user will be navigated into a payment gateway (eDirham) to pay the submission fee.



6. Payment

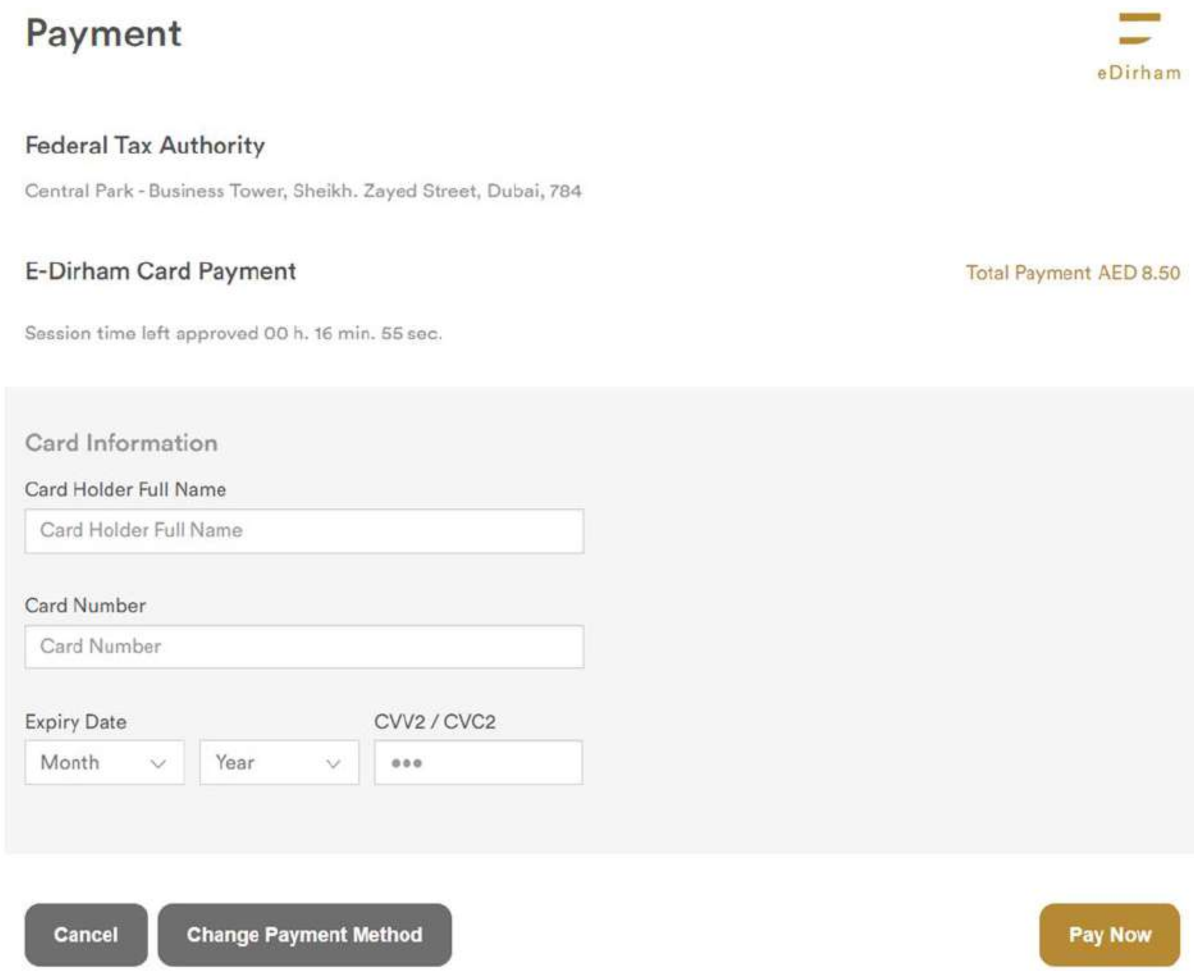
- User Can Choose to pay using either eDirham card or non-eDirham Card
- User has to enter their card details for making payment.





- Once user clicks on “confirm & Calculate Prices, it will show the purchased services details

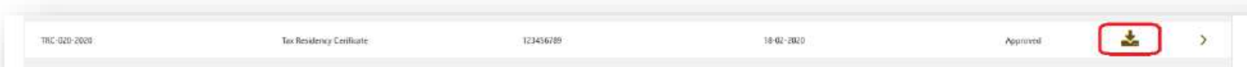
- User needs to insert the card details and click “pay now” to proceed with the payment
    - Card Holder Name
    - Card Number
    - Expiry date
    - CVV2/CVC2



7. Certificate Download

- Once the status is change to Payment Pending User has to pay the balance amount to download the certificate.
- User will be navigated to eDirham payment gateway to pay the balance fee amount.

- Once the User has paid the certificate amount successful, then a download icon will be displayed for the particular request, in which User can click and download the certificate.
- After the successful payment use will be receiving the certificate to their registered email-id.
- User click and download the certificate to their local machines.
- Downloaded certificate will be password protected file and user should enter their password to open and view the certificate.
-
- Password for the downloaded certificate will be the combination of username and their last 4 digit of their mobile number.



8. Logout

- User needs to click on logout to exit the application

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

United Arab Emirates

إمارات تاكس
EMARATAX

Corporate Tax Amend Registration - Taxpayer User Manual

Date: 18 May 2023

Version 4.0.0.0

Document Control Information

Document Version Control

Version No.	Date	Prepared/Reviewed by	Comments
1.0	25-Jan-23	InvenioLSI Team	User Manual for Tax Payer on EmaraTax Portal – Corporate Tax Amend Registration
2.0	24-Mar-23	InvenioLSI Team	Updated Screeshots
3.0	18-Apr-23	InvenioLSI Team	Updated based on PwC Review and CR Changes
4.0	18-May-23	InvenioLSI Team	Updated based on Final PwC/FTA Feedback

Navigating through EmaraTax

The Following Tabs and Buttons are available to help you navigate through this process

Button	Description
In the Portal	
User types	This is used to toggle between various personas within the user profile such as Taxable Person, Tax Agent, Tax Agency, Legal Representative etc
	This is used to enable the Text to Speech feature of the portal
English عربي	This is used to toggle between the English and Arabic versions of the portal
-A A +A	This is used to decrease, reset, and increase the screen resolution of the user interface of the portal
Manage Account	This is used to manage the user profile details such as the Name, Registered Email address, Registered Mobile number, and password
Log Out	This is used to log off from the portal
In the Business Process application	
Previous Step	This is used to go the Previous section of the Input Form
Next Step	This is used to go the Next section of the Input Form

Button	Description
	This is used to save the application as draft, so that it can be completed later
	This menu on the top gives an overview of the various sections within the. All the sections need to be completed in order to submit the application for review. The Current section is highlighted in Blue and the completed sections are highlighted in green with a check

The Federal Tax Authority offers a range of comprehensive and distinguished electronic services in order to provide the opportunity for taxpayers to benefit from these services in the best and simplest ways.

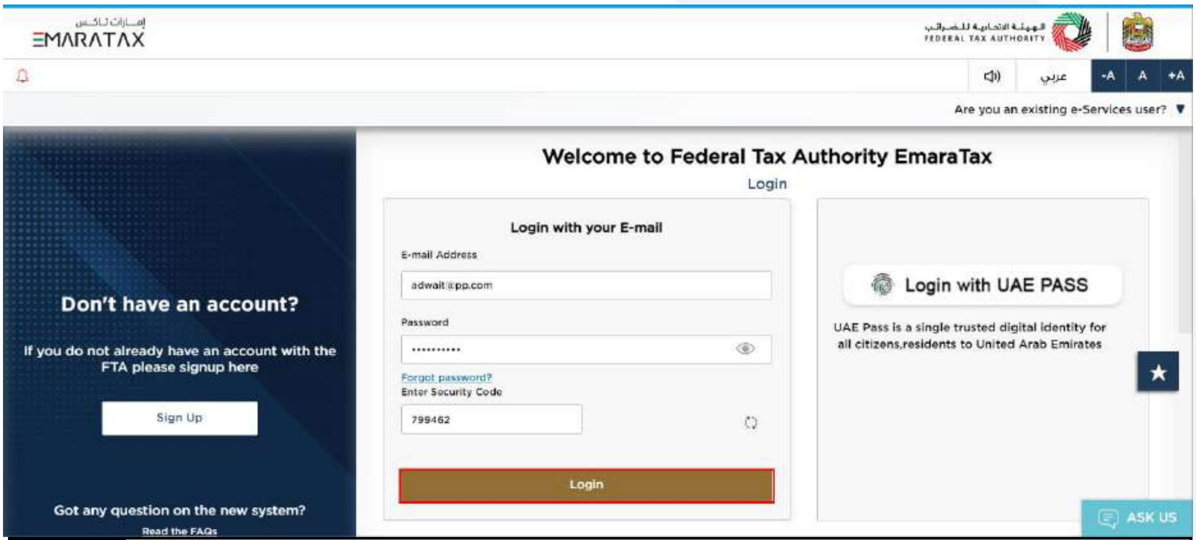
Table of Contents

Introduction

This manual is prepared to help you navigate through the Federal Tax Authority (FTA) EmaraTax portal and Amend your Corporate Tax Registration information. To initiate the amendment, you must already be registered with the FTA and should have a valid TRN. The amendments done to the following sections require approval from the FTA:

- Details of the applicant
- Business activities of the applicant section
- Contact details
- Authorized Signatory

Login to EmaraTax



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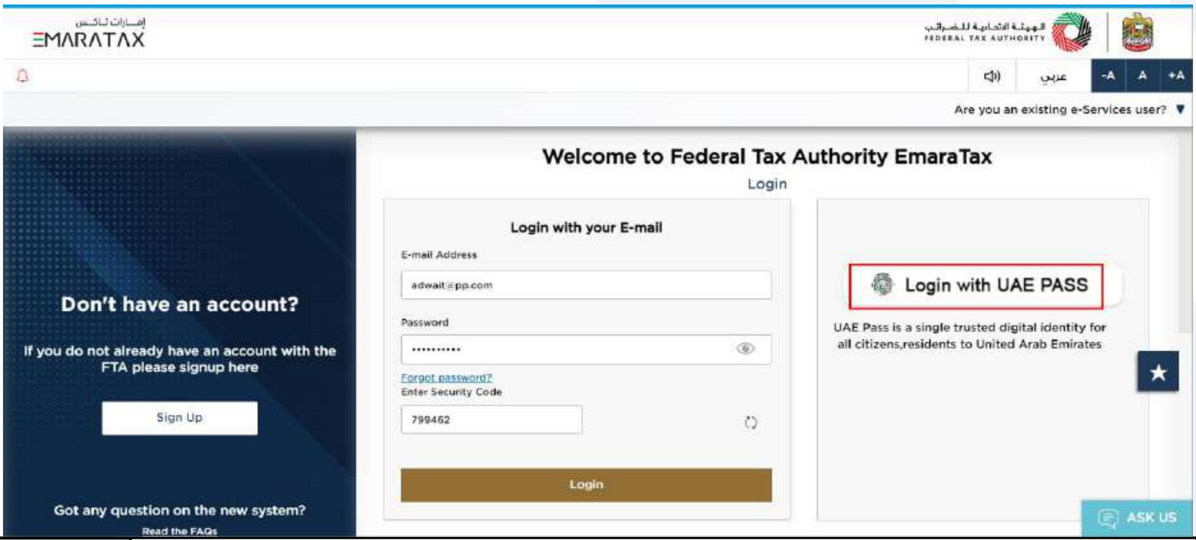
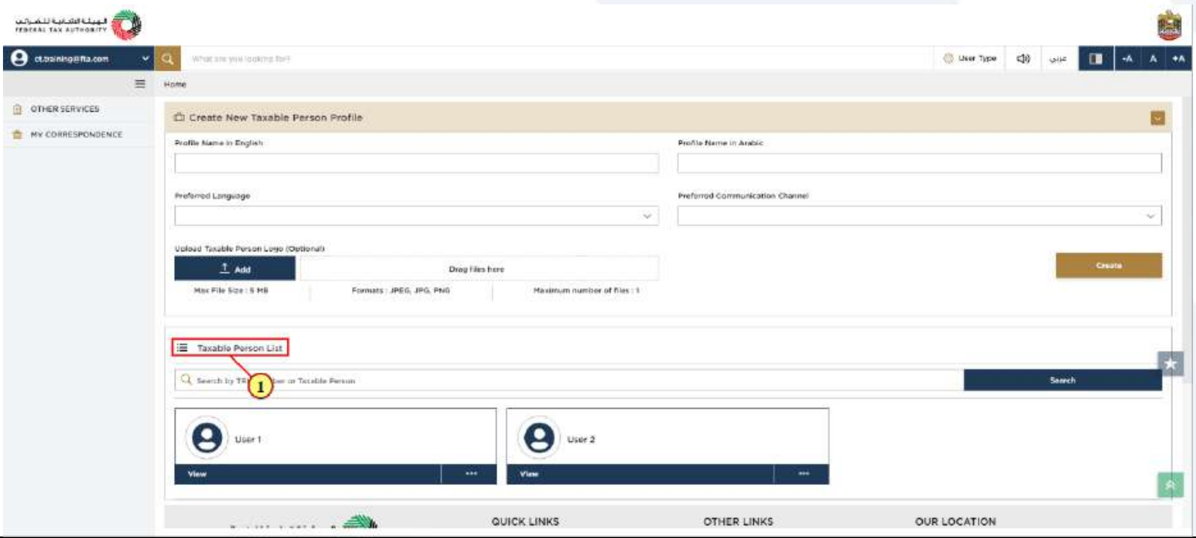
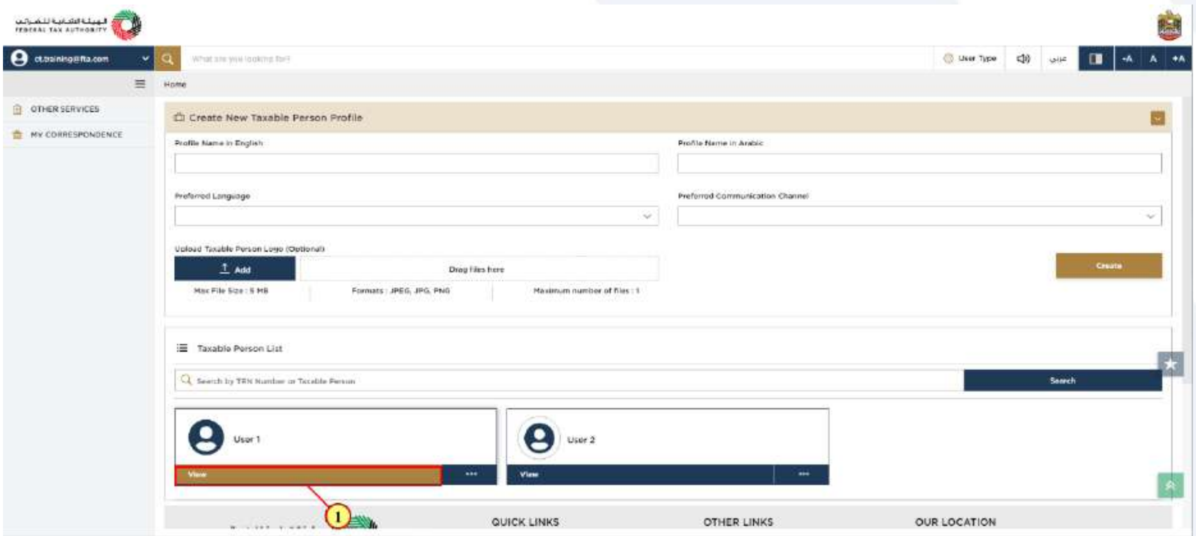


	If you wish to login via UAE Pass, you will be redirected to UAE Pass. On successful UAE Pass login, you will be redirected back to the EmaraTax online user dashboard.

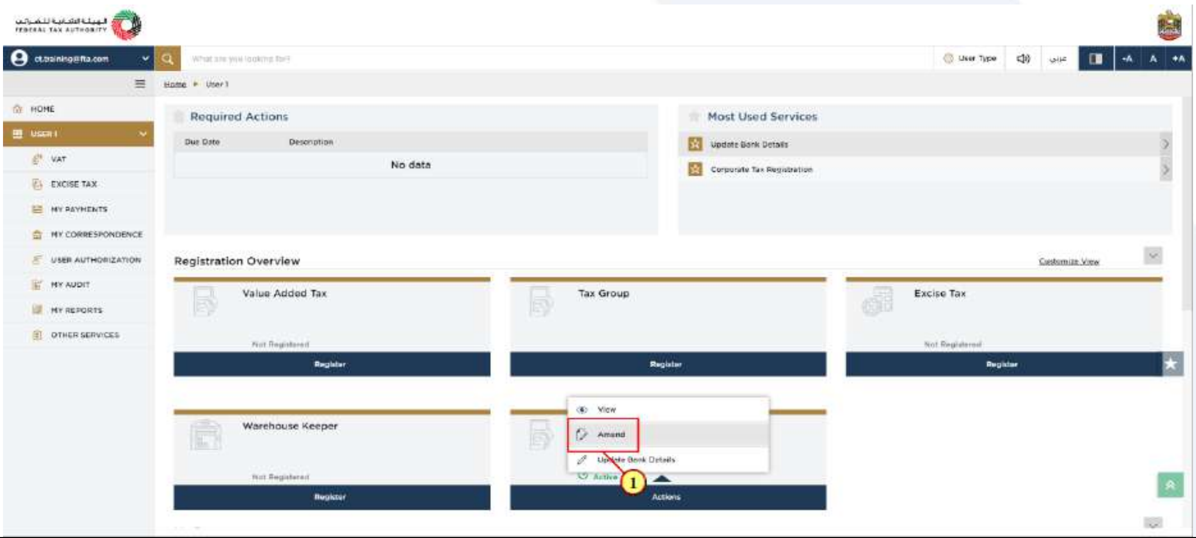


Step	Action
(1)	On successful login, the Taxable Person list screen is displayed. It displays the list of the Taxable Person linked to your EmaraTax user profile.



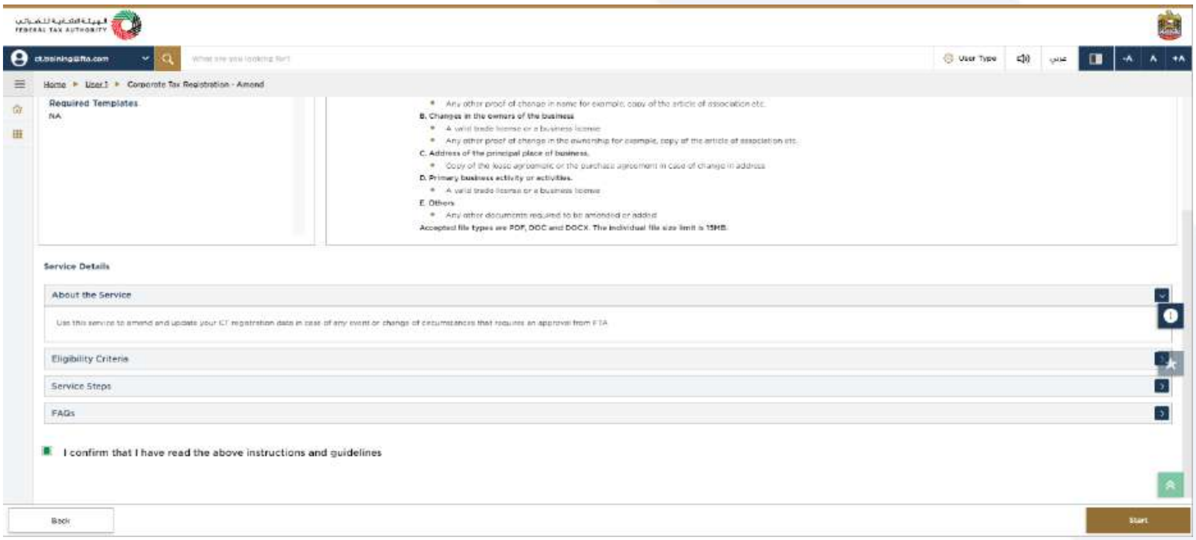
Step	Action
(1)	Select the Taxable Person from the list and click **'View'** to open the dashboard.

Corporate Tax Tile

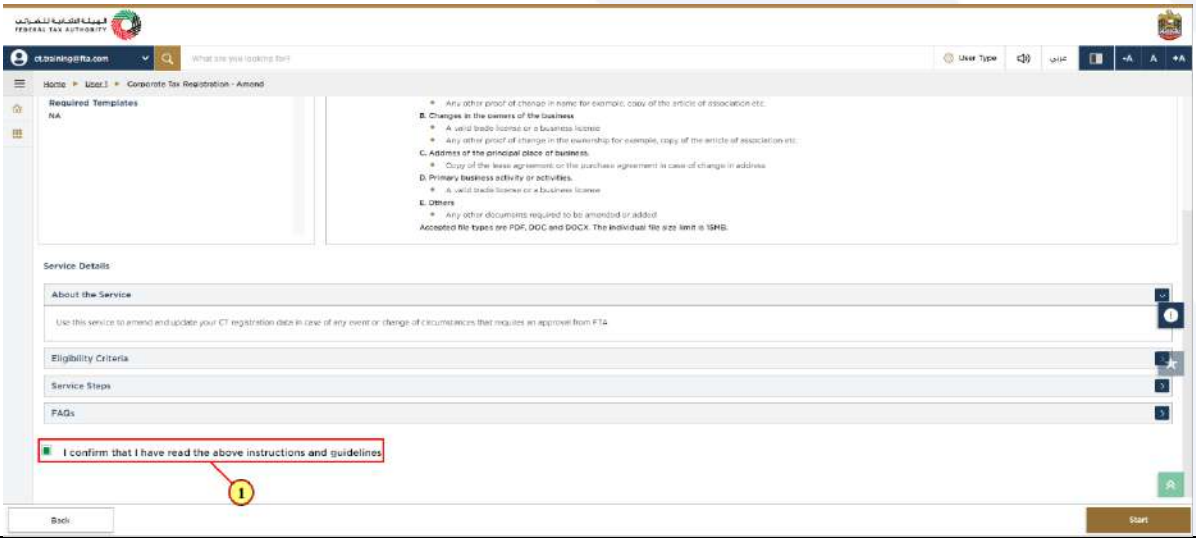


Step	Action
(1)	In order to initiate Corporate Tax Amendment application, click on ‘Actions’ in the Corporate Tax tile and select ‘**Amend’**.

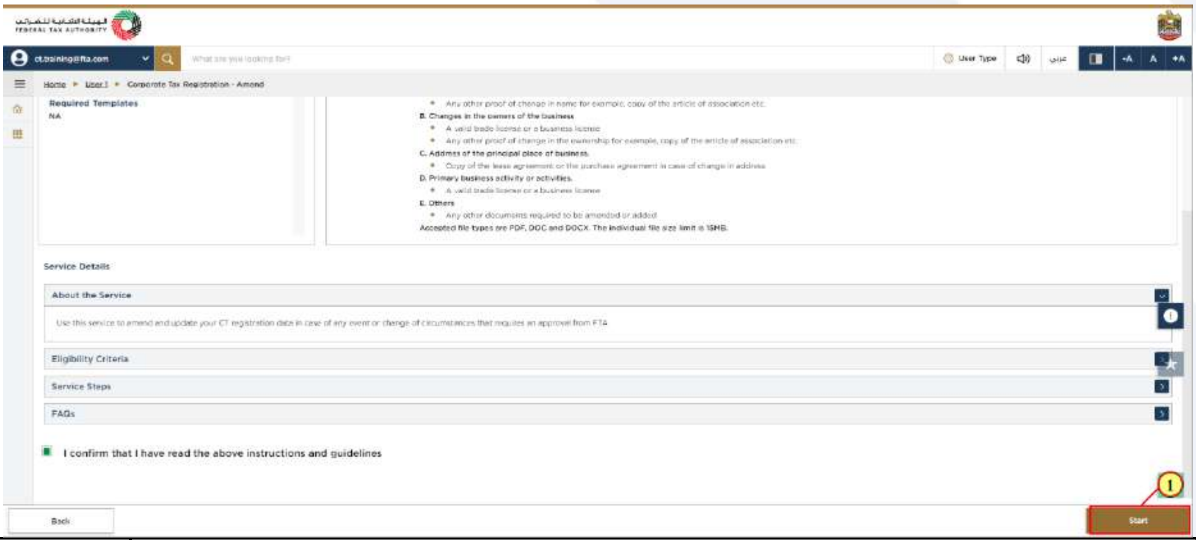
Instructions and Guidelines



	The ‘ instructions and guidelines’ page is designed to help you understand certain important requirements relating to amending your Corporate Tax registration application. It also provides guidance on what information you should have in hand when you are editing the Corporate Tax registration application.

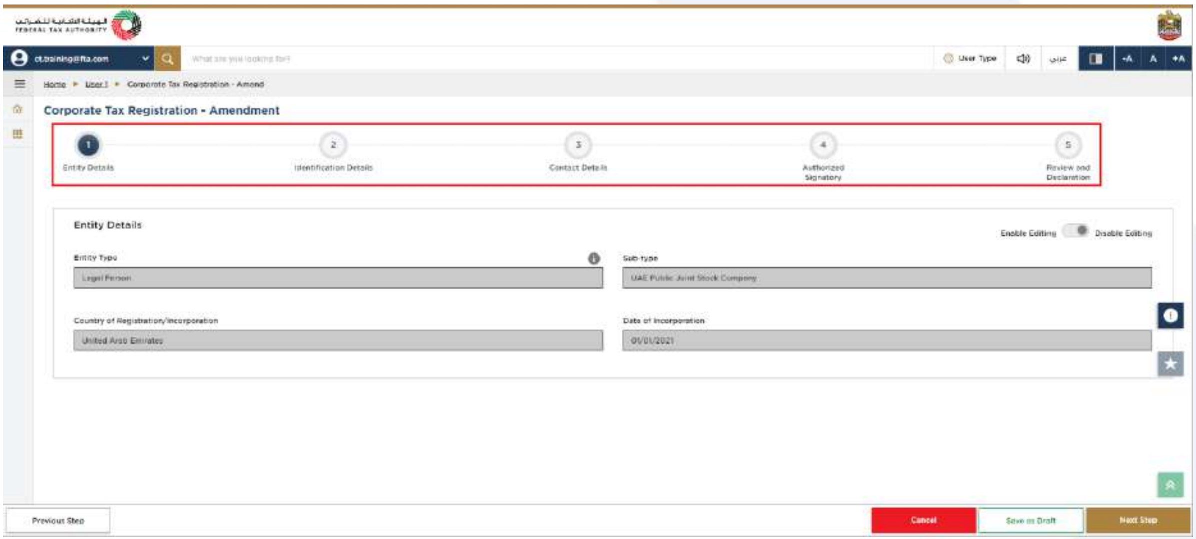


Step	Action
(1)	A screen will appear with instructions and guidelines. Read the instructions and guidelines for amending the Corporate Tax Registration application and mark the checkbox to confirm.

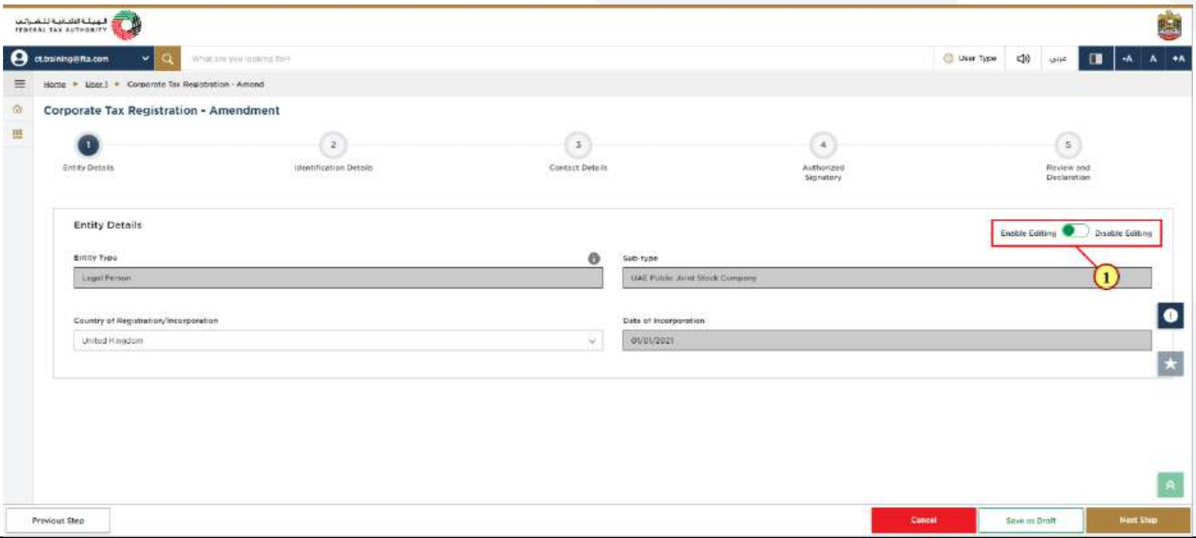


Step	Action
(1)	Click ‘**Start’** to initiate Corporate Tax Amendment application.

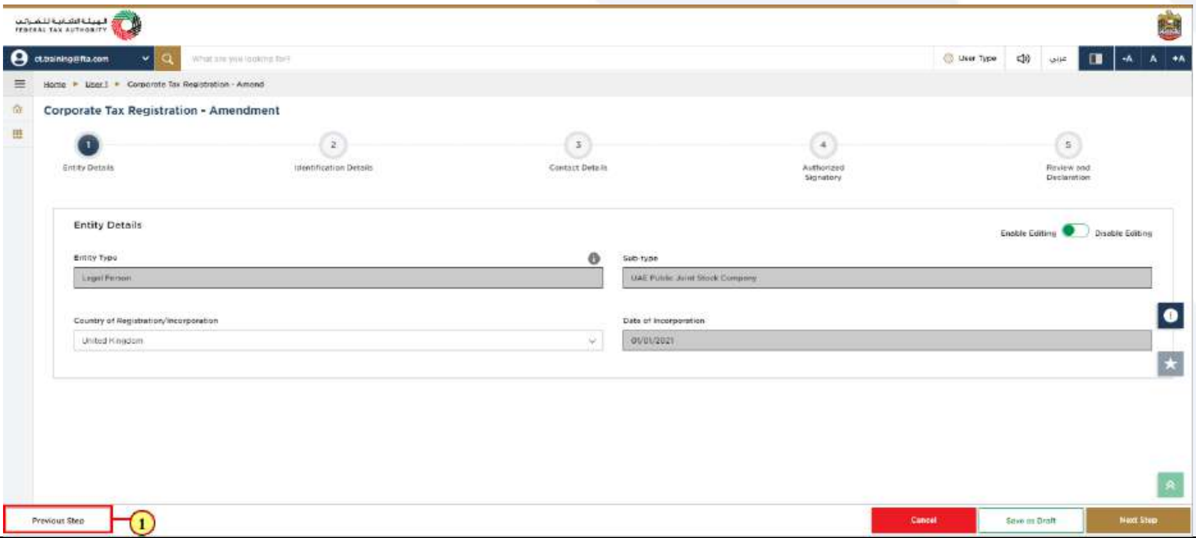
Entity Details Section



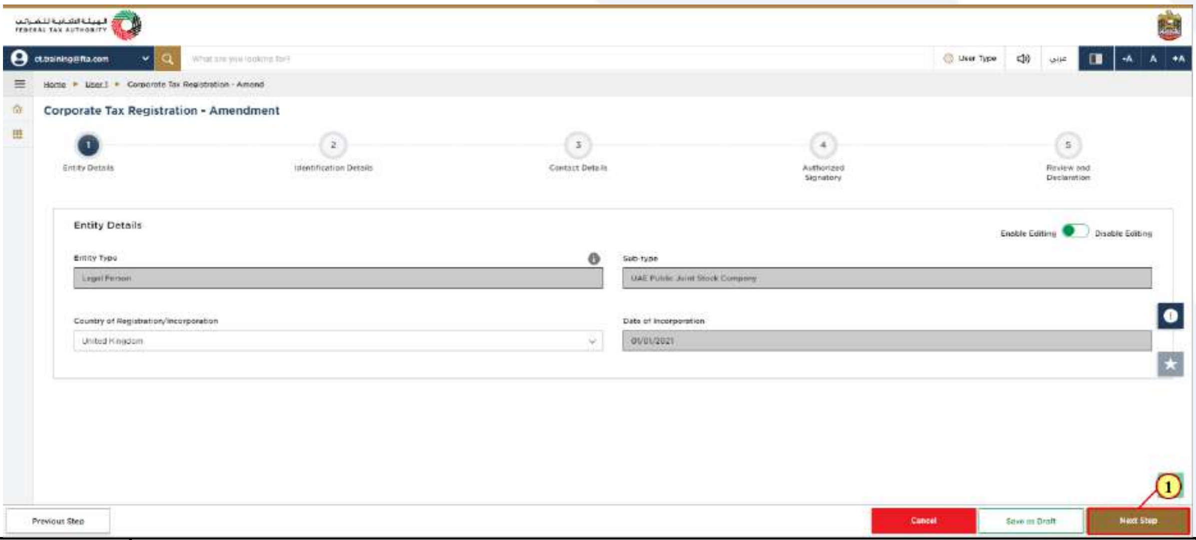
- The registration amendment application has been divided into five short sections, each section being represented in the progress bar. The current section will get highlighted in blue color on the progress bar. As you move to the next steps, the completed sections will get highlighted in green color.
- In order to move from one section to the next, all mandatory fields of the current section must be entered. The fields which are optional are marked as optional next to the field name.
- You are requested to ensure that the documents submitted, supports the information entered by you in the application. This would help to avoid any rejection or resubmission of the application later.



Step	Action
(1)	• Select '**Enable Editing**', to amend entity details, if required. Upon selection, the fields in the section will become editable. • If you do not want to amend the section and have selected 'Enable Editing', select 'Disable Editing' so that the fields become non editable. • You may click on '**Save as Draft**' to save your application and return to continue working on your application later.



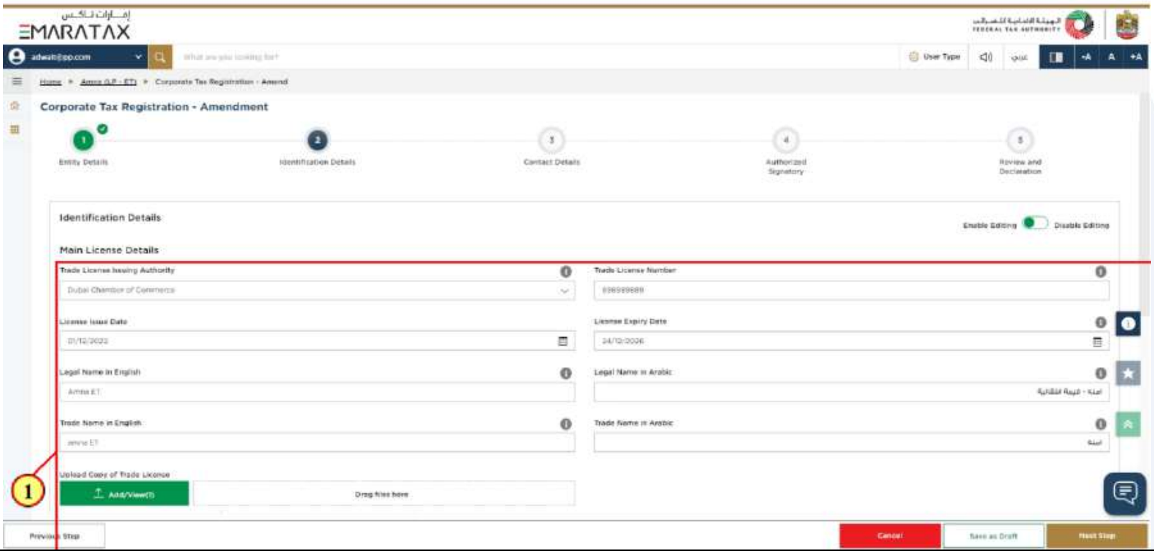
Step	Action
(1)	Click '**Previous Step'** to save and return to the previous section.



Step	Action
(1)	After amending the required information, click ‘**Next Step’** to save and proceed to the 'Identification Details' section.

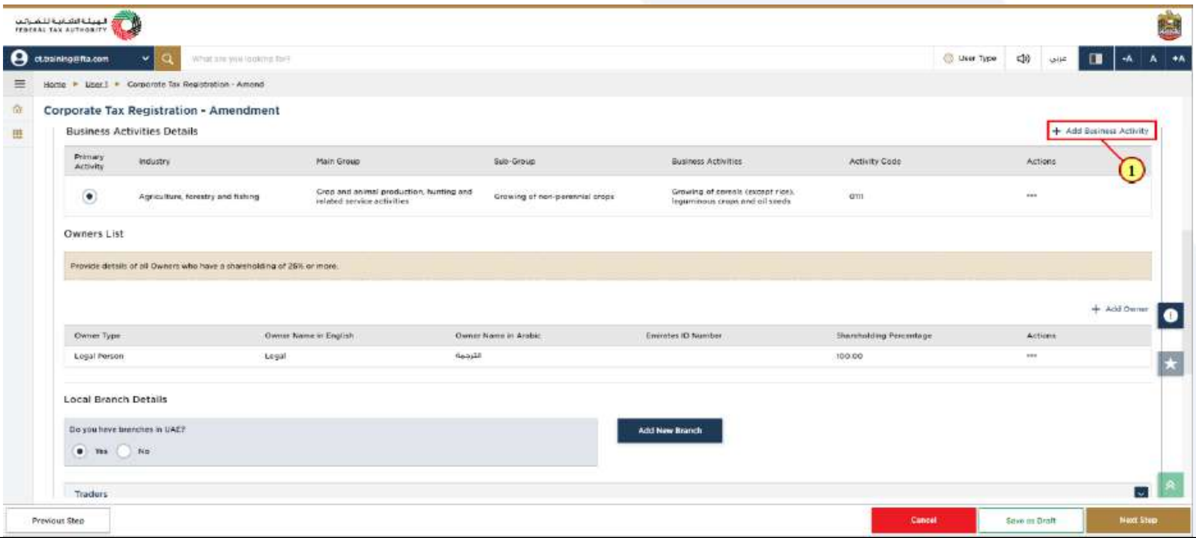
Identification Details

Main License Details



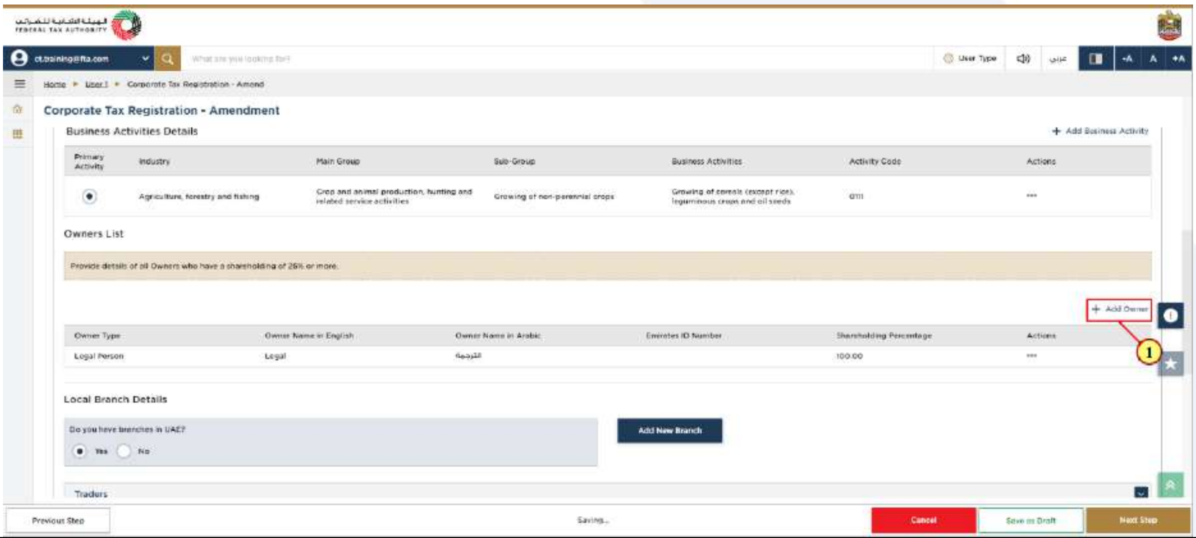
Step	Action
(1)	• Select 'Enable Editing' to amend identification details, if required. • You may update the main trade license details and enter the License Expiry Date. Some fields are not amendable. The greyed-out fields cannot be updated.

Business Activities



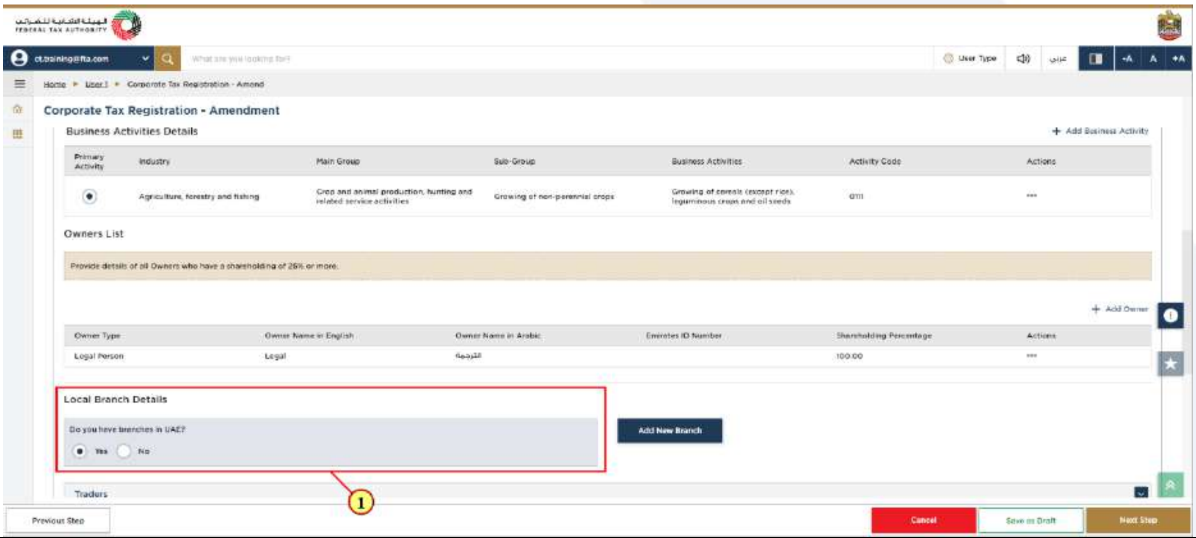
Step	Action
(1)	Similarly, if required you may update the Business Activities. Business Activity Details can be updated by adding a new business activity or editing the registered business. Click on '**Add Business Activity'** to enter the business activity information associated to the trade license. You can add multiple Business Activities. Ensure that the information about all your business activities is included.

Owner Details

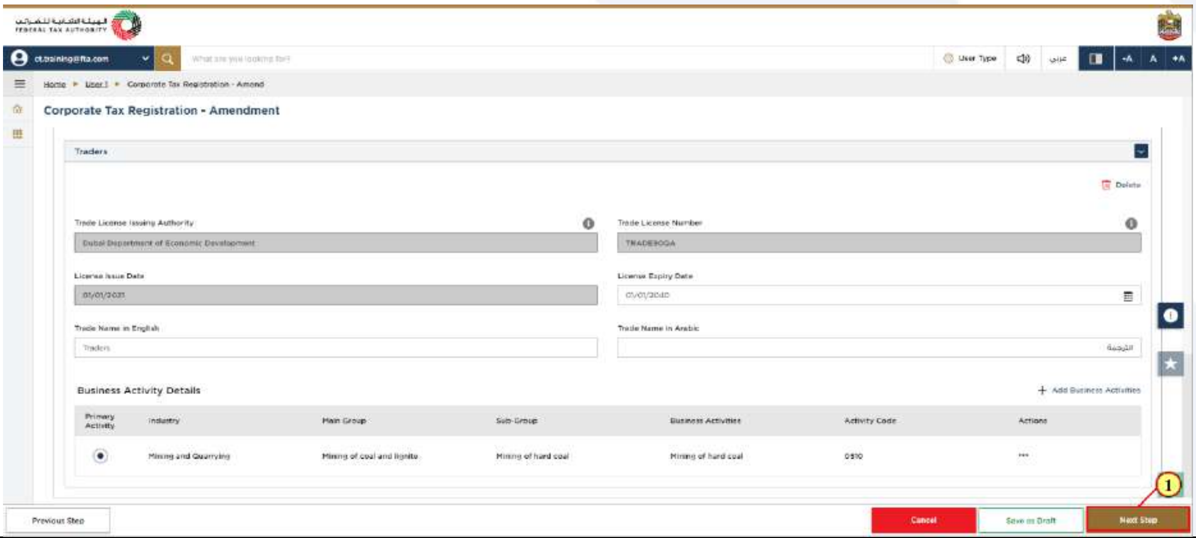


Step	Action
(1)	You may update the owner details by clicking '**Add Owner**'. Owner Details can be updated by adding a new owner or editing the registered owner. You are required to enter all the owners' associated to the trade license. You can add multiple owners.

Branch Details

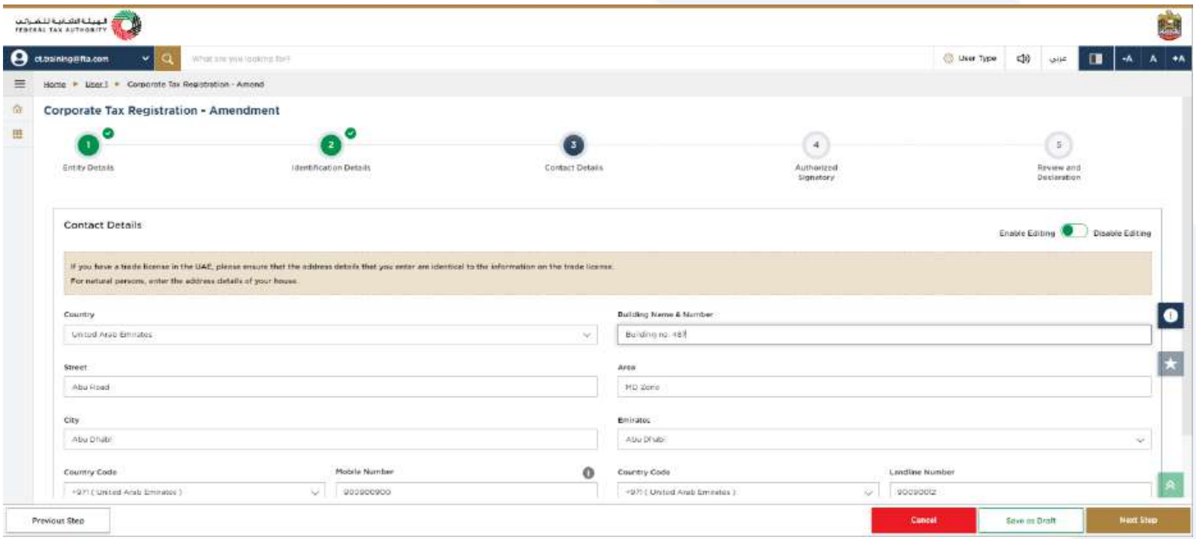


Step	Action
(1)	You may update your branch details. Select ‘Yes’, if you have one or more branches, and add the local branch details. For each branch, enter the trade license details and associated business activities and owners list.

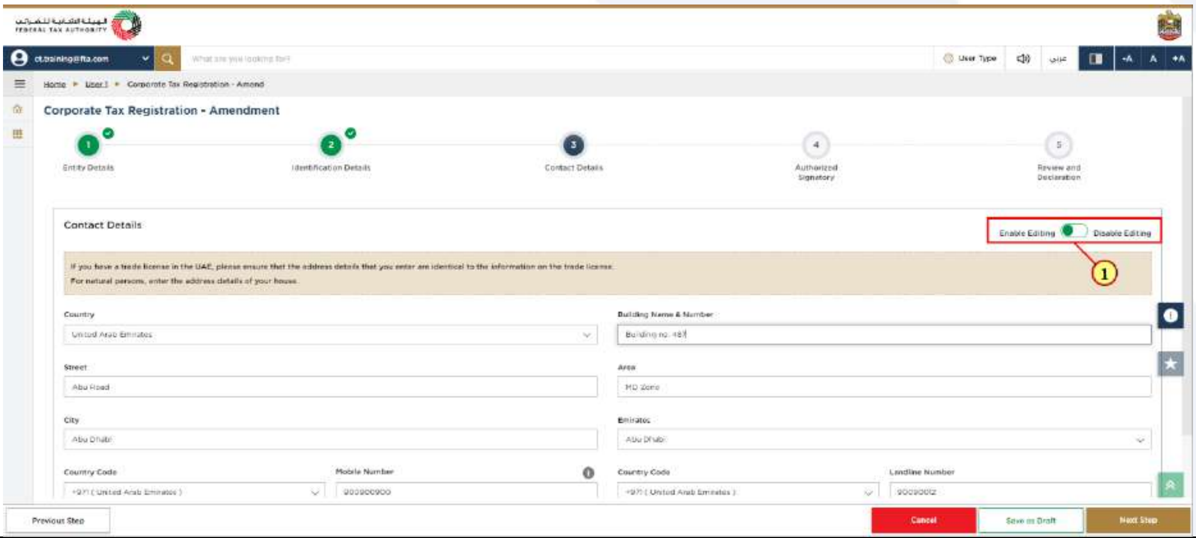


Step	Action
(1)	After completing all mandatory fields, click ‘**Next Step’** to save and proceed to the ‘Contact Details' section.

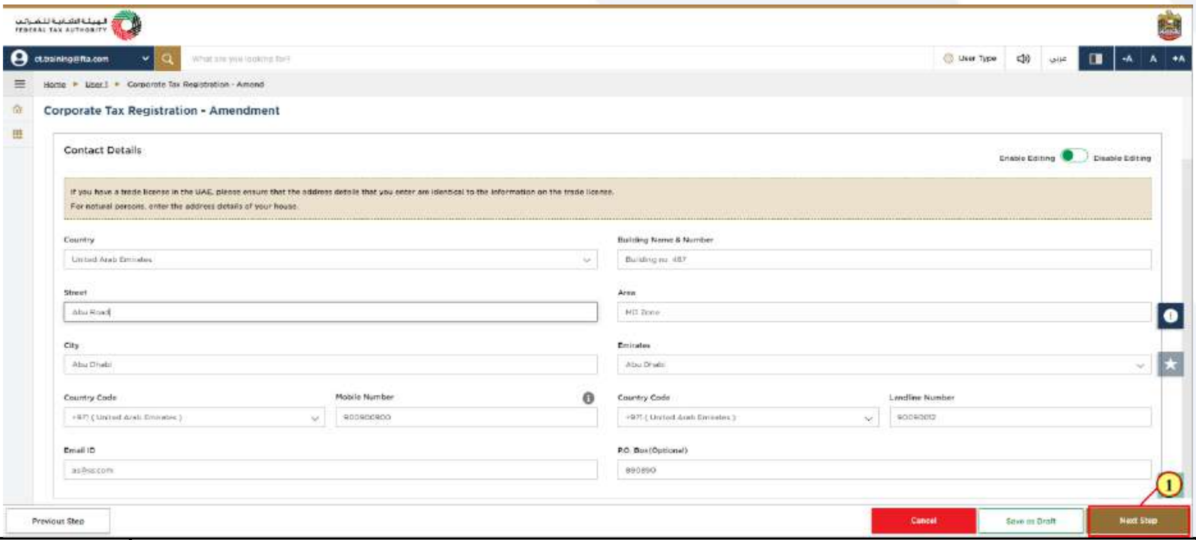
Contact Details



	If you have multiple addresses, provide details of the place where most of the day-today activities of the business are carried out. Do not use another company's address (for example, your accountant).

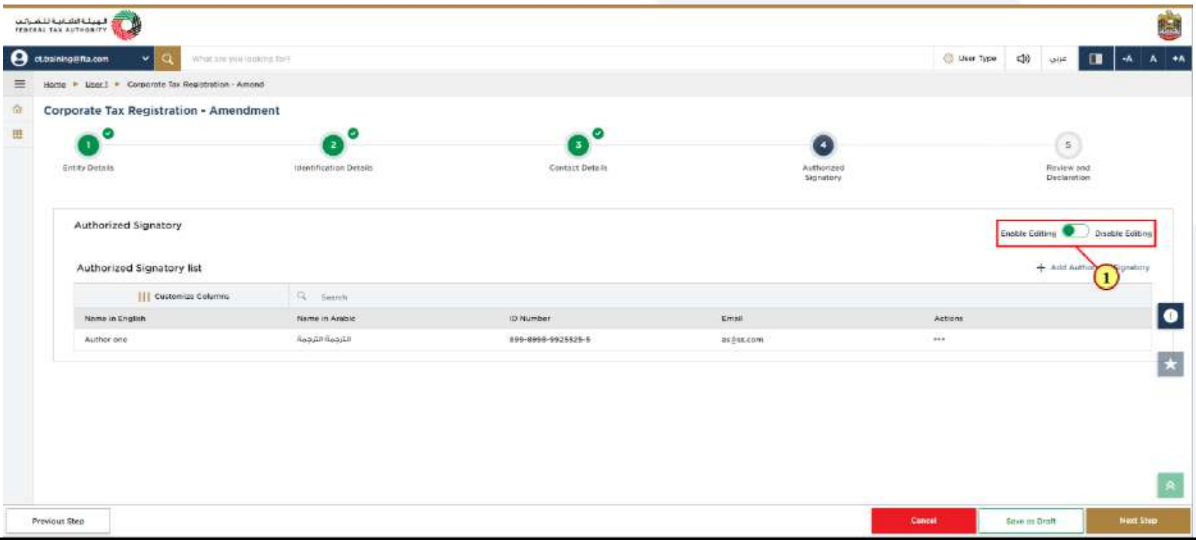


Step	Action
(1)	• Select '**Enable Editing**', to amend contact details, if required. • Update the required information and enter the Address amendment date and upload the supporting documents.

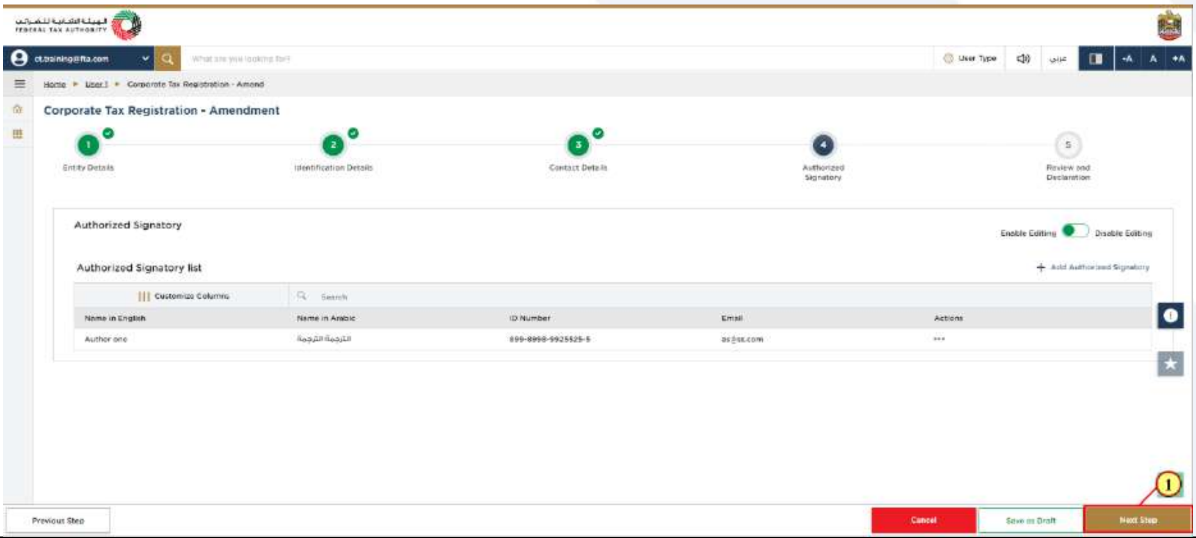


Step	Action
(1)	After completing all mandatory fields, click ‘**Next Step’** to save and proceed to the ‘Authorized Signatory' section.

Authorized Signatory

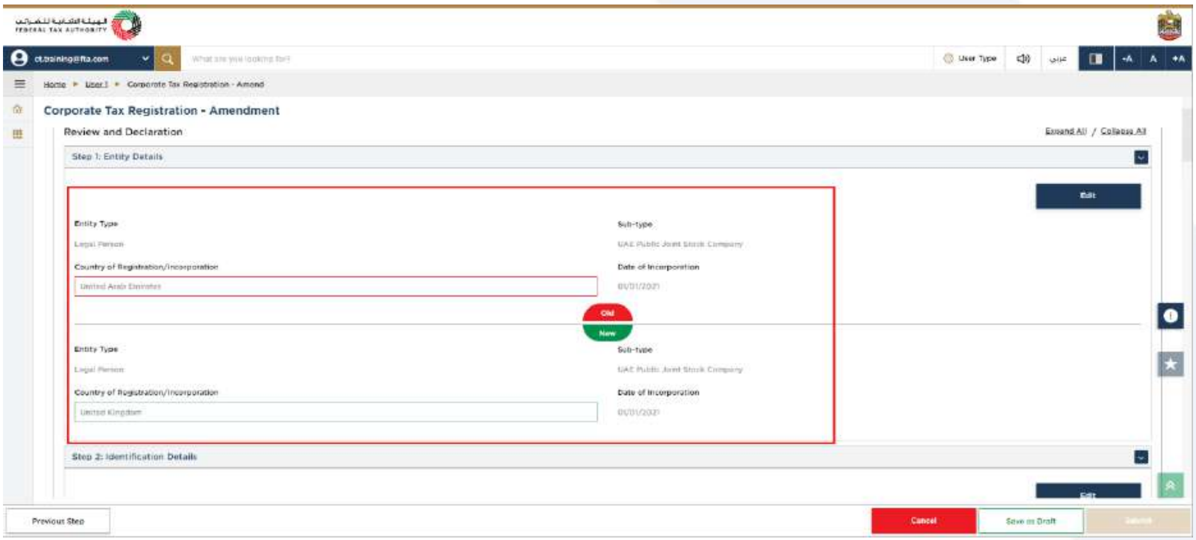


Step	Action
(1)	Select '**Enable Editing**', to amend or add authorized signatory details, if required.

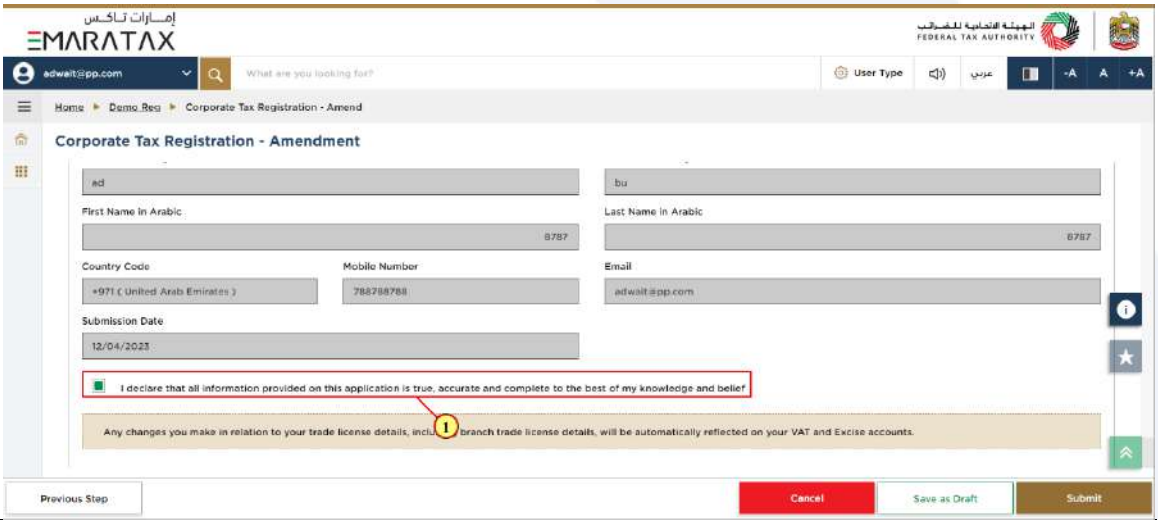


Step	Action
(1)	After completing all mandatory fields, click the ‘**Next Step’** button to save and proceed to the ‘Review and Declaration’ section.

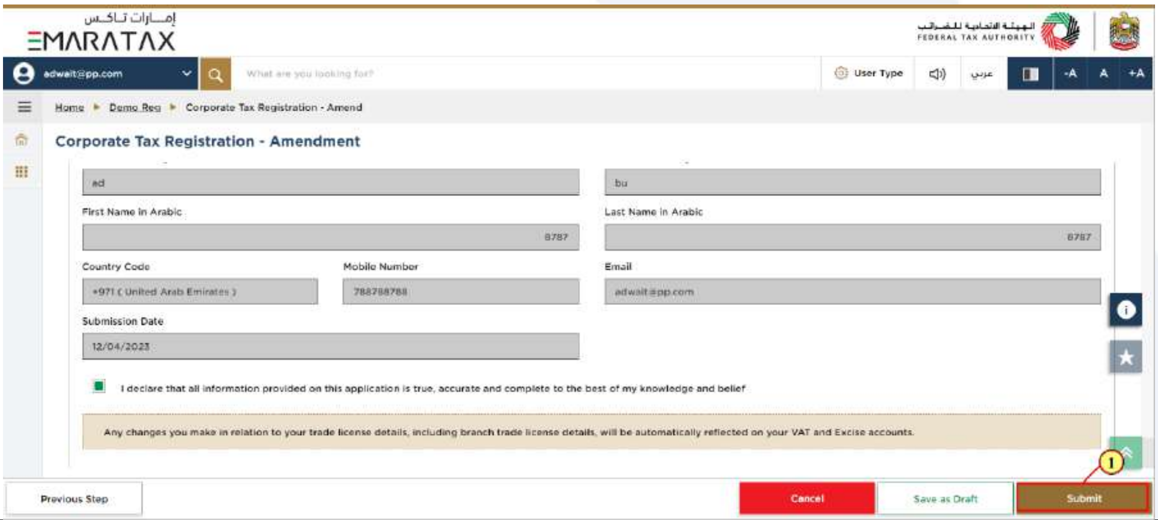
Review and Declaration



- This section highlights all the details entered by you across the application. You are required to review and submit the request.
- The section provides a comparison of the old and the newly updated information.

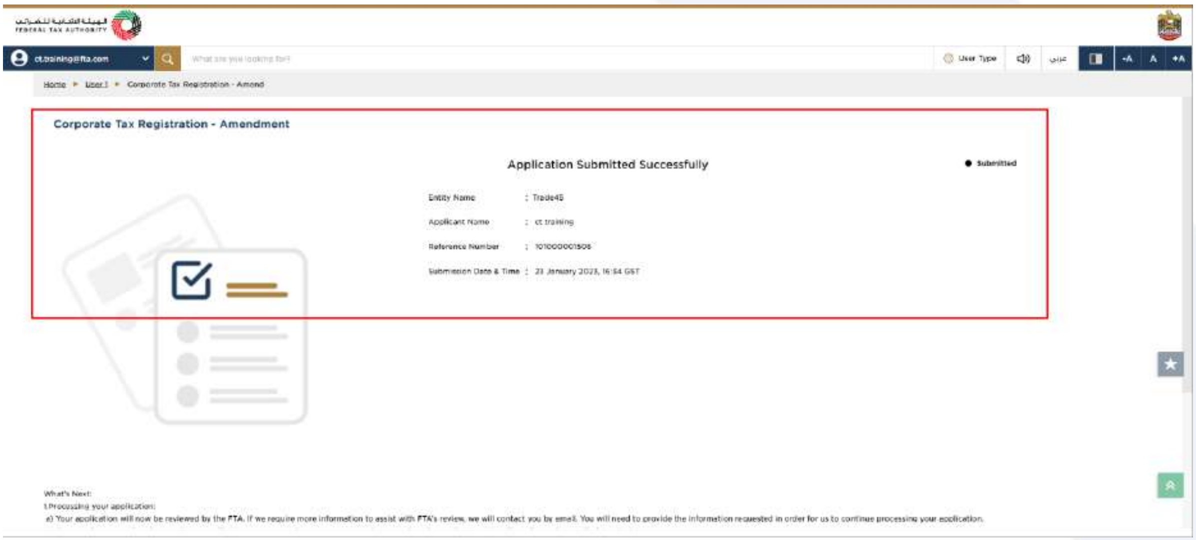


Step	Action
(1)	After carefully reviewing all of the information entered on the application, mark the checkbox to declare the correctness of the information provided in the application.



Step	Action
(1)	If all the information entered is correct, click '**Submit'**.

Post Application Submission

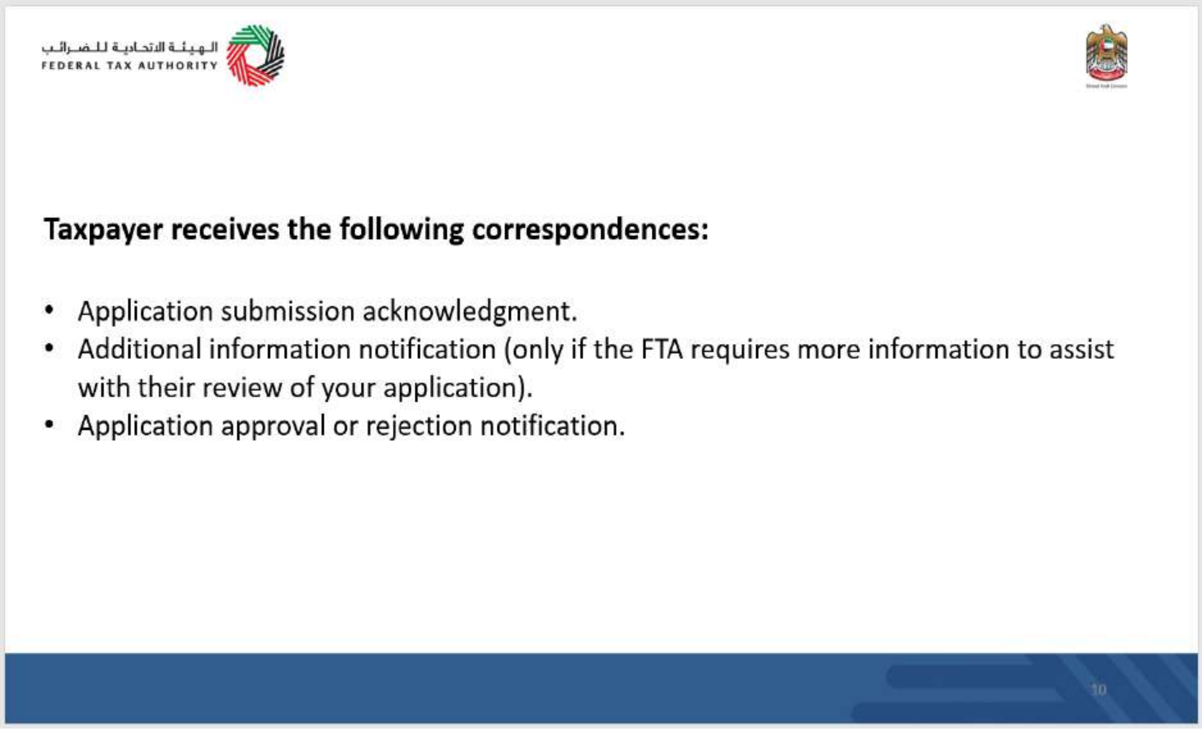


After your application is submitted successfully, a Reference Number is generated for your submitted application. Note this reference number for future communication with the FTA.

What's next?

- Once the application is submitted, the FTA shall approve, reject or resubmit and notify the Taxable Person accordingly.
- If the FTA requires any further details from you in order to assist with the verification of your application, you will receive an email notification setting out the information required from you.
- Once the FTA confirms acceptance of your application, you will be notified on the decision.
- The status of your application in the dashboard will be updated accordingly. You may check your application status in the dashboard from time to time.
- Read the "What Next" and "Important Notes".

Correspondences



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Corporate Tax Edit Registration - Taxpayer User Manual

Date: 18 May 2023

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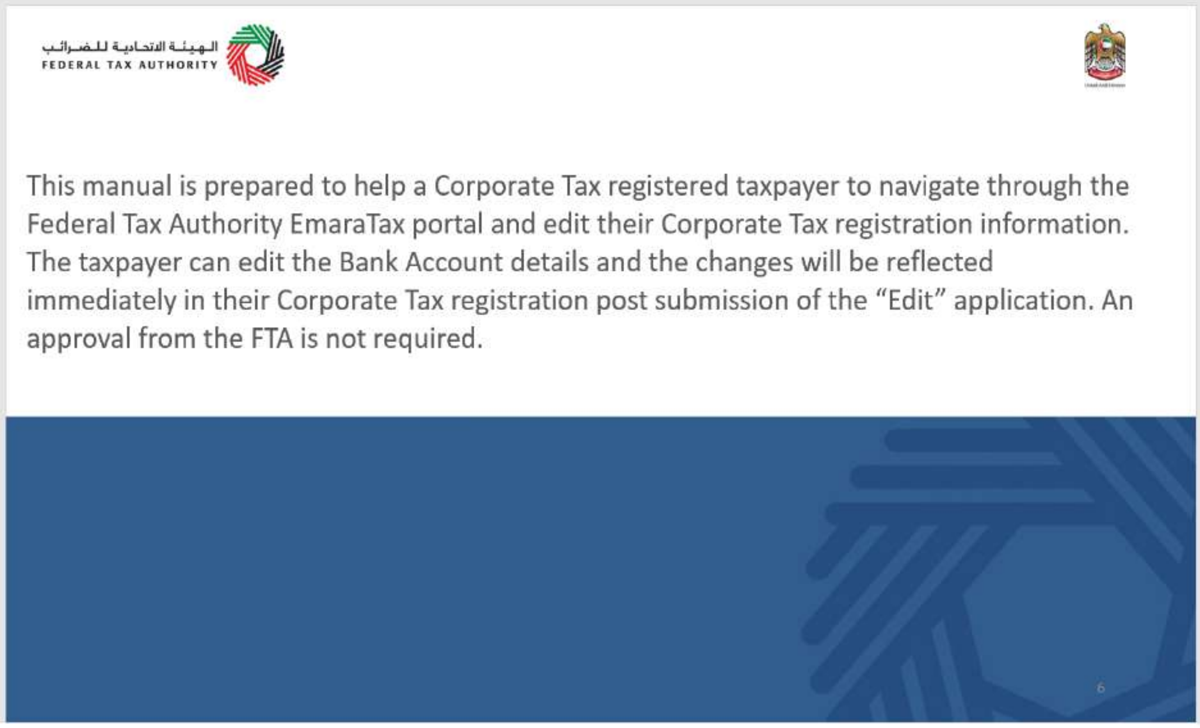

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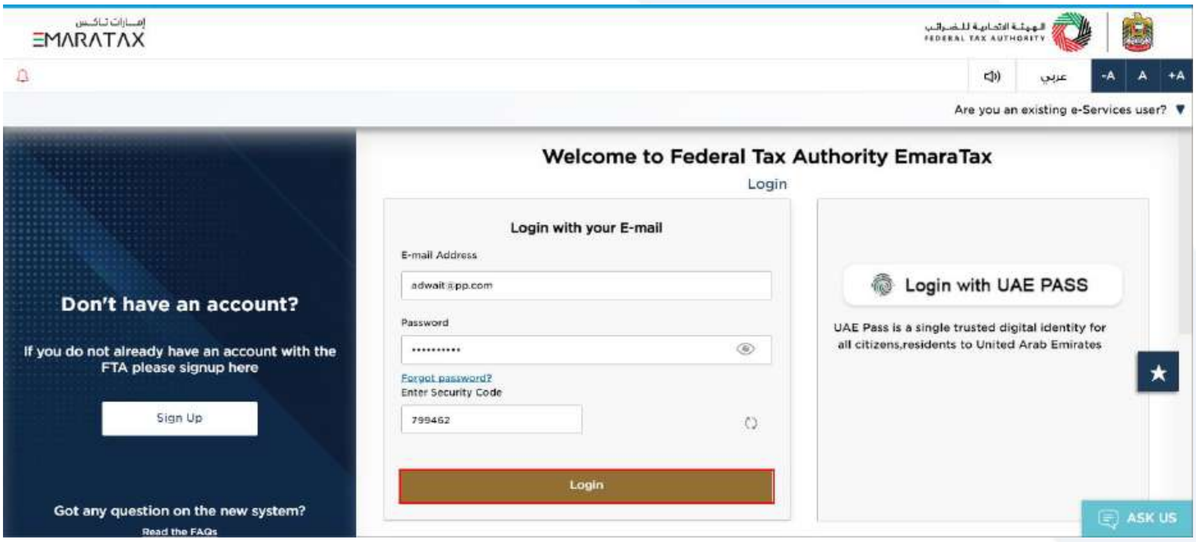

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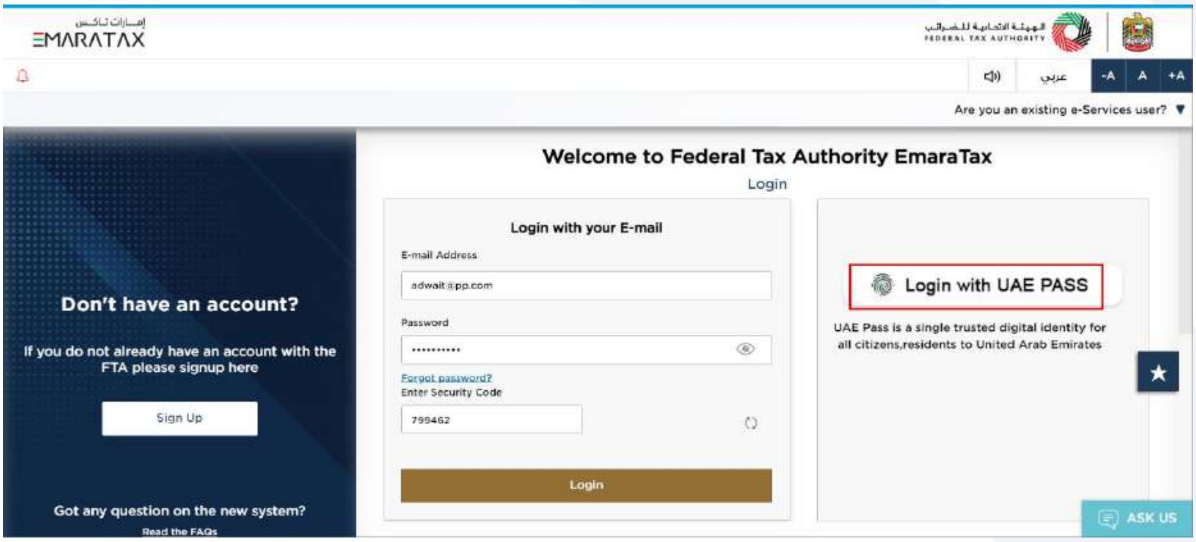

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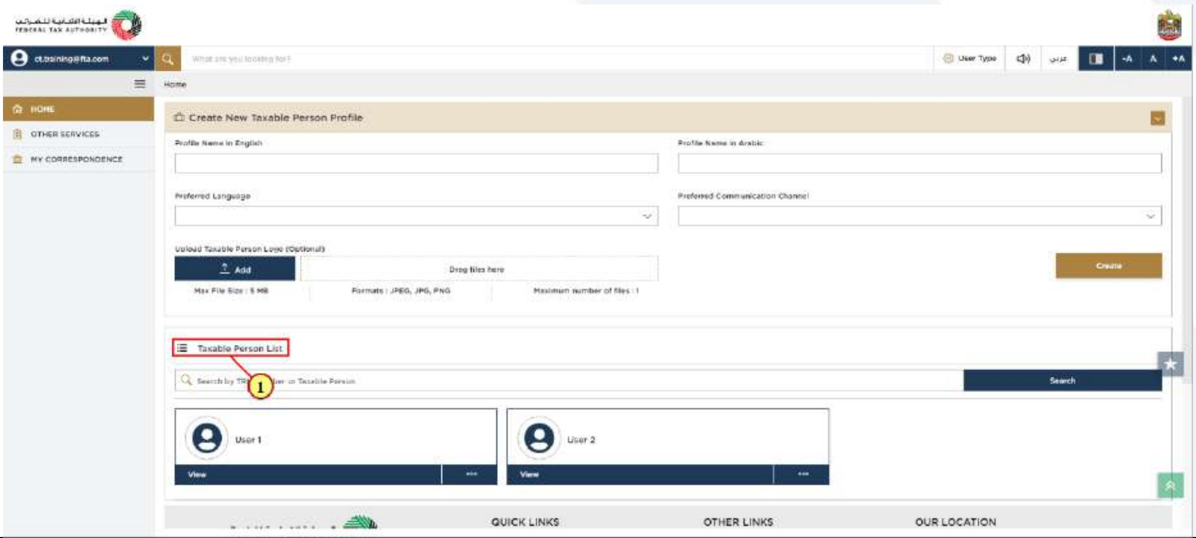

Step	Action
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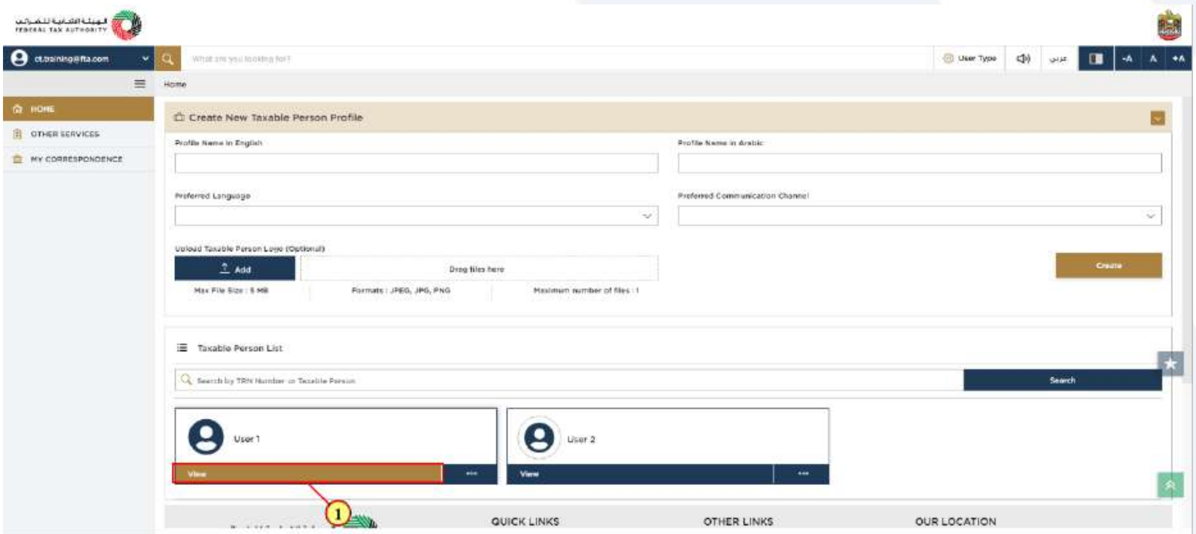
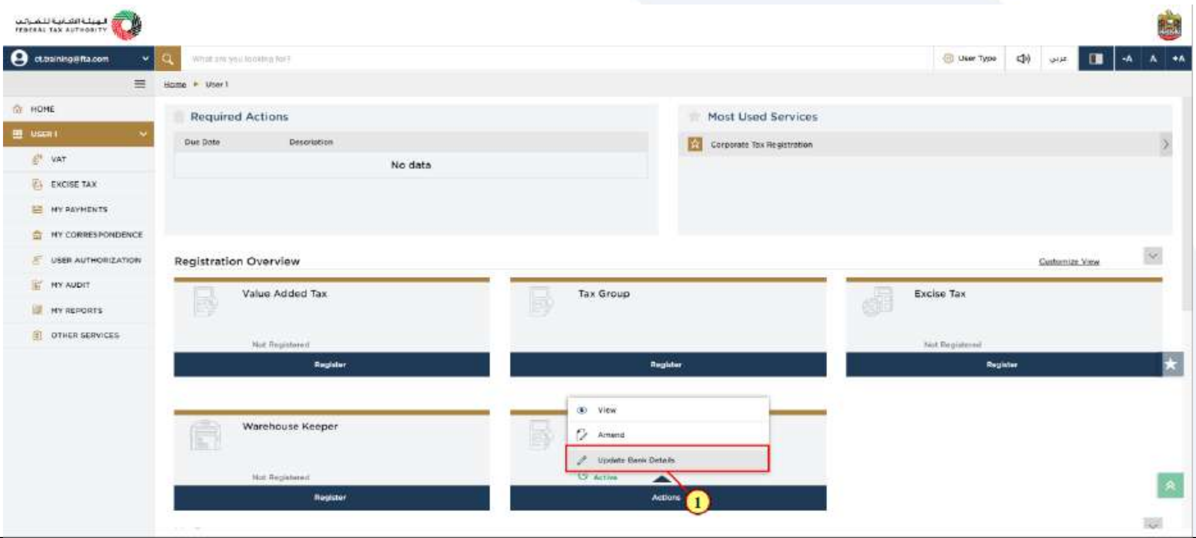


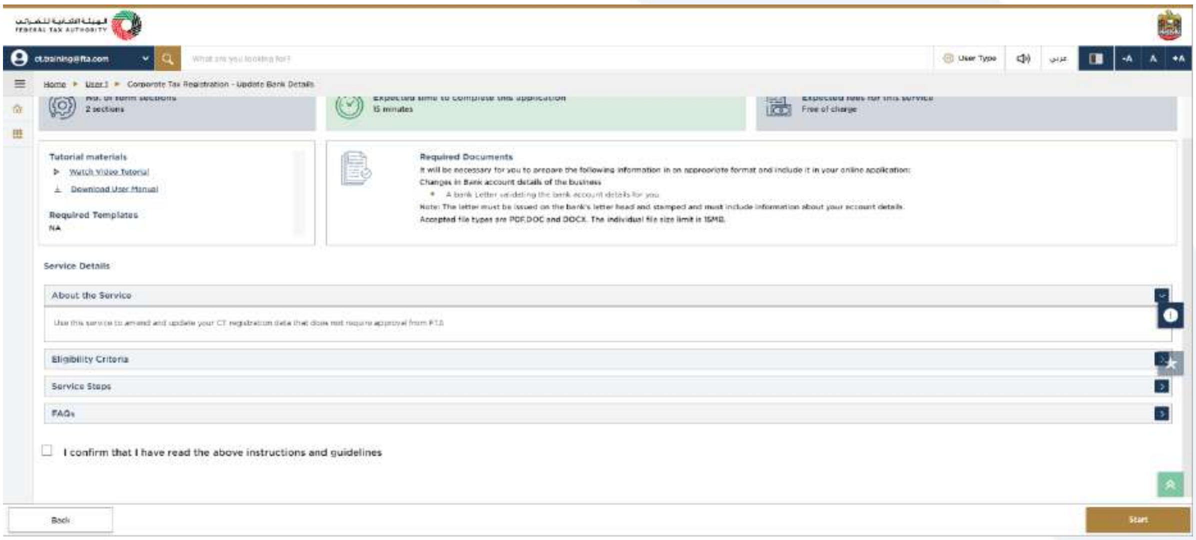
Step	Action
(1)	Select the Taxable Person from the list and click **'View'** to open the dashboard.

Edit - Update Bank Details



Step	Action
(1)	• In order to edit your Corporate Tax registration application, click 'Actions' in the Corporate Tax tile. • Select 'Update Bank Details' to start editing your Corporate Tax registration application.

Instructions and Guidelines



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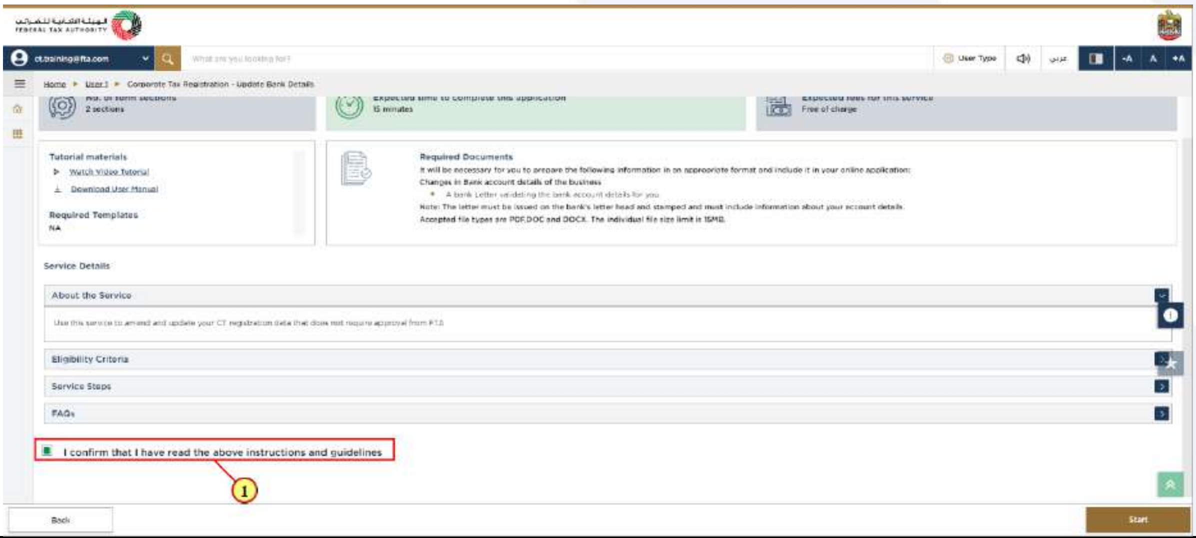

Step	Action
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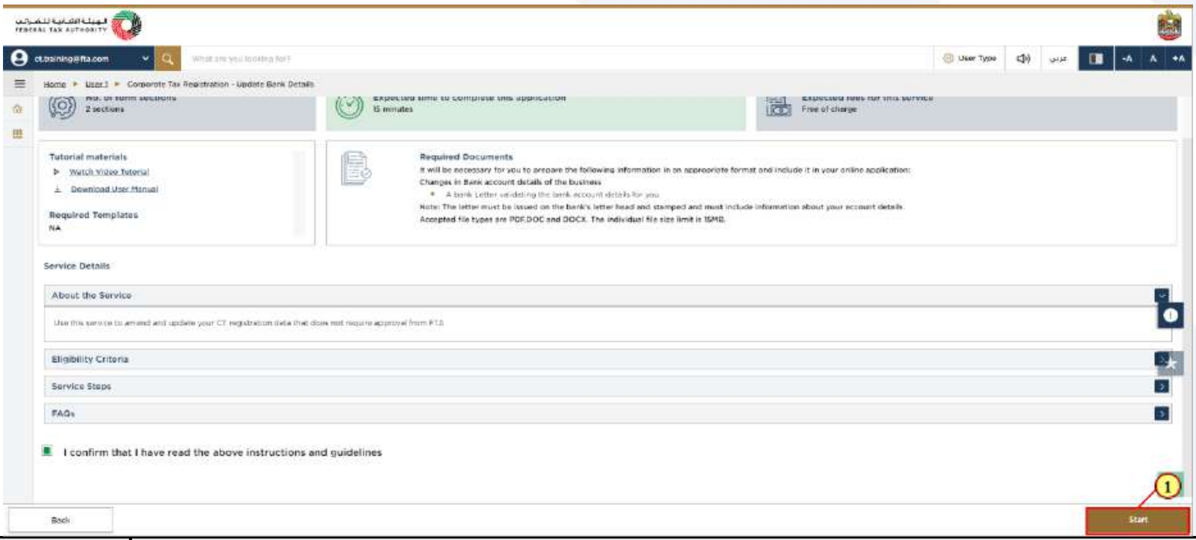
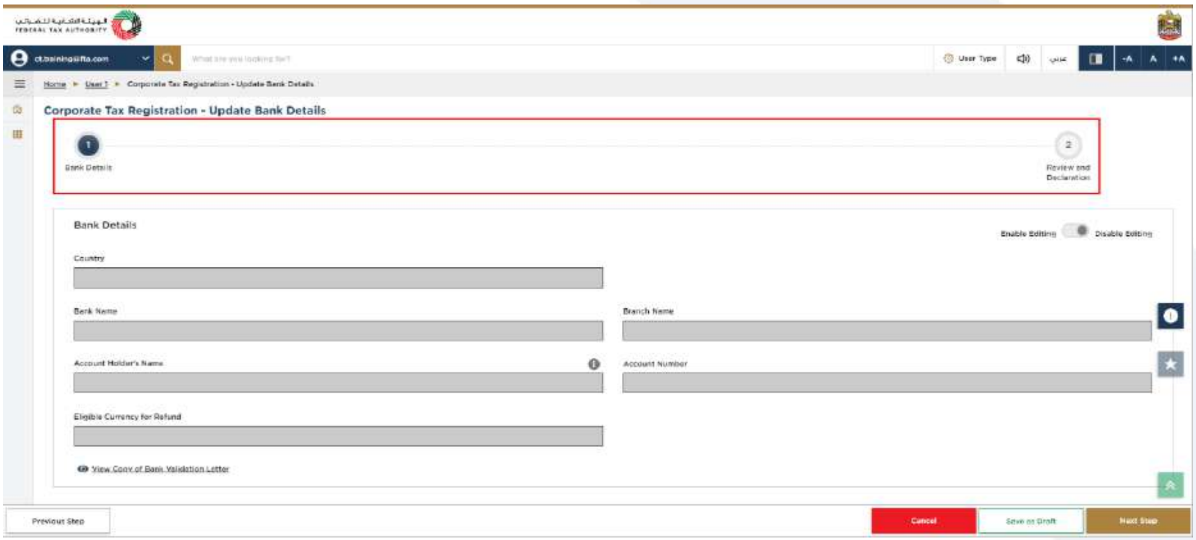


Step	Action
(1)	Click ‘**Start’** to initiate editing the Corporate Tax registration application.

Bank Details



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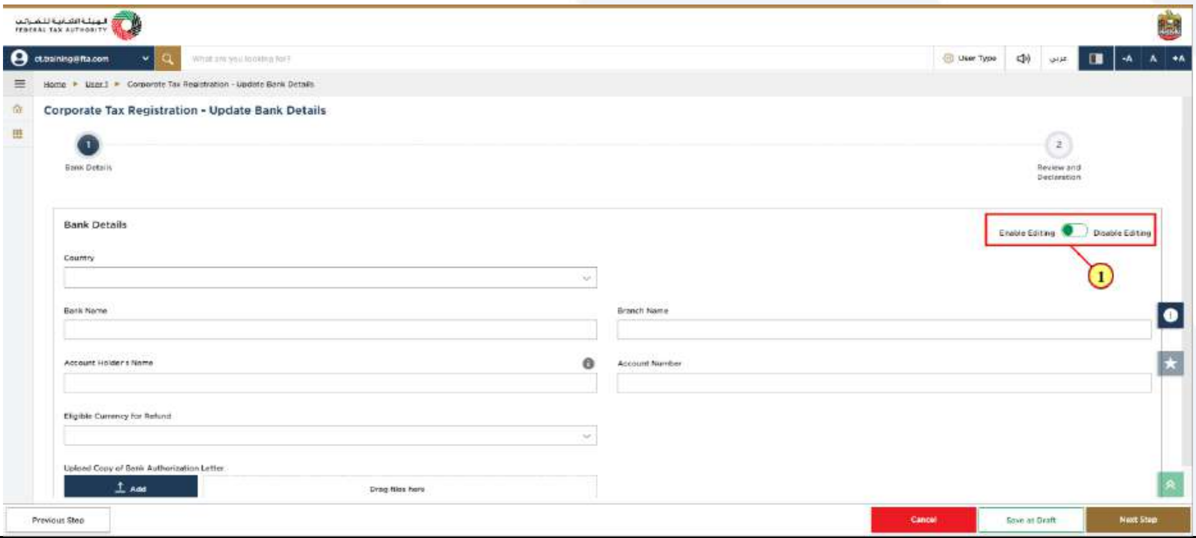
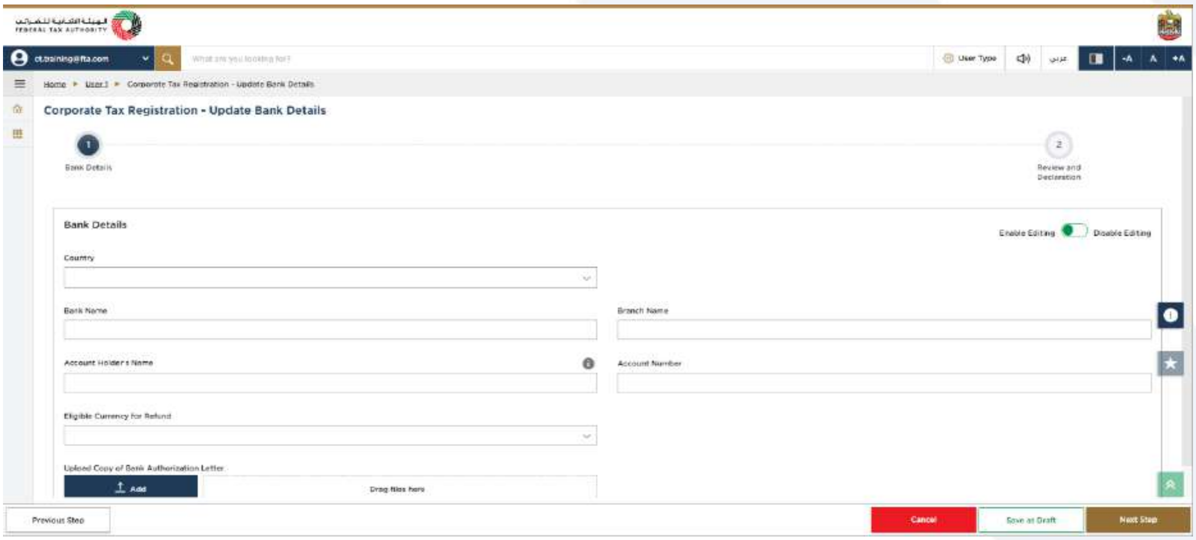
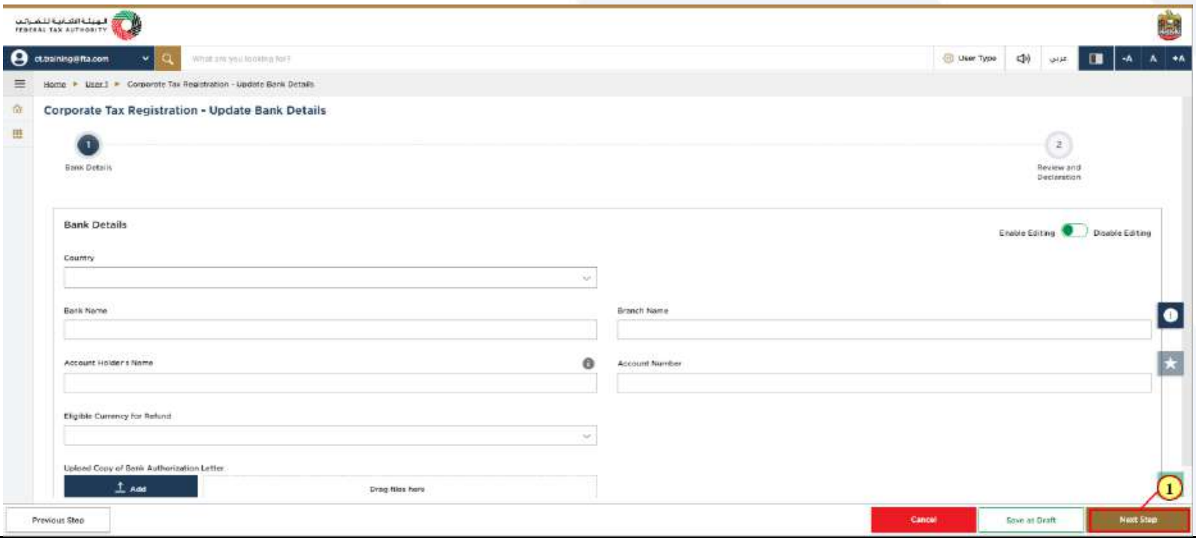


Step	Action
(1)	• Select '**Enable Editing'**, to edit the bank details, if required. Upon selection, the fields in the section will become editable. • If you do not want to edit the section and have selected 'Enable Editing', select 'Disable Editing' so that the fields become non editable. • You can add bank details if it was not provided during the Corporate Tax registration. • You may edit and update your Bank details, if required. • You may click on '**Save as Draft**' to save your application and return to continue working on your application later.

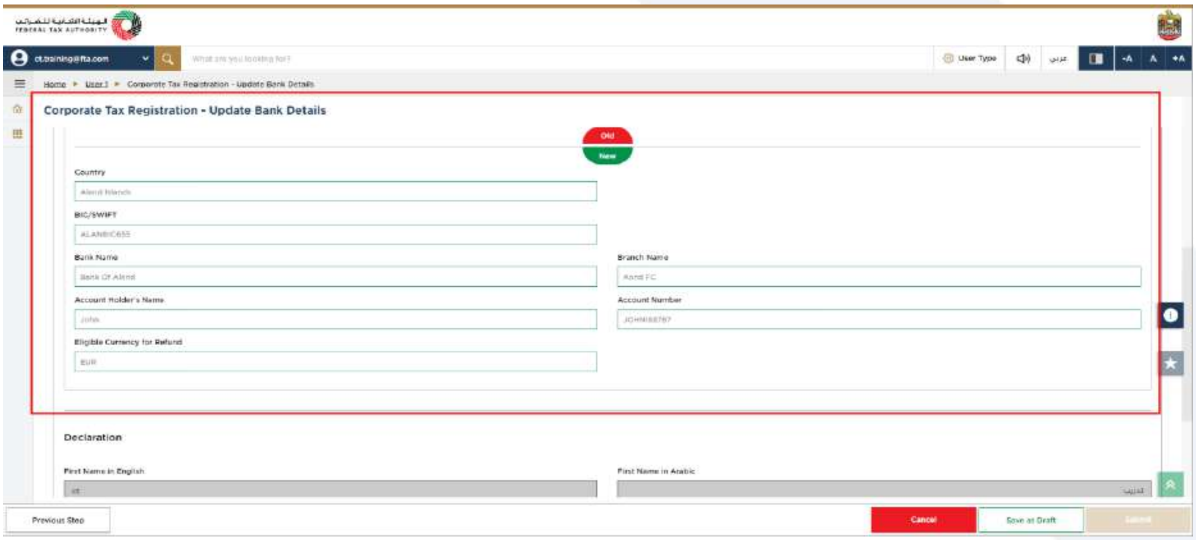


- You are requested to ensure that your account details are accurate.
- If you are in the process of opening a bank account, you must provide copies of any relevant correspondence received from your bank.
- If your account is held with a bank established in the UAE or a foreign bank account. The account name must match the legal name of the entity you are registering with the FTA.

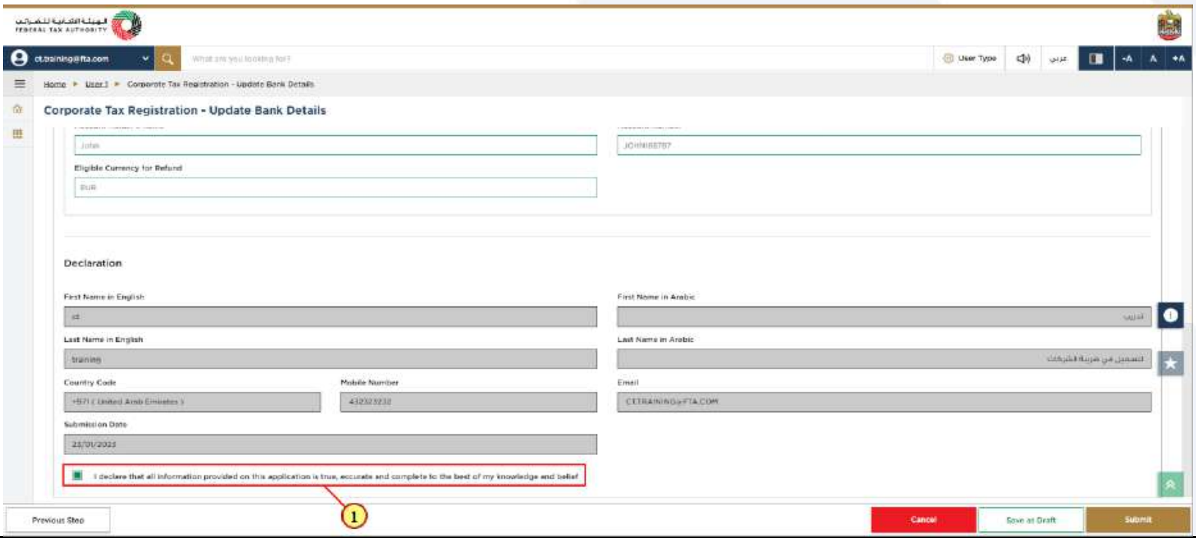


Step	Action
(1)	After editing the required information, click '**Next Step'** to save and proceed to the next section.

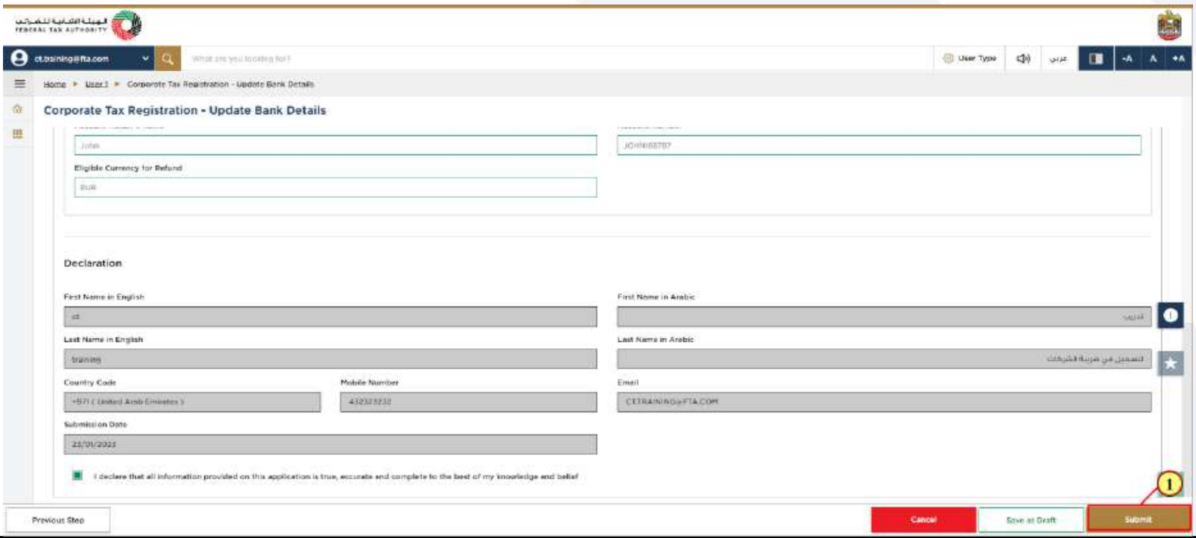
Review and Declaration



- This section highlights the old and the newly updated information entered by you across the application.
- You are required to review and submit the request.

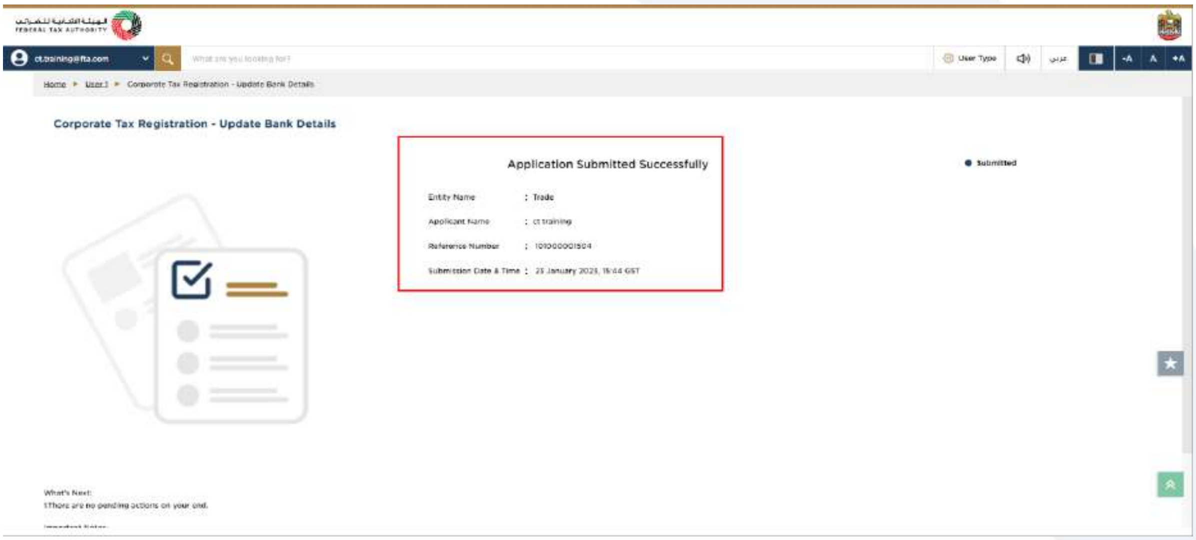


Step	Action
(1)	After carefully reviewing all of the information entered on the application, mark the checkbox to declare the correctness of the information provided in the application.



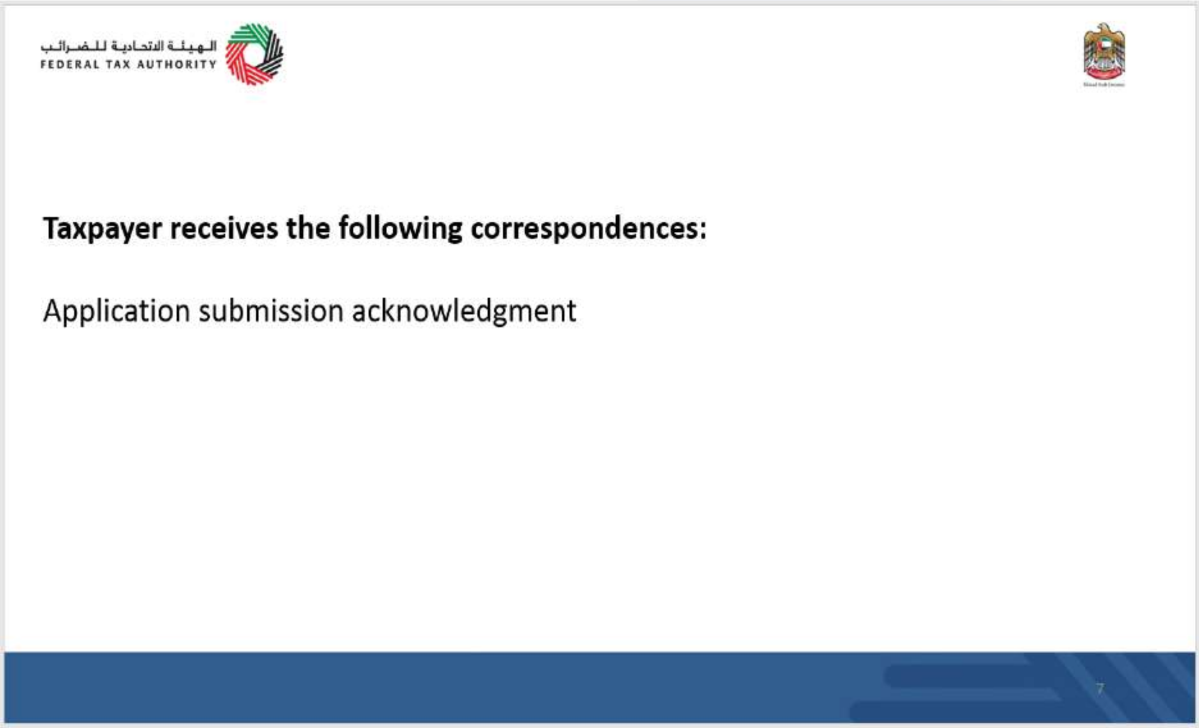
Step	Action
(1)	If all the information entered is correct, click ‘**Submit’**.

Post Application Submission



- After your application is submitted successfully, a Reference Number is generated for your application. Note this reference number for future purposes.
- The Edit applications are approved on submission and do not require the FTA approval.
- The changes submitted will be reflected in your Corporate Tax profile.
- Read the “What Next” and “Important Notes”.

Correspondences



الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

United Arab Emirates

TAXP006

Tax Procedures Public Clarification

Issuance of a New Tax Procedures Executive Regulation

توضيح عام بشأن الإجراءات الضريبية

إصدار لائحة تنفيذية جديدة للإجراءات الضريبية

Issue

The tax procedures in the UAE are regulated by Federal Decree-Law No. 28 of 2022 on Tax Procedures ("Decree-Law") and its Executive Regulation. Cabinet Decision No. 74 of 2023 ("New Executive Regulation") repealed Cabinet Decision No. 36 of 2017 on the Executive Regulation of Federal Law No. 7 of 2017 on Tax Procedures, and its amendments ("Previous Executive Regulation"), with effect from 1 August 2023.

Many of the provisions of the Previous Executive Regulation were incorporated in the New Executive Regulation.

This Public Clarification is intended to inform persons of the changes made in the New Executive Regulation where these differ from the provisions of the Previous Executive Regulation.

Articles that remained materially the same (except for renumbering) are not covered by this Public Clarification.

الموضوع

تخضع الإجراءات الضريبية في دولة الإمارات العربية المتحدة لأحكام المرسوم بقانون اتحادي رقم (28) لسنة 2022 بشأن الإجراءات الضريبية ("المرسوم بقانون") ولائحته التنفيذية. وقد ألغى قرار مجلس الوزراء رقم (74) لسنة 2023 ("اللائحة التنفيذية الجديدة") قرار مجلس الوزراء رقم (36) لسنة 2017 في شأن اللائحة التنفيذية للقانون الاتحادي رقم (7) لسنة 2017 بشأن الإجراءات الضريبية وتعديلاته ("اللائحة التنفيذية السابقة")، والذي يبدأ العمل به اعتبارًا من 1 أغسطس 2023.

تم تضمين العديد من أحكام اللائحة التنفيذية في اللائحة التنفيذية الجديدة.

يهدف هذا التوضيح العام إلى اطلاع الأشخاص على التعديلات التي تم إجراؤها في اللائحة التنفيذية الجديدة، حيث أنها تختلف عن أحكام من اللائحة التنفيذية السابقة.

لا يشمل هذا التوضيح العام المواد التي لم تتغير جوهريًا فيما عدا إعادة ترقيمها.

Summary

The main changes in the New Executive Regulation are in relation to the following topics:

ملخص

التغييرات الرئيسية التي طرأت في اللائحة التنفيذية الجديدة تتعلق بما يأتي:

- Definitions (Article 1)[1]
- Recordkeeping (Articles 2 and 3)[2,3,4,5]
- Language (Article 5)[6]
- Registration, de-registration and amending details of registration (Article 6)[7,8]
- UAE Licensing bodies (Article 7)[9]
- Submission of voluntary disclosure (Article 10)[10]
- Means of notification (Article 11)[11]
- Natural person and juridical person tax agents (Articles 12 - 14)[12-22]
- Tax audits (Articles 15 - 19)[23]
- Reconciliation in tax evasion crimes (Articles 23 and 24)[24-28]
- Extension of deadlines (Article 25) [29,30,31,32]
- Payment of tax and administrative penalties in cases of bankruptcy (Article 27)[33]

The detailed analysis below highlights the differences between the Previous Executive Regulation and the New Executive Regulation and provides further clarification on new or updated provisions.

Detailed analysis

Definitions (Article 1)[1]

The number of definitions has been limited under Article 1 of the New Executive Regulation as the definitions under Article 1 of the Decree-Law also

- التعريفات (المادة 1)[1]
- مسك السجلات (المواد 2 و3 و4)[2،3،4،5]
- اللغة: (المادة 5)[6]
- إجراءات التسجيل الضريبي وإلغائه وتعديل بياناته (المادة 6)[7،8]
- جهات الترخيص في الدولة (المادة 7)[9]
- تقديم التصريح الطوعي (المادة 10)[10]
- وسائل التبليغ (المادة 11)[11]
- الوكلاء الضريبيون من الأشخاص الطبيعيين والوكلاء الضريبين الاعتباريين (المواد 12 إلى 14)[12-22]
- التدقيق الضريبي (المواد 15 إلى 19)[23]
- التصالح في جرائم التهرب الضريبي (المادتان 23 و24)[24-28]
- تمديد المواعيد (المادة 25)[29،30،31،32]
- سداد الضريبة والغرامات الإدارية في حالات الإفلاس (المادة 27)[33]

يلقي التحليل التفصيلي الآتي الضوء على الاختلافات بين اللائحة التنفيذية السابقة واللائحة التنفيذية الجديدة، ويقدم مزيدًا من التوضيح حول الأحكام الجديدة أو الأحكام التي تم تحديثها.

تحليل تفصيلي

التعريفات (المادة (1))[1]

تم قصر التعريفات بموجب المادة (1) من اللائحة التنفيذية الجديدة على عدد محدود من التعريفات، حيث تُطبق أيضاً التعريفات بموجب المادة (1) من المرسوم بقانون على

apply for the New Executive Regulation. When reviewing their legal obligations and rights, all persons must ensure they refer to the definitions in the Decree-Law in conjunction with the provisions of the New Executive Regulation.

The definition of the term “assets” has been expanded to include intangible assets. This means that the definition includes, for example, patents, brands, licenses, trademarks, computer programs, copyrights, goodwill and also customer lists. The definition of assets has a particular importance for the application of Article 18 of the New Executive Regulation.

Accounting records and commercial books (Article 2)[2]

In addition to the records and books of the business, businesses must also retain all documents that support entries in the accounting records and commercial books of the business.

This includes, but is not limited to:

- Relevant correspondence, invoices and tax invoices, licenses and agreements/contracts related to the business.
- Documents containing details of any election, determination or calculation made by a taxable person in relation to its tax affairs, including the basis, method of estimation, determination made and calculation performed.

اللائحة التنفيذية الجديدة. ويتعين على جميع الأشخاص عند مراجعة التزاماتهم وحقوقهم القانونية، التأكد من رجوعهم للتعاريف الواردة في المرسوم بقانون بالتزامن مع الأحكام المنصوص عليها في اللائحة التنفيذية الجديدة.

تم تحديث تعريف مصطلح "الأصول" ليشمل أيضاً الأصول غير المادية. وهذا يعني أن التعريف يشمل، على سبيل المثال، براءات الاختراع والعلامات التجارية والتراخيص وبرامج الحاسوب وحقوق النشر والسمعة التجارية وأيضاً قوائم العملاء. ولتعريف الأصول أهمية خاصة بالنسبة لتطبيق المادة (18) من اللائحة التنفيذية الجديدة.

السجلات المحاسبية والدفاتر التجارية (المادة (2))[2]

بالإضافة إلى سجلات ودفاتر الأعمال، يتعين على الأعمال الاحتفاظ بكافة المستندات الداعمة للقيود الواردة في سجلاتها المحاسبية ودفاترها التجارية.

ويشمل ذلك، على سبيل المثال لا الحصر، ما يلي:

- المراسلات ذات الصلة والفواتير والفواتير الضريبية والتراخيص والاتفاقيات/ العقود ذات الصلة بالأعمال.
- المستندات التي تتضمن تفاصيل لأي اختيار أو تحديد أو احتساب تم من قبل الخاضع للضريبة فيما يتعلق بالشؤون الضريبية، بما في ذلك أساس وطريقة التقدير والتحديد والاحتساب الذي تمّ القيام به.

- Documents with respect to related party transactions and with respect to the circumstances under which such transactions were made, including, for example, transfer pricing documents.

- المستندات ذات الصلة بمعاملات الطرف المرتبط وتلك المتعلقة بالظروف التي تمت فيها تلك المعاملات، ويتضمن على سبيل المثال، مستندات التسعير التحويلي.

Period of record keeping (Article 3)[3,4,5]

All accounting records, commercials books and all documents and information referred to under Article 2 of the New Executive Regulation are to be held in a way to enable the FTA to conduct its tax audits and verify a person's compliance with its tax obligations. They must also be maintained for defined periods depending on whether a person is a taxable person or not or depending on the nature of the record or document.

- The New Executive Regulation specifies that, for real estate records, the retention period is seven years from the end of the calendar year in which such record or document was created.

  For example, if a property was sold on 2 January 2025, the end of the calendar year in which the record is created would be 31 December 2025. Consequently, the related records and accounts must be retained until 31 December 2032.

فترة حفظ السجلات (المادة (3))[3،4،5]

يجب مسك جميع السجلات المحاسبية والدفاتر التجارية وكافة المستندات والمعلومات المُشار إليها في المادة (2) من اللائحة التنفيذية الجديدة وحفظها بشكل يُمكن الهيئة من إجراء التدقيق الضريبي والتحقق من امتثال الشخص لالتزاماته الضريبية. كما يجب الاحتفاظ بها لفترات مُحددة بناء على ما إذا كان الشخص خاضعاً للضريبة أم لا وعلى طبيعة السجل أو المستند.

- تنص اللائحة التنفيذية الجديدة فيما يخص السجلات العقارية على أن فترة حفظ السجلات والدفاتر تصل إلى (7) سبع سنوات من نهاية العام الميلادي الذي نشأت خلاله تلك السجلات أو المستندات.

  على سبيل المثال، إذا تم بيع عقار في 2 يناير 2025، فإن نهاية العام الميلادي الذي تم إنشاء السجل فيه ستكون 31 ديسمبر 2025. وبالتالي، يجب حفظ السجلات والحسابات ذات الصلة حتى 31 ديسمبر 2032.

- The general document retention period of five years will be extended by one year starting from the date of submission of a voluntary disclosure in the fifth year from the end of the relevant tax period.

  This means, for example, that a taxable person who discovers an error requiring a voluntary disclosure related to a tax period ending on 31 December 2019, and submits the voluntary disclosure application on 14 June 2024 (i.e. in the fifth year from the end of the relevant tax period), the person is required to retain the related records until 14 June 2025 although the retention period previously would have ended on 31 December 2024, except for real estate records and related documents.

- سوف يتم تمديد فترة حفظ المستندات العامة التي تبلغ خمس سنوات لعام آخر يبدأ من تاريخ تقديم تصريح طوعي في العام الخامس من نهاية الفترة الضريبية ذات الصلة.

  ويعني هذا، على سبيل المثال، أن الخاضع للضريبة الذي يكتشف خطأ يتطلب تقديم تصريح طوعي له علاقة بفترة ضريبية تنتهي في 31 ديسمبر 2019، ويقدم طلب التصريح الطوعي في 14 يونيو 2024 (أي في العام الخامس من نهاية الفترة الضريبية المعنية)، فيتعين عليه حفظ السجلات ذات الصلة حتى 14 يونيو 2025، على الرغم من أن فترة الحفظ سابقاً كانت ستنتهي في 31 ديسمبر 2024، وذلك فيما عدا السجلات العقارية والمستندات المتعلقة بها.

- Legal representatives, as defined under Article 1 of the Decree-Law, are required to retain the required books and records of the person they are representing for a period of one year from the date on which such legal representation ends.

  The retention periods under Article 3(1) and (2) of the New Executive Regulation remain applicable when a person has been appointed a legal representative and will continue to apply in the event that legal representation ends for that person. The period of one year is an onus on the legal representative.

- يتعين على الممثلين القانونيين، بحسب التعريف الوارد في المادة (1) من المرسوم بقانون، حفظ السجلات والدفاتر الخاصة بالشخص الذي يمثلونه لفترة عام واحد من تاريخ انتهاء تمثيلهم القانوني لذلك الشخص.

  تظل فترات حفظ السجلات بموجب البندين (1) و(2) من المادة (3) من اللائحة التنفيذية الجديدة مُطبقة عندما يتم تعيين شخص كممثل قانوني، ويستمر تطبيقها في حالة انتهاء التمثيل القانوني لذلك الشخص. إن حفظ السجلات لفترة عام واحد هي مسؤولية الممثل القانوني.

Language (Article 5)[6]

Under the Previous Executive Regulation, the tax return, data, information, records and any other documents related to tax, had to be submitted, by default, to the FTA in Arabic.

Under the New Executive Regulation, the FTA may now accept the tax return, data, information, records and any other documents related to tax to be submitted in English or Arabic.

If the documents were submitted in English, the FTA may, at its discretion, request to translate some or all documents into Arabic within a period that the FTA will specify in its request. The translation into Arabic must be approved in accordance with the law regulating translations in the UAE, which implies the requirement of using a translator who is on the translators list as defined under the Federal Law No. 6 of 2012.

اللغة (المادة (5))[6]

بموجب اللائحة التنفيذية السابقة، كان يجب تقديم الإقرار الضريبي والبيانات والمعلومات والسجلات وأي مستندات أخرى ذات صلة بالضريبة إلى الهيئة باللغة العربية.

بموجب اللائحة التنفيذية الجديدة، يجوز للهيئة الآن قبول تقديم الإقرار الضريبي والبيانات والمعلومات والسجلات وأي مستندات أخرى ذات صلة بالضريبة بإحدى اللغتين العربية أو الإنجليزية.

إذا تم تقديم المستندات باللغة الإنجليزية، يجوز للهيئة، حسب تقديرها، طلب ترجمة كافة المستندات أو جزء منها إلى اللغة العربية خلال فترة تحددها الهيئة في طلبها. يجب أن تكون ترجمة المستندات إلى اللغة العربية معتمدة وفقاً للقانون المُنظم لمهنة الترجمة في الدولة، والذي ينطوي على متطلبات الاستعانة بالمترجمين المُدرجين في قائمة المترجمين المعرف في القانون الاتحادي رقم (6) لسنة 2012.

Procedures relating to Tax Registration, Deregistration, and Amending Details of Registration (Article 6)[7,8]

Under the New Executive Regulation, the list of instances is expanded in which registrants are required to notify the FTA of changes to their business data to include notification of the following changes:

– E-mail address.

إجراءات التسجيل الضريبي وإلغاؤه وتعديل بياناته (المادة (6))[7،8]

بموجب اللائحة التنفيذية الجديدة، اتسعت قائمة الحالات التي يتعين على المسجلين فيها إبلاغ الهيئة بالتغيرات في بيانات أعمالهم بحيث يشمل التبليغ بالتغييرات الآتية:

– البريد الإلكتروني.

- Trade licence activities.
- Legal status and partnership agreement for unincorporated partnerships.

The FTA may, according to the New Executive Regulation, at its discretion but in accordance with the relevant Tax law, deregister a registrant where the person is required to deregister for a specific tax type but fails to submit a deregistration application.

This would, for example, include the following instances:

- A person continuously submits nil returns for Excise Tax, or where the value of supplies/taxable expenses do not meet the voluntary registration threshold for the purposes of VAT registration.
- A person registered for Excise Tax ceases to manufacture or import excise goods.

UAE Licensing bodies (Article 7)[9]

Under the Previous Executive Regulation, with respect to trade licences, and now under Article 7 of the New Executive Regulation, licensing bodies in the UAE must now also notify the FTA, within 20 business days of any issuance or renewal, of a number of data regarding the license.

- أنشطة الترخيص التجاري.
- الوضع القانوني واتفاقات الشراكة للائتلافات المشتركة.

للهيئة بناءً على اللائحة التنفيذية الجديدة، حسب تقديرها ولكن وفقاً للقانون الضريبي ذو الصلة، إلغاء التسجيل الضريبي للمسجل في الحالات التي يتعين فيها على الشخص إلغاء تسجيله الضريبي لنوع ضريبة محدد ولكنه لا يقوم بتقديم طلب إلغاء التسجيل الضريبي.

وسوف يشمل ذلك، على سبيل المثال، الحالات الآتية:

- الشخص الذي يقدم باستمرار إقرارات صفرية للضريبة الانتقائية، أو الذي لا تصل قيمة توريداته/ نفقاته الخاضعة للضريبة إلى حد التسجيل الطوعي لأغراض التسجيل لضريبة القيمة المضافة.
- توقف الشخص المسجل للضريبة الانتقائية عن تصنيع أو استيراد السلع الانتقائية.

جهات الترخيص في الدولة (المادة (7))[9]

فيما يتعلق بالتراخيص التجارية بموجب اللائحة التنفيذية السابقة، يتعين الآن على جهات التراخيص في الدولة إخطار الهيئة خلال (20) يوم عمل بأي إصدار أو تجديد لرخصة مع تضمين عدد من البيانات الخاصة بالترخيص في الإخطار بموجب المادة (7) من اللائحة التنفيذية الجديدة.

This obligation for licensing bodies does not exonerate the concerned registrant from his obligations under Article 6(4) of the New Executive Regulation.

هذا الالتزام المتعلق بجهات الترخيص لا يُعفي المسجل المعني من التزامه بموجب البند (4) من المادة (6) من اللائحة التنفيذية الجديدة.

Voluntary disclosure (Article 10)[10]

التصريح الطوعي (المادة (10))[10]

If a taxpayer becomes aware of an error or omission in a tax return submitted to the FTA that did not impact on the due tax for that tax period, the person is required to submit a voluntary disclosure to rectify the error.

إذا تبين لدافع الضريبة وجود خطأ أو سهو في الإقرار الضريبي المقدم للهيئة، ولم يؤثر على مبلغ الضريبة المستحقة عن تلك الفترة الضريبية، فعليه تقديم تصريح طوعي لتصحيح الخطأ.

Errors with no impact on due tax include:

- Failing to report imported services, where the business is entitled to full input tax recovery in respect of the supply.
- Reporting supplies in Box 1 of the VAT return against an Emirate other than the Emirate in which supplies should have been recorded.

وتشمل الأخطاء التي لا تؤثر على مبلغ الضريبة المستحقة:

- عدم الإقرار عن الخدمات المستوردة، في حال كانت الأعمال مؤهلة لاسترداد كامل ضريبة المدخلات المتعلقة بالتوريد.
- الإقرار عن توريدات في الخانة (1) في إقرار ضريبة القيمة المضافة مقابل الإمارة غير تلك التي يتوجب الإقرار فيها عن توريدات.

Means of notification (Article 11)[11]

وسائل التبليغ (المادة (11))[11]

The means of notification by the FTA towards a person now also includes text messages on mobile phones, notifications through smart applications, and notifications through the FTA's electronic systems. With respect to smart application, it should be noted that the FTA's mobile application can be downloaded by both iOS and Android users since 17 April 2023 and 15 May 2023, respectively.

تشمل وسائل تبليغ الهيئة للشخص الآن أيضاً الرسائل النصية على الهاتف المحمول والتبليغات من خلال التطبيقات الذكية والنظام الإلكتروني للهيئة. فيما يتعلق بالتطبيقات الذكية، تجدر الإشارة إلى أنه يمكن تحميل تطبيق الهيئة على الهاتف المحمول لكلٍ من مستخدمي الهواتف التي تعمل بنظامي iOS وAndroid بدءًا من 17 أبريل 2023 و15 مايو 2023 على التوالي.

As under the Previous Executive Regulation, postings of notifications in the premises of the person must be made on a prominent place such as the reception area. Any other means to be used for the notification than the means listed under Article 11 of the Executive Regulation, must be agreed in writing by the person and the FTA. A verbal agreement will not be in line with the New Executive Regulation.

يجب أن تُلصق التبليغات التي توضع في مقر عمل الشخص في مكان بارز مثل منطقة الاستقبال. ويجب أن يوافق كل من الشخص والهيئة كتابةً على أي طرق تبليغ أخرى يتم استخدامها بخلاف الطرق المذكورة في المادة (11) من اللائحة التنفيذية، ولن تعتبر الموافقة الشفهية متوافقة مع أحكام اللائحة التنفيذية الجديدة.

Tax Agents – Natural persons (Article 12)[12,13,14]

With the introduction of Corporate Tax in the UAE, the system of tax agents in the UAE is being updated. The updates are around specialism, experience required, education, registering as natural vs. juridical persons, language, procedures for tax agent listing and renewal and professional behaviour and integrity.

The New Executive Regulation provides the legal framework for the system of tax agents and this framework will be further regulated through Decisions that will, amongst others, clarify requirements around continuous professional development, the national and international bodies that the FTA will recognise who can provide valid professional certification for the purposes of registering tax agents, and the number of natural person tax agents required for a juridical tax agent to be listed.

الوكلاء الضريبيون – الأشخاص الطبيعيون (المادة (12))[12,13,14]

تم تحديث نظام الوكلاء الضريبيين في دولة الإمارات العربية المتحدة مع استحداث ضريبة الشركات في الدولة. وتشمل التحديثات التخصص والخبرات المطلوبة والتعليم والتسجيل للأشخاص الطبيعيين والاعتباريين واللغة والإجراءات اللازمة للقيد في سجل الوكيل الضريبي وتجديد التسجيل والسلوك المهني والنزاهة.

تنص اللائحة التنفيذية الجديدة على الإطار القانوني لنظام الوكلاء الضريبيين، وسوف يتم إدخال مزيد من التنظيم على هذا الإطار من خلال قرارات ستوضح، ضمن أمور أخرى، المتطلبات الخاصة بالتدريب المهني المستمر، والمؤسسات الوطنية والدولية التي تعترف بها الهيئة كجهات يمكنها تقديم شهادة مهنية سارية لغرض التسجيل كوكلاء ضريبيين، وعدد الوكلاء الضريبيين من الأشخاص الطبيعيين اللازمين لقيد وكيل ضريبي اعتباري.

A natural person wishing to register as a tax agent must have at least the following education and relevant tax, accounting or legal experience:

- Three years relevant experience obtained in the preceding five years, plus a Bachelor or Masters degree in tax, accounting, or law from an educational institution recognized by the UAE competent authorities. The certification of the degree must be done in line with the UAE applicable legislation;
- Three years relevant experience obtained in the preceding five years plus a Bachelor or Masters degree in any other field (other than tax, accounting, or law) from an educational institution recognized by the UAE competent authorities, and a valid professional qualification from an approved institution as specified by the FTA for purposes of presenting such qualification. The certification of the degree must be done in line with the UAE applicable legislation; or
- Five years relevant experience obtained in the preceding eight years plus a Bachelor or Masters degree in any field from an educational institution recognized by the UAE competent authorities. The certification of the degree must be done in line with the UAE applicable legislation.

يجب على الشخص الطبيعي الذي يرغب في التسجيل كوكيل ضريبي أن يحصل على الأقل على التعليم والخبرة ذات الصلة بمجال الضريبة أو المحاسبة أو القانون وفقاً للآتي:

- ثلاث سنوات خبرة ذات صلة تم اكتسابها خلال الخمس سنوات السابقة، بالإضافة إلى الحصول على درجة بكالوريوس أو درجة ماجستير في مجال الضرائب أو المحاسبة أو القانون من مؤسسة تعليمية معترف بها من قبل الجهات المختصة في دولة الإمارات. ويجب أن يتم التصديق على الدرجة العلمية وفقًا للتشريعات المطبقة في دولة الإمارات؛
- ثلاث سنوات خبرة ذات صلة تم اكتسابها خلال الخمس سنوات السابقة، بالإضافة إلى الحصول على درجة بكالوريوس أو ماجستير في أي مجال آخر (بخلاف الضرائب أو المحاسبة أو القانون) من مؤسسة تعليمية معترف بها من قبل الجهات المختصة في دولة الإمارات، وشهادة مهنية سارية من مؤسسة معترف بها وفقاً لما تحدده الهيئة لأغراض تقديم تلك الشهادة. ويجب أن يتم التصديق على الدرجة العلمية وفقًا للتشريعات المطبقة في دولة الإمارات؛ أو
- خمس سنوات خبرة ذات صلة تم اكتسابها خلال الثماني سنوات السابقة، بالإضافة إلى الحصول على درجة بكالوريوس أو ماجستير في أي مجال، من مؤسسة تعليمية معترف بها من قبل الجهات المختصة في دولة الإمارات. ويجب أن يتم التصديق على الدرجة العلمية وفقًا للتشريعات المطبقة في دولة الإمارات.

The natural person tax agent shall need to pass a qualification test, as will be specified by the FTA, whereby distinct tests will be in place for indirect tax and Corporate Tax. The tax agent shall also complete the necessary training, which will be on an ongoing basis, as specified by the FTA.

It is no longer a requirement for the tax agent to:

- be able to communicate in both Arabic and English as fluency in either of these languages is acceptable.
- submit proof that the person is medically fit to perform the duties of the profession.

Members of the Tax Dispute Resolution Committee are not allowed to be registered as tax agents.

ويجب على الوكلاء الضريبيين من الأشخاص الطبيعيين اجتياز اختبار تأهيل – كما تحدده الهيئة – حيث ستعقد اختبارات مختلفة لكلٍ من الضرائب غير المباشرة والضرائب المباشرة. كما يشترط استكمال الوكلاء الضريبيين للتدريب اللازم، والذي سيتم إجراؤه بشكل دوري، حسب ما تحدده الهيئة.

لم يعد الوكلاء الضريبيون مطالبين بأن:

- يكونوا قادرين على التواصل تحدثًا وكتابةً باللغتين العربية والإنجليزية، حيث أصبح من المقبول إجادة إحدى هاتين اللغتين.
- يقدموا دليلًا على أن الشخص لائقًا صحيًا لأداء واجبات مهنته.

لا يسمح لأعضاء لجنة فض المنازعات الضريبية بالتسجيل كوكلاء ضريبيين.

Tax agents – Juridical persons (Article 12)[15]

الوكلاء الضريبيون – الأشخاص الاعتباريين (المادة (12))[15]

The concept of a juridical person tax agent has been added in the UAE tax legislation. To be registered as tax agent, a juridical person tax agent must meet the following requirements:

- Hold a trade license reflecting that the legal person is licensed as an audit, tax or law firm.
- Hold or be covered under a valid professional indemnity insurance that is appropriate to the nature and size of the business.
- Have at least one partner or director who meets all of the requirements to be eligible to register and registers with the FTA as a natural

تمت إضافة مفهوم الوكيل الضريبي الاعتباري إلى التشريعات الضريبية لدولة الإمارات، ويشترط للتسجيل كوكيل ضريبي اعتباري استيفاء الشروط، الآتية:

- أن يكون الشخص الاعتباري مرخصًا كمكتب تدقيق أو مكتب ضريبة أو مكتب محاماة.
- أن يكون لديه تأمين سارٍ أو يكون مشمولًا بالتغطية في عقد تأمين ضد المسؤولية عن الأخطاء المهنية يتناسب مع طبيعة وحجم أعماله.
- أن يستوفي أحد الشركاء أو المديرين كافة الشروط المقررة ليكون مؤهلاً للتسجيل ويقوم بالتسجيل لدى الهيئة كوكيل ضريبي طبيعي والذي يعنى بالإشراف

person tax agent who supervises the services provided by the juridical person, and does not work for another juridical person or for its benefit.

على الخدمات التي يقدمها الشخص الاعتباري، وألا يعمل لدى شخص اعتباري آخر أو لصالحه.

– Meet any additional conditions prescribed by the FTA.

– أن يستوفي أي شروط إضافية تحددها الهيئة.

It must be noted that tax agents will be listed separately as Corporate Tax and Indirect tax (VAT and Excise Tax) agents. Separate training and qualifying examinations will be specified or prescribed.

تجدر الإشارة إلى أنه سيتم قيد الوكلاء الضريبيين بشكل منفصل كوكلاء ضريبين لضريبة الشركات ووكلاء ضريبيين للضرائب غير المباشرة (أي لضريبة القيمة المضافة والضريبة الانتقائية). سيتم تحديد اختبارات تدريبية وتأهيلية منفصلة.

A tax agent can be listed for both Corporate Tax and Indirect tax but can only represent a person for the category that he has been appointed for by that person.

يجوز للوكيل الضريبي التسجيل لكلٍ من ضريبة الشركات والضرائب غير المباشرة، إلا أنه يمكنه تمثيل الشخص فقط للفئة التي تمّ تعيينه لأغراضها من قبل ذلك الشخص.

Tax agents – Listing and de-listing (Article 13)[16-21]

الوكلاء الضريبيون – القيد في السجل وإلغائه (المادة (13))[16-21]

The New Executive Regulation stated detailed procedures for listing and delisting tax agents, including:

نصت اللائحة التنفيذية الجديدة على إجراءات تفصيلية من أجل قيد وإلغاء قيد الوكلاء الضريبيين، شاملة ما يلي:

– If a person fails to pay the relevant fees to be listed as a tax agent within 20 business days from the date of being notified of meeting the tax agent eligibility criteria, the application to be listed as a tax agent is considered to be cancelled.

– إذا لم يقم الشخص بسداد الرسوم المستحقة لقيده في السجل كوكيل ضريبي خلال (20) يوم عمل من تاريخ التبليغ باستيفاء معايير التأهل للتسجيل كوكيل ضريبي، فيعتبر طلب التسجيل كوكيل ضريبي ملغيًّا.

In such instance, a new application may be submitted if the person wishes to be listed as a tax agent.	في مثل هذه الحالة، على الشخص تقديم طلب جديد في حال رغبته في التسجيل كوكيل ضريبي.
– Every natural person tax agent is required to renew his/her tax agent registration every three years whereas juridical tax agents are required to renew their registration every year.	- يتعين على كل وكيل ضريبي طبيعي تجديد تسجيله كوكيل ضريبي كل ثلاث سنوات، بينما يتعين على الوكلاء الضريبيين الاعتبارين تجديد تسجيلهم كل سنة.
Renewal applications have to be submitted at least twenty business days before the expiration of the tax agent's listing, and the relevant renewal fee has to be paid to the FTA within the prescribed period.	يجب تقديم طلبات التجديد في موعد أقصاه (20) يوم عمل قبل انتهاء قيد الوكيل الضريبي في السجل، وسداد الرسوم المقررة ذات الصلة إلى الهيئة خلال المدة التي تحددها.
– Any renewal request submitted later than 20 business days before the date the listing expires, is treated as a new application and not a renewal request.	– يُعامل أي طلب تجديد يقدم بعد انقضاء فترة الـ (20) يوم عمل التي تسبق تاريخ انتهاء القيد، كطلب جديد وليس كطلب تجديد.
If a tax agent fails to apply for a renewal before the expiry of the listing, the person will be removed from the tax agent list and the person will no longer be allowed to practice as a tax agent.	إذا لم يقم الوكيل الضريبي بتقديم طلب التجديد قبل انتهاء القيد، يتم شطبه من سجل الوكلاء الضريبيين ولن يُسمح له بممارسة مهام الوكيل الضريبي.
In such instance, the person may submit a new application (including all the required documents) to be listed as a tax agent.	في مثل هذه الحالة، يجوز للشخص تقديم طلب جديد (يتضمن جميع المستندات المطلوبة) لقيده في السجل كوكيل ضريبي.
Furthermore, the person will be delinked from all taxpayers for which the person acted as tax agent.	بالإضافة إلى ذلك، سيتم فك ربط الشخص بجميع دافعي الضريبة الذين يمثلهم بصفة وكيل ضريبي.

The FTA is obliged to de-list a tax agent if:

- It was proven to the FTA that the tax agent is unable to fulfil its duties or functions, or no longer meets the conditions to be eligible to be listed as a tax agent.
- The FTA has serious grounds to believe that the continued listing of the person as a tax agent would adversely affect the integrity of the tax system in the UAE.
- The tax agent committed a serious violation of the provisions of the Decree-Law or the tax law, or committed, participated in or facilitated tax evasion.
- The FTA becomes aware that the tax agent is a current member of the Tax Dispute Resolution Committee.

Tax agents – Obligations and rights (Article 14)[22]

In addition to the obligations in the Previous Executive Regulation, the following have been added:

- Tax agents have to meet continuing professional development (CPD) requirements, as specified by the FTA.
- Tax agents are required to retain information, documents, records and data in respect of any person the tax agent represents.

على الهيئة إلغاء قيد الوكيل الضريبي في حال حصول ما يأتي:

- إذا ثبت للهيئة أن الوكيل الضريبي لا يستطيع القيام بمهامه أو واجباته أو لم يعد مستوفياً للشروط ليكون مؤهلاً للقيد كوكيل ضريبي.
- إذا كانت لدى الهيئة أسباب جدية بأن استمرار قيد الشخص كوكيل ضريبي من شأنه أن يؤثر سلباً على نزاهة وسلامة النظام الضريبي في الدولة.
- إذا ارتكب الوكيل الضريبي أي مخالفة جسيمة لأحكام المرسوم بقانون أو القانون الضريبي أو قام بالتهرب الضريبي أو المشاركة فيه أو تسهيله.
- إذا تبين للهيئة أن الوكيل الضريبي هو عضو حالي في لجنة فض المنازعات الضريبية.

الوكلاء الضريبيون – الالتزامات والحقوق (المادة (14))[22]

إضافة للالتزامات المفروضة على الوكلاء الضريبيين في اللائحة التنفيذية السابقة، تمت إضافة الآتي:

- يتعين على الوكلاء الضريبيين استيفاء متطلبات برنامج التطوير المهني على النحو الذي تحدده الهيئة.
- يتعين على الوكلاء الضريبيين الاحتفاظ بالمعلومات والمستندات والسجلات والبيانات الخاصة بأي شخص يمثله.

Tax audits (Article 16)[23]

Under the New Executive Regulation, the FTA is now required to give a person at least 10 business-day notice before conducting a tax audit.

Overall, the procedures of the tax audit and the rights and obligations remain the same as already in effect. The New Executive Regulation contains some changes and updates, including:

- The right for the FTA auditor to also mark original documents for the purpose of indicating that they have been inspected.
- In its record of what was removed for tax audit purposes, to be provided by the FTA, the FTA must include not only the nature of a document that was removed but also a description of this document. This is for the purposes of increased clarity and legal certainty.
- In case the FTA intends to dispose of an asset, it can also notify other specified persons instead of the owner of the asset, of its intention where notification of the owner is not possible.
- A request from a person to view or obtain documents, data and information on which the FTA based an assessment of due tax, shall be met by the FTA within 10 business days (previously 20 business days) from the date of

التدقيق الضريبي (المادة (16))[23]

وفقًا للائحة التنفيذية الجديدة، أصبح على الهيئة تبليغ الشخص بالتدقيق الضريبي قبل (10) أيام عمل على الأقل من القيام بالتدقيق الضريبي.

وعمومًا، تظل إجراءات التدقيق الضريبي والحقوق والالتزامات نافذة كما هي. غير أن اللائحة التنفيذية الجديدة تضمنت بعض التغييرات والتحديثات، من بينها:

- يجوز لمدقق الضرائب التابع للهيئة أيضًا وضع علامات على المستندات الأصلية بهدف الإشارة إلى خضوعها للمعاينة.
- يجب أن تدرج الهيئة في محضرها الذي يتضمن ما تمّ التحفظ عليه لأغراض التدقيق الضريبي، المتعين على الهيئة تقديمه، ليس فقط طبيعة المستند الذي تم التحفظ عليه ولكن أيضًا وصفًا لهذا المستند. وذلك لأغراض زيادة الوضوح واليقين القانوني.
- إذا قررت الهيئة التخلص من الأصل، ولم يكن من الممكن تبليغ المالك، فيمكن للهيئة أيضًا تبليغ أي من الأشخاص المحددين بدلاً عن المالك، برغبتها بالتخلص من الأصل.
- يجب على الهيئة تلبية طلب الشخص للاطلاع أو الحصول على المستندات والبيانات والمعلومات التي استندت إليها الهيئة في تقييم الضريبة المستحقة خلال (10) أيام عمل (20 يوم عمل سابقًا) من تاريخ استلام الطلب، ولكن مع مراعاة الاستثناءات المنصوص عليها

receiving the request, but subject to the exceptions under Article 19(4) of the New Executive Regulation.

في البند (4) من المادة (19) من اللائحة التنفيذية الجديدة.

Reconciliation process – Tax Evasion crimes (Articles 23 and 24)[24-28]

For tax evasion crimes and the deliberate failure to settle administrative penalties, a person may submit a reconciliation application to the FTA before the initiation of the criminal case, provided that the person undertakes to settle the full amounts of payable tax and administrative penalties to the FTA as consideration for the reconciliation.

Also, before a criminal case is initiated, for the specific tax crimes that are specified under Article 25(4) of the Decree-Law, and where these crimes resulted in tax evasion or facilitated or concealed tax evasion, the person must first make a payment of AED 50,000 before the FTA may reconcile. Reconciliation shall be made by settling the full amounts of payable tax and administrative penalties to the FTA.

If the FTA accepts the reconciliation application, a record shall be issued containing proof of the reconciliation and its consideration. This document has to be signed by both parties, i.e. the FTA and the person who submitted the reconciliation application. The FTA will provide a copy of such record to the person after payment of the full

إجراءات التصالح – جرائم التهرب الضريبي (المادتان (23) و(24))[24-28]

يجوز للشخص تقديم طلب التصالح إلى الهيئة لجرائم التهرب الضريبي والامتناع العمدي عن سداد الغرامات الإدارية، وذلك قبل تحريك الدعوى الجزائية، شريطة أن يتعهد الشخص بسداد كامل الضريبة المستحقة الدفع والغرامات الإدارية إلى الهيئة كمقابل للتصالح.

كذلك، قبل تحريك دعوى جزائية في الجرائم الضريبية المحددة في البند (4) من المادة (25) من المرسوم بقانون، وحيث نتج عن هذه الجرائم تهربًا ضريبيًا أو أدت إلى تسهيله أو إخفائه، يجب على الشخص أولاً أداء مبلغ (50,000) خمسين ألف درهم قبل التصالح مع الهيئة. ويكون التصالح بسداد كامل الضريبة المستحقة الدفع والغرامات الإدارية للهيئة.

في حال قبول الهيئة لطلب التصالح، فسيُحرر محضر بذلك يتضمن إثبات التصالح ومقابله ويوقعه الطرفان، أي الهيئة والشخص الذي قدّم طلب التصالح. ستُسلم الهيئة نسخة من المحضر للشخص بعد سداد مقابل التصالح كاملاً.

consideration for the reconciliation.

The accused or convicted person may submit a reconciliation application to the competent federal public prosecution at any stage of the criminal case. The public prosecution shall seek the FTA's opinion before proceeding with reconciliation procedures in tax crimes.

يجوز للمتهم أو المحكوم عليه، في أي مرحلة من مراحل الدعوى الجزائية تقديم طلب التصالح إلى النيابة العامّة الاتحادية المختصة. ويتعين على النيابة العامّة استطلاع رأي الهيئة قبل البدء بالسير في إجراءات التصالح في الجرائم الضريبية.

Depending on the stage of the criminal case, also including the stage after issuance of a conviction judgement, and on the nature of the tax crime, reconciliation can be made subject to settling the full amount of payable tax and administrative penalties plus an additional amount calculated as a percentage of the tax evaded and, in some cases, plus an additional fixed amount.

على أساس مرحلة الدعوى الجزائية، بما في ذلك أيضًا مرحلة ما بعد صدور الحكم بالإدانة، وعلى أساس طبيعة الجريمة الضريبية، يمكن التصالح رهنًا بسداد كامل مبلغ الضريبة مستحقة الدفع والغرامات الإدارية بالإضافة إلى مقابل إضافي للتصالح يتمّ احتسابه كنسبة مئوية من الضريبة التي تمّ التهرب منها، وفي بعض الحالات، بالإضافة إلى مبلغ ثابت إضافي.

If the public prosecution accepts the reconciliation application, it shall issue a record of reconciliation after the full settlement of the full tax and administrative penalties payable and additional consideration for the reconciliation.

في حال موافقة النيابة العامّة على طلب التصالح، فيجب تحرير محضر بالتصالح بعد سداد كامل الضريبة والغرامات الإدارية مستحقة الدفع والمقابل الإضافي للتصالح.

The record must be signed by both the competent public prosecution member and the accused or convicted person, approved by the federal attorney general, and include the following:

- The details of the accused or convicted person.
- A description of the charges attributed to the accused or the convicted person, the date and place of their occurrence and the articles of law applicable thereto.

يجب توقيع المحضر من قبل كلٍ من عضو النيابة العامّة المختص والمتهم أو المحكوم عليه، ويعتمد من النائب العامّ للاتحاد، ويجب أن يتضمن ما يأتي:

- بيانات المتهم أو المحكوم عليه.
- وصفًا للتهم المنسوبة للمتهم أو المحكوم عليه وتاريخ ومكان وقوعها ومواد القانون المنطبقة عليها.

- The value of the tax and administrative penalties payable.
- The percentage and value of the additional amount of consideration for the reconciliation.

Extension of deadlines (Article 25)[29,30,31,32]

The FTA may extend the deadline for deciding on a tax assessment review request and a request for reconsideration for a period of 20 business days if the extension is necessary to decide on the request.

The FTA may, at the request of the concerned persons, extend the deadline for accepting the submission of a tax assessment review request or a reconsideration request, in the cases deemed appropriate by the FTA.

The Tax Disputes Resolution Committee may extend the deadline for deciding on a Tax objection for a period of 60 business days if the extension is necessary to decide on the objection.

The Tax Disputes Resolution Committee may, at the request of a concerned person, extend the deadline for accepting the submission a tax objection if the late submission of the tax objection was due to circumstances beyond the person's control, sudden accident, emergency circumstances or force majeure that prevented them from submitting the tax objection within the specified period.

- مقدار الضريبة والغرامات الإدارية مستحقة الدفع.
- بيان نسبة ومقدار المقابل الإضافي للتصالح.

تمديد المواعيد (المادة 25)[29،30،31،32]

يجوز للهيئة تمديد أجل البت في طلب مراجعة التقييم الضريبي وطلب إعادة النظر لمدة (20) يوم عمل إذا كان التمديد ضرورياً للبت في الطلب.

يجوز للهيئة، بناءً على طلب ذوي الشأن، تمديد مدة قبول تقديم طلب مراجعة التقييم الضريبي أو طلب إعادة النظر، في الحالات التي تقدرها الهيئة.

يجوز للجنة فض المنازعات الضريبية تمديد أجل البت في الاعتراض الضريبي لمدة (60) يوم عمل إذا كان التمديد ضرورياً للبت في الاعتراض.

يجوز للجنة فض المنازعات الضريبية، بناءً على طلب ذوي الشأن، تمديد مهلة قبول تقديم الاعتراض الضريبي إذا كان تأخير تقديم الاعتراض الضريبي نتيجة أحداث لا يد له فيها أو حادث فجائي أو ظروف طارئة أو قوة قاهرة حالت دون القدرة على التقدم بالاعتراض الضريبي ضمن المواعيد المحددة.

Bankruptcy (Article 27)[33]

The FTA shall notify the appointed bankruptcy trustee of the amount of the due tax in respect of the business subject to bankruptcy and, where applicable, of its intention to perform a tax audit for specific tax period(s), within 20 business days after being notified of the trustee's appointment.

الإفلاس (المادة (27))[33]

يتعين على الهيئة تبليغ أمين التفليسة المعين بمقدار الضريبة المستحقة فيما يتعلق بالأعمال الخاضعة لإجراءات الإفلاس، وعند الاقتضاء، برغبتها بإجراء التدقيق الضريبي على فترة أو فترات ضريبية محددة، خلال (20) عشرين يوم عمل من تاريخ إخطار الهيئة بتعيين أمين التفليسة.

Abrogation (Article 30)[34]

Decisions issued by the FTA and procedures applied by it for the implementation of the Previous Executive Regulation shall remain in force, insofar as they do not contradict with the provisions of the New Executive Regulation until the issuance of decisions and procedures replacing them.

الإلغاءات (المادة (30))[34]

يستمر العمل بالقرارات الصادرة من الهيئة والإجراءات المطبقة من قبلها تنفيذاً للائحة التنفيذية السابقة، إلى الحد الذي لا يتعارض مع أحكام اللائحة التنفيذية الجديدة، وذلك إلى حين صدور قرارات وإجراءات تحل محلها.

Effective date (Article 31)[35]

The New Executive Regulation shall be published in the Official Gazette and come into effect on 1 August 2023, except for the provisions relating to the conditions for registering juridical tax agents which comes into effect on 1 December 2023. This 1 December date allows juridical persons to prepare for compliance with the conditions to be listed as tax agents.

تاريخ العمل بالقرار (المادة (31))[35]

تُنشر اللائحة التنفيذية الجديدة في الجريدة الرسمية، ويُعمل بها اعتباراً من 1 أغسطس 2023، فيما عدا الأحكام المتعلقة بشروط التسجيل للوكلاء الضريبيين الاعتباريين والتي يُعمل بها اعتبارًا من 1 ديسمبر 2023. يسمح تاريخ 1 ديسمبر للأشخاص الاعتباريين الاستعداد للامتثال لشروط قيدهم كوكلاء ضريبيين.

This Public Clarification issued by the FTA is meant to clarify certain aspects related to the implementation of Cabinet Decision No. 74 of 2023 on the Executive Regulation of Federal Decree-Law No. 28 of 2022 on Tax Procedures.

This Public Clarification states the position of the FTA and neither amends nor seeks to amend any provision of the aforementioned legislation. Therefore, it is effective as of the date of implementation of the relevant legislation, unless stated otherwise.

Legislative References:

In this clarification, Cabinet Decision No. 74 on the Executive Regulation of Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as " New Executive Regulation".

1. Article 1 of the New Executive Regulation defines the term "asset" as tangible and intangible assets, including equipment, machinery, goods and others, which the FTA considers to be owned, leased or used in connection with the conduct of business by any person.
2. Article 2(1)(b) of the New Executive Regulation states that all documents supporting the entries in the accounting records and commercial books, including but not limited to:
   (1) Correspondence, invoices, licenses and contracts related to the Business.
   (2) Documents containing details of any election, assessment, determination or calculation made by a taxpayer in relation to the tax affairs of their business, including the basis, or method of assessment, determination or calculation made.
3. Article 3(1)(c) of the New Executive Regulation states that all accounting records, commercial books and information shall be retained and maintained in a way that enables the FTA or any employee authorised by it to verify the tax

يهدف هذا التوضيح العام الصادر عن الهيئة الاتحادية للضرائب إلى توضيح بعض المواضيع المتعلقة بتطبيق قرار مجلس الوزراء رقم (74) لسنة 2023 في شأن اللائحة التنفيذية للمرسوم بقانون اتحادي رقم (28) لسنة 2022 في شأن الإجراءات الضريبية.

هذا التوضيح العام يتضمن موقف الهيئة الاتحادية للضرائب ولا يُعدّل ولا يهدف إلى تعديل أي من أحكام التشريعات المذكورة. ولذلك، فإن هذا التوضيح العام ساري اعتباراً من تاريخ تطبيق التشريعات الضريبية المذكورة، ما لم يتم تحديد خلاف ذلك في النص.

المراجع التشريعية

في هذا التوضيح، يُشار إلى قرار مجلس الوزراء رقم (74) في شأن اللائحة التنفيذية للمرسوم بقانون اتحادي رقم (28) لسنة 2022 في شأن الإجراءات الضريبية بعبارة "اللائحة التنفيذية الجديدة".

1. تُعرّف المادة (1) من اللائحة التنفيذية الجديدة مصطلح "الأصول" على أنها الأصول المادية وغير المادية بما فيها الآلات والأجهزة والبضائع وغيرها، التي تعتبرها الهيئة مملوكة أو مؤجرة أو مستخدمة لأغراض مرتبطة بمزاولة الأعمال من قبل أي شخص.
2. تنص الفقرة (ب) من البند (1) من المادة (2) من اللائحة التنفيذية الجديدة على أن تشمل السجلات المحاسبية والدفاتر التجارية كافة المستندات التي تدعم القيود الواردة في السجلات المحاسبية والدفاتر التجارية، بما في ذلك على سبيل المثال لا الحصر:
   (1) المراسلات والفواتير والتراخيص والعقود المتعلقة بالأعمال.
   (2) المستندات التي تتضمن التفاصيل الخاصة بأي اختيار أو تقدير أو تحديد أو احتساب قام به دافع الضريبة فيما يتعلق بالشؤون الضريبية لأعماله بما في ذلك أساس أو طريقة التقدير أو التحديد أو الاحتساب الذي تم القيام به.
3. وفقًا الفقرة (ج) من البند (1) من المادة (3) من اللائحة التنفيذية الجديدة، يجب مسك وحفظ كافة السجلات المحاسبية والدفاتر التجارية والمعلومات، على نحو يمكن الهيئة أو أي موظف مخول من قبلها من التأكد من الالتزامات الضريبية المفروضة على

obligations imposed on the person concerned for a period of (7) seven years from the end of the calendar year in which the concerned document was created for real estate records, unless the tax Law states otherwise.

4. Article 3(2)(d) of the New Executive Regulation states that, in addition to the periods specified in Clause (1) of this Article, the person shall retain the books and records for an additional period of (1) one year starting from the date of submission of a voluntary disclosure in respect of the taxable person that submits a voluntary disclosure in the fifth year from the end of the relevant tax period.

5. Article 3(3) of the New Executive Regulation states that, subject to Clauses 1 and 2 of this Article, the legal representative shall retain the books and records of the person he is representing for a period of (1) one year from the date on which such legal representation expires.

6. Article 5(2) of the New Executive Regulation states that the translation of any tax return, data, information, records, documents or other books into Arabic must be approved in accordance with the law regulating translation in the UAE, and submitted to the FTA within the period it specifies.

7. Article 6(4) of the New Executive Regulation states that a registrant shall notify the FTA, in the form and manner approved by it, within (20) twenty business days of any change to their data kept with the FTA, including:

   a. Name, address and email address.
   b. Trade licence activities.
   c. Legal entity type, partnership agreement for unincorporated partnerships and articles of association or its equivalent.
   d. Nature of the business of the Registrant.
   e. The address from which any business is conducted by the registrant.

الشخص المعني، لمدة (7) سبع سنوات من انتهاء السنة الميلادية التي تم إنشاء المستند المعني خلالها فيما يتعلق بالسجلات العقارية، ما لم يقض القانون الضريبي بغير ذلك.

4. تنص الفقرة (د) من البند (2) من المادة (3) من اللائحة التنفيذية الجديدة على أنه بالإضافة إلى المدد المشار إليها في البند (1) من هذه المادة، يتعين على الشخص الاحتفاظ بالسجلات والدفاتر لمدة سنة إضافية تبدأ من تاريخ تقديم التصريح الطوعي بالنسبة للخاضع للضريبة الذي يقدم تصريحاً طوعياً في السنة الخامسة من نهاية الفترة الضريبية ذات الصلة.

5. ينص البند (3) من المادة (3) من اللائحة التنفيذية الجديدة على أنه مع مراعاة البندين (1) و(2) من هذه المادة، يتعين على الممثل القانوني الاحتفاظ بالسجلات والدفاتر الخاصة بالشخص الذي يمثله لمدة سنة اعتبارًا من التاريخ الذي ينتهي فيه ذلك التمثيل القانوني.

6. وفقًا للبند (2) من المادة (5) من اللائحة التنفيذية الجديدة، يجب أن تكون ترجمة أي إقرار ضريبي أو بيانات أو معلومات أو سجلات أو مستندات أو دفاتر أخرى إلى اللغة العربية معتمدة وفق القانون المنظم للترجمة في الدولة، وتقدم للهيئة خلال المدة التي تحددها.

7. وفقًا البند (4) من المادة (6) من اللائحة التنفيذية الجديدة، على المسجل إخطار الهيئة، وفقًا للنموذج والآلية المعتمدة لديها، خلال (20) عشرين يوم عمل بأي تغيير يطرأ على بياناته المحفوظة لديها، بما في ذلك:

   أ. الاسم والعنوان والبريد الإلكتروني.
   ب. النشاط المسجل في الرخصة التجارية.
   ج. الشكل القانوني وعقد الشراكة بالنسبة للائتلافات المشتركة وعقد التأسيس وما يعادله.
   د. طبيعة أعمال المسجل.
   ه. هـ العنوان الذي يمارس منه المسجل أي أعمال.

8. Article 6(7) of the New Executive Regulation states that, in cases where the registrant does not submit a de-registration application, the FTA may de-register such registrant in accordance with the controls and procedures stated in the Tax Law.

.8 ينص البند (7) من المادة (6) من اللائحة التنفيذية الجديدة على أنه في الحالات التي لا يتقدم فيها المسجل بتقديم طلب إلغاء تسجيله الضريبي، فللهيئة إلغاء تسجيله الضريبي وفقاً للضوابط والإجراءات الواردة في القانون الضريبي.

9. Article 7 of the New Executive Regulation states that the government entities that grant licences to persons carrying out business shall, within (20) twenty business days of the issuance or renewal of the licence, notify the FTA in the manner specified by it. The notification shall include the following:

1. The name of the licensee.
2. The type, number and date of issuance of the trade licence.
3. The registered address of the licensee.
4. The registered address of the licensee.
5. The details of the owners, partners and directors.
6. Any other information requested by the FTA.

.9 وفقًا للمادة (7) من اللائحة التنفيذية الجديدة، تلتزم الجهات الحكومية المعنية بمنح التراخيص للأشخاص لمزاولة الأعمال، خلال (20) عشرين يوم عمل من تاريخ إصدار الترخيص أو تجديده، بإخطار الهيئة وفق الآلية المحددة من قبلها، ويتعين أن يتضمن الإخطار ما يأتي:

1. اسم المرخص له.
2. نوع ورقم وتاريخ إصدار الرخصة التجارية.
3. العنوان المسجل للمرخص له.
4. وصف لأنشطة الأعمال.
5. البيانات الخاصة بالمالكين والشركاء والمديرين.
6. أي معلومات أخرى تطلبها الهيئة.

10. Article 10(3) of the New Executive Regulation states that if a taxpayer becomes aware of an error or omission in the tax return submitted to the FTA without there being a difference in due tax, the taxpayer shall correct the error or submit a voluntary disclosure to the FTA as may be specified by the FTA.

.10 وفقًا للبند (3) من المادة (10) من اللائحة التنفيذية الجديدة، إذا تبين لدافع الضريبة وجود خطأ أو سهو في الإقرار الضريبي المقدم للهيئة، دون أن يكون هناك فارق في مبلغ الضريبة المستحقة، فعليه تصحيح الخطأ أو تقديم تصريح طوعي، وفقاً لما تحدده الهيئة.

11. Article 11(1) of the New Executive Regulation states that the FTA shall notify the person, its tax agent or legal representative, as applicable, at the address registered with the FTA by any of the following means:

a. Post, registered post, email, mobile text message, smart applications or the electronic system of the FTA.
b. Posting in a prominent place in the premises of the person.
c. Any other means as may be agreed in writing by the person and the FTA.

.11 ينص البند (1) من المادة (11) من اللائحة التنفيذية الجديدة على أن تقوم الهيئة بتبليغ الشخص أو وكيله الضريبي أو ممثله القانوني، بحسب الأحوال، على العنوان المسجل لديها من خلال أي من الوسائل الآتية:

أ. البريد أو البريد المسجل أو البريد الإلكتروني أو الرسائل النصية على الهاتف المحمول أو التطبيقات الذكية أو النظام الالكتروني للهيئة.
ب. اللصق على مكان بارز في مقر الشخص.
ج. أي وسيلة أخرى يتم الاتفاق عليها كتابةً بين الشخص والهيئة.

12. Article 12(1)(c) of the New Executive Regulation states that a natural person wishing to be listed in the register of tax agents shall have the minimum education and relevant experience in tax, accounting or law, in any of the following forms:

(1) Experience of at least (3) three years obtained in the last (5) five years and hold at least a certified bachelor degree or masters in tax, accounting or law from an education institution recognised by the competent authority in the UAE.

(2) Experience of at least (3) three years obtained in the last (5) five years and hold a certified bachelor degree in any other field from an educational institution recognised by the competent authority in the UAE, in addition to a valid professional qualification from a recognised institution, as may be prescribed by the FTA.

(3) Experience of at least (5) five years obtained in the last (8) eight years and hold a certified bachelor degree in any other field from an education institution recognised by the competent authority in the UAE.

13. Article 12(1)(e) of the New Executive Regulation states that a natural person wishing to be listed in the register of tax agents shall that have the ability to communicate orally and in writing in Arabic or English.

14. Article 12(1)(h) of the New Executive Regulation states that a natural person wishing to be listed in the register of tax agents shall the natural person tax agent must not be a current member of the Committee.

15. Article 12(2) of the New Executive Regulation states that a juridical person wishing to be listed in the register of tax agents shall satisfy all of the following conditions:

a. Be licensed as an audit, tax or law firm.

.12 وفقًا للفقرة (ج) من البند (1) من المادة (12) من اللائحة التنفيذية الجديدة، على الشخص الطبيعي الراغب بالقيد في سجل الوكلاء الضريبيين، أن يتمتع بالحد الأدنى من التعليم والخبرة ذات الصلة بمجال الضريبة أو المحاسبة أو القانون، وذلك بأي من الصور الآتية:

(1) خبرة لا تقل مدتها عن (3) ثلاث سنوات مكتسبة خلال السنوات الخمس السابقة، وحاصل على درجة بكالوريوس أو ماجستير على الأقل معتمدة في مجال الضريبة أو المحاسبة أو القانون من مؤسسة تعليمية معترف بها من قبل الجهة المختصة في الدولة.

(2) خبرة لا تقل مدتها عن (3) ثلاث سنوات مكتسبة خلال السنوات الخمس السابقة، وحاصل على درجة بكالوريوس معتمدة في أي مجال آخر من مؤسسة تعليمية معترف بها من قبل الجهة المختصة في الدولة بالإضافة إلى شهادة مهنية سارية من مؤسسة معترف بها، على النحو الذي تحدده الهيئة.

(3) خبرة لا تقل مدتها عن (5) خمس سنوات مكتسبة خلال السنوات الثماني السابقة، وحاصل على درجة بكالوريوس معتمدة في أي مجال آخر من مؤسسة تعليمية معترف بها من قبل الجهة المختصة في الدولة.

.13 وفقًا للفقرة (هـ) من البند (1) من المادة (12) من اللائحة التنفيذية الجديدة، على الشخص الطبيعي الراغب بالقيد في سجل الوكلاء الضريبيين، أن يجيد اللغة العربية أو الإنجليزية تحدثاً وكتابة.

.14 وفقًا للفقرة (ح) من البند (1) من المادة (12) من اللائحة التنفيذية الجديدة، على الشخص الطبيعي الراغب بالقيد في سجل الوكلاء الضريبيين، ألا يكون عضواً حالياً في اللجنة.

.15 وفقًا للبند (2) من المادة (12) من اللائحة التنفيذية الجديدة، على الشخص الاعتباري الراغب بالقيد في سجل الوكلاء الضريبيين، استيفاء جميع الشروط الآتية:

أ. أن يكون مرخصاً كمكتب تدقيق أو مكتب ضريبة أو مكتب محاماة.

b. Hold or be covered under a valid professional indemnity insurance that is appropriate to the nature and size of its business.

ب. أن يكون لديه تأمين أو يكون مشمولًا بالتغطية في عقد تأمين ضد المسؤولية عن الأخطاء المهنية يتناسب مع طبيعة وحجم أعماله.

c. At least one director or partner meets all of the natural person requirements in Clause 1 of this Article, is supervising the services provided by the juridical person and does not work for another juridical person or for its benefit.

ج. أن يستوفي أحد الشركاء أو المديرين كافة الشروط المقررة للشخص الطبيعي في البند (1) من هذه المادة وأن يشرف على الخدمات التي يقدمها الشخص الاعتباري وألا يعمل لدى شخص اعتباري آخر أو لصالحه.

d. Meet any additional conditions prescribed by the FTA.

د. أن يستوفي أي شروط إضافية تحددها الهيئة.

16. Article 13(4) of the New Executive Regulation states that the fees due in accordance with Clause 3 of this Article must be paid within (20) twenty business days from the date of notification of the approval. If the fees due are not paid within this period, the application shall be considered canceled.

16. وفقًا للبند (4) من المادة (13) من اللائحة التنفيذية الجديدة، يجب سداد الرسوم المستحقة وفقًا للبند (3) من هذه المادة خلال (20) عشرين يوم عمل من تاريخ التبليغ بالموافقة، فإذا لم يتم سداد الرسوم المستحقة خلال هذه المادة، يعتبر الطلب ملغيًا.

17. Article 13(8) of the New Executive Regulation states that the listing in the register shall be for three (3) three years for natural person and (1) one year for a juridical person from the date of listing and the tax agent may apply to the FTA to renew the listing no later than (20) twenty business days before the expiration of its listing and shall pay the required fees by the date specified by the FTA.

17. ينص البند (8) من المادة (13) من اللائحة التنفيذية الجديدة على أن يكون القيد في السجل لمدة (3) ثلاث سنوات من تاريخ القيد للشخص الطبيعي ولمدة سنة من تاريخ القيد للشخص الاعتباري، ويجوز للوكيل الضريبي التقدم بطلب للهيئة لتجديد قيده في السجل على أن يتم ذلك في موعد أقصاه (20) عشرين يوم عمل قبل انتهاء قيده وسداد الرسوم المقررة خلال المدة التي تحددها الهيئة.

18. Article 13(9) of the New Executive Regulation states that any renewal request submitted after the elapse of the period set out in Clause 8 of this Article shall be treated as a new application and must meet the conditions set out in Article 12 of the New Executive Regulation.

18. ينص البند (8) من المادة (13) من اللائحة التنفيذية الجديدة على أن يعامل أي طلب تجديد يقدم بعد انقضاء الأجل المحدد في البند (8) من هذه المادة كطلب جديد ويجب أن يستوفي الشروط المحددة في المادة (12) من اللائحة التنفيذية الجديدة.

19. Article 13(10) of the New Executive Regulation states that, if the tax agent does not make an application to renew its listing before the expiration of the durations referred to in Clause 8 of this Article, its registration shall be cancelled and its link to all the persons it represents with the FTA shall be revoked, as of the expiration date of its listing in the register.

19. وفقًا البند (10) من المادة (13) من اللائحة التنفيذية الجديدة، إذا لم يقم الوكيل الضريبي بتقديم طلب تجديد قيده قبل انتهاء المدة د المشار إليها في البند (8) من هذه المادة، يتم إلغاء تسجيله وفك ربطه بجميع الأشخاص الذين يمثّلهم لدى الهيئة، اعتباراً من تاريخ انتهاء قيده في السجل.

20. Article 13(13) of the New Executive Regulation states the FTA shall de-list the tax agent from the register in any of the following cases:

   a. If the FTA has determined that the tax agent is unable to fulfil its duties or functions, or is no longer meeting the conditions specified in Article 12 of the New Executive Regulation.

   b. If the FTA has serious grounds to believe that the continued listing of the person as a tax agent would adversely affect the integrity of the tax system in the UAE.

   c. If the tax agent committed a serious violation of the provisions of the Decree-Law or the tax law or committed or participated in tax evasion.

   d. If the FTA found out that the tax agent is a current member of the Committee.

21. Article 13(15) of the New Executive Regulation states that Clause 14 of this Article shall result in the tax agent being de-linked from all persons it represents before the FTA, after (5) five business days from the date of notification of the FTA's decision.

22. Article 14(1)(e) of the New Executive Regulation states that, in performing its duties, the tax agent shall keep information, documents, records and data in respect of any person represented by the tax agent.

23. Article 16(1) of the New Executive Regulation states the FTA shall notify the person of a tax audit, at least (10) ten business days prior to the tax audit, and the notification shall set out the possible consequences of obstructing the tax auditor in the exercise of his duty.

24. Article 23(2) of the New Executive Regulation states that prior to initiating a criminal case, the FTA may reconcile in tax crimes stipulated in Clause 4 of Article 25 of the Decree-Law, after the settlement of an amount of (50,000) fifty thousand Dirhams. If any of these crimes

.20 وفقًا للبند (13) من المادة (13) من اللائحة التنفيذية الجديدة، على الهيئة إلغاء قيد الوكيل الضريبي من السجل في أي من الحالات الآتية:

أ. إذا ثبت للهيئة أنه لا يستطيع القيام بمهامه أو واجباته أو لم يعد مستوفياً للشروط المحددة في المادة (12) من اللائحة التنفيذية الجديدة.

ب. إذا كانت لدى الهيئة أسباب جدية بأن استمرار قيد الشخص كوكيل ضريبي في السجل من شأنه أن يؤثر سلباً على نزاهة وسلامة النظام الضريبي في الدولة.

ج. إذا ارتكب أي مخالفة جسيمة لأحكام المرسوم بقانون أو القانون الضريبي أو قام أو شارك في التهرّب الضريبي.

د. إذا تبين للهيئة أنه عضو حالي في اللجنة.

.21 ينص البند (15) من المادة (13) من اللائحة التنفيذية الجديدة على أنه يترتّب على البند (14) من هذه المادة فك ربط الوكيل الضريبي بجميع الأشخاص الذين يمثّلهم لدى الهيئة بعد (5) خمسة أيام عمل من تاريخ التبليغ بقرار الهيئة.

.22 وفقًا للفقرة (هـ) من البند (1) من المادة (14) من اللائحة التنفيذية الجديدة، على الوكيل الضريبي عند ممارسة مهامه، الاحتفاظ بالمعلومات والمستندات والسجلات والبيانات المتعلقة بأي شخص يمثله.

.23 وفقًا للبند (1) من المادة (16) من اللائحة التنفيذية الجديدة، على الهيئة تبليغ الشخص بالتدقيق الضريبي قبل (10) عشرة أيام عمل على الأقل من القيام بالتدقيق الضريبي، ويجب أن يتضمن التبليغ المرسل من قبل الهيئة الإشارة إلى العواقب المحتملة التي يمكن أن تنجم عن عرقلة ممارسة مدقق الضرائب لعمله.

.24 ينص البند (2) من المادة (23) من اللائحة التنفيذية الجديدة على أنه للهيئة قبـل تحريك الدعوى الجزائية التصالح في الجرائم المنصوص عليها في البند (4) من المادة (25) من المرسوم بقانون، بعد أداء مبلغ (50,000) خمسين ألف درهم، فإذا نتج عن

resulted in tax evasion or facilitated or concealed tax evasion, reconciliation shall be made by paying the amount set forth in Clause 1 of this Article.

أي من هذه الجرائم تهرباً ضريبياً أو أدت إلى تسهيله أو إخفائه يكون التصالح بسداد المقابل المبين في البند (1) من هذه المادة.

25. Article 24(1) of the New Executive Regulation states that a reconciliation application shall be submitted by the person to the FTA in the form prepared by the FTA for this purpose, before the initiation of a criminal case. The form must include the person's undertaking to settle the full amounts due from him as consideration for reconciliation.

.25 ينص البند (1) من المادة (24) من اللائحة التنفيذية الجديدة على أنه يقدم طلب التصالح من الشخص إلى الهيئة على النموذج الذي تعده لهذا الغرض، وذلك قبل تحريك الدعوى الجزائية، ويجب أن يتضمن النموذج تعهد الشخص بسداد كامل المبالغ المستحقة عليه كمقابل التصالح.

26. Article 24(2) of the New Executive Regulation states that the FTA decides to accept or reject the reconciliation application, if the FTA decides to accept the application, a record shall be issued to that effect containing proof of reconciliation and its consideration, and signed by both parties. A copy of such record shall be handed to the person after payment of the consideration for reconciliation.

.26 ينص البند (2) من المادة (24) من اللائحة التنفيذية الجديدة على أن تقرر الهيئة قبول طلب التصالح أو رفضه، وإذا ما قررت قبوله يُحرّر محضر بذلك يتضمن إثبات التصالح ومقابله ويوقعه الطرفان، وتُسلم نسخة منه للشخص بعد سداد مقابل التصالح.

27. Article 24(3) of the New Executive Regulation states that a reconciliation application shall be submitted by the accused or convicted person, as the case may be, at any stage of the criminal case to the competent federal public prosecution.

.27 ينص البند (3) من المادة (24) من اللائحة التنفيذية الجديدة على أن يقدم طلب التصالح من المتهم أو المحكوم عليه، بحسب الأحوال، في أي مرحلة من مراحل الدعوى الجزائية إلى النيابة العامة الاتحادية المختصة.

28. Article 24(5) of the New Executive Regulation states that the public prosecution shall issue record of reconciliation after the settlement of full tax and administrative penalties payable and the additional consideration for reconciliation. Such record shall be signed by both the competent public prosecution member and the accused or convicted person, and shall be approved by the federal attorney general. The record must include the following:

.28 وفقًا للبند (5) من المادة (24) من اللائحة التنفيذية الجديدة، تحرر النيابة العامة محضراً بالتصالح بعد سداد كامل الضريبة والغرامات الإدارية مستحقة الدفع والمقابل الإضافي للتصالح، ويوقع عليه كلاً من عضو النيابة العامة المختص والمتهم أو المحكوم عليه، ويعتمد من النائب العام للاتحاد، ويجب أن يتضمن المحضر ما يأتي:

a. The details of the accused or the convicted person.

b. A description of the charges attributed to the accused or convicted person, the date and place of their occurrence and the articles of law applicable thereto.

c. The value of the tax and administrative penalties. payable.

أ. بيانات المتهم أو المحكوم عليه.

ب. وصفًا للتهم المنسوبة للمتهم أو المحكوم عليه وتاريخ ومكان وقوعها ومواد القانون المنطبقة عليها.

ج. مقدار الضريبة والغرامات الإدارية مستحقة الدفع.

d. The percentage and value of the additional amount for reconciliation.

د. بيان نسبة ومقدار المقابل الإضافي للتصالح.

Evidence of settlement of the aforementioned amounts must be attached to the record. In the event that the administrative penalties are paid in installments or waived in accordance with Article 50 of the Decree-Law, or if the payment of the additional consideration for reconciliation is deferred or paid in installments in accordance with Clause 9 of this Article, a payment plan shall be attached to the record showing the deferred or installed payment, as applicable. The FTA and the competent court shall be notified of the approved reconciliation record, as applicable.

ويجب أن يرفق بالمحضر ما يثبت سداد المبالغ المذكورة، وفي حال تم تقسيط الغرامات الإدارية أو الإعفاء منها وفقاً للمادة (50) من المرسوم بقانون، أو تأجيل سداد المقابل الإضافي للتصالح أو تقسيطه وفقًا للبند (9) من هذه المادة، يرفق بالمحضر خطة سداد المبالغ المؤجلة أو المقسطة بحسب الأحوال، وتُخطر الهيئة والمحكمة المختصة بمحضر التصالح المعتمد بحسب الأحوال.

29. Article 25(1) of the New Executive Regulation states the FTA may extend the deadline for deciding on a tax assessment review request and a request for reconsideration, which fulfill the formalities, for a period of (20) twenty business days if the extension is necessary to decide on the request.

29. ينص البند (1) من المادة (25) من اللائحة التنفيذية الجديدة على أنه يجوز للهيئة تمديد أجل البت في طلب مراجعة التقييم الضريبي وطلب إعادة النظر، المستوفي للشروط الشكلية، لمدة (20) عشرين يوم عمل إذا كان التمديد ضرورياً للبت في الطلب.

30. Article 25(2) of the New Executive Regulation states that the Committee may extend the deadline for deciding on a tax objection, which fulfills the formalities, for a period of (60) sixty business days if the extension is necessary to decide on the objection.

30. ينص البند (2) من المادة (25) من اللائحة التنفيذية الجديدة على أنه للجنة تمديد أجل البت في الاعتراض الضريبي، المستوفي للشروط الشكلية، لمدة (60) ستين يوم عمل إذا كان التمديد ضرورياً للبت في الاعتراض.

31. Article 25(3) of the New Executive Regulation states that the FTA may, at the request of the persons concerned, extend the deadline for accepting the submission of a tax assessment review request or a reconsideration request, in the cases deemed appropriate by the FTA.

31. ينص البند (3) من المادة (25) من اللائحة التنفيذية الجديدة على أنه يجوز للهيئة، بناءً على طلب ذوي الشأن، تمديد مدة قبول تقديم طلب مراجعة التقييم الضريبي أو طلب إعادة النظر، في الحالات التي تقدرها الهيئة.

32. Article 25(4) of the New Executive Regulation states that the Committee may, upon the request of the persons concerned, extend the deadline for accepting the submission a tax objection if there is a reason beyond their control, sudden accident, emergency circumstances or force majeure that prevented them from submitting the tax objection within the specified deadline.

32. ينص البند (4) من المادة (25) من اللائحة التنفيذية الجديدة على أنه يجوز للجنة، بناءً على طلب ذوي الشأن، تمديد مدة قبول تقديم الاعتراض الضريبي إذا وجد سبب لا يد له فيه أو حادث فجائي أو ظروف طارئة أو قوة قاهرة حالت دون القدرة على التقدم بالاعتراض الضريبي ضمن المواعيد المحددة.

33. Article 27(3) of the New Executive Regulation states that the FTA shall notify the appointed bankruptcy trustee of the amount of the due tax and of its intention to perform a tax audit for specific tax period(s), within (20) twenty business days after being notified of the trustee's appointment under Clause 2 of this Article.

34. Article 30(3) of the New Executive Regulation states that Decisions issued by the FTA and procedures applied by it for the implementation of the Cabinet Decision No. 36 of 2017 on the Executive Regulation of Federal Law No. 7 of 2017 on Tax Procedures and its amendments shall remain in force, insofar as they do not contradict with the provisions of the New Executive Regulation until the issuance of decisions and procedures replacing them in accordance with the provisions of the New Executive Regulation.

35. Article 31 of the New Executive Regulation states that:

1. The New Executive Regulation shall be published in the Official Gazette and shall come into effect as of 1 August 2023.
2. As an exception to Clause 1 of this Article, Clause 2 of Article 12 of the New Executive Regulation shall come into effect as of 1 December 2023.

.33 ينص البند (3) من المادة (27) من اللائحة التنفيذية الجديدة على أنه يتعين على الهيئة تبليغ أمين التفليسة المعين بمقدار الضريبة المستحقة أو برغبتها بإجراء التدقيق الضريبي على فترة أو فترات ضريبية محددة، خلال (20) عشرين يوم عمل من تاريخ إخطار الهيئة بتعيين أمين التفليسة وفق البند (2) من هذه المادة.

.34 ينص البند (3) من المادة (30) من اللائحة التنفيذية الجديدة على أن يستمر العمل بالقرارات الصادرة من الهيئة والإجراءات المطبقة من قبلها تنفيذاً لقرار مجلس الوزراء رقم (36) لسنة 2017 في شأن اللائحة التنفيذية للقانون الاتحادي رقم (7) لسنة 2017 بشأن الإجراءات الضريبية، وتعديلاته، إلى الحد الذي لا يتعارض مع أحكام اللائحة التنفيذية الجديدة، وذلك إلى حين صدور قرارات وإجراءات تحل محلها وفقاً لأحكام اللائحة التنفيذية الجديدة.

.35 تنص المادة (31) من اللائحة التنفيذية الجديدة على أنه:

.1 يُنشر قرار اللائحة التنفيذية الجديدة في الجريدة الرسمية، ويُعمل به اعتباراً من 1 أغسطس 2023.

.2 استثناءً من البند (1) من هذه المادة، يُعمل بالبند (2) من المادة (12) من اللائحة التنفيذية الجديدة من 1 ديسمبر 2023.

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

United Arab Emirates

This is not an official Translation:

Conditions for Change in Tax Period for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Federal Tax Authority Decision No. 5 of 2023

Issued 7 April 2023 (Effective from 1 June 2023)

The Chairman of the Board of Directors of the Federal Tax Authority has decided:

- Having reviewed the Constitution,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 36 of 2017 on the Executive Regulation of Federal Law No. 7 of 2017 on Tax Procedures, and its amendments,
- Decision of the Chairman of the Board of Directors No. 9 of 2021 on the Delegation to the Vice Chairman of the Board of Directors of the Federal Tax Authority,
- Pursuant to the approval of the Board of Directors of the policy on conditions for change in the tax period, at the twenty-fifth meeting held on 28 February 2023,

Article 1 – Definitions

The words and expressions contained in this Decision shall have the same meaning assigned against each in the Federal Decree-Law No. 47 of 2022 referred to above, unless the context otherwise requires.

Article 2 – Conditions for Change in Tax Period

For the purposes of Article 58 of Federal Decree-Law No. 47 of 2022 referred to above, the Taxable Person can make an application to the Authority to change the start and end date of the Tax Period, or use a different Tax Period, where the following conditions are met:

1. The change is for one of the following reasons:
   a. The Taxable Person's liquidation;
   b. Aligning the Resident Taxable Person's Financial Year with the Financial Year of another Resident Person for the purpose of forming a Tax Group or joining an existing Tax Group, or aligning the Taxable Person's Financial Year with the Financial Year of its domestic or foreign head office, subsidiary, parent, or ultimate parent company, for the purpose of financial reporting, or to benefit from a tax relief available under the Federal Decree-Law No. 47 of 2022 referred to above or under the legislation of a foreign jurisdiction; or
   c. There is valid commercial, economic, or legal reason to change the Tax Period.
2. The Taxable Person has not yet filed the Tax Return for the Tax Period he is applying to change.
3. The application for change in Tax Period is in respect of any of following:
   a. Extend the current Tax Period to be a maximum of 18 months; or
   b. Shorten the next Tax Period to be between 6 and 12 months.
4. The application shall be made before the lapse of 6 months from the end of the original Tax Period.
5. Where the Taxable Person filed an application to shorten a Tax Period, the application shall not be in respect of a prior or current Tax Period.

Article 3 – Abrogation of Conflicting Provisions

Any provisions contrary to or inconsistent with the provisions of this Decision shall be abrogated.

Article 4 – Implementation of the Decision

This Decision shall be published in the Official Gazette and shall come into effect as of 1 June 2023.

This is not an official Translation:

Tax Deregistration Timeline for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Federal Tax Authority Decision No. 6 of 2023

Issued 7 April 2023 (Effective from 1 June 2023)

The Chairman of the Board of Directors of the Federal Tax Authority has decided:

- Having reviewed the Constitution,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 36 of 2017 on the Executive Regulation of Federal Law No. 7 of 2017 on Tax Procedures, and its amendments,
- Decision of the Chairman of the Board of Directors No. 9 of 2021 on the Delegation to the Vice Chairman of the Board of Directors of the Federal Tax Authority, and
- Pursuant to the approval of the Board of Directors on the policy of tax deregistration timeline, at the twenty-fifth meeting held on 28 February 2023.

Article 1 – Definitions

The words and expressions contained in this Decision shall have the same meaning assigned against each in the Federal Decree-Law No. 47 of 2022 referred to above, unless the context otherwise requires.

Article 2 – Timeline to Apply for Tax Deregistration

For the purposes of Clause 1 of Article 52 of Federal Decree-Law No. 47 of 2022 referred to above, the Tax Deregistration application shall be filed in accordance with the following timelines:

1. The natural Person shall file a Tax Deregistration application within 3 months of the date of cessation of the Business or Business Activity.
2. The juridical Person shall file a Tax Deregistration application within 3 months of the date the entity ceases to exist, cessation of the Business, dissolution, liquidation or otherwise.

Article 3 – Abrogation of Conflicting Provisions

Any provisions contrary to or inconsistent with the provisions of this Decision shall be abrogated.

Article 4 – Implementation of the Decision

This Decision shall be published in the Official Gazette and shall come into effect as of 1 June 2023.

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

United Arab Emirates

This is not an official Translation:

Provisions of Exemption from Corporate Tax for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Federal Tax Authority Decision No. 7 of 2023

Issued 7 April 2023 (Effective from 1 June 2023)

The Chairman of the Board of Directors of the Federal Tax Authority has decided:

- Having reviewed the Constitution,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 36 of 2017 on the Executive Regulation of Federal Law No. 7 of 2017 on Tax Procedures, and its amendments,
- Decision of the Chairman of the Board of Directors No. 9 of 2021 on the Delegation to the Vice Chairman of the Board of Directors of the Federal Tax Authority, and
- Pursuant to the approval of the Board of Directors of the tax registration policy for exempt persons, the policy on the timeline for exempt persons to apply for exemption, and the policy for determining the scenarios where the exemption is approved from an effective date other than the start date of the tax period, at the twenty-fifth meeting held on 28 February 2023.

Article 1 – Definitions

The words and expressions contained in this Decision shall have the same meaning assigned against each in the Federal Decree-Law No. 47 of 2022 referred to above, unless the context otherwise requires.

Article 2 – Corporate Tax Registration and Application for Exemption

1. The Person included in the category mentioned in paragraph (e) of Clause 1 of Article 4 of Federal Decree-Law No. 47 of 2022 referred to above, shall apply for Tax Registration and obtain a Tax Registration Number as of 1 October 2023.
2. The Person included in any of the categories mentioned in paragraphs (f), (g), (h) and (i) of Clause 1 of Article 4 of Federal Decree-Law No. 47 of 2022 referred to above, shall apply for Tax Registration and obtain a Tax Registration Number as of 1 June 2024.
3. If the Authority approves the application for Tax Registration, the Person included in any of the categories mentioned in paragraphs (f), (g), (h) and (i) of Clause 1 of Article 4 of Federal Decree-Law No. 47 of 2022 referred to above, may be entitled to submit an application for exemption from Corporate Tax where the relevant exemption conditions set forth in Federal Decree-Law No. 47 of 2022 referred to above, are met.
4. The Authority may request the Exempt Person in accordance with Clauses 1 and 3 of this Article to file an annual declaration confirming that it still fulfills the exemption conditions.

Article 3 – Timeline to Apply for Exemption and its Effective Date

1. The Person included in any of the categories referred to in Clause 2 of Article 2 of this Decision, shall apply for exemption within 60 business days from the end of the Tax Period in which the Person met the conditions for exemption.
2. If the Authority approves the application for exemption set forth in Clause 1 of this Article, the exemption shall be effective from the start of the Tax Period specified in the application.

3. The Authority may determine an alternative date for the effective date of the exemption other than the date specified in Clause 2 of this Article where any of the following scenarios, or other similar scenarios, takes place:
   a. If the Tax Period specified in the registration form is incorrect, the exemption shall be effective from the correct date.
   b. If the applicant is acquired during a Tax Period by one or more Persons included in the categories referred to in paragraphs (a), (b), (f) and (g) of Clause 1 of Article 4 of Federal Decree-Law No. 47 of 2022 referred to above, the exemption shall not be granted from the start of the Tax Period if the conditions for exemption were not met at that time. The Authority shall determine another date from which the exemption shall be granted to ensure that the date of exemption starts after the fulfillment of all remaining tax obligations.
   c. If the Tax Period included in the application for exemption is incorrect and the Authority receives sufficient supporting information to evidence that the conditions have been met within the later Tax Period, the exemption shall be effective after the date of fulfillment of the conditions.
   d. Any other instances specified by a decision issued by the Cabinet in accordance with paragraph (i) of Clause 1 of Article 4 of Federal Decree-Law No. 47 of 2022 referred to above.

Article 4 – Abrogation of Conflicting Provisions

Any provisions contrary to or inconsistent with the provisions of this Decision shall be abrogated.

Article 5 – Implementation of the Decision

This Decision shall be published in the Official Gazette and shall come into effect as of 1 June 2023.

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

United Arab Emirates

إمارات تاكس
EMARATAX

Change Corporate Tax Period - Taxpayer User Manual

Date: 25 July 2023

Version 4.1.0.0

Document Control Information

Document Version Control

Version No.	Date	Prepared/Reviewed by	Comments
1.0	21-Apr-23	InvenioLSI Team	User Manual for Taxpayer on EmaraTax Portal – Change Corporate Tax Period
2.0	19-May-23	InvenioLSI Team	User Manual for Taxpayer on EmaraTax Portal – Change Corporate Tax Period – Generic Changes
3.0	24-May-23	InvenioLSI Team	User Manual for Taxpayer on EmaraTax Portal – Change Corporate Tax Period – Final Updates
4.0	06-July-23	InvenioLSI Team	User Manual for Taxpayer on EmaraTax Portal – Change Corporate Tax Period – Screenshot borders and re-introduce step numbers
4.1	25-July-23	InvenioLSI Team	User Manual for Taxpayer on EmaraTax Portal – Change Corporate Tax Period – Screenshot border update

Navigating through EmaraTax

The following Tabs and Buttons are available to help you navigate through this process

Button	Description
In the Portal	
User types	This is used to toggle between various personas within the user profile such as Taxable Person, Tax Agent, Tax Agency, Legal Representative etc
	This is used to enable the Text to Speech feature of the portal
English عربي	This is used to toggle between the English and Arabic versions of the portal
-A A +A	This is used to decrease, reset, and increase the screen resolution of the user interface of the portal
Manage Account	This is used to manage the user profile details such as the Name, Registered Email Address, Registered Mobile Number, and Password
Log Out	This is used to log off from the portal
In the Business Process application	

Button	Description
Previous Step	This is used to go the Previous section of the Input Form
Next Step	This is used to go the Next section of the Input Form
Save as Draft	This is used to save the application as draft, so that it can be completed later
	This menu on the top gives an overview of the various sections within the form. All the sections need to be completed in order to submit the application for review. The current section is highlighted in Blue and the completed sections are highlighted in green with a check

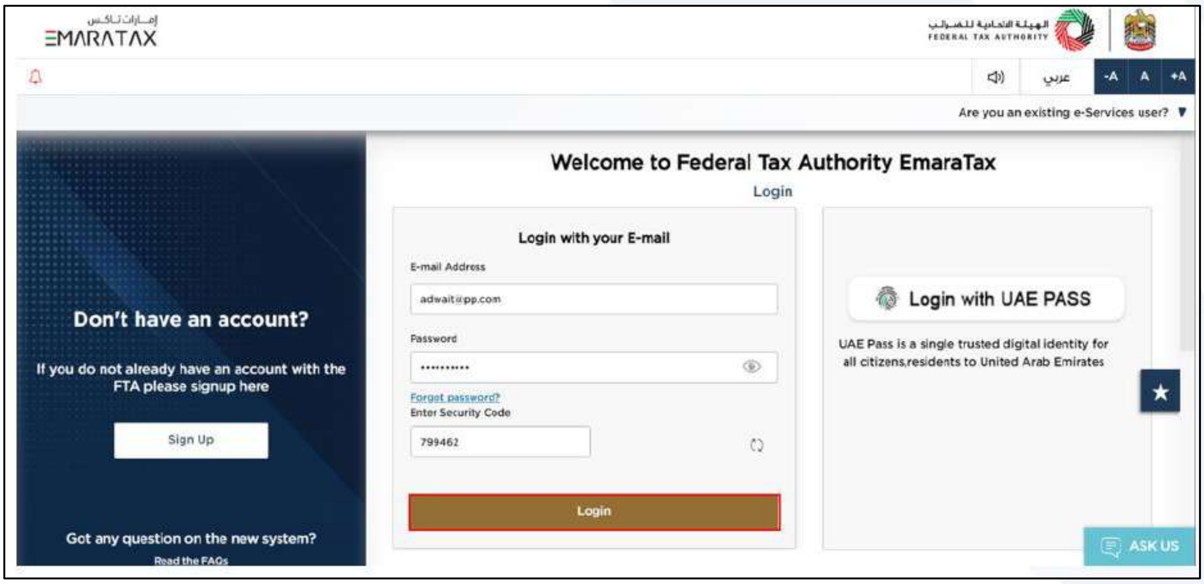
The Federal Tax Authority offers a range of comprehensive and distinguished electronic services in order to provide the opportunity for taxpayers to benefit from these services in the best and simplest ways.

Table of Contents

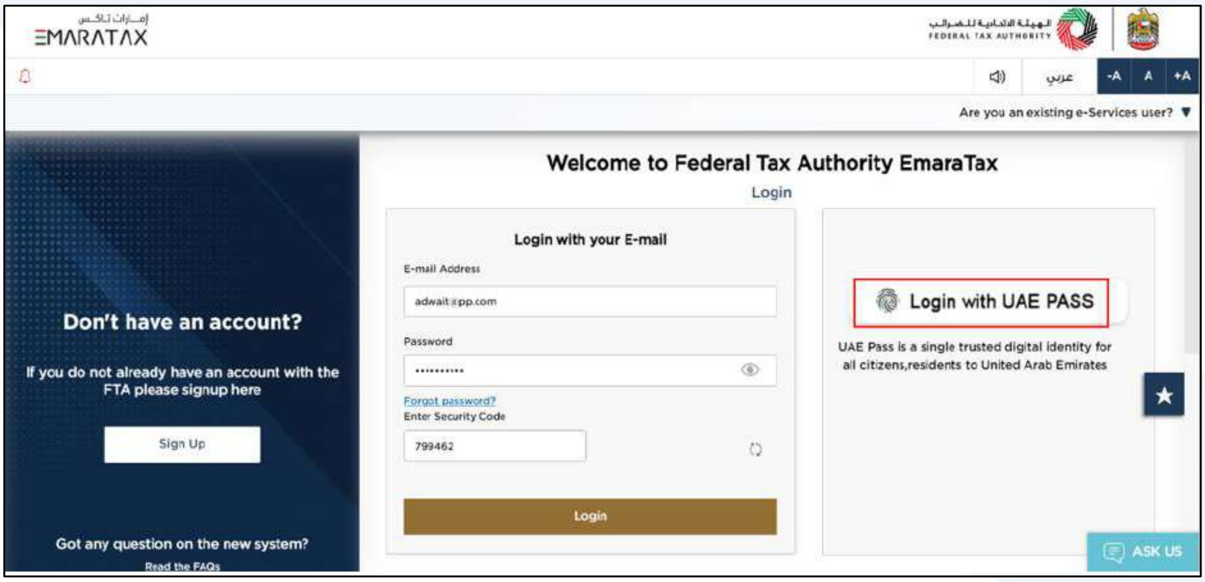
Introduction

This manual is prepared to help a registered Corporate Tax taxpayer to navigate through the Federal Tax Authority EmaraTax portal and apply to change the Corporate Tax Period. The user must login into their EmaraTax account and open the respective Corporate Tax tile, to initiate the application.

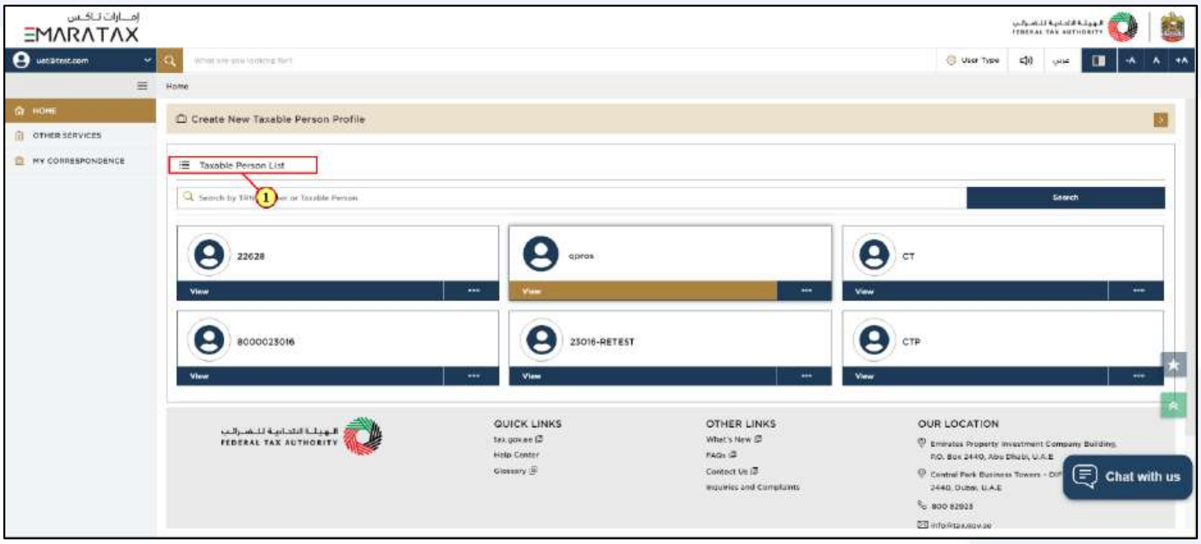
Login to EmaraTax



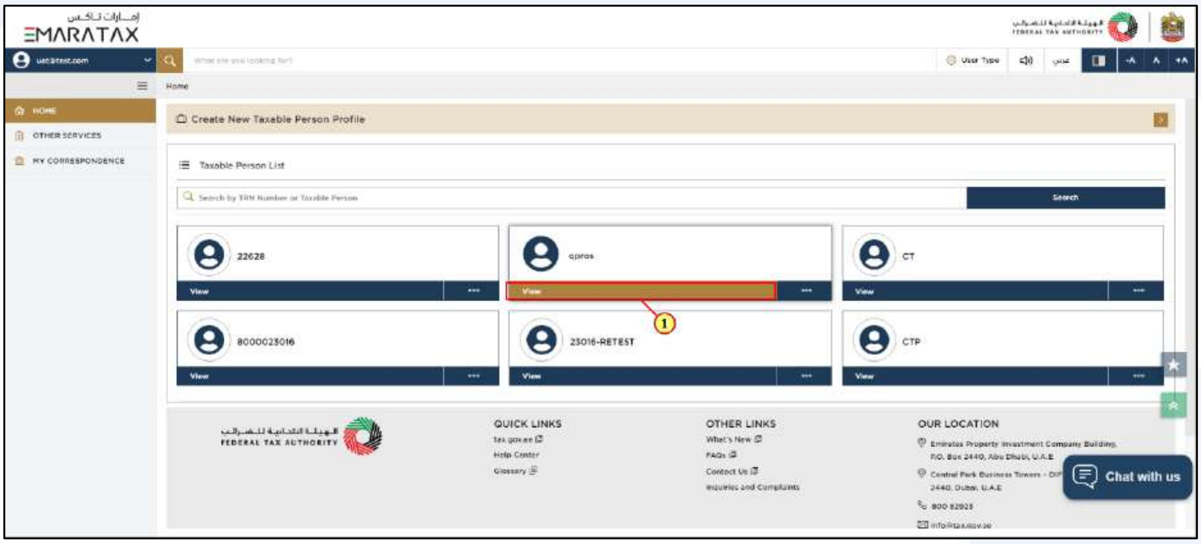
You can login into the EmaraTax account using your login credentials or using UAE Pass. If you have forgotten your password, you can use the 'Forgot password' feature to reset your password.



	If you wish to login via UAE Pass, you will be redirected to UAE Pass. On successful UAE Pass login, you will be redirected back to the EmaraTax online user dashboard.

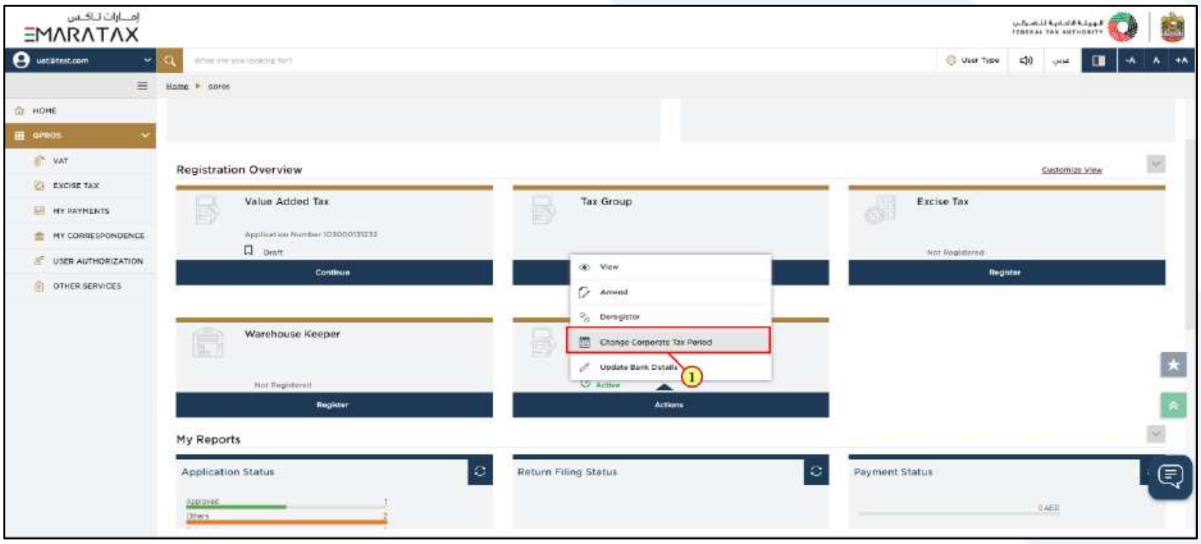


Step	Action
(1)	On successful login, the Taxable Person list screen is displayed. It displays the list of the Taxable Person linked to your EmaraTax user profile.



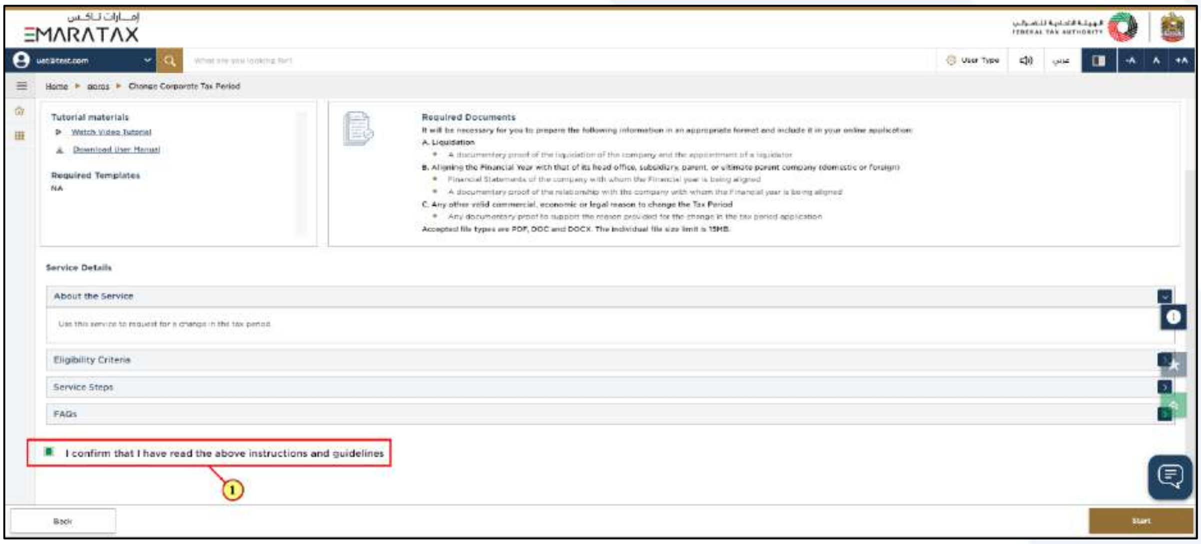
Step	Action
(1)	Select the Taxable Person from the list and click **'View'** to open the Dashboard.

Change Corporate Tax Period

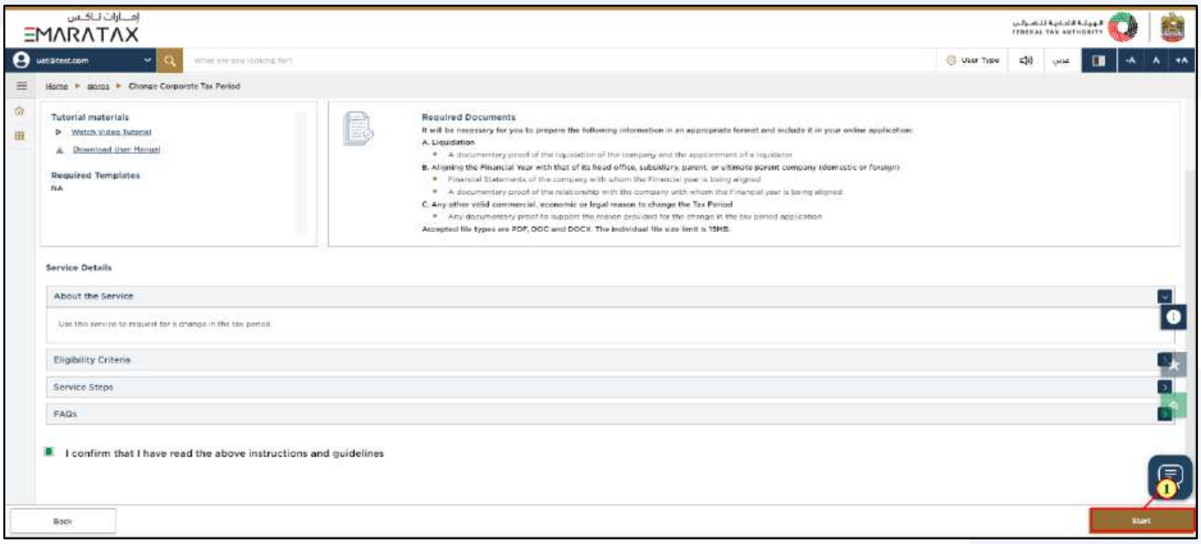


Step	Action
(1)	In order to change the Corporate Tax Period, click ‘Actions’ in the Corporate Tax tile and Select **‘Change Corporate Tax Period'**.

Instructions and Guidelines



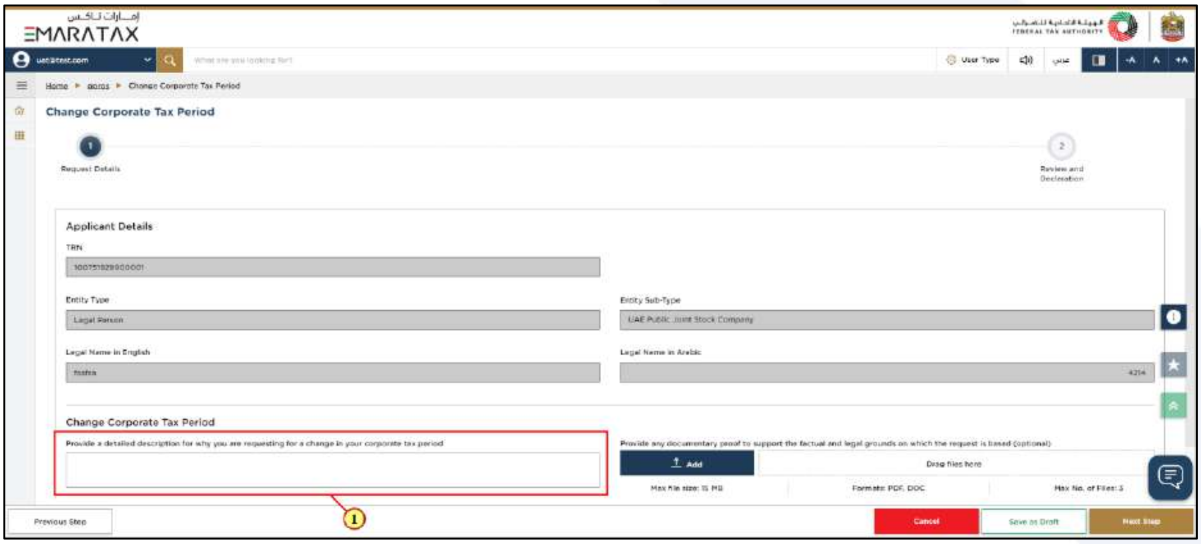
Step	Action
(1)	Read the instructions and guidelines carefully before starting the application and mark the checkbox to confirm.



Step	Action
(1)	Click ‘**Start’** to initiate the application for changing the Corporate Tax Period.

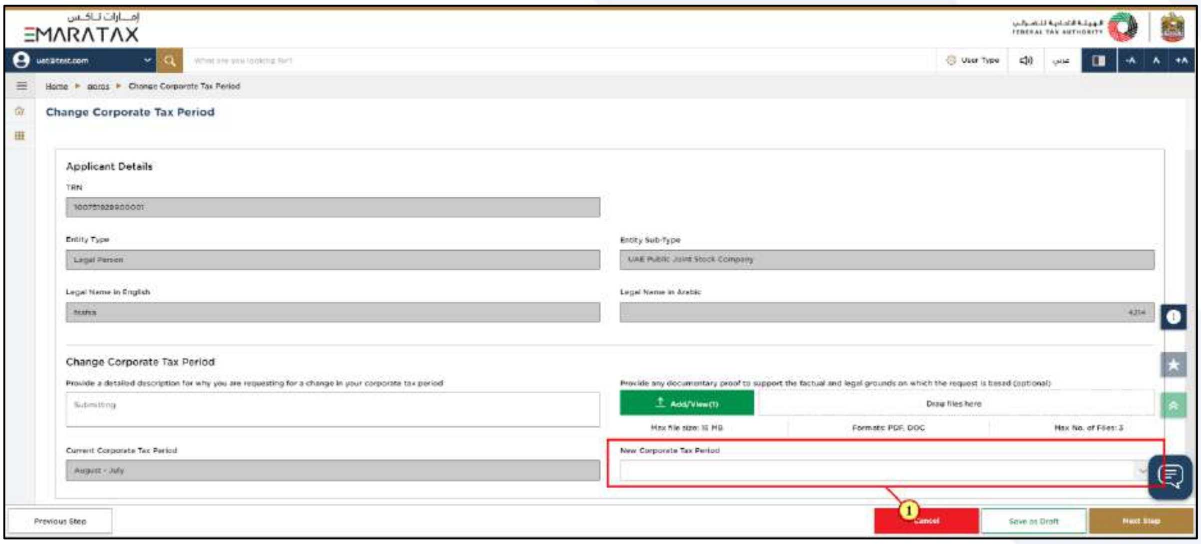
Request Details

Detailed Description



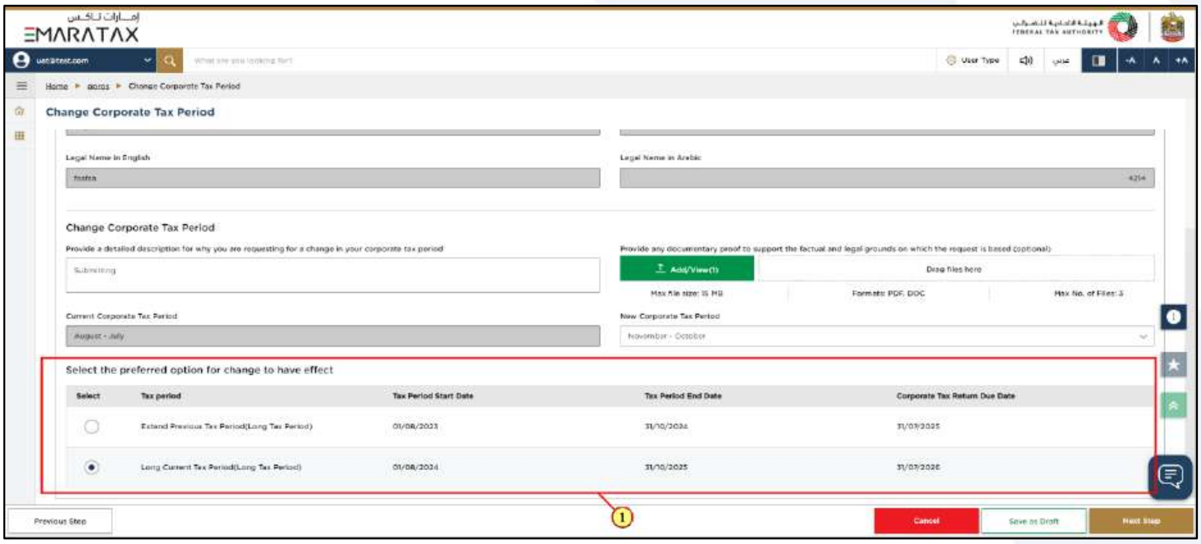
Step	Action
(1)	Your TRN, Entity Type, Entity Sub-Type, Legal Name in English and Legal Name in Arabic will be auto populated by the system. • Enter the detailed description of the reason for changing the Tax Period and upload supporting documents.

New Corporate Tax Period

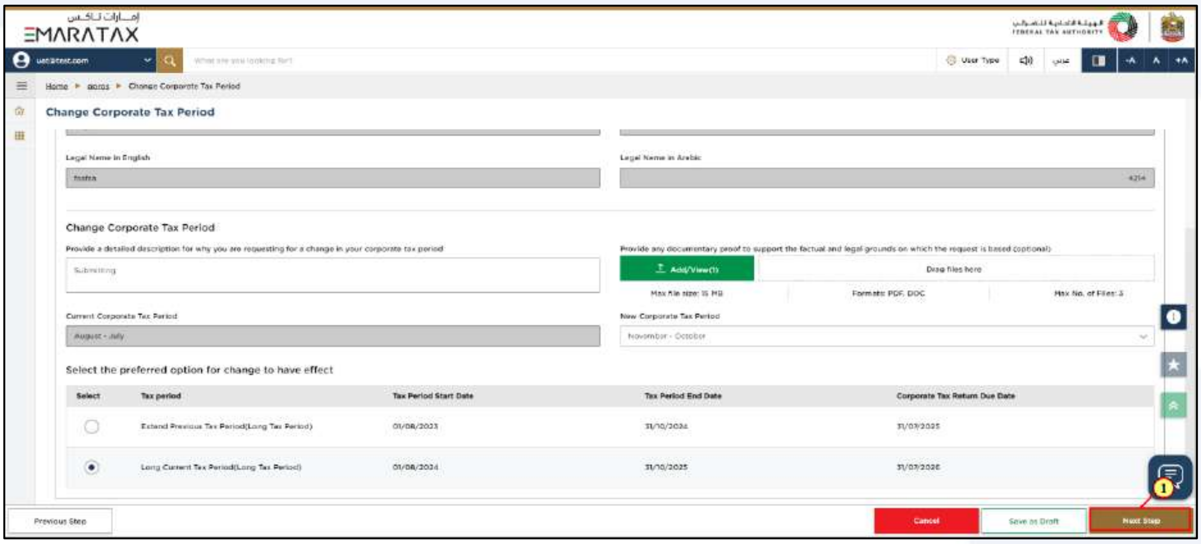


Step	Action
(1)	Your Current Corporate Tax Period is auto populated by the system. • Select the New Corporate Tax Period from the drop-down

Review and Select the new filing dates

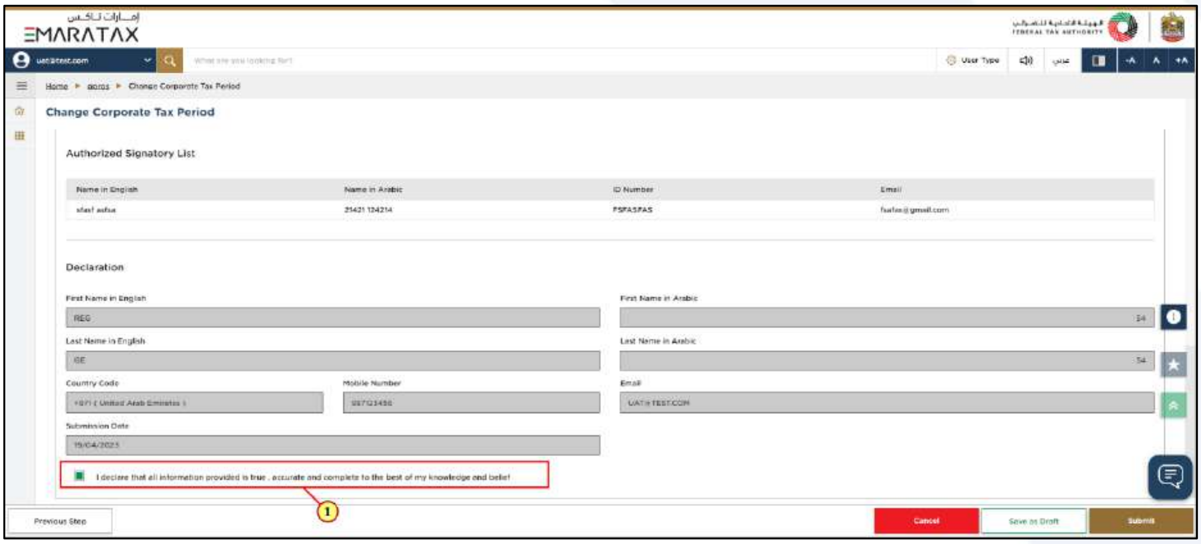


Step	Action
(1)	System will display the preferred options. Select the appropriate option for change to have effect.

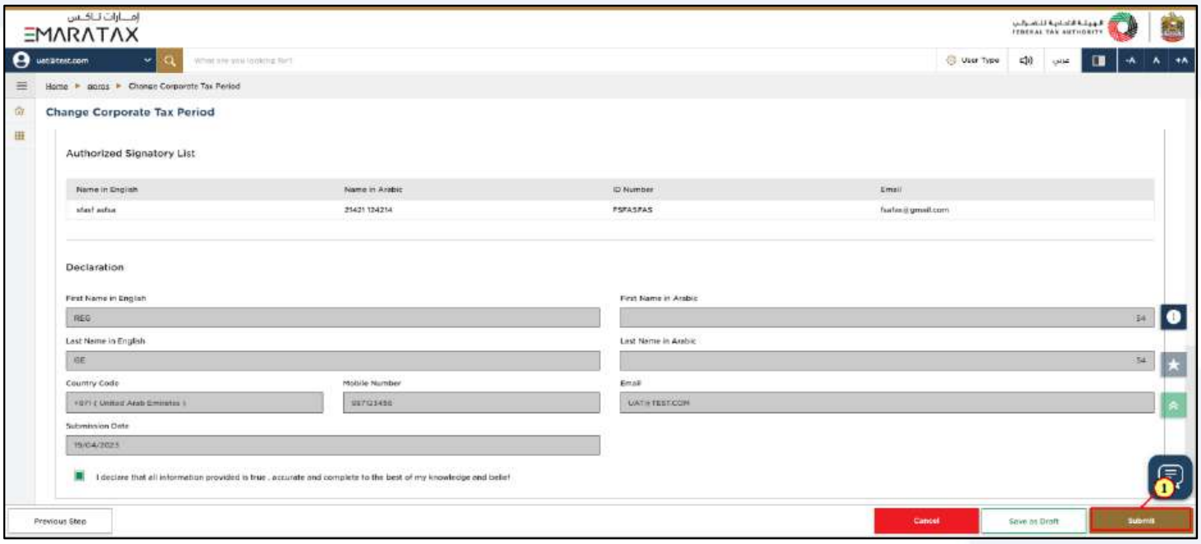


Step	Action
(1)	Click on '**Next Step'** to proceed to the 'Review and Declaration' section.

Review and Declaration



Step	Action
(1)	This section will help you to make sure that you have completed the application correctly and included all the relevant documents. After carefully reviewing all of the information entered on the application, mark the checkbox to declare the correctness of the information provided in the application.



Step	Action
(1)	Click '**Submit'** to submit the application.

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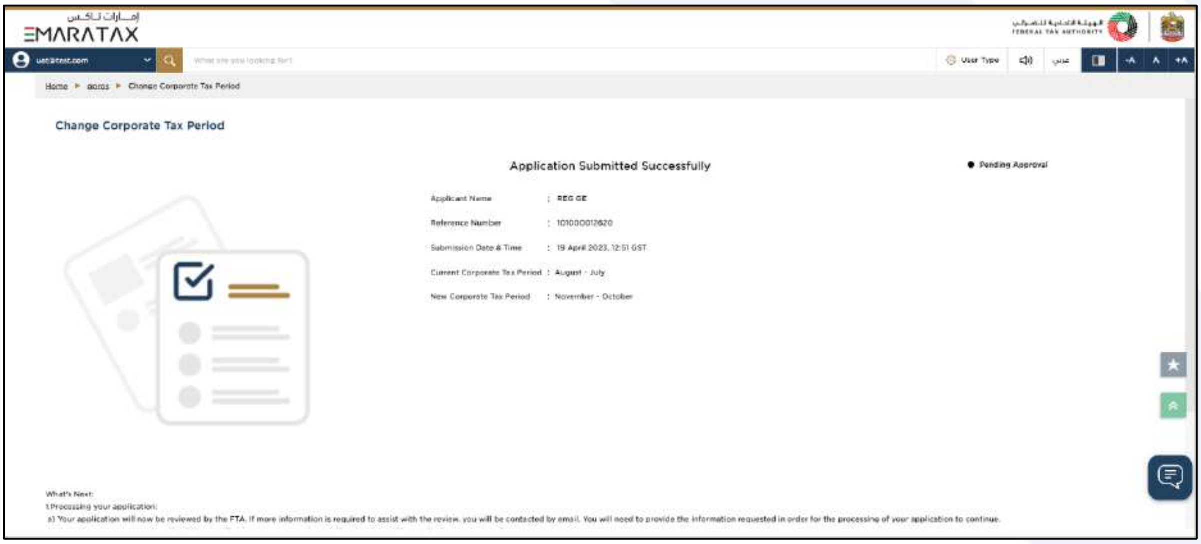
Post Application Submission



	After your application is submitted successfully, a Reference Number is generated for your submitted application. Note this reference number for future communication with the FTA. What's next? • Once the application is submitted, the FTA shall approve, reject and notify the Taxable Person accordingly. • If the FTA requires any further details from you in order to assist with the verification of your application, you will receive an email notification setting out the information required from you. • Once the FTA confirms acceptance of your application, you will be notified on the decision. • The status of your application in the dashboard will be updated accordingly. You may check your application status in the dashboard from time to time.

Correspondences

Taxpayer receives the following correspondences:

- Application submission acknowledgment.
- Additional information notification (only if the FTA requires more information to assist with their review of your application).
- Application approval or rejection notification.

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Small Business Relief

Corporate Tax Guide | CTGSBR1

August 2023

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Contents

1. Glossary

Accounting Income: The accounting net profit or loss for the relevant Tax Period as per the financial statements prepared in accordance with the provisions of Article 20 of the Corporate Tax Law.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or activities, conducted by a Person in the course of its Business.

Business Restructuring Relief: Business Restructuring Relief is a Corporate Tax relief that allows eligible Taxable Persons to transfer their entire Business, or an independent part of their Business (such as for example certain mergers and demergers), at no gain or loss to another Taxable Person in exchange for shares or other ownership interests.

Corporate Tax: The tax imposed by the Corporate Tax Law on Juridical Persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Country-by-Country Reporting: An obligation to submit a Country-by-Country Report as introduced by Action 13 of the Base Erosion and Profit Shifting ("BEPS") initiative led by the Organisation for Economic Co-operation and Development ("OECD") and the Group of Twenty ("G20") industrialised nations. This is enforced in the UAE via Cabinet Decision No. 44 of 2020 on Organizing Reports submitted by Multinational Companies.

Country-by-Country Report: A report that declares annually the details of each tax jurisdiction in which a Multinational Enterprise Group ("MNE") does business. This includes the amount of revenue, profit before income tax and income tax paid and accrued. It also requires MNEs to report their number of employees, stated capital, retained earnings and tangible assets in each tax jurisdiction. Finally, it requires MNEs to identify each entity within the group doing business in a particular tax jurisdiction and to provide an indication of the business activities each entity engages in.

Double Taxation Agreement: An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Exempt Income: Any income exempt from Corporate Tax under the Corporate Tax Law.

Foreign Permanent Establishment: A place of Business or other form of presence outside the UAE of a Resident Person that is determined in accordance with the criteria prescribed in Article 14 of the Corporate Tax Law.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A Juridical Person incorporated, established, or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic financial instrument and other payments economically equivalent to Interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Juridical Person: An entity established or otherwise recognised under the laws and regulations of the UAE, or under the laws of a foreign jurisdiction, that has a legal personality separate from its founders, owners and directors.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Natural Person: Individual human being (distinct from a Juridical Person).

Net Interest Expenditure: The Interest expenditure amount that is in excess of the Interest income amount as determined in accordance with the provisions of the Corporate Tax Law.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Participating Interest: An ownership interest in the shares or capital of a Juridical Person that meets the conditions referred to in Article 23 of the Corporate Tax Law.

Permanent Establishment (PE): A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any Natural Person or Juridical Person.

Personal Investment: Investment activity that a Natural Person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 on Issuing the Commercial Transactions Law.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Income: Any income derived by a Qualifying Free Zone Person that is subject to Corporate Tax at the rate specified in Article 3(2)(a) of the Corporate Tax Law.

Real Estate Investment: Any investment activity conducted by a Natural Person related to, directly or indirectly, the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not conducted, or does not require to be conducted through a Licence from a Licensing Authority.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

Small Business Relief: A Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period in accordance with Article 21 of the Corporate Tax Law and Ministerial Decision No. 73 of 2023 on Small Business Relief.

Tax Loss: Any negative Taxable Income as calculated under the Corporate Tax Law for a given Tax Period.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Registration Number ("TRN"): A unique number issued by the FTA to each Person who is registered for Corporate Tax purposes in the UAE.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is liable to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

Wage: The wage that is given to the employee in consideration of their services under the employment contract, whether in cash or in kind, payable annually, monthly, weekly, daily, hourly, or by piece-meal, and includes all allowances, and bonuses in addition to any other benefits provided for, in the employment contract or in accordance with the applicable legislation in the UAE.

2. Introduction

2.1. Overview

2.1.1. Short brief

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023. The Corporate Tax Law includes a specific relief for small Businesses.

2.1.2. Purpose of the guide

This guide is designed to provide general guidance on the Small Business Relief for Corporate Tax in the UAE. It provides you with and overview of:

- what the Small Business Relief is;
- who is eligible for it;
- how it works;
- how long it is available for; and
- related compliance requirements.

Any Person carrying on a Business in the UAE should review the relevant sections of this guide and consider if the Small Business Relief is applicable to them.

2.1.3. Who should read this guide?

Any Person carrying on a Business in the UAE and consider that they may qualify for the Small Business Relief provided for in the Corporate Tax Law should read this guide to determine if they qualify for Small Business Relief.

2.1.4. How to use this guide

The relevant articles of the Corporate Tax Law are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how key elements of Small Business Relief function. The examples in the guide:

- show how these aspects operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used and all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural person.

This guide is intended to be read in conjunction with other relevant guidance published by the FTA.

2.1.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as the "Corporate Tax Law";
- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that Are Subject to Corporate Tax is referred to as "Cabinet Decision No. 49 of 2023";
- Cabinet Decision No. 55 of 2023 on Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Cabinet Decision No. 55 of 2023";
- Cabinet Resolution No. 44 of 2020 on Organising Reports Submitted by Multinational Companies is referred to as "Cabinet Resolution No. 44 of 2020'';
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 73 of 2023";
- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 114 of 2023";

- Ministerial Decision No. 116 of 2023 on the Participation Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 116 of 2023”;
- Ministerial Decision No. 126 of 2023 on the General Interest Deduction Limitation Rule for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 126 of 2023”;
- Ministerial Decision No. 132 of 2023 on Transfers Within a Qualifying Group for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 132 of 2023”; and
- Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities for the Purposes of Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 139 of 2023”.

2.1.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the provisions relating to Small Business Relief. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each person’s own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of the Small Business Relief. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. What is Small Business Relief?

Small Business Relief is provided to small Businesses resident for Corporate Tax purposes in the UAE to ease their implementation of the Corporate Tax regime. Small Business Relief reduces the compliance obligations faced by small Businesses in the early stages of the Corporate Tax regime, primarily by alleviating the burden of having to calculate and pay Corporate Tax.

Any eligible Taxable Person (being a Resident Taxable Person - either a Natural Person or a Juridical Person) with Revenue below or equal to AED 3,000,000[1] in a relevant Tax Period and all previous Tax Periods that end on or before 31 December 2026[2] can elect to be treated as having no Taxable Income in that period, and will not be obliged to calculate its Taxable Income or complete a full Tax Return.

This will mean that these eligible Taxable Persons that have elected for the Small Business Relief will benefit from both:

- administrative relief: they will not be required to calculate their Taxable Income and will benefit from simplified tax return filing and record keeping requirements, including the ability to prepare their Financial Statements using the cash basis of accounting;[3] and
- tax relief: they are not required to pay any Corporate Tax on income earned in the Tax Period.

Eligible Taxable Persons can elect for Small Business Relief in their Tax Return. Once the election has been made, they will be able to complete a simplified Tax Return and benefit from the relief.

Table 1: Overview of the Small Business Relief

	If election for Small Business Relief is made	**If no election for Small Business Relief is made**
Required to register for Corporate Tax	✓	✓
Required to file a full Tax Return	✗	✓
Can file a simplified Tax Return	✓	✗

[1] Article 2(1) of Ministerial Decision No. 73 of 2023.
[2] Article 2(2) of Ministerial Decision No. 73 of 2023.
[3] Article 2(1) of Ministerial Decision No. 114 of 2023.

Required to calculate Taxable Income	✗	✓
No Corporate Tax to pay	✓	Depends on the level of Taxable Income
Subject to meeting necessary conditions:		
- Can accrue and utilise Tax Losses for the relevant Tax Period	✗	✓
- Can accrue and utilise Excess Interest Expenditure for the relevant Tax Period	✗	✓
- Can carry forward Tax Losses and Excess Interest Expenditure from previous Tax Periods	✓	✓
- Can apply reliefs for transfers within a Qualifying Group or for Business restructuring transactions	✗	✓
- Must comply with transfer pricing documentation requirements	✗	✓
- Must comply with the Arm's Length Principle	✓	✓

As Table 1 demonstrates, Businesses that elect for Small Business Relief enjoy significant tax and administrative benefits, while remaining subject to a number of compliance requirements.

Revenue threshold

In order to elect for Small Business Relief, an eligible Taxable Person's Revenue must be below or equal to AED 3,000,000 for the relevant Tax Period and all previous Tax Periods[4]. Where a Taxable Person's Revenue exceeds AED 3,000,000 in a Tax Period, the Taxable Person will no longer be able to elect for Small Business Relief, even if its Revenue is equal to or falls below the AED 3,000,000 threshold in subsequent Tax Periods.[5]

[4] The first Tax Period in relation to Corporate Tax commences on or after 1 June 2023.
[5] Article 2(3) of Ministerial Decision No. 73 of 2023.

The Revenue for the purpose of this Article shall be determined in accordance with the applicable accounting standards accepted in the UAE.[6]

Revenue is defined in the Corporate Tax Law as "the gross amount of income derived during a Tax Period". This includes, for example, income from all of the sales a business makes, as well as any other gross income it receives, such as income from the sale of an asset. Revenue is therefore different from profit, which is the difference between a business' Revenue and its costs. The amount of profit a business makes does not have an impact on its eligibility for Small Business Relief. Revenue should be determined based on the arm's length principle.

When determining the Revenue, the income from all Business Activities undertaken by a particular juridical person must be taken into account, and certain defined Business Activities in the case of a natural person.

3.1. Who is not eligible for Small Business Relief?

Small Business Relief will be available to UAE Resident Persons whose Revenue does not exceed AED 3,000,000 for the relevant Tax Period and all previous Tax Periods. However, there are two key exceptions to this criterion:

1. Where the business is a member of a Multinational Enterprise Group (MNE);[7]
2. Where the business is a Qualifying Free Zone Person.[8]

3.1.1. Members of an MNE

Small Business Relief will not be available to a business that is a constituent company of an MNE. MNEs are groups of companies that operate in more than one country and that have a total consolidated group revenue of more than AED 3.15 billion and are required to prepare a Country-by-Country Report under the UAE's Country-by-Country Reporting legislation.[9]

A constituent company means:

- Any separate business unit of an MNE that is included in the consolidated financial statements of the MNE for the purposes of preparing the financial reports;
- Any business unit that is excluded from the MNE's consolidated financial statements solely on size or materiality grounds; or

[6] Article 2(4) of Ministerial Decision No. 73 of 2023.
[7] Article 3(1) of Ministerial Decision No. 73 of 2023.
[8] Article 3(2) of Ministerial Decision No. 73 of 2023.
[9] Cabinet Resolution No. 44 of 2020 on Organising Reports Submitted by Multinational Companies.

- Any PE of a separate business unit of the MNE if the business unit prepares separate financial statements for the PE.

Even if a UAE constituent company of an MNE has Revenue equal to or below AED 3,000,000 for the relevant Tax Period and all previous Tax Periods, the UAE constituent company will still not be able to elect for Small Business Relief.

3.1.2. Qualifying Free Zone Persons

Small Business Relief will not be available to Qualifying Free Zone Persons. Qualifying Free Zone Persons already benefit from a 0% Corporate Tax rate on their Qualifying Income.[10] A Qualifying Free Zone Person is a Free Zone Person that:[11]

- Maintains adequate substance in the UAE;
- Derives Qualifying Income as specified in the relevant Cabinet Decision;[12]
- Has not elected to be subject to Corporate Tax;
- Complies with the requirements under the Arm's Length Principle and transfer pricing documentation; and
- Meets the following other conditions prescribed by the Minister;[13]
  - The non-qualifying Revenue derived by the Qualifying Free Zone Person in a Tax Period does not exceed 5% (five percent) of the total Revenue of the Qualifying Free Zone Person in that Tax Period or AED 5,000,000 (five million dirhams), whichever is lower;[14] and
  - Prepares audited financial statements.

3.1.3. Artificial separation

Small Business Relief will also not be available where a Person artificially separates their Business into more than one entity in order to ensure that the Revenue of each entity is below the threshold for Small Business Relief.[15] Where the FTA establishes that artificial separation has taken place, the Person will have to repay any unpaid Corporate Tax and any penalties that may be charged.[16]

3.2. How does Small Business Relief work?

Small Business Relief allows eligible Resident Persons to elect to be treated as having no Taxable Income in a Tax Period where they have Revenue of less than or equal to

[10] Article 3(2)(a) of the Corporate Tax Law.
[11] Article 18(1) of the Corporate Tax Law.
[12] Cabinet Decision No. 55 of 2023.
[13] Article 5 of Ministerial Decision No. 139 of 2023.
[14] Article 4 of Ministerial Decision No. 139 of 2023.
[15] Article 6(1) of Ministerial Decision No. 73 of 2023.
[16] Article 6(2) of Ministerial Decision No. 73 of 2023.

AED 3,000,000 in a relevant Tax Period and all previous Tax Periods ending on or before 31 December 2026. As a result of this treatment, they will pay no Corporate Tax. The amount of Corporate Tax liability that is not payable based on the relief will depend on the profitability of the Business. This is because Corporate Tax would be paid at the rate of 0% on Taxable Income up to AED 375,000 and 9% on Taxable Income above AED 375,000 had the Small Business Relief not been elected for. This means that the amount of Corporate Tax relief enjoyed by Businesses that are able to elect for Small Business Relief is relative to their profitability, as shown in Table 2 below.

Table 2: Small Business Relief and relative profitability

	Business 1	**Business 2**	**Business 3**
Revenue (AED)	2,800,000	2,800,000	2,800,000
Eligible for Small Business Relief?	✓	✓	✓
Costs (AED)	2,000,000	1,800,000	1,300,000
Profits (AED)	800,000	1,000,000	1,500,000
Corporate Tax Payable calculation (AED)	375,000 @ 0% 425,000 @ 9%	375,000 @ 0% 625,000 @ 9%	375,000 @ 0% 1,125,000 @ 9%
Corporate Tax due (AED)	38,250	56,250	101,250

Small Business Relief is an optional relief, and Resident Persons that wish to benefit from this advantage must elect for this relief within their Tax Return. Once the Tax Return for the relevant Tax Period has been submitted with no election to benefit from the Small Business Relief, there would be no possibility to claim this benefit at a later stage.

As the election must be made in a Tax Return, an eligible Taxable Person seeking to claim Small Business Relief will first need to register with the FTA for Corporate Tax and obtain a TRN in order to be able to make the election. Additionally, they will need to keep information to demonstrate their eligibility for the relief. This includes keeping records of their Revenue. More details on the compliance obligations that apply to Businesses that elect for Small Business Relief can be found in Section 6.

3.2.1. What does it mean to have no Taxable Income?

Ordinarily, businesses would calculate their Taxable Income by calculating their Accounting Income and making adjustments for the Corporate Tax treatment of certain income and expenditure. This includes excluding Exempt Income, such as dividends, and adding back non-deductible expenditure, such as fines. Businesses may also be eligible for other reliefs, such as for transfers within a Qualifying Group, which would be applied when calculating Taxable Income. Businesses then have to calculate the amount of Corporate Tax they must pay based on their Taxable Income.

By contrast, Small Business Relief treats eligible Taxable Persons as having no Taxable Income for the relevant Tax Period. This means that they will not have to calculate their Taxable Income, and that they do not need to identify the relevant expenses that they would otherwise be required to in order to deduct or apply any other reliefs.

As Corporate Tax is only charged on Taxable Income, Taxable Persons electing for Small Business Relief for that Tax Period do not need to pay Corporate Tax.

Businesses who elect for Small Business Relief will complete a simplified Tax Return. Electing for Small Business Relief means that certain other provisions of the Corporate Tax Law that are relevant to the calculation of Taxable Income will not apply. Additionally, Businesses that elect for Small Business Relief will not be required to maintain Transfer Pricing documentation.[17] These exclusions are intended to further reduce the compliance burden. See Section 5 for detailed information on each of these provisions.

3.2.2. Tax Losses

If an eligible Resident Person elects for Small Business Relief for a Tax Period, it will not be able to apply the provisions of the Corporate Tax Law relating to Tax Losses in that Tax Period.[18] This means that they cannot accrue, utilise or transfer any Tax Losses.

If the Resident Person has unutilised Tax Losses brought forward from prior Tax Periods at the beginning of a Tax Period in which it elects for Small Business Relief, such Tax Losses will continue to be carried forward and can be used in the next Tax Period in which the Resident Person has Taxable Income and has not elected for

[17] Article 21(2)(e) of the Corporate Tax Law.
[18] Article 21(2)(d) of the Corporate Tax Law.

Small Business Relief, subject to meeting the conditions of carrying forward and utilising available Tax Losses.[19]

More information on the treatment of Tax Losses when electing for Small Business Relief can be found in Section 5.1.

3.2.3. General Interest Deduction Limitation Rule

If an eligible Resident Person elects for Small Business Relief for a Tax Period, the General Interest Deduction Limitation Rule will not apply in that Tax Period.[20] This means that they cannot accrue or utilise any Net Interest Expenditure in that Tax Period, nor carry it forward to any subsequent Tax Periods.[21]

If the Resident Person has carried forward Net Interest Expenditure incurred in previous Tax Periods where an election for Small Business Relief was not made, at the beginning of a Tax Period in which it elects for Small Business Relief, such Net Interest Expenditure will be carried forward and can be used in the next Tax Period in which it has Taxable Income and has not elected for Small Business Relief, subject to the relevant provisions of the General Interest Deduction Limitation Rule.[22]

More information on the application of the General Interest Deduction Limitation Rule when electing for Small Business Relief can be found in Section 5.2.

3.2.4. Other reliefs

In addition to the Tax Loss Rules and General Interest Deduction Limitation Rule, there are a number of other reliefs that do not apply where a Resident Person has elected for Small Business Relief.[23] This includes being able to transfer assets at net book value within a Qualifying Group and Business Restructuring Relief.

More information on the treatment of these reliefs can be found in Section 5.4.

3.2.5. Exempt Income

Certain types of income, known as Exempt Income, are not taxable. However, this distinction is only relevant for businesses that need to calculate their Taxable Income.

[19] Article 4(2) of Ministerial Decision No. 73 of 2023 and Articles 37, 38 and 39 of the Corporate Tax Law.
[20] Article 21(2)(c) of the Corporate Tax Law.
[21] Article 5(1) of Ministerial Decision No. 73 of 2023.
[22] Article 5(2) of Ministerial Decision No. 73 of 2023 and Article 30 of the Corporate Tax Law.
[23] Article 21(2)(b) of the Corporate Tax Law.

The rules on Exempt Income therefore do not apply to businesses that elect for Small Business Relief.[24]

More information on the treatment of Exempt Income when electing for Small Business Relief can be found in Section 5.3.

3.3. How to elect for Small Business Relief

Eligible Taxable Persons that meet the conditions for Small Business Relief and wishing to benefit from Small Business Relief must first register for Corporate Tax. Then they must make an election in their Tax Return in order to benefit from the relief. This election must be made for each Tax Period that a Tax Return is filed in order for the relief to apply for that Tax Period.

More information on Tax Returns and broader compliance requirements when electing for Small Business Relief can be found in Section 6.

[24] Article 21(2)(a) of the Corporate Tax Law.

4. Eligibility conditions for Small Business Relief

In order to be able to elect for Small Business Relief, a Person must be a Resident Person for Corporate Tax purposes and have Revenue of less than or equal to AED 3,000,000 in the relevant Tax Period and any previous Tax Periods.

There are no additional requirements. The only exception is that members of MNEs and Qualifying Free Zone Persons are not eligible for Small Business Relief. See Section 3.1. for more details on MNEs and Qualifying Free Zone Persons.

4.1. Restriction to Tax Periods ending on or before 31 December 2026

Small Business Relief will be available for Tax Periods that begin on or after 1 June 2023. Small Business Relief will be available for Tax Periods that end before or on 31 December 2026 in which the Revenue in the relevant Tax Period and all previous Tax Periods was less than or equal to AED 3,000,000.

4.2. Illustrative examples

Example 1: Electing for Small Business Relief

Mr X operates a Business in Abu Dhabi. He is a Resident Person for Corporate Tax purposes. He started trading on 1 January 2025 and his Tax Period ends on 31 December. In the most recent Tax Period ending 31 December 2025, Mr X derived Revenue of AED 2,000,000.

Mr X is eligible to benefit from Small Business Relief because he is a Natural Person with a Business or Business Activity generating Revenue in excess of AED 1,000,000 and less than AED 3,000,000 for the 31 December 2025 Tax Period.

Mr. X has not breached the Revenue threshold from previous periods given that the 2025 Tax Period is his first year of operation.

If he wishes to benefit from Small Business Relief, he must make an election in his Tax Return.

Example 2: Non-Resident Persons

ABC Ltd is a USA-incorporated company that has an office in Dubai from which it assists its UAE-based clients. ABC Ltd is a Non-Resident Person for Corporate Tax purposes. In its most recent Tax Period ending 31 December 2024, ABC Ltd derived

Revenue of AED 2,500,000, with AED 1,000,000 of this Revenue attributable to its office in Dubai.

ABC Ltd is not eligible for Small Business Relief as it is a Non-Resident Person, regardless of its Revenue or having an office in Dubai.

Example 3: Revenue in previous Tax Periods

Ms Y operates a Business in Sharjah. She is a Resident Person for Corporate Tax purposes. Her Tax Period ends on 31 December each year.

In the most recent Tax Period ending 31 December 2026, Ms Y derived Revenue of AED 1,900,000. In the previous Tax Period ending 31 December 2025, she had Revenue of AED 4,300,000.

Ms Y is not eligible to benefit from Small Business Relief for the Tax Period ending 31 December 2026 as her Revenue has exceeded the threshold of AED 3,000,000 in a prior Tax Period.

4.3. What is a Resident Person?

There are specific rules within the Corporate Tax Law for determining whether a Person is a Resident Person, and these differ from many other international residence rules that look to where someone lives or resides. The rules are also different for Natural Persons (i.e. individuals) and Juridical Persons (e.g. companies).

A short explanation of how the Corporate Tax residence rules work is provided below.

4.3.1. Natural Persons

Natural Persons are individuals and will be considered as Resident Persons for Corporate Tax purposes if they conduct a taxable Business or a Business Activity in the UAE generating Turnover above a set threshold determined in a Cabinet Decision. In this regard, Cabinet Decision No. 49 of 2023 specifies that the threshold is AED 1,000,000 of Turnover derived within the Gregorian calendar year.[25]

However, income derived by a Natural Person from the following three sources shall not be regarded as being derived from Businesses or Business Activities that are subject to Corporate Tax, regardless of the amount of income derived from such sources:

[25] Article 2(1) of Cabinet Decision No. 49 of 2023.

- Wages;
- Personal Investment income; and
- Real Estate Investment income.[26]

Where a Natural Person receives income from any of these three sources, such income will not be subject to Corporate Tax, and are excluded from the AED 1,000,000 Turnover threshold.[27]

Where a Natural Person derives income from Businesses or Business Activities above the AED 1,000,000 threshold during a Gregorian calendar year, he will be subject to Corporate Tax and will be required to register for Corporate Tax. In this instance, he may be able to claim Small Business Relief if they meet the requirements of the Small Business Relief.

4.3.2. Juridical Persons

Juridical Persons are entities that have a separate legal personality from their owners. Common examples include Limited Liability Companies (LLCs), Private Shareholding Companies (PSCs) and Public Joint Stock Companies (PJSCs).

A Juridical Person will be a Resident Person if it is incorporated or otherwise established or recognised under the applicable legislation in the UAE,[28] or incorporated otherwise established or recognised under the applicable legislation outside the UAE but "effectively managed and controlled" in the UAE.[29]

Whether a foreign legal entity is effectively managed and controlled in the UAE depends on the facts and circumstances specific to that entity. However, a business is generally considered to be effectively managed and controlled where key management and commercial decisions concerned with broader strategic and policy matters are made. This is distinct from day to day operational management.

Free Zone Persons are Juridical Persons that are incorporated, established or otherwise registered in a Free Zone, and are Resident Persons for Corporate Tax purposes. This means that Free Zone Persons may be eligible for Small Business Relief, subject to having Revenue that is equal to or below AED 3,000,000.[30] However, Qualifying Free Zone Persons are not eligible for Small Business Relief. A Qualifying Free Zone Person is a Free Zone Person that meets certain criteria. These are set out at Section 3.1.2.

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[26] Article 2(2) of Cabinet Decision No. 49 of 2023.
[27] Article 2(3) of Cabinet Decision No. 49 of 2023.
[28] Article 11(3)(a) of the Corporate Tax Law.
[29] Article 11(3)(b) of the Corporate Tax Law. A discussion of the factors which make a Business effectively managed and controlled in the UAE is outside of the scope of this document.
[30] Article 11(3)(a) of the Corporate Tax Law.

Example 4: Residence of Juridical Persons
ABC LLC was incorporated in the UAE. ABC LLC is a Resident Person for Corporate Tax purposes.

Example 5: Residence of Juridical Persons
DEF LLC was incorporated in a foreign country. It is effectively managed and controlled in the UAE. DEF LLC is a Resident Person for Corporate Tax purposes.

Example 6: Residence of Juridical Persons
XYZ LLC was incorporated in a foreign country. It conducts Business in the UAE without any fixed place of business in the UAE. XYZ LLC is not a Resident Person for Corporate Tax purposes.

4.3.3. Exclusion of members of MNEs

Constituent companies of MNEs will not be eligible for Small Business Relief, even if they are Resident Persons.[31]

An MNE is any group that is made up of two or more companies that operate in separate countries, or includes a single company that is resident in one country and subject to tax in another, and has total consolidated group revenue of at least AED 3.15 billion.[32]

A constituent company means any separate business unit of an MNE that is included in the consolidated financial statements of the MNE for the purposes of preparing the financial reports, or any business unit that is excluded from the MNE's consolidated financial statements solely on size or materiality grounds. In addition, any PE of a separate business unit of the MNE will be considered a constituent company if the business unit prepares separate financial statements for the PE.

The definition of a "constituent company" is based on Cabinet Resolution No. 44 of 2020 on Organising Reports Submitted by Multinational Companies. Therefore, any changes that are made to this definition in future will potentially affect a Taxable Person's eligibility for Small Business Relief.

[31] Article 3(1) of Ministerial Decision No. 73 of 2023.
[32] Cabinet Resolution No. 44 of 2020 Organising Reports Submitted by Multinational Companies.

4.3.4. Exclusion of Qualifying Free Zone Persons

Qualifying Free Zone Persons will not be eligible for Small Business Relief, even if they are Resident Persons and have Revenue that is equal to or less than AED 3,000,000 in the relevant Tax Period and all previous Tax Periods.[33]

Free Zone Persons that are not Qualifying Free Zone Persons are eligible for Small Business Relief and can elect for Small Business Relief if they are a Resident Person and their Revenue does not exceed AED 3,000,000 in the relevant Tax Period and all previous Tax Periods.

Qualifying Free Zone Persons that elect to be subject to Corporate Tax under Article 19 of the Corporate Tax Law for a specific Tax Period are then considered as Free Zone Persons and can elect for Small Business Relief if they meet the requirements for Small Business Relief.

4.3.5. Permanent Establishments of Non-Resident Persons

In general, PEs in the UAE of Non-Resident Persons would not be eligible for the Small Business Relief as they are not considered as Resident Persons. However, if the Non-Resident Person is based in a country which has a Double Taxation Agreement in force with the UAE and if that Agreement includes a provision dealing with non-discrimination of a Permanent Establishment based on the OECD Model Tax Convention or the UN Model Double Tax Convention,[34] its UAE PE would be eligible for the Small Business Relief if the required conditions to apply the relief are met.

4.3.6. UAE sourced income and foreign income

Many businesses will earn income from within and outside of the UAE. Both of these sources of income must be considered when calculating Revenue. This is because Revenue is based on gross income and includes all of the income that a Business earns.

Juridical Persons must include all of their foreign and UAE income when calculating their Revenue for Small Business Relief purposes. However, Natural Persons should only take into account foreign income that is related to their taxable Business or Business Activity in the UAE (in addition to their domestic income). This is aligned to the rules for Taxable Income.

[33] Article 3(2) of Ministerial Decision No. 73 of 2023.
[34] Article 24(3) of the OECD Model Tax Convention or the UN Model Double Tax Convention.

4.3.7. Accounting standards for Revenue calculation

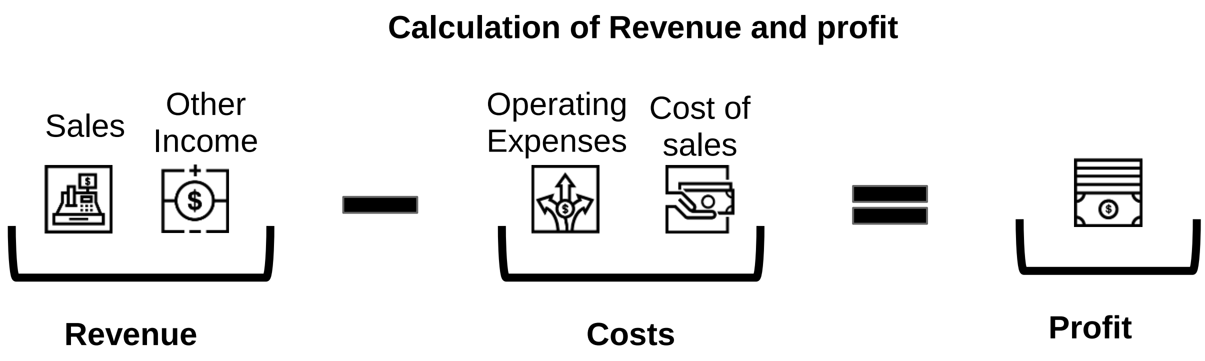
Accounting standards are sets of rules and principles that are managed by regulatory bodies, and that govern how businesses report their financial activities. Some of the rules and principles differ between regulatory bodies and, as a result, the choice of accounting standard will determine and may impact the amount of Revenue a business is determined to have earned in a Tax Period.

Businesses that elect for Small Business Relief will be able to prepare financial statements based on the cash basis of accounting, if their revenue does not exceed AED 3,000,000.[35]

Revenue is the gross amount of income derived during a Tax Period calculated according to applicable accounting standards. According to Ministerial Decision No. 114 of 2023, the applicable accounting standard is International Financial Reporting Standards ("IFRS") or IFRS for SME's.[36] However, a Person may prepare Financial Statements using the Cash Basis of Accounting, where the Person derives Revenue that does not exceed AED 3,000,000.[37] Thus, a business may apply either IFRS (or IFRS for SME's), or a Cash Basis of Accounting in order to calculate their Revenue for the purposes of determining if they are eligible to elect the Small Business Relief. However, the FTA has the right to challenge this choice if the outcome is unreasonable.

It is important to note that Revenue is not restricted to the sale of goods or services by a business. It includes all income earned in the period. For example, if a business sells an asset like a vehicle, or a part of its business, the proceeds of these sales must be included in its Revenue calculation. Non-cash receipts (e.g. goods received in terms of a barter transaction) should be included in Revenue at the market value.

Figure 1: Calculation of Revenue and Profit



[35] Ministerial Decision No. 114 of 2023.
[36] Articles 4(1) and 4(2) of Ministerial Decision No. 114 of 2023.
[37] Article 2(1) of Ministerial Decision No. 114 o 2023.

As Figure 1 above demonstrates, Revenue is not the same as profit. Businesses do not take into account their expenses or costs when calculating their Revenue.

Example 7: Calculation of Revenue

ABC LLC is a UAE Resident Person. During its most recent Tax Period, ABC LLC made sales of AED 1,500,000 and received AED 1,000,000 of dividends from UAE companies. It had operating expenses of AED 2,000,000.

ABC LLC therefore has Revenue of AED 2,500,000, costs of AED 2,000,000 and a profit of AED 500,000. However, the costs and profit are not relevant for the purposes of assessing whether ABC LLC is eligible for Small Business Relief. ABC LLC will be eligible because its Revenue is below the threshold of AED 3,000,000.

4.3.8. Implications for Resident Persons that are VAT registered

Businesses that are registered for VAT are required to charge VAT on certain products or services that they sell. The VAT charged should not be included in the calculation of Revenue. This is because the VAT collected must be transferred to the FTA and does not belong to the Business.

Small Business Relief is a Corporate Tax relief. It does not change the Resident Person's compliance requirements for VAT or any other purpose in any way. This means that while some Taxable Persons can benefit from Small Business Relief for Corporate Tax purposes and therefore have simplified Corporate Tax compliance requirements, their VAT compliance requirements will continue as before.

4.4. Illustrative examples

Example 8: Sale of Business asset during a Tax Period

Mr X is a Resident Person for Corporate Tax purposes. He has conducted a Business for many years and his Revenue has never exceeded AED 3,000,000. In the Tax Period ending on 31 December 2024, his Revenue was AED 1,850,000 and he elected for Small Business Relief.

During the Tax Period ending 31 December 2025, Mr X agreed to sell his shop to a friend for AED 1,200,000. Mr X's Revenue for the Tax Period, including the proceeds from the sale of the shop, totalled AED 4,150,000.

Mr X is not eligible for Small Business Relief for the Tax Period ending 31 December 2025. The fact that Mr X's Revenue has exceeded the Revenue threshold as a result of a one-off event is not relevant. Because Mr X's Revenue exceeded AED 3,000,000, he will not be able to elect for Small Business Relief again, even if his Revenue in the Tax Period ending 31 December 2026 is less than AED 3,000,000.

Example 9: Resident Person anticipates exceeding the Revenue threshold

ABC LLC is a Resident Person for Corporate Tax purposes. ABC LLC has been conducting Business for a number of years but has never generated Revenue of more than AED 2,000,000. ABC LLC elected for Small Business Relief for the Tax Period ending 31 December 2024.

At the beginning of 2025, one of ABC LLC's competitors ceased trading suddenly and ABC LLC experienced a huge increase in sales as a result. ABC LLC now forecasts that for the Tax Period ending on 31 December 2025, it will have Revenue of more than AED 5,000,000.

ABC LLC does not need to do anything different immediately. However, if its Revenue for the 31 December 2025 Tax Period does exceed AED 3,000,000, it will no longer be eligible for Small Business Relief. It will have to calculate and pay Corporate Tax on its Taxable Income.

In this regard, ABC LLC will need to consider all the relevant provisions of the Corporate Tax Law, including any reliefs which might be applicable.

5. Impact of the Small Business Relief on other Corporate Tax rules

Businesses that elect for Small Business Relief are excluded from applying certain other Corporate Tax reliefs and rules. This is because these reliefs are relevant for the calculation of Taxable Income, and Small Business Relief treats eligible Taxable Persons as having no Taxable Income for the relevant Tax Period. However, they will still need to comply with the filing obligations set out in the Corporate Tax Law.

Eligible Taxable Persons that elect for Small Business Relief are also exempt from the requirement to maintain transfer pricing documentation. This measure is intended to further reduce the compliance burden on small Businesses.

5.1. Tax Losses

If a Taxable Person has negative Taxable Profit, known as a Tax Loss, it can offset its Tax Loss against its Taxable Income in later Tax Periods. If the Taxable Person is a Juridical Person, it will also be able to transfer Tax Losses to other Juridical Persons, subject to certain conditions being met.[38]

5.1.1. Implications of election for Small Business Relief on Tax Losses

When an eligible Taxable Person elects for Small Business Relief, the rules on Tax Losses will not apply in that Tax Period.[39] This means that in the Tax Period where an eligible Taxable Person elects for Small Business Relief, the Taxable Person will not be able to accrue, utilise or transfer Tax Losses.

If a Taxable Person has unutilised Tax Losses from a previous Tax Period where an election to apply the Small Business Relief was not made, these will be carried forward to future Tax Periods, and can be offset against Taxable Income in the future when they do not elect for Small Business Relief, subject to the conditions set out in the Corporate Tax Law.[40]

[38] Article 37 of the Corporate Tax Law.
[39] Article 21(2)(d) of the Corporate Tax Law.
[40] Article 4(2) of Ministerial Decision No. 73 of 2023.

5.1.2. Illustrative examples

Example 10: Carried forward unutilised Tax Losses

Mr X is a Resident Person. In the Tax Period ending 31 December 2024, his Revenue was AED 2,500,000. Mr X did not elect for Small Business Relief and had a Tax Loss of AED 400,000 to carry forward.

In the Tax Period ending 31 December 2025, Mr X's Revenue was AED 1,700,000.

Mr X elects for Small Business Relief for the Tax Period ending 31 December 2025. His carried forward Tax Losses of AED 400,000 cannot be used in this Tax Period, but will be carried forward and can be used in future Tax Periods (provided the relevant conditions are met).

Example 11: Tax Losses

ABC LLC is a Resident Person that started trading on 1 January 2025. In the Tax Period ending 31 December 2025, ABC LLC had Revenue of AED 2,500,000 and expenses and costs of AED 3,500,000. This resulted in ABC LLC having a negative Taxable Income (i.e. a Tax Loss) of AED 1,000,000 for the 31 December 2025 Tax Period.

As a Resident Person whose Revenue does not exceed AED 3,000,000, ABC LLC is eligible to elect for Small Business Relief.

If ABC LLC elects for Small Business Relief, it will be treated as having no Taxable Income and benefit from simplified compliance requirements. Electing for Small Business Relief means that the Tax Loss incurred will not be declared to the FTA and cannot be carried forward to future Tax Periods.

If ABC LLC chooses not to elect for Small Business Relief, it will be able to declare its Tax Loss to the FTA and the Tax Loss can be carried forward to be utilised in future Tax Periods. However, in order to do this, ABC LLC would have to comply with ordinary Corporate Tax compliance requirements, including calculating Taxable Income and completing a full Tax Return.

Example 12: Transfer of Tax Losses

ABC LLC and DEF LLC are Resident Persons that are both wholly-owned by XYZ LLC and meet all the required conditions to transfer Tax Losses to each other.

In the Tax Period ending 31 December 2026, ABC LLC had Revenue of AED 2,500,000 and Taxable Income of AED 500,000. At the beginning of this Tax Period, ABC LLC had carried forward unutilised Tax Losses of AED 700,000. ABC LLC has not had Revenue exceeding AED 3,000,000 in any previous Tax Period and is eligible for Small Business Relief.

In the same Tax Period, DEF LLC had Revenue of AED 7,500,000 and Taxable Income of AED 3,100,000.

If ABC LLC elects for Small Business Relief, it will be treated as not having any Taxable Income and will not pay any Corporate Tax. However, this also means that ABC LLC will be unable to transfer any of its unutilised Tax Losses to DEF LLC.

If ABC LLC does not elect for Small Business Relief, it will be required to pay Corporate Tax on its Taxable Income. Furthermore, it will be able to both reduce its Taxable Income using its Tax Losses and transfer its remaining Tax Losses to DEF LLC, subject to meeting all the required conditions of transferring Tax Losses and provided ABC and DEF do not form a tax group.

5.2. General Interest deduction limitation rules

The amount of Interest expenditure that Businesses can deduct in each Tax Period when calculating their Taxable Income may be limited.[41] Businesses can deduct their Net Interest Expenditure up to 30% of their accounting earnings before the deduction of interest, tax, depreciation and amortisation (EBITDA) in that Tax Period - this is known as the general Interest deduction limitation rule. These rules only apply to Businesses whose Net Interest Expenditure is greater than a set threshold.

The limitation on the deductible Net Interest Expenditure shall not apply where the Net Interest Expenditure for the relevant Tax Period does not exceed AED 12,000,000.[42]

Net Interest Expenditure which exceeds 30% of the Business's EBITDA cannot be deducted due to this limitation in the Tax Period it is incurred, and instead can be carried forward for ten Tax Periods from the period in which the Net Interest Expenditure was disallowed.[43] In addition to the amount being limited, there are rules that limit the circumstances in which a deduction can be made for Interest expenditure incurred on a loan obtained, directly or indirectly, from a Related Party.[44]

[41] Article 31 of the Corporate Tax Law.
[42] Article 8 of Ministerial Decision No. 126 of 2023.
[43] Article 30(4) of the Corporate Tax Law.
[44] Article 31 of the Corporate Tax Law.

5.2.1. Implications of election for Small Business Relief on General Interest Deduction Limitation Rule

The limitations on the deduction of Interest expenditure do not apply to Businesses in the Tax Periods that they have elected for Small Business Relief.[45] This also means that Businesses will not be able to accrue Net Interest Expenditure that can be carried forward to later years or use Interest expenditure from previous years.[46]

If a Business has Net Interest Expenditure carried forward from a previous Tax Period, this will be carried forward to future Tax Periods, and can be utilised in future Tax Periods in which the Business does not elect for Small Business Relief.[47] However, the Tax Periods in which Businesses elect for Small Business Relief will continue to be counted for the purposes of limiting the carry forward to ten subsequent Tax Periods from the Tax Period in which the Net Interest Expenditure was disallowed.

Example 13: Carry forward of Net Interest Expenditure

ABC LLC is a Resident Person for Corporate Tax purposes. In the Tax Period ending 31 December 2024, ABC LLC had Revenue of AED 2,000,000 but it did not elect for Small Business Relief. During the same Tax Period, ABC LLC has excess Interest expenditure of AED 400,000, which is carried forward to be used in subsequent Tax Periods.

In the Tax Period ending 31 December 2025, ABC LLC had Revenue of AED 2,000,000. ABC LLC elected for Small Business Relief for that Tax Period. As a result, it was unable to utilise any of its carried forward Net Interest Expenditure. This also means that any Net Interest Expenditure incurred in that Tax Period cannot be carried forward to later years. Accordingly, the Net Interest Expenditure of AED 400,000 will be carried forward to the next Tax Period, unless ABC LLC would elect again for the Small Business Relief for that Tax Period if the required conditions are met.

Given ABC LLC is eligible for and elects the Small Business Relief, they would not be required to calculate their Net Interest Expenditure for the Tax Period ending 31 December 2025.

45 Article 21(2)(c) of the Corporate Tax Law.
46 Article 5(1) of Ministerial Decision No. 73 of 2023.
47 Article 5(2) of Ministerial Decision No. 73 of 2023.

5.3. Exempt Income

Certain types of income are not taxable. These are known as Exempt Income, and when calculating Taxable Income, Businesses must exclude these items. Exempt Income includes:

- Dividends and other profit distributions received from Juridical Persons resident in the UAE;
- Other income and gains from a Participating Interest in a Juridical Person resident in the UAE;
- Dividends and other profit distributions received from a Participating Interest in a foreign Juridical Person; and
- Income of a Foreign Permanent Establishment, subject to meeting certain conditions.[48]

5.3.1. Interaction between Exempt Income and Small Business Relief

The rules on Exempt Income do not apply to Businesses that have elected for Small Business Relief.[49] This means that all income, even if it would not be taxable, must be included when a Resident Person calculates its Revenue for Small Business Relief Purposes.

Example 14: Exempt Income - Dividends from UAE companies
ABC LLC is a Resident Person for Corporate Tax purposes. During its Tax Period ending 31 December 2024, it made sales of AED 2,500,000. ABC LLC also received dividends of AED 1,000,000 from DEF LLC, a Resident Person. The income from the dividends are Exempt Income and would not be included when calculating ABC LLC's Taxable Income. As the provisions of the Corporate Tax Law relating to Exempt Income do not apply when a Business is seeking to benefit from Small Business Relief, the dividend income should be included in the calculation of ABC LLC's Revenue. ABC LLC's Revenue for the Tax Period is therefore AED 3,500,000 (AED 2,500,000 + AED 1,000,000), and ABC LLC is not eligible to elect for Small Business Relief for the Tax Period ending 31 December 2024.

[48] Article 22 of the Corporate Tax Law.
[49] Article 21(2)(a) of the Corporate Tax Law.

5.4. Other Reliefs

Businesses can benefit from relief where assets or liabilities are transferred within a Qualifying Group, and for certain Business restructuring transactions. Where certain conditions are met, both parties in these types of transactions are able to record the transaction as taking place at net book value. This means that there will be no gain or loss attributed to either party for Corporate Tax purposes.

As Business Restructuring Relief and relief for transfers within a Qualifying Group impact both parties in the transaction, businesses will need to consider the impact of their choice on the other party to the transfer or business restructuring transactions they are involved in.

5.4.1. Implications of election for Small Business Relief on other reliefs

These reliefs are not available to Businesses in the Tax Periods for which they elect for Small Business Relief.[50] Small Business Relief works by treating Businesses as if they had no Taxable Income. Therefore, the amount for which a transaction is treated as having taken place will have no impact on the Business tax position.

Example 15: Transfer within a Qualifying Group

ABC LLC and DEF LLC are each wholly-owned by XYZ LLC. All three companies are Resident Persons for Corporate Tax purposes, and ABC LLC and DEF LLC meet the conditions to be considered a Qualifying Group. Accordingly, transfers of assets and liabilities between them can benefit from the relevant relief.[51]

During their Tax Period ending 30 June 2024, ABC LLC had Revenue of AED 2,200,000 and DEF LLC had Revenue of AED 4,500,000. During the same Tax Period, DEF LLC sold a vehicle to ABC LLC. The vehicle had a net book value of AED 100,000 and ABC LLC paid AED 200,000 for it, resulting in a gain of AED 100,000 for DEF LLC.

ABC LLC is eligible to elect for Small Business Relief due to having Revenue below AED 3,000,000. The transfer of the vehicle is eligible for relief due to being transferred between members of the same Qualifying Group.

If ABC LLC elects for Small Business Relief, ABC LLC will be treated as having no Taxable Income and DEF LLC will be unable to apply the transfer within the Qualifying Group relief for the sale of the vehicle. This means that DEF LLC will have

[50] Article 21(2)(b) of the Corporate Tax Law.
[51] Article 26 of the Corporate Tax Law.

to recognise, and pay Corporate Tax on, the gain of AED 100,000 from the vehicle sale.

If ABC LLC does not elect for Small Business Relief, ABC LLC and DEF LLC can benefit from intra-group relief on the sale of the vehicle provided that DEF LLC made an election to apply the transfers within a Qualifying Group relief.[52] This means that the sale will be treated as having taken place at net book value and no gain or loss will arise for either ABC LLC or DEF LLC. However, by not electing for Small Business Relief, ABC LLC would have to calculate and pay Corporate Tax on its Taxable Income by filing a Tax Return.

5.5. Deductions

Certain expenditures are disallowed or limited for Corporate Tax purposes. As these rules differ from ordinary accounting rules, this means that, when calculating their Taxable Income, Businesses must exclude or adjust some deductions.

5.5.1. Deductible expenditure rules do not apply to those who elect for Small Business Relief

The rules on deductions do not apply to Businesses in Tax Periods for which they have elected for Small Business Relief.[53] Small Business Relief is based on Revenue alone and, as it works by treating Businesses as if they had no Taxable Income, there will be no requirement to consider deductions. This means that any expenditure, even if it would not ordinarily be allowable for Corporate Tax purposes, will not impact a Business that has elected for Small Business Relief.

Example 16: Deductible expenditure

Mr X is a Resident Person who conducts Business in Dubai. During his Tax Period ending 30 September 2024, Mr X's Revenue was AED 1,850,000. During the same Tax Period, he makes a donation of AED 100,000 to a local charity that is not a Qualifying Public Benefit Entity.

Donations made to entities that are not Qualifying Public Benefit Entities are not allowed to be deductible for Corporate Tax purposes. However, as the provisions of the Corporate Tax Law relating to deductions do not apply when a Business is seeking to benefit from Small Business Relief, the donation made and the fact that

[52] Article 3 of Ministerial Decision No. 132 of 2023.
[53] Article 21(2)(c) of the Corporate Tax Law.

the amount is non-deductible for Corporate Tax purposes has no impact on Mr X's eligibility for Small Business Relief.

5.6. Transfer pricing documentation

Transfer pricing is an internationally recognised approach used to determine the price that should be charged by a taxable person when conducting transactions with related parties or connected persons. Transfer pricing is applied on cross-border transactions to prevent base erosion and profits shifting between taxable entities and non or low-taxed entities.

The FTA can require a Business to file its transfer pricing disclosure and other supporting documentation together with its Tax Return, or within 30 days of being requested to provide it by the FTA.[54]

5.6.1. Transfer pricing documentation requirements for those who elect for Small Business Relief

Transfer pricing documentation rules do not apply to Businesses in the Tax Period for which they elect for Small Business Relief.[55]

It is important to note that this provision relates to the requirement to provide a disclosure at the same time as its Tax Return, or within 30 days of it being requested by the FTA, and the requirement to maintain a master and local file. It does not prevent the FTA from enquiring into the Resident Person's Corporate Tax affairs, or reviewing its transactions, including those with its Related Parties. The Resident Person must also ensure that they have considered and complied with the Arm's Length Principle.

Example 17: Transfer Pricing Documentation

ABC LLC is a Resident Person for Corporate Tax purposes. During its Tax Period ending 31 May 2025, it had Revenue of AED 2,800,000. This was made up entirely of sales made to DEF Ltd, a foreign company that is a Related Party.

ABC LLC elects for Small Business Relief. The FTA would not require ABC LLC to file a disclosure containing information regarding its transactions and arrangements with its Related Party along with its Tax Return, nor request any transfer pricing documentation.

54 Article 55(1) and Article 55(3) of the Corporate Tax Law.
55 Article 21(2)(e) of the Corporate Tax Law.

However, ABC LLC is still required to ensure that its transactions with DEF Ltd are consistent with the Arm's Length Principle.

5.7. Participation Exemption for owners of UAE Juridical Persons that elect for Small Business Relief

Dividends from companies resident in the UAE are exempt from Corporate Tax. In addition, other income and gains from UAE resident companies may also be exempt if the relevant conditions under the Participation Exemption are met.[56]

A Participating Interest is a long-term ownership interest in a Juridical Person that provides the basis for the exercise of some level of control or influence over the activities of the Participation. There are a number of conditions which must be satisfied for a Participating Interest to exist.[57] One of these conditions is that the Juridical Person is subject to Corporate Tax at a rate of at least 9%.[58]

Although Businesses that elect for Small Business Relief will effectively not have a Corporate Tax liability, they are still considered to be subject to Corporate Tax.

As a result, Persons that hold a Participating Interest in a Business that elects for Small Business Relief should be able to benefit from the Participation Exemption relief, subject to meeting the relevant conditions. This also applies in the case of Persons with capital gains and the other income.[59]

Any dividends received by a Taxable Person electing for Small Business Relief from UAE resident companies are exempt and are not subject to the Participation Exemption conditions.

5.8. Tax Groups and Small Business Relief

Companies under common ownership (and meeting other relevant conditions) are able to form a Tax Group.[60] This allows these companies to be treated as a single Taxable Person, reducing the compliance burden on individual companies by consolidating accounts and eliminating intra-group transactions, and increasing flexibility in the utilisation of Tax Losses.

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[56] Article 23(5) of the Corporate Tax Law.
[57] Article 23(2) of the Corporate Tax Law.
[58] Article 23(2)(b) of the Corporate Tax Law and Article 6 of Ministerial Decision No. 116 of 2023.
[59] Article 23 of the Corporate Tax Law.
[60] Article 40(1) of the Corporate Tax Law.

A Tax Group is able to elect for Small Business Relief if its Revenue is equal to or below AED 3,000,000. As a single Taxable Person, the Revenue threshold for Small Business Relief will apply to the Tax Group as a whole, rather than to each member of the Tax Group. Irrespective of how many companies make up the Tax Group, the Revenue threshold of AED 3,000,000 will apply to the Tax Group as a whole.

Example 18: Tax Groups and Small Business Relief

ABC LLC is the Parent Company of a Tax Group, which also includes its wholly-owned subsidiaries XYZ LLC and DEF LLC. During its Tax Period ending 31 July 2024, ABC LLC itself had Revenue of AED 1,300,000, XYZ LLC had Revenue of AED 900,000 and DEF LLC had Revenue of AED 1,000,000. None of the Revenues of ABC LLC, XYZ LLC and DEF LLC are earned from each other.

The total consolidated Revenue for the Tax Group (after netting of intra-group transactions) was therefore AED 3,200,000 (AED 1,300,000 + AED 900,000 + AED 1,000,000).

Although each of the companies has Revenue below the threshold for Small Business Relief, the Tax Group will not be eligible for Small Business Relief. This is because the Tax Group is treated as a single Taxable Person, and the Tax Group's overall consolidated Revenue of AED 3,200,000 is above the Small Business Relief threshold of AED 3,000,000.

6. Compliance obligations, record keeping requirements and administration for Small Business Relief

6.1. Requirement to self-assess, register and make an election

In order to claim Small Business Relief, the eligible Taxable Person must first be registered for Corporate Tax. It then can elect for the relief through the filing of a Tax Return. An election must be made in each Taxable Period.

An eligible Taxable Person that has elected for Small Business Relief remains a Taxable Person for the purposes of the Corporate Tax Law. This means that it will continue to be required to meet its Corporate Tax compliance obligations in each Tax Period. This includes the obligation to register for Corporate Tax, file a simplified Tax Return and retain all relevant documents and records to support their Corporate Tax filings.

6.2. Requirement to file Tax Returns

Businesses will be required to make the election for Small Business Relief in their Tax Return. Therefore, the requirement to file Tax Returns is not impacted by the eligibility for the Small Business Relief.

Businesses that elect for the Small Business Relief will however benefit from a simplified Tax Return, reducing the amount of information they need to provide, and the amount of time needed to complete the Tax Return.

6.3. Records required to be kept to demonstrate Revenue

The Corporate Tax Law includes a number of record-keeping requirements. These are in addition to the requirements already imposed on Businesses and their agents by the Tax Procedures Law.

Under the Corporate Tax Law, all Businesses are required to maintain records and documentation that:

- support the information provided in a Tax Return or in any other document to be submitted to the FTA;[61] and
- enable the Taxable Person's Taxable Income to be readily ascertained by the FTA.[62]

[61] Article 56(1)(a) of the Corporate Tax Law.
[62] Article 56(1)(b) of the Corporate Tax Law.

Small Business Relief works by treating eligible Resident Persons as having no Taxable Income if their Revenue is equal to or below AED 3,000,000 for the relevant Tax Period and all previous Tax Periods. Therefore, in order to demonstrate that they have no Taxable Income, the eligible Resident Persons must be able to provide evidence to the FTA that their Revenue did not exceed the Small Business Relief threshold for all relevant Tax Periods.

As every Business is different, there is no prescribed list of documentation or records that should be maintained. However, examples of documents which need to be kept include but is not limited to:

- Bank statements;
- Sales ledgers;
- Invoices or other records of daily earnings, such as till rolls;
- Order records and delivery notes; and
- Other relevant Business correspondence.

There is no requirement that documents are maintained in their original format and it may be possible to keep them in an alternative format. For example, paper receipts could be scanned and stored electronically. Whatever storage medium is chosen, the records need to be readable and available to the FTA on request.

Businesses are responsible for the storage of their own records and documentation. Taxable Persons must provide the FTA with any information, documents or records reasonably required by the FTA when requested to do so. The records must, therefore, be easily accessible if the FTA requests them.

6.4. Record keeping period

All Businesses must keep records and documents for seven years following the end of the Tax Period to which they relate.[63]

This requirement applies to the Tax Period to which the documents relate, and not the Tax Period in which they were created. For example, if a Taxable Person uses the cash basis accounting method, they may have invoices which were raised in the Tax Period before the one in which they were paid. In this instance the seven-year period starts from the end of the Tax Period in which the invoices were paid, and not the date that they were created.

[63] Article 56 of the Corporate Tax Law.

Example 19: Record keeping

Mr X is a Resident Person for Corporate Tax purposes. In the Tax Period ending 31 December 2026, he had Revenue of AED 2,050,000 and elected for Small Business Relief.

Mr X must retain records and documents capable of evidencing his Revenue in the Tax Period until 31 December 2033. After this date, Mr X will no longer have a duty to maintain the records relating to the Tax Period ending 31 December 2026.

7. Artificial separation

Artificial separation occurs when a Business fragments its activity into different parts to operate under the Small Business Relief threshold.

7.1. FTA's powers to address artificial separation

The FTA has the power to counteract transactions or arrangements which have been entered into to gain a Corporate Tax advantage. Engaging in artificial separation to benefit from Small Business Relief is considered a Corporate Tax advantage under the General Anti-Abuse Rule of the Corporate Tax Law.[64]

If the FTA determines that a Business has artificially separated its activities, and its overall Revenue exceeds AED 3,000,000 for the relevant Tax Period, it will not be eligible for Small Business Relief. The Business will have to repay any Corporate Tax which it would have owed if the Business had not been artificially separated in order for the separate entities to elect for Small Business Relief. A penalty may also be imposed on the Business.

7.2. Types of artificial separation

Artificial separation can take a range of forms but generally fall into one of three categories:

- **Functional separation**: This involves artificially separating the different functions of a Business, for example, separating drinks and foods sales in a restaurant;
- **Geographical separation**: This involves artificially separating the different locations of a Business where the same activity is carried on at each location, for example, a chain of cafes; and
- **Temporal separation**: This involves artificially separating a Business such that different Persons operate it at different times. This can be, for example, a succession of different legal entities that operate for a short period of time but cease operation when their Revenue reaches the Small Business Relief threshold. It may also occur where different companies claim to only operate at certain times, for example, on set days of the week.

7.3. Purpose of artificial separation test

There are legitimate circumstances in which a Business may separate its activities or choose to operate through separate entities. For example, someone may wish to

[64] Article 6(1) of Ministerial Decision No. 73 of 2023.

operate their Business using more than one limited company in order to limit their legal liability. Therefore, the fact alone that a Business operates through more than one entity is not sufficient to demonstrate that the Business has been artificially separated.

In order to determine whether a Business has been artificially separated, the FTA will undertake an artificial separation test. The FTA will review the activity that has been separated to determine:

- Whether the separation was undertaken for a valid and genuine commercial purpose; and
- Whether substantially the same Business or Business Activity is being conducted.

In order for the FTA to conclude that a Business has been artificially separated, both elements must be considered.[65]

7.4. Factors taken into account when determining whether a Business has been artificially separated

When considering whether a Business has been artificially separated the FTA will consider the individual facts and circumstances of the Business being reviewed, including the financial, economic and organisational links between the separate entities.

7.4.1. Financial links

Financial links between entities can be an indicator of artificial separation. Key questions to consider include:

- Does one entity financially support another?
- Is one entity financially viable without the support of the other?

Ordinarily, one Business would not expect to be financially supported by another. Support in this context can mean one entity lending or giving money to another. It is important to note that this is distinct from an ordinary commercial relationship in which an entity charges market interest or a fee to lend money to another entity.

7.4.2. Economic links

Economic links between entities can also indicate that a Business has been artificially separated. Key questions to consider include:

[65] Article 6(2) of Ministerial Decision No. 73 of 2023.

- Do the activities of the entities mutually benefit each other?
- Do the entities have the same group of customers?

If the activities of two or more entities mutually benefit each other this can be an indicator that they are in Business together. Having the same group of customers is an additional example of economic links that can indicate artificial separation.

7.4.3. Organisational and structural links

Organisational and structural links can be important indicators that artificial separation has taken place. Organisational links show how closely related the operations of two entities are. Key questions to consider include:

- Do the entities conduct Business from the same premises or using the same equipment?
- Does one or several managers oversee the activities of both entities or would the entities have the same directors or board members?
- Do the same employees work for both entities?
- Do the entities jointly advertise or market their Businesses?
- Would a customer know that they were dealing with two separate Business entities?

There are genuine circumstances in which two Businesses operate from the same premises. In addition, employees are generally free to work for more than one employer if they wish. Therefore, these questions need to be considered in the context of the Business being reviewed.

7.5. Illustrative examples

Example 20: Functional artificial separation

Mr X owns a hotel in Ras Al Khaimah. In the Tax Period ending on 31 December 2024, Mr X's Revenue was AED 3,100,000. Mr X was therefore not eligible for Small Business Relief.

On the ground floor of the hotel there is a restaurant where hotel guests can have breakfast. Breakfast is not included in the price of the hotel room but when guests check in, they are asked if they would like breakfast and pay for it at the hotel reception. The restaurant also prepares meals for hotel guests who request room service. The restaurant is not open to the public.

Mr X employs a general manager, Mr Y, who manages both the hotel and the restaurant. Other employees work in both the hotel and the restaurant.

On 1 January 2025, Mr X created a limited company, ABC LLC, to operate the restaurant. Mr X wholly owns and controls ABC LLC.

ABC LLC does not pay rent to Mr X for the use of the ground floor of the hotel. Guests continue to pay for breakfast at the hotel reception and the restaurant continues to be closed to the public. Mr Y is still the manager of both the hotel and the restaurant, and Mr X's other employees continue to work in both the hotel and restaurant. ABC LLC has a separate bank account and at the end of each month Mr X pays ABC LLC the amounts that hotel guests have made for breakfast or room service in the past month.

At the end of the Tax Period ending on 31 December 2025, Mr X's Revenue was AED 1,850,000 and ABC LLC's Revenue was AED 1,300,000. Mr X cannot elect for Small Business Relief as his Revenue previously exceeded AED 3,000,000. ABC LLC elected for Small Business Relief.

This is functional artificial separation, as Mr X and ABC LLC are operating substantially the same Business. This is on the basis that Mr X and ABC LLC are closely economically linked. As the restaurant is not open to the public, ABC LLC has the exact same group of customers as Mr X. The financial links between Mr X and ABC LLC are also strong. Mr X is ABC LLC's sole income stream and it is not clear how ABC LLC could be sustained without receiving hotel guests. Mr X and ABC LLC are also organisationally close. The hotel and restaurant have shared management and staff and, given that the restaurant is in the hotel and payment for restaurant meals is made to the hotel, it is not clear that a hotel guest would understand that they are dealing with two separate entities.

Example 21: Business separated for a valid commercial purpose

ABC LLC operates a cafe in Abu Dhabi. On 1 January 2026 DEF LLC entered into a franchise agreement with ABC LLC. This allowed DEF LLC to open a cafe of the same name in Dubai.

Under the franchise agreement DEF LLC is allowed to use the same branding as ABC LLC. ABC LLC will carry out all marketing and advertising activity. The agreement requires DEF LLC to purchase all of its ingredients and packaging from ABC LLC. Customers would not be aware that the Businesses are separately owned.

In this case, it appears that the Businesses have not been artificially separated. This is an example of a Business being separated for a valid commercial purpose. Franchise agreements are genuine arrangements which Business owners use to expand their income without undertaking the additional activity themselves. The requirement for the franchise owner to carry out all marketing and provide all ingredients are common clauses in franchise agreements to ensure consistent standards across all franchisees.

Example 22: Temporal artificial separation

Mr X wholly owned ABC LLC, a company which he incorporated in the UAE on 1 January 2025. Mr X was the sole employee of ABC LLC and the company's clients understood that by contracting ABC LLC they were paying for Mr X's services.

On 1 March 2025 ABC LLC had made sales of AED 2,800,000. On 2 March 2025 ABC LLC deregistered for Corporate Tax and in its final return declared Revenue of AED 2,800,000 and elected for Small Business Relief.

On the same day, 2 March 2025, Mr X incorporated DEF LLC. DEF LLC provided the same services to the same clients that ABC LLC had, with Mr X as the sole employee of the company. On 6 September 2025 DEF LLC had made sales of AED 2,750,000. On 6 September 2025 DEF LLC deregistered for Corporate Tax and in its final return declared Revenue of AED 2,750,000 and elected for Small Business Relief.

On the same day, 6 September 2025, Mr X incorporated XYZ LLC. Mr X is XYZ's sole employee and XYZ LLC offers the same services to the same clients that DEF LLC and ABC LLC had previously.

This is temporal artificial separation. Mr X is operating substantially the same Business through different entities by incorporating companies through which he offers his services, and deregistering them for Corporate Tax when their sales get close to the Small Business Relief threshold. Each successive entity works with the same clients and each client appears to understand that they will receive Mr X's services. Hence, the structuring of Mr X's Business was to gain a Corporate Tax advantage and the artificially separated entities would not be able to elect for Small Business Relief.

Example 23: Geographical artificial separation

ABC LLC is a Resident Person that is wholly owned by Mr X. ABC LLC owns and operates a laundrette in Dubai, which services customers exclusively in the area of Downtown Dubai. In the Tax Period ending 31 December 2025, ABC LLC had Revenue of AED 2,400,000.

Mr X wanted to expand his Business and incorporated two new companies, DEF LLC and XYZ LLC which services customers exclusively in the area of Business Bay and Jumeirah, respectively. The laundrettes all traded under separate names but Mr X controls all of them. Mr X negotiates with suppliers on behalf of ABC LLC, DEF LLC and XYZ LLC collectively to secure a bulk discount.

In the Tax Period ending 31 December 2026, ABC LLC had Revenue of AED 2,500,000, DEF LLC had Revenue of AED 2,000,000 and XYZ LLC had Revenue of AED 2,100,000. All of the companies elected for Small Business Relief.

This is a geographical artificial separation. Mr X is operating the same Business in Dubai, albeit with customers in different areas in the same Emirate. Mr X controls all of the companies and all of the profits are received by him. The companies are also closely economically linked, by each conducting the same Business they mutually benefit each other by collectively bargaining with suppliers.

8. Updates and Amendments

Date of amendment	Amendments made
August 2023	• First version

FEDERAL TAX AUTHORITY

United Arab Emirates

Registration of Juridical Persons

Corporate Tax Guide | CTGRJP1

August 2023

Contents

1. Glossary

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or series of activities conducted by a Person in the course of its Business.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Exempt Income: Any income exempt from Corporate Tax under the Corporate Tax Law.

Exempt Person: A Person exempt from Corporate Tax under Article 4 of the Corporate Tax Law.

Extractive Business: The Business or Business Activity of exploring, extracting, removing, or otherwise producing and exploiting the Natural Resources of the UAE, or any interest therein as determined by the Minister.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

Foreign Permanent Establishment: A place of Business or other form of presence outside the UAE of a Resident Person that is determined in accordance with the criteria prescribed in Article 14 of the Corporate Tax Law.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established, or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

Government Controlled Entity: Any juridical person, directly or indirectly wholly owned and controlled by a Government Entity, as specified in a decision issued by the Cabinet at the suggestion of the Minister.

Government Entity: The Federal Government, Local Governments, ministries, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.

Immovable Property: Means any of the following:

a. Any area of land over which rights or interests or services can be created.
b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.
c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Local Government: Any of the governments of the Member Emirates of the Federation.

Mandated Activity: Any activity conducted by a Government Controlled Entity in accordance with the legal instrument establishing or regulating the entity, that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Ministry: Ministry of Finance.

Non-Extractive Natural Resource Business: The Business or Business Activity of separating, treating, refining, processing, storing, transporting, marketing or distributing the Natural Resources of the UAE.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Participating Interest: A significant ownership interest in the shares of the juridical person that meets the conditions of Article 23 of the Corporate Tax Law.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural or juridical person.

Qualifying Investment Fund: Any entity whose principal activity is the issuing of investment interests to raise funds or pool investor funds or establish a joint investment fund with the aim of enabling the holder of such an investment interest to benefit from the profits or gains from the entity's acquisition, holding, management or disposal of investments, in accordance with the applicable legislation and when it meets the conditions set out in Article 10 of the Corporate Tax Law.

Qualifying Public Benefit Entity: Any entity that meets the conditions set out in Article 9 of the Corporate Tax Law and that is listed in a decision issued by the Cabinet at the suggestion of the Minister.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

State: United Arab Emirates.

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Tax Agent: Any Person registered with the FTA who is appointed on behalf of another Person to represent him before the FTA and assist them in the fulfilment of his Tax obligations and the exercise of their associated Tax rights.

Tax Deregistration: A procedure under which a Person is deregistered for Corporate Tax purposes with the FTA.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Registration: A procedure under which a Person registers for Corporate Tax purposes with the FTA.

Tax Registration Number ("TRN"): A unique number issued by the FTA to each Person who is registered for Corporate Tax purposes in the UAE.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person liable to Corporate Tax in the UAE under the Corporate Tax Law.

UAE: United Arab Emirates.

2. Introduction

2.1. Overview

2.1.1. Short brief

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was signed on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.1.2. Purpose of this guide

This guide is designed to provide general guidance on registration for Corporate Tax in the UAE for juridical persons. It provides readers with an overview of:

- The Corporate Tax Registration rules;
- How a Person can determine whether they need to register for Corporate Tax; and
- The Corporate Tax Deregistration process.

2.1.3. Who should read this guide?

Any juridical person carrying on a Business or Business Activity in the UAE should read this guide. This includes any non-resident person who has a Permanent Establishment in the UAE.

2.1.4. How to use this guide

The relevant articles of the Corporate Tax Law are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how the Corporate Tax registration requirements function. The examples in the guide:

- show how these requirements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used and all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural person.

This guide is intended to be read in conjunction with other relevant guidance published by the FTA.

2.1.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as the “Corporate Tax Law”;
- Cabinet Decision No. 37 of 2023 Regarding the Qualifying Public Benefit Entities for the Purposes of the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 37 of 2023”;
- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that Are Subject to Corporate Tax is referred to as “Cabinet Decision No. 49 of 2023”;
- Cabinet Decision No. 56 of 2023 on Determination of a Non-Resident’s Persons Nexus for the purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 56 of 2023”;
- Cabinet Decision No. 74 of 2023 on the Executive Regulation of Federal Decree-Law No. (28) of 2022 on Tax Procedures is referred to as ‘’Cabinet Decision No. 74 of 2023’’;
- Ministerial Decision No. 43 of 2023 Concerning Exception from Tax Registration for the Purpose of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 43 of 2023”;
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 73 of 2023”;

- Ministerial Decision No.115 of 2023 on Private Pension Funds and Private Social Security Funds for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 115 of 2023";
- Federal Tax Authority Decision No. 6 of 2023 on Tax Deregistration Timeline for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "FTA Decision No. 6 of 2023"; and
- Federal Tax Authority Decision No. 7 of 2023 on Provisions of Exemption from Corporate Tax for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "FTA Decision No. 7 of 2023".

2.1.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the provisions relating to the registration of Juridical persons. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each person's own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of the Corporate Tax Registration rules for juridical persons. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Corporate Tax Registration

Corporate Tax is a self-assessment regime. This means that a Person is responsible for assessing whether they are in scope of Corporate Tax, and whether they will need to fulfil any Corporate Tax obligations.

Generally, Persons who determine they are within the scope of Corporate Tax is required to register for Corporate Tax. This will allow them to fulfil their Corporate Tax obligations, such as submitting a Corporate Tax Return and paying any Corporate Tax due.

Broadly, Corporate Tax applies to the following "Taxable Persons":

- UAE companies and other juridical persons that are incorporated or effectively managed and controlled in the UAE;
- Natural persons (individuals) who conduct a taxable Business or Business Activity in the UAE as specified in Cabinet Decision No. 49 of 2023;
- Non-resident juridical persons (foreign legal entities) that have a Permanent Establishment in the UAE;
- Non-resident juridical persons (foreign legal entities) that have a nexus in the UAE arising from earning income from any Immovable Property in the UAE as specified in Cabinet Decision No. 56 of 2023;
- Juridical persons established in a UAE Free Zone (if meeting the conditions to be considered a Qualifying Free Zone Person, they may benefit from a Corporate Tax rate of 0% on their Qualifying Income);
- Non-resident persons that do not have a Permanent Establishment in the UAE and earn State Sourced Income; and
- Non-resident persons that have a Permanent Establishment in the UAE and earn State Sourced Income that is not related to their Permanent Establishment.

Certain categories of Persons will not be required to register for Corporate Tax if they are specifically excluded in the relevant decision.[1] The requirement to register and provide the relevant supporting documentation depends on whether the Person is a natural person (i.e. an individual) or a juridical person (i.e. a legal entity), and whether they are considered a Taxable Person (i.e. a Resident Person or a Non-Resident Person), or an Exempt Person for Corporate Tax.

The table below sets out who will be required to register for Corporate Tax. More details on each of these categories are included in the sections below.

[1] Ministerial Decision No. 43 of 2023.

Once a Person is registered, the Federal Tax Authority (FTA) will issue them with a Tax Registration Number (TRN). This will be their Corporate Tax reference number and should be used when corresponding with the FTA regarding their Corporate Tax affairs.

Table 1: Overview of the Corporate Tax Registration requirements

Overview of who is required to register for Corporate Tax	
Taxable Person	
Resident juridical person	✓
Non-resident juridical person with a Permanent Establishment in the UAE	✓
Non-resident juridical person with a nexus in the UAE	✓
Natural person subject to certain conditions	✓
Exempt Person	
Government Entity	Are not required to register unless they conduct a Business or Business Activity under a Licence issued by a Licensing Authority
Government Controlled Entity	Are not required to register unless they conduct a Business or Business Activity which is not their Mandated Activity
Extractive Business	Are not required to register unless they conduct a Business which is within the scope of Corporate Tax
Non-Extractive Natural Resource Business	Are not required to register unless they conduct a Business which is within the scope of Corporate Tax
Qualifying Public Benefit Entity	✓
Qualifying Investment Fund	✓
Pension and Social Security Fund	✓
Juridical Persons wholly Owned and Controlled by certain other Exempt Persons	✓

4. Overview of the Corporate Tax Registration process

4.1. Who can register for Corporate Tax?

Most Taxable Persons will be required to register. There is however an exception to this for Non-Resident Persons that derive only State Sourced Income without having a Permanent Establishment in the UAE.[2] These Persons will not have to register.

However, where a non-resident juridical person has a nexus in the UAE arising from earning income from any Immovable Property in the UAE, they would be required to register for Corporate Tax.[3]

An Exempt Person is not ordinarily subject to Corporate Tax provided certain conditions are met. However, some types of Exempt Persons will still be required to register.[4]

As Corporate Tax is a self-assessment regime, a Person within the scope of the Corporate Tax regime will be responsible for registering themselves for Corporate Tax.

4.1.1. Persons already registered for VAT and Excise Tax

A Person who is already registered for Value Added Tax (VAT) and / or Excise Tax will still be required to register for Corporate Tax if they are within the scope of the Corporate Tax regime. Once registered, they will be issued with a separate TRN for Corporate Tax purposes. The Corporate Tax TRN will be similar to their existing TRN for VAT and / or Excise Tax, but the last digit will be different from their VAT and / or Excise TRN.

4.1.2. Tax Agents for Corporate Tax registering on behalf of another Person

Many Persons will have Tax Agents who will act on their behalf and help them to meet their Corporate Tax obligations, subject to meeting certain conditions. These Tax Agents might already act on their behalf for VAT and Excise Tax and will be able to do so for Corporate Tax, if they are listed with the FTA as Tax Agents for Corporate Tax purposes.

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[2] Article 2(1)(e) of Ministerial Decision No. 43 of 2023.

[3] Article 4 of Cabinet Decision No. 56 of 2023.

[4] Article 4(1)(e) to (i) of the Corporate Tax Law.

4.1.3. Persons not registered for VAT and Excise Tax

Taxable Persons who are not subject to VAT or Excise Tax but are within the scope of the Corporate Tax will be required to register for Corporate Tax purposes.

4.2. How to register

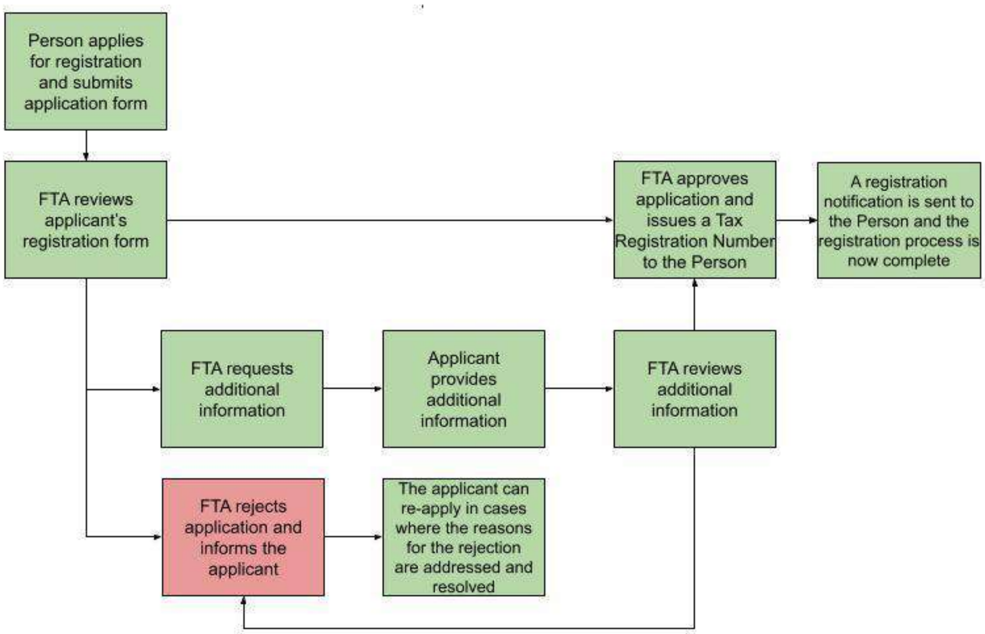
An application to register for Corporate Tax can be made on the EmaraTax portal. A Person who is already registered for VAT or Excise Tax can use their existing login details. A Person that has not previously registered with the FTA will be required to create new login credentials the first time they access the EmaraTax portal.

A step by step user guide on the Corporate Tax Registration process is available on the FTA Website, and additional support can be accessed by contacting the FTA helpline on 80082923 during working hours.

4.2.1. The Corporate Tax Registration process

A Person who wishes to register for Corporate Tax must submit a registration application along with the relevant supporting documentation to the FTA. The FTA will review each application and approve or reject it. Once an application is approved, the FTA will issue the Person with a TRN.

Figure 1: Overview of the Corporate Tax Registration process



4.2.2. Tax Registration application processing time

The FTA aims to review the registration application form and respond within 20 business days from the date on which the completed registration application is received.

Where additional information has been requested by the FTA, the FTA will aim to respond to the applicant within 20 business days of receiving the additional information. If the additional information is not submitted within the timeframe specified by the FTA, the application shall be rejected and a new application will need to be submitted.

4.3. Key documentation requirements for Corporate Tax Registration purposes

The Corporate Tax Registration process has been designed to be simple and easy to complete for applicants. The information required to complete the registration application should be information that the applicant will already have, or is expected to have.

Applicants should ensure that they have the documentation specified in Table 2 ready before starting the Corporate Tax Registration process.

Table 2: Key documentation requirement for the Corporate Tax Registration process for resident juridical persons

Documentation	Requirement
Trade Licence / Business Licence details (a copy to be uploaded)	Mandatory
Passport of the immediate owner who directly owns at least 25% of the shares of the juridical or Exempt Person (a copy of the photo page to be uploaded)	Mandatory if the owner is an individual
Emirates ID of the immediate owner who directly owns at least 25% of the shares of the juridical person (a copy of the front and back of the Emirates ID to be uploaded)	Mandatory if the owner is an individual and a UAE resident
Passport of authorised signatory (a copy of the photo page to be uploaded)	Mandatory
Emirates ID of authorised signatory (a copy of the front and back of the Emirates ID to be uploaded)	Mandatory if authorised signatory is a UAE resident
Proof of authorisation for the authorised signatory (either a copy of the power of attorney or memorandum of association to be uploaded)	Mandatory

In addition to the documentation requirements outlined above, the FTA can request other information that it believes are necessary to approve or reject the application.

If additional information is required, the FTA will contact the applicant through the EmaraTax portal. An email and / or a SMS notification will be sent to the applicant, and the status of their application will be changed to 'Awaiting Information'. The applicant must provide the information requested within the timeframe specified by the FTA in order for the FTA to continue processing their application.

4.4. Obligations once registered

Once a Person has registered for Corporate Tax, they will be subject to a number of administrative Corporate Tax obligations. These include:

- Filing a Corporate Tax Return and paying any Corporate Tax due within 9 months of the end of their Tax Period;[5]
- Retaining all records and documents which support their tax position for a period of 7 years following the end of the Tax Period to which they relate;[6] and
- Ensuring that all of their registration details are up to date and informing the FTA of any changes within 20 business days, in order for administrative penalties not to be imposed.[7]

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[5] Article 48 and Article 53(1) of the Corporate Tax Law.
[6] Article 56(1) of the Corporate Tax Law.
[7] Article 6(4) of Cabinet Decision No. 74 of 2023 specifies that any Taxable Person is required to notify the FTA of any change of his data kept with the FTA within 20 Business Days from the occurrence of the change.

5. Taxable Persons and Exempt Persons

5.1. Who is a Taxable Person?

Under the Corporate Tax Law, a Taxable Person is either a Resident Person or a Non-Resident Person. Whether a Person is a Resident or Non-Resident determines the scope of their tax obligations.

A Resident Person can be:

1. A juridical person incorporated or otherwise established or recognised under the applicable legislation in the UAE (including a Person incorporated, established or otherwise registered in a Free Zone);[8]
2. A juridical person incorporated or otherwise established or recognised under the applicable legislation outside the UAE but "effectively managed and controlled" in the UAE;[9] or
3. A natural person that conducts a taxable Business or Business Activity in the UAE in accordance with the provisions of Cabinet Decision No. 49 of 2023.[10]

A Resident juridical person must register for Corporate Tax. Further guidance on Natural Persons will be issued in the near future.

Example 1: Juridical person incorporated in the UAE
Company A is a limited liability company incorporated in the UAE. As a company incorporated in the UAE, the company would be considered a Resident Person under the Corporate Tax Law and will be required to register for Corporate Tax.

5.2. Who is an Exempt Person?

Certain Persons, referred to as Exempt Persons, will be exempt from Corporate Tax. Exempt Persons fall into one of four categories:

1. Automatically Exempt Persons;
2. Exempt if they notify the Ministry of Finance, and meet relevant conditions;
3. Exempt if listed in a Cabinet Decision and meet relevant conditions; and
4. Exempt upon application to, and approval by, the FTA.

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[8] Article 11(3)(a) of the Corporate Tax Law.
[9] Article 11(3)(b) of the Corporate Tax Law.
[10] Article 11(3)(c) and Article 11(6) of the Corporate Tax Law.

In addition, if a juridical person incorporated, established or recognised under the applicable legislation in the UAE only derives Exempt Income,[11] this does not exempt the Person from registering for Corporate Tax. The juridical person will still be considered as a Taxable Person and will be required to register for Corporate Tax purposes. Please refer to section 5.3 for further information on Exempt Income.

5.2.1. Automatically Exempt Persons

Government Entities

A Government Entity includes the Federal Government, Local Governments, ministries, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.[12]

Government Entities are automatically exempt from Corporate Tax.[13] However, a Government Entity shall be subject to Corporate Tax if it conducts a Business or Business Activity under a Licence issued by a Licensing Authority. Any Business or Business Activity conducted by a Government Entity under a Licence issued by a Licensing Authority shall be treated as an independent Business, the entity will be subject to Corporate Tax in relation to that licensed Business or Business Activity and will be required to register for Corporate Tax.[14]

Example 2: A Government Entity established in the UAE

Ministry “M” is a Government Entity in the UAE and is part of the Federal Government. Ministry M does not undertake a business under a Licence.

A Government Entity will automatically be exempt from Corporate Tax as long as it does not conduct a business under a Licence. As Ministry M is part of the Federal Government, it will not be required to register for Corporate Tax.

5.2.2. Exempt Persons if they notify the Ministry, and meet relevant conditions

Extractive Businesses and Non-Extractive Natural Resource Businesses that meet the relevant conditions

Both Extractive Businesses and Non-Extractive Natural Resource Businesses that

[11] Article 22 of the Corporate Tax Law.
[12] Article 1 of the Corporate Tax Law.
[13] Article 5(1) of the Corporate Tax Law.
[14] Article 5(2) of the Corporate Tax Law.

meet the relevant conditions will be exempt from Corporate Tax.[15] Where an Extractive Business or Non-Extractive Natural Resource Business conducts an independent Business that is not ancillary to its ordinary business and this Business accounts for more than 5% of their total Revenue, it will be required to register with the FTA for Corporate Tax.[16]

Example 3: Extractive and Non-Extractive Natural Resource Businesses that meet the requirements to be exempt from Corporate Tax

Company T is an Extractive Business and Company U is a Non-Extractive Natural Resource Business. Both entities meet the requirements to be exempt from Corporate Tax.

Neither Company T or Company U will be required to register for Corporate Tax as they will be treated as Exempt Persons.

Example 4: Extractive and Non-Extractive Natural Resource Business that do not meet the conditions set out in Article 7 or Article 8 of the Corporate Tax Law

Company V is engaged in the extraction of oil but does not meet the conditions to be exempt from Corporate Tax.

As Company V does not meet the conditions to be an Exempt Person, it is a Taxable Person and must register for Corporate Tax.

Example 5: Extractive Business engaged in ancillary activities that regularly exceeds 5% of total Revenues

Company W is an Extractive Business established, registered and effectively subject to tax in Ajman. On an annual basis, Company W engages in ancillary activities that represent 15% of the company's total Revenue.

As Company W engages in ancillary activities that make up more than 5% of its total Revenues, the Company will be required to register for Corporate Tax and report the ancillary business Revenue and expenses in its Corporate Tax Return.

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[15] Article 7(1) and Article 8(1) of the Corporate Tax Law.
[16] Article 7(3) and Article 8(3) of the Corporate Tax Law.

5.2.3. Exempt Persons if listed in a Cabinet Decision and meet relevant conditions

Government Controlled Entities

A Government Controlled Entity is any juridical person, directly or indirectly wholly owned and controlled by a Government Entity, as specified in a decision issued by the Cabinet at the suggestion of the Minister.[17]

Government Controlled Entities that conduct Mandated Activities and are listed in a Cabinet Decision will be exempt from Corporate Tax.[18] However, a Government Controlled Entity that conducts Business that is not its Mandated Activity will be subject to Corporate Tax in relation to that activity and must register for Corporate Tax.[19]

Example 6: A Government Controlled Entity that undertakes Mandated Activities

Company R is incorporated in Abu Dhabi, and is wholly owned and controlled by Abu Dhabi's Department "D". Company R is listed in a Cabinet Decision as a Government Controlled Entity along with its Mandated Activities. Company R does not conduct any other Business Activities.

As Company R and all of its activities are listed in a Cabinet Decision, the entity will be exempt from Corporate Tax and will not be required to register for Corporate Tax.

Example 7: A Government Controlled Entity that undertakes both Mandated Activities and non-Mandated Activities

Company S is an entity wholly owned and controlled by the Department "D" in Sharjah. The entity conducts Mandated Activities and is listed in a Cabinet Decision as a Government Controlled Entity. Company S also conducts non-Mandated Activities.

As Company S conducts non-Mandated Activities, these Business Activities will be taxable. Company S will be required to register for Corporate Tax. Any income earned and relevant expenses incurred for the Mandated Activities will be exempt from Corporate Tax.

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[17] Article 1 of the Corporate Tax Law.
[18] Article 6(1) of the Corporate Tax Law.
[19] Article 6(2) of the Corporate Tax Law.

Qualifying Public Benefit Entity

A Qualifying Public Benefit Entity is an organisation formed by private individuals, government or non-governmental bodies for carrying out religious, charitable, scientific, artistic, cultural, athletic, educational, healthcare, environmental, humanitarian, animal protection without the motive of making profit for distribution to private persons.[20]

In this regard, Cabinet Decision No. 37 of 2023 has been issued which specifies the Qualifying Public Benefit Entities for Corporate Tax purposes. Qualifying Public Benefit Entities listed in this Cabinet Decision must still register for Corporate Tax purposes and obtain a Corporate Tax TRN.[21] The application to register for Corporate Tax purposes for Qualifying Public Benefit Entities will be available as of 1 October 2023.[22]

A Public Benefit Entity that is not listed in the Cabinet Decision as a Qualifying Public Benefit Entity will not be considered as an Exempt Person, and will be a Taxable Person. As a result, it should register for Corporate Tax according to its relevant entity type, for example as a resident juridical person.

Example 8: A charity is established in the UAE

Charity A is a licensed animal charity in Ras Al Khaimah. The charity meets all of the conditions set out in Article 9 of the Corporate Tax Law and would like to be considered as a Qualifying Public Benefit Entity and be exempt from Corporate Tax.

Charity A is listed in Cabinet Decision No. 37 of 2023, and therefore, will be required to register for Corporate Tax in order to be eligible to be considered as a Qualifying Public Benefit Entity and exempt from Corporate Tax.

5.2.4. Exempt Persons upon application to the FTA

Certain Persons may be exempt from Corporate Tax if they meet specific conditions. These Persons must make an application to the FTA to be exempt from Corporate Tax.[23] The entities which may be exempt if an application is approved by the FTA are:

1. Public and private pension or social security funds;
2. Qualifying Investment Funds;

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[20] Article 9(1) of the Corporate Tax Law.
[21] Article 51(2) of the Corporate Tax Law.
[22] Article 2(1) of the FTA Decision No. 7 of 2023.
[23] Article 4(3) of the Corporate Tax Law.

3. Juridical persons incorporated in the UAE that are wholly owned and controlled by certain Exempt Persons; and
4. Any other Person as may be determined in a decision issued by the Cabinet at the suggestion of the Minister.

Before making an application to be exempt from Corporate Tax, these entities must register for Corporate Tax and obtain a TRN.[24] The possibility to submit a Corporate Tax Registration application for the four categories of Persons listed above will be available as of 1 June 2024.[25]

Once an application to be exempt is approved by the FTA, the entity will still be required to submit a declaration.[26] If the entity ceases to be exempt, it will be required to comply with ordinary Corporate Tax obligations.

Pension and social security fund

Public pensions and social security funds[27] are typically initiated, sponsored and governed by a Federal or Local Government Entity. However, as the entitlement to receive the benefits from these funds and any surplus assets of the fund normally rests with the beneficiaries, they are not typically considered to be wholly owned and controlled by the Government Entity which oversees them.

Public and private pension and social security funds will be required to register for Corporate Tax as they will be considered to be a Taxable Person.[28] Once registered, the funds can make an application to the FTA to be treated as an Exempt Person, provided all the relevant conditions are met.[29]

A private social security fund may apply to the Authority to be exempt from Corporate Tax where all of the following conditions are met:

1. The fund comprises a pool of assets which have been assigned by law or contract as fund assets or the acquisition of these assets has been financed by or with the use of contributions to the fund for the exclusive purpose of financing the End of Service Benefit.
2. The income of the fund solely comprises income as specified in the relevant decision.
3. The fund must have an Auditor.[30]

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[24] Article 51(2) of the Corporate Tax Law.
[25] Article 2(2) of the FTA Decision No. 7 of 2023.
[26] Article 53(5) of the Corporate Tax Law.
[27] Article 4(1)(g) of the Corporate Tax Law.
[28] Article 51(2) of the Corporate Tax Law.
[29] Article 4(3) of the Corporate Tax Law.
[30] Article 3 of Ministerial Decision No. 115 of 2023.

A private pension fund may apply to the Authority to be exempt from Corporate Tax Law where all of the following conditions are met:

1. The fund comprises a pool of assets which have been assigned by law or contract as pension plan assets or the acquisition of these assets has been financed by or with the use of contributions to a pension plan for the exclusive purpose of financing the pension plan benefits.
2. The fund grants pension plan members or beneficiaries a right or other contractual claim or entitlement, against its assets or earnings.
3. The income of the fund solely comprises income as specified in the relevant decision.
4. The fund must have an Auditor.[31]

Example 9: A Pension Fund established in the UAE

Company Y is a private pension fund established in Umm Al Quwain that meets the conditions to be exempt from Corporate Tax. The fund would like to make an application to the FTA to be treated as an Exempt Person.

Company Y will be required to register for Corporate Tax as the fund will be considered a Taxable Person for Corporate Tax purposes until such time the application to be exempt for Corporate Tax is approved by the FTA. Once Company Y is registered for Corporate Tax, it can make an application to the FTA to be treated as an Exempt Person provided all the relevant conditions are met.

Qualifying Investment Funds

Whilst there are various structures that collective investment funds may take, the term investment fund refers to a contractual arrangement or juridical person whose primary purpose is to pool investor funds and invest such funds in accordance with a defined investment policy.

Regardless of the type of investment fund, the Corporate Tax Law seeks to ensure the tax neutrality of investment funds so that investors, whether domestic or foreign, are in the same or a similar tax position as if they had invested directly in the underlying assets of the fund.

In recognition of the neutrality principle, an investment fund can make an application to the FTA for exemption from Corporate Tax as a Qualifying Investment Fund where

[31] Article 2 of Ministerial Decision No. 115 of 2023.

it meets the relevant conditions.[32] However, the investment fund must register for Corporate Tax before doing so.[33]

Example 10: A Qualifying Investment Fund established in the UAE

Fund X is an investment fund established in Fujairah. The investment fund meets all of the conditions to be considered as a Qualifying Investment Fund in the UAE. The fund would like to make an application to the FTA to become a Qualifying Investment Fund and be exempt from Corporate Tax.

Fund X will be required to register for Corporate Tax before making an application to the FTA to be considered as a Qualifying Investment Fund. If the application is approved after registration, Fund X will be exempt from Corporate Tax.

Wholly owned subsidiaries of certain Exempt Persons

A juridical person that is incorporated in the UAE and is wholly owned by a Government Entity, Government Controlled Entity, Qualifying Investment Fund or a public / private pension or social security fund will be exempt from Corporate Tax where certain conditions are met.[34]

In order to qualify for the exemption, the juridical person must undertake part or whole of the activity of the Exempt Person, be engaged exclusively in holding assets or investing funds for the benefit of the Exempt Person or only carry out activities that are ancillary to those carried out by the Exempt Person. If one of these conditions is met, the juridical person will be required to register for Corporate Tax first and then can make an application to the FTA to be exempt from Corporate Tax.[35]

Example 11: A subsidiary of a certain type of Exempt Person

Company Z is a holding company wholly owned by Fund A, a Qualifying Investment Fund operating in Abu Dhabi. Company Z is engaged exclusively in investing funds for the benefit of Fund A, an Exempt Person.

Company Z will be required to register for Corporate Tax as the company will be considered a Taxable Person despite being wholly owned by a Qualifying Investment Fund. Once Company Z is registered, it can apply to the FTA to be

[32] Article 10(1) of the Corporate Tax Law.
[33] Article 51(2) of the Corporate Tax Law.
[34] Article 4(1)(h) of the Corporate Tax Law.
[35] Article 4(3) and Article 51(2) of the Corporate Tax Law.

treated as an Exempt Person.

Example 12: An entity wholly owned by a Government Entity that does not conduct Mandated Activities

The Department "D" in Fujairah is a part of the Emirate's Government. Department "D" wholly owns Company Q, a company engaging in Business Activities that are not related to Department D's government duties. Company Q is not listed in a Cabinet Decision as a Government Controlled Entity.

Although Company Q is wholly owned by Department D (a Government Entity), as Company Q is not listed in a Cabinet Decision as a Government Controlled Entity conducting Mandated Activities, Company Q will be required to register for Corporate Tax.

5.3. What is Exempt Income?

Under the Corporate Tax Law, there are a number of types of income that are not subject to Corporate Tax. These are known as Exempt Income.[36] If a Person only receives Exempt Income in a Tax Period, they will not have a Corporate Tax liability as the income they receive is not taxable. However, the Person is not exempted from Corporate Tax obligations. A Taxable Person that only receives Exempt Income would still be considered as a Taxable Person and is required to register for Corporate Tax and meet its Corporate Tax obligations.

The types of income, and related expenditure, which are exempt from Corporate Tax include:

1. Dividends and other profit distributions received from UAE resident juridical persons;[37]
2. Dividends and other profit distributions received from a Participating Interest in a foreign juridical person;[38]
3. Other income from a Participating Interest as specified in Article 23 of the Corporate Tax Law;[39]
4. Income received from a Foreign Permanent Establishment where the election

[36] Article 22 of the Corporate Tax Law.
[37] Article 22(1) of the Corporate Tax Law.
[38] Article 22(2) of the Corporate Tax Law.
[39] Article 22(3) of the Corporate Tax Law.

has been made to not take into account its income from Corporate Tax;[40] and

5. Income earned by a Non-Resident Person from operating aircrafts or ships used in international transportation, where certain conditions are met.[41]

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[40] Article 22(4) of the Corporate Tax Law.
[41] Article 22(5) of the Corporate Tax Law.

6. Resident juridical persons

A juridical person is an entity established or otherwise recognised under the laws and regulations of the UAE, or under the laws of a foreign jurisdiction, that has a legal personality separate from its founders, owners and directors. A juridical person can take a number of forms, which are set out below.

6.1. LLCs, public / private joint stock companies incorporated in the UAE

Examples of juridical persons "incorporated or otherwise established or recognised in the UAE" include, but are not limited to, Limited Liability Companies (LLCs), Private Shareholding Companies (PSCs) and Public Joint Stock Companies (PJSCs).

Example 13: UAE Public Joint Stock Company

Company D is a public joint stock company incorporated in Dubai.

As Company D is a company incorporated in the UAE, the company will be considered a Resident Person and will be required to register for Corporate Tax.

6.2. Foreign entities that are effectively managed and controlled in the UAE

A foreign juridical person that is effectively managed and controlled in the UAE will be considered a Resident Person for Corporate Tax purposes.

For a juridical person to be considered effectively managed and controlled in the UAE, it is not necessary for its board members (or equivalent) to be domiciled or resident in the UAE. Effective management and control is not determined by where the decisions made by the ultimate decision makers are implemented or managed on a day-to-day basis. A juridical person could have multiple places of management in different jurisdictions, but generally will have only one place of effective management and control. This is where the key management or commercial decisions are regularly and predominantly made throughout the relevant Tax Period.

Example 14: Juridical person effectively managed and controlled in the UAE

Company E is a limited company registered in Country L. All of the key management and commercial decisions for Company E are made in the Umm Al Quwain.

As the key management and commercial decisions are made in the UAE, Company E will be considered a Resident Person and will be required to register for Corporate

Tax in the UAE.

6.3. Branches of UAE companies

A UAE branch of a Resident Person shall be treated as one and the same Taxable Person.[42] In fact, a UAE branch of a domestic juridical person is regarded as an extension of its head office and, therefore, is not considered a separate juridical person. As a result, a branch of a UAE company will not be able to register for Corporate Tax individually. The head office must register for Corporate Tax on behalf of all of the UAE branches. This is also applicable for Free Zone branches of mainland UAE juridical persons and also for mainland branches of Free Zones Persons.

Example 15: Branches of UAE companies

Company F is a UAE incorporated logistics company that has a number of branches in the different Emirates of the UAE.

Branches of UAE companies are regarded as an extension of their head office and, therefore, they may not register them separately. Therefore, Company F would register for Corporate Tax and be required to list all of the UAE branches it has on the Corporate Tax Registration application form.

6.4. Resident juridical persons eligible for small business relief

Small business relief will be available to businesses that meet the required conditions.[43] Specifically, an eligible Taxable Person can claim small business relief if their Revenue is below or equal to AED 3,000,000 (three million dirhams) in the relevant Tax Period and all previous Tax Periods commencing 1 June 2023.[44]

Where the small business relief election is made, the business will be treated as having no Taxable Income during the relevant Tax Period. This means that they will have no Corporate Tax liability. However, meeting the conditions to elect for small business relief does not exempt that Taxable Person from meeting their Corporate Tax compliance obligations such as filing a Tax Return. Appropriate records need to be maintained to support the eligibility for the election being made.

[42] Article 11(5) of the Corporate Tax Law.
[43] Article 21(1) of the Corporate Tax Law.
[44] Article 2(1) of Ministerial Decision No. 73 of 2023.

As the election must be made in the Corporate Tax Return, the Taxable Person electing for small business relief must register for Corporate Tax before they can make the election.

Example 16: Small business relief

Company L is incorporated in Sharjah and earns Revenues of AED 2,500,000 in the Tax Period 1 January 2024 to 31 December 2024, and would like to claim small business relief.

Even though Company L's Revenue for a Tax Period remains under AED 3,000,000, meeting the conditions to be eligible for small business relief does not affect the Corporate Tax compliance obligations that Company L has as a Resident Person. Therefore, Company L will be required to register for Corporate Tax.

7. FTA power to register a Person for Corporate Tax

If the FTA believes that a Person is a Taxable Person and should have registered for Corporate Tax but has failed to do so, the FTA can, at its discretion and based on information available to the FTA, register a Person for Corporate Tax.[45]

A Person has the right to appeal against a tax assessment issued following a registration initiated by the FTA if they disagree with such a decision.

Example 17: The FTA registering a Person for Corporate Tax

Company ABC is a UAE resident company that was incorporated in Dubai in 2014. It is not VAT registered, and as a result the company did not receive automated communications about registering for Corporate Tax from the FTA.

In 2026, the company still had not registered for Corporate Tax despite the fact that it should have applied to be registered as the company had met the definition of a Taxable Person for Corporate Tax purposes.

The FTA has the power to register Company ABC for Corporate Tax effective from the date it should have registered from, as the company is within the scope of the Corporate Tax Law from that date.

[45] Article 51(3) of the Corporate Tax Law.

8. Corporate Tax Deregistration

If a juridical person is no longer subject to Corporate Tax, they should deregister. This will most commonly occur when a Business or Business Activity ceases, but could also occur due to dissolution or liquidation or other circumstances.

In order to deregister from Corporate Tax, a juridical person must make an application to the FTA.[46] Once approved, the date of deregistration will be the date the Business or Business Activity ceased, unless the FTA determines that another date should be used.[47]

In order to be deregistered, a Taxable Person must meet all of their tax compliance obligations such as filing all of the relevant Tax Returns and paying all Corporate Tax liabilities and administrative penalties due.[48]

A juridical person is required to file a Tax Deregistration application within 3 months of the date the entity ceases to exist, cessation of the Business, dissolution, liquidation or otherwise.[49]

Example 18: Deregistration

Company ABC is a UAE resident company. The company's Tax Period runs from 1 January to 31 December. Company ABC ceased trading on 31 December 2025. On 3 January 2026, the company made an application to the FTA to be deregistered for Corporate Tax purposes. The last Corporate Tax Return filed by Company ABC was for the Tax Period 1 January 2024 to 31 December 2024.

As Company ABC has not filed its Corporate Tax Return for the Tax Period 1 January to 31 December 2025, this return must be filed and any tax due paid before the FTA approves the deregistration of the company.

Example 19: Deregistration

Company DD is a UAE resident company. The company's Tax Period runs from 1 June to 31 May. The company was liquidated on 31 May 2025. Before being liquidated, Company DD filed all required Corporate Tax Returns up to the Tax Period ending on 31 May 2025 and has no outstanding Corporate Tax liabilities. The

[46] Article 52(1) of the Corporate Tax Law.
[47] Article 52(3) of the Corporate Tax Law.
[48] Article 52(2) of the Corporate Tax Law.
[49] Article 2(2) of FTA Decision No. 6 of 2023.

company applied to be de-registered on 1 June 2025.

As Company DD has filed all relevant Corporate Tax Returns and paid all Corporate Tax liabilities up to the year ending 31 May 2025, the FTA would approve Company DD's request to be deregistered for Corporate Tax Purposes.

9. Updates and Amendments

Date of amendment	Amendments made
August 2023	• First version

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Corporate Tax – General Guide

Corporate Tax Guide | CTGGCT1

September 2023

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Contents

1. Glossary

Accounting Income: The accounting net profit or loss for the relevant Tax Period as per the Financial Statements prepared in accordance with the provisions of Article 20 of the Corporate Tax Law.

Accounting Standards: The accounting standards specified in Ministerial No. 114 of 2023.

Accrual Basis of Accounting: An accounting method under which the Taxable Person recognises income when earned and expenditure when incurred.

Auditor: An independent Person licensed and registered by the competent authorities of the UAE, that is appointed and remunerated by a private pension fund or a private social security fund to audit its Financial Statements.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or series of activities, conducted by a Person in the course of its business.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Commercial Property: Immovable Property or part thereof:

a. used exclusively for a Business or Business Activity.
b. not used as a place of residence or accommodation including hotels, motels, bed and breakfast establishments, serviced apartments and the like.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Corporate Tax Payable: Corporate Tax that has or will become due for payment to the FTA in respect of one or more Tax Periods.

Designated Zone: A designated zone as defined in Federal Decree-Law No. 8 of 2017 on Value Added Tax, and its amendments, and which has been specified as a Free Zone for the purposes of the Corporate Tax Law.

Dividend: Any payments or distributions that are declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which do not constitute a return of capital or a return on debt claims, whether such payments or distributions are in cash, securities, or other properties, and whether payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue. This will include any payment or benefit which in substance or effect constitutes a distribution of profits made in connection with the acquisition or redemption or cancellation of shares or termination of other ownership interests or rights or any transaction or arrangement with a Related Party or Connected Person which does not comply with Article 34 of the Corporate Tax Law.

Double Taxation Agreement: An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Excluded Activities: Any activities determined by a decision issued by the Minister and conducted by a Qualifying Free Zone Person from which non-Qualifying Income is derived.

Exempt Person: A Person exempt from Corporate Tax under Article 4 of the Corporate Tax Law.

Extractive Business: The Business or Business Activity of exploring, extracting, removing, or otherwise producing and exploiting the Natural Resources of the UAE, or any interest therein as determined by the Minister.

Federal Government: The government of the UAE.

Financial Asset: Financial asset as defined in the Accounting Standards applied by the Taxable Person.

Financial Liability: Financial liability as defined in the Accounting Standards applied by the Taxable Person.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Financial Year: The Gregorian calendar year, or the twelve-month period for which the Taxable Person prepares Financial Statements.

Foreign Partnership: A relationship established by contract between two Persons or more, such as a partnership or trust or any other similar association of Persons, in accordance with the laws of a foreign jurisdiction.

Foreign Permanent Establishment: A place of Business or other form of presence outside the UAE of a Resident Person that is determined in accordance with the criteria prescribed in Article 14 of the Corporate Tax Law.

Foreign Tax Credit: Tax paid under the laws of a foreign jurisdiction on income or profits that may be deducted from the Corporate Tax due, in accordance with the conditions of Article 47(2) of the Corporate Tax Law.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established, or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

General Interest Deduction Limitation Rule: The limitation provided under Article 30 of the Corporate Tax Law.

Government Controlled Entity: Any juridical person, directly or indirectly wholly owned and controlled by a Government Entity, as specified in a decision issued by the Cabinet at the suggestion of the Minister.

Government Entity: The Federal Government, Local Governments, ministries, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.

IFRS: International Financial Reporting Standards.

IFRS for SMEs: International Financial Reporting Standards for small and medium enterprises.

Immovable Property: Means any of the following:

a. Any area of land over which rights or interests or services can be created.
b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.
c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic Financial Instrument and other payments economically equivalent to interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Islamic Financial Instrument: A financial instrument which is in compliance with Sharia principles and is economically equivalent to any instrument provided for under Article 2(2) of Ministerial Decision No. 126 of 2023, or a combination thereof.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Local Government: Any of the governments of the Member Emirates of the Federation.

Mandated Activity: Any activity conducted by a Government Controlled Entity in accordance with the legal instrument establishing or regulating the entity, that is specified in a decision by the Cabinet at the suggestion of the Minister.

Market Value: The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

Membership and Partner Interests: The equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.

Membership or Partnership Capital: The capital paid to a juridical person where the paid capital is divided into membership or partnership interests by a Person in order to be a member or partner and have the rights of membership or partnership in that juridical person.

Minister: Minister of Finance.

Ministry: Ministry of Finance.

Natural Resources: Water, oil, gas, coal, naturally formed minerals, and other non-renewable, non-living natural resources that may be extracted from the UAE's Territory.

Net Interest Expenditure: The Interest expenditure amount that is in excess of the Interest income amount as determined in accordance with the provisions of the Corporate Tax Law.

Non-Extractive Natural Resource Business: The Business or Business Activity of separating, treating, refining, processing, storing, transporting, marketing or distributing the Natural Resources of the UAE.

Non-Free Zone Person: Any Person who is not a Free Zone Person.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Ordinary Shares: The category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.

Parent Company: A Resident Person that can make an application to the FTA to form a Tax Group with one or more Subsidiaries in accordance with Article 40(1) of the Corporate Tax Law.

Participating Interest: An ownership interest in the shares or capital of a juridical person that meets the conditions referred to in Article 23 of the Corporate Tax Law.

Participation: The juridical person in which the Participating Interest is held.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural person or juridical person.

Personal Investment: Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law.

Preferred Shares: The category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

Qualifying Activities: Any activities determined by a decision issued by the Minister and conducted by a Qualifying Free Zone Person from which Qualifying Income is derived.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Group: Two or more Taxable Persons that meet the conditions of Clause Article 26(2) of the Corporate Tax Law.

Qualifying Income: Any income derived by a Qualifying Free Zone Person that is subject to Corporate Tax at the rate specified in Article 3(2)(a) of the Corporate Tax Law.

Qualifying Infrastructure Project: A project that meets the conditions of Article 14 of Ministerial Decision No. 126 of 2023.

Qualifying Infrastructure Project Person: A Resident Person that meets the conditions of Article 14(2) of Ministerial Decision No. 126 of 2023.

Qualifying Investment Fund: Any entity whose principal activity is the issuing of investment interests to raise funds or pool investor funds or establish a joint investment fund with the aim of enabling the holder of such an investment interest to benefit from the profits or gains from the entity's acquisition, holding, management or disposal of investments, in accordance with the applicable legislation and when it meets the conditions set out in Article 10 of the Corporate Tax Law.

Qualifying Public Benefit Entity: Any entity that meets the conditions set out in Article 9 of the Corporate Tax Law and that is listed in a decision issued by the Cabinet at the suggestion of the Minister.

Real Estate Investment: Any investment activity conducted by a natural person related to, directly or indirectly, the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not conducted, or does not require to be conducted through a Licence from a Licensing Authority.

Recognised Stock Exchange: Any stock exchange established in the UAE that is licensed and regulated by the relevant competent authority, or any stock exchange established outside the UAE of equal standing.

Redeemable Shares: The category of capital stock or equity interest which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

Ship: Any structures normally operating, or set for operating in maritime navigation regardless of its power and tonnage**.**

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Subsidiary: A Resident Person in which the share capital or Membership or Partnership Capital, as applicable, is held by a Parent Company, in accordance with Article 40(1) of the Corporate Tax Law.

Tax Deregistration: A procedure under which a Person is deregistered for Corporate Tax purposes with the FTA.

Tax Group: Two or more Taxable Persons treated as a single Taxable Person according to the conditions of Article 40 of the Corporate Tax Law.

Tax Loss: Any negative Taxable Income as calculated under the Corporate Tax Law for a given Tax Period.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Registration: A procedure under which a Person registers for Corporate Tax purposes with the FTA.

Tax Registration Number: A unique number issued by the FTA to each Person who is registered for Corporate Tax purposes in the UAE.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

Unincorporated Partnership: A relationship established by contract between two Persons or more, such as a partnership or trust or any other similar association of Persons, in accordance with the applicable legislation of the UAE.

Withholding Tax: Corporate Tax to be withheld from State Sourced Income in accordance with Article 45 of the Corporate Tax Law.

Withholding Tax Credit: The Corporate Tax amount that can be deducted from the Corporate Tax due in accordance with the conditions of Article 46(2) of the Corporate Tax Law.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was signed on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance on Corporate Tax in the UAE with a view to making the provisions of the Corporate Tax Law as understandable as possible to readers. It provides readers with:

- an overview of the main Corporate Tax rules and procedures, including the determination of the Corporate Tax base, the calculation of Corporate Tax, the filing of Corporate Tax Returns, and other related compliance requirements; and
- assistance with the most common questions businesses might have.

2.3. Who should read this guide?

This guide should be read by those who want to know more about the Corporate Tax regime in the UAE. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

This guide is split into chapters by topic. This includes an initial chapter that explains where to seek further assistance should further questions arise based on the content of this guide, or on areas that are not specifically dealt with here.

Subsequent chapters are organised by subject matter to cover the fundamentals of the Corporate Tax regime in the UAE. This includes what Corporate Tax is, who is subject to Corporate Tax, what types of income are taxable, and how a Taxable Person's Corporate Tax liability is calculated. There is also a chapter covering the Corporate Tax administration process, from Tax Registration and record keeping to submitting returns and making payments.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in topic specific guides.

In some instances, simple examples are used to illustrate how key elements of the Corporate Tax regime function. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural person.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as "Tax Procedures Law";
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Corporate Tax Law";
- Cabinet Resolution No. 44 of 2020 on Organising Reports Submitted by Multinational Companies is referred to as "Cabinet Resolution No. 44 of 2020'';
- Cabinet Decision No. 116 of 2022 on the Determination of Annual Income Subject to Corporate Tax is referred to as "Cabinet Decision No. 116 of 2022";
- Cabinet Decision No. 37 of 2023 Regarding the Qualifying Public Benefit Entities for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Cabinet Decision No. 37 of 2023";

- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that Are Subject to Corporate Tax is referred to as "Cabinet Decision No. 49 of 2023";
- Cabinet Decision No. 55 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Cabinet Decision No. 55 of 2023";
- Cabinet Decision No. 56 of 2023 on Determination of a Non-Resident Person's Nexus in the State for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Cabinet Decision No. 56 of 2023";
- Cabinet Decision No. 75 of 2023 on the Administrative Penalties for Violations Related to the Application of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Cabinet Decision No. 75 of 2023";
- Cabinet Decision No. 81 of 2023 on Conditions for Qualifying Investment Funds for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Cabinet Decision No. 81 of 2023"
- Ministerial Decision No. 43 of 2023 Concerning Exception from Tax Registration for the Purpose of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 43 of 2023";
- Ministerial Decision No. 68 of 2023 on the Treatment of all Businesses and Business Activities Conducted by a Government Entity as a Single Taxable Person is referred to as "Ministerial Decision No. 68 of 2023";
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 73 of 2023";
- Ministerial Decision No. 82 of 2023 on the Determination of Categories of Taxable Persons Required to Prepare and Maintain Audited Financial Statements for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 82 of 2023";
- Ministerial Decision No. 83 of 2023 on the Determination of the Conditions under which the Presence of a Natural Person in the State would not Create a Permanent Establishment for a Non-Resident Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 83 of 2023";
- Ministerial Decision No. 97 of 2023 on Requirements for Maintaining Transfer Pricing Documentation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 97 of 2023"

- Ministerial Decision No. 105 of 2023 on the Determination of the Conditions under which a Person may Continue to be Deemed as an Exempt Person, or Cease to be Deemed as an Exempt Person from a Different Date for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 105 of 2023”;
- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 114 of 2023”;
- Ministerial Decision No.115 of 2023 on Private Pension Funds and Private Social Security Funds for the Purposes of Federal Decree-Law No. 47 of 2022 is referred to as “Ministerial Decision No.115 of 2023”;
- Ministerial Decision No. 116 of 2023 on the Participation Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 116 of 2023”;
- Ministerial Decision No. 120 of 2023 on the Adjustments Under the Transitional Rules for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 120 of 2023”;
- Ministerial Decision No. 125 of 2023 on Tax Group for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 125 of 2023”;
- Ministerial Decision No. 126 of 2023 on the General Interest Deduction Limitation Rule for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 126 of 2023”;
- Ministerial Decision No. 127 of 2023 on Unincorporated Partnership, Foreign Partnership and Family Foundation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No.127 of 2023”;
- Ministerial Decision No. 132 of 2023 on Transfers Within a Qualifying Group for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 132 of 2023”;
- Ministerial Decision No. 133 of 2023 on Business Restructuring Relief for the Purposes of Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 133 of 2023”;
- Ministerial Decision No.134 of 2023 on the General Rules for Determining Taxable Income for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 134 of 2023”;

- Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities for the Purposes of Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 139 of 2023”;
- Federal Tax Authority Decision No. 5 of 2023 on Conditions for Change in Tax Period for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “FTA Decision No. 5 of 2023”;
- Federal Tax Authority Decision No. 6 of 2023 on Tax Deregistration Timeline for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “FTA Decision No. 6 of 2023”; and
- Federal Tax Authority Decision No. 7 of 2023 on Provisions of Exemption from Corporate Tax for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “FTA Decision No. 7 of 2023”.

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the provisions relating to the Corporate Tax regime in the UAE. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each person’s own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Getting Additional Help

3.1. Government support channels

The UAE government has made a range of resources available to help the public understand and comply with the Corporate Tax regime. Readers of this guide may find it helpful to refer to the following sources for additional information:

- Ministry of Finance website
- FTA website
- Corporate Tax Law
- Explanatory Guide on Corporate Tax Law
- Corporate Tax FAQs
- Corporate Tax Law Implementing Decisions on the Ministry of Finance and FTA websites
- Corporate Tax FTA Decisions on the FTA website

4. What is Corporate Tax?

4.1. Chapter summary

This chapter sets out a brief overview of the core principles of Corporate Tax and how the Corporate Tax system functions as a whole. This provides a foundation for the information given in the following chapters.

4.2. What is Corporate Tax?

Corporate Tax is a form of direct tax levied on the Taxable Income of corporations and other Businesses. Corporate Tax is sometimes also referred to as 'Corporate Income Tax' or 'Business Profits Tax' in other jurisdictions.

Corporate Tax is charged on a wide range of Business profits, and those subject to Corporate Tax in the UAE include not only companies but also certain partnerships, unincorporated entities and natural persons conducting a Business or Business Activities.

Corporate Tax is paid on an annual basis with reference to the Tax Period of a Taxable Person. A Tax Period is the Financial Year or part thereof for which a Tax Return needs to be filed. The Financial Year is the period of 12 months for which Financial Statements are prepared.[1] Payment of Corporate Tax is due within nine months from the end of the applicable Tax Period.[2]

The UAE Corporate Tax regime applies to Tax Periods commencing on or after 1 June 2023.[3]

4.3. How does Corporate Tax work?

Taxable Persons are subject to Corporate Tax on their Taxable Income - this is their Accounting Income with certain adjustments made for Corporate Tax purposes.

Generally, Corporate Tax is imposed on Taxable Income at the following rates:

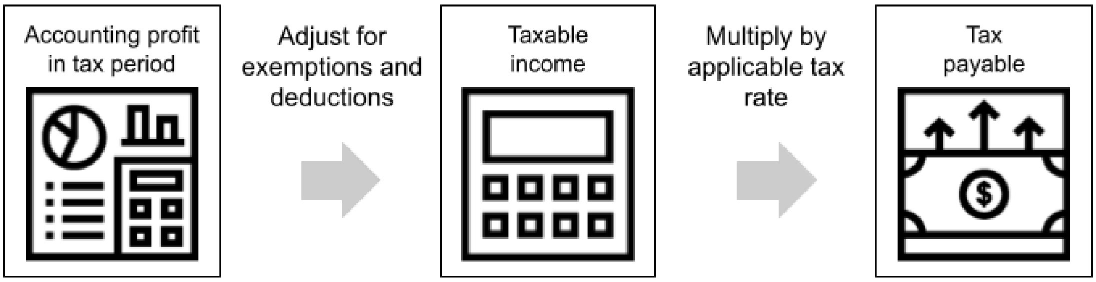
- 0% (zero percent) on the portion of the Taxable Income not exceeding AED 375,000.

[1] Article 57 of the Corporate Tax Law.
[2] Article 48 of the Corporate Tax Law.
[3] Article 69 of the Corporate Tax Law.

- 9% (nine percent) on the portion of the Taxable Income exceeding AED 375,000.

> **Example 1: Calculation of Corporate Tax**
>
> A LLC is a company incorporated in the UAE. In the Tax Period ending March 2025, A LLC generated Revenue of AED 8 million and incurred expenses of AED 2 million, resulting in a net profit of AED 6 million per its Financial Statements.
>
> A LLC's Taxable Income for its Tax Period will be the accounting net profit (or loss) of the business, after making tax adjustments for certain items specified in the Corporate Tax Law. For the purposes of this example, A LLC does not need to make any tax adjustments, thus its Taxable Income will be AED 6 million for the Tax Period.
>
> A LLC's Corporate Tax liability will be calculated as follows:
>
> - The first AED 375,000 of Taxable Income will be subject to Corporate Tax at 0%: AED 375,000 x 0% = AED0
>
> - The portion of the Taxable income exceeding AED 375,000 will be subject to Corporate Tax at 9%: (AED 6,000,000 - AED 375,000) x 9% = AED 5,625,000 x 9% = AED 506,250
>
> A LLC's UAE Corporate Tax liability for the Tax Period will be AED 506,250.
>
> In order to calculate its UAE Corporate Tax payable, A LLC will need to consider if there are any available tax credits to reduce its UAE Corporate Tax liability (see Section 9.3).

Corporate Tax for Taxable Persons



Specific rules cover the identification of Taxable Persons subject to Corporate Tax (see Section 5). The rules cover all companies and other legal entities (i.e. juridical persons) as well as individuals (i.e. natural persons) conducting a Business or Business Activity. As the UAE does not have an equivalent tax on the income of natural persons, this approach is intended to provide for a level playing field on the tax treatment between incorporated businesses and unincorporated businesses undertaken by natural persons.

Employment income and other specific types of income earned by natural persons based in the UAE and natural persons based in foreign jurisdictions, are not within the scope of the UAE Corporate Tax regime (see Section 5.3.3).

Both incorporated and unincorporated businesses, including businesses operated by natural persons, can potentially benefit from small business relief if they meet the relevant requirements. This means that these businesses would not need to pay Corporate Tax (see Section 7.2) but they will be required to meet the compliance obligations provided for in the Corporate Tax Law for each Tax Period. This includes the obligation to register for Corporate Tax purposes, file a Tax Return and retain all relevant documents and records to support their Corporate Tax filings.

Provided that the relevant conditions are met, certain categories of Persons, known as Exempt Persons, are exempt from Corporate Tax, notably:

- Persons that are part of, or operate under the ownership and control of, the Federal Government or the Local Governments of the UAE;
- certain entities that are established for specific public welfare or social aims, such as certain public benefit entities;
- oil and gas and other Natural Resource activities that are taxed at the Emirate-level; and
- certain pensions or social security funds and investment funds.

Further details on Exempt Persons and the relevant qualifying conditions can be found in Section 5.7.

Taxable Persons must calculate their Taxable Income on an annual basis using their accounting net profit or loss for the relevant period as set out in their Financial Statements (i.e. their Accounting Income) as the starting point for this calculation. A number of adjustments should be applied to exclude specific Exempt Income, or to limit the amount of deductions available on expenditure (see Chapter 6).

The Corporate Tax regime also provides for the carry-forward and transfer of available Tax Losses (see Section 6.7), and requires Taxable Persons to specifically account for transactions with Related Parties and Connected Persons using the arm's length principle (see Section 6.6).

A 0% rate of Corporate Tax applies to Qualifying Income earned by certain Free Zone entities (known as Qualifying Free Zone Persons). Further details can be found in Section 5.5 and Section 9.2.2.

The Corporate Tax regime also includes targeted reliefs designed to allow certain intra-group transactions to be undertaken without giving rise to a Corporate Tax liability. These are set out in Chapter 7.

Where Persons conduct Business together, either as groups of companies related by ownership, or as partnerships, special rules may apply for the calculation and payment of Corporate Tax. These are set out in Chapter 8.

Taxable Persons are required to self-assess their Corporate Tax liabilities by submitting a Tax Return on an annual basis and to pay the Corporate Tax liability to the FTA. Tax Returns must be filed and payments made within nine months from the end of the Taxable Person's Tax Period (see Section 10.5).

Other key aspects of the administration of Corporate Tax are set out in Chapter 10.

5. Who is subject to Corporate Tax?

5.1. Chapter summary

This chapter provides an overview of who is subject to Corporate Tax and who is specifically exempted. The chapter sets out the types of Persons that are subject to Corporate Tax and the activities that are within scope of the tax. It covers the main exemptions that apply to certain types of entities, such as Government Entities or Qualifying Public Benefit Entities. It also sets out treatments that apply to Free Zone businesses, and Family Foundations.

5.2. Taxable Persons

Persons subject to Corporate Tax are known as Taxable Persons.[4] Taxable Persons are either Resident Persons or Non-Resident Persons as defined under Article 11 of the Corporate Tax Law.[5]

In broad terms, Corporate Tax applies to:

- Juridical persons (such as corporations) that are incorporated in the UAE or foreign juridical persons that are effectively managed and controlled in the UAE (see Section 5.3.1);[6]
- Non-resident juridical persons (foreign juridical entities) that have a Permanent Establishment in the UAE (see Section 5.4.1);[7]
- Non-Resident Persons deriving State Sourced Income (see Section 5.4.3);[8]
- Non-resident juridical persons that have a 'nexus' in the UAE by virtue of earning income from Immovable Property in the UAE (see Section 5.4.4);[9] and
- Natural persons who conduct Business or Business Activities in the UAE and have a Turnover of over AED 1,000,000 per Gregorian calendar year from such Business or Business Activities (see Section 5.3.3).[10]

[4] Article 1 of the Corporate Tax Law.
[5] Article 11(2) of the Corporate Tax Law.
[6] Article 11(3)(a) and 11(3)(b) of the Corporate Tax Law.
[7] Article 11(4)(a) of the Corporate Tax Law.
[8] Article 11(4)(b) of the Corporate Tax Law.
[9] Article 11(4)(c) of the Corporate Tax Law and Cabinet Decision No. 56 of 2023.
[10] Article 11(3)(c) and 11(6) of the Corporate Tax Law and Article 2(1) of Cabinet Decision No. 49 of 2023.

5.3. Resident Taxable Persons

There are specific rules for determining whether natural persons and juridical persons are Resident Persons for Corporate Tax purposes.

5.3.1. Resident juridical persons

A juridical person refers to an entity incorporated or otherwise established or recognised under the laws and regulations of the UAE, or under the laws of a foreign jurisdiction, that has a legal personality separate from its founders, owners and directors. Separate legal personality means that the entity has its own rights, obligations and liabilities distinct from its founders or owners.

A juridical person is a Resident Person for the purposes of Corporate Tax if it is either:

- incorporated or otherwise established or recognised in the UAE (this includes juridical persons incorporated, established or otherwise registered in Free Zones);[11] or
- incorporated or otherwise established or recognised outside the UAE but is effectively managed and controlled in the UAE.[12]

Examples of juridical persons that are incorporated or otherwise established or recognised in the UAE include Joint Liability Companies, Limited Partnership Companies, Limited Liability Companies (LLCs), Public Joint Stock Companies (PJSCs), Private Joint Stock Companies (PJSCs), foundations, trusts that have been established under the UAE mainland legislation, and other entity forms that have a separate legal personality under the applicable UAE mainland legislation or Free Zone regulations. UAE branches of a domestic or foreign juridical person are regarded as an extension of their head office and, therefore, are not considered separate juridical persons.[13]

5.3.2. Effective management and control

Determining residence for Corporate Tax purposes solely on the basis of place of incorporation may not reflect the economic reality of where the business is actually managed or controlled. Accordingly, determination of residence for Corporate Tax purposes will take into account whether the juridical person incorporated or otherwise recognised in a foreign jurisdiction is effectively managed and controlled in the UAE,

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[11] Article 11(3)(a) of the Corporate Tax Law.
[12] Article 11(3)(b) of the Corporate Tax Law.
[13] Article 11(5) of the Corporate Tax Law.

in line with tax regimes in other countries that apply the concepts of “central management and control” and “place of effective management” rules for this same purpose.

Whether a juridical person is effectively managed and controlled in the UAE needs to be determined with regard to the specific facts and circumstances of the juridical person and its activities. A key factor is where key management and commercial decisions that are necessary for the conduct of the juridical person’s Business are in substance made. This could be the place where the highest level of decisions that are essential for the management of the juridical person are made, or where decisions that play a leading part in the management of a company from an economic and functional perspective are made. Typically, this will be where a company’s board of directors (or any equivalent body for other types of juridical persons) makes these decisions.

However, depending on the specific facts and circumstances, other factors such as where the controlling shareholders make decisions, the location of another Person or body to which the board has delegated its decision-making powers, or the location where the board members or executive management of the juridical person reside may also need to be considered. It is important to note that there can only be one place of effective management and control at any one time.

For a juridical person to be considered effectively managed and controlled in the UAE, it is not necessary for its board members (or equivalent) to be resident in the UAE.

Example 2: Juridical person effectively managed and controlled in the UAE

C Ltd is a limited company registered in a foreign jurisdiction.

C Ltd is mainly owned by an individual who resides in the UAE (Mr D). C Ltd’s annual board meetings are held outside of the UAE, in the country where the company is registered. These meetings are attended by local directors whose only involvement in the company is attending such meetings.

The local directors do not receive information that would enable them to reasonably reach commercial decisions and they always follow the suggestions of Mr D. Mr D provides these suggestions remotely from his home in the UAE.

Based on these facts, it is likely that C Ltd is effectively managed and controlled from the UAE, as the local directors simply agree with all suggestions made by Mr D, and Mr D provides such suggestions from the UAE.

5.3.3. Resident natural persons

Residence for Corporate Tax purposes is not determined by where a natural person resides or is domiciled. For natural persons, residence for Corporate Tax purposes is concerned with the person's business connection to the UAE. It is this connection, rather than other factors such as nationality or where a person is physically present, that gives the UAE the powers to levy Corporate Tax on an individual's Business or Business Activity.

This approach means, for example, that natural persons conducting Businesses or Business Activities in the UAE are Resident Persons for Corporate Tax irrespective of their nationality, whether they hold a residency visa in the UAE, whether their income is sourced in the UAE or from abroad, or how much time they may physically spend in the UAE.

Specifically, Corporate Tax only applies to natural persons who are engaged in Businesses or Business Activities in the UAE and earn Turnover from these Businesses or Business Activities in excess of AED 1,000,000 in a Gregorian calendar year.[14] This includes sole establishments and individual partners in Unincorporated Partnerships that conduct a Business or Business Activity in the UAE (see Section 8.2.1). A sole establishment is a trading Business owned by a natural person, where the proprietor is not separate from the Business. This is because of the direct relationship and control of the natural person over the Business and their unlimited liability for the Business' debts and other obligations. In such case the natural person trades in his own name instead of through a separate legal entity.

Business is defined as any economic activity, whether continuous or for a set period of time, conducted by any Person.[15] It is implied in the definition that the activity is conducted with the intention of generating profits, and that some system and organisation exist for the activity conducted. However, a Business or Business Activity does not necessarily need to make a profit.

The definition includes any industrial, commercial, agricultural, vocational, professional or service activity, excavation activity and any other activity of an independent character related to the use of tangible and intangible property. This should be interpreted broadly to include any activity related to the development, sale, production, manufacturing, exploitation, marketing or distribution of physical and intangible properties.

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[14] Article 11(3)(c) of the Corporate Tax Law and Article 2(1) of Cabinet Decision No. 49 of 2023.

[15] Article 1 of the Corporate Tax Law.

The term “vocational” is to be interpreted as a skilled craft or trade, and “profession” is an occupation in which skill is applied to the affairs of others to meet their needs. Common examples of professional activities include accountancy, consulting, architecture, medical and legal services.

Whilst Business includes vocational, commercial, industrial and professional activities, it does not include employment, and Corporate Tax does not apply to a natural person’s salary, wages and other employment income. It also does not include income from Personal Investments and Real Estate Investments.[16]

In this regard, Personal Investments are activities that a natural person undertakes in their personal capacity and not through a Licence (or not required to be undertaken through a Licence), and the activities are not considered a commercial business under Federal Decree-Law No. 50 of 2022 issuing the Commercial Transactions Law.[17]

Real Estate Investments are activities undertaken by an individual in relation to the direct or indirect sale, lease, sub-lease and rental of land or real estate property in the UAE that are not conducted through a Licence (or are not required to be conducted through a Licence).[18]

Although a Business is typically carried on continuously and there is repetition of commercial activity, the definition allows for a short-term commercial activity to be considered a Business for Corporate Tax purposes.

For further details on taxable Business or Business Activities for natural Persons, readers are advised to consult Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax.

5.3.4. Impact of Double Taxation Agreements on Resident Taxable Persons

In some cases, due to cross-border activities, a Person may be resident for Corporate Tax purposes in more than one jurisdiction. For example, a company may be incorporated in one jurisdiction but effectively managed and controlled in another. If these criteria are used, as in the UAE, to determine the tax residence of a juridical person, this company would be tax resident in both jurisdictions.

[16] Article 2(2) of Cabinet Decision No. 49 of 2023.
[17] Article 1 of Cabinet Decision No. 49 of 2023.
[18] Article 1 of Cabinet Decision No. 49 of 2023.

In instances where there is an in-force Double Taxation Agreement between the UAE and that other jurisdiction, this agreement will, in general, contain provisions to determine where that Person would be considered as resident. These provisions take precedence over the treatment under the Corporate Tax Law and its implementing decisions.[19]

In general, Double Taxation Agreements include rules to solve dual residence situations for juridical persons either based on the place of effective management criterion or through the mutual agreement procedure.

5.4. Non-Resident Taxable Persons

A juridical person is subject to Corporate Tax if it is not a Resident Person under the conditions above, but either:

- has a Permanent Establishment in the UAE; or[20]
- derives State Sourced Income (subject to a 0% Withholding Tax); or[21]
- earns income from Immovable Property in the UAE.[22]

5.4.1. Non-Resident Person with a Permanent Establishment in the UAE

The concept of a Permanent Establishment is used in tax regimes across the world to determine if and when a foreign juridical person has established sufficient presence in a country to warrant the direct taxation of their profits in that country. Generally, a country only has the right to tax the profits of a foreign business if that business has a Permanent Establishment in that country.

A Non-Resident Person may have a Permanent Establishment in the UAE if:

- they conduct a Business through a fixed or permanent place in the UAE.[23] This could for example include an office, a factory or a building site lasting for more than 6 months where the Business is wholly or partly conducted; or
- another Person has and habitually exercises an authority to conduct a Business or Business Activity in the UAE on behalf of the Non-Resident Person.[24] This includes situations where the Person concludes contracts in the UAE on behalf of the Non-Resident Person or negotiates contracts without the need for any

19 Article 66 of the Corporate Tax Law.
20 Article 11(4)(a) of the Corporate Tax Law.
21 Article 11(4)(b) of the Corporate Tax Law.
22 Article 11(4)(c) of the Corporate Tax Law and Article 2(1) of Cabinet Decision No. 56 of 2023.
23 Article 14(1)(a) of the Corporate Tax Law.
24 Article 14(1)(b) of the Corporate Tax Law.

material modification by the Non-Resident Person. For example, where a Business regularly sends out sales representatives to the UAE who agree and sign contracts in the UAE.[25]

5.4.2. Preparatory and auxiliary activities

A Non-Resident Person is not considered to have a Permanent Establishment in the UAE if the activities conducted through the fixed place of business are of a preparatory and auxiliary nature.[26] For the purpose of assessing whether the activities of a Non-Resident Person are of a preparatory and auxiliary nature, the mere physical presence of a natural person in the UAE will not automatically create a Permanent Establishment for a Non-Resident Person. The circumstances in which the physical presence of a natural person would not result in a Permanent Establishment include where such presence is a consequence of a temporary and exceptional situation.[27]

The presence of a natural Person in the UAE shall be considered a consequence of a temporary and exceptional situation where all of the following conditions are met:[28]

- The presence of the natural person in the UAE is a consequence of exceptional circumstances of a public or private nature.
- The exceptional circumstances cannot reasonably be predicted by the natural person or the Non-Resident Person.
- The natural person did not express any intention to remain in the UAE when the exceptional circumstances end.
- The Non-Resident Person does not have a Permanent Establishment in the UAE before the occurrence of the exceptional circumstances.
- The Non-Resident Person did not consider that the natural person is creating a Permanent Establishment or deriving income in the UAE as per the tax legislation applicable in other jurisdictions.

5.4.3. Non-Resident Person that derives State Sourced Income

Any Person that is a Non-Resident Person and receives State Sourced Income is subject to Corporate Tax on this income by way of Withholding Tax if the income is not attributable to a Permanent Establishment of the Non-Resident Person in the UAE.[29]

[25] Article 14(5) of the Corporate Tax Law.
[26] Article 14(3)(d) of the Corporate Tax Law.
[27] Article 14(7)(a) of the Corporate Tax Law.
[28] Article 2(1) of Ministerial Decision No. 83 of 2023.
[29] Article 12(3)(b) of the Corporate Tax Law.

Income is considered to be State Sourced if:

- it is derived from a Resident Person;[30] or
- it is derived from a Non-Resident Person in connection with the Non-Resident Person's Permanent Establishment in the UAE;[31] or
- it is derived from activities or contracts performed in the UAE, assets located in the UAE, capital invested, rights used, or services performed or benefitted from in the UAE.[32]

State Sourced Income may include:

- income from the sale of goods in the UAE;[33]
- income from movable or Immovable Property in the UAE;[34] or
- income from the disposal of shares of a Resident Person.[35]

In instances where a Non-Resident Person earns State Sourced Income only and where this income is not attributable to a Permanent Establishment in the UAE, the income is currently subject to a 0% Withholding Tax. Practically, this means no Corporate Tax liability arises in this situation.

5.4.4. Non-resident juridical person that has a nexus in the UAE (derives income from UAE Immovable Property)

Corporate Tax is also applicable when there is a nexus between a Non-Resident juridical person and the UAE. The nexus is the connecting link for Corporate Tax purposes.

Cabinet Decision No. 56 of 2023 specifies that when any Non-Resident juridical person earns income from Immovable Property in the UAE, the Non-Resident juridical person will have a nexus in the UAE.[36] As a result, Non-Resident juridical persons are subject to Corporate Tax on income attributable to the Immovable Property in the UAE.[37]

Immovable Property includes rights over areas of land, buildings, structures, or engineering work permanently attached to land or seabed, or any fixture or equipment

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30 Article 13(1)(a) of the Corporate Tax Law.
31 Article 13(1)(b) of the Corporate Tax Law.
32 Article 13(1)(c) of the Corporate Tax Law.
33 Article 13(2)(a) of the Corporate Tax Law.
34 Article 13(2)(d) of the Corporate Tax Law.
35 Article 13(2)(e) of the Corporate Tax Law.
36 Article 2(1) of Cabinet Decision No. 56 of 2023.
37 Article 12(3)(c) of the Corporate Tax Law.

which makes up a permanent part of the land or is permanently attached to a building, structure, engineering work or seabed.[38] Taxable Income attributable to Immovable Property includes income derived from a right in rem, sale, disposal, assignment, direct use, letting (including subletting) and any other form of exploitation of Immovable Property.[39]

5.4.5. Impact of Double Taxation Agreements on Non-Resident Taxable Persons

In some situations, related to cross-border activities, double taxation may occur due to the overlap in the taxing rights claimed by different jurisdictions.

The definition of Permanent Establishment in the Corporate Tax Law generally follows the principles provided in Article 5 of the OECD Model Tax Convention on Income and Capital. A Non-Resident Person may need to consider these principles and the relevant provisions of any Double Taxation Agreement between the country of residence of the Non-Resident Person and the UAE, in their assessment of whether they have a Permanent Establishment in the UAE.

If a Non-Resident Person has a Permanent Establishment in the UAE under a specific Double Taxation Agreement, the primary taxing rights on the income earned from the activity of the Permanent Establishment will be allocated to the UAE, as the source State. However, each case will need to be determined considering the nature of the Business of the Non-Resident Person and its own facts and circumstances, as well as the terms of the applicable Double Taxation Agreement.

In instances where the terms of a Double Taxation Agreement are inconsistent with the provisions of the Corporate Tax Law, the terms of the Double Taxation Agreement would prevail.[40]

5.5. Free Zone Persons

When a Free Zone Person meets certain conditions, it will be considered as a Qualifying Free Zone Person and is eligible for a 0% Corporate Tax rate on its Qualifying Income.[41] The 0% Corporate Tax rate is available to Qualifying Free Zone

[38] Article 1 of Cabinet Decision No. 56 of 2023.
[39] Article 2(2) of Cabinet Decision No. 56 of 2023.
[40] Article 66 of the Corporate Tax Law.
[41] Article 3(2)(a) of the Corporate Tax Law.

Persons until the expiry of the tax incentive period provided for in the legislation of the relevant Free Zone (unless renewed).[42]

In order to be considered as a Qualifying Free Zone Person, a Free Zone Person must meet the following requirements:

- derive Qualifying Income from relevant transactions (see Section 5.5.1);[43]
- maintain adequate substance in the UAE (see Section 5.5.4);[44]
- satisfy the de minimis requirement (see Section 5.5.5);[45]
- have not elected to be subject to Corporate Tax (see Section 5.5.6);[46]
- comply with the transfer pricing rules and documentation requirements under the Corporate Tax Law;[47] and
- prepare and maintain audited Financial Statements for the purposes of the Corporate Tax Law.[48]

The Minister may prescribe additional conditions to be met by a Free Zone Person in order to be considered as a Qualifying Free Zone Person.[49]

For further details on the Free Zone Corporate Tax regime, readers are advised to consult Cabinet Decision No. 55 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person[50] and the Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities.[51]

5.5.1. Qualifying Income

Qualifying Income is the income that can benefit from the 0% Corporate Tax rate.

Unlike ordinary Taxable Persons, Qualifying Free Zone Persons are not entitled to a 0% rate on their first AED 375,000 of Taxable Income that is not considered as Qualifying Income. Therefore, any Taxable Income that is not Qualifying Income will be taxed at the general rate of 9% (see Section 9.2.2).

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[42] Article 18(4) of the Corporate Tax Law.
[43] Article 18(1)(b) of the Corporate Tax Law and Article 3 of Cabinet Decision No. 55 of 2023.
[44] Article 18(1)(a) of the Corporate Tax Law
[45] Article 4 of Ministerial Decision No. 139 of 2023.
[46] Article 18(1)(c) of the Corporate Tax Law.
[47] Article 18(1)(d) of the Corporate Tax Law.
[48] Article 5(1)(b) of Ministerial Decision No. 139 of 2023.
[49] Article 18(1)(e) of the Corporate Tax Law.
[50] Cabinet Decision No. 55 of 2023.
[51] Ministerial Decision No. 139 of 2023.

Qualifying Income includes:[52]

- Income derived from transactions with other Free Zone Persons, except for income derived from Excluded Activities;[53]
- Income derived from transactions with any Non-Free Zone Person, domestic and foreign, only in the case of Qualifying Activities that are not Excluded Activities; and
- Any other income where the de minimis requirement is satisfied.

For further details on Qualifying Income, readers are advised to consult Cabinet Decision No. 55 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person and Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities.

5.5.2. Excluded Activities

Qualifying Income does not include income derived from Excluded Activities.[54] The Excluded Activities are listed in Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities, and include:[55]

- Transactions with natural persons, except in relation to certain Qualifying Activities;
- Banking, insurance, finance and leasing activities that are subject to the relevant regulatory oversight of the relevant competent authority in the UAE, except for certain exceptions;
- Ownership or exploitation of UAE immovable property, other than Commercial Property located in a Free Zone provided such activity in relation to Immovable Property located in a Free Zone is conducted with other Free Zone Persons;
- Ownership or exploitation of intellectual property assets; and
- Activities that are ancillary (which serve no independent function) to the above activities.

[52] Article 3(1) of Cabinet Decision No. 55 of 2023.
[53] Article 3 of Ministerial Decision No. 139 of 2023.
[54] Article 3(1)(a) and (b) of Cabinet Decision No. 55 of 2023.
[55] Article 3 of Ministerial Decision No. 139 of 2023.

5.5.3. Qualifying Activities

Qualifying Income includes income derived from transactions with Non-Free Zone Persons only in respect of Qualifying Activities.[56] These activities are defined in Ministerial Decision No. 139 of 2023, and include:[57]

- Manufacturing of goods or materials;
- Processing of goods or materials;
- Holding of shares and other securities;
- Ownership, management and operation of Ships;
- Reinsurance services subject to the regulatory oversight of the relevant competent authority in the UAE;
- Fund management services subject to the regulatory oversight by the relevant competent authority in the UAE;
- Wealth and investment management services subject to the regulatory oversight by the relevant competent authority in the UAE;
- Headquarter services to Related Parties;
- Treasury and financing services to Related Parties;
- Financing and leasing of Aircraft, including engines and rotable components;
- Distribution of goods or materials in or from a Designated Zone to a customer that resells such goods or materials, or parts thereof or processes or alters such goods or materials or parts thereof for the purposes of sale or resale;
- Logistics services; and
- Any ancillary activities (which serve no independent function) to the above activities.

5.5.4. Adequate substance requirements

To meet the adequate substance requirements, a Free Zone Person must have their core-income generating activities (e.g. the activities that are of central importance) performed within the Free Zone, these can be undertaken by the Free Zone Person or outsourced to a Related Party or third party who is located in a Free Zone. The Qualifying Free Zone Person must also have adequate supervision over any activities that are outsourced to a Free Zone Related Party or third party.[58]

The Qualifying Free Zone Person (or its outsourced party) must be able to demonstrate that it has adequate staff and assets, and that it incurs adequate operating expenditures within the Free Zone.

[56] Article 3(1)(b) of Cabinet Decision No. 55 of 2023.
[57] Article 2 of Ministerial Decision No. 139 of 2023.
[58] Article 7 of Cabinet Decision No. 55 of 2023.

As businesses vary, 'adequate substance' is determined on a case-by-case basis, following the test criteria. This may include the number of qualified full-time employees, adequate operating expenditure and physical assets. In any case, the analysis also takes into account the nature and level of activities performed by the Qualifying Free Zone Person, the Qualifying Income earned, and any other relevant facts and circumstances.

5.5.5. The de minimis requirement

For a Free Zone Person to be a Qualifying Free Zone Person, the de minimis requirements must be met.[59]

The de minimis requirements are met where the non-qualifying Revenue in a Tax Period does not exceed the lower of:[60]

- AED 5,000,000; and
- 5% of total Revenue (calculated as total amount of non-qualifying Revenue ÷ total Revenue).

The de minimis requirement allows a Qualifying Free Zone Person to earn a small or incidental amount of non-qualifying Income without being disqualified from the Free Zone Corporate Tax regime.[61] Where the requirement has been met, income that does not fulfil the first two categories of Qualifying Income (see Section 5.5.1) will be treated as Qualifying Income.[62]

The total amount of non-qualifying Revenue as well as the amount of total Revenue (for the second limb of the de minimis requirement) are adjusted for by removing the following Revenues:

- Revenue attributable to a domestic or foreign Permanent Establishment of the Qualifying Free Zone Person;[63] and
- Revenue attributable to the following transactions:
    - Transactions with Non-Free Zone Persons in respect of Commercial Property located in a Free Zone;[64] and

[59] Article 5(1)(a) of Ministerial Decision No. 139 of 2023.
[60] Article 4 of Ministerial Decision No. 139 of 2023.
[61] Article 4 of Cabinet Decision No. 55 of 2023.
[62] Article 3(1)(c) of Cabinet Decision No. 55 of 2023.
[63] Article 4(3)(b) of Cabinet Decision No. 55 of 2023.
[64] Article 4(3)(a)(1) of Cabinet Decision No. 55 of 2023.

- Transactions with any Persons in respect of Immovable Property that is not Commercial Property located in a Free Zone.[65]

5.5.6. Election to be taxed at the general rates of Corporate Tax

A Qualifying Free Zone Person can elect to be taxed at the general rates of Corporate Tax.[66] The election will be effective from either the commencement of the Tax Period in which the election is made, or the commencement of the following Tax Period and for the following four Tax Periods, after which the election can be made again.[67]

In addition, if a Qualifying Free Zone Person fails to meet any of the conditions above at any particular time during a Tax Period, it will cease to be eligible for the 0% Corporate Tax rate from the beginning of that Tax Period and will be taxed at the general rates of Corporate Tax for five Tax Periods starting with the Tax Period in which the conditions have not been met.[68]

A Free Zone Person that makes an election to be taxed at the general rates of Corporate Tax will cease to be, or not become, a Qualifying Free Zone Person, as they no longer satisfy the conditions. As a result, restrictions from applying certain provisions of the Corporate Tax Law will no longer apply. This means, for example, that the Free Zone Person can become a member of a Tax Group or elect for the small business relief subject to meeting the relevant conditions.

Example 3: Excluded Activity

E LLC is a Free Zone Person, and generates all of its income from leasing a property which is not located in a Free Zone. As this is Revenue from an Excluded Activity, this income is not Qualifying Income.

As E LLC only earns non-qualifying Revenue, it will not satisfy the de minimis requirement and, therefore, will not be considered a Qualifying Free Zone Person.

[65] Article 4(3)(a)(2) of Cabinet Decision No. 55 of 2023.
[66] Article 19(1) of the Corporate Tax Law.
[67] Articles 18(1)(c) of the Corporate Tax Law and Article 5(2) of Ministerial Decision No. 139 of 2023.
[68] Article 18(2) of the Corporate Tax Law and Article 5(2) of Ministerial Decision No. 139 of 2023.

Example 4: Qualifying Income

F LLC and G LLC are both Free Zone Persons. F LLC (a Qualifying Free Zone Person) owns a number of warehouses located in a Free Zone.
During the Tax Period, F LLC sells one of its warehouses to G LLC. As the transaction is between two Free Zone Persons, and the sale relates to Commercial Property in a Free Zone, the income earned on the sale is Qualifying Income and is eligible for the 0% Corporate Tax rate subject to meeting the other relevant requirements.

Example 5: De minimis requirements

H LLC is a Free Zone Person that sells vehicles to other Free Zone Persons. During the Tax Period it has a total Revenue of AED 80,000,000. H LLC maintains adequate substance in the Free Zone, has not made an election to be subject to UAE Corporate Tax under the general rates, and complies with the transfer pricing rules and other documentation requirements set out in the Corporate Tax Law.

During the Tax Period, it undertakes a small number of transactions with individuals and earns AED 4,500,000 of Revenue. The remaining AED 75,500,000 meets the requirements to be considered as Qualifying Income.

As transactions with individuals are generally Excluded Activities, and Revenue from these sales exceeded the de minimis threshold of AED 4,000,000 (being the lower of 5% of AED 80,000,000 and AED 5,000,000), H LLC will not be eligible to be a Qualifying Free Zone Person.

5.6. Family Foundations

There are a number of different structures that are used to manage personal wealth and investments for asset protection, succession, philanthropic and other reasons. These include, for example, a contractual trust, a private trust company or a foundation to hold and manage personal assets and investments.

Whilst some of these structures and arrangements are by default treated as fiscally transparent for Corporate Tax purposes, some types of trusts and foundations have a separate legal personality, such as foundations established in ADGM or DIFC. These types of entities are treated the same as any other juridical person, with their income being within the scope of Corporate Tax. Where these types of entities are merely used to hold and manage personal assets and wealth on behalf and for the benefit of beneficiaries who are natural persons, this will result in an inconsistent Corporate Tax treatment compared with if instead the natural persons were to hold and manage the assets directly.

Therefore, entities that are considered as "Family Foundations" for Corporate Tax purposes can, subject to meeting certain conditions, apply to the FTA to be treated as an Unincorporated Partnership (see Section 8.2.1).[69] If the application is approved, the Family Foundation will be treated as tax transparent and the beneficiaries would be seen as directly owning or benefiting from the activities and assets of the Family Foundation. Where the FTA approves this application, the Family Foundation shall be treated as an Unincorporated Partnership effective from the commencement of the Tax Period in which the application is made, or from the commencement of a future Tax Period, or any other date determined by the Authority.

5.7. Exempt Persons

5.7.1. Types of Exempt Persons

Exemptions from Corporate Tax are provided for particular Persons where there are strong public interest and policy justifications for not subjecting them to tax. These Persons are known as "Exempt Persons".[70]

Exempt Persons fall into one of four categories:

- Automatically Exempt Persons: Government Entities;
- Exempt if they notify the Ministry of Finance, and meet relevant conditions: Extractive Businesses and Non-Extractive Natural Resource Businesses;
- Exempt if listed in a Cabinet Decision and meet relevant conditions: Government Controlled Entities and Qualifying Public Benefit Entities; and
- Exempt upon application to, and approval by, the FTA:[71]
    - Public and private pension or social security funds;
    - Qualifying Investment Funds;
    - Juridical persons incorporated in the UAE that are wholly owned and controlled by certain Exempt Persons; and
    - Any other Person as may be determined in a decision issued by the Cabinet at the suggestion of the Minister.

[69] Article 17(1) of the Corporate Tax Law and Article 5 of Ministerial Decision No. 127 of 2023.
[70] Article 4(1) of the Corporate Tax Law.
[71] FTA Decision No. 7 of 2023.

If an Exempt Person no longer meets the criteria for exemption, generally, they cease to be an Exempt Person from the beginning of the Tax Period in which they no longer meet the criteria and will be subject to Corporate Tax on all of their Taxable Income.[72] In certain temporary and unforeseen circumstances, the Person can make an application to the FTA to continue to be treated as an Exempt Person, despite temporarily not meeting the criteria for exemption.[73]

5.7.2. Automatically Exempt Persons

This category covers Government Entities which include the Federal Government, Local Governments, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.

Government Entities are essentially considered administrative bodies that carry out government functions under the control of the UAE Federal Government or Emirate-level Governments. It is internationally common for a government to exempt its own activities from taxation, as those activities are generally conducted as part of their governmental and public duties.

Government Entities are exempt automatically, meaning that they do not have to apply to the FTA for exempt status as long as they meet the necessary requirements.[74]

However, a Government Entity shall be subject to Corporate Tax if it conducts a Business or Business Activity under a Licence issued by a Licensing Authority. Any Business or Business Activity conducted by a Government Entity under a Licence issued by a Licensing Authority shall be treated as an independent Business, and the entity will be subject to Corporate Tax in relation to that licensed Business or Business Activity and will be required to register for Corporate Tax.[75]

5.7.3. Exempt Persons if they notify the Ministry, and meet relevant conditions

This category includes both Extractive Businesses and Non-Extractive Natural Resource Businesses. Where these Businesses meet the relevant conditions, they will be exempt from Corporate Tax.[76] Where an Extractive Business or Non-Extractive

72 Article 4(5) of the Corporate Tax Law.

73 Article 4(6)(b) of the Corporate Tax Law and Articles 2, 3 and 4 of Ministerial Decision No. 105 of 2023.

74 Article 5(1) of the Corporate Tax Law.

75 Article 5(2) of the Corporate Tax Law.

76 Article 7(1) and Article 8(1) of the Corporate Tax Law.

Natural Resource Business conducts an independent Business that is not ancillary to its ordinary business and this Business accounts for more than 5% of their total Revenue, it will be required to register with the FTA for Corporate Tax.[77]

The UAE Constitution considers the Natural Resources in each Emirate to be the public property of that Emirate, and Persons engaged in the extraction and exploitation of Natural Resources are typically subject to some form of Emirate-level taxation. Accordingly, if certain conditions are met, Persons engaged in the Extractive Business and/or Non-Extractive Natural Resource Business are exempt from Corporate Tax.

An Extractive Business involves the activity of exploring, extracting, removing or otherwise producing and exploiting Natural Resources;[78] in the context of the Corporate Tax Law, a Non-Extractive Natural Resource Business involves the steps which take a Natural Resource product from its raw, extracted form to its final point of sale.[79]

The rules for Non-Extractive Natural Resource Businesses are similar to those for Extractive Businesses. In each case, a Person is exempt from Corporate Tax if they:

- have a right, concession or Licence issued by a Local Government to undertake their Extractive Business or Non-Extractive Natural Resource Business;[80]
- are effectively subject to tax under the applicable legislation of an Emirate;[81] and
- have notified the Ministry of Finance of their Exempt Person status and their compliance with the applicable conditions.[82]

A Person is considered effectively subject to tax under the applicable legislation of the Emirate if the Local Government imposes a tax on income or profits, a royalty or revenue tax, or any other form of tax, charge, levy or fiscal measures in respect of such Person’s Extractive or Non-Extractive Natural Resource Business.[83]

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77 Article 7(3) and Article 8(3) of the Corporate Tax Law.

78 In this instance, “Natural Resources” are defined as water, oil, gas, coal, naturally formed minerals and other non-renewable, non-living natural resources that may be extracted from the UAE’s Territory. This means renewable resources, such as solar energy, wind, animals, and plant materials are not considered “Natural Resources” for the purpose of assessing whether a Person may be exempt from Corporate Tax under Articles 4(1)(c) or 4(1)(d) of the Corporate Tax Law.

79 Article 1 of the Corporate Tax Law.

80 Articles 7(1)(a) and 8(1)(a) of the Corporate Tax Law.

81 Articles 7(1)(b) and 8(1)(c) of the Corporate Tax Law.

82 Articles 7(1)(c) and 8(1)(d) of the Corporate Tax Law.

83 Articles 7(6) and 8(6) of the Corporate Tax Law.

Additionally, a Non-Extractive Natural Resource Business must not derive income from Persons outside of the scope of Corporate Tax (e.g. natural persons who do not undertake a Business or Business Activity).[84] This limits the exemption to Businesses that engage solely in transactions with other businesses, as opposed to with an end customer or consumer.

Thus, if the Person derives income from any person who is not within the scope of the Corporate Tax Law (e.g. natural persons who do not undertake a Business or Business Activity) or from any other Person that is not a business or other organised entity, this exemption from Corporate Tax will not be available.

5.7.4. Exempt if listed in a Cabinet Decision and meet relevant conditions

5.7.4.1. Government Controlled Entities

Government Controlled Entities are juridical persons that are directly or indirectly wholly owned and controlled by one or more Government Entities and are listed in a Cabinet Decision.

Government Controlled Entities need to be wholly owned and controlled by a Government Entity. Such entities may be set up where, for reasons of accountability or management, these entities need to be legally separated from the Government Entity.

A Mandated Activity is any activity conducted by a Government Controlled Entity in accordance with the legal instrument establishing or regulating the entity, that is specified in a decision issued by the Cabinet. Not all activities of a Government Controlled Entity would automatically be considered a Mandated Activity. If a Government Controlled Entity conducts Business or Business Activities that is not its mandated activities, it shall be subject Corporate Tax on those Business or Business Activities.

5.7.4.2. Qualifying Public Benefit Entities

Qualifying Public Benefit Entities that meet the necessary requirements can apply to the Ministry to be listed in a Cabinet Decision and be exempt from Corporate Tax. Cabinet Decision No. 37 of 2023 has been published and lists all entities considered as Qualifying Public Benefit Entities.

[84] Article 8(1)(b) of the Corporate Tax Law.

Qualifying Public Benefit Entities play a critical role in the social and cultural fabric of the UAE. In recognition of this, these entities can be exempt from Corporate Tax, provided they meet certain conditions.

In order to be exempt from Corporate Tax, public benefit entities must be established and operated either:

- Exclusively for a public benefit activity. The Corporate Tax Law sets out a non-exhaustive list of 'worthy purpose categories' that may entitle a public benefit entity to this exemption. The categories are umbrella terms that would cover any related public benefit activities: religious, charitable, scientific, artistic, cultural, athletic, educational, healthcare, environmental, humanitarian, animal protection or other similar purposes;[85] or
- As a professional entity, chamber of commerce, or similar entity operated exclusively for the promotion of social welfare or public benefit.[86]

Additionally, in order to be exempt from Corporate Tax, the entity must:

- Not conduct a Business or Business Activity, except for activities which are directly related to the entity's charitable or public benefit purpose;[87]
- Use its income and assets solely for the purposes for which it was established, or as payment for necessary and reasonable expenditure;[88] and
- Not use any of its income or assets for the personal benefit of its shareholders, members, trustees, founders or settlors (except where its shareholders, members, trustees, founders or settlors are Qualifying Public Benefit Entities, Government Entities or Government Controlled Entities).[89]

If a public benefit entity meets these conditions, it will need to apply to the Ministry of Finance to be listed in a Cabinet Decision No. 37 of 2023 Regarding the Qualifying Public Benefit Entities and become a Qualifying Public Benefit Entity. A Qualifying Public Benefit Entity will be exempt from Corporate Tax from the beginning of the Tax Period in which it is listed in a relevant Cabinet Decision.[90]

For the purposes of monitoring compliance with the exemption requirements, the FTA may request any relevant information or records from a Qualifying Public Benefit Entity

[85] Article 9(1)(a)(1) of the Corporate Tax Law.
[86] Article 9(1)(a)(2) of the Corporate Tax Law.
[87] Article 9(1)(b) of the Corporate Tax Law.
[88] Article 9(1)(c) of the Corporate Tax Law.
[89] Article 9(1)(d) of the Corporate Tax Law.
[90] Article 9(2) of the Corporate Tax Law.

to verify that the entity continues to meet the relevant conditions to be exempt from Corporate Tax.[91] The information requested must be provided within the timeline specified by the FTA[92] and may include, for example, books and records to demonstrate that the resources of the Qualifying Public Benefit Entity were used only for its stated public benefit purpose, copies of agreements entered into by the Qualifying Public Benefit Entity, and details of its employees, officers and fiduciaries.
The list of Qualifying Public Benefit Entities will be updated periodically, if needed, to add or remove entities from the existing list.[93]

For further details on Qualifying Public Benefit Entities, readers are advised to consult Cabinet Decision No. 37 of 2023 on Qualifying Public Benefit Entities.[94]

5.7.5. Exempt Persons upon application to the FTA

The following Persons are exempt from Corporate Tax where an application has been approved by the FTA, demonstrating that they meet the necessary requirements:[95]

- A public pension fund or social security fund, or a private pension fund or social security fund that is subject to regulatory oversight of the competent authority in the UAE and meets certain conditions;[96]
- A Qualifying Investment Fund,[97] and
- A juridical person incorporated in the UAE that is wholly owned (directly or indirectly) and controlled by the following Exempt Person:[98]
  - a Government Entity,
  - a Government Controlled Entity,
  - a Qualifying Investment Fund that meets the relevant conditions specified in Cabinet Decision No. 81 of 2023;
  - a public pension fund or social security fund; or
  - a private pension, fund or social security fund that meets the relevant conditions specified in Ministerial Decision No. 115 of 2023.

[91] Article 9(3) of the Corporate Tax Law.
[92] Article 9(3) of the Corporate Tax Law.
[93] Article 3 of Cabinet Decision No. 37 of 2023.
[94] Cabinet Decision No. 37 of 2023.
[95] Article 4(3) of the Corporate Tax Law and FTA Decision No. 7 of 2023.
[96] Article 4(1)(g) of the Corporate Tax Law and Ministerial Decision No. 115 of 2023.
[97] Article 4(1)(f) of the Corporate Tax Law.
[98] Article 4(1)(g) of the Corporate Tax Law.

5.7.5.1. Public pension funds and social security funds

Public pension funds and social security funds are typically initiated, sponsored and governed by a Federal or Local Government Entity. However, as the entitlement to receive the benefits from these funds and any surplus assets of the fund normally rests with the beneficiaries, they are not typically considered to be wholly owned and controlled by the Government Entity which oversees them.

Recognising their importance, public pension funds and social security funds can make an application to the FTA to be exempt from Corporate Tax.

5.7.5.2. Private pension and social security funds

The same Exempt Person status may be available to certain private pension funds or social security funds that meet the relevant conditions following an application to and approval by the FTA to be exempt from Corporate Tax.[99]

To be eligible for exemption from Corporate Tax, these private pension funds and social security funds need to be subject to regulatory oversight of a competent authority in the UAE, and must have a pool of assets that have been designated as "pension plan assets" or "fund assets" by law or a contract governing the establishment and operation of the funds.[100]

These assets must be solely used to finance the pension plan benefits or end of service benefit.[101]

Additionally, the plan members/beneficiaries must have a right or a contractual claim or entitlement to the assets or earnings of the fund.[102]

The fund must have an Auditor, which is required to confirm annually that the requirements for the fund to be exempt have been complied with.[103]

Income received by the fund can only come from:[104]

[99] Article 4(1)(g) of the Corporate Tax Law.
[100] Article 4(1)(g) of the Corporate Tax Law and Articles 2(1) and 3(1) of Ministerial Decision No. 115 of 2023.
[101] Articles 2(1) and 3(1) of Ministerial Decision No. 115 of 2023.
[102] Article 2(2) of Ministerial Decision No. 115 of 2023.
[103] Articles 2(4) and 3(3) of Ministerial Decision No. 115 of 2023.
[104] Articles 2(3), 3(2) and 4 of Ministerial Decision No. 115 of 2023.

- investments or deposits held solely for the benefit of the fund and the investments do not constitute a Business operated by the fund;
- underwriting commissions charged for the fund;
- rebates given to fund managers that are not considered payment for their services; or
- any other income earned through investments for the benefit of plan members or beneficiaries.

For further details on how private pension funds or social security funds may be exempt from Corporate Tax, readers are advised to consult Ministerial Decision No. 115 of 2023 on Private Pension Funds and Private Social Security Funds.

5.7.5.3. Qualifying Investment funds

The UAE is a leading asset and wealth management hub, and offers a range of investment fund regimes and fund vehicles that cater to a wide variety of fund manager and investor requirements.

Whilst there are various structures that collective investment funds may take, the term ‘investment fund’ refers to a contractual arrangement or legal entity whose primary purpose is to pool investor funds and invest such funds in accordance with a defined investment policy.

Regardless of the type of investment fund, the Corporate Tax Law seeks to ensure the tax neutrality of investment funds so that investors, whether domestic or foreign, are in the same or a similar tax position as if they had invested directly in the underlying assets of the fund. In recognition of the neutrality principle, an investment fund that meets the relevant conditions can make an application to the FTA for exemption from Corporate Tax as a Qualifying Investment Fund.[105]

In order to qualify for exemption, the investment fund must meet all of the following conditions:

- The fund or its manager must be subject to the regulatory oversight of a UAE or foreign competent authority;[106]
- Interests in the fund must be traded on a Recognised Stock Exchange, or must be marketed and made available sufficiently widely to investors;[107] and

[105] Article 10(1) of the Corporate Tax Law.
[106] Article 10(1)(a) of the Corporate Tax Law.
[107] Article 10(1)(b) of the Corporate Tax Law.

- The main or principal purpose of the fund is not to avoid Corporate Tax.[108]

In addition, depending on the types of investment funds, readers are advised to consult on the additional conditions specified in Cabinet Decision No. 81 of 2023 On Conditions for Qualifying Investment Funds.

5.7.6. Registration and record keeping obligations of Exempt Persons

There is no requirement for Government Entities, Government Controlled Entities, Extractive Businesses and Non-Extractive Natural Resource Businesses to register with the FTA for Corporate Tax purposes, if they do not have a Business or Business Activity that is subject to Corporate Tax.[109] However, Exempt Persons are required to maintain records which evidence their exempt status for 7 years from the end of the Tax Period to which they relate.[110] This includes any information, accounts, documents and records to enable the Exempt Person's status to be readily ascertained by the FTA.

Although ordinarily exempt, Government Entities, Government Controlled Entities, Persons engaged in Extractive Businesses that meet the conditions under Article 7 of the Corporate Tax Law, and Persons engaged in Non-Extractive Natural Resource Businesses that meet the conditions under Article 8 of the Corporate Tax Law, may sometimes conduct Business that is within the scope of Corporate Tax.

For example, this occurs when a Government Entity has a Licence to conduct a commercial activity in its own name.[111] This could be, for example, in order to enter into partnership with a private sector Business to develop infrastructure, or in order to sell goods or services. These licensed activities are treated as if they are an independent Business and, insofar as the relevant taxable Business Activity is concerned, the Exempt Person will be treated as if they were a Taxable Person and subject to the obligations set out in the Corporate Tax Law, including, for example, to register for Corporate Tax and file a Tax Return in relation to their taxable Business or Business Activity.[112]

[108] Article 10(1)(c) of the Corporate Tax Law.
[109] Article 2(1) of Ministerial Decision No. 43 of 2023.
[110] Article 56(2) of the Corporate Tax Law.
[111] Article 5(2) of the Corporate Tax Law.
[112] Articles 5(3) and 5(4) of the Corporate Tax Law.

Example 6: Government Entity conducting independent Business

A Federal Government Authority, which is a Government Entity and Exempt Person for Corporate Tax purposes, offers tours of its offices to the public on Tuesdays and Wednesdays. The Authority charges an admission fee for these tours and has been issued with a Licence to conduct this Business. This is the only Business conducted by the Authority.

As the Authority is conducting a Business under a Licence, the Authority will be treated as a Taxable Person in relation to this Business only. The Authority must maintain Financial Statements and calculate the Taxable Income of the Business as if it were a separate and independent Business.

This does not impact the exempt status of the Authority and, therefore, it is not subject to Corporate Tax on any of its other income derived from its non-licensed activities that are an extension or part of the Government's sovereign and public functions.

6. What is subject to Corporate Tax?

6.1. Chapter summary

This chapter introduces the key concept of Taxable Income and explains how it is calculated. It provides details on exempt forms of income, allowable deductions and reliefs and the adjustments needed to determine the final Taxable Income amount. It also includes a description of transactions and arrangements between Related Parties and Connected Persons, including an explanation of the arm's length principle and the application of transfer pricing rules. This chapter also covers the treatment of Tax Losses and transitional rules.

6.2. Taxable Income

All tax laws define what is subject to tax, known as the tax base. For Corporate Tax purposes, the tax base is a Taxable Person's Taxable Income. The Taxable income is determined as follows:

- Resident Persons are subject to Corporate Tax on their income from both inside and outside the UAE.
- Non-Resident Persons with a Permanent Establishment or a nexus in the UAE are subject to Corporate Tax on income attributable to that Permanent Establishment or nexus. If the Non-Resident does not have a Permanent Establishment or a nexus in the UAE but derives income from the UAE, that income would be subject to withholding tax at the rate of 0%.
- Natural persons are only subject to Corporate Tax on the Taxable Income of their Business or Business Activity derived from the UAE, or from outside the UAE if it is connected to the Business or Business Activity being carried out in the UAE.

Taxable Income is determined by applying the adjustments set out in Section 6.2.2 to a Taxable Person's annual Accounting Income, which should be taken from the Financial Statements that are produced in accordance with accepted accounting standards. Accounting standards that are accepted in the UAE for Corporate Tax purposes are the International Financial Reporting Standards (IFRS), or IFRS for small and medium-sized entities (IFRS for SMEs) for a Taxable Person with Revenue of AED 50,000,000 or less in the relevant Tax Period.[113]

For those that already maintain accepted Financial Statements, these can be used in calculating Taxable Income and, provided evidence is maintained regarding any

[113] Article 20(1) of the Corporate Tax Law and Article 4 of Ministerial Decision No. 114 of 2023.

adjustments made, generally, there is no need to maintain two sets of records. This limits administrative burdens and ensures consistency in reporting.

For some businesses, becoming subject to Corporate Tax may involve new requirements to maintain Financial Statements, although there are certain administrative simplifications to support these businesses and manage such burdens. For example, eligible businesses may benefit from small business relief, meaning they do not need to calculate their Taxable Income and have reduced record keeping requirements (see Section 7.2).[114]

Taxable Persons can prepare Financial Statements using the Cash Basis of Accounting rather than the Accrual Basis of Accounting if their Revenue does not exceed AED 3,000,000 for the relevant Tax Period.[115] Businesses may also be able to apply to the FTA to make use of the Cash Basis of Accounting rather than the Accrual Basis of Accounting in exceptional circumstances.[116]

6.2.1. Tax Period

A Taxable Person's (other than a natural person) Tax Period is their Financial Year, or part thereof, for which a Tax Return is required to be filed.[117] This is usually the 12 month period for which they prepare their Financial Statements. If the Taxable Person does not prepare Financial Statements, their Financial Year will be the Gregorian calendar year (i.e. 1 January - 31 December).[118] The Tax Period of a Taxable Person which is a natural person is always the Gregorian calendar year.

If a Taxable Person wishes to change their Tax Period, they can make an application to the FTA to change the start and end date of their Tax Period.[119] This can be particularly relevant for Taxable Persons (whether incorporated in the UAE or elsewhere) that form part of a multinational group to avoid having to prepare two sets of accounts based on different periods.

For further details on change in Tax Period, readers are advised to consult FTA Decision No. 5 of 2023 on Conditions for Change in Tax Period.

[114] Article 21 of the Corporate Tax Law.
[115] Article 2(1) of Ministerial Decision No. 114 of 2023.
[116] Article 2(2) of Ministerial Decision No. 114 of 2023.
[117] Article 57(1) of the Corporate Tax Law.
[118] Article 57(2) of the Corporate Tax Law.
[119] Article 58 of the Corporate Tax Law.

6.2.2. Adjustments

The following adjustments should be considered in relation to a Taxable Person's Accounting Income to determine their Taxable Income:

- Unrealised gains or losses;[120]
- Exempt Income;[121]
- Deductions;[122]
- Reliefs for specific transaction types;[123]
- Transfer pricing adjustments relating to transactions between Related Parties or Connected Persons;[124] and
- Tax Losses.[125]

Further detail on each of these adjustments is provided below.

Other adjustments may be required in other specific cases, such as when determining the Taxable Income in relation to:

- Transfers within a Qualifying Group,
- Claiming business restructuring relief, and
- A partner in an Unincorporated Partnership.[126]

6.3. Unrealised gains and losses

It is common for assets or liabilities held by a Business to change in value for accounting purposes even where no actual transactions have taken place. For example, assets on the balance sheet may be revalued, or holdings of foreign currencies or loan liabilities denominated in a foreign currency may fluctuate with exchange rates.

As the value of an asset or liability changes, gains or losses could arise even where there has been no actual disposal or transfer (i.e. "realisation") of the asset or liability. Thus, where an asset has appreciated (i.e. increased in value) without being realised (e.g. sold), a Taxable Person could face potential tax liabilities despite receiving no

[120] Article 20(2)(a) of the Corporate Tax Law.
[121] Article 20(2)(b) of the Corporate Tax Law.
[122] Article 20(2)(d) of the Corporate Tax Law.
[123] Article 20(2)(c) of the Corporate Tax Law.
[124] Article 20(2)(e) of the Corporate Tax Law.
[125] Article 20(2)(f) of the Corporate Tax Law.
[126] Article 6 of Ministerial Decision No. 134 of 2023.

cash payment that could be used to fund the tax liability. A similar (but opposite) consideration also arises in relation to the Taxable Person's liabilities.

Taxable Persons are required to include any realised or unrealised gains and losses reported in the Financial Statements in the calculation of their Taxable Income, if they would not subsequently be recognised in their income statement.[127] This is unless they make the election to use the realisation basis as outlined in Section 6.3.1.

6.3.1. Election to use the Realisation Basis

For the purpose of calculating their Taxable Income, businesses who prepare their Financial Statements using the Accrual Basis of Accounting may elect to take into account gains and losses on a realisation basis.[128] Broadly, this election can be made either in relation to all assets and liabilities that are subject to fair value or impairment accounting under the applicable accounting standards (i.e. IFRS or IFRS for SMEs), or just those that are classified as capital under IFRS or IFRS for SMEs.[129]

Where the election has been made, the Taxable Person must exclude any unrealised gains and losses when the value of a non-Financial Asset changes.[130]

Additionally, where the election has been made, the Taxable Person will also exclude any change in the value of a liability or a Financial Asset when calculating gains or losses, unless they are calculating the gain or the loss upon the realisation of the liability or the Financial Asset.[131]

Upon realisation of the asset or liability, the Taxable Person will need to include any amounts that were not previously taken into account for Corporate Tax purposes as a result of the adjustments mentioned above.[132]

Realisation includes selling or disposing of the asset or liability, transferring it, settling it, or writing it off in accordance with the accounting standards applied by the Taxable Person (i.e. IFRS or IFRS for SMEs).[133]

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127 Article 2(1) of Ministerial Decision No. 134 of 2023.
128 Article 8(1) of Ministerial Decision No. 134 of 2023.
129 Article 20(3) of the Corporate Tax Law.
130 Articles 2(3)(a) and 2(4)(a) of Ministerial Decision No. 134 of 2023.
131 Articles 2(3)(b) and 2(4)(b) of Ministerial Decision No. 134 of 2023.
132 Articles 2(3)(c) and 2(4)(c) of Ministerial Decision No. 134 of 2023.
133 Article 9(2) of Ministerial Decision No. 134 of 2023.

The decision to make, or not make, an election to apply the realisation basis must be made by the Taxable Person during their first Tax Period, and will be deemed irrevocable except under exceptional circumstances and pursuant to approval by the FTA.[134] If the Taxable Person does not make the election to apply the realisation basis in their first Tax Period then this will be considered an irrevocable election in itself.

Example 7: Fair value gain on land

During the Financial Year ending 31 December 2025, C LLC, a UAE resident company, recognised a revaluation gain in its Financial Statements of AED 10,000,000 in respect of some land which is measured at fair value. The original cost of the land was AED 50,000,000 and following the revaluation the net book value of the land is AED 60,000,000. The land was not sold at the end of the Tax Period and, therefore, the revaluation gain is considered 'unrealised'.

If no election is made, C LLC would be subject to tax on the unrealised gain of AED 10,000,000 in relation to the Tax Period ending on 31 December 2025. However, if C LLC elects to apply the realisation basis in respect of all assets and liabilities that are subject to fair value or impairment accounting, then the company would not have to include the revaluation gain of AED 10,000,000 when calculating their Taxable Income for this Tax Period.

Example 8: Loss below original cost

During the Financial Year ending 31 December 2025, S LLC, a UAE resident company, recognised a revaluation loss in its Financial Statements in respect of an asset measured at fair value. The original cost of the asset was AED 250,000, and following the revaluation the net book value of the asset is AED 200,000.

The asset has not been sold at the end of the Tax Period. The revaluation loss of AED 50,000 is considered 'unrealised'.

6.4. Exempt Income

Several exemptions are provided for within the Corporate Tax regime.[135] The purpose of these exemptions is to either:

- exempt income and capital gains arising from the activity of another juridical person or a foreign branch on the basis that it has already been taxed; or

[134] Article 8(3) of Ministerial Decision No. 134 of 2023.

[135] Articles 22 to 25 of the Corporate Tax Law.

- align the UAE Corporate Tax treatment with international standards, and in particular in relation to the taxation of international transportation.

These exemptions are symmetrical: any expenditure incurred in deriving Exempt Income cannot be deducted for Corporate Tax purposes.[136] If expenditure is incurred for deriving both Taxable Income and Exempt Income, it must be apportioned, so that only the proportion of expenditure incurred wholly and exclusively for deriving Taxable Income will be deductible. If the proportion is not identifiable, then an appropriate proportion can be deducted if determined on a 'fair and reasonable' basis, having regard to all relevant facts and circumstances.[137]

What is fair and reasonable will depend on the circumstances and facts of each case. In many cases, there will be more than one method of apportioning expenses which is fair and reasonable to use. The fair and reasonable approach chosen should accurately reflect the underlying activity, should not be unnecessarily burdensome and complex for the Taxable Person to determine and justify, and for the FTA to understand and review.

Specific rules determine whether or not exemptions apply in particular circumstances. These are discussed in more detail below.

Example 9: Apportionment of expenditure relating to Exempt Income

C LLC is a UAE resident company which sells food and drink products in the UAE and around the world. As a result of its global operations, it has Permanent Establishments in several other countries. All of these countries impose corporate income tax, or a similar tax to Corporate Tax at a rate of more than 9%. C LLC has elected to exempt income and related expenditure from these Permanent Establishments when calculating its Taxable Income in accordance with the Foreign Permanent Establishment exemption rules under Article 24 of the Corporate Tax Law. (For further details on Foreign Permanent Establishment exemption, see Section 6.4.3)

C LLC enters into many contracts with suppliers and customers, both in the UAE and at its Permanent Establishments around the world. C LLC uses a Dubai-based legal firm to review and advise on all these global agreements. For this service, C LLC pays a fixed annual fee of AED 12,000,000. In the past year, C LLC's legal advisors reviewed 120 contracts - 85 in respect of its Taxable Income generating activity and 35 in respect of its Exempt Income generated by its Foreign Permanent Establishments.

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136 Article 28(2)(b) of the Corporate Tax Law.

137 Article 28(3) of the Corporate Tax Law.

When calculating its Taxable Income, C LLC cannot claim the deduction of the total cost of the legal services. This is because some of the legal work related to the Foreign Permanent Establishments and, as the income from these are exempted from Corporate Tax due to the election made by C LLC, any related expenditure must also be excluded from the calculation of Taxable Income.

Only the proportion of expenditure incurred wholly and exclusively for deriving Taxable Income will be deductible. However, C LLC pays a fixed fee for legal services and the expenditure incurred in relation to its Taxable Income cannot be identified. It is therefore necessary to determine an appropriate proportion on a fair and reasonable basis.

As C LLC can identify the proportion of contracts which were sent for review in relation to its Taxable Income and Exempt Income generating activities, one of the possible ways that C LLC could determine the amount of the legal costs that would be deductible could be to apportion the expenditure according to the split of Taxable Income and Exempt Income generating activities based on the number of contracts. In other words, when calculating its Taxable Income, C LLC could claim a deduction of AED 8,500,000 (AED 12,000,000 x 85/120) related to its Taxable Income generating activity and consider the remaining AED 3,500,000 of legal expenses as attributable to Exempt Income earned by the Foreign Permanent Establishments and, therefore, not deductible.

The above approach assumes that the amount of work associated with each contract is equal. If, for example, C LLC received an itemised statement showing the amount of time their legal advisors spent on each contract, the legal fee could be apportioned according to the time spent on each contract. If the itemised statement revealed that the foreign contracts were more complex, and the legal advisors spent half of their time (and, therefore, half of the fees) reviewing the 35 foreign contracts, C LLC could claim a deduction of AED 6,000,000 (AED 12,000,000 x 50%), and consider the remaining AED 6,000,000 of legal expenses as attributable to Exempt Income earned by the Foreign Permanent Establishments and, therefore, not deductible.

These are just two illustrative ways that C LLC could apportion the legal fees and, depending on the facts and circumstances. Other methods may also be considered appropriate.

6.4.1. Domestic dividends

Dividends, and other profit distributions, received from a Resident Person are exempt from Corporate Tax. There are no additional conditions a Taxable Person has to meet in order to benefit from this exemption.[138]

This reflects a distinction between payments a juridical person makes in order to earn its profits, and distributions it makes out of its profits which will already have been taxed under the Corporate Tax regime. This exemption also covers distributions made by a Resident Free Zone juridical person (whether qualifying or not) to another Resident Person.

Example 10: Distributions received from a juridical person that is a Resident Person

C LLC owns and operates a hotel in the UAE. C LLC's Accounting Income for the Tax Period was AED 8,000,000.

The income was mainly derived from operating the hotels it owns. However, it also owns 50% of F LLC, a UAE resident company. During the Tax Period, F LLC paid C LLC AED 700,000 in dividends. C LLC did not incur any expenditure in relation to its ownership of F LLC.

As dividends received from UAE Resident Persons are exempt from Corporate Tax, this amount should be excluded when calculating Taxable Income.

C LLC's Taxable Income (assuming no other adjustments), is therefore AED 7,300,000 (AED 8,000,000 – AED 700,000).

6.4.2. Income exempt under the participation exemption

6.4.2.1. Distributions received from foreign juridical persons

Dividends and other profit distributions received from foreign juridical persons are exempt from Corporate Tax if the recipient has a Participating Interest in the foreign company.[139] A Participating Interest is a significant long-term ownership interest in the shares or capital of a juridical person (the "Participation") that provides the basis for the exercise of some level of control or influence over the activities of the Participation. A Participating Interest exists where all of the following conditions are met:

[138] Article 22(1) of the Corporate Tax Law.
[139] Article 22(2) and 22(3) of the Corporate Tax Law.

- The Taxable Person has an ownership interest of 5% or greater in the shares or capital of the Participation which has been held, or is intended to be held, for a period of at least 12 months;[140]
- The Taxable Person is entitled to at least 5% of distributable profits and at least 5% of liquidation proceeds of the Participation;[141]
- No more than 50% of the Participation's assets consist of ownership interests that would not have qualified for an exemption from Corporate Tax if they were held directly by the Taxable Person.[142]
- The Participation is subject to Corporate Tax, or a similar tax, in the country in which it is resident at a rate of at least 9% (i.e. the "subject to tax" requirement).[143] A Participation is considered to meet this requirement for a given Tax Period when it is resident for tax purposes in a foreign jurisdiction throughout this same Tax Period, and:[144]
    - that jurisdiction has a headline statutory tax rate of at least 9%, or
    - it can demonstrate that it is subject to an effective tax on profits, income or equity of at least 9% in that jurisdiction.

The relief applies to various types of ownership interests.[145] Ownership interest includes holding any one or a combination of the following instruments:[146]

- Ordinary Shares;
- Preferred Shares;
- Redeemable Shares;
- Membership and Partner Interests; and
- Other types of securities, capital contributions and rights that entitle the owner to receive profits and liquidation proceeds.

In addition, an ownership interest with a historical acquisition cost of AED 4,000,000 or greater can qualify for the participation exemption.[147]

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[140] Article 23(2)(a) of the Corporate Tax Law.
[141] Article 23(2)(c) of the Corporate Tax Law.
[142] Article 23(2)(d) of the Corporate Tax Law.
[143] Article 23(2)(b) of the Corporate Tax Law.
[144] Article 6(1) of Ministerial Decision No. 116 of 2023.
[145] Article 3 of Ministerial Decision No. 116 of 2023.
[146] Article 2 of Ministerial Decision No. 116 of 2023.
[147] Article 8 of Ministerial Decision No. 116 of 2023.

The participation exemption will not apply if, under the Corporate Tax legislation applicable in the foreign jurisdiction, the Participation can claim a deduction for the dividend or other distributions made to the Taxable Person.[148]

Example 11: Exempt income from a Participating Interest

J LLC, a UAE resident company buys a 10% shareholding in K LLC, a juridical person resident in Country A and fully subject to tax in Country A, in the Tax Period ending 31 December 2025 for AED 1,000,000. This 10% shareholding entitles J LLC to receive 10% of K LLC's distributable profits and 10% of liquidation proceeds (if K LLC is liquidated).

In the Tax Period ending 31 December 2026, J LLC receives AED 14,000,000 in cash dividends from K LLC. The dividends will be exempt under the participation exemption.

In the Tax Period ending 31 December 2027, J LLC sells part of its shareholding in K LLC, after which it is left with a 3% shareholding in K LLC. The disposal will be exempt under the participation exemption.

In the Tax Period ending 31 December 2028, J LLC receives AED 3,000,000 in cash dividends from K LLC. This dividend will not be exempt because the conditions for the Participating Interest are no longer satisfied (i.e. holding 5% or greater, or acquisition cost in excess of AED 4,000,000 in the shareholding and being entitled to receive at least 5% of K LLC's distributable profits and liquidation proceeds of K LLC).

6.4.2.2. Participation exemption for other income and gains

Other income and gains may also be exempt if they are derived from a Participating Interest. This applies to holdings in both Resident and Non-Resident Participations. The requirements for a Participating Interest in both a Resident and Non-Resident are the same, save that in relation to a Participation Interest in a Resident, a Participation in a Qualifying Free Zone Person or an Exempt Person is considered to meet the subject to tax requirement.[149] If a Taxable Person holds a Participating Interest for a period of at least 12 months, or has the intention to do so, it will be exempt from Corporate Tax on:

[148] Article 23(6)(a) of the Corporate Tax Law.
[149] Article 23(4) of the Corporate Tax Law.

- Gains or losses on the transfer, sale, or other disposition of the whole or part of the Participating Interest;[150]
- Foreign exchange gains or losses in relation to a Participating Interest;[151] and
- Impairment gains or losses in relation to a Participating Interest.[152]

Expenditure incurred in relation to the acquisition, transfer, sale, or other disposition of the whole or part of the Participating Interest will not be deductible.[153] This includes professional fees, due diligence costs, litigation costs, commissions and brokerage fees, and other associated costs.[154]

Only income received by the Taxable Person in their capacity as a shareholder (i.e. as an owner of the ownership interest) can be exempt. Other income earned from the Participation from other relations, such as that of a debtor-creditor (e.g. Interest income received) or buyer-seller (e.g. service fee received), will remain subject to Corporate Tax.[155]

For further details on the participation exemption, readers are advised to consult Ministerial Decision No. 116 of 2023 on Participation Exemption.[156]

6.4.3. Foreign Permanent Establishment exemption

To eliminate or reduce potential international double taxation, a Resident Person can make an election when determining its Taxable Income to have income derived from Foreign Permanent Establishments exempted from Corporate Tax in the UAE.[157]

Where such an election is made, the Resident Person will not need to include the following items in their Taxable Income:

- Income, and associated expenditure, in any of its Foreign Permanent Establishments;[158] and
- Losses in any of its Foreign Permanent Establishments.[159]

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[150] Article 23(5)(b) of the Corporate Tax Law.
[151] Article 23(5)(c) of the Corporate Tax Law.
[152] Article 23(5)(d) of the Corporate Tax Law.
[153] Article 10(1) of Ministerial Decision No. 116 of 2023.
[154] Article 10(2) of Ministerial Decision No. 116 of 2023.
[155] Article 11 of Ministerial Decision No. 116 of 2023.
[156] Ministerial Decision No. 116 of 2023.
[157] Article 24(1) of the Corporate Tax Law.
[158] Article 24(2)(b) of the Corporate Tax Law.
[159] Article 24(2)(a) of the Corporate Tax Law.

In addition, any Foreign Tax Credit that would have been available if the election had not been made will not be available to be used by the Resident Person.[160]

In determining income and associated expenditure, a Resident Person and its Foreign Permanent Establishments must be treated as separate and independent Businesses. Any transactions which take place between them must be treated as having taken place at Market Value.[161]

In the case of deciding to exclude the income, expenses and losses of the Foreign Permanent Establishments from the calculation of Taxable Income, the election will only apply to the Resident Person's Foreign Permanent Establishments which are subject to Corporate Tax, or a tax of a similar character to Corporate Tax, in the relevant foreign country at a rate of not less than 9% (i.e. the "subject to tax requirement").[162]

The election must apply to all foreign Permanent Establishments that meet the subject to tax requirement.[163] A Resident Person may not elect to apply the exemption for specific Permanent Establishments.

Example 12: Exempt Income from Foreign Permanent Establishments

K LLC is a UAE resident corporation. In addition to its main business operations being conducted in the UAE, K LLC has Foreign Permanent Establishments in three foreign jurisdictions, Country A, Country B and Country C. After applying all relevant adjustments, K LLC's Taxable Income for the Tax Period was AED 15,600,000. This included the following income and expenditure from each of its Foreign Permanent Establishments:

Country	**Country A**	**Country B**	**Country C**
Gross Income (AED)	750,000	2,550,000	3,700,000
Expenditure (AED)	200,000	3,400,000	1,750,000

K LLC decides to make an election to not take into account income and expenditure from its Foreign Permanent Establishments. While the Foreign Permanent

160 Article 24(2)(c) of the Corporate Tax Law.
161 Articles 24(4) and 24(5) of the Corporate Tax Law.
162 Article 24(7) of the Corporate Tax Law.
163 Article 24(6) of the Corporate Tax Law.

Establishments in Country A and Country B are subject to tax similar in character to Corporate Tax at a rate of more than 9% in their respective countries, the corporate income tax rate in Country C is 5%. This is below the Corporate Tax threshold and means that the income and expenditure related to K LLC's Foreign Permanent Establishment in Country C will remain part of its Taxable Income. The exemption does not apply in this case.

Even though the Foreign Permanent Establishment in Country A made a profit in the Tax Period, whilst the Foreign Permanent Establishment in Country B made a loss, K LLC must apply the exemption to all its Foreign Permanent Establishments that meet the "subject to tax" requirement. It cannot select solely to include the losses from Country B without including the profits from Country A.

K LLC Taxable Income	15,600,000
Less	
Country A Permanent Establishment Income	750,000
Country B Permanent Establishment Income	2,550,000
Plus	
Country A Permanent Establishment Expenditure	200,000
Country B Permanent Establishment Expenditure	3,400,000
Equals	
K LLC final Taxable Income	15,900,000

6.4.4. Income from operating aircraft or ships in international transportation

The UAE is a major international logistics and transportation hub and, in recognition of this, income earned by a Non-Resident Person from the operation of aircraft or ships in international transportation is exempt from Corporate Tax if certain conditions are met.[164]

In this regard, the Non-Resident Person should be in the Business of:

- International transport of passengers, livestock, mail, parcels, merchandise or goods by air or sea;
- Leasing or chartering aircrafts or ships used in international transportation; or
- Leasing of equipment which is integral to the seaworthiness of ships or airworthiness of aircrafts used in international transportation.[165]

In addition, the exemption only applies if the country in which the Non-Resident Person resides provides an equivalent exemption from Corporate Tax, or a similar tax, to UAE Resident Persons engaged in the operation of aircraft or ships in international transportation.[166] This is known as the "reciprocity" principle and is consistent with international norms in the taxation of international transportation.

6.5. Deductions

6.5.1. General deductibility rules

Accounting Income is calculated by deducting a business's expenditure from the Revenue generated in the same period. However, not all expenditure recognised under general accounting rules is deductible for Corporate Tax purposes. Non-deductible expenditure will need to be added back to Accounting Income when calculating Taxable Income.

The general rule is that expenditure must be incurred wholly and exclusively for the purposes of the Taxable Person's Business and must not be capital in nature for the expenditure to be deductible for Corporate Tax purposes.[167] Additional specific deduction rules are applicable for entertainment and Interest expenditure.

6.5.2. Wholly and exclusively incurred expenditure

It is necessary to consider the purpose for incurring the expenditure to assess whether it can be deducted for Corporate Tax purposes. For it to be fully deductible, the expenditure needs to be incurred "wholly and exclusively" for Business purposes,

[164] Article 25 of the Corporate Tax Law.
[165] Article 25(1) of the Corporate Tax Law.
[166] Article 25(2) of the Corporate Tax Law.
[167] Article 28(1) of the Corporate Tax Law.

which means that the full amount has been incurred solely for these purposes. If the expenditure is incurred for non-Business purposes, then it must be added back when calculating Taxable Income.[168]

Example 13: The importance of a Taxable Person's purpose when incurring expenditure

If an individual operating through a sole establishment carries on a Business administering an online sales platform and such individual pays for dental work for themselves, then it is likely that such expenditure will not have been incurred for the purposes of the Business. Rather, it was incurred for their own private purposes and the expenses would not be deductible for Corporate Tax purposes.

Furthermore, if a company that owns an online sales platform pays for the dental work of its owner (shareholder) who is not involved in the operation of the company, then such expenditure also will not have been incurred for the purposes of the Business. The expense was for the purpose of providing a personal benefit to an owner and as such the expenses would not be deductible for Corporate Tax purposes.

If expenditure is incurred partly for Business purposes and partly for some other purposes, the amount must be apportioned so that only the part relating to the derivation of Taxable Income will be allowed as a deduction. This includes any identifiable part or proportion of the expenditure incurred wholly and exclusively for Business purposes, as well as an amount that has been apportioned determined on a fair and reasonable basis.[169]

What is fair and reasonable will depend on the circumstances and facts of each case. In many cases, there would be more than one method of apportioning expenses which is fair and reasonable to use. The fair and reasonable approach chosen should accurately reflect the underlying activity, should not be unnecessarily burdensome and complex for the Taxable Person to determine and justify, and for the FTA to understand and review.

Example 14: Apportionment of non-business expenditure

Mr A is a florist. He owns a delivery van which is primarily used for collecting supplies and making deliveries to customers. However, outside of regular business hours, Mr A uses the van for personal errands, such as shopping and driving his children to school.

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[168] Article 28(2)(a) of the Corporate Tax Law.

[169] Article 28(3) of the Corporate Tax Law.

Throughout the Tax Period, Mr A recorded the mileage of his business and personal journeys. The mileage records revealed that journeys made for a business purpose accounted for 60% of the use of the van, while the remaining 40% of use related to Mr A's personal use of the van.

Mr A's Accounting Income for the Tax Period is AED 4,500,000. Vehicle expenses were calculated to be AED 120,000.

The vehicle expenses were not incurred wholly and exclusively for the purposes of Mr A's Business and a deduction can, therefore, not be claimed on the vehicle expenses in full. However, as Mr A can identify the proportion which relates to Business use (60% of journeys), AED 72,000 (60% of AED 120,000) can be claimed as an expense deduction. The remaining 40% (AED 48,000) cannot be deducted as an expense for Corporate Tax purposes.

In order to reflect that 40% of vehicle expenses are disallowed, when calculating his Taxable Income, Mr A must add AED 48,000 back to his Accounting Income. Mr A's Taxable Income, assuming that no other adjustments need to be made, would thus be AED 4,548,000 (AED 4,500,000 + AED 48,000).

6.5.3. Capital expenditure

Capital expenditure is expenditure that creates an enduring benefit to a business and is not deductible for Corporate Tax purposes. This is in contrast to revenue expenditure which supports the day-to-day operations of the business. For example, purchasing a long-term asset like machinery would be a capital expense but paying for routine maintenance to keep the machinery running would be a revenue expense. The question of whether expenditure is of a capital or revenue nature will depend on the particular facts and circumstances, and will need to be determined on a case by case basis.

While capital expenditure is not deductible, the depreciation of the costs of capital assets is a deductible expense for Corporate Tax purposes. Depreciation is an accounting concept which allows for the cost of an asset to be spread over the life of the asset (representing the reduction of the asset's value), even though there is no cash outlay to the business.

Example 15: Capital or revenue expenditure

If a building contractor buys a car for use by office staff, this car will bring an enduring benefit to the business, and will be treated as a capital asset. Therefore, the expenditure incurred in acquiring this vehicle will likely not be deductible for Corporate Tax purposes.

The costs of maintaining this vehicle will be deductible as they do not provide an enduring benefit to the business.

On the other hand, if the same car was purchased by a car dealership business to be resold, then the costs of acquiring the vehicle would likely be treated as deductible for Corporate Tax purposes, as in this case, the car is more akin to inventory and the cost would be revenue in nature.

Example 16: Capital or revenue expenditure

A cake shop buys a computer for use by office staff, and this computer has an expected useful economic life of 5 years.

The initial expenditure for acquiring this computer will likely be treated as capital expenditure and not be deductible for Corporate Tax purposes, as this expenditure brings an enduring benefit to the business. If the business recognises a depreciation expense over the useful life of the asset, then this expenditure is deductible in the year the depreciation expense is recognised.

6.5.4. Special rules for the deductibility of certain expenses

6.5.4.1. Interest expenditure

Businesses regularly borrow money and take out loans for a wide variety of reasons, for example to purchase business assets, to meet costs, or increase working capital. As a result, Interest is a common business expense.

Interest expenditure can be deducted when calculating Taxable Income for the Tax Period in which it is incurred.[170] However, there are some limitations on the deduction of Interest expenditure.[171]

[170] Article 29 of the Corporate Tax Law.

[171] Articles 30 and 31 of the Corporate Tax Law.

General Interest Deduction Limitation Rule

The Corporate Tax Law refers to the amount of Interest that is deductible as Net Interest Expenditure. Net Interest Expenditure is the difference between the amount of Interest expenditure incurred (including any carried forward Net Interest Expenditure) and the Interest income derived during a Tax Period.[172]

When the Net Interest Expenditure exceeds AED 12,000,000 in a Tax Period, the amount of deductible Net Interest Expenditure is the greater of:

- 30% of EBITDA (earnings before the deduction of Interest, tax, depreciation and amortisation) for a Tax Period, calculated as the Taxable Income for the Tax Period with adjustments for:[173]
    - Net Interest Expenditure for the relevant Tax Period,
    - Depreciation and amortisation expenditure taken into account in determining the Taxable Income for the relevant Tax Period, and
    - Any Interest income or expenditure relating to historical financial assets or liabilities held prior to 9 December 2022.

  and,
- the de minimis threshold of AED 12,000,000.[174]

This is known as the "General Interest Deduction Limitation Rule".

For the purpose of the General Interest Deduction Limitation Rule, any amount on Islamic Financial Instruments that is economically equivalent to Interest under a conventional financing arrangement will be treated as Interest.[175]

Any Net Interest Expenditure disallowed in a Tax Period by the General Interest Deduction Limitation Rule can be carried forward and utilised in the subsequent 10 Tax Periods in the order in which the amount was incurred, subject to the same conditions.[176]

The General Interest Deduction Limitation Rule does not apply to:

- Banks;[177]

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172 Article 30(2) of the Corporate Tax Law.
173 Article 30(1) of the Corporate Tax Law and Article 9(1) of Ministerial Decision No. 126 of 2023.
174 Article 8 of Ministerial Decision No. 126 of 2023.
175 Article 4 of Ministerial Decision No. 126 of 2023.
176 Article 30(4) of the Corporate Tax Law.
177 Article 30(6)(a) of the Corporate Tax Law.

- Insurance Providers;[178] or
- Natural persons undertaking a Business or Business Activity in the UAE.[179]

In addition, Resident Persons who are responsible for, or who facilitate the provision, maintenance, or operation of Qualifying Infrastructure Projects, i.e. specific long-term infrastructure projects that meet the following conditions, shall not be subject to the General Interest Deduction Limitation Rule in relation to Net Interest Expenditure incurred from the financing of these projects. A project will be considered as a Qualifying Infrastructure Project where all the following conditions are met:[180]

- It is exclusively for the public benefit of the UAE;
- It is exclusively for the purposes of providing transport, utilities, education, healthcare or any other service within the UAE as may be specified by the Minister;
- Its assets may not be disposed of at the discretion of the relevant Qualifying Infrastructure Project Person;
- The assets provided, operated or maintained by the project should last, or be expected to last for at least ten years, or another period as may be specified by the Minister;
- The project assets are situated in UAE's Territory;
- All of the project's Interest income and Interest expenditure arise in the UAE; and
- The project satisfies any other conditions that may be prescribed by the Minister.

If Net Interest Expenditure is below the AED 12,000,000 de minimis threshold for a Tax Period, the General Interest Deduction Limitation Rule does not apply.[181] This means that, subject to the provision of Article 30 of the Corporate Tax Law, the full amount of Interest expenditure incurred in a Tax Period can be deducted.

Additionally, limitations on the deduction of Interest may impact the commerciality of some financing arrangements. As such, financing arrangements agreed prior to the publication date of the Corporate Tax Law (i.e. 9 December 2022), and that meet the other conditions specified in Ministerial Decision No. 126 of 2023, are not subject to the General Interest Deduction Limitation Rule restrictions.[182]

[178] Article 30(6)(b) of the Corporate Tax Law.
[179] Article 30(6)(c) of the Corporate Tax Law.
[180] Article 14(c) of Ministerial Decision No. 126 of 2023.
[181] Article 8(1) of Ministerial Decision No. 126 of 2023.
[182] Article 11 of Ministerial Decision No. 126 of 2023.

Example 17: General Interest Deduction Limitation Rule

C LLC has Revenue of AED 150,000,000, adjusted EBITDA of AED 130,000,000 and Profit Before Tax of AED 60,000,000 for its Financial Year ending 31 December 2025. In 2025, C LLC incurs costs including Interest expenditure of AED 80,000,000. C LLC also receives Interest income of AED 30,000,000, resulting in a Net Interest Expenditure of AED 50,000,000.

C LLC may deduct its Net Interest Expenditure of AED 50,000,000 up to the greater of 30% of its adjusted EBITDA or the de minimis of AED 12,000,000. 30% of C LLC's adjusted EBITDA of AED 130,000,000 would be AED 39,000,000, which is above the de minimis and, hence, is the maximum deductible Net Interest Expenditure in 2025.

C LLC's total Net Interest Expenditure in 2025 is AED 50,000,000 and C LLC may only deduct AED 39,000,000 of Net Interest Expenditure in this Tax Period. AED 11,000,000 of Net Interest Expenditure would be disallowed in 2025 and carried forward to the subsequent Tax Periods (up to 10 Tax Periods).

In the Financial Year ending 31 December 2026, C LLC had Revenue of AED 200,000,000, adjusted EBITDA of AED 180,000,000 and Profit Before Tax of AED 140,000,000. C LLC incurs Interest expenditure of AED 80,000,000 and also receives Interest income of AED 60,000,000, resulting in a Net Interest Expenditure of AED 20,000,000 for 2026.

In 2026, 30% of C LLC's adjusted EBITDA of AED 180,000,000 would be AED 54,000,000, which is above the de minimis and, hence, is the maximum deductible Net Interest Expenditure in 2026. C LLC can deduct all of its Net Interest Expenditure in the period of AED 20,000,000, as well as an additional amount up to AED 34,000,000 of Net Interest Expenditure in the period. Hence, it may utilise its carried forward Net Interest Expenditure of AED 11,000,000 from 2025 and further reduce its Taxable Income in 2026. This would result in a Taxable Income of AED 129,000,000 for 2026.

Specific Interest deduction limitation

No deduction is allowed for Interest expenditure incurred on a loan obtained, directly or indirectly, from a Related Party in respect of any of the following transactions:

- A dividend or profit distribution to a Related Party;[183]

[183] Article 31(1)(a) of the Corporate Tax Law.

- A redemption, repurchase, reduction or return of share capital to a Related Party;[184]
- A capital contribution to a Related Party;[185] or
- The acquisition of an ownership Interest in a Business that is, or becomes, a Related Party following the acquisition.[186]

The purpose of this provision is to prevent the Corporate Tax base from being eroded by transactions and arrangements between Taxable Persons and their Related Parties for the sole or main purpose of creating deductible interest expenditure where the income derived from the relevant transaction or arrangement can benefit from an exemption from Corporate Tax.

Whilst generally these deductions are not allowable for Corporate Tax purposes, the deduction restriction does not apply if the Taxable Person can demonstrate that the main purpose of obtaining the loan and carrying out the transaction is not to gain a Corporate Tax advantage.[187] This will be based on the specific facts and circumstances applicable to each transaction. However, if it can be demonstrated that the Related Party receiving the Interest is subject to Corporate Tax or a similar tax in a foreign country at a rate of at least 9% on the Interest income, then no Corporate Tax advantage will be deemed to have arisen.[188]

Example 18: Interest expenditure

M LLC is a UAE resident company which operates hotels globally. M LLC is wholly owned by P Ltd registered in Country A, a foreign jurisdiction. During the Tax Period ending December 2026, M LLC borrowed money from an unrelated commercial lender to finance the completion of a new hotel complex and paid AED 14,000,000 in Interest.

During the same Tax Period, M LLC borrowed funds from Q LLC at a rate higher than the rate offered by the unrelated commercial lender and paid AED 4,000,000 in Interest. The purpose of this loan was to enable M LLC to make a dividend payment to P Ltd. Q LLC is registered in Country B, a foreign jurisdiction, and is wholly owned by P Ltd - the same company which owns M LLC, making Q LLC a Related Party of M LLC.

Q LLC is not subject to Corporate Tax, or any similar tax, on the Interest received.

[184] Article 31(1)(b) of the Corporate Tax Law.
[185] Article 31(1)(c) of the Corporate Tax Law.
[186] Article 31(1)(d) of the Corporate Tax Law.
[187] Article 31(2) of the Corporate Tax Law.
[188] Article 31(3) of the Corporate Tax Law.

M LLC's EBITDA in Tax Period ending December 2026 was AED 55,000,000. The total Interest expenditure in the Tax Period was AED 18,000,000 and no Interest was earned. Additionally, M LLC had AED 7,500,000 of Net Interest Expenditure carried forward from the previous Tax Period ending December 2025.

In line with the rules on deductions for Interest expenditure, M LLC can only deduct Net Interest Expenditure if it is less than 30% of EBITDA. This means that M LLC can deduct up to the greater of 30% of its adjusted EBITDA or the de minimis of AED 12,000,000. 30% of M LLC's adjusted EBITDA of AED 55,000,000 would be AED 16,500,000, which is above the de minimis and, hence, is the maximum deductible Net Interest Expenditure.

When determining Net Interest Expenditure, any disallowable expenditure must be excluded.

Given that C LLC obtained the loan from Q LLC to make a dividend payment, the interest on this loan is disallowed automatically by Article 31 of the Corporate Tax Law, unless the taxpayer can show that the main purpose of obtaining this loan is not to gain a Corporate Tax advantage. M LLC did not obtain the loan on an arm's length basis, and based on the facts above, the only reason M LLC obtained a loan was to claim interest and reduce its taxable income

Thus, this amount must be excluded and no deduction can be claimed for Corporate Tax purposes. M LLC's Net Interest Expenditure for the Tax Period ending December 2026 is, therefore, AED 14,000,000 (AED 18,000,000 – AED 4,000,000).

As M LLC's Net Interest Expenditure of AED 14,000,000 is lower than the limit of AED 16,500,000, the brought forward Net Interest Expense can be utilised at the amount of AED 2,500,000 (AED 16,500,000 – AED 14,000,000). The carried forward Net Interest Expenditure is then reduced to AED 5,000,000 (AED 7,500,000 – AED 2,500,000). The maximum amount M LLC can claim as a deduction for Net Interest Expenditure in the Tax Period ending December 2026 is AED 16,500,000.

Given that the Net Interest Expenditure is AED 14,000,000, and M LLC was allowed to utilise AED 16,500,000, a further deduction of AED 2,500,000 is made from Accounting Income when calculating its Taxable Income. As above, the disallowed AED 4,000,000 will also be adjusted for.

The remaining carried forward Net Interest Expenditure amount of AED 5,000,000 can be carried forward and deducted in the subsequent 10 Tax Periods after the interest expenditure arose in the order in which the amount was incurred and subject to the same interest capping rules.

For further details on the General Interest Deduction Limitation Rule, readers are advised to consult Ministerial Decision No. 126 of 2023 on the General Interest Deduction Limitation Rule.

6.5.4.2. Entertainment expenditure

It is common for costs to be incurred to entertain customers, shareholders, suppliers, or other business partners. However, this type of entertainment often contains a private element that would prevent the expenditure from being wholly and exclusively incurred for Business purposes.

As the private element can be difficult to estimate and apportion when looking at entertainment expenditure, a 50% deduction is allowed for Corporate Tax purposes in all cases of this type of expenditure.[189]

Entertainment expenditure includes expenditure in connection with meals, accommodation, transportation, admission fees, as well as facilities and equipment used in connection with such entertainment.[190]

Entertainment expenditure may include personal non-business expenditure, requiring the expenditure to be apportioned. Where the entertainment expenditure is not wholly and exclusively incurred for the purposes of the business, a Taxable Person will need to identify the appropriate proportion to be treated as entertainment expenditure and only 50% of that proportion will be deductible.

Example 19: Entertainment expenditure

A family owned company owns a box at a football stadium, which is only used to entertain the company's clients. There is a business purpose so the wholly and exclusively rule is satisfied. In this case, 50% of the cost would be treated as deductible as entertainment expenditure. The remaining 50% is not deductible.

Conversely, if the box was used by the owner's (the shareholder's) own family, the expenditure would be disallowed entirely as this would be personal consumption without a business purpose.

[189] Article 32(1) of the Corporate Tax Law.
[190] Article 32(2) of the Corporate Tax Law.

The deductibility limitation does not apply for expenditure incurred for staff entertainment. This means that, for example, the cost of internal entertainment such as staff parties can be fully deducted for Corporate Tax purposes unless the staff are family members and the event is private in nature (such as a wedding).

Example 20: Entertainment expenditure

R LLC is a manufacturer of IT equipment, which recently decided to expand its operations by opening a new factory. In order to celebrate the opening of the new factory and generate sales, R LLC entertained a number of customers at the new facility. R LLC's Accounting Income for the Tax Period was AED 7,000,000, which included AED 300,000 of business entertainment expenditure.

As only 50% of business entertainment expenditure is an allowable deduction for Corporate Tax purposes, AED 150,000 must be added back to R LLC's Accounting Income when calculating its Taxable Income. Therefore, assuming there is no other adjustment which must be made, R LLC's Taxable Income for the Tax Period is AED 7,150,000.

6.5.5. Non-deductible expenses

Aside from the circumstances discussed above, deductions are also specifically disallowed for:

- Expenditure not incurred for the purposes of the Taxable Person's Business;[191]
- Expenditure incurred in deriving Exempt Income;[192]
- Losses not connected with or arising out of the Taxable Person's Business;[193]
- A donation, grant or gift made to an organisation that is not a Qualifying Public Benefit Entity (see Section 5.7.4.2);[194]
- Any fines and penalties, other than amounts awarded as compensation for damages or breach of contract;[195]
- Bribes;[196]

[191] Article 28(2)(a) of the Corporate Tax Law.
[192] Article 28(2)(b) of the Corporate Tax Law.
[193] Article 28(2)(c) of the Corporate Tax Law.
[194] Article 33(1) of the Corporate Tax Law.
[195] Article 33(2) of the Corporate Tax Law.
[196] Article 33(3) of the Corporate Tax Law.

- Dividends, profit distributions or benefits of a similar nature paid to an owner of the Taxable Person;[197]
- Amounts withdrawn from the Business by a natural person who is a Taxable Person or a partner in an Unincorporated Partnership; [198]
- Corporate Tax;[199]
- Recoverable input VAT;[200]
- Tax on income imposed outside the UAE (however, tax relief may be available as a Foreign Tax Credit);[201] and
- Contributions made by employers to a private pension fund in respect of its employees which are not paid in the Tax Period or are in excess of 15% of the employee's total remuneration in the relevant Tax Period.[202]

6.6. Transactions between Related Parties and Connected Persons, and transfer pricing rules

Where two parties are closely linked, their relationship may influence any transactions between them. There are rules in place to ensure that these closely linked parties (known as Related Parties) do not manipulate the values of transactions between themselves in order to obtain a Corporate Tax advantage.

Related Parties must apply the "arm's length principle" when entering into a transaction or arrangement with each other. This means that the price of a transaction between Related Parties should be the same as if the transaction had taken place between two unrelated independent parties.[203]

Where the price of the transaction or arrangement between Related Parties is not considered to be at arm's length, the FTA will adjust the Taxable Person's Taxable Income to achieve the arm's length result that best reflects the circumstances of the transaction or arrangement.[204]

If the FTA makes an adjustment to a transaction or arrangement involving a Taxable Person to meet the arm's length standard, it shall also make a corresponding

[197] Article 33(4) of the Corporate Tax Law.
[198] Article 33(5) of the Corporate Tax Law.
[199] Article 33(6) of the Corporate Tax Law.
[200] Article 33(7) of the Corporate Tax Law.
[201] Articles 33(8) and 47 of the Corporate Tax Law.
[202] Article 5(2) of Ministerial Decision No. 115 of 2023.
[203] Article 34(2) of the Corporate Tax Law.
[204] Article 34(8) of the Corporate Tax Law.

adjustment to the Taxable Income of the Related Party that is a party to the relevant transaction or arrangement.[205]

Ministerial Decision No. 134 of 2023 sets out the adjustments that must be made when calculating the Taxable Income from the transfer of an asset or liability between Related Parties.[206]

If a foreign tax authority makes an adjustment to a transaction or arrangement involving a Taxable Person to meet the arm's length standard, the Taxable Person can make an application to the FTA to make a corresponding adjustment to its UAE Taxable Income.[207]

A corresponding adjustment is an adjustment to the Corporate Tax liability of a UAE Taxable Person following a primary adjustment made by a foreign tax authority to the taxable base of a Related Party to the UAE Taxable Person, so that the allocation of profits by both jurisdictions is consistent. The purpose of such an adjustment is to prevent double taxation (or double non-taxation) which could arise as a result of the primary transfer pricing adjustment.

6.6.1. Related Parties

Broadly, a Related Party is an individual or juridical person that has a pre-existing relationship with another Person through ownership, Control or kinship (in the case of individuals). With respect to ownership and Control, it is internationally common to set the related party ownership threshold at 50% or more, on the basis that a simple majority is typically sufficient to exert influence and direction over another entity.

Two Persons are considered Related Parties for Corporate Tax purposes if they are:

- Two or more natural persons related to the fourth degree of kinship or affiliation, including by adoption or guardianship;[208] This would include the following:
    - The first-degree of kinship and affiliation includes a natural person's parents and children, as well as the parents and children of their spouse;
    - The second-degree of kinship and affiliation additionally includes a natural person's grandparents, grandchildren, and siblings, as well as the grandparents, grandchildren, and siblings of their spouse;

[205] Article 34(10) of the Corporate Tax Law.
[206] Article 3 of Ministerial Decision No. 134 of 2023.
[207] Article 34(11) of the Corporate Tax Law.
[208] Article 35(1)(a) of the Corporate Tax Law and Federal Law No. 5 of 1985 on the Issuance of Civil Transactions Law, and its amendments.

- The third-degree of kinship and affiliation additionally includes a natural person's great-grandparents, great grandchildren, uncles, aunts, nieces and nephews, as well as the great-grandparents, great grandchildren, uncles, aunts, nieces and nephews of their spouse;
- The fourth-degree of kinship and affiliation additionally includes a natural person's great-great-grandparents, great-great-grandchildren, grand uncle, grand aunt, grandniece, grandnephew and first cousins, as well as the great-great-grandparents, great-great-grandchildren, grand uncle, grand aunt, grandniece, grandnephew and first cousins of their spouse.

- A natural person and a juridical person where:
  - The natural person, or one or more Related Parties of the individual, are shareholders in the juridical person, and the natural person, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in the juridical person; or
  - The natural person, alone or together with its Related Parties, directly or indirectly Controls the juridical person.[209]
- Two or more juridical persons where:
  - One juridical person, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in the other juridical person; or
  - One juridical person, alone or together with its Related Parties, directly or indirectly Controls the other juridical person; or
  - Any Person, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in or Controls such two or more juridical persons;[210] or
- A Person and its Permanent Establishment or Foreign Permanent Establishment;[211]
- Two or more Persons that are partners in the same Unincorporated Partnership;[212] or
- A Person who is the trustee, founder, settlor or beneficiary of a trust or foundation, and the trust or foundation, including the trust's or foundation's Related Parties.[213]

[209] Article 35(1)(b) of the Corporate Tax Law
[210] Article 35(1)(c) of the Corporate Tax Law
[211] Article 35(1)(d) of the Corporate Tax Law
[212] Article 35(1)(e) of the Corporate Tax Law
[213] Article 35(1)(f) of the Corporate Tax Law

6.6.2. Control

For the purposes of determining whether two or more Persons are Related Parties, Control means the ability of a Person, in their own right or by agreement, to influence another Person including through the ability to, among others:

- Exercise 50% or more of the voting rights of another Person;[214]
- Determine the composition of 50% or more of the board of directors of another Person;[215]
- Receive 50% or more of the profits of another Person;[216] or
- Determine, or exercise significant influence over, the conduct of the Business and affairs of another Person.[217]

6.6.3. Connected Persons

Payments or benefits provided by a Taxable Person to its Connected Persons are deductible only to the extent that the payment or benefit corresponds with the Market Value of the service or benefit provided by the Connected Person, and where the payment or benefit is incurred wholly and exclusively for the purposes of the Taxable Person's Business.[218]

For example, an owner of a business will be able to deduct their salary when determining the Business' Taxable Income but only insofar as this salary corresponds with the Market Value. In order to determine if the value of a service or benefit provided matches its Market Value, the arm's length principle should be applied.[219]

Connected Persons capture a broader group of Persons than Related Parties. A Connected Person of a Taxable Person is:

- A natural person who directly or indirectly owns an ownership interest in, or Controls, the Taxable Person (for example, the individual owner of a limited liability company);[220]

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[214] Article 35(2)(a) of the Corporate Tax Law
[215] Article 35(2)(b) of the Corporate Tax Law
[216] Article 35(2)(c) of the Corporate Tax Law
[217] Article 35(2)(d) of the Corporate Tax Law.
[218] Article 36(1) of the Corporate Tax Law.
[219] Article 36(5) of the Corporate Tax Law.
[220] Article 36(2)(a) of the Corporate Tax Law.

- A director or officer of the Taxable Person (for example, a Managing Director of a limited liability company);[221] or
- A Related Party of either of the above Persons (for example, a son of the owner of a limited liability company).[222]

This limitation does not apply to a company whose shares are traded on a Recognised Stock Exchange, or a Taxable Person that is subject to the regulatory oversight of a competent authority in the UAE.[223]

Example 21: Related Parties, Control and Connected Persons

Mr B is a first cousin of Ms C.

Mr B owns 75% of B LLC.

Ms C owns 20% of C LLC. She owns preferential shares which entitle her to 60% of the voting rights in C LLC.

Ms C is also a partner in an Unincorporated Partnership, JKL Partners. The other partner is a UAE corporation, D Ltd.

Mr B and Ms C are Related Parties - they are related to the fourth degree of kinship.

Mr B and B LLC are Related Parties - Mr B is an individual who owns more than 50% of the juridical person B LLC.

Mr B and C LLC are Connected Persons - Mr B is an individual who is related to Ms C and Ms C owns more than 50% of the voting rights in C LLC.

Ms C and C LLC are Related Parties - Ms C is an individual who Controls a juridical person, C LLC, as she holds more than 50% of the voting rights in C LLC.

Ms C and D Ltd are Related Parties - they are partners in the same Unincorporated Partnership.

B LLC and D Ltd are unrelated juridical persons.

Ms C and B LLC are Connected Persons - Ms C is Mr B's first cousin and Mr B owns

221 Article 36(2)(b) of the Corporate Tax Law.
222 Article 36(2)(c) of the Corporate Tax Law.
223 Article 36(6) of the Corporate Tax Law.

more than 50% of B LLC.

6.6.4. Transfer pricing

Transfer pricing rules aim to ensure that the price of a transaction is not influenced by the relationship between the parties involved. In order to achieve this and to avoid artificially profit shifting, the internationally recognised arm's length principle is used for transactions between Related Parties and Connected Persons. The transfer pricing rules apply to both cross-border and domestic transactions carried out by juridical persons and individuals.

6.6.4.1. General transfer pricing disclosure requirements

Taxable Persons may be subject to certain transfer pricing disclosure requirements in case of entering into transactions or arrangements with Related Parties, which may allow the FTA to conduct a comprehensive and reasonable transfer pricing risk assessment, and confirm whether these transactions with Related Parties and Connected Persons have been conducted in accordance with the arm's length principle.[224]

The FTA can require a Taxable Person to disclose information regarding their transactions and arrangements with their Related Parties and Connected Persons, together with their Tax Return.[225]

The purpose of maintaining transfer pricing related information is to describe how the Taxable Person has determined the transfer prices of transactions with Related Parties and Connected Persons, and why those transfer prices are sufficiently comparable to prices applied by independent parties in a similar situation.

A Taxable Person must comply with a request issued by the FTA to provide information which supports the arm's length nature of its transactions or arrangements with its Related Parties and Connected Persons. This information must be submitted within 30 days following the request, or by any such other later date as directed by the FTA.[226]

[224] Article 55 of the Corporate Tax Law.
[225] Article 55(1) of the Corporate Tax Law.
[226] Article 55(4) of the Corporate Tax Law.

6.6.4.2. Master file and local file

In addition to the submission of a general transfer pricing disclosure form, Taxable Persons need to maintain a 'master file' and a 'local file' if their Revenue in the relevant Tax Period is AED 200,000,000 or more, or they are part of a Multinational Enterprise Group (MNE) with total consolidated group revenue over or equal to AED 3,150,000,000 in the preceding Financial Year.[227]

Generally, a master file is a 'blueprint' of a group's activity, containing information on its economic activities in different jurisdictions and its overall transfer pricing policy.

On the other hand, a local file contains more detail than a master file, specifically in relation to Related Party and Connected Persons transactions undertaken by group members. The purpose is to provide functional and economic analysis to support the arm's length basis of its transactions.

6.7. Tax Losses

Where a Taxable Person's deductible expenditure exceeds its income that is subject to Corporate Tax, it will have negative Taxable Income. This is known as a Tax Loss. Many businesses make losses at some point in their lifecycle. For example, a new business may initially have losses while it is investing in growing its Business, or a more mature Business may make a loss over a period because of a temporary, adverse trading environment.

Businesses who have a Tax Loss will be able to use the Tax Loss to reduce Taxable Income in future Tax Periods (provided the necessary conditions are met).[228] This is to ensure that the amount of Corporate Tax paid by Businesses would (subject to certain conditions) be the same irrespective of when such profits or losses arise. In certain circumstances, Tax Losses can also be used to offset against the Taxable Income of another Business.

A Taxable Person cannot claim Tax Loss relief for:[229]

- Losses incurred before the date of commencement of Corporate Tax;
- Losses incurred before a Person becomes a Taxable Person; or
- Losses incurred from an asset or activity that generates income which is exempt from Corporate Tax.

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[227] Article 2(1) of Ministerial Decision No. 97 of 2023.
[228] Article 37(1) of the Corporate Tax Law.
[229] Article 37(3) of the Corporate Tax Law.

A Taxable Person cannot claim Tax Losses for the Tax Period in which they have elected to benefit from small business relief.

6.7.1. Tax Loss relief

A Taxable Person can carry forward Tax Losses and offset them against Taxable Income in subsequent Tax Periods, subject to meeting certain conditions.[230] These Tax Losses carried forward can be used to reduce the Taxable Person's income in the Tax Period by a maximum of 75% of that Taxable Income.[231] This ensures that Corporate Tax is applied to the economic unit that generates Taxable Income as a whole.

Taxable Persons must use available Tax Losses in a Tax Period before any remaining Tax Loss can be carried forward to the next period, or transferred to another Taxable Person subject to meeting the required conditions. For example, if a Taxable Person has carried forward Tax Losses of less than 75% of their Taxable Income, they must use all of the Tax Losses in the current period and cannot choose to carry these Tax Losses forward.[232] Tax Losses cannot be carried back to previous Tax Periods.

Example 22: Carried forward Tax Losses

C LLC is a UAE resident company. In the Tax Period ending 31 December 2026 it makes a Tax Loss of AED 6,000,000.

For the Tax Periods ending 31 December 2027 and 31 December 2028 respectively, C LLC has Taxable Income of AED 5,000,000 per year.

C LLC will be subject to Corporate Tax as follows:

- In the Tax Period ending on 31 December 2026, C LLC makes a Tax Loss and there are no amounts to be taxed.
- In the Tax Period ending on 31 December 2027, C LLC has Taxable Income of AED 5,000,000. This means that the maximum Tax Loss that can be used to offset against its Taxable Income is AED 5,000,000 x 75% = AED 3,750,000. C LLC will have a final Taxable Income of AED 1,250,000 (AED 5,000,000 – AED 3,750,000). This means that C LLC must pay Corporate Tax of AED 78,750 (AED 375,000 x 0% + AED 875,000 x 9%).

230 Article 39 of the Corporate Tax Law.
231 Article 37(2) of the Corporate Tax Law.
232 Article 37(4) of the Corporate Tax Law.

C LLC will have Tax Losses of AED 2,250,000 (AED 6,000,000 – AED 3,750,000) to carry forward.

In the Tax Period ending on 31 December 2028, C LLC has Taxable Income of AED 5,000,000. The maximum Tax Loss that can be used to offset against its Taxable Income is AED 5,000,000 x 75% = AED 3,750,000. This means that the full amount of Tax Losses of AED 2,250,000 brought forward are available to be offset against the Taxable Income of AED 5,000,000 in this Tax Period.

C LLC will have a final Taxable Income of AED 2,750,000 (AED 5,000,000 – AED 2,250,000). This means that C LLC must pay Corporate Tax of AED 213,750 (AED 375,000 x 0% + AED 2,375,000 x 9%). C LLC will have no Tax Losses to carry forward.

(Amounts in AED)	**31/12/2026**	**31/12/2027**	**31/12/2028**
Taxable Income (pre-Tax Loss relief)	(6,000,000)	5,000,000	5,000,000
Tax Loss utilised	0	3,750,000	2,250,000
Final Taxable Income	0	1,250,000	2,750,000
Tax Loss carried forward	6,000,000	2,250,000	0
Corporate Tax Payable	0	78,750	213,750

6.7.2. Tax Losses and change of ownership

Specific rules apply for juridical persons that have Tax Losses carried forward and have had a change of ownership in the Tax Period.

A Tax Loss can be carried forward by a Taxable Person provided the owners of the Taxable Person continuously hold at least 50% ownership from the start of the period in which the Loss is incurred to the end of the Tax Period in which the Tax Loss is used to offset against Taxable Income.

If there is a change in ownership of more than 50%, Tax Losses can still be carried forward provided the same or similar Business is carried on following the change in ownership.[233]

[233] Articles 39(1)(a) and 39(1)(b) of the Corporate Tax Law.

These rules do not apply where the Taxable Person's shares are listed on a Recognised Stock Exchange.[234]

6.7.3. Transfer of Tax Losses

Tax Losses may be transferred between Taxable Persons that are Resident juridical persons, where all of the following conditions are met:[235]

- one entity has a direct or indirect ownership interest of at least a 75% in the other, or a third entity has a direct or indirect ownership interest of at least 75% of the shares in both;
- they share the same Financial Year;
- they prepare their Financial Statements using the same accounting standards;
- none of the Persons are Exempt Persons or Qualifying Free Zone Persons.

Taxable Persons must meet the qualifying common ownership conditions from the start of the Tax Period in which the Tax Loss is incurred to the end of the Tax Period in which the transferred Tax Loss is used before they are able to transfer Tax Losses.[236]

The Taxable Person who transfers the Tax Losses will have the amount of the Tax Losses available to them, reduced by the amount they have transferred.[237]

Transferred Tax Losses can reduce the recipient's Taxable Income by a maximum of 75% of their Taxable Income in that Tax Period.[238] There is no corresponding minimum amount of Tax Loss which must be transferred, however the maximum that can be transferred to the recipient is 75% of their Taxable Income in that Tax Period.

A single Taxable Person may transfer their Tax Losses to more than one Taxable Person provided that in each case the relationship of the recipient Taxable Person with the Taxable Person transferring their Tax Losses meets the relevant conditions. Similarly, a recipient company can claim Tax Losses from more than one transferring company provided that the total Tax Loss offset does not exceed 75% of the recipient's Taxable Income and that all other conditions for the transfer of Tax Losses are met.

[234] Article 39(3) of the Corporate Tax Law.
[235] Article 38(1) of the Corporate Tax Law.
[236] Article 38(1)(d) of the Corporate Tax Law.
[237] Article 38(2)(c) of the Corporate Tax Law.
[238] Articles 38(2)(a) and 38(2)(b) of the Corporate Tax Law.

Example 23: Transfer of Tax Losses

C LLC owns 75% of the shares of F LLC and both meet all the requirements to qualify for the transfer of loss relief.

C LLC makes a loss of AED 2,000,000 and F LLC makes a profit of AED 2,000,000 in the same Tax Period. C LLC chooses to transfer AED 1,500,000 of Tax Losses to F LLC. This is the maximum amount that F LLC can offset against its Taxable Income. This gives F LLC a final Taxable Income of AED 500,000. The remaining AED 500,000 of unutilised losses is carried forward by C LLC to the subsequent Tax Period.

(Amounts in AED)	**C LLC**	**F LLC**
Taxable Income / (Loss)	(2,000,000)	2,000,000
Tax Loss transferred	1,500,000	0
Tax Losses received	0	(1,500,000)
Final Taxable Income / (Loss)	(500,000)	500,000
Tax Loss carried forward	(500,000)	0

6.8. Determination of Taxable Income

Calculating Taxable Income is a two-step process:

- The Taxable Person must first determine their Accounting Income. This will be based on Financial Statements prepared according to accounting standards recognised in the UAE (IFRS or IFRS for SMEs). Qualifying Free Zone Persons and any other Taxable Persons with revenue over AED 50 million must prepare and maintain audited Financial Statements.
- The second step is to apply the relevant adjustments to the Accounting Income to arrive at the Taxable Income amount.[239]

Taxable Persons have to submit a Tax Return to the FTA within 9 months after the end of each Tax Period.[240]

[239] Article 20(2) of the Corporate Tax Law.
[240] Article 53(1) of the Corporate Tax Law.

The Tax Return is self-assessed, and Taxable Persons must provide their Accounting Income and details of any relevant adjustments, such as exemptions and reliefs claimed.

Example 24: Calculation of Taxable Income

C LLC is a UAE resident company. At the end of its most recent Tax Period, its Financial Statements show an Accounting Income of AED 10,000,000. It has previously made an election to exempt its income from its Foreign Permanent Establishment in Country B. C LLC also has carried forward Tax Losses of AED 2,000,000.

Its Accounting Income for the most recent Tax Period includes the following items:

- Dividends received from UAE Resident companies: AED 1,000,000;
- Income from its Foreign Permanent Establishment in Country B: AED 1,500,000;
- Net Interest Expenditure: AED 7,000,000; and
- Entertainment expenditure: AED 500,000.

In order to determine its Taxable Income, C LLC must make the following adjustments to the Accounting Income in respect of these items:

- Domestic dividends are Exempt Income for Corporate Tax purposes. As a result, the dividend income of AED 1,000,000 should be excluded from C LLC's Accounting Income;
- C LLC has made an election to exempt its income from its Foreign Permanent Establishment. As a result, the income from its Permanent Establishment in Country B of AED 1,500,000 should also be excluded from C LLC's Accounting Income (assuming the relevant conditions have been met);
- Net Interest Expenditure is deductible in full as it is less than the de minimis Net Interest Expenditure of AED 12,000,000; and
- Only 50% of entertainment expenditure is an allowable expense for Corporate Tax purposes. As a result, 50% of the expenditure (AED 500,000 x 50% = AED 250,000) must be added back to C LLC's Accounting Income.

C LLC's Taxable Income is therefore:

Accounting Income	10,000,000
Less: Domestic dividends	(1,000,000)
Less: Foreign Permanent Establishment income	(1,500,000)
Add: Interest expenditure	0

Add: Entertainment expenditure	250,000
Taxable Income	**7,750,000**

C LLC can use its carried forward Tax Losses to reduce its Taxable Income by up to 75% of its Taxable Income. As the amount of carried forward Tax Losses of AED 2,000,000 is less than 75% of its Taxable Income (AED 7,750,000 x 75% = AED 5,812,500), C LLC can use all of its available Tax Losses in this Tax Period.

C LLC's final Taxable Income is therefore:

Taxable Income	7,750,000
Less: Tax Losses	(2,000,000)
Final Taxable Income	**5,750,000**

6.9. Transitional rules

In order to compute the Corporate Tax liabilities for a Taxable Person's first Tax Period, it is necessary for Taxable Persons to have both an opening and a closing balance sheet. The opening balance sheet for the first Tax Period should be the closing balance sheet on the last day of the Person's Financial Year that ends immediately before its first Tax Period commences.[241]

If no accounts were prepared for the previous Financial Year, a closing balance sheet will have to be prepared under an appropriate accounting standard, as applicable and regardless of whether the Cash Basis of Accounting or Accrual Basis of Accounting is applied.

Ministerial Decision No. 120 of 2023 includes certain adjustments a Taxable Person may make (by way of an election) in relation to intangible assets, Immovable Property, and Financial Assets and Financial Liabilities owned by the Taxable Person before it becomes subject to Corporate Tax.[242] These elections must be made on the submission of the Taxable Person's first Tax Return, and are deemed irrevocable except under exceptional circumstances that require FTA approval.[243]

In relation to Immovable Property, if Immovable Property owned by the Taxable Person prior to the Taxable Person's first Tax Period is recorded on a historical cost

[241] Article 61(1) of the Corporate Tax Law.
[242] Ministerial Decision No. 120 of 2023.
[243] Articles 2(5), 3(4) and 4(3) of Ministerial Decision No. 120 of 2023.

basis in the Financial Statements, the Taxable Person can elect in its first Tax Period to adjust its Taxable Income in calculating the gain on the disposal of any Immovable Property in order that only gains accruing while within the scope of Corporate Tax will be taxed. The Taxable Person can select whether they use a 'time apportionment method' or a 'valuation method' when determining the amount of the gain that shall be excluded.[244]

The 'valuation method' allows the Taxable Person to exclude the amount of the gain that would have arisen at the start of their first Tax Period had the Immovable Property been disposed of at Market Value and the cost of the Immovable Property was the higher of the original cost and the net book value.[245] This would require the Taxable Person to determine the Market Value of the Immovable Property at the start of their first Tax Period on the basis as set out in Ministerial Decision No. 120 of 2023.

Alternatively, the Taxable Person could choose to use the 'time apportionment method' to exclude the amount of the gain that would have arisen at the start of their first Tax Period.[246] This allows the Taxable Person to exclude a proportion of the total gain in accordance with the proportion of time the Immovable Property was owned prior to the start of the Taxable Person's first Tax Period and the time of disposal of the Immovable Property.

For intangible assets, any apportionment must be on the basis of time apportionment;[247] while for Financial Assets and Financial Liabilities, any apportionment must be on the basis of valuations at the start of the period where the assets came within the scope of Corporate Tax.[248]

For further details on these transitional rules, readers are advised to consult Ministerial Decision No. 120 of 2023 on the Adjustments Under the Transitional Rules.

Example 25: Valuation Method

Before their first Tax Period, S LLC acquired a Financial Asset from a company, W LLC. S LLC records the Financial Asset on a historical cost basis at AED 70,000 in its Financial Statements.

244 Article 2 of Ministerial Decision No. 120 of 2023.
245 Article 2(2)(a) of Ministerial Decision No. 120 of 2023.
246 Articles 2(2)(b) and 2(4) of Ministerial Decision No. 120 of 2023.
247 Articles 3(2) and 3(3) of Ministerial Decision No. 120 of 2023.
248 Article 4(2) of Ministerial Decision No. 120 of 2023.

At the beginning of its first Tax Period in June 2023, an independent expert valued the Financial Asset at AED 100,000. When filing its first set of Tax Returns, S LLC made an election to adjust its Taxable Income for the purposes of calculating gains or losses on all Financial Assets and Financial Liabilities owned before the start of their first Tax Period.

In 2025, S LLC sold the Financial Asset for AED 120,000. As S LLC has elected to use the valuation method, S LLC will only be taxed on the portion of the gain that can be attributed to periods after 1 June 2023.

As a result, S LLC will only need to recognise the gain of AED 20,000 (AED 120,000 – AED 100,000) rather than the full gain of AED 50,000 (AED 120,000 – AED 70,000).

Example 26: Time Apportionment Method

G LLC purchases and develops properties in the UAE. G LLC purchased a Dubai property on 1 June 2022, and recognises this on the historical cost basis of AED 2,000,000.

When filing its first Tax Return for the Tax Period ended 31 May 2024, G LLC made an election to adjust its Taxable Income for the purposes of calculating gains or losses on the Dubai property using the time apportionment method.

On 1 June 2024, G LLC sold its Dubai property for AED 3,500,000. G LLC has elected to use the time apportionment method for the purposes of determining how much of the gain shall be excluded. Given that the Immovable Property was owned for two years in total and G LLC owned the property for a year before their first Tax Period, this means that half of the gain can be excluded for the purposes of determining G LLC's Taxable Income.

As a result, G LLC will only need to recognise, for Corporate Tax purposes, a gain of AED 750,000, as this is the portion of the full gain of AED 1,500,000 that can be attributed to the time between 1 June 2023 and 1 June 2024.

7. Reliefs

7.1. Chapter summary

This chapter provides an overview of the reliefs available under the Corporate Tax Law. Specifically, it sets out small business relief, relief for transfer of assets and liabilities between companies in a Qualifying Group and business restructuring relief.

7.2. Small business relief

Small business relief is provided to eligible UAE businesses, and reduces their Corporate Tax burden and compliance costs in the Corporate Tax regime, primarily by alleviating the burden of having to calculate and pay Corporate Tax in each relevant Tax Period where the conditions are satisfied.

Any eligible Taxable Person with Revenue equal to or below AED 3,000,000 in a relevant Tax Period and all previous Tax Periods (ending on or before 31 December 2026), can elect to be treated as having no Taxable Income in that period and will not be obliged to calculate its Taxable Income or complete a full Tax Return.[249] Where a Taxable Person has elected to benefit from small business relief, they will still be able to carry forward any unutilised Tax Losses [250] and disallowed Net Interest Expenditure[251] arising from prior Tax Periods to be used in future Tax Periods in which small business relief no longer applies.

To be eligible for small business relief, the Taxable Person in question must not be a Constituent Company of a Multinational Enterprise that is required to prepare a Country-by-Country Report under the UAE's Country-by-Country Reporting legislation.[252] In addition, a Qualifying Free Zone Person cannot claim small business relief.[253]

For the Tax Period that a Resident Person elects to benefit from small business relief, the Resident Person will not be required to maintain transfer pricing documentation, if applicable. However, they will still be required to apply the arm's length principle.[254]

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[249] Article 2(1) of Ministerial Decision No. 73 of 2023.
[250] Article 37 of the Corporate Tax Law and Article 4 of Ministerial Decision No. 73 of 2023.
[251] Article 30 of the Corporate Tax Law and Article 5 of Ministerial Decision No. 73 of 2023.
[252] Article 3(1) of Ministerial Decision No. 73 of 2023 and Cabinet Resolution No. 44 of 2020.
[253] Article 3(2) of Ministerial Decision No. 73 of 2023.
[254] Article 21(2)(e) of the Corporate Tax Law.

For further details on small business relief, readers are advised to consult Ministerial Decision No. 73 of 2023 on Small Business Relief, and the Corporate Tax Guide on Small Business Relief.

Example 27: Electing for small business relief

Mr X operates a Business in Abu Dhabi. He is a Resident Person for Corporate Tax Purposes. His Tax Period ends on 31 December each year. To date, Mr X's Revenue has never exceeded the small business relief threshold of AED 3,000,000 per Tax Period in any Tax Period. In the most recent Tax Period ending 31 December 2025, Mr X derived Revenue of AED 2,000,000.

Mr X is eligible to benefit from small business relief as his Revenue for the 31 December 2025 Tax Period does not exceed AED 3,000,000, which is also the case for previous years' Tax Periods. In order to benefit from the relief, he must make an election in his Tax Return.

Mr X will be treated as having no Taxable Income for the 31 December 2025 Tax Period. This means that he will not have to calculate his Taxable Income, and will have no Corporate Tax liability in the Tax Period.

Example 28: Carried forward unutilised Tax Losses when electing for small business relief

C LLC is a UAE Resident company. In the Tax Period ending 31 December 2025, C LLC's Revenue was AED 1,700,000. At the beginning of the Tax Period, C LLC had unutilised Tax Losses of AED 400,000. In the prior year, C LLC's Revenue did not exceed the AED 3,000,000 relief threshold.

C LLC elects for small business relief for the Tax Period ending 31 December 2025. C LLC's carried forward Tax Losses cannot be used in this Tax Period, but can be carried forward and used in future Tax Periods in which the small business relief is not elected provided the relevant conditions are met.

In the Tax Period ending 31 December 2026, C LLC sold a factory to B LLC for AED 5 million, resulting in its Revenue exceeding the AED 3 million (per Tax Period) small business relief eligibility threshold. In this case, C LLC will not be eligible for small business relief for the Tax Period Ending 31 December 2026.

C LLC will need to determine its Taxable Income for the 31 December 2026 Tax Period. To the extent C LLC has a positive Taxable Income, it is able to utilise its Tax Losses of AED 400,000 brought forward from the prior Tax Period, subject to the 75% utilisation restriction. Should there be any remaining Taxable Income following the utilisation of the available Tax Losses, any Taxable Income exceeding AED 375,000 will be taxable at 9%.

7.3. Transfers within a Qualifying Group

It is a common practice for closely related Businesses to transfer assets and liabilities between each other for operational reasons. Ordinarily, there would be a taxable gain or loss where an asset or liability is transferred for an amount different to its net book value. However, Corporate Tax relief is available where an asset or liability is transferred between members of a Qualifying Group which allows the transfer to take place without giving rise to a Corporate Tax liability.[255]

Taxable Persons will be treated as being members of the same Qualifying Group if they meet all of the following conditions:[256]

- The Taxable Persons are juridical persons that are Resident Persons, or Non-Resident Persons that have a Permanent Establishment in the UAE;[257]
- Either Taxable Person has a direct or indirect ownership interest of at least 75% in the other Taxable Person, or a third Person has a direct or indirect ownership interest of at least 75% in each of the Taxable Persons;[258]
- None of the Persons are an Exempt Person;[259]
- None of the Persons are a Qualifying Free Zone Person;[260]
- The Financial Year of each of the Taxable Person ends on the same date;[261] and
- Both Taxable Persons prepare their Financial Statements using the same accounting standards.[262]

Where an election is made to apply the transfer within a Qualifying Group provisions, assets or liabilities held on capital account that have been transferred between

[255] Article 26(1) of the Corporate Tax Law.
[256] Article 26(2) of the Corporate Tax Law.
[257] Article 26(2)(a) of the Corporate Tax Law.
[258] Article 26(2)(b) of the Corporate Tax Law.
[259] Article 26(2)(c) of the Corporate Tax Law.
[260] Article 26(2)(d) of the Corporate Tax Law.
[261] Article 26(2)(e) of the Corporate Tax Law.
[262] Article 26(2)(f) of the Corporate Tax Law.

members of a Qualifying Group are treated as being transferred at the net book value of the asset or liability so that no gain or loss arises.[263]

The amount paid or received for the transfer will be treated as being equal to the value at which the transferor (the Taxable Person that transferred the asset or liability) records the transferred asset or liability.[264]

When calculating their Taxable Income, and unless and until the asset is subsequently transferred or sold to a third party, the transferee will exclude any depreciation, amortisation or other change in the value of the transferred asset or liability to the extent that it relates to the gain or loss that arose to the transferor that has not been subject to Corporate Tax due to the application of the relief for transfers within a Qualifying Group.[265]

Upon realisation of the asset or liability, the transferee will need to include any amount that has not been recognised for Corporate Tax purposes, other than any such amount that arose prior to the most recent acquisition where the relief did not apply.[266]

An election must be made by the transferor to apply this treatment and both the transferor and transferee must maintain a record of the agreement to transfer the asset or liability at net book value.[267]

The election is made alongside the Tax Return for the Tax Period in which the transfer occurs.[268] This election is irrevocable and will apply to all future transfers of assets and liabilities held on capital account by the transferor within the Qualifying Group in all future Tax Periods.[269]

The relief will be clawed back if, within two years of the transfer, there is a subsequent transfer of the asset or liability outside of the Qualifying Group, or either the transferor or transferee ceases to be a member of the same Qualifying Group.[270] In either of these scenarios, the transferor shall treat the transfer as having taken place at Market Value at the date of the original transfer, and shall account for any gain or loss that arises as a result in the Tax Return for the Tax Period in which the subsequent transfer

[263] Article 3(4) of Ministerial Decision No. 132 of 2023.
[264] Article 26(3)(b) of the Corporate Tax Law.
[265] Article 4(1) of Ministerial Decision No. 134 of 2023.
[266] Article 4(2) of Ministerial Decision No. 134 of 2023.
[267] Articles 3(1) and 6 of Ministerial Decision No. 132 of 2023.
[268] Article 3(2) of Ministerial Decision No. 132 of 2023.
[269] Article 3(3) of Ministerial Decision No. 132 of 2023.
[270] Article 26(4) of the Corporate Tax Law.

occurred.[271] If the transferor no longer exists (for example, they have ceased to carry out a Business), the transferee would be responsible for meeting any Corporate Tax obligation on the deferred gain or loss.[272]

Example 29: Relief for transfers within a Qualifying Group

C LLC and D LLC are both manufacturing businesses wholly owned by X LLC. C LLC and D LLC also meet all other conditions to be considered as members of a Qualifying Group.

During the Tax Period, D LLC won a large contract to supply goods to a new customer. In order to manufacture these goods, it needs specialist machinery. C LLC had this kind of machinery and, due to a recent change in its clients' needs, no longer requires the machinery. C LLC transferred the machinery to D LLC. C LLC did not request payment and D LLC did not pay for the machinery. At the time of the transfer, the net book value of the machinery was AED 800,000 and its Market Value was AED 1,200,000. D LLC uses the fair value method of accounting and as a result, recognised the asset at a net book value of AED 1,200,000 for accounting purposes.

For Corporate Tax purposes, the machinery can be treated as having been transferred at the asset's net book value, AED 800,000. This means that when calculating their Taxable Income, C LLC will be treated as having received AED 800,000 and D LLC will be treated as having paid AED 800,000 for the machinery. As a result, no gain or loss will arise for C LLC for Corporate Tax purposes.

(Amounts in AED)	**C LLC**	**D LLC**
Amount deemed to have been received for Corporate Tax purposes	800,000	n/a
Less: Net book value of the machine brought forward	(800,000)	n/a
Gain / loss arising for Corporate Tax purposes on the transfer of the machine	0	n/a

[271] Article 26(5) of the Corporate Tax Law.
[272] Article 5 of Ministerial Decision No. 132 of 2023.

Example 30: Subsequent transfer

One year later D LLC lost the contract with the large customer and therefore no longer required the specialist machinery. As a result, D LLC sold the machinery to a third party for AED 1,500,000.

The relief shall no longer apply because there is a subsequent transfer of the asset outside of the Qualifying Group within 2 years. As a result, C LLC (the original transferor) shall treat the transfer from C LLC to D LLC as having taken place at Market Value at the date of the transfer, and shall include a gain of AED 400,000 (AED 1,200,000 – AED 800,000) in the Tax Return for the Tax Period in which D LLC subsequently transferred the asset.

Given that the transferor has paid Corporate Tax on the gain arising on the original transfer (due to the clawback), this means that the original gain does not need to be taken into account by the transferee. Therefore, for the purposes of calculating the gain / loss that will be subject to Corporate Tax for D LLC, the tax treatment would follow the accounting treatment, meaning that the taxable gain for D LLC will be AED 300,000 (AED 1,500,000 – AED 1,200,000).

For further details on Transfers within a Qualifying Group, readers are advised to consult Ministerial Decision No. 132 of 2023 on Transfers Within a Qualifying Group.

7.4. Business restructuring relief

In certain circumstances, where an entire Business or an independent part of a Business is transferred in exchange for shares or other ownership interests, business restructuring relief may apply to eliminate the Corporate Tax impact of these transactions. Under this relief, no gains or losses need to be taken into account when calculating the Taxable Income for either party.[273]

In order for this relief to apply, all of the following conditions need to be met:

- The transfer is undertaken in accordance with, and meets all the conditions imposed by, the applicable legislation of the UAE;[274]
- The Taxable Persons are Resident Persons, or Non-Resident Persons that have a Permanent Establishment in the UAE;[275]

[273] Article 27(1) of the Corporate Tax Law.
[274] Article 27(2)(a) of the Corporate Tax Law.
[275] Article 27(2)(b) of the Corporate Tax Law.

- None of the Persons are an Exempt Person;[276]
- None of the Persons are a Qualifying Free Zone Person;[277]
- The Financial Year of each of the Taxable Persons ends on the same date;[278]
- The Taxable Persons prepare their Financial Statements using the same accounting standards;[279] and
- The transfer is undertaken for valid commercial reasons which reflect economic reality.[280]

An individual can use this relief in order to transfer their Business to an incorporated entity as long as the relevant conditions are satisfied.

Where business restructuring relief applies, the assets and liabilities transferred will be treated as being transferred at their net book value at the time of transfer so that neither a gain nor a loss arises.[281]

This is an optional relief, and the Person that transferred the Business ('the transferor') can choose whether to elect for the relief to apply on a case-by-case basis.[282] Both the transferor and transferee need to maintain a record of the agreement to transfer the Business at net book value.[283]

The relief is available where a Business is transferred in exchange for ownership interests and other forms of consideration (such as cash). Where other forms of considerations are part of the overall consideration for the Business transfer, the Market Value of any other form of consideration cannot exceed the net book value of the assets and liabilities transferred, or 10% of the nominal value of the ownership interests issued.[284]

When calculating their Taxable Income, the transferee will exclude any depreciation, amortisation or other change in the value of the transferred assets and liabilities to the extent that the change in value relates to the gain or loss that arose to the transferor

[276] Article 27(2)(c) of the Corporate Tax Law.
[277] Article 27(2)(d) of the Corporate Tax Law.
[278] Article 27(2)(e) of the Corporate Tax Law.
[279] Article 27(2)(f) of the Corporate Tax Law.
[280] Article 27(2)(g) of the Corporate Tax Law.
[281] Article 27(3)(a) of the Corporate Tax Law.
[282] Article 4 of Ministerial Decision No. 133 of 2023.
[283] Articles 4(1) and 9 of Ministerial Decision No. 133 of 2023.
[284] Article 2 of Ministerial Decision No. 133 of 2023.

that has not been subject to Corporate Tax due to the application of business restructuring relief.[285]

Upon realisation, the transferee will need to include any gain or loss that has not previously been recognised for Corporate Tax purposes in respect of the assets and liabilities since the most recent acquisition to which business restructuring relief did not apply.[286]

Tax Losses transferred as part of a business restructuring may only become carried forward Tax Losses available for the transferee if the transferee continues to conduct a similar Business or Business Activity following the transfer.[287] This will usually mean that:

- the transferee uses some or all of the same assets that were used by the transferor prior to the transfer;
- the transferee has not made significant changes to the core identity or operations of the Business since the transfer; and
- any changes that have been made have resulted from the development or use of assets, services, processes, products or methods that existed before the transfer.
- This relief will not apply if, within two years of the initial transfer:
  - The shares or other ownership interests in either the transferor or the transferee are sold, transferred or otherwise disposed of, in whole or part, to a Person that is not a member of the Qualifying Group (as defined in Section 7.3) to which the transferor or the transferee belong;[288] or
  - There is a subsequent transfer or disposal of the Business or independent part of the Business which was transferred.[289]

In either of these scenarios, the transferor shall treat the transfer as having taken place at Market Value at the date of the transfer, and shall account for any gain or loss that arises as a result in the Tax Return for the Tax Period in which the subsequent transfer occurred.[290] If the transferor is no longer a Taxable Person (for example, they have ceased to exist or cease to have a Permanent Establishment in the UAE), or if they are an individual, the transferee would be responsible for meeting any Corporate Tax obligation on the deferred gain or loss.[291]

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285 Article 5(1) of Ministerial Decision No. 134 of 2023.
286 Article 5(2) of Ministerial Decision No. 134 of 2023.
287 Article 5 of Ministerial Decision No. 133 of 2023.
288 Article 27(6)(a) of the Corporate Tax Law.
289 Article 27(6)(b) of the Corporate Tax Law.
290 Article 27(7) of the Corporate Tax Law.
291 Article 8 of Ministerial Decision No. 133 of 2023.

Example 31: Business restructuring relief

F LLC is a UAE resident company that sells agricultural machinery. Z LLC is a UAE resident company that operates an agricultural machinery repair business.

During the Tax Period, Z LLC bought F LLC's business in return for 20% of the shares in Z LLC. The net book value of F LLC's business at the time of transfer was AED 2,300,000. The Market Value of the shares received by F LLC was AED 2,700,000, which equals the Market Value of the business. Z LLC measures assets at fair value and, therefore, recognised the assets and liabilities of the business at a net book value of AED 2,700,000 for accounting purposes.

For Corporate Tax purposes, the business will be treated as having been transferred to Z LLC at its net book value, AED 2,300,000. This means that when calculating their Taxable Income, F LLC will be treated as having received AED 2,300,000 and Z LLC will be treated as having paid AED 2,300,000 for the business. As a result, no gain or loss accrues to F LLC or Z LLC.

(Amounts in AED)	**F LLC**	**Z LLC**
Amount deemed to have been received for Corporate Tax purposes	2,300,000	n/a
Less: Net book value of the Business brought forward	2,300,000	n/a
Gain / loss arising for Corporate Tax purposes on the transfer of the Business	0	n/a

Example 32: Subsequent transfer

One year later, Z LLC sold the business for AED 3,000,000. Business restructuring relief shall no longer apply because there is a subsequent transfer of the Business which was transferred. As a result, F LLC (the transferor) shall treat the original transfer from F LLC to Z LLC as having taken place at Market Value at the date of the transfer, and F LLC shall take into account a gain of AED 400,000 (AED 2,700,000 – AED 2,300,000) in the Tax Return for the Tax Period in which Z LLC subsequently sold the Business.

Given that the transferor has paid Corporate Tax on the gain arising on the original transfer (due to the clawback), this means that the original gain does not need to be

taken into account by the transferee. Therefore, for the purposes of calculating the gain / loss that will be subject to Corporate Tax for Z LLC, the tax treatment would follow the accounting treatment. This means that the taxable gain for Z LLC will be AED 300,000 (AED 3,000,000 – AED 2,700,000).

For further details on business restructuring relief, readers are advised to consult Ministerial Decision No. 133 of 2023 on Business Restructuring Relief.[292]

[292] Ministerial Decision No. 133 of 2023.

8. Special regimes

8.1. Chapter summary

This chapter sets out the treatment of partnerships and Tax Groups under the Corporate Tax Law. It explains what is meant by a partnership and how it is taxed. It also introduces the requirements associated with forming a Tax Group and explains how to calculate the Taxable Income of a Tax Group.

8.2. Taxation of partnership and their partners

8.2.1. Unincorporated Partnerships

Individuals, companies and other legal entities may join with others to form a partnership, usually established under a contract and jointly conduct Business or hold investments. Partnerships can take a range of different forms, and can be incorporated, such as Limited Liability Partnerships (LLPs), or Unincorporated Partnerships, such as general partnerships and joint ventures (JVs).

Incorporated partnerships (see Section 8.2.2) have a separate legal personality from their partners and are treated as a juridical person that is subject to Corporate Tax at the partnership level.

However, where a partnership does not have a separate legal personality, each partner is treated as:

- conducting the Business of the partnership;[293]
- having a status, intention, and purpose of the partnership;[294]
- holding assets that the partnership holds;[295] and
- being party to any arrangement to which the partnership is a party.[296]

In this case, the Unincorporated Partnership is not considered a Taxable Person in its own right, as it is not considered a juridical person.[297] This means that the partnership itself is not subject to Corporate Tax, and each partner is subject to Corporate Tax on their income from the partnership.[298] The activities of the partnership are treated as

[293] Article 16(2)(a) of the Corporate Tax Law.
[294] Article 16(2)(b) of the Corporate Tax Law.
[295] Article 16(2)(c) of the Corporate Tax Law.
[296] Article 16(2)(d) of the Corporate Tax Law.
[297] Article 2 of Ministerial Decision No. 127 of 2023.
[298] Article 16(1) of the Corporate Tax Law.

being carried out by the partners, and each partner is taxed in proportion to their distributive share in the partnership.

8.2.1.1. Taxable Income of partners in an Unincorporated Partnership

Partners in an Unincorporated Partnership are taxed in accordance with the wider Corporate Tax regime. In particular, individuals that are partners in an Unincorporated Partnership are taxed on the same basis as if they were conducting Business on their own. Therefore, they are only subject to Corporate Tax on income arising from categories of Business and Business Activities that are subject to Corporate Tax for individuals (see Section5.3.3).

However, the partners in an Unincorporated Partnership may make an application to the FTA for the Unincorporated Partnership to be treated as a Taxable Person (i.e. to have the Corporate Tax liability be determined and assessed at the level of the partnership).[299]

Once the application is approved, and to the extent there are any individuals who are partners in that Unincorporated Partnership, Cabinet Decision No. 49 of 2023 will no longer be applicable in relation to the activities of those individual partners in the Unincorporated Partnership, as the Unincorporated Partnership, and not the partners, is treated as conducting the Business (unless the partners conduct other business or business activities separate from the Unincorporated Partnership). This means that all partnership income will be Taxable Income subject to Corporate Tax for the Unincorporated Partnership. The application will be deemed irrevocable except under exceptional circumstances and pursuant to approval by the FTA.[300]

Where the application for an Unincorporated Partnership to be treated as a standalone Taxable Person has been approved by the FTA, any Taxable Income for the partnership will be excluded from the Taxable Income of the partner.[301] The partners will also exclude any gains or losses on the transfer, sale or disposal of all or part of their interest in the Unincorporated Partnership if this interest meets the conditions of the participation exemption (see Section 6.4.2).[302]

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[299] Article 16(8) of the Corporate Tax Law.

[300] Article 3(1) of Ministerial Decision No. 127 of 2023.

[301] Article 6(1) of Ministerial Decision No. 134 of 2023.

[302] Article 6(2) of Ministerial Decision No. 134 of 2023.

The Unincorporated Partnership needs to notify the FTA in case of any partner joining or leaving the Unincorporated Partnership within 20 business days.[303]

For further details on Unincorporated Partnerships, readers are advised to consult the relevant Ministerial Decisions, including Ministerial Decision No. 127 of 2023 on Unincorporated Partnership, Foreign Partnership and Family Foundation[304]

8.2.1.2. Allocation of partnership assets, liabilities, income and expenditure

Where an Unincorporated Partnership has not made an application to be treated as a standalone Taxable Person:

- A partner's distributive share is the share of partnership profits they are entitled to under the partnership agreement. Where the distributive share cannot be determined (e.g. if there is no partnership agreement), the FTA can prescribe the manner in which profits shall be allocated amongst the partners.[305]
- Any partnership assets, liabilities, income or expenditure will be allocated to each partner in proportion to their distributive share in the partnership.[306]

Where an Unincorporated Partnership has not made the election to be treated as a Taxable Person, a partner in the Unincorporated Partnership should follow the ordinary steps outlined in Chapter 6 when calculating their Taxable Income. A partner's Taxable Income is based on their share of the partnership's income, expenses, assets and liabilities. They should also take into account:

- expenditure incurred directly by the partner in conducting the Business of the partnership;[307] and
- Interest expenditure incurred by the partner in relation to contributions made to the capital account (e.g., cash or assets) of the partnership.[308]

This expenditure needs to meet the normal rules for deductibility of business expenses. For example, a partner will not be allowed to deduct expenditure relating to personal travel or home rent given that neither of this expenditure is incurred for the purposes of the business.

[303] Article 3(2) of Ministerial Decision No. 127 of 2023.
[304] Ministerial Decision No. 127 of 2023 and Ministerial Decision No. 134 of 2023.
[305] Article 16(3) of the Corporate Tax Law.
[306] Article 16(3) of the Corporate Tax Law.
[307] Article 16(4)(a) of the Corporate Tax Law.
[308] Article 16(4)(b) of the Corporate Tax Law.

Any Interest paid to a partner by the partnership on their capital account will be treated as an allocation of income to the partner.[309] This forms part of the partner's Taxable Income and is, therefore, not a deductible expense for the partner in calculating their Taxable Income.

Where a partner receives a salary, draw down or other income derived from their profit share, these amounts will be treated as allocations of income to the partner and will, therefore, usually be taxable on the partner as a distributive share of any partnership profits.

Example 33: Taxation of an Unincorporated Partnership

An Unincorporated Partnership (X Partnership) has three partners, Miss A and Mr B who are individuals, and C LLC, a juridical person. All partners have the same Financial Year.

Miss A is entitled to 40% of partnership profits while Mr B and C LLC are entitled to 30% each.

During its most recent Tax Period, X Partnership had a net Accounting Income of AED 9,000,000. This was made up of income of AED 15,000,000 and expenses of AED 6,000,000. The income and expenditure would be allocated as follows:

Miss A (40% share of assets, liabilities, income or expenditure):

Income	6,000,000
Expenditure	(2,400,000)
Accounting Income	**3,600,000**

Mr B (30% share of assets, liabilities, income or expenditure):

Income	4,500,000
Expenditure	(1,800,000)
Accounting Income	**2,700,000**

C LLC (30% share of assets, liabilities, income or expenditure):

Income	4,500,000
Expenditure	(1,800,000)

[309] Article 16(5) of the Corporate Tax Law.

Accounting Income	**2,700,000**

Each partner would then need to make their own tax adjustments to calculate their Taxable Income.

8.2.1.3. Application to be treated as a Taxable Person

As noted above, partners in an Unincorporated Partnership can make an application to be taxed at the partnership level, with the partnership itself becoming a Taxable Person.[310] This application will apply from the commencement of the Tax Period in which the application is made or from the commencement of a future Tax Period, or any other date determined by the FTA.[311]

The effect of this treatment is to ensure that Taxable Income is calculated at the partnership level rather than at the individual partner level. Whilst all partners remain jointly and severally liable for the Corporate Tax Payable for all Tax Periods in which they were partners, a single partner will need to be appointed as the partner responsible for complying with Corporate Tax related obligations on behalf of the partnership.[312]

8.2.2. Incorporated partnerships

Where a partnership is incorporated in the UAE and has a separate legal personality, as is the case for Limited Liability Partnerships and Limited Partnership Companies, they will be treated as a juridical person for Corporate Tax purposes. Their treatment will, therefore, be the same as other juridical persons such as Limited Liability Companies and Public Joint Stock Companies.

8.2.3. Tax treatment of a foreign partnership

A Foreign Partnership is a relationship established by contract between two or more Persons, such as a partnership or trust or any other similar association of Persons, in accordance with laws of a foreign jurisdiction. Foreign partnerships will be treated as Unincorporated Partnerships for the purposes of UAE Corporate Tax if:

- the foreign partnership is not subject to tax in the foreign country or territory;[313]

[310] Article 16(8) of the Corporate Tax Law.
[311] Article 16(10) of the Corporate Tax Law.
[312] Article 16(9)(c) of the Corporate Tax Law.
[313] Article 16(7)(a) of the Corporate Tax Law.

- each partner in the foreign partnership is individually subject to tax in respect of their distributive share;[314]

This means that in order for the Foreign Partnership to be treated as an Unincorporated Partnership for UAE Corporate Tax purposes, such partnership must be treated as not taxable in its own right in the foreign country or territory where it was formed, and the partners should be taxed on their distributive share of income received by or accrued to the partnership, subject to the tax residence of the partners and the respective tax treatment of income earned by the partners in the country of formation. Additionally, the foreign partnership must submit an annual declaration to the FTA to confirm that these conditions are met.[315] Moreover, the foreign country or territory and the UAE must have adequate arrangements in place for the purpose of sharing tax information regarding the partners in the foreign partnership.[316]

Where these conditions are met, the foreign partnership will be treated as an Unincorporated Partnership and each of the partners treated as individual Taxable Persons, unless an application is made to the FTA to be taxed at the partnership level, with the foreign partnership itself becoming a Taxable Person.

8.3. Tax Group regime

Companies under common ownership can form a Tax Group, subject to meeting the relevant conditions.[317] This allows the Tax Group to be treated as a single Taxable Person, reducing the compliance burden on individual companies by consolidating accounts and eliminating intra-group transactions, and increasing flexibility in the utilisation of Tax Losses.[318]

Businesses and business activities conducted by a Government Entity can also apply for this treatment.[319]

For further details on Tax Groups, readers are advised to consult the relevant Ministerial Decisions, including Ministerial Decision No. 125 of 2023 on Tax Groups.[320]

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314 Article 16(7)(b) of the Corporate Tax Law.
315 Article 4(1)(a) of Ministerial Decision No. 127 of 2023.
316 Article 4(1)(b) of Ministerial Decision No. 127 of 2023.
317 Article 40(1) of the Corporate Tax Law.
318 Article 3 of Ministerial Decision No. 114 of 2023.
319 Articles 2 and 3 of Ministerial Decision No. 68 of 2023.
320 Ministerial Decision No. 125 of 2023 and Ministerial Decision No. 68 of 2023.

8.3.1. Requirements to form a Tax Group

In order to form a Tax Group, a Parent Company must make an application to the FTA. The application must be made by the Parent Company and each of the Subsidiaries seeking to become members of the Tax Group. Both the Parent Company and its Subsidiaries must be resident juridical persons under the Corporate Tax Law and under a relevant Double Taxation Agreement (if applicable), have the same Financial Year, and prepare their Financial Statements using the same accounting standards.[321] No member of the Tax Group can be an Exempt Person[322] or Qualifying Free Zone Person.[323]

In addition, there are ownership requirements such that the Parent Company must directly or indirectly:

- own at least 95% of the share capital of the Subsidiary;[324]
- hold at least 95% of the voting rights in the Subsidiary;[325] and
- be entitled to at least 95% of the Subsidiary's profits and net assets.[326]

A Parent Company or Subsidiary must not be considered resident for tax purposes in another jurisdiction under a relevant Double Taxation Agreement.[327] This may require the Parent Company or Subsidiary to maintain documentation to confirm that it is not resident for tax purposes in another jurisdiction, such as a confirmation from the relevant tax authority of the other jurisdiction.[328]

8.3.2. Formation and cessation of a Tax Group

A Tax Group will be formed from the beginning of the Tax Period specified in the application submitted to the FTA. The FTA may also determine the formation date as being the beginning of any other Tax Period.[329]

A Tax Group will cease to exist if the FTA approves the dissolution of the Tax Group, or if the Parent Company no longer meets the necessary conditions throughout the

[321] Articles 40(1)(a), 40(1)(g) and 40(1)(h) of the Corporate Tax Law.
[322] Article 40(1)(e) of the Corporate Tax Law.
[323] Article 40(1)(f) of the Corporate Tax Law.
[324] Article 40(1)(b) of the Corporate Tax Law.
[325] Article 40(1)(c) of the Corporate Tax Law.
[326] Article 40(1)(d) of the Corporate Tax Law.
[327] Article 3 of Ministerial Decision No. 125 of 2023.
[328] Article 3 of Ministerial Decision No. 125 of 2023.
[329] Article 41(1) of the Corporate Tax Law.

relevant Tax Period.[330] The FTA may also dissolve or change the Parent Company of a Tax Group at the FTA's discretion based on information available to the FTA. If this happens, the FTA will notify the Parent Company.[331]

8.3.3. Joining or leaving a Tax Group

A Subsidiary is able to join an existing Tax Group by applying to the FTA with the Parent Company.[332] Newly established Parent Companies or Subsidiaries can join an existing Tax Group from the date of their incorporation, and do not have to wait until the beginning of the following Tax Period.[333]

A Subsidiary must leave an existing Tax Group if:

- an application to leave the Tax Group by the Parent Company and that Subsidiary is approved by the FTA; or
- if the Subsidiary no longer meets the relevant conditions to remain in the Tax Group.[334]

A Parent Company of a Tax Group can also make an application to the FTA to be replaced by another Parent Company without discontinuing the Tax Group if the new Parent Company meets all of the conditions satisfied by the former Parent Company.[335] An application can also be made if the former Parent Company ceases to exist and the new Parent Company or a Subsidiary is its universal legal successor.

A company will be treated as having left the Tax Group from the beginning of the Tax Period in which it no longer meets the conditions.

8.3.4. Compliance with Corporate Tax requirements

The Parent Company represents the Tax Group and is responsible for complying with the Tax Group's Corporate Tax obligations.[336] Nevertheless, both the Parent Company and each Subsidiary are jointly and severally liable for Corporate Tax Payable by the Tax Group for each of the Tax Periods in which they are members of

[330] Article 40(11) of the Corporate Tax Law and Ministerial Decision No. 125 of 2023.
[331] Article 40(13) of the Corporate Tax Law.
[332] Article 40(9) of the Corporate Tax Law.
[333] Article 5(5) of Ministerial Decision No. 125 of 2023.
[334] Article 40(10) of the Corporate Tax Law.
[335] Article 40(12) of the Corporate Tax Law.
[336] Article 40(5) of the Corporate Tax Law.

the Tax Group.[337] This liability can be limited to one or more members of the Tax Group if approved by the FTA.[338]

8.3.5. Taxable Income of a Tax Group

To determine the Taxable Income of a Tax Group, the Parent Company must consolidate the financial accounts of each subsidiary for the relevant Tax Period by the way of aggregation. It must eliminate transactions between the members of a Tax Group, including adjustments from valuations, and transactions between two or more members of the same Tax Group.[339]

The unutilised Tax Losses of a subsidiary that joins a Tax Group will become carried forward losses of the Tax Group.[340] These are known as "pre-grouping Tax Losses". Pre-grouping Tax Losses that are carried forward can only be used to offset the Taxable Income of the Tax Group insofar as this income is attributable to the subsidiary which brought the Tax Losses into the Tax Group.[341] The pre-grouping Tax Losses that are to be carried forward to be utilised in the Tax Group cannot exceed the 75% Tax Loss relief limit. The limit will be applied to the Taxable Income of the Tax Group (see Section 6.7.1.).[342]

If a new Subsidiary joins an existing Tax Group, the unutilised Tax Losses of the existing group cannot be used to offset the Taxable Income of the new Subsidiary.[343] If a Subsidiary leaves a Tax Group, the Subsidiary will retain any unutilised pre-grouping Tax Losses brought into the Tax Group, but any Tax Losses incurred while it was a Subsidiary of the Tax Group will remain with the Tax Group.[344]

The 75% cap on the utilisation of carried forward Tax Losses and the limitation on Tax Losses carry forward are applicable at the level of the Tax Group.[345]

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[337] Article 40(6) of the Corporate Tax Law.
[338] Article 40(7) of the Corporate Tax Law.
[339] Article 42(1) of the Corporate Tax Law and Article 6 of Ministerial Decision No. 125 of 2023.
[340] Article 42(3) of the Corporate Tax Law.
[341] Article 42(3) of the Corporate Tax Law.
[342] Article 7 of Ministerial Decision No. 125 of 2023.
[343] Article 42(4) of the Corporate Tax Law.
[344] Article 42(6) of the Corporate Tax Law.
[345] Article 42(5) of the Corporate Tax Law.

Example 34: Formation of a Tax Group

C LLC is a UAE resident company. C LLC acquired F LLC (another UAE resident company) on 31 March 2026.

F LLC wholly owns Z LLC (another UAE resident company). C LLC owns 100% of the share capital and holds 100% of the voting rights of F LLC. F LLC owns 100% of the share capital and holds 100% of the voting rights of Z LLC. All of the companies use the same accounting standards and have the same Financial Year.

Although C LLC does not *directly* own any share capital or hold any voting rights in Z LLC, it does so indirectly through its ownership of Z LLC's owner, F LLC. C LLC, therefore, meets the ownership requirements of F LLC and Z LLC in order to form a Tax Group, as C LLC indirectly owns over 95% of the share capital and voting rights of both F LLC and, by extension, Z LLC.

C LLC (as the Parent Company), F LLC and Z LLC made an application to form a Tax Group, effective from the Tax Period beginning 1 September 2026.

The application to form a Tax Group was approved by the FTA. At the end of the Tax Group's first Tax Period on 31 August 2027, each group company's Accounting Income for the year, before consolidation, is as follows:

C LLC	AED 10,000,000
F LLC	AED 8,000,000
Z LLC	AED 9,000,000

During that period, F LLC and Z LLC received dividends from UAE resident companies totalling AED 3,000,000, and C LLC spent AED 250,000 on client entertainment. C LLC had AED 5,500,000 of brought forward Tax Losses from its previous Tax Period (1 September 2025 - 31 August 2026).

In order to determine its Taxable Income for the period, C LLC must first consolidate, by way of aggregation, the Accounting Income of each company in the group and then make the necessary tax adjustments, including applying its Tax Losses, at a group level.

Domestic dividends are Exempt Income for Corporate Tax purposes. As a result, the dividend income of AED 3,000,000 should be excluded from C LLC's Accounting Income.

Only 50% of entertainment expenditure is an allowable expense for Corporate Tax purposes. As a result, 50% of the expenditure (AED 250,000 x 50% = AED 125,000) must be added back to C LLC's Accounting Income.

C LLC's Taxable Income is therefore:

C LLC - Accounting Income	10,000,000
F LLC - Accounting Income	8,000,000
Z LLC - Accounting Income	9,000,000
Consolidated Accounting Income	**27,000,000**
Domestic dividends	(3,000,000)
Entertainment expenditure	125,000
Taxable Income	**24,125,000**

As the Parent Company, C LLC's Tax Losses incurred before grouping can be set off against the Taxable Income of the Tax Group. C LLC can, therefore, reduce the Tax Group's Taxable Income by a maximum of 75% for the relevant Tax Period (AED 24,125,000 x 75% = AED 18,093,750). As the amount of carried forward Tax Losses is less than this, C LLC can use the whole of its AED 5,500,000 of Tax Losses in this Tax Period. The Tax Group's final Taxable Income is therefore:

Taxable Income of Tax Group	**24,125,000**
Tax Losses	(5,500,000)
Final Taxable Income	**18,625,000**

This is the Tax Group's Taxable Income which should be reported to the FTA for the Tax Period ending on 31 August 2027.

The Tax Group's Corporate Tax liability will be as follows:

0% x 375,000	0

9% x 18,250,000	1,642,500
Corporate Tax Payable	**1,642,500**

On 4 November 2027, C LLC sold 50% of its shares in F LLC. As C LLC no longer holds sufficient shares in F LLC, and indirectly in Z LLC, the conditions for these three companies to remain in a Tax Group are no longer met. The Tax Group will cease to exist from the beginning of the Tax Year starting 1 September 2027.

9. How is any Corporate Tax liability calculated?

9.1. Chapter summary

This chapter sets out how to apply Corporate Tax to Taxable Income and compute how much Corporate Tax is due. This calculation will be done in a Tax Return. The chapter also describes the available tax credits and explains how these should be applied.

9.2. Applicable Corporate Tax rates

The amount of Corporate Tax due in a Tax Period is calculated by applying the appropriate Corporate Tax rate to the Taxable Person's Taxable Income (see Chapter 6).

9.2.1. General tax rates

Corporate Tax applies to Taxable Income at the following rates:[346]

Taxable Income not exceeding AED 375,000	0%
Taxable Income exceeding AED 375,000	9%

Any single Taxable Person only gets to apply a 0% rate to their first AED 375,000 once per Tax Period. This continues to apply where multiple Persons have come together to form a single Taxable Person. If individual companies form a Tax Group, or an Unincorporated Partnership applies to be taxed at the partnership level, only the Taxable Person (i.e. either the Tax Group or the partnership) will be able to apply the 0% rate to the first AED 375,000 of its collective Taxable Income.

For further details on the Taxable Income threshold, readers are advised to consult Cabinet Decision No. 116 of 2022 on the Taxable Income Threshold.

346 Article 3(1) of the Corporate Tax Law.

Example 35: Application of Corporate Tax rates to Tax Groups

If three individual companies had Taxable Income each of AED 5,000,000 then each company would pay tax of AED 416,250, a total of AED 1,248,750. Each company's Corporate Tax liability calculation would be as follows:

Rate	Taxable Income (AED)	Corporate Tax Payable (AED)
0%	375,000	0
9%	4,625,000	416,250
Total Corporate Tax due per company		416,250
Total Corporate Tax Payable for all three companies		1,248,750

If these companies formed a Tax Group, the Corporate Tax due on their total Taxable Income of AED 15,000,000 would be AED 1,316,250. The Tax Group's Corporate Tax liability calculation would be as follows:

Rate	Taxable Income (AED)	Corporate Tax Payable (AED)
0%	375,000	0
9%	14,625,000	1,316,250
Total Corporate Tax Payable for all three companies		1,316,250

9.2.2. Corporate Tax rates for Qualifying Free Zone Persons

Corporate Tax applies to Qualifying Free Zone Persons at the following rates:[347]

Qualifying Income	0%
Taxable Income that is not Qualifying Income	9%

The Corporate Tax rate applied to Qualifying Free Zone Persons depends on whether income is Qualifying Income or not (see Section 5.5).

A Qualifying Free Zone Person is subject to the standard 9% Corporate Tax rate without being disqualified from the Free Zone regime on the following income:

- Income that is attributable to a domestic or a foreign Permanent Establishment;[348]
- Income derived from Commercial Property located in a Free Zone where the transaction is with a Person who is not a Free Zone Person;[349] and
- Income derived from residential and other non-Commercial Property located in a Free Zone.[350]

Income from these above sources is treated as regular Taxable Income that does not benefit from the 0% rate.

Unlike ordinary Taxable Persons, Qualifying Free Zone Persons are not entitled to a 0% rate on their first AED 375,000 of Taxable Income that is not Qualifying Income. Therefore, any Taxable Income that is not Qualifying Income will be subject to tax at the general rate of 9%.

9.2.3. Withholding Tax rate

At the time of enacting the Corporate Tax Law, the rate of Withholding Tax was 0%.[351] Withholding Tax should be deducted by a Resident Person from a payment made to a Non-Resident for certain categories of State Sourced Income derived by the Non-Resident Person, and remitted to the FTA. Tax credits are given to Taxable Persons

[347] Article 3(2) of the Corporate Tax Law.
[348] Article 5 of Cabinet Decision No. 55 of 2023.
[349] Article 6(1)(a) of Cabinet Decision No. 55 of 2023.
[350] Article 6(1)(b) of Cabinet Decision No. 55 of 2023.
[351] Article 45(1) of the Corporate Tax Law.

who have had Withholding Tax deducted from payments to them. (See Section 9.3.1 for more information on Withholding Tax Credit).

As the rate of Withholding Tax is currently 0%, this means that, currently, no tax needs to be withheld.

9.3. Tax credits

In some cases, Taxable Persons may be entitled to credits which they can use to offset against their Corporate Tax liability. These credits arise if they have paid tax on the same income already, either in the UAE or in a foreign country.

9.3.1. Requirements for the Withholding Tax Credit

Withholding taxes are a common form of collecting income tax on cross-border transactions. Under these regimes, tax is deducted at the source when certain payments are made to, for example, overseas Persons. Sometimes withholding taxes are also levied on domestic transactions. Typically, the payor of the income is charged with the task of deducting the tax from certain kinds of payments and remitting that amount to the tax administration.

Withholding taxes usually apply to certain types of activities by foreign parties, or activities that do not typically require a Person to register for tax, for example, dividends and interest payments in certain countries.

As part of the introduction of Corporate Tax, the UAE has introduced a Withholding Tax that applies to certain categories of income paid to a Non-Resident Person to the extent the income is not attributed to a Permanent Establishment in the UAE.[352] However, the rate of this tax is 0% meaning that, currently, no tax will need to be withheld.

If the rate is changed in future, a Non-Resident Person who becomes subject to Corporate Tax would be able to reduce their Corporate Tax Payable by any Withholding Tax that has already been deducted in the same Tax Period.[353] This is known as Withholding Tax Credit. Any excess Withholding Tax Credit will be refunded.[354]

[352] Article 45(1) of the Corporate Tax Law.
[353] Article 46(1) of the Corporate Tax Law.
[354] Article 46(3) of the Corporate Tax Law.

9.3.2. Foreign Tax Credit

Corporate Tax Payable may be reduced by any available Foreign Tax Credit for the same Tax Period.[355] Foreign Tax Credit is the amount of foreign taxes paid on foreign sourced income which has not been exempted. This relief is unilateral and does not rely on a Double Taxation Agreement or any other reciprocal action from the foreign taxing jurisdiction.

In order to apply Foreign Tax Credit, the pre-tax foreign income must be included in the Taxable Income of the UAE Resident Person. The amount of Corporate Tax due should be calculated based on the overall Taxable Income, and Foreign Tax Credit can then be deducted from the amount of Corporate Tax Payable.

The amount of Foreign Tax Credit cannot exceed the amount of Corporate Tax due on the foreign source income,[356] and a Foreign Tax Credit cannot be carried forward or back.[357] No refund will be given for unutilised Foreign Tax Credit. In addition, Foreign Tax Credit can only be applied after any Withholding Tax Credit has been applied.[358]

Taxable Persons must maintain all necessary records for the purposes of claiming Foreign Tax Credit.[359] This could include, for example, Withholding Tax certificates, statements of payments or assessments by the relevant foreign tax authority.

Example 36: Application of Foreign Tax Credit

C LLC is a UAE resident company that does business through Permanent Establishments in a number of foreign countries.

During the Tax Period, C LLC paid AED 300,000 in foreign taxes on the AED 1,500,000 of income it earned in foreign countries. C LLC has not made an election to exempt the income from its Foreign Permanent Establishments.

At the end of the Tax Period, C LLC's Corporate Tax liability was AED 1,000,000. C LLC can reduce its Corporate Tax liability using available Foreign Tax Credit. However, the amount of Foreign Tax Credit is limited to the amount of Corporate Tax that would have been paid in the UAE on the foreign income (AED 1,500,000 x 9% = AED

[355] Article 47(1) of the Corporate Tax Law.
[356] Article 47(2) of the Corporate Tax Law.
[357] Article 47(3) of the Corporate Tax Law.
[358] Article 44 of the Corporate Tax Law.
[359] Article 47(4) of the Corporate Tax Law.

135,000). This is less than the amount of tax C LLC paid in the foreign countries. The surplus amount (AED 300,000 – AED 135,000 = AED 165,000) cannot be carried forward or back and will not be refunded.

The amount of Corporate Tax due is therefore AED 1,000,000 – AED 135,000 = AED 865,000.

9.3.3. Impact of Double Taxation Agreements on Foreign Tax credits

Double Taxation Agreements between the UAE and other countries will generally provide for methods for the elimination of double taxation. In the event that a Resident Person derives foreign source income from a country with which the UAE has an in-force Double Taxation Agreement, the agreement with that country will generally provide either for the exemption method, the credit method or the application of both methods depending on the nature of the income and the specific provisions of the Double Taxation Agreement.

The provisions of Double Taxation Agreements take precedence over the Corporate Tax Law if the terms of the Double Taxation Agreement are inconsistent with the Corporate Tax Law.[360] This treatment is internationally common and accepted.

[360] Article 66 of the Corporate Tax Law.

10. Administration of Corporate Tax

10.1. Chapter Summary

This chapter explains how the Corporate Tax Law will be administered. It includes information for Taxable Persons on their administrative compliance responsibilities, such as registration, filing, and payment, as well as further guidance on clarifications and assessments, record keeping obligations and the general anti-abuse rule.

10.2. Registration and Deregistration

All Taxable Persons should register for Corporate Tax with the FTA and obtain a Tax Registration Number for Corporate Tax.[361] This needs to be done before a deadline to be determined by the FTA. All Taxable Persons are encouraged to register for Corporate Tax as soon as they become aware that they will be within the scope of Corporate Tax.

Non-Resident Persons that do not have a Permanent Establishment in the UAE and only earn State Sourced Income can choose not to register for Corporate Tax purposes. However, Non-Resident Persons that have a nexus in the UAE (arising from earning income from Immovable Property in the UAE – see Section 5.4.4) are required to register.[362]

The FTA can, at its discretion, register a Person for Corporate Tax if, on the basis of information available to it, the FTA believes the Person is a Taxable Person.[363]

If a Corporate Tax registered Person ceases to be a Taxable Person for any reason, they should file a Tax Deregistration application with the FTA.[364] Tax Deregistration will only take place when all Corporate Tax liabilities and penalties due have been paid, and all Tax Returns have been filed.[365] If the Tax Deregistration application is approved by the FTA, the FTA will deregister the Person for Corporate Tax purposes, with effect from the date of cessation of the Business or from such other date as may be determined by the FTA.[366]

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[361] Article 51(1) of the Corporate Tax Law.
[362] Article 4 of Cabinet Decision No. 56 of 2023.
[363] Article 51(3) of the Corporate Tax Law.
[364] Article 52(1) of the Corporate Tax Law.
[365] Article 52(2) of the Corporate Tax Law.
[366] Article 52(3) of the Corporate Tax Law.

Failure to submit a deregistration application within 3 months of the date the entity ceases to exist, cessation of the Business, dissolution, liquidation or otherwise, will result in a penalty of AED 1,000, and a further AED 1,000 on the same date monthly, up to a maximum of AED 10,000. [367]

For more details on the Tax Deregistration timelines refer to FTA Decision No. 6 of 2023 on Tax Deregistration Timeline.

Where a Person does not comply with the Tax Deregistration requirements, the FTA may, at its discretion and based on the information available to it, deregister the Taxable Person. This Tax Deregistration will be effective from the later of the last day of the Tax Period that the Taxable Person satisfied their Corporate Tax obligations or the date the Taxable Person ceases to exist.[368]

10.3. Financial Statements

Financial Statements record the financial activities and performance of a Business, and are a key element of Corporate Tax Law. A Taxable Person's Accounting Income (profit or loss) as stated in the Financial Statements is used as the starting point for calculating Taxable Income.

Taxable Persons that earn Revenue that does not exceed AED 3,000,000 in the Tax Period may use the Cash Basis of Accounting.[369]

Once a Taxable Person's Revenue exceeds AED 3,000,000 in the Tax Period, they must prepare Financial Statements using the Accrual Basis of Accounting except under exceptional circumstances and following the FTA's approval.[370]

Taxable Persons must prepare Financial Statements in accordance with IFRS. However, Taxable Persons that earn Revenue that does not exceed AED 50,000,000 may apply IFRS for SMEs.[371]

Applying IFRS creates a common definition of Accounting Income across business types and industries. For further details on accounting standards for Corporate Tax,

[367] Cabinet Decision No. 75 of 2023.
[368] Article 52(4) of the Corporate Tax Law.
[369] Article 2(1) of Ministerial Decision No. 114 of 2023.
[370] Article 20(1) of the Corporate Tax Law and Article 2 of Ministerial Decision No. 114 of 2023.
[371] Article 4(2) of Ministerial Decision No. 114 of 2023.

readers are advised to consult Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for Corporate Tax Purposes.[372]

The FTA can, by notice or by issuing a decision, request a Taxable Person to submit the Financial Statements used to determine their Taxable Income.[373] Where a Taxable Person is a partner in an Unincorporated Partnership, the FTA can request the partner to submit Financial Statements that show both the partnership's overall assets, liabilities, income and expenditure, and the partner's distributable share of assets, liabilities, income and expenditure.[374]

Some Taxable Persons may be required to maintain audited Financial Statements. This means that the Financial Statements must be checked by an external licensed auditor.[375]

The following Persons are required to maintain audited Financial Statements:[376]

- A Taxable Person deriving Revenue exceeding AED 50,000,000 during the relevant Tax Period; and
- A Qualifying Free Zone Person.

For further details on audited Financial Statements, readers are advised to consult Ministerial Decision No. 82 of 2023 on Maintaining Audited Financial Statements.[377]

10.4. Applications and elections

In order to apply some of the provisions in the Corporate Tax Law, Taxable Persons will need to make the relevant elections or applications.

Elections can be applied unilaterally by Taxable Persons, and do not require an approval from the FTA to give effect to the Corporate Tax treatment. In order for an election to become effective, it is only necessary for a Taxable Person to inform the FTA of their decision. No action or confirmation from the FTA is needed. Taxable Persons can elect to:

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[372] Ministerial Decision No. 114 of 2023.
[373] Article 54(1) of the Corporate Tax Law.
[374] Article 54(3) of the Corporate Tax Law.
[375] Article 54(2) of the Corporate Tax Law.
[376] Article 2 of Ministerial Decision No. 82 of 2023.
[377] Ministerial Decision No. 82 of 2023.

- Benefit from the small business relief;[378]
- Exempt their Foreign Permanent Establishment income;[379]
- Account for gains and losses on a realisation basis;[380]
- Be subject to Corporate Tax at the general rate, if they are a Qualifying Free Zone Person; [381]
- Apply the relief in relation to transfers in a Qualifying Group;[382]
- Apply the business restructuring relief;[383] and
- Apply Transitional Relief.[384]

Unlike elections, applications require approval by the FTA. For example, a group of companies cannot form a Tax Group without having made an application and received an approval from the FTA.[385] Provisions which require a Taxable Person to make an application cannot take effect until the FTA has approved the application.

Taxable Persons will be required to demonstrate that they meet any necessary criteria, and the FTA can ask for any additional information it requires to make its decision. The following is a non-exhaustive list of aspects of the Corporate Tax Law which require an application from a Taxable Person to the FTA:

- To be exempt from Corporate Tax, if the Person is a public pension fund or a public social security fund, a private pension fund or a private social security fund that meet the relevant conditions, or a Qualifying Investment Fund;[386]
- To be exempt from Corporate Tax, if they are a juridical person that is wholly owned and controlled by certain types of Exempt Persons[387] and meet the relevant condition (e.g. used exclusively for holding assets or investing funds for the benefit of the Exempt Person);[388]
- To continue to be exempt from Corporate Tax if the Person temporarily fails to meet the conditions of exemption;[389]

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[378] Article 21(1) of the Corporate Tax Law and Ministerial Decision No.73 of 2023.
[379] Article 24(1) of the Corporate Tax Law.
[380] Article 20(3) of the Corporate Tax Law and Ministerial Decision No.134 of 2023.
[381] Article 19(1) of the Corporate Tax Law.
[382] Article 26 of the Corporate Tax Law and Ministerial Decision No. 132 of 2023.
[383] Article 27 of the Corporate Tax Law.
[384] Ministerial Decision No. 120 of 2023.
[385] Article 40(1) of the Corporate Tax Law.
[386] Article 4(3) of the Corporate Tax Law.
[387] Article 4(1)(h) of the Corporate Tax Law.
[388] Articles 4(1)(h) and 4(3) of the Corporate Tax Law.
[389] Article 4(6)(b) of the Corporate Tax Law and Ministerial Decision No. 105 of 2023 .

- To treat a Government Entity's taxable Businesses as a single Taxable Person;[390]
- To treat an Unincorporated Partnership as a single Taxable Person;[391]
- To treat a Family Foundation as an Unincorporated Partnership;[392]
- To request a clarification from the FTA;[393]
- To request a refund from the FTA;[394]
- To adjust Taxable Income following an adjustment by a foreign tax authority;[395]
- To move from the Cash Basis of Accounting to Accrual Basis of Accounting;[396]
- To form, join or leave a Tax Group, replace a Parent Company in a Tax Group, or cease to be a Tax Group;[397]
- To deregister for Corporate Tax;[398] and
- To change their Tax Period.[399]

10.5. Tax Returns and payments

Consistent with Corporate Tax being a self-assessed regime, Taxable Persons should pay Corporate Tax and file their Corporate Tax Return within 9 months from the end of the relevant Tax Period.[400] For example, a Taxable Person with a Financial Year ending on 31 December is required to file their Tax Return and pay Corporate Tax on or before 30 September the following year.

Submitting a Tax Return late or a delay in making a payment of Corporate Tax Payable will result in a penalty of:

- AED 500 for each month of delay, or part thereof, for the first twelve months;
- AED 1,000 for each month of delay, or part thereof, from the thirteenth month onwards.[401]

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[390] Article 5(6) of the Corporate Tax Law.
[391] Article 16(8) of the Corporate Tax Law.
[392] Article 17(1) of the Corporate Tax Law.
[393] Article 59(1) of the Corporate Tax Law.
[394] Article 49(1) of the Corporate Tax Law.
[395] Article 34(11) of the Corporate Tax Law.
[396] Article 20(6) of the Corporate Tax Law.
[397] Articles 40(1), 40(3), 40(9), 40(10), 40(11) and 40(12) of the Corporate Tax Law.
[398] Article 52(1) of the Corporate Tax Law.
[399] Article 58 of the Corporate Tax Law.
[400] Articles 48 and 53 of the Corporate Tax Law.
[401] Cabinet Decision No. 75 of 2023.

The Tax Return can be submitted by the Taxable Person, or another Person who has the right to do so on the Taxable Person's behalf, for example, a tax agent or a legal representative.

Where a Tax Group has been formed, the Parent Company will be required to file Tax Returns on behalf of the whole Tax Group. There is no need for a separate return to be filed for each member of the Tax Group.[402]

In addition to the information required in the Tax Return, the Taxable Person must also provide any other information reasonably required by the FTA, including for example, the Financial Statements used to calculate Taxable Income.[403]

10.6. Clarifications and assessments

Certainty is an important hallmark of an efficient tax regime, and it is considered international best practice to create a stable tax environment in which Persons can be certain about their Corporate Tax treatment.

Tax clarifications provide an opportunity for Persons to obtain certainty on their tax position upfront. A Person can apply to the FTA for a clarification regarding the application of the Corporate Tax Law.[404]

The FTA may undertake an assessment of a Person's Corporate Tax affairs under specific circumstances and conditions to be prescribed by the FTA.[405]

If the tax position reported by the Taxable Person is not accurate, or administrative requirements have not been fulfilled, the Taxable Person may be liable for penalties under the Tax Procedures Law and the Corporate Tax Law.[406]

10.7. Record keeping

Taxable Persons are required to maintain records and documentation that:

- support the information provided in a Tax Return or in any other document to be submitted to the FTA;[407] and

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402 Article 53(7) of the Corporate Tax Law.
403 Article 53(3) of the Corporate Tax Law.
404 Article 59(1) of the Corporate Tax Law.
405 Article 60(1) of the Corporate Tax Law.
406 Article 60 of the Corporate Tax Law, Tax Procedures Law and Cabinet Decision No. 75 of 2023.
407 Article 56(1)(a) of the Corporate Tax Law.

- enable the Taxable Person's Taxable Income to be readily ascertained by the FTA.[408]

The FTA may request that a Taxable Person submits the Financial Statements used to determine their Taxable Income for a given Tax Period.[409] These documents should, therefore, be maintained by all Taxable Persons.

Apart from Financial Statements, the Corporate Tax Law does not specify which records or documentation should be maintained, or the format in which they should be kept. This reflects the fact that the records and documentation required will differ according to the type and complexity of the Business that the Taxable Person conducts.

Notwithstanding differences between Taxable Persons, the information maintained should typically include, but it is not limited to:

- A record of the Taxable Person's transactions in the Tax Period;
- A record of the Taxable Person's assets, including details of any purchases or disposals;
- A record of the Taxable Person's liabilities; and
- A record of any stock held at the end of the Tax Period.

Examples of specific documents which might be kept include but are not limited to:

- Bank statements;
- Loan or financing documentation;
- Sale and purchase ledgers;
- Invoices or other records of daily earnings, such as till rolls;
- Order records and delivery notes; and
- Other relevant business correspondence.

There is no requirement that these documents are maintained in their original format and it may be possible to keep them in an alternative format. For example, paper receipts could be scanned and stored electronically.

Failure of a Taxable Person to keep the required records and other information specified in the Tax Procedures Law and Corporate Tax Law will result in one of the following penalties:

[408] Article 56(1)(b) of the Corporate Tax Law.
[409] Article 54(1) of the Corporate Tax Law.

- AED 10,000 for each violation;
- AED 20,000 in each case of repeated violation within 24 months from the date of the last violation.[410]

10.7.1. Exempt Persons

Exempt Persons must maintain records that enable the Exempt Person's status to be readily ascertained by the FTA.[411] The documentation required will depend on the reason that a Person is exempt from Corporate Tax.

10.7.2. How long should records be kept?

Taxable Persons and Exempt Persons must keep records and documents for seven years following the end of the Tax Period to which they relate.[412]

This requirement applies to the Tax Period to which the documents relate, and not the Tax Period in which they were created. For example, if a Taxable Person uses the cash basis accounting method, they may have invoices or bills which were raised in a Tax Period before the one in which they were paid. In this instance, the seven-year period starts from the Tax Period in which the invoices or bills were paid.

Taxable Persons and Exempt Persons are responsible for maintaining all their records and documents. Taxable Persons must provide the FTA with any information, documents or records reasonably required by the FTA when requested to do so. The records must therefore be easily accessible if the FTA requests them.

10.8. General anti-abuse rule

A general anti-abuse rule is used to prevent the use of 'abusive' transactions or arrangements, which may be legal within the parameters of the Law, but are not in-line with the Law's intended spirit and purpose.[413]

The rule allows the FTA to counteract or adjust Corporate Tax advantages obtained as a result of transactions or arrangements which are considered to be abusive (by the application of a test).[414] The test is whether, having regard to all of the relevant circumstances, it can be reasonably concluded that the transactions and

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[410] Cabinet Decision No. 75 of 2023.
[411] Article 56(2) of the Corporate Tax Law.
[412] Articles 56(1) and 56(2) of the Corporate Tax Law.
[413] Article 50(1) of the Corporate Tax Law.
[414] Article 50(3) of the Corporate Tax Law.

arrangements were entered into without a valid commercial reason and their main purpose is to obtain a Corporate Tax advantage that is not consistent with the intention of the Law.[415]

[415] Article 50(1) of the Corporate Tax Law.

11. Updates and Amendments

Date of amendment	Amendments made
September 2023	• First version

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Non-Resident Persons

Corporate Tax Guide | CTGNRP1

October 2023

Contents

1. Glossary

Authority: Federal Tax Authority.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or activities, conducted by a Person in the course of its Business.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid**.**

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Double Taxation Agreement: An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established, or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

Immovable Property: Means any of the following:

a. Any area of land over which rights or interests or services can be created.

b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.
c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic financial instrument and other payments economically equivalent to interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Minister: Minister of Finance.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural person or juridical person.

Personal Investment: Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Income: Any income derived by a Qualifying Free Zone Person that is subject to Corporate Tax at the rate specified in Article 3(2)(a) of the Corporate Tax Law.

Real Estate Investment: Any investment activity conducted by a natural person related to, directly or indirectly, the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not conducted, or does not require to be conducted through a Licence from a Licensing Authority.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Registration: A procedure under which a Person registers for Corporate Tax purposes with the FTA.

Tax Registration Number: A unique number issued by the FTA to each Person who is registered for Corporate Tax purposes in the UAE.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

Withholding Tax: Corporate Tax to be withheld from State Sourced Income in accordance with Article 45 of the Corporate Tax Law.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance to natural persons or juridical persons who are not considered Resident Persons for Corporate Tax purposes and who derive income from the UAE, to help them understand whether they are subject to tax in the UAE as a Non-Resident Person. It provides readers with an overview of:

- Who is a Non-Resident Person for the purposes of Corporate Tax in the UAE;
- What are the Corporate Tax obligations on a Non-Resident Person; and
- What income of a Non-Resident Person is subject to Corporate Tax in the UAE.

2.3. Who should read this guide?

The guide should be read by any natural person or juridical person who is not considered to be a Resident Person as per the provisions of the Corporate Tax Law and is deriving any income from the UAE. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how key elements of the Corporate Tax Law apply to Non-Resident Persons. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural persons.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as "Tax Procedures Law";
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Corporate Tax Law";
- Cabinet Decision No. 85 of 2022 on Determination of Tax Residency is referred to as "Cabinet Decision No. 85 of 2022";
- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax is referred to as "Cabinet Decision No. 49 of 2023";
- Cabinet Decision No. 56 of 2023 on Determination of a Non-Resident Person's Nexus in the State for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Cabinet Decision No. 56 of 2023";
- Ministerial Decision No. 27 of 2023 on Implementation of Certain Provisions of Cabinet Decision No. 85 of 2022 on Determination of Tax Residency is referred to as "Ministerial Decision No. 27 of 2023";
- Ministerial Decision No. 43 of 2023 Concerning Exception from Tax Registration for the Purpose of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 43 of 2023";
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses as "Ministerial Decision No. 73 of 2023";
- Ministerial Decision No. 83 of 2023 on the Determination of the Conditions under which the Presence of a Natural Person in the State would not Create a Permanent Establishment for a Non-Resident Person for the Purposes of Federal

Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 83 of 2023";

- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 114 of 2023"; and
- Ministerial Decision No. 127 of 2023 on Unincorporated Partnership, Foreign Partnership and Family Foundation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 127 of 2023".

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the tax implications for a Non-Resident Person as per the provisions of the Corporate Tax Law. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each person's own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax for Non-Resident Persons. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Definition of a Non-Resident Person

Under the Corporate Tax Law, a Non-Resident Person is defined as a Person who is not a Resident Person. It is therefore necessary to first consider whether a Person is a Resident Person (in which case this guide will not be applicable).

A Person is a Resident Person in the following cases:

- A natural person if they conduct a Business or Business Activity in the UAE.
- A juridical person if it is incorporated or otherwise established or recognised in the UAE or is incorporated or otherwise established or recognised outside the UAE but effectively managed and controlled in the UAE.

Therefore, a Non-Resident Person is:

- A natural person who is not a Resident Person but:
  - has a Permanent Establishment in the UAE and has a Turnover attributable to their Permanent Establishment that exceeds AED 1,000,000 within a Gregorian calendar year; or
  - derives State Sourced Income, (i.e. income accruing in, or derived from, the UAE) (see Section 8).

- A juridical person that is incorporated or formed outside the UAE and not effectively managed and controlled in the UAE to the extent they:[1]
  - have a Permanent Establishment in the UAE (i.e. a fixed place of Business or other form of presence in the UAE) (see Section 7);
  - derive State Sourced Income, (i.e. income accruing in, or derived from, the UAE) (see Section 8); or
  - have a nexus in the UAE (see Section 9).

Note that the concept of nexus is applicable only to a Non-Resident Person that is a juridical person (and not a natural person). A Non-Resident Person that is a juridical person can have a nexus in the UAE if they earn income from Immovable Property in the UAE.[2]

It is important to note that not all non-resident persons are subject to Corporate Tax in the UAE. However, the Corporate Tax Law defines the term “Non-Resident Person” to mean a taxable non-resident person. Therefore, the term “Non-Resident Person” is

[1] Article 11(4) of the Corporate Tax Law.
[2] Article 2 of Cabinet Decision No. 56 of 2023.

used throughout this Guide to mean a non-resident person subject to Corporate Tax in the UAE unless specifically stated otherwise.

4. When is a Non-Resident Person required to register for Corporate Tax purposes?

4.1. Juridical persons

A Non-Resident Person that is a juridical person is required to register for Corporate Tax purposes and obtain a Tax Registration Number when the Non-Resident Person is subject to Corporate Tax due to having:[3]

1. a Permanent Establishment in the UAE (see Section 7);[4] or
2. a nexus in the UAE (see Section 9).[5]

As soon as the Person determines that their activities will trigger a Permanent Establishment in the UAE or that they have a nexus in the UAE, they are considered a Non-Resident Person under the Corporate Tax Law and should register with the FTA for Corporate Tax purposes to avoid any compliance delays that may result in administrative penalties.

A Non-Resident Person that is a juridical person, derives only State Sourced Income (see Section 8) and does neither have a Permanent Establishment in the UAE nor a nexus in the UAE, shall not register for Corporate Tax purposes.[6]

Example 1: Marketing company deriving State Sourced Income

Company M is a marketing company (a juridical person incorporated in and a tax resident of Country M) that operates abroad and derives income from its UAE based client. Company M posts marketing material on social media for its UAE client. Company M does not have any formal representation or employees or office space in the UAE.

Accordingly, it is likely that Company M would neither have a Permanent Establishment nor a nexus in the UAE. Instead, it only derives State Sourced Income (fees from the UAE client) and, therefore, is not required to register for Corporate Tax purposes.[7]

[3] Article 51(1) of the Corporate Tax Law.
[4] Article 11(4)(a) of the Corporate Tax Law.
[5] Article 11(4)(c) of the Corporate Tax Law.
[6] Article 2(1)(e) of Ministerial Decision No. 43 of 2023 and Article 4 of Cabinet Decision 56 of 2023.
[7] Article 2(1)(e) of Ministerial Decision No. 43 of 2023.

Note: Certain categories of State Sourced Income that are not attributable to a Permanent Establishment, may be subject to Withholding Tax (currently at the rate of 0%) (see Section 5.4).[8]

Example 2: Marketing company with a nexus in the UAE

The same marketing company, Company M from Example 1 (a juridical person incorporated in and a tax resident of Country M), receives rental income in respect of a building it owns in the UAE, in addition to earning fees from its marketing activities from the UAE client. In this case Company M would have a nexus in the UAE (due to the rental income earned),[9] and would be required to register for Corporate Tax purposes (see Section 9).[10]

Example 3: A consultant working in the UAE for a client of their foreign employer

An employee of Company C (a juridical person incorporated in and a tax resident of Country C) is providing services to a UAE client of Company C from their home in the UAE (without officially residing in the UAE). This may constitute a Permanent Establishment in the UAE, if specific conditions are met (see Section 7).

In this situation, Company C would be required to register for Corporate Tax purposes due to the existence of a Permanent Establishment in the UAE.

4.2. Natural persons

A Non-Resident Person that is natural person is required to register for Corporate Tax purposes and obtain a Tax Registration Number when the Non-Resident Person has a Turnover attributable to their Permanent Establishment in the UAE that exceeds AED 1,000,000 within a Gregorian calendar year.

[8] Article 45(1) of the Corporate Tax Law.
[9] Article 2 of Cabinet Decision No. 56 of 2023.
[10] Article 4 of Cabinet Decision No. 56 of 2023.

5. What income of a Non-Resident Person is subject to Corporate Tax in the UAE?

5.1. Income attributable to a Permanent Establishment or nexus

Taxable Income that is attributable to a Non-Resident Person's Permanent Establishment or nexus in the UAE is subject to Corporate Tax.[11]

Corporate Tax is imposed on the Taxable Income of a Non-Resident Person at the same rate as for a Resident Person, as follows:[12]

- 0% (zero percent) on the first AED 375,000 of Taxable Income.
- 9% (nine percent) on the amount that exceeds AED 375,000 of Taxable Income.

In the event that the Non-Resident Person is a Qualifying Free Zone Person (for example, a branch operating in a Free Zone), then Corporate Tax shall be imposed at the following rates:[13]

- 0% (zero percent) on Qualifying Income.
- 9% (nine percent) on Taxable Income that is not Qualifying Income.

Taxable Income attributable to a Non-Resident Person's Permanent Establishment can be derived from both inside and outside the UAE (see Section 7.1 for more details on the attribution of profits to a Permanent Establishment).

Income attributable to a Person's nexus is any income derived by a Non-Resident Person that is a juridical person from Immovable Property in the UAE.[14] (see Section 9).

Taxable Income is calculated for a Tax Period on the basis of adequate, standalone Financial Statements prepared in accordance with accounting standards accepted in the UAE, adjusted as per the provisions of Article 20 of the Corporate Tax Law.

[11] Articles 12(3)(a) and 12(3)(c) of the Corporate Tax Law.
[12] Article 3(1) of the Corporate Tax Law.
[13] Article 3(2) of the Corporate Tax Law.
[14] Article (2)(1) of Cabinet Decision No. 56 of 2023.

5.2. Business or Business Activities of a non-resident natural person that are subject to Corporate Tax

Businesses or Business Activities of a non-resident natural person would be subject to Corporate Tax only if the gross amount of Turnover derived through conducting the Businesses or Business Activities (for example, through a Permanent Establishment) in the UAE, exceeds AED 1,000,000 during a Gregorian calendar year.[15]

Furthermore, the following are not considered as Businesses or Business Activities for a natural person, and, therefore, are not subject to Corporate Tax for a non-resident natural person and are not taken into account in the determination of a natural person's Turnover:[16]

- wages, salary or any other amounts received by a natural person from their employer by virtue of their employment contract, whether in cash or in kind;
- any return on Personal Investments, made in the relevant person's personal capacity, not through a Licence from a Licensing Authority, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law; and
- any income from a Real Estate Investment not conducted through a Licence from a Licensing Authority.

5.3. State Sourced Income

Income is considered State Sourced Income in any of the following instances:[17]

- Where it is derived from a Resident Person.
- Where it is derived from a Non-Resident Person and the income is paid or accrued in connection with, and attributable to, a Permanent Establishment of that Non-Resident Person in the UAE.
- Where it is otherwise accrued in or derived from activities performed, assets located, capital invested, rights used, services performed or benefitted from in the UAE.

Each of the above situations is considered in further detail in Section 8.

[15] Cabinet Decision No. 49 of 2023.

[16] Article 2(2) of Cabinet Decision No. 49 of 2023.

[17] Article 13(1) of the Corporate Tax Law.

5.4. State Sourced Income and Withholding Tax

Certain State Sourced Income, derived by a Non-Resident Person, that is not attributable to a Permanent Establishment, may be subject to Withholding Tax. The current Withholding Tax rate is 0%.[18]

5.5. State Sourced Income and Permanent Establishment

State Sourced Income and income attributable to a Permanent Establishment in the UAE are not mutually exclusive. State Sourced Income can be attributable to a Permanent Establishment and, therefore, Corporate Tax is imposed on State Sourced Income that is attributable to a Permanent Establishment in the UAE.

5.6. State Sourced Income and nexus

State Sourced Income and income from a nexus in the UAE are not mutually exclusive. State Sourced Income includes income from a nexus and, therefore, Corporate Tax is imposed on State Sourced Income that is related to a nexus in the UAE.

5.7. Small business relief: unavailable to a Non-Resident Person

As per the Corporate Tax Law, only a Resident Person can elect for small business relief.[19] Therefore, Non-Resident Persons are not eligible for the small business relief. However, this may be affected by applicable Double Taxation Agreements.

5.8. Exempt income from operating aircraft or ships in international transportation

Income derived by a Non-Resident Person from operating aircraft or ships in international transportation is exempt (i.e. not subject to Corporate Tax) as long as the Non-Resident Person is in the Business of undertaking any of the following activities:[20]

- International transport of passengers, livestock, mail, parcels, merchandise or goods by air or by sea.
- Leasing or chartering aircrafts or ships used in international transportation.
- Leasing of equipment which are integral to the seaworthiness of ships or the airworthiness of aircrafts used in international transportation.

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[18] Article 45(1) of the Corporate Tax Law.
[19] Article 21(1) of the Corporate Tax Law.
[20] Article 25(1) of the Corporate Tax Law.

This exemption only applies if similar provisions are applied to a UAE Resident Person conducting the same activities in the country or territory in which the Non-Resident Person is resident.[21]

Example 4: International transport company

Company B is an international transport company (a juridical person incorporated in and a tax resident of Country B) that operates a ship that transports merchandise to and from the UAE.

Country B exempts income derived by a UAE Resident Person from operating ships in international transportation within the jurisdiction of Country B.

Since a similar reciprocal exemption is available to a UAE Resident Person conducting international transportation in Country B, income derived by Company B from operating ships in international transportation within the jurisdiction of the UAE will be exempt from Corporate Tax in the UAE.

5.9. Interaction of the Corporate Tax Law with Double Taxation Agreements

A Non-Resident Person (juridical or natural person) who is subject to tax under the provisions of the Corporate Tax Law may be entitled to seek relief under a relevant Double Taxation Agreement. This guide only addresses the tax implications for Non-Residents under UAE Corporate Tax Law, i.e. without consideration of the potential implications of a Double Taxation Agreement.

Non-Resident Persons should assess the potential implications of a Double Taxation Agreement, taking into account the relevant facts and circumstances, read with Cabinet Decision No. 85 of 2022 and Ministerial Decision No. 27 of 2023, where relevant.

A Double Taxation Agreement that is in force in the UAE, takes precedence over the provisions of the Corporate Tax Law to the extent there is any inconsistency.[22] Therefore, meeting the definition of a Resident Person under the UAE Corporate Tax Law, does not automatically mean that a Resident Person will be a tax resident in the UAE where a Double Taxation Agreement applies. Tax residence may be assigned to the UAE or to another jurisdiction under a Double Taxation Agreement depending on the facts and circumstances and the content of the relevant agreement.

[21] Article 25(2) of the Corporate Tax Law.
[22] Article 66 of the Corporate Tax Law.

Example 5: Natural person conducting Business in the UAE (an applicable Double Taxation Agreement does not exist)

Mr C (a national of Country C) comes to the UAE to conduct Business for 4 months. The Turnover of Mr C from the UAE Business is AED 2,000,000 within the 2024 Gregorian calendar year. The UAE and Country C do not have an applicable Double Taxation Agreement.

In the absence of any existing Double Taxation Agreement, Mr C will be treated as a Resident Person for Corporate Tax purposes in the UAE, as he is conducting a Business in the UAE.[23] Since his Turnover from the Business has exceeded AED 1,000,000 in a Gregorian calendar year,[24] Mr C will be required to register for Corporate Tax purposes,[25] and the income derived from conducting a Business in the UAE will be subject to Corporate Tax.[26]

Example 6: Natural person conducting a Business in the UAE (an applicable Double Taxation Agreement exists)

Ms D (a national of Country D) comes to the UAE to conduct a Business. She rents an office space for 4 months within the 2024 Gregorian calendar year and remains in the UAE for these 4 months only. The Turnover of Ms D from the Business in the UAE is AED 2,000,000 within the 2024 Gregorian calendar year. The UAE and Country D have an applicable Double Taxation Agreement.

Implication under Corporate Tax Law:

Ms D may be treated as a Resident Person for Corporate Tax purposes as she is conducting a Business in the UAE.[27]

Implication under Double Taxation Agreement:

As per the Double Taxation Agreement between the UAE and Country D, an individual is treated as a resident of the UAE if they are a national of the UAE or spend, at least, 183 days in the relevant calendar year in the UAE.

[23] Article 11(3)(c) of the Corporate Tax Law.
[24] Article 2(1) of Cabinet Decision No. 49 of 2023.
[25] Article 2(3) of Cabinet Decision No. 49 of 2023.
[26] Article 12(2) of the Corporate Tax Law.
[27] Article 11(3)(c) of the Corporate Tax Law.

On the basis that Ms D is not a national of the UAE and has spent less than 183 days in the UAE in the 2024 calendar year, she will not be a resident of the UAE as per the Double Taxation Agreement between the UAE and Country D and will be considered as a Non-Resident in the UAE for Corporate Tax purposes.

On the basis that the presence of Ms D in the UAE does not constitute a Permanent Establishment in the UAE since the presence does not exceed 6 months (see Section 7), Ms D will not have to register for Corporate Tax purposes.

Note: Double Taxation Agreements may rely on different criteria to determine the residence of natural persons.

6. Other UAE Corporate Tax requirements for a Non-Resident Person

6.1. Standalone Financial Statements and attribution

A Non-Resident Person that is required to register for Corporate Tax purposes is subject to the same rules as a Resident Person with regards to their reporting requirements. The Taxable Income for a Non-Resident Person is to be determined on the basis of adequate and standalone Financial Statements prepared for financial reporting purposes in accordance with accounting standards accepted in the UAE (which are International Financial Reporting Standards "IFRS").[28] Notwithstanding this, a Taxable Person may calculate its Taxable Income on the basis of Financial Statements prepared using the Cash Basis of Accounting, if specific conditions are met.[29]

A Non-Resident Person must determine its Taxable Income which is attributable to a Permanent Establishment or nexus in the UAE. Attribution of income and expenditure to a Permanent Establishment should be based on the arm's length principle and internationally accepted attribution methodologies as a Non-Resident Person and its Permanent Establishment are considered to be Related Parties.[30]

6.2. Tax Return submission

On the same basis as a Resident Person, a Non-Resident Person must file a Tax Return with the FTA and settle the Corporate Tax payable, no later than (9) nine months from the end of the relevant Tax Period.[31]

A Tax Period, the period for which a Tax Return is required to be filed for the purposes of Corporate Tax, is normally the Gregorian calendar year, or the (12) twelve-month period for which the Taxable Person prepares Financial Statements.[32] However, in specific cases, a Taxable Person can make an application to the FTA to extend a current period to a maximum of 18 months or to shorten the subsequent period to between 6 and 12 months.[33]

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[28] Article 20(1) of the Corporate Tax Law and Article 4(1) of Ministerial Decision No. 114 of 2023.
[29] Article 2 of Ministerial Decision No. 114 of 2023.
[30] Article 35(1)(d) of the Corporate Tax Law.
[31] Article 48 and Article 53(1) of the Corporate Tax Law.
[32] Article 57 of the Corporate Tax Law.
[33] Article 58 of the Corporate Tax Law.

6.3. Record keeping

Notwithstanding the provisions of the Tax Procedures Law, a Non-Resident Person must maintain all records and documents for a period of 7 years following the end of the Tax Period to which they relate.[34]

[34] Article 56 of the Corporate Tax Law.

7. Permanent Establishment

7.1. Overview

Broadly, a Permanent Establishment of a Non-Resident Person can arise in the UAE where:[35]

- there is a fixed or permanent place in the UAE through which the Non-Resident Person wholly or partly conducts its Business (see Section 7.2);
- a Person habitually exercises an authority to conduct a Business or Business Activity in the UAE on behalf of the Non-Resident Person (see Section 7.3); or
- a Non-Resident Person has any other form of nexus in the UAE as may be specified in a decision issued by the Cabinet.

It is important to note that the relevant provisions of any Double Taxation Agreement between the country of tax residence of the Non-Resident Person and the UAE must be considered in the assessment of whether a specific case constitutes a Permanent Establishment in the UAE.

Different forms of Permanent Establishments are discussed in the following Sections.

7.2. Fixed place Permanent Establishment

7.2.1. Essential factors determining the existence of a fixed place Permanent Establishment

A Non-Resident Person is considered to have a Permanent Establishment in the UAE where it has a fixed or permanent place in the UAE through which the Business of the Non-Resident Person, or any part thereof, is conducted.[36]

There are certain essential factors and guiding principles that must be tested to determine whether a Non-Resident Person has a fixed place Permanent Establishment in the UAE:

- The Non-Resident Person must have a "place of Business" in the UAE which could include a facility, such as an office, a work location, premises or, in certain instances, machinery or equipment, which is used by the Non-Resident Person to carry on its Business in the UAE on a regular/recurrent basis (hereinafter referred to as "place of Business test").

[35] Article 14(1) of the Corporate Tax Law.

[36] Article 14(1)(a) of the Corporate Tax Law.

- The place of Business must be "fixed" i.e. it must be established at a distinct place with a certain degree of "permanence" (hereinafter referred to as "permanence test"). A case-by-case evaluation needs to be made considering all relevant factors but an aggregate period of more than 6 months (even if not continuous), in the relevant 12 consecutive months, will typically indicate permanence.
- The place of Business must be at the disposal of the Non-Resident Person. The mere presence at a particular location does not necessarily mean that the location is at its "disposal". The Non-Resident Person must have the right or effective power to use such place of Business (hereinafter referred to as the "disposal test").
- The activities performed by the Non-Resident Person at such place of Business must be core income-generating activities and not of a preparatory or auxiliary nature (hereinafter referred to as the "Business Activity test").

Typically, a Non-Resident Person will have a fixed place Permanent Establishment in the UAE only if its operations satisfy all the above factors and having regard to all relevant facts and circumstances.

7.2.2. Immaterial factors for determining the existence of a fixed place Permanent Establishment

Determining whether a Non-Resident Person has a Permanent Establishment in the UAE is a fact and context specific exercise that needs to be evaluated on a case-by-case basis. However, the following (illustrative) factors would typically be immaterial, i.e. should not influence the evaluation:

- Ownership of the Non-Resident's place of Business is immaterial. Even rented premises can constitute a Permanent Establishment.
- The formal legal right to use a particular place is not required if the Non-Resident Person has effective control over such location i.e. it is at its disposal to conduct its Business Activities. For example, a Permanent Establishment can exist where a Non-Resident Person illegally occupies a certain location to conduct its Business Activities.
- An exclusive right over a place is immaterial. A Non-Resident Person can have a Permanent Establishment even in cases where it conducts its Business through a specific location that belongs to another Person or that is used by several other Persons to perform their own Business Activities at the common location.

By way of illustrative examples, the table below addresses some of the issues and questions that may arise regarding whether a Non-Resident has a fixed place Permanent Establishment in the UAE:

Issue	Examples
Should the place of Business be physically “fixed”?	• Company F (a juridical person incorporated in and a tax resident of Country F) provides a floating restaurant experience to its customers in the UAE which is attached to a hot air balloon and supported by a crane which makes the restaurant mobile. • In this case, such place would constitute a fixed place Permanent Establishment for Company F even if it is not actually “fixed” to the soil as there is a clear link between the place of Business and a specific geographical location in the UAE.
What is the impact of multiple work locations?	• A Non-Resident Person has been awarded a contract whereby parts of a substantial offshore platform/structure are assembled at various locations within the UAE and then moved to another location within the UAE for final assembly. This is considered part of a single project and the fact that the work was not undertaken in “one particular location” is immaterial. Activities performed at each location would be part of a cohesive project, and hence the project could be regarded as a fixed place Permanent Establishment for the Non-Resident Person. • The very nature of certain construction/installation projects is such that a Non-Resident Person may have to perform different segments of the project in different locations, or the Business Activity may have to be relocated continuously or from time to time as the project progresses.
Whether client’s premises can be at the disposal of a Non-Resident Person?	• Company B (a juridical person that is incorporated in and a tax resident of Country B) has been awarded a 2-year contract by a government owned company (client) in the UAE for rendering business consulting services to enhance the production of goods. The project requires employees of Company B to perform its activities from the client’s office. • Employees of Company B would have to seek specific permission to enter the client’s premises on each occasion. They may be given temporary access cards, desks, access to training or meeting rooms for performance of contracted services only. • In the event where, in substance, these restrictions do not establish, for Company B, any effective control or free

Issue	Examples
	right to use the client's premises, they are unlikely to be at Company B's disposal such that no Permanent Establishment in the UAE arises (even if other tests i.e. place of Business, permanence and Business Activity are satisfied, due to the presence of the employees in the UAE). • However, where Company B's employees had relatively free access such as long-term access cards, desk assignment, etc. over such an extended period, it is likely that in substance the disposal test would be satisfied and as such Company B would have a fixed place Permanent Establishment in the UAE (since the other tests i.e. place of Business, permanence and Business Activity are also satisfied, due to the presence of the employees). • Note: if Company B's activities do not constitute a Permanent Establishment, it would still have State Sourced Income (see Section 8).
Whether hotel rooms can be considered as being at the disposal of Non-Resident Person?	• Company G (a juridical person that is incorporated and a tax resident in Country G) has been awarded a 2-year contract by a UAE company for rendering business consulting services to enhance production capacity. • Company G sent a few employees to the UAE to execute the project but did not set up/acquire any office space in the UAE. • During their 2-year stay in the UAE, Company G decided its employees would stay in a hotel and the employees conducted their project related activities from the hotel premises. • In this case, Company G would have a fixed place Permanent Establishment in the UAE even if it does not have formal office space. The hotel would be treated as its place of Business since the employees worked from there and the hotel premises were in essence at their disposal.
Whether an employee's home office can be at the disposal of a Non-Resident Person?	• Company C (a juridical person that is incorporated in and a tax resident of Country C), is engaged in rendering software development services. Considering the industry practice, nature of work and time zone difference with customers, Company C allows its employees to work from home.

Issue	Examples
	• Accordingly, some employees of Company C decided to work from their home in the UAE, occasionally. • While Company C has provided its employees with a laptop and connectivity instrument such as a data card, remote connectivity etc, in this case, Company C would not have a fixed place Permanent Establishment in the UAE, as it has no access rights and the homes of the employees are not at its disposal, and due to the following factors: - Company C does not bear the costs/expenses related to the home office. - Company C does not have either a formal or a legal right of access to the home office. - Intermittent or incidental use of the home does not satisfy disposal condition. - even if the home office is used on a regular/continuous basis by some employees, Company C never "required" the employees to work from their home, it is merely an "option" given to the employees.

Note that all relevant facts and circumstances must be examined on a case-by-case basis to determine whether a Permanent Establishment exists, and that conclusions drawn in this guide including the table above are purely for illustrative purposes.

Furthermore, even if a fixed place Permanent Establishment is not created for a Non-Resident Person, it would need to be assessed whether an agency Permanent Establishment exists (see Section 7.3). Additionally, provisions of the Corporate Tax Law will have to be read with the relevant Double Taxation Agreement (where available and effective) to determine the existence of a Permanent Establishment in the UAE. To the extent the provisions of a Double Taxation Agreement are inconsistent with the Corporate Tax Law, the Double Taxation Agreement provisions will prevail (see Section 5.9).

7.2.3. Specific inclusions to a fixed place Permanent Establishment

The Corporate Tax Law provides a list of illustrative and non-exhaustive examples of a fixed or permanent place of Business in the UAE as follows:[37]

[37] Article 14(2) of the Corporate Tax Law.

a. A place of management where management and commercial decisions that are necessary for the conduct of the Business are, in substance, made.
b. A branch.
c. An office.
d. A factory.
e. A workshop.
f. Land, buildings and other real property.
g. An installation or structure for the exploration of renewable or non-renewable natural resources.
h. A mine, an oil or gas well, a quarry or any other place of extraction of natural resources, including vessels and structures used for the extraction of such resources.
i. A building site, a construction project, or place of assembly or installation, or supervisory activities in connection therewith, but only if such site, project or activities, whether separately or together with other sites, projects or activities, last more than 6 months, including connected activities that are conducted at the site or project by one or more Related Parties of the Non-Resident Person.

The above specific inclusions are to be read in the context of the general definition of a fixed place Permanent Establishment. Hence, the essential factors discussed in Section 7.2.1 equally apply to the specific inclusions and should be satisfied in order for a Non-Resident Person to create a Permanent Establishment in the UAE. Accordingly, the terms listed, “a place of management”, “a branch”, “an office”, etc. must be interpreted in such a way that such places of Business constitute Permanent Establishments only if they meet the requirements of fixed place Permanent Establishment and are not used solely for “preparatory’’ and “auxiliary’’ activities.

The following sections discuss each of the above listed illustrative examples.

7.2.3.1. Place of management

“Place of management” represents a place where decisions related to day-to-day management of the Business (or part of the Business) are taken, or functions which relate to the management, supervision or direction are carried out.

“Management” in this case is the internal management of the company and does not include providing management services to other companies.

Examples related to place of management are discussed below:

Example 7: Company with a place of management in the UAE

A foreign company has multiple divisions which make sales internationally. The company establishes a “management office" in the UAE for supervisory and coordination functions for one division. That office would be regarded as a “place of management” and, therefore, the division (rather than the company as a whole) would constitute a fixed place Permanent Establishment in the UAE.

Example 8: Manager travelling to the UAE for meetings

A manager of a foreign company, who is authorised to take management decisions, makes a business trip to the UAE to meet some clients and discuss potential business opportunities. The manager carrying out their duties, which in this case are not related to the day-to-day management of the foreign company, while being in the UAE, would not necessarily fulfil the criteria for creating a fixed place Permanent Establishment.

7.2.3.2. Branch

A UAE branch of a Non-Resident Person is deemed to be an extension of the Non-Resident Person. For example, where a Non-Resident Person that carries on a retail Business, opens a branch or outlet in the UAE.

7.2.3.3. Office

An office includes any place where a Person works or conducts its Business Activities and may include a representative office, hotel room, hotel business centre, home office, etc. However, it is important to note that there would need to be a fact-specific determination in each case.

Example 9: Employee creating a Permanent Establishment for Non-Resident Person

Company I (a juridical person incorporated in and a tax resident of Country I) is awarded a contract for rendering consultancy services for a UAE client. To execute this project, Company I sends its employees to the UAE where they work from a dedicated hotel apartment rented by Company I from 1 January 2024 to 31 August 2024 (i.e. for a period of 8 months).

Implications under the Corporate Tax Law:

As working from the hotel for a period of 8 months constitutes a "fixed place of Business", Company I shall have a fixed place Permanent Establishment in the UAE under the Corporate Tax Law.

Implications under the Double Taxation Agreement:

However, as per the Double Taxation Agreement between UAE and Country I, a company incorporated in Country I and executing a project in the UAE through its employees, is considered to create a Permanent Establishment only if the presence of its employees in the UAE exceeds 9 months.[38]

Since Company I is a company incorporated and tax resident of Country I, it would be entitled to benefit from the Double Taxation Agreement between the UAE and Country I while determining whether it creates a Permanent Establishment in the UAE.

Considering the above facts, while the presence of Company I's employees in the UAE would create a "fixed place" Permanent Establishment for Company I in the UAE, as per the Corporate Tax Law (as its employees are present in the UAE, conducting core Business Activities and working from a fixed place of Business that is at the disposal of Company I), Company I would not have a Permanent Establishment under the Double Taxation Agreement between the UAE and Country I which provides a threshold of 9 months for creating a Permanent Establishment if services are rendered through the presence of employees in the UAE.

In the absence of a Permanent Establishment in the UAE (and assuming it does not have any other operations in/revenues from the UAE), Company I will not be required to register for Corporate Tax or undertake any Corporate Tax filing obligations.

7.2.3.4. Factory or workshop

A factory or workshop includes any location where goods are manufactured or assembled.

[38] Refer to Section 10.1 - Annexure 1 for the extract of Article 5 on Permanent Establishment as per Double Taxation Agreement between the UAE and Country I.

7.2.3.5. Land, buildings, and other real property

Land, buildings and other real property means immovable property. The mere ownership of land, building, and immovable property by a Non-Resident Person in the UAE would not trigger a Permanent Establishment unless the requirements for a fixed place Permanent Establishment are met. However, a Non-Resident juridical person earning income from an Immovable Property located in the UAE would have a nexus in the UAE (see Section 9).[39]

Example 10: A company acquires land in the UAE

Company A, a company incorporated and effectively managed in Country A, and not a registered Business in the UAE, provides engineering/consulting services. It has acquired land in the UAE as an investment opportunity, considering the growing real estate industry in the UAE. The land is then leased to an unrelated event management company to organise various conferences.

In this case, the land will not constitute a Permanent Establishment for Company A as it is neither used by Company A to undertake its core Business Activities (which are engineering services) nor is the land at its disposal once it has been leased to the event management company. Hence, any rental income generated from such land would not be treated as income that is attributable to a Permanent Establishment of Company A in the UAE. However, Company A would be considered to have a nexus in the UAE and hence would be subject to UAE Corporate Tax on the Taxable Income attributable to the Immovable Property.[40]

Example 11: Office space used to collect information

Company A, not a registered Business in the UAE, manufactures fast moving consumer goods ("FMCG"). It has acquired a residential property in the UAE as an investment opportunity. The property is also used by Company A as an office space for a few of its employees when visiting the UAE to collect information and market insights regarding the products manufactured by Company A. The employees of Company A attend seminars and conferences related to Company A's Business, undertake discussions with wholesale/retail chains to understand consumer preferences, make calls to various customers for feedback regarding Company A's products, etc.

[39] Article 14(1)(c) of the Corporate Tax Law and Cabinet Decision No. 56 of 2023.
[40] Article 2 of Cabinet Decision No. 56 of 2023.

In this case, while the property is at the disposal of Company A, its core Business Activity of manufacturing products is not conducted through such location. The activity pertains to collecting information which would qualify as preparatory or auxiliary in nature (see Section 7.2.4) and hence it will not constitute a Permanent Establishment for Company A. Furthermore, Company A would not be considered to have nexus in the UAE as it is not deriving any income from the property.

7.2.3.6. Exploration activities and extraction activities

The list of activities that would constitute a fixed place Permanent Establishment under the Corporate Tax Law encompasses exploration and extraction activities.[41] Exploration activities cover the exploration of renewable or non-renewable resources through an installation or structure in the UAE. This may include, for example, vessels used for the prospection of natural resources off-shore, or the extraction of natural resources through a mine, oil or gas well, quarry or any other place of extraction. The wording "any other place of extraction of natural resources" should be interpreted broadly. It includes, for example, all places of extraction of oil and gas whether onshore or offshore.

7.2.3.7. Building site, construction project, assembly or installation project

A building site, construction project, assembly or installation project or related supervisory activities, including connected activities that are conducted by one or more Related Parties of the Non-Resident Person, can create a Permanent Establishment in the UAE if such site or project exists for more than 6 months in any 12-month period.[42] In case a Non-Resident Person conducts Business Activities in multiple sites/projects in the UAE, in order to determine the 6-month duration, time spent at all sites/projects/activities should be aggregated.

This includes not only construction of buildings but also construction of roads, bridges or canals, the renovation (involving more than mere maintenance or redecoration) of buildings, roads, bridges or canals, laying of pipelines and excavating and dredging.

The term "assembly or installation project" is not restricted to an installation related to a construction project. It also includes installation of equipment, such as a complex machine, in an existing building or outdoors.

[41] Article 14(2)(g) and (h) of the Corporate Tax Law.

[42] Article 14(2)(i) of the Corporate Tax Law.

Example 12: Building site or construction project

Company I (a juridical person that is incorporated in and a tax resident of Country I), starts a construction project in the UAE on 1 April 2024 and completes the work on 30 November 2024 (i.e. within 8 months).

Implications under the Corporate Tax Law:

Since Company I's project duration in the UAE has exceeded 6 months, it will constitute a Permanent Establishment in the UAE as per the Corporate Tax Law.

Implications under the Double Taxation Agreement:

Country I has an effective Double Taxation Agreement with the UAE which specifies that a company that is tax resident in Country I only creates a Permanent Establishment if the construction project "continues" for more than 9 months in the UAE.[43] Company I would be eligible to benefit from such an agreement while determining if it has a Permanent Establishment in the UAE.

Considering the above, the construction project will not create a Permanent Establishment for Company I in the UAE as the applicable Double Taxation Agreement specifies a 9-month threshold (versus a 6-month threshold for construction projects under the Corporate Tax Law). In the absence of a Permanent Establishment in the UAE (and assuming it does not have any other operations in/revenues from the UAE), Company I is not considered a Taxable Person for Corporate Tax purposes (unless it has a nexus) and will not be subject to Corporate Tax Registration and filing obligations.

Transitional considerations

Where a project started before the Corporate Tax Law became applicable, only the length of time from the beginning of the first Tax Period (i.e. Tax Periods commencing on or after 1 June 2023) of the Non-Resident Person is taken into account. Any time before the start date of the Non-Resident Person's first Tax Period does not count towards the permanence test (6 months).

[43] Refer to Section 10.1 - Annexure 1 for extract of Article 5 on Permanent Establishment as per Double Taxation Agreement between the UAE and Country I.

Example 13: Project starting before 1 June 2023

Company F (a juridical person that is incorporated in and a tax resident of Country F), which has a Financial Year from 1 June to 31 May, starts an installation project in the UAE on 1 March 2023 and completes work on 30 September 2023.

Although the project duration was 7 months, only the 4-month period between 1 June to 30 September 2023 would be counted, and as this is less than 6 months, no fixed place Permanent Establishment would arise.

Subcontracting

If a Non-Resident Person (general contractor) which has undertaken the performance of a comprehensive project subcontracts all or multiple parts of such a project to other enterprises (subcontractors, whether or not they are Related Parties), the period spent by a subcontractor working on the building site must be considered as being time spent by the general contractor on the building project for the purposes of determining whether a Permanent Establishment exists for the general contractor. In that case, the site should be considered to be at the disposal of the general contractor during the time spent on that site by any subcontractor (whether or not they are Related Parties) where circumstances indicate that, during that time, the general contractor clearly has the construction site at its disposal by reason of factors such as the fact that they have legal possession of the site, control access to and use of the site and have overall responsibility for what happens at that location during that period. The subcontractor may also have a Permanent Establishment at the site if their activities there last more than 6 months.

Automatic equipment

A Permanent Establishment may exist if the Business of the Non-Resident Person is carried on mainly through automatic equipment where the activities of the personnel are restricted to setting up, operating, controlling and maintaining such equipment. Determining whether or not automatic machines (i.e. gaming and vending equipment) set up by a Non-Resident Person in the UAE constitute a Permanent Establishment depends on whether or not the Non-Resident Person carries on a Business Activity besides the initial setting up of the machines. A Permanent Establishment does not exist if the Non-Resident Person merely sets up the machines and then leases the machines to other enterprises. A Permanent Establishment may exist, however, if the Non-Resident Person which sets up the machines also operates and maintains them for its own account. This would also apply if the machines are operated and maintained by an agent dependent on the Non-Resident Person.

Example 14: Vending machines

Company B, a company that is incorporated in and tax resident in Country B and not established in the UAE, is in the Business of providing vending machines (manufacture and set-up), and is contracted by Company U (a UAE company) to set up vending machines in all the malls owned by Company U in the UAE. After the initial set-up, the vending machines are leased to Company U, who then operates and maintains the machines.

In this case, the vending machines do not constitute a Permanent Establishment for Company B as it does not undertake any Business operations in the UAE beyond the initial set-up of the vending machine. Also, once the machine is under lease, it will no longer be at the disposal of Company B.

Splitting of contracts

To curb potential abuse in the form of artificially splitting-up contracts regarding a building site or a construction project, some or all of which are less than 6 months at different locations; or splitting contracts between Related Parties of a Non-Resident Person such as other group companies;[44] the Corporate Tax Law provides that the duration threshold of 6 months will be tested by consolidating all such activities.[45] Such abuse may also fall under the application of the General Anti-abuse Rule.[46]

Example 15: Artificial splitting-up of contract

Company N (a juridical person that is incorporated in and a tax resident of Country N) is awarded a 9-month contract by a UAE company for developing a modular building. At the request of Company N, the contract was split into:

a. fabrication of the modules (Contract 1)
b. assembly/installation of the modules (Contract 2).

Company N executed Contract 1 pertaining to fabrication at Site A in the UAE, which lasted for 5 months. Contract 2 pertaining to assembly/installation was executed at Site B in the UAE, which lasted for 4 months.

[44] Article 35 of the Corporate Tax Law.
[45] Article 14(2)(i) of the Corporate Tax Law includes the wording “including connected activities that are conducted at the site or project by one or more Related Parties of the Non-Resident Person.”
[46] Article 50 of the Corporate Tax Law.

If Company N relies on the above to support an assertion that it has not created a Permanent Establishment in the UAE, then, in this case, there has been artificial splitting of contracts as the two contracts relate to the same project. Hence, Company N may not claim that it does not have a Permanent Establishment in the UAE based on the fact that each contract lasted less than 6 months. In order to determine the duration of time spent by Company N in the UAE, time spent on both contracts will be considered. Since such time exceeds 6 months, Company N will have a Permanent Establishment in the UAE.

Example 16: Contract split between Related Parties

The conclusion in Example 15 above will not change even if Contract 1 is executed by Company N and Contract 2 is executed by a sister company, Company M (which has the same parent company as Company N), based on the fact that the contract has been split artificially between two Related Parties for the same project.[47]

In this case, both Company N and Company M will have a Permanent Establishment in the UAE, even if their individual contracts did not exceed the 6-month threshold.

Example 17: Non-Resident executes multiple and simultaneous contracts in the UAE

Company A, a company incorporated in and tax resident of Country A, has been awarded three construction contracts by three different (and unrelated) UAE companies as follows:

- Company B requires Company A to construct a building in the UAE
- Company C requires Company A to construct a mall in the UAE
- Company D requires Company A to construct a highway in the UAE

All the three contracts were to be executed by Company A at different sites in the UAE. Company A commenced work on all the three contracts simultaneously in 1 January 2024 and completed all the contracts by 30 April 2024 (i.e. within four months).

In this case, Company A did not artificially split the contracts as they were awarded by three different UAE companies for three completely unrelated projects. Since Company A's presence in the UAE was only for 4 months (i.e. did not exceed 6

[47] Article 35 of the Corporate Tax Law.

months), Company A's construction projects will not constitute a fixed place Permanent Establishment in the UAE even if it executed multiple contracts during its presence in the UAE (i.e. from 1 January to 30 April 2024).

Duration/period of existence of a site/project

A building site, a construction project, or place of assembly or installation exists from the date on which the contractor begins their work, including any preparatory work, in the country where the construction is to be established, for example, if they install a planning office for the construction or temporary housing for the employees assigned to work on the building site or construction project.

A period during which a site/project is being tested by the Non-Resident Person should also generally be counted.

In practice, the delivery ("handing-over") of the site/project to the client will usually represent the end of the period of work, provided the Non-Resident Person no longer works on the site after its delivery for the purposes of completing its construction.

A site/project would not be regarded as ceasing to exist when work is temporarily discontinued due to seasonal (for example, extreme weather) or other temporary interruptions (for example, shortage of labour/material). Such time periods shall be included in determining the life of a site/project.

Example 18: Work temporarily discontinued

1 June – Non-Resident Person started work to build a dam in the UAE
31 July – stopped work due to extreme weather (i.e. after 2 months of work)
31 August – resumed work (i.e. after a 1-month break)
31 October – stopped work due to shortage of material (i.e. after 2 months of work)
30 November – resumed work (i.e. after a 1-month break)
31 January – completed the construction and handed over the site to client (i.e. after 2 months of work)

In this case the project will be regarded as a Permanent Establishment because more than 6 months elapsed between the date the project was first commenced (1 June) and completed (31 January).

7.2.4. Preparatory or auxiliary activities

A Non-Resident Person conducting Business Activities in the UAE will not constitute a Permanent Establishment if such activities are not core Business or income generating activities (as the Business Activity test will not be satisfied).[48] Such activities may be categorised as preparatory or auxiliary activities, that are specifically carved out from the meaning of a fixed place Permanent Establishment.

“Preparatory” activities are those activities which precede commencement of core Business Activities and support the core Business Activities.

"Auxiliary" activities are those which aid or support the core Business function, without being part of the essential and significant part of the activity of the enterprise. They are secondary to the main or general functions of the enterprise which realise profits. It is unlikely that an activity that requires a significant proportion of the assets or employees of the enterprise could be considered as having an auxiliary character.

Preparatory or auxiliary activities cease to be economically viable when separated from the rest of the enterprise. Although such activities are only an insignificant portion of the enterprise's overall income generating activities, such activities are still considered economically viable because they are supplemented by work performed by other parts of the enterprise.

In this regard, the Corporate Tax Law specifies that a fixed or permanent place in the UAE shall not be considered a Permanent Establishment of a Non-Resident Person if it is only used for:[49]

1. Storing, displaying or delivering of goods or merchandise belonging to that Person.
2. Keeping a stock of goods or merchandise belonging to that Person for the sole purpose of processing by another Person.
3. Purchasing goods or merchandise or collecting information for the Non-Resident Person.
4. Conducting any other activity of a preparatory or auxiliary nature for the Non-Resident Person.
5. Conducting any combination of the above listed activities, provided that the overall activity is of a preparatory or auxiliary nature.

7.2.4.1. Storing, displaying or delivering of goods or merchandise

A place that is used for storing, displaying or delivering goods or merchandise belonging to the Non-Resident Person will not create a Permanent Establishment in the UAE if the place is used solely to perform the said activities for the customers of the Non-Resident Person.[50]

[48] Article 14(3) of the Corporate Tax Law.
[49] Article 14(3) of the Corporate Tax Law.
[50] Article 14(3)(a) of the Corporate Tax Law.

A Non-Resident Person owning and operating warehousing facilities in the UAE for the purpose of providing delivery and warehousing services to other businesses or not to its own customers would not be covered by the exclusion. In that case, the warehouse would constitute a Permanent Establishment as per the Corporate Tax Law.

Example 19: Storage and delivery of spare parts

Company B sells electronic household appliances to customers in the UAE. It maintains a place of Business in the UAE solely for storage and delivery of spare parts to those customers. Such place will not constitute a Permanent Establishment for Company B based on the exclusion of storage and delivery activities listed in the Corporate Tax Law.[51]

Example 20: Storage and delivery of spare parts (continued)

If Company B maintains the place of Business for storage and delivery of spare parts to its customers and, in addition, maintenance and repair of appliances is offered, then this would constitute a fixed place of Business for Company B as this goes beyond solely being a storage and delivery activity. It will not be considered as preparatory or auxiliary in nature since after-sale services constitute a part of the services that Company B offers to its customers.

Example 21: Activity representing an important part of the Business

Company A (incorporated in and tax resident of Country A) has a core Business Activity of selling/distributing goods. It maintains in the UAE a very large warehouse in which employees work for the main purpose of storing and delivering goods owned by Company A which Company A sells online to its customers in the UAE.

In this case, the activities of Company A in the UAE will not be preparatory or auxiliary in nature since the storage and delivery activities, which are performed through the warehouse, represent an important part of Company A's sale/distribution Business and clearly constitute a significant income generating Business Activity for Company A.

[51] Article 14(3)(a) of the Corporate Tax Law.

Hence, whether the activities of a Non-Resident Person in the UAE have a preparatory or auxiliary character will be fact and context-specific, taking account of the impact such activities have on the overall Business of the Non-Resident Person.

7.2.4.2. Keeping a stock of goods for processing purposes

The exclusion of keeping a stock of goods or merchandise is applicable only where a stock of goods or merchandise belonging to the Non-Resident Person is maintained by another Person for the sole purpose of processing by that other Person in facilities operated by the same other Person and the Non-Resident Person does not have the facilities at its disposal.[52] Such place cannot, therefore, be a Permanent Establishment of that Non-Resident Person. Where, for example, a logistics company operates a warehouse in the UAE and continuously stores in that warehouse goods or merchandise belonging to a Non-Resident Person to which the logistics company is not related, the warehouse does not constitute a fixed place of Business at the disposal of the Non-Resident Person and the exception is, therefore, irrelevant. Where, however, that Non-Resident Person is allowed and actually exercises unlimited access to a separate part of the warehouse for the purpose of inspecting and maintaining the goods or merchandise stored therein, the exception would be applicable and the question of whether a Permanent Establishment exists will then depend on whether these activities constitute a preparatory or auxiliary activity.

7.2.4.3. Purchasing goods or merchandise or collecting information

A place that is used for purchasing goods or merchandise or collecting information for the Non-Resident Person will not create Permanent Establishment for the Non-Resident Person if the aforementioned activities do not constitute or are not part of the main service that the company renders and generates income from. This is because the activities of purchasing goods or merchandise or collecting information would not be economically viable when separated from the rest of the enterprise.[53]

Example 22: A buyer purchasing goods for a client

Company A, incorporated in and tax resident of Country A, is a car dealer. It sources vehicles from the UAE and sets up a purchasing office in the UAE. The employees of Company A who are based in the UAE identify and acquire vehicles which are sold to Company A's customers in multiple countries. Because the

[52] Article 14(3)(b) of the Corporate Tax Law.
[53] Article 14(3)(c) of the Corporate Tax Law.

purchasing office represents an essential and significant part of Company A's Business (without being able to source cars on favourable terms, it would not be able to sustain its Business), and so the activities are not preparatory or auxiliary. Therefore, it constitutes a Permanent Establishment in the UAE.

7.2.4.4. Combination of activities

If a Non-Resident Person conducts, in the same fixed place of Business, multiple activities which are preparatory or auxiliary in nature, it does not imply that the Non-Resident Person has a Permanent Establishment in the UAE, provided the overall activities resulting from such a combination are preparatory or auxiliary in nature.[54]

In some cases, it may be difficult to distinguish between activities (or combination of activities) which have a preparatory or auxiliary character and those which do not. The decisive criterion is whether the activities form an essential/significant part of the overall activities of an enterprise. Each individual case will have to be examined on its own merits.

Consider the example discussed under Section 7.2.3.5 (Example 11), wherein Company A, which manufactures FMCG products, did not create a Permanent Establishment in the UAE because its employees in the UAE performed non-core Business Activities in the UAE (i.e. collecting information).

However, now assume that Company A decides to expand its Business Activities at the same place of Business in the UAE and now undertakes research and development on various nutrients, preservatives, chemicals, etc. to be directly used in the manufacturing/production of various FMCG goods. In this case, the activities performed in the UAE are no longer preparatory or auxiliary in nature as they are an essential part of the overall Business of Company A. Hence under these circumstances, Company A would have a Permanent Establishment in the UAE.

7.2.4.5. Duration for which preparatory activities are conducted at the place of Business can be indicative but not decisive

Preparatory activities are performed in contemplation of conducting activities which constitute an essential/significant part of the activities of the enterprise. The duration for which preparatory activities are conducted at a particular place would be considered in light of the nature of the core activities of the enterprise. The fact that the preparatory activities are conducted for an extended period of time would not trigger on its own a Permanent Establishment.[55]

[54] Article 14(3)(e) of the Corporate Tax Law.
[55] Article 14(4)(b) of the Corporate Tax Law.

Example 23: Training employees to prepare them for work

Company C (incorporated and tax resident of Country C) which is in the Business of software development services, may train its employees in the UAE for a substantial period, before such employees are sent to various parts of the world to work at client sites. Training that takes place in the UAE constitutes preparatory activity for Company C since conducting training is not its core Business Activity.

7.2.4.6. Implications where preparatory or auxiliary activities are performed for a third party

Preparatory or auxiliary activities refers to activities that are carried on by an enterprise solely for itself. Hence, if a Non-Resident Person performs activities which are traditionally of a preparatory or auxiliary nature for another Person, the same would constitute a Permanent Establishment for the Non-Resident as it is not "solely" conducting such activities for itself.[56]

Example 24: Advertising for other Persons

If a Non-Resident Person maintains an office in the UAE for advertising its own products or services, and is also engaged in advertising on behalf of other companies at that location, then such office/location would be regarded as a Permanent Establishment for the Non-Resident Person.

7.2.4.7. Anti-fragmentation

The Corporate Tax Law Permanent Establishment provisions include an anti-fragmentation rule.[57] Anti-fragmentation takes a substance approach to guard against potentially abusive practices whereby a cohesive Business Activity is fragmented into a number of small operations in order to argue that each has a preparatory or auxiliary character.

Geographical coherence, nature of the activity and the commercial rationale of outsourcing or fragmenting several business processes from the main activity, may be relevant in testing whether the combination of activities continues to be of preparatory or auxiliary nature.

[56] Article 14(3) of the Corporate Tax Law.
[57] Article 14(4) of the Corporate Tax Law.

If all the operations conducted by a Non-Resident and its Related Parties, either in the same location or different locations, form a cohesive Business operation (had they not been artificially fragmented), there would be a Permanent Establishment.

Example 25: Company using a Related Party to deliver services

Company C (a juridical person that is incorporated in and a tax resident of Country C) supplies spare parts. It registers a number of branches in the UAE. One branch source goods and manages logistics. A second deals with all administrative aspects including invoicing. A third branch manages sales. Company C considers the third branch as a Permanent Establishment but treats the first and second as auxiliary activities which do not constitute a Permanent Establishment.

In this case, all the branches of Company C are a single Permanent Establishment in the UAE and the artificial fragmentation of activities does not prevent them being regarded as such.

7.2.4.8. Can a subsidiary company, incorporated in the UAE, of a non-resident parent company be regarded as a fixed place Permanent Establishment?

The existence of a subsidiary company in the UAE does not, by itself, create a Permanent Establishment of its non-resident parent company. This follows from the principle that, for the purpose of taxation, a subsidiary company is an independent legal entity. Even though the trade/Business carried on by the subsidiary company is managed/overseen by the parent company, that does not automatically imply that the subsidiary company is a Permanent Establishment of the parent company as all the factors needed to give rise to a fixed place Permanent Establishment may not be present. However, this has to be tested against whether the subsidiary is in essence acting as an agent or has been incorporated to artificially split/dissect cohesive Business Activities of the non-resident parent.

7.2.4.9. Additional exclusions from fixed place Permanent Establishment

A natural person will not create a Permanent Establishment for a Non-Resident Person even if the natural person is present in the UAE, provided that:[58]

1. The natural person is in the UAE due to an unpredictable temporary and exceptional situation which is beyond their control, which occurred while the natural person was already in the UAE (see Section 7.2.4.10); or

[58] Article 14(7) of the Corporate Tax Law.

2. The natural person who is employed by the Non-Resident Person does not conduct core income-generating activities of the Non-Resident Person or its Related Parties, and the Non-Resident Person does not derive any State Sourced Income, for instance sales to UAE customers (see Section 8 for details).

Example 26: Internal accountant of a Non-Resident

A natural person employed as an accountant of a Non-Resident Person in the healthcare industry is working remotely from the UAE, for example, a "digital nomad".

Based on the Non-Resident Person's Business Activity, the accounting department is considered as administrative support ("back office") and does not have a core role in the income generating activities of the Business. As such there would be no fixed place Permanent Establishment for the Non-Resident Person due to the presence of the accountant in the UAE (considering the exclusion discussed in point (2) in Section 7.2.4.9).

Variation to Example 26: On the other hand, if the accountant who is an employee of a Non-Resident Person engaged in the healthcare industry, rendered healthcare services to clients in the UAE, then based on the Business Activity of this particular Non-Resident Person, the activities may have central importance in generating income and, therefore, the exclusion from creating a fixed place Permanent Establishment would not apply.

Note that these additional exclusions augment the preparatory and auxiliary exclusions. As such, the additional exclusions set out above would only need to be considered if the presence of a natural person in the UAE was sufficient to otherwise create a fixed place Permanent Establishment.

7.2.4.10. Exceptional situations

For the purposes of point (1) of Section 7.2.4.9, the presence of a natural person in the UAE can only qualify as due to an exceptional situation in case it is temporary and all of the following conditions are satisfied:[59]

1. The presence of the natural person in the UAE is a consequence of exceptional circumstances of a public or private nature.
2. The exceptional circumstances cannot reasonably be predicted by the natural person or the Non-Resident Person.

[59] Article 2(1) of Ministerial Decision No. 83 of 2023.

3. The natural person did not express any intention to remain in the UAE when the exceptional circumstances end.
4. The Non-Resident Person did not have a Permanent Establishment in the UAE before the occurrence of the exceptional circumstances.
5. The Non-Resident Person did not consider that the natural person is creating a Permanent Establishment or deriving income in the UAE as per the tax legislation applicable in other jurisdictions.

Exceptional circumstances

In the above context, an exceptional circumstance is a situation or an event beyond the natural person's control, which takes place while the natural person is already in the UAE, and which could not have been reasonably predicted or prevented and which did not allow them to leave the UAE as originally planned.

- The following circumstances may qualify as exceptional circumstances of a public nature:[60]

    1. Adoption of public health measures by the competent authorities in the UAE or in the jurisdiction of the original workplace or by the World Health Organization.
    2. Imposition of travel restrictions by the competent authorities in the UAE or in the jurisdiction of the original workplace.
    3. Imposition of legal sanctions on the natural person preventing them from leaving the UAE.
    4. Acts of war or occurrence of terrorist attacks.
    5. Occurrence of natural disasters or force majeure beyond reasonable control.
    6. Any other circumstances similar to those provided for above as prescribed by the FTA.

- The following circumstances may qualify as exceptional circumstances of a private nature:[61]

    1. Occurrence of an emergency health condition affecting the natural person or their relatives up to the fourth degree, including by way of adoption or guardianship.
    2. Any other circumstances similar to those provided for above as prescribed by the FTA.

[60] Article 2(2)(a) of Ministerial Decision No. 83 of 2023.
[61] Article 2(2)(b) of Ministerial Decision No. 83 of 2023.

Example 27: A pandemic

An individual working for Company A (incorporated and tax resident of Country A) travels to the UAE for vacation and cannot leave the UAE due to a global health pandemic. Where an individual is unable to leave the UAE, due to travel restrictions or health reasons, it would not result in a Permanent Establishment as their presence in the UAE was due to an unpredictable temporary and exceptional situation which is beyond the individual's control, which occurred while the individual was already in the UAE. However, the exception would not apply if a natural person travelled to the UAE knowing it was likely they would not be able to leave due to imminent travel restrictions.

Example 28: Act of war

A war breaks out in Country B where an individual works for Company B (incorporated and tax resident of Country B). The individual decides to travel to the UAE and conduct the Business Activities of Company B from a rented office after the start of the war which ends up lasting for 8 months.

In this case, the provisions related to exceptional circumstances will not apply as the war started before the individual decided to travel to the UAE, and, therefore, the above situation would create a Permanent Establishment for Company B.

7.3. Agency Permanent Establishment

Even if a Person, that is not a Resident Person, does not have a fixed place of Business in the UAE, it could nonetheless have an agency Permanent Establishment unless it is an agent that is legally or economically independent from the principal (see Section 7.3.2).[62]

Person A, that is not a Resident Person, will be deemed to have an agency Permanent Establishment in the UAE due to the activities of a Person B (who can be either a natural person or a juridical person), if these activities are conducted for and on behalf of Person A. Person B can either be a Resident Person or Non-Resident Person in the UAE.

[62] Article 14(5) and Article 14(6) of the Corporate Tax Law.

7.3.1. When does a Person create an agency Permanent Establishment for a Non-Resident Person?

A Person would create an agency Permanent Establishment for a Non-Resident Person if such Person, on a regular basis: [63]

- concludes contracts in the UAE on behalf of a Non-Resident Person; or
- negotiates contracts in the UAE on behalf of a Non-Resident Person and such contracts are concluded by the Non-Resident Person without any material modification to the terms of the contracts.

The conclusion/negotiation of contracts by such Person must take place repeatedly and not merely in isolated cases, for it to be habitual and thus, constitute a Permanent Establishment for the Non-Resident Person.

Furthermore, whether such Person constitutes a Permanent Establishment for the Non-Resident Person should be determined based on commercial realities of the situation. The mere fact that a Person has “attended” or “participated” in negotiations between the Non-Resident Person and its UAE customers will not be sufficient, by itself, to determine that such Person has concluded/negotiated contracts on behalf of the Non-Resident Person.

A Person’s actions should be binding on the Non-Resident Person vis-à-vis the end customer, and it cannot be said to be acting on behalf of a Non-Resident Person if the Non-Resident Person is not directly or indirectly affected by the actions performed by such Person.

It is immaterial whether the contracts are concluded in the name of the Non-Resident Person or such other Person who is acting on behalf of the Non-Resident Person.

This means that even commissionaire or undisclosed principal arrangements can trigger a Permanent Establishment in the UAE for a Non-Resident Person.

In general terms, a commissionaire arrangement refers to an arrangement whereby a Person sells products in its own name but on behalf of another (Non-Resident) Person (who is the owner of these products). In theory, the commissionaire does not usually bind the principal and the customer cannot sue the Non-Resident Person, as there is no contractual relationship between the Non-Resident Person and the customer.

[63] Article 14(5) of the Corporate Tax Law.

However, in substance, the obligation to perform is on the owner of the goods (i.e. Non-Resident Person) who sells directly to the customer.

To ensure commissionaire arrangements are not used to avoid the creation of a Permanent Establishment by the Non-Resident Person, emphasis is placed on substance over form. Therefore, where the activities of a Person/commissionaire bind the Non-Resident Person to perform activities, this would trigger a Permanent Establishment, even if the contracts are not in the name of the Non-Resident Person.

Example 29: An agent creating an agency Permanent Establishment for another company

A pharmaceutical company, Company P (a juridical person that is incorporated in and a tax resident of Country U) sells its medicines across the globe. For sales of its medicines in the Middle East region, including the UAE, it has appointed a distribution company, Company D (a juridical person that is incorporated in and a tax resident of Country B) that exclusively works for Company P.

Company D regularly meets potential customers of Company P in the UAE and convinces them to purchase medicines of Company P and negotiates all the essential terms of the contract (i.e. price, place of delivery, terms of payments, etc). Thereafter, Company D passes the sales leads to Company P and the contracts are concluded and executed directly by Company P. Company D does not have the authority to conclude the contract with UAE customers on behalf of Company P.

Implications under the Corporate Tax Law:

In this case, as per the Corporate Tax Law, the activities of Company D give rise to an agency Permanent Establishment in the UAE for Company P (due to its negotiation activities) even though Company D does not have the authority to conclude contracts on behalf of Company P with UAE customers.

Implications under the Double Taxation Agreement:

However, the UAE and Country U have an effective Double Taxation Agreement that specifies that a company that is tax resident in Country U (i.e. foreign company) creates an agency Permanent Establishment in the UAE only if a person (for example, agent, other than an independent agent) acts on behalf of the foreign company and habitually exercises in the UAE an authority to conclude contracts on behalf of the foreign company. Unlike the provisions of the Corporate Tax Law, under the Double Taxation Agreement between the UAE and Country U, a person does not create an agency Permanent Establishment in the UAE for a foreign company merely by habitually negotiating contracts that are concluded by the foreign company without any material modification.[64]

As Company P is incorporated and tax resident of Country U, it would be entitled to benefit from the Double Taxation Agreement while determining if it has an agency Permanent Establishment in the UAE.

Based on the Double Taxation Agreement between the UAE and Country U, as the Company D neither concludes nor has the authority to conclude contracts on behalf of Company P, Company D will not constitute a Permanent Establishment for Company P in the UAE. In absence of a Permanent Establishment in the UAE (and assuming Company P does not have any other operations in/revenues from the UAE), Company P will not be required to register for Corporate Tax or undertake any filing obligations as it only derives State Sourced Income not attributable to a Permanent Establishment.

Example 30: Commissionaire arrangement can constitute an agency Permanent Establishment for a Non-Resident Person

Company D (a juridical person incorporated in and a tax resident of Country D) manufactures and sells clothes internationally. It has entered into a commissionaire arrangement with Company E to sell its clothes to customers in the UAE, for which Company E receives a commission from Company D.

Company E acts as a representative of Company D in the UAE market and enters into a contract for sale with the customers in the UAE, in its own name (i.e. Company E's), issuing invoices to the customers in the UAE.

Legal title for the goods passes from Company D to the customers in the UAE (note, this is not the same as the physical delivery of the goods, which may well be from Company E to the customer). Legal title does not pass to Company E. The products remain the property of Company D until they pass to the customers in UAE.

In case any issue is identified in the purchased products, customers will have recourse to Company D (and not Company E).

Company E, which is acting in its own name, but on behalf of Company D, will

[64] Refer to Section 10.2 - Annexure 2 for the extract of Article 5 on Permanent Establishment Article as per the Double Taxation Agreement between the UAE and Country U.

constitute an agency Permanent Establishment for Company D in the UAE. A commission agent cannot be said to be conducting their own Business or Business Activity when they perform activities which, economically/usually, should be performed by another Person (i.e. the Non-Resident Person).

7.3.2. Independent agents: When does a Person not create an agency Permanent Establishment for a Non-Resident Person?

Even if the conditions specified in Section 7.3.1 are met, a Non-Resident Person will not have an agency Permanent Establishment in the UAE if: [65]

- the Person who is acting on behalf of the Non-Resident Person is an "independent agent"; and
- the Person performs activities for the Non-Resident Person in its ordinary course of Business.

However, if such Person acts exclusively or almost exclusively on behalf of the Non-Resident Person or it is legally or economically dependent on the Non-Resident Person, then it will not be an "independent agent" and will still create an agency Permanent Establishment for the Non-Resident Person in the UAE.

A Non-Resident Person will not have a Permanent Establishment in the UAE if another Person merely promotes and/or markets goods or services of the Non-Resident Person in the UAE in a way that does not directly result in the conclusion of contracts.

For a Person to create an agency Permanent Establishment for a Non-Resident Person, it should be involved in concluding or negotiating contracts that constitute the "Business" of the Non-Resident Person. It would be irrelevant if a Person concludes contracts which relate to activities which would be considered preparatory or auxiliary (for example, contracts that are not income generating for the Non-Resident Person) in the UAE for a Non-Resident Person.

Some illustrative examples are discussed below:

[65] Article 14(6) of the Corporate Tax Law.

Example 31: Representatives of a pharmaceutical company

Representatives of a pharmaceutical company (incorporated in and tax resident of Country A) actively promote medicines produced by such Non-Resident Person by contacting doctors in the UAE who subsequently prescribe these medicines to their patients. Such marketing activity does not directly result in the conclusion of contracts between the doctors and the Non-Resident Person. Hence, such activities of the representatives do not create an agency Permanent Establishment for the Non-Resident Person in the UAE even though sales of the medicines may increase as a result of the marketing activity.

Example 32: Permanent Establishment triggered by a subsidiary

Company C (incorporated in and tax resident of Country A) distributes various goods/services worldwide through its websites. Company U (incorporated in and tax resident of the UAE) is a wholly owned subsidiary of Company C. Company U's employees send emails, make telephone calls to, or visit large organisations to convince them to buy Company C's products and services and are, therefore, responsible for large accounts in the UAE. When customers in the UAE are persuaded by employees of Company U to purchase a given quantity of goods/services, they indicate the price that will be payable for that quantity, that a contract must be concluded online with Company C before the goods/services can be provided by Company C and explain the standard terms of contract with Company C including the fixed price structure, which the employees are not authorised to modify. The customers subsequently conclude the contracts online for the quantities discussed with Company U's employees. In this case, Company U's employees negotiate the contract with the end customers which are accepted by Company C without any modifications. Company U and its employees are acting on behalf of Company C. The fact that Company U's employees cannot modify the terms of the contracts does not mean that the conclusion/negotiation of the contracts is not the direct result of the activities performed by Company U employees. Hence, the activities of Company U employees would create an agency Permanent Establishment for Company C in the UAE.

Example 33: Permanent Establishment triggered by a subsidiary (continued from Example 32)

Company U acts as a distributor of goods/services of Company C in the UAE and in doing so it sells to the UAE customers goods/services that it procures "on its own account" from Company C. It is neither acting on behalf of Company C nor selling property that is owned by Company C since the property that is sold to the end customers is owned by the distributor i.e. Company U.

Even though the employees of Company U perform the same functions as discussed in Example 32, Company U and its employees are not acting "on behalf" of Company C and hence Company C does not have a Permanent Establishment in the UAE.

Important notes:

- An analysis of whether a Non-Resident Person has a Permanent Establishment in the UAE is a fact and context specific exercise.
- Additionally, even if a Non-Resident Person does not have a Permanent Establishment in the UAE, it should consider if it has nexus in the UAE, as this would make it subject to Corporate Tax in the UAE.
- As discussed in Section 5.9, Double Taxation Agreements should be considered when determining the existence of Permanent Establishments where these agreements are effective and signed between the UAE and jurisdiction of the relevant party(ies).

8. State Sourced Income

Corporate Tax shall be imposed on a Taxable Person, including a Non-Resident Person, if the Non-Resident Person derives State Sourced Income, i.e. income accruing in, or derived from, the UAE.[66] This condition (deriving State Sourced Income) is one of three independent conditions for identifying whether a Person is a Non-Resident Person.

Accordingly, a Person that is not a Resident Person in the UAE, and that derives income from the UAE should determine if the income qualifies as State Sourced Income. There will not be a need for the Non-Resident Person to register for Corporate Tax if the State Sourced Income they derive is not attributable to a UAE Permanent Establishment or a nexus in the UAE.

State Sourced Income, derived by a Non-Resident Person, that is not attributable to a Permanent Establishment, may be subject to Withholding Tax; however, as mentioned in Section 5.4, Withholding Tax is currently levied at the rate of 0%.[67]

In the case of a Non-Resident Person, State Sourced Income includes:

1. Income derived from a Resident Person, i.e. income derived from a juridical person or natural person that is considered a Resident Person as per the Corporate Tax Law:[68]

Example 34: Sale of goods in the UAE

Company A (incorporated in and tax resident of Country A) sells goods to Company B (a UAE Resident Person) in the State. The income for Company A received from these sales will be considered State Sourced Income because the income is derived from a Resident Person in the UAE.

2. Income derived by a Non-Resident Person from another Non-Resident Person to the extent it is attributable to a Business or Business Activity conducted by that other Non-Resident Person through a Permanent Establishment in the UAE.[69]

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66 Article 11(4)(b) of the Corporate Tax Law.
67 Article 45(1)(a) of the Corporate Tax Law.
68 Article 13(1)(a) of the Corporate Tax Law.
69 Article 13(1)(b) of the Corporate Tax Law.

Example 35: Income derived from a UAE Permanent Establishment of a Non-Resident Person

Income is derived by Company A (a company incorporated in and tax resident of Country C) by providing consulting services from Country C, to a UAE branch of Company B (a company also incorporated in and tax resident of Country C). The UAE branch of Company B is considered to be a Permanent Establishment of Company B in the UAE. The income that Company A derives is considered State Sourced Income as it derives the income from a Permanent Establishment of a Non-Resident Person, which is the branch of Company B.

3. Income otherwise accrued in or derived from activities performed, assets located, capital invested, rights used, or services performed or benefitted from in the UAE.[70] In other words, income may be considered to have a UAE source (State Sourced Income) for Corporate Tax purposes where the place of use, or performance of the activity, or the tangible or intangible assets generating the income, are located in the UAE.

Example 36: Investment in the UAE financial market

A Non-Resident Person invests in a security listed on a UAE financial market (for example, Dubai Financial Market, Abu Dhabi Securities Exchange) that pays dividends. The income accrued due to this investment is State Sourced Income because it is accrued or derived from assets located in the UAE.

4. Further examples of State Sourced Income (which are subject to any conditions and limitations that the Minister may determine) include:[71]

   a. Income from the sale of goods: The general rule for the sale of goods is that the income is sourced to where the sale and resulting transfer of title takes place, i.e. State Sourced Income is derived where the buyer that will own the good is a Resident Person in the UAE.
   b. Income from services: Income from services would generally be considered State Sourced Income where the service is rendered in the UAE or where the ultimate recipient or beneficiary of the service is located in the UAE. In other words, the service provider (or their employees/representatives) is (are) located in the UAE while providing the service, or the Person benefiting from the service is a Resident Person in the UAE.

[70] Article 13(1)(c) of the Corporate Tax Law.
[71] Article 13(2) of the Corporate Tax Law.

c. Income from a contract: Income from the performance of contracts would generally be sourced in the place where the contract is performed or to where the ultimate recipient or beneficiary of the performance under the contract is located. This is not intended to cover income earned under an employment contract or income from a contract involving movable or immovable property which will be sourced where the property is located. In that respect, income from the sale of a business opportunity would be considered as State Sourced Income.

Example 37: Income generated due to a contract

Company X (incorporated in and tax resident of Country A) wins a contract with a UAE government department to build a government facility. Due to business considerations (for example, lack of resources), Company X decided to transfer the work of executing the contract to another juridical person, Company Y (also incorporated in and tax resident of Country A), in exchange for a fee. The fee earned by Company X is considered as Stated Sourced Income.

d. Income from movable or immovable property: Income arising from the use or sale of tangible property is sourced from the place where the property is located. For example, the sale of an apartment located in the UAE, or rental income earned from property located in the UAE (or from an interest in such property) would generally be considered State Sourced Income.
e. Income from the disposal of shares or capital rights of a Resident Person: Capital gains and other income derived from the sale of shares or other rights in the capital of a juridical person is considered to be State Sourced Income where the juridical person is incorporated or resident in the UAE for Corporate Tax purposes.
f. Income from intellectual or intangible property: Income received from the use, the right to use, or the granting of the permission to use in the UAE of patents, trademarks, trade brands, copyrights, artistic or scientific work, secret formula or process, goodwill and other such intangible or intellectual property in the UAE would generally be sourced from the UAE. This is irrespective of the location and residence for Corporate Tax purposes of the payor and recipient of the income.

Example 38: Sale of right of use of a patent

Company A (incorporated in and tax resident of Country A) innovates by creating new battery technology for electric vehicles and registers the patents for the new technology in Country A, then sells the rights of use of the patents to an electric vehicle maker Company T (also incorporated in and tax resident of Country A), and

Company T uses the patents in its manufacturing facility in the UAE to produce batteries used in Company T's electric vehicles. The income derived from the sale of the rights to use the patents in the UAE would be State Sourced Income for Company A.

g. Interest income: Interest income is sourced from the UAE if it meets any of the following conditions:
    1. the loan is secured by movable or immovable property located in the UAE, i.e. Interest may be considered State Sourced Income where the collateral that secures the relevant loan or financing arrangement is located in the UAE; or
    2. the borrower is a Resident Person; or
    3. the borrower is a Government Entity.

h. Insurance income: Insurance or reinsurance premiums are considered to be State Sourced income in any of the following instances:
    1. the insured asset is located in the UAE;
    2. the insured Person is a Resident Person; or
    3. the insured activity is conducted in the UAE.

9. Nexus in the UAE

Corporate Tax is imposed on juridical Non-Resident Persons who have a nexus in the UAE. Non-Resident Persons that have a nexus in the UAE are required to register for Corporate Tax purposes. The nexus concept does not apply to natural persons.

A juridical Non-Resident Person will be considered to have a nexus in the UAE if it derives income from any Immovable Property in the UAE, which means:[72]

a. any area or land over which rights or interest or services can be created; or
b. any building, structure or engineering work attached to the land permanently or attached to the seabed; or
c. any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Income from Immovable Property will include income derived by way of sale, disposal, assignment, direct use, leasing or sub-leasing or any other form of exploitation of Immovable Property.[73] Taxable Income from Immovable Property will be subject to Corporate Tax as follows:

- 0% (zero percent) on the first AED 375,000 of Taxable Income
- 9% (nine percent) on the amount above AED 375,000 of Taxable Income

If a Non-Resident Person is a Qualifying Free Zone Person, then the provisions related to the Free Zone Corporate Tax regime will apply on income from Immovable Property received by such Person.

Example 39: ATM machine in the UAE

Company B, a bank not established in the UAE, installs, operates and maintains ATM machines in various malls, hotels and movie theatres in the UAE from which it earns service fees.

In this case, Company B will be considered to have a nexus in the UAE because the ATM is “machinery or equipment which is permanently attached to a building”.

Note that a fixed place Permanent Establishment in the UAE is also created in this

[72] Cabinet Decision No. 56 of 2023.
[73] Article 2(2) of Cabinet Decision No. 56 of 2023.

case because the ATM machines are used by the Non-Resident Person to carry on its Business in the UAE on a regular/recurrent basis (see Section 7.2).

Example 40: Wind turbines

Company N (incorporated in and tax resident of Country N) installs a wind turbine which is fixed on the seabed in a location which falls within the territorial waters of the UAE and derives income from the power generated by the turbine. In this case, Company N will be considered to have both a nexus in the UAE and a Permanent Establishment in the UAE as the wind turbine would be considered as an installation to exploit renewable energy. Hence, income derived by Company N that is attributable to its nexus and Permanent Establishment in the UAE would be subject to Corporate Tax.

Example 41: Land rented out for events

Company A, a company not established in the UAE, owns land in the UAE and routinely rents out such land to various companies to hold events, conferences, etc. In this case, Company A will be considered to have a nexus in the UAE.

10. Annexures

10.1. Annexure 1 – Relevant extract of Double Taxation Agreement between the UAE and Country I

“Article 5

Permanent Establishment

1. *For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.*

2. *The term "permanent establishment" includes especially:*

   a. *a place of management;*
   b. *a branch;*
   c. *an office;*
   d. *a factory;*
   e. *a workshop;*
   f. *a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;*
   g. *a farm or plantation;*
   h. *a building site or construction or assembly project or supervisory activities in connection therewith, but only where such site, project or activity continues for a period of more than 9 months;*
   i. *the furnishing of services including consultancy services by an enterprise of a Contracting State through employees or other personnel in the other Contracting State, provided that such activities continue for the same project or connected project for a period or periods aggregating more than 9months within any twelve-month period.*

3. *Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:*

   a. *the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;*
   b. *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;*
   c. *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;*
   d. *the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;*
   e. *the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.*

4. *Notwithstanding the provisions of paragraphs (1) and (3), where a person - other than an agent of independent status to whom paragraph (5) applies - is acting on behalf of an enterprise and has, and habitually exercises in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to the purchase of goods or merchandise for the enterprise.*

5. *An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of independent status within the meaning of this paragraph."*

10.2. Annexure 2 – Relevant extract of Double Taxation Agreement between the UAE and Country U

"Article 5

Permanent Establishment

1. *For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.*

2. *The term "permanent establishment" includes especially:*

   a. *a place of management;*
   b. *a branch;*
   c. *an office;*
   d. *a factory;*
   e. *a workshop;*
   f. *a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;*

3. *A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 months.*

4. *Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:*

a. the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
b. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
c. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
d. the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
e. the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.
f. the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs (1) and (2), where a person - other than an agent of independent status to whom paragraph (6) applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other."

11. Updates and Amendments

Date of amendment	Amendments made
October 2023	• First version

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Exempt Income: Dividends and Participation Exemption

Corporate Tax Guide | CTGEXI1

October 2023

Contents

1. Glossary

Accounting Standards: The accounting standards specified in Ministerial Decision No. 114 of 2023.

Accrual Basis of Accounting: An accounting method under which the Taxable Person recognises income when earned and expenditure when incurred.

AED: The United Arab Emirates dirham.

Authority: Federal Tax Authority.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or series of activities conducted by a Person in the course of its Business.

Business Restructuring Relief: A relief from Corporate Tax for business restructuring transactions, available under Article 27 of the Corporate Tax Law and as specified under Ministerial Decision No.133 of 2023.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Connected Person: Any Person affiliated with a Taxable Person as determined in Article 36(2) of the Corporate Tax Law.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses and any of its amendments.

Dividend: Any payments or distributions that are declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which do not constitute a return on capital or a return on debt claims, whether such payments or distributions are in cash, securities, or other properties, and whether payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue. This will include any payment or benefit which in substance or effect constitutes a distribution of profits made in connection with the acquisition or redemption or cancellation of shares or termination of other ownership interests or rights or any transaction or arrangement with a Related Party or Connected Person which does not comply with Article 34 of the Corporate Tax Law.

Double Taxation Agreement: An international signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Exempt Income: Any income exempt from Corporate Tax under the Corporate Tax Law.

Exempt Person: A Person exempt from Corporate Tax under Article 4 of the Corporate Tax Law.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Financial Year: The Gregorian calendar year, or the twelve-month period for which the Taxable Person prepares Financial Statements.

Foreign Permanent Establishment: A place of Business or other form of presence outside the UAE of a Resident Person that is determined in accordance with the criteria prescribed in Article 14 of the Corporate Tax Law.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established, or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

General Interest Deduction Limitation Rule: The limitation provided under Article 30 of the Corporate Tax Law.

IFRS: International Financial Reporting Standards.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic Financial Instrument and other payments economically equivalent to interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Islamic Financial Instrument: A financial instrument which is in compliance with Sharia principles.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Market Value: The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

Membership and Partner interests: The equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.

Membership or Partnership Capital: The capital paid to a juridical person where the paid capital is divided into membership or partnership interests by a Person in order to be a member or partner and have the rights of membership or partnership in that juridical person.

Net Interest Expenditure: The Interest expenditure amount that is in excess of the Interest income amount as determined in accordance with the provisions of the Corporate Tax Law.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Ordinary Shares: The category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.

Parent Company: A Resident Person that can make an application to the FTA to form a Tax Group with one or more Subsidiaries in accordance with Article 40(1) of the Corporate Tax Law.

Participating Interest: An ownership interest in the shares or capital of a juridical person that meets the conditions referred to in Article 23 of the Corporate Tax Law.

Participation: The juridical person in which the Participating Interest is held.

Participation Exemption: An exemption from Corporate Tax for income from a Participating Interest, available under Article 23 of the Corporate Tax Law and as specified under Ministerial Decision No.116 of 2023.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural person or juridical person.

Personal Investment: Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law.

Preferred Shares: The category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Group: Two or more Taxable Persons that meet the conditions of Article 26(2) of the Corporate Tax Law.

Redeemable Shares: The category of capital stock or equity interest which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

Small Business Relief: A Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period in accordance with Article 21 of the Corporate Tax Law and Ministerial Decision No. 73 of 2023 on Small Business Relief.

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Subsidiary: A Resident Person in which the share capital or Membership or Partnership Capital, as applicable, is held by a Parent Company, in accordance with Article 40(1) of the Corporate Tax Law.

Tax Group: Two or more Taxable Persons treated as a single Taxable Person according to the conditions of Article 40 of the Corporate Tax Law.

Tax Loss: Any negative Taxable Income as calculated under the Corporate Tax Law for a given Tax Period.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was signed on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance to Taxable Persons, helping them to understand the exemptions in the Corporate Tax Law for Dividends and other profit distributions, such as the Participation Exemption. The Participation Exemption permits certain income, such as Dividends and capital gains, to be exempt from Corporate Tax, where a Taxable Person holds a significant, long-term ownership interest in a juridical person. This guide explains some of the terms and conditions in the Corporate Tax Law, and covers the following:

- How Dividends and other profit distributions are defined;
- Which income (and related expenditure) from a Participation is exempt;
- Who is eligible for the exemption;
- How the Participation Exemption operates; and
- What are the related implications in terms of Tax Groups.

This guide does not cover Unincorporated Partnerships.

2.3. Who should read this guide?

This guide should be read by Taxable Persons who receive Dividends from a Resident juridical person, and income or gains from a Participating Interest. A Taxable Person includes both juridical persons and natural persons where the income is not their Personal Investment income.[1] This guide needs to be read in conjunction with the Corporate Tax Law, implementing decisions and other relevant guidance published by the FTA.

[1] Article 2(2)(b) of Cabinet Decision No. 49 of 2023.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how key elements of the Dividends and Participation Exemption apply. The examples in this guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural persons.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Corporate Tax Law”;
- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax is referred to as “Cabinet Decision No. 49 of 2023”;
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 73 of 2023”;
- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 114 of 2023”;
- Ministerial Decision No. 116 of 2023 on the Participation Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 116 of 2023”; and

- FTA Decision No. 13 of 2023 on Determination of Conditions for Conversion of Amounts Quantified in a Currency other than the United Arab Emirates Dirham for the Purposes of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “FTA Decision No. 13 of 2023”.

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the provisions relating to the Corporate Tax regime in the UAE. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each Person’s own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Dividends and other profit distributions

Under the Corporate Tax Law, Dividends and other profit distributions received from a juridical person that is a Resident Person are exempt with no further conditions.[2] Dividends and other profit distributions received from a foreign juridical person are exempt under the Participation Exemption, provided the relevant conditions are satisfied.[3]

The purpose of the exemption from Corporate Tax is to prevent Dividends and other profit distributions from potentially being subject to double taxation.

3.1. What is a Dividend?

3.1.1. Overview

A Dividend is not defined in the Corporate Tax Law. However, Ministerial Decision No. 116 of 2023 provides a definition of "Dividend". While the Ministerial Decision is issued specifically in relation to the Participation Exemption, the FTA will apply the same definition to Dividends from a juridical person that is a Resident Person under Article 22(1) of the Corporate Tax Law.

The definition of a Dividend includes a number of important concepts listed below, each of which will be addressed separately:

- Ordinary Dividend: Any payment or distribution that is declared or paid on or in respect of shares or other rights to participate in the profits of the issuer of such shares or rights, payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue (see Section 3.1.2).
- Dividend in kind: Dividend in kind includes stock dividends, bonus shares (for example scrip dividends), and other forms of actual or constructive profit distributions. Thus, a Dividend can take the form of cash, securities, or other property or assets (see Section 3.1.4).
- Other distributions: Any payment or benefit made in connection with the acquisition of shares by the issuing entity, or redemption or cancellation of shares or termination of other ownership interests or rights which in substance constitutes a distribution of profit will be treated as a Dividend (see Section 3.1.5).
- Non-arm's length payments: Any payment or benefit that arises to a Related Party or Connected Person (who is a shareholder) as a result of a transaction or arrangement which does not comply with the arm's length principle will constitute

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2 Article 22(1) of the Corporate Tax Law.

3 Article 22(2) of the Corporate Tax Law.

a distribution of profit in substance and accordingly, qualify as a Dividend, to the extent to which it is not at arm's length (see Section 3.1.6).

3.1.2. Ordinary Dividend

This refers to a payment or distribution that is declared or paid in respect of shares or other rights to participate in the profits of the issuer.

3.1.2.1. What is a share?

The term "share" refers to a unit of ownership in a company which may entitle the holder to a number of rights including the right to vote, the right to participate in a distribution of the company's profits, and the right to a return on the company's capital. The particular rights attaching to a share will depend on the constitutional documents of the company.

The term includes all types of shares issued by a company which carry a right to participate in the company's profits, for example Ordinary Shares, Preferred Shares, Redeemable Shares, non-voting shares, bearer shares, registered shares, etc.

The instruments that are recognised as share capital and the rights attaching to shares are usually determined by the terms under which they are issued within the framework of the company law of the jurisdiction in which the company is incorporated.

For the application of the Participation Exemption, shares or similar interests shall be treated as ownership interests only if the Accounting Standards applied by the Person owning them treats those instruments as equity instruments[4] (see Section 5.1.1).

3.1.2.2. Other rights to participate in profits

"Other rights to participate in profits" can cover instruments (other than shares) issued by entities, which grant holders the right to participate in the relevant entity's profits. This concept makes provision for distribution of profits of other entities which are juridical persons, but are not companies, to also benefit from the exemptions under Article 22 of the Corporate Tax Law, provided all other requirements are met. For example, a member's interest in an incorporated partnership or units of a trust where such entities are treated as a separate legal person according to the law under which they are incorporated.

[4] Article 2(2) of Ministerial Decision No. 116 of 2023.

"Other rights to participate in profits" also includes instruments such as Membership and Partner Interests as well as Islamic Financial Instruments referred to in Ministerial Decision No. 116 of 2023.

3.1.2.3. "In respect of" shares or rights to participate in profits

The phrase "in respect of" as used in the definition of Dividend, is the reason something is done or a benefit is granted to a Person, in their capacity as a shareholder or holder of the right to profits.

Example 1: Amount not received in capacity of shareholder

A parent company receives a payment of Interest in respect of a loan to a wholly owned subsidiary. This is not a Dividend because the payment is not received by the parent company in relation to its shares held in the subsidiary, but rather in its capacity as a lender.

3.1.2.4. Profits out of which Dividends are distributed

Subject to applicable governing corporate laws and regulations, a Dividend can be paid out of current year profits or retained earnings, or from any account or legal reserve, or from capital reserves or revenue. This does not affect the treatment for Corporate Tax purposes.

Profits available for distribution (i.e. distributable profits) may be determined from the Financial Statements or the notes thereto. For Corporate Tax purposes, it does not matter whether distributions are made out of current period profits, or those of earlier periods.

3.1.3. Payments that do not qualify as a Dividend

As defined, a return on debt-claims does not qualify as a Dividend. Accordingly, income from convertible debentures or bonds cannot be considered a Dividend, until and unless the instruments are actually converted into shares.

Some debt-claims, such as bonds and debentures, carry an indirect right to participate in a debtor's profits. Generally, income from such debt-claims does not qualify as a Dividend if the terms of the arrangement evidence a loan arrangement, for example, where loans merely carry a right to Interest dependent or contingent, to some limited extent, on the profits made by the debtor but do not have any other characteristics of a share or other form of ownership interest in a juridical person.

However, Interest on a loan may qualify as a Dividend insofar as the lender effectively shares the risks run by the company, i.e. when repayment depends largely on the success or otherwise of the company's Business and the loan is therefore classified as equity under the Accounting Standards applied by the Taxable Person. The question as to whether the lender shares the risks run by the company and whether this means that the Interest on the loan is in substance a Dividend must be determined in each individual case in light of all the relevant facts and circumstances.

3.1.4. Dividend in kind

3.1.4.1. General

A Dividend will usually take the form of a cash amount. However, as defined, it can also take a different form, such as securities or other properties, or some other asset of the entity making the distribution. This is referred to as a Dividend in kind.

In the case where a Dividend in kind is received, the value of the Dividend in the hands of the Taxable Person is the value recorded in its Financial Statements prepared as per the applicable Accounting Standards, as long as the value is recorded at Market Value.

3.1.4.2. Issuance of bonus shares

Bonus shares usually refer to additional shares that a company allocates to its existing shareholders out of its profits or reserves, without receiving new consideration from the shareholders. Since bonus shares are in effect a payment out of a company's profit and reserves, they meet the definition of a Dividend.

3.1.5. Other distributions

3.1.5.1. In substance distributions

As per the definition of Dividend, a payment or benefit made in connection with the following would be considered a Dividend to the extent it constitutes, in substance, a distribution of profit:

- The acquisition by a company of its own shares (buy-back of shares);
- The redemption of shares;
- The cancellation of shares (capital reduction); or
- The termination of other ownership interests or rights.

This Section must be read in conjunction with the discussion of ordinary Dividend (see Section 3.1.2). Hence, it is possible that only part of such payments or benefits would be classified as a Dividend.

In order to fall within the definition of a Dividend in any of the above instances, payments or benefits should be made out of distributable profits (see Section 3.1.2.4). Thus, where payments are made to shareholders or rights holders in connection with the acquisition, redemption or cancellation of shares or termination of other ownership interests or rights, the Dividend amount will be the difference between the proceeds received by the shareholder and the paid-up value of the shares, limited to the amount of distributable accumulated profits (or retained earnings). The balance amount (if any) may be an exempt capital gain if the conditions of the Participation Exemption are satisfied.

Example 2: Distribution on cancellation of shares

Company A (a company incorporated and resident in the UAE) wholly owns Company Z (a company incorporated and managed outside the UAE).

Out of 100 shares issued to Company A, Company Z cancels 50 shares by paying AED 450 to its shareholder, Company A. This represents the Market Value of those shares. The distribution on cancellation of shares is paid out of capital contributed and Company Z's retained earnings.

The balance sheet of Company Z just before cancellation of shares is as follows:

Equity and Liabilities	Amount (AED)	Assets	Amount (AED)
Capital (100 shares of AED 5 each)	500	Cash	700
Distributable profits	200		
Total	**700**	**Total**	**700**

Balance sheet of Company Z after cancellation of shares is as follows:

Equity and Liabilities	Amount (AED)	Assets	Amount (AED)
Capital (50 shares of 5 AED each)	250	Cash	250

Total	250	Total	250

The taxation of AED 450 received by Company A will be as follows:

- AED 250 represents the capital initially subscribed and is not taxable.
- AED 200 is a Dividend because it is sourced from distributable profits. This Dividend is exempt provided the conditions of the Participation Exemption are satisfied.

3.1.6. Non-arm's length: constructive Dividend

Constructive Dividends are payments or benefits received by a shareholder as an assignment of income, despite the absence of a formal distribution. This could arise, for example, as a result of a transaction under which a parent company receives compensation that exceeds the fair value of the goods or services provided by it, to its subsidiary. As defined, any payment or benefit that arises to a Related Party or Connected Person (who is a shareholder) as a result of a transaction or arrangement which does not comply with the arm's length principle will constitute a distribution of profit in substance and accordingly, qualify as a Dividend, to the extent to which it is not at arm's length.

3.2. Taxation of Dividends and other profit distributions

3.2.1. Personal Investment income (natural person only)

For a natural person, whether resident or non-resident, Personal Investment activities are excluded from the definition of Business or Business Activity for Corporate Tax purposes.[5] Hence, where Dividend income received by a natural person is Personal Investment income, it is not Taxable Income for Corporate Tax purposes.

Example 3: Natural person as a shareholder

Mr A and Mrs B are both shareholders in Company A (a company incorporated and resident in the UAE). Mr A purchased his shares as a Personal Investment, while Mrs B did it as part of her Business Activity. Company A makes a Dividend distribution to both shareholders.

The Dividend income received by Mr A is Personal Investment income and not subject to Corporate Tax. The Dividend income received by Mrs B is specifically

[5] Article 2(2)(b) of Cabinet Decision No. 49 of 2023.

exempted as a Dividend received from a juridical person that is a Resident Person.[6]

3.2.2. Dividend from a Resident Person

A Dividend received from a juridical person that is a Resident Person is always Exempt Income for Corporate Tax purposes with no further conditions.[7]

3.2.3. Foreign Dividends

A foreign Dividend is a Dividend received from a foreign juridical person that is a Non-Resident Person. A foreign Dividend is Exempt Income for Corporate Tax purposes if the conditions of the Participation Exemption are satisfied (see Section 5).[8]

If the conditions are not satisfied, the foreign Dividend will be included in the Taxable Income of a juridical person that is a Resident Person.[9] In the case of a Resident Person who is a natural person, the foreign Dividend will similarly be included in the Taxable Income if it is attributed to a Business or Business Activity, unless it represents Personal Investment income.[10]

In the case of a juridical person that is a Non-Resident Person, foreign Dividend income is subject to Corporate Tax only insofar as it is attributable to a Permanent Establishment of that Non-Resident Person in the UAE.[11] However, it will be Exempt Income if the conditions of the Participation Exemption are satisfied.[12]

Figure 1: Overview of taxation of Dividend income under the Corporate Tax Law

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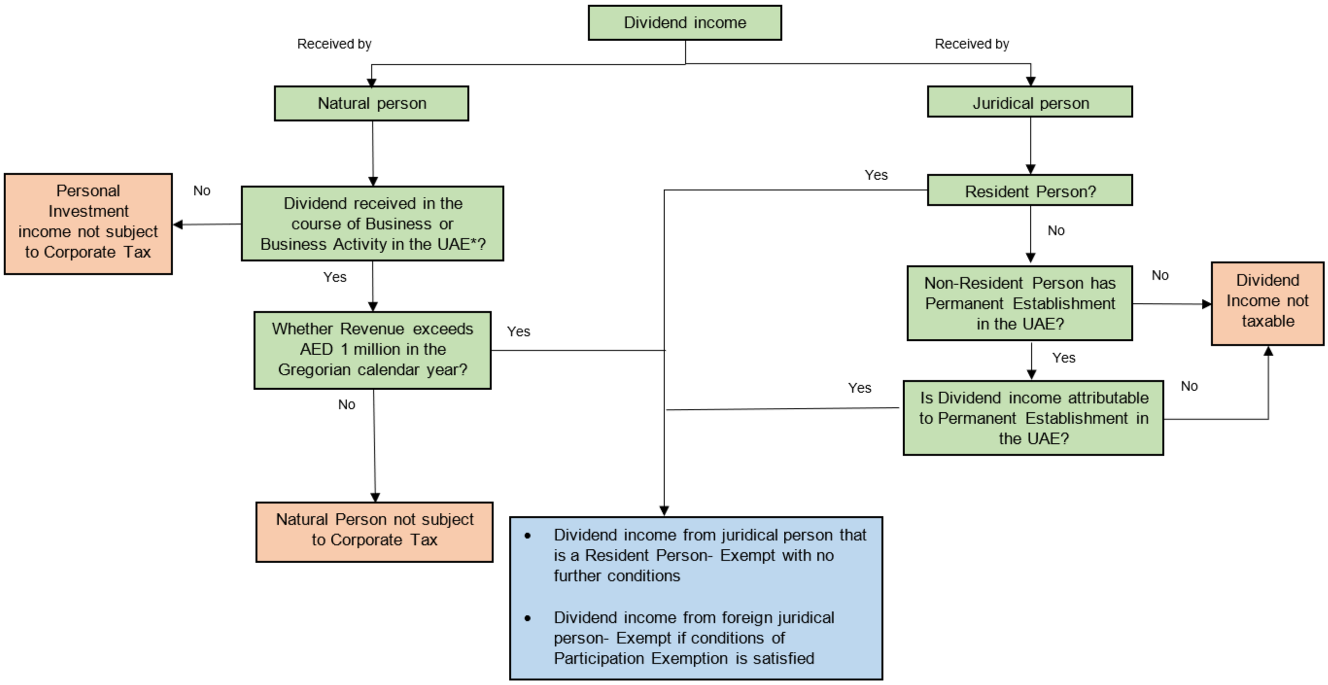
[6] Article 22(1) of the Corporate Tax Law.
[7] Article 22(1) of the Corporate Tax Law.
[8] Article 22(2) of the Corporate Tax Law.
[9] Article 12(1) of the Corporate Tax Law.
[10] Article 12(2) of the Corporate Tax Law.
[11] Article 12(3)(a) of the Corporate Tax Law.
[12] Article 22(2) and 22(3) of the Corporate Tax Law.



**Natural Person conducting Business in the UAE qualifies as Resident Person under the Corporate Tax Law.*

4. Participation Exemption: overview

4.1. Introduction

Certain income received by a Taxable Person from a Participating Interest in a juridical person is exempt from Corporate Tax.[13] This goes beyond the automatic exemption for Dividends from a juridical person that is a Resident Person, and provides an exemption (subject to conditions) for foreign Dividends, capital gains or losses, foreign exchange gains or losses, and impairment gains or losses. Similarly, as is the case for Dividends in Section 3, the intention of the Participation Exemption is to eliminate double taxation.

To illustrate this, Company A earns profit of USD 1,000 in its state of residence (Country A) on which it pays tax in Country A. Out of these taxed profits, Company A distributes USD 100 to its sole shareholder as a Dividend. In this case, taxing the Dividend income of USD 100 in the hands of the shareholder will lead to double taxation (i.e. the USD 100 profits being taxed both at the level of Company A as well as at the level of its shareholder), which the Participation Exemption regime aims to eliminate.

The Participation Exemption rules are broadly structured as follows:[14]

- Providing the definition and conditions of a Participating Interest;[15]
- Clarifying the types of income and losses from a Participating Interest which are exempt from Corporate Tax;[16]
- Clarifying the implications of a failure to meet the conditions of the Participation Exemption.[17]

4.2. Definition of Participating Interest

In broad terms, a Participating Interest is a significant, long-term ownership interest in a juridical person (the "Participation") that suggests some degree of control or influence over the Participation. In line with this principle, several conditions must all be satisfied in order to qualify as a Participating Interest:

[13] Article 22(2) and Article 22(3) of the Corporate Tax Law.
[14] Article 23 of the Corporate Tax Law.
[15] Articles 23(2), 22(3), 23(4), 23(6), 23(7) and 23(11) of the Corporate Tax Law.
[16] Article 23(5) and Article 23(8) of the Corporate Tax Law.
[17] Article 23(9) and Article 23(10) of the Corporate Tax Law.

- A Participating Interest represents a 5% or greater ownership interest in a Participation ("minimum ownership test").[18]
- Alternatively, the ownership test can be satisfied if the acquisition cost of the ownership interest is equal to or exceeds a specific threshold (AED 4 million) ("minimum acquisition cost test").[19]
- The Participating Interest must be held, or intended to be held, for an uninterrupted period of at least 12 months ("holding period test").[20]
- The Participation must be subject to Corporate Tax, or equivalent foreign corporate tax at a rate of 9% or more ("subject to tax test").[21] Qualifying Free Zone Persons, Exempt Persons and holding companies, subject to certain conditions, are treated as having met the subject to tax test.[22]
- The ownership interest in the Participation must entitle the holder to receive at least 5% of the profits and liquidation proceeds ("entitlement to profits and liquidation proceeds test").[23]
- Not more than 50% of the direct and indirect assets of the Participation must consist of ownership interests which would not qualify for the Participation Exemption if held directly ("asset test").[24]

For more detailed discussion on these conditions see Section 5.

4.3. Exempt Income and losses

The Participation Exemption can, provided the necessary conditions are met, provide an exemption from Corporate Tax for the following:[25]

- Dividends and other profit distributions received from a foreign Participation that is not a Resident Person.[26]
- In relation to a Participating Interest, whether derived from a Resident Person or a foreign juridical person that is a Non-Resident Person:
  - Gains or losses on the transfer, sale, or other disposition of a Participating Interest (or part thereof).[27]

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[18] Article 23(2) of the Corporate Tax Law.
[19] Article 23(11) of the Corporate Tax Law and Article 8(1) of Ministerial Decision No. 116 of 2023.
[20] Article 23(2)(a) of the Corporate Tax Law.
[21] Article 23(2)(b) of the Corporate Tax Law.
[22] Article 23(3) and Article 23(4) of the Corporate Tax Law.
[23] Article 23(2)(c) of the Corporate Tax Law.
[24] Article 23(2)(d) of the Corporate Tax Law.
[25] Article 23(5) of the Corporate Tax Law.
[26] Article 23(5)(a) of the Corporate Tax Law.
[27] Article 23(5)(b) of the Corporate Tax Law.

- Foreign exchange gains or losses.[28]
- Impairment gains or losses.[29]

The Participation Exemption applies the same treatment to both gains and losses. Thus, no deduction for Corporate Tax is allowed for capital losses, foreign exchange losses or impairment losses where the conditions for a Participating Interest are met. For more discussion on Exempt Income and losses under the Participation Exemption, see Section 6.

In general terms, other income that is not directly related to the ownership of a Participating Interest, such as income from services provided to the Participation or Interest income earned under a loan granted to the Participation, will in principle not be exempt from Corporate Tax by virtue of the Participation Exemption.

Expenditure incurred in relation to Exempt Income, which includes where the Participation Exemption applies, is not deductible for Corporate Tax purposes,[30] except for Interest expense.[31] See Section 7 regarding the non-deductibility of expenditure.

4.4. Automatic exemption: no election required

The Participation Exemption applies without the need for the Taxable Person to make an election or file an application with the FTA. Accordingly, if the relevant conditions are met, the Participation Exemption will apply automatically with regards to all relevant income derived from Participating Interests. All conditions of the Participation Exemption must be satisfied at the time income is derived from a Participating Interest. The timing of when income is derived will normally be based on the Financial Statements prepared by the Taxable Person under the applicable Accounting Standards (an exception would be where the Cash Basis of Accounting is applied).

4.5. Availability of exemption to both Resident Person and Non-Resident Person

Any Taxable Person, Resident or Non-Resident Persons, can benefit from the Participation Exemption in respect of relevant income if the conditions are satisfied. Thus, income from a Participating Interest that is attributable to a UAE Permanent Establishment of a Non-Resident Person will be exempt if the conditions of the Participation Exemption are met.

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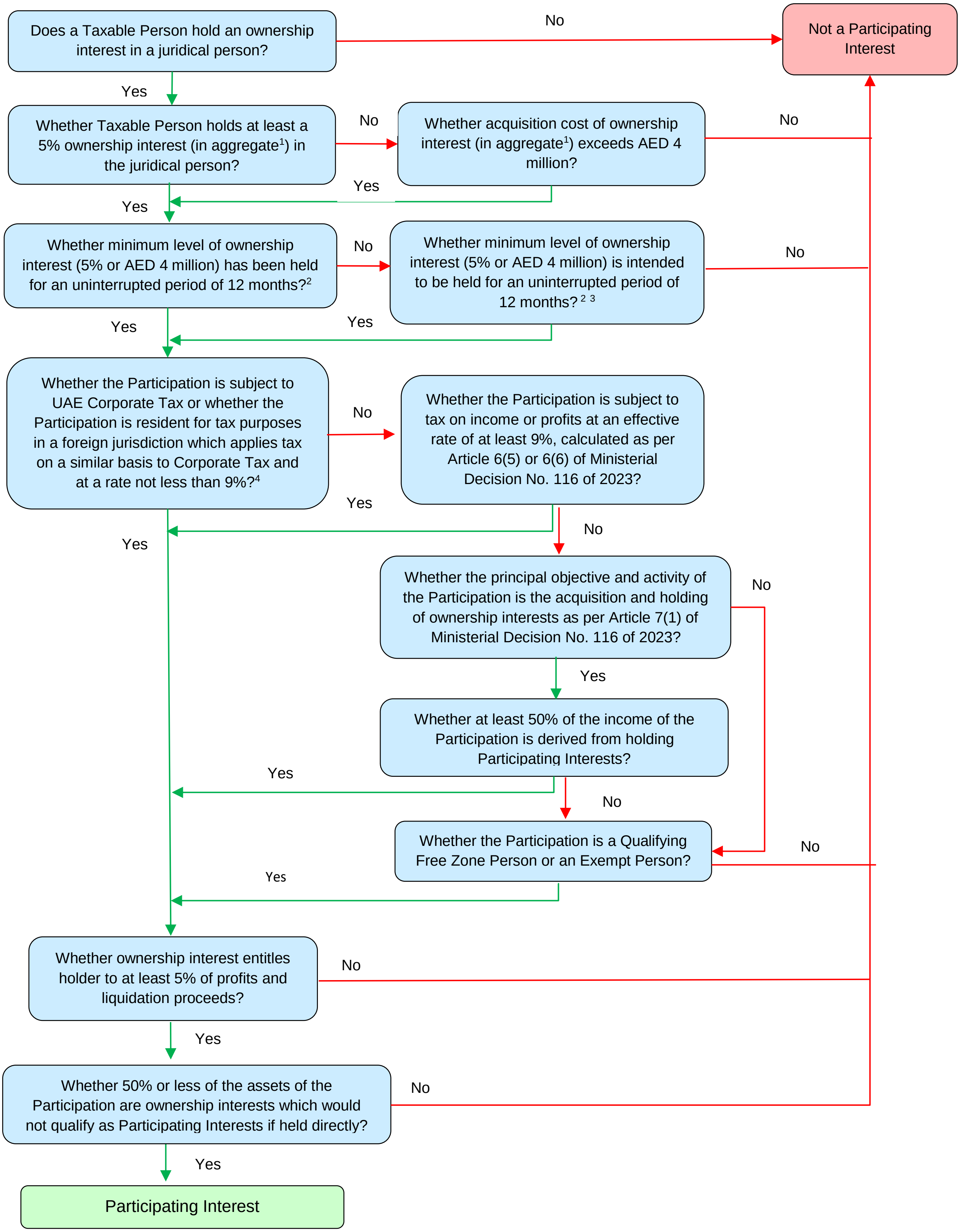
[28] Article 23(5)(c) of the Corporate Tax Law.
[29] Article 23(5)(d) of the Corporate Tax Law.
[30] Article 22 and Article 28(2)(b) of the Corporate Tax Law.
[31] Article 29 of the Corporate Tax Law.

5. Participation Exemption: definition of Participating Interest

In order for income to benefit from the Participation Exemption, it must relate to a Participating Interest. The following flowchart sets out the conditions to qualify as a Participating Interest. It follows the order they are listed in Article 23 of the Corporate Tax Law. In practice it may not be necessary to consider the conditions in sequence in order to reach a conclusion.

Figure 2: Overview of conditions to qualify as a Participating Interest



[1] Aggregation of ownership interests as per Article 3 of Ministerial Decision No. 116 of 2023. See Section 5.2.1

[2] Article 4 of Ministerial Decision No. 116 of 2023 provides a relaxation in holding period condition where ownership interest is acquired in accordance with Article 27(1) [business restructuring relief]. See Section 5.3.3.

[3] In the case of capital gains, the intention to hold an ownership interest does not apply. The ownership interest must have actually been held for a period of 12 months, or for a period of 2 years where the ownership interest is acquired in scenarios covered under Article 23(9). Refer Section 5.3.4

[4] Determined as per Article 6(2), 6(3), 6(4) of Ministerial Decision No. 116 of 2023. See Section 5.5.2

5.1. Ownership interest test

The first condition to qualify for the Participation Exemption is that a Taxable Person must hold an "ownership interest" in the shares or capital of a juridical person. The meaning of the term "share" is discussed in Section 3.1.2.1. Further, other methods of dividing capital that would constitute ownership interests include membership interests and other securities or rights that entitle the holder to profits and liquidation proceeds of the entity. Examples include interests in certain incorporated partnerships or units issued by an investment fund.

5.1.1. What is an ownership interest?

An ownership interest can be understood as any equity or similar interest (for example, a partnership interest) that carries rights to the profits and liquidation proceeds of the Participation.

A holding can qualify as an ownership interest for the purposes of Article 23 of the Corporate Tax Law only if it is treated as an equity interest under the Accounting Standards applied by the Taxable Person holding the ownership interest.[32] This would distinguish between an ownership interest and other rights to the profits and liquidation proceeds of an entity, such as profit-sharing agreements with employees that do not carry any equity rights to the entity or creditors' rights to compel the sale of certain assets to satisfy an obligation of an entity that is in default.

To the extent that shares or capital held by a Taxable Person grant the same rights to both the profits as well as the liquidation proceeds of the Participation, no consideration needs to be given to the different classes of shares or capital issued. An ownership interest can include, but is not limited to, holdings in any one or a combination of the following instruments:[33]

Type of instrument	Description
Ordinary Shares	Category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.
Preferred Shares	Category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

[32] Article 2(2) of Ministerial Decision No. 116 of 2023.
[33] Article 2(1) of Ministerial Decision No. 116 of 2023.

Type of instrument	Description
Redeemable Shares	Category of capital stock or equity interest which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.
Membership and Partner Interests	Equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.
Islamic Financial Instrument or a combination of arrangements that form part of the same Islamic Financial Instrument	Islamic Financial Instrument is a financial instrument which is compliant with Sharia principles.

The above list of ownership instruments is only illustrative. Other types of participating rights to the profits and liquidation proceeds of the Participation and treated as an equity interest under the applicable Accounting Standards, may also qualify as ownership interests. For example, the definition of Ordinary Shares refers to capital stock which gives its owner equal entitlement to voting rights, profits, and liquidation proceeds. However, shares that do not carry voting rights but have rights to profits and liquidation proceeds can also qualify as an ownership interest.

Ownership interests may carry rights to profits and liquidation proceeds in different percentages. For example, an ownership interest may carry a right to 20% of the profits of an entity but only 10% of the liquidation proceeds. These will need to be looked at separately when determining the "entitlement to profits and liquidation proceeds test" (see Section 5.7).

5.1.2. Debt instruments issued by the Participation

Debt instruments can be contrasted with equity instruments in the nature of the liability and risk. Whilst equity gives a residual claim on the assets of the entity, a debt instrument involves an obligation to pay an amount of principal and / or interest usually according to a predefined formula. Typically, the creditor (the lender) is paid in priority to equity holders, having less risk than equity holders, though may not have recourse to the entity's assets. Hence, ordinarily debt instruments do not qualify as an ownership interest for the purposes of the Participation Exemption.

However, a debt instrument (including those convertible into equity) is treated as an ownership interest if it is classified as an equity interest under the Accounting Standards applied by the Taxable Person.[34] Thus, compound financial instruments or hybrid instruments which have features of debt as well as equity may qualify as an ownership interest depending on their accounting classification under the Accounting Standards applied by the Taxable Person.

5.1.3. Options

An option is a right to buy (call option) or sell (put option) something for a fixed price at a future date. Accordingly, holding an option does not imply that the holder actually or in fact has an ownership interest in an entity. Therefore, the holding of an option would not be considered as holding an ownership interest.

5.1.4. Owner of ownership interests

The specified income from a Participation is exempt only if it is received by a Taxable Person in their capacity as "owner" of an ownership interest or ownership interests in the Participation. Income derived from a Participation in any other capacity, such as a lender or service provider, is not exempt from Corporate Tax under the Participation Exemption.[35]

A Taxable Person shall be treated as holding an ownership interest where the ownership interest is controlled by the Taxable Person and the Taxable Person has the right to the economic benefits produced by the ownership interest under the Accounting Standards as applied by the Taxable Person.[36]

The person receiving the income must be the economic owner of the ownership interest. A person is the economic owner when they have (or are entitled to) all or substantially all the benefits and burdens of ownership, including rights to profits, liquidation proceeds, or voting in respect of the Participation, and they have not renounced or transferred such rights under another arrangement.

Thus, if a person holds the ownership interest in the capacity of an agent, nominee, fiduciary or administrator, so that they are simply a conduit for another person who in fact is entitled to the benefits and burdens of ownership, the former is not the economic

[34] Article 5 of Ministerial Decision No. 116 of 2023.

[35] Article 11 of Ministerial Decision No. 116 of 2023.

[36] Article 2(3) of Ministerial Decision No. 116 of 2023.

owner of the ownership interest. Accordingly, they will not be entitled to the Participation Exemption with respect to income from the Participation.

Even if a person legally holds the ownership interest in their own name (i.e. legal owner), they may potentially not qualify as the economic owner if the right to use and enjoy the benefits of the ownership interest is constrained by a contractual or legal obligation to pass on the benefit received to another person. Such an obligation will normally derive from relevant legal agreements but may also be found to exist on the basis of facts and circumstances showing that, in substance, the legal owner does not have the right to use and enjoy the benefits of an ownership interest in an unconstrained manner.

5.2. Minimum ownership test

A Participating Interest must represent a 5% or greater ownership of the shares or capital of the juridical person.[37] A less than 5% ownership interest in a juridical person will not qualify for the Participation Exemption, unless the minimum acquisition cost test is met (see Section 5.4).

5.2.1. Computation of percentage ownership

The percentage ownership must be calculated as:

Percentage ownership (PO) = $\frac{X}{Y}$*100 where:

X = Paid-up capital of ownership interests held by a Taxable Person in the Participation. Different types of ownership interests held by the Taxable Person in the same juridical person can be aggregated for the purposes of applying the 5% threshold test.[38]

Y = Total paid-up capital of the Participation or the total equity interest contributions made to the Participation, as applicable.[39]

Example 4: Computing percentage of holding

Company A has paid-up share capital of AED 10,000: AED 1,000 towards Ordinary Shares and AED 9,000 towards Preferred Shares. Company B holds 20% of the Ordinary Shares in Company A and does not hold any Preferred Shares.

[37] Article 23(2) of the Corporate Tax Law.
[38] Article 3(1)(a) of Ministerial Decision No. 116 of 2023.
[39] Article 2(5) of Ministerial Decision No. 116 of 2023.

- Paid-up capital of ownership interest held by Company B (X): 20% of AED 1,000 Ordinary Shares = AED 200.
- Total paid-up capital of the Participation (Y): AED 10,000 (Ordinary and Preferred Share capital together)
- Company B's percentage ownership: $\frac{200}{10{,}000}*100=2\%$

Accordingly, Company B's ownership interest amounts to only 2% of the total paid-up share capital in Company A, i.e. Ordinary and Preferred Share capital together. In this case, Company B does not meet the 5% ownership interest threshold required for the Participation Exemption.

5.2.2. Aggregation of Qualifying Group holdings

Ownership interests in the same juridical person held by other members of a Qualifying Group are aggregated with those of the Taxable Person.[40]

5.2.3. Falling below the 5% ownership threshold

Since the Participation Exemption is automatic and applies without the need for an election or an application, all conditions must be satisfied at the time income is derived from a Participating Interest (see Section 4.4).

Therefore, if at the time the income is derived, the Taxable Person does not hold at least a 5% ownership interest, the condition is not met and accordingly, the income is not exempt under the Participation Exemption, unless the minimum acquisition cost test is met (see Section 5.4).

The timing of when income is derived will normally be based on the Financial Statements prepared by the Taxable Person under the applicable Accounting Standards (an exception would be where the Cash Basis of Accounting is applied).

[40] Article 3(1)(b) of Ministerial Decision No. 116 of 2023.

Example 5: Sale of ownership interests in tranches

Company A (a company incorporated and resident in the UAE) adopts a Tax Period of 1 January to 31 December. Company A has acquired shares in Company Z (a company incorporated and managed outside the UAE) and has the following transactions with respect to the investment:

Date	Transaction
1 November 2022	Acquired 20% of shares of Company Z below AED 4 million
1 March 2024	Sold 17% of shares of Company Z for proceeds exceeding original cost
1 June 2024	Received Dividend from Company Z
1 August 2024	Acquired additional 2% of shares of Company Z
1 August 2025	Acquired additional 2% of shares of Company Z
31 December 2025	Received Dividend from Company Z

Assuming that the other relevant conditions are satisfied, the tax treatment of the various income items is as follows:

- Gain from sale of shares on 1 March 2024: At the time of sale, Company A held more than 5% ownership interest for more than 12 months, so the gain on sale is exempt. (If the sale had resulted in a loss, the loss would have been excluded from the Taxable Income of Company A).
- Dividend received on 1 June 2024: At the time the Dividend income is received, Company A holds only 3% of the shares in Company Z with an acquisition cost of less than AED 4 million. This is below the required 5% ownership and minimum acquisition cost threshold, and consequently, the Dividend is not exempt.
- Dividend received on 31 December 2025: At the time the Dividend income is received, Company A holds 7% of the shares in Company Z so the ownership threshold condition is met. Further, a shareholding of 5% has been held for more than 12 months (the additional 2% acquired on 1 August 2024 resulted in a 5% holding – the 2% acquired on 1 August 2025 would be considered for the purpose of this test if there is an intention to hold these shares for at least 12 months). Thus, the 12-month holding period test is also met. Therefore, the Dividend received on 31 December 2025 is exempt.

5.3. Holding period test

A Participating Interest must be held, or intended to be held, for a continuous period of at least 12 months.[41] The 12-month holding period is provided to prevent a scenario where a Taxable Person, holding less than 5% of a Participating Interest, increases their holding shortly before receiving income from the Participating Interest, primarily for the purpose of securing the benefits of the Participation Exemption. Thus, a 12-month holding period ensures that the benefit of Participation Exemption is available to long-term holdings.

5.3.1. Intention to hold Participating Interest for at least 12 months

Whether the Taxable Person has held a Participating Interest for 12 months is tested on the date when income from a Participating Interest is derived.

However, there is no requirement for the Participating Interest to be held for the full Tax Period, nor is it required for the minimum holding period to be met at the time the income is derived (subject to the exceptions noted in Section 5.3.4). Income received before the minimum holding period is completed can also benefit from the Participation Exemption, as long as the Taxable Person has the intention to hold the Participating Interest for at least 12 months, indicating that it is not merely a short-term investment.

Whether or not the Participating Interest is intended to be held for at least 12 months may generally be inferred from the relevant facts and circumstances, including, for example:

- Whether the Taxable Person is engaged in the Business of buying and selling securities (as a trader).
- The accounting treatment of the Participating Interest in the Financial Statements of the Taxable Person (fixed asset investment as opposed to stock/inventory, for example).
- The intention at the time of acquiring the Participating Interest – was it acquired with the intention of disposing of it at a profit, or was it acquired as a long-term investment?

Where a Taxable Person benefits from the Participation Exemption on the basis of an intention to meet the 12-month holding period, but subsequently does not achieve that condition, the income previously not taken into account in determining Taxable Income must be included in the calculation of Taxable Income in the Tax Period where the condition is breached.[42]

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[41] Article 23(2)(a) of the Corporate Tax Law.

[42] Article 23(10) of the Corporate Tax Law.

Example 6: 12-month holding period not satisfied subsequently

Company A (a company incorporated and resident in the UAE) purchases 10% of the shares of Company Z (a company incorporated and managed outside the UAE) in October 2024 with the intention of holding them as a long-term investment. Company A receives a Dividend from Company Z in November 2024. Company A follows the Gregorian calendar year as its Tax Period.

For the 2024 Tax Period, Company A treats the Dividend income as exempt on the basis that it intends to hold the shares for at least 12 months. However, due to commercial reasons, in March 2025, Company A sells 8% of the shares of Company Z. In such a case, the Dividend income treated as exempt in 2024 will be added to the Taxable Income of Company A in the 2025 Tax Period. The reason why Company A was unable to satisfy its intention of holding the shares for at least 12 months is not relevant.

5.3.2. Different ownerships interests in a juridical person held for different periods

A Taxable Person can hold different ownership interests (which can be the same or a different class of shares) in a single juridical person which are purchased on different dates such that some of the ownership interests are held for 12 months while some are not. In such a case, where the Taxable Person disposes of part of their ownership interests, the question arises as to whether the holding period test is satisfied.

Different types of ownership interests held by the Taxable Person in the same juridical person are to be aggregated while testing the conditions of the Participation Exemption.[43] Once the conditions of the Participation Exemption are met, the ownership interests form a single Participation. Accordingly, where part of a Participating Interest is disposed of, the holding period condition is to be tested in respect of the Participation as a whole and not each ownership interest individually.

Example 7: Disposal of part of ownership interest

Company A (a company incorporated and resident in the UAE) purchases and sells shares of Company Z (a company incorporated and managed outside the UAE) as follows:

[43] Article 3(1)(a) of Ministerial Decision No. 116 of 2023.

Transaction	Holding %	Holding Period
Purchase of Ordinary Shares of Company Z	6%	5 years
Purchase of Preferred Shares of Company Z	3%	3 months
Sale of Preferred Shares of Company Z	2%	N/A

In this case, even though the Preferred Shares sold have been held for only 3 months, the holding period test is satisfied based on Company A's overall ownership interest in Company Z, which is over 12 months.

5.3.3. Transfer of ownership interest in case of business restructuring

Where a Taxable Person exchanges an ownership interest in one juridical person for that in another juridical person, and where this exchange does not give rise to Taxable Income, due to the application of Business Restructuring Relief,[44] the ownership of the two interests is treated as a single continuous ownership (not two separate ownership periods) provided that both qualify as Participating Interests.[45] This means the period of ownership can look through a qualifying business restructuring.

5.3.4. Required holding period exceptions

Generally, income from a Participating Interest before the 12-month holding period is completed can still benefit from the Participation Exemption, as long as the intention is to hold the interest for at least 12 months. However, there are two exceptions when the intention is not sufficient, and in such cases the Participation Exemption only applies after the relevant holding period requirement has actually been met.

The first case is in the case of capital gains or losses (see Section 6.2). To be exempt, the Participating Interest must have been held for the required period of 12 months. Thus, where a Participating Interest has not been held for at least 12 months, a capital gain or loss on the sale, transfer or other disposition of the asset will not be exempt.[46]

In the second case, the Participation Exemption does not apply for a period of two years where the Participation is acquired under the following circumstances:[47]

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[44] Article 27 of the Corporate Tax Law.
[45] Article 4 of Ministerial Decision No. 116 of 2023.
[46] Article 23(5)(b) of the Corporate Tax Law.
[47] Article 23(9) of the Corporate Tax Law.

- In exchange for the transfer of an ownership interest that is not a Participating Interest, i.e. the asset held previously would not have qualified for the Participation Exemption;
- In the case of an exempt transfer within a Qualifying Group;[48] or
- In the case of an exempt transfer covered by Business Restructuring Relief.[49]

In the above circumstances, the Participating Interest must be held for at least two years (i.e. 24 months) before the Participation Exemption can apply.

Example 8: Participation acquired in exchange for transfer of an ownership interest that is not a Participating Interest

Company A (a company incorporated and resident in the UAE) holds 10% of the shares of Company F (a company incorporated and managed outside the UAE). The shares do not carry the right to liquidation proceeds of Company F and hence do not satisfy one of the necessary conditions to qualify as a Participating Interest.

Company X (a company incorporated and resident of the UAE) holds 6% of the Ordinary Shares in Company G (a company incorporated and managed outside the UAE). The shares of Company G satisfy the conditions to be a Participating Interest.

Company A transfers shares held in Company F to Company X in exchange for shares of Company G. In this case, even if Company A has the intention to hold shares of Company G for more than 12 months, the Participation Exemption will not be available with respect to income derived from Company G shares for 2 years from the date of acquisition of the shares. This is because the shares of Company G were acquired in exchange for an ownership interest (i.e. the shares of Company F) which does not qualify as a Participating Interest.

5.4. Minimum acquisition cost test

As an alternative to the requirement to have a 5% or greater ownership interest (see Section 5.2), a Taxable Person will be treated as having a Participating Interest if the acquisition cost exceeds AED 4 million.[50]

The minimum acquisition cost threshold serves as an administrative simplification, recognising that a material investment in a juridical person is often representative of the long-term nature of the investment and would generally provide the holder with some degree of control or influence over the entity.

48 Article 26 of the Corporate Tax Law.
49 Article 27 of the Corporate Tax Law.
50 Article 23(11) of the Corporate Tax Law read with Article 8(1) of Ministerial Decision No. 116 of 2023.

If the Taxable Person does not meet the minimum acquisition cost threshold (i.e. AED 4 million) for an uninterrupted period of at least 12 months, income previously not taken into account in determining Taxable Income on the basis of the Participation Exemption is included in the calculation of Taxable Income in the Tax Period where the condition is breached.[51]

5.4.1. Aggregation of acquisition costs

For the purposes of this test, the acquisition cost of different types of ownership interests held by a Taxable Person in the same juridical person are aggregated. What needs to be determined is if the aggregate acquisition cost is equal to or exceeds the minimum acquisition cost (currently AED 4 million).[52]

Example 9: Determining acquisition cost on aggregate basis

A Taxable Person has acquired the following ownership interests in Company A (a company incorporated and resident in the UAE):

- Firstly, Ordinary Shares for AED 1 million;
- Secondly, Preferred Shares for AED 2 million; and
- Thirdly, Redeemable Shares for AED 2 million.

In this case, the minimum acquisition cost test is met when the Redeemable Shares are acquired since the aggregate acquisition cost of all ownership interests held in Company A exceeds AED 4 million.

Further, the acquisition costs of ownership interests in the same juridical person held by members of a Qualifying Group (as defined in Article 26(2) of the Corporate Tax Law) in which the Taxable Person is a member, are aggregated.[53] The minimum acquisition cost test is met if the aggregate acquisition cost of ownership interests held by all members of the Qualifying Group together exceed the threshold of AED 4 million. Thus, the intra-group transfer of ownership interests between members of a Qualifying Group does not have an impact on the minimum acquisition cost test.

[51] Article 23(11) of the Corporate Tax Law read with Article 23(2) of the Corporate Tax Law..
[52] Article 3(2) of Ministerial Decision No. 116 of 2023.
[53] Article 3(2) of Ministerial Decision No. 116 of 2023.

5.4.2. Computation of acquisition cost

The aggregate acquisition cost is computed as follows:[54]

Cost	Notes
Value of contributions made or consideration paid towards ownership interest in Participation.[55]	• Includes consideration paid/repaid in cash or in kind.[56] • The value is determined at the time of the transaction, i.e. when the capital contribution was made. No account is taken of any subsequent value adjustments made under the Accounting Standards applied by the Taxable Person holding the ownership interest.[57] Thus, what is relevant here is the actual historical cost of acquiring the ownership interest (e.g. cash paid) and not, for instance, the adjusted book value or Market Value of the ownership interest.
Add: Value of any subsequent contributions made or consideration paid towards ownership interest in Participation.[58]	
Less: Value of equity/ capital repayment made by the Participation (for example on redemption or buy back of shares).[59]	
Less: Cost attributable to part of the ownership interest sold, transferred or otherwise disposed of.	Where an ownership interest is partly sold, transferred, or otherwise disposed of, the aggregated acquisition cost shall be reduced in proportion to the average acquisition cost attributable to the part of the ownership interest that is sold, transferred or otherwise disposed of.[60] **Example 10: Determining cost on partial sale** A Taxable Person holds the following interests in a juridical person:

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[54] Article 8 of Ministerial Decision No. 116 of 2023.
[55] Article 8(2)(a) of Ministerial Decision No. 116 of 2023.
[56] Article 8(2)(a) of Ministerial Decision No. 116 of 2023.
[57] Article 8(3) of Ministerial Decision No. 116 of 2023.
[58] Article 8(2)(b) of Ministerial Decision No. 116 of 2023.
[59] Article 8(2)(b) of Ministerial Decision No. 116 of 2023.
[60] Article 8(5) of Ministerial Decision No. 116 of 2023.

<table>
<tr><th>Cost</th><th>Notes</th></tr>
<tr><td></td><td>
<table>
<tr><th>Type of interest</th><th>Cost</th></tr>
<tr><td>Preferred Shares</td><td>AED 2 million</td></tr>
<tr><td>Ordinary Shares
• Tranche 1: 10,000 shares
• Tranche 2: 20,000 shares</td><td>
AED 1 million
AED 5 million</td></tr>
</table>
The Taxable Person sells 5,000 Ordinary Shares. In this case, the cost will be average acquisition cost attributable to the Ordinary Shares [(5,000/ 30,000) * 6 million] = AED 1 million.
</td></tr>
<tr><td>Add: Expenditure incurred by the Taxable Person in relation to the acquisition or transfer of ownership interests which is capitalised as an acquisition cost of Participating Interest.[61]</td><td>Expenses incurred in relation to the acquisition, sale, transfer, or disposal of an entire Participating Interest or part of a Participating Interest should be capitalised for Corporate Tax purposes, even if such expenses are not capitalised in the Financial Statements.[62] For examples, see Section 7.2.1</td></tr>
</table>

In addition to above, the following aspects should be taken into account when computing the acquisition cost:

- Foreign currency: for Corporate Tax purposes, all amounts must be quantified in UAE dirham. Hence, if an acquisition cost is incurred in another currency, it must be converted to UAE dirham.[63] The relevant exchange rate at the date of acquisition or formation of the relevant ownership interest should be used.[64]
- The cost of acquisition can be zero for certain ownership interests. As mentioned above, the minimum acquisition cost test requires the use of the actual cost regardless of the accounting treatment. Thus, where no cost is incurred, for example on the issue of bonus shares not in lieu of a Dividend, there will be no cost of acquisition for the purpose of this test.
- The cost of acquisition of an ownership interest is the cost in the hands of the previous owner where the Taxable Person has acquired the ownership interest

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[61] Article 8(2)(c) of Ministerial Decision No. 116 of 2023.
[62] Article 10(4) of Ministerial Decision 116 of 2023.
[63] Article 43 of the Corporate Tax Law read with FTA Decision No. 13 of 2023.
[64] Article 8(4) of Ministerial Decision No. 116 of 2023.

from another Qualifying Group member and the relief under Article 26 of the Corporate Tax Law was applied to the relevant transaction.

- In the case where Business Restructuring Relief applies, the cost of acquisition of the ownership interests received by the Taxable Person is the value to the other Person of the Business transferred.[65]

5.5. Subject to tax test

Under the "subject to tax" test, the Participation must be subject to an adequate level of taxation.[66] This test will be satisfied if the Participation is subject to:

- UAE Corporate Tax; or
- Any other tax similar to Corporate Tax in its country of residence at a rate of at least 9%.

As mentioned, the purpose of the Participation Exemption is to prevent double taxation where a Participation that distributes a profit or whose shares or other ownership interests are being sold may have already been taxed on its profits. Accordingly, and to prevent income from being shifted to foreign jurisdictions to inappropriately benefit from the Participation Exemption, income derived from subsidiaries that are resident in no or low-tax jurisdictions would generally not benefit from the Participation Exemption regime (see Section 5.6 for exceptions).

5.5.1. Subject to Corporate Tax or similar

It should normally be clear when a Participation which is a Resident Person in the UAE is subject to UAE Corporate Tax.

The Participation is considered to have met the subject to tax requirement under Article 23(2)(b) of the Corporate Tax Law for a specific Tax Period when it is resident for tax purposes throughout that same Tax Period in another country or a foreign territory that levies a tax meeting all of the following requirements:

- The tax is applied on a similar basis to Corporate Tax; and
- The tax is levied at a rate not less than 9%.[67]

For a Participation which is tax resident in a foreign jurisdiction to meet the subject to tax test, the relevant foreign jurisdiction must have a corporate tax regime that is

[65] Article 27(3) of the Corporate Tax Law.
[66] Article 23(2)(b) of the Corporate Tax Law.
[67] Article 6(1) of Ministerial Decision No. 116 of 2023.

similar in nature to the UAE Corporate Tax for the entire Tax Period during which the Taxable Person holds the Participation.

The following factors regarding the jurisdiction in which the Participation is resident do not imply that the jurisdiction does not have a similar tax to Corporate Tax: [68]

- Differences in reductions and reliefs (e.g. different treatment of entertainment expenditure or interest expense, a more favourable exemption for capital gains and dividend income, or the ability to carry back tax losses incurred).
- Lower tax rates applicable to certain brackets of income.
- Targeted incentives or exemptions of a temporary nature, e.g. tax credits or exemptions from corporate tax for setting up a manufacturing site or moving headquarter functions to a foreign country. The incentives must be granted for a certain period. A permanent tax exemption would not be considered as being of a temporary nature.
- Application of alternative taxes on income or profits such as:
    - A system which requires the 'standard' tax liability to be compared with an alternative calculation on a secondary basis, with tax payable being the higher of the two, e.g., certain countries apply a corporate alternate minimum tax on the adjusted financial statement income of a taxpayer if the amount of tax liability determined under the alternative minimum tax rules exceeds the tax liability determined under regular income tax rules; or
    - A broad-based corporate tax regime that does not apply to locally or regionally owned companies for instance being exempt from corporate taxation but subject to Zakat or a different form of effective taxation.

The determination of being subject to Corporate Tax (or any other tax of a similar character to Corporate Tax), must be made based on a consideration of all relevant facts and circumstances concerning the tax legislation of the jurisdiction in question.

In the following cases, the tax imposed by the jurisdiction in which the Participation is resident will not be treated as having a similar nature to Corporate Tax and therefore the condition will not be satisfied:[69]

- The tax is applicable only to selected activities performed in the jurisdiction such as banking and insurance activities, resulting in most businesses not being within the scope of the foreign country's corporate tax regime.
- The tax paid is refunded at the time of distribution of the relevant profits or income, resulting in the profits earned by businesses in that jurisdiction not being taxed.

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[68] Article 6(3) of Ministerial Decision No. 116 of 2023.
[69] Article 6(4) of Ministerial Decision No. 116 of 2023.

- The tax is only due in the event of a distribution of profits or income. Thus, it is required that income and profits of businesses in the foreign jurisdiction are taxed as earned / accrued irrespective of when distributed.

5.5.2. Foreign tax rate of at least 9%

If a Participation is resident in a jurisdiction that levies a corporate tax of a similar character to the UAE, at a statutory tax rate of at least 9%, the subject to tax test is met. A recalculation of the foreign Participation's tax base to apply UAE Corporate Tax principles is not required.

However, if the statutory corporate tax rate in the foreign jurisdiction is below 9%, the subject to tax test can be met if the Participation's effective tax rate is at least 9% on any of the following alternative bases:[70]

- Actual effective tax rate: the actual tax paid in respect of the period divided by the profit before tax under the Accounting Standards as applied by the Participation.

Example 11: Actual effective tax rate (calculated based on the rules as applied by the foreign Participation)

Company A (a company incorporated and resident in the UAE) holds 100% of shares of Company B (a company incorporated and managed outside the UAE). Company B is resident in Country B, which levies corporate tax at the rate of 5%. In order to benefit from the Participation Exemption, Company A would need to demonstrate that the income of the Participation is subject to effective taxation of at least 9%. In respect of the current period, Company B paid total corporate tax of USD 5,500 in Country B and the entity has an accounting profit before tax of USD 50,000. Whilst the statutory tax rate for Company B is less than 9%, the effective tax rate is 11% (i.e. USD 5,500 / USD 50,000), therefore the subject to tax test is met.

- Theoretical effective tax rate: the effective tax rate if the Participation recalculated its accounting net profits on the basis required by the UAE Corporate Tax.[71]

Example 12: Theoretical effective tax rate (calculated based on UAE rules)

Company A (a company incorporated and resident in the UAE) holds 100% of

[70] Article 6(5) of Ministerial Decision No. 116 of 2023.

[71] Accounting net profits calculated in accordance with the Accounting Standards specified in the Ministerial Decision No. 114 of 2023.

shares of Company B (a company incorporated and managed outside the UAE). Company B is resident in Country B, which levies a statutory corporate tax at the rate of 5.5%. Company A needs to provide evidence that the income of Company B is subject to effective taxation of at least 9% according to the basis provided for in the UAE Corporate Tax Law.

For the current Tax Period, Company B paid taxes of total USD 4,000 and the entity has an accounting profit before tax of USD 50,000 according to local accounting standards, so the actual effective tax rate of 8% (i.e. USD 4,000 of USD 50,000) is below the 9% threshold.

When applying IFRS, the accounting net profit of Company B would have been USD 40,000. Thus, the theoretical effective tax rate is 10% (i.e. USD 4,000 of USD 40,000), therefore the subject to tax test is met.

- Other taxes: in case the jurisdiction in which the Participation is resident does not impose a tax that is similar to Corporate Tax, the total tax charged on income, equity or net worth, or a combination of any or all of these, divided by the accounting net profit.[72]

Example 13: Participation taxed on net worth

Company A (a company incorporated and resident in the UAE) holds 100% of shares of Company B (a company incorporated and managed outside the UAE). Company B is resident in Country B. Under the corporate tax regime of Country B, local companies are charged a levy at the rate of 2% on the company's net worth.

For the current Tax Period, Company B paid USD 5,000 on its net worth and has an accounting profit before tax of USD 50,000 according to local accounting standards. Thus, the effective tax rate is 10% (i.e. USD 5,000 of USD 50,000) and therefore the subject to tax test is met.

5.6. Exceptions to the subject to tax test

The following exceptions mean that income from Participations which are Qualifying Free Zone Persons, Exempt Persons, holding companies and entities that elect to apply Small Business Relief are treated as satisfying the subject to tax test, even if they are not taxed, or are taxed but at a rate of less than 9%.

5.6.1. Qualifying Free Zone Persons and Exempt Persons

[72] Article 6(6) of Ministerial Decision No. 116 of 2023.

Dividends from a Free Zone Person, as a juridical person that is a Resident Person in the UAE, would be automatically exempt, so the following is relevant in respect of Qualifying Free Zone Persons for income other than Dividends and other profit distributions.

For the purpose of the subject to tax test, a Participation that is a Qualifying Free Zone Person under Article 18 of the Corporate Tax Law, or an Exempt Person under Article 4 of the Corporate Tax Law, is deemed to satisfy the subject to tax test.[73]

In case a Participation ceases to be a Qualifying Free Zone Person or an Exempt Person during a Tax Period, there would be no practical impact on the subject to tax test as described in Section 5.5, as the Participation would then become subject to UAE Corporate Tax which would satisfy the subject to tax test.[74]

5.6.2. Holding companies

Holding companies are treated as having satisfied the subject to tax test if both of the following conditions are met:[75]

- The principal objective and activity of the holding company is the acquisition and holding of investments that also meet the conditions of Participating Interest.[76]
- The income of the holding company substantially consists of income from the Participating Interests.[77]

5.6.2.1. Intention of holding of investments

The following conditions must be met by a holding company to be considered that its principal objective is the acquisition and holding of shares or equitable interests:[78]

- Be directed and managed in the relevant other country or foreign territory.[79] This condition should be interpreted in view of the concept of place of effective management. This is where the most senior person or group of persons (for example board of directors) make key management and commercial decisions,

[73] Article 23(4) of the Corporate Tax Law.
[74] Article 4(5) and Article 18(2) of the Corporate Tax Law.
[75] Article 23(3) of the Corporate Tax Law.
[76] Article 23(3)(a) of the Corporate Tax Law.
[77] Article 23(3)(b) of the Corporate Tax Law.
[78] Article 7(1) of Ministerial Decision No. 116 of 2023.
[79] Article 7(1)(a) of the Ministerial Decision No. 116 of 2023.

the place where the actions to be taken by the entity as a whole are determined. However, all relevant facts and circumstances must be considered.

- Comply with the requirement to submit any documents, records or information to the relevant authority under the laws and regulations applicable to such Participation in the relevant other country or foreign territory.[80] This includes all general obligations that must be met by the Participation in the foreign country, including but not limited to regulatory, financial and tax compliance.
- Have adequate personnel and premises for the acquisition and holding of the shares or equitable interests in the relevant other country or foreign territory, having regard to the level of activity carried on by the Participation and the extent to which those activities are performed on behalf or for the benefit of the Participation by another Person in that other country or foreign territory.[81] Such substance requirements should include for example an adequate number of full-time employees with necessary qualifications required to perform the activities conducted by the holding company, along with incurring an adequate amount of operating expenses to generate the income received by the Participation.
- Not conduct any other activities other than those that are incidental or ancillary to the acquisition and holding of shares or equitable interests.[82] Such activities may include management functions provided to the subsidiary's operations, e.g. financial and risk management, corporate governance, human resources, legal and compliance, communication, and stakeholder management etc. Moreover, financing of subsidiaries (e.g. granting loans) can also be seen as ancillary to the core Business of a holding company.

5.6.2.2. Income substantially consists of income from Participating Interests

The holding company's income must consist of an average of at least 50% of Dividends, capital gains and other income from investments which qualify as Participating Interests during the relevant Tax Period and the preceding Tax Period.[83]

The percentage of income is computed as follows:

Percentage income = $\frac{X}{Y}$*100 where:

X = Sum of the holding company's income from Participating Interests

Y= Total income in the relevant or the preceding Tax Period

[80] Article 7(1)(b) of the Ministerial Decision No. 116 of 2023.
[81] Article 7(1)(c) of the Ministerial Decision No. 116 of 2023.
[82] Article 7(1)(d) of the Ministerial Decision No. 116 of 2023.
[83] Article 7(2) of Ministerial Decision No. 116 of 2023.

The percentage income is computed for the relevant Tax Period and the preceding Tax Period. If the average result of the relevant Tax Period and the preceding Tax Period is at least 50%, the condition is met.

The relevant Tax Period is the one in which the Participation Exemption would apply to a Taxable Person's income.

Example 14: Exception to the subject to tax test – holding company

Company A (a company incorporated and resident in the UAE) holds 100% of the shares of Company D (a company incorporated and managed outside the UAE and resident in a foreign country) and subject to 7% corporate tax. Company D respectively holds 100% of the shares of Companies X, Y and Z. Company D also holds 3% of the shares in Company P with an acquisition cost of less than AED 4 million. Company D provides management functions to subsidiaries and takes the strategic investment decisions. Further, Company D owns an office building and has 15 employees, including a board of directors. All strategic decisions are taken in the country of residence of Company D. All involved entities comply with the local rules.

For the purpose of the Participation Exemption, Company D will be treated as having satisfied the subject to tax test if the principal objective is the holding of Participating Interests and more than 50% of its income is from Participating Interests. Based on the facts above, it could be said that the principal objective of Company D is the holding of the Participating Interests.

Since the shares in Company P do not qualify as a Participating Interest due to the holding being below 5% and the minimum acquisition cost, its income will not be counted for the purpose of the calculation. Only Companies X, Y and Z will be considered as Participating Interests. Therefore, only income from these companies will be considered for the purpose of assessing whether the 50% threshold is met.

	Tax Periods		
Description	**Previous**	**Current**	**Total**
	AED in millions		
Dividend income from Companies X, Y and Z	8	3	11
Interest income received from Companies X, Y and Z	3	3	6
Dividend income from Company P	2	1	3
Interest income received from Company P	4	4	8

Total Income	18	20	38
Total income from Participating Interest	**11**	**6**	**17**
% of income from Participating Interest	**61%**	**30%**	**45%**

Therefore, Company D has only 45% income from Participating Interests. This is below the requirement of 50% and so it will not be considered as having met the subject to tax test in the current period. Thus, the Participation Exemption would not apply when Company A received, for example, Dividends from Company D.

5.6.3. Small Business Relief

5.6.3.1. Where a Participation elects for Small Business Relief

The subject to tax test requires that the Participation is subject to:

- Corporate Tax, or
- Other tax of similar character to Corporate Tax imposed in the foreign jurisdiction in which the Participation is resident, at a rate not less than 9%.

Where the Participation is subject to UAE Corporate Tax, the effective tax rate is not relevant. As regards to a Participation in a Resident Person that elects Small Business Relief, it would satisfy the subject to tax test as it remains, in principle, subject to Corporate Tax in the UAE, albeit being treated as having not derived any Taxable Income.[84] Therefore, Small Business Relief would not prevent it from being a Participating Interest.

5.6.3.2. Where a Taxable Person elects to the Small Business Relief

A Resident Person which had elected Small Business Relief would not need to consider the Participation Exemption in relation to income it received, as it is treated as not having derived any Taxable Income. Thus, any exemptions, including the Participation Exemption, are disregarded. This has no Corporate Tax implication as a Taxable Person would not need to rely on the Participation Exemption until they exceed the threshold for Small Business Relief (currently where Revenue does not exceed AED 3 million).[85]

If a Taxable Person does not elect to apply Small Business Relief or the conditions for this relief are not met, the general Corporate Tax principles apply, including the Participation Exemption.

[84] Article 21 of the Corporate Tax Law.
[85] Article 2(1) of Ministerial Decision No. 73 of 2023.

5.7. Entitlement to profits and liquidation proceeds test

The Corporate Tax Law requires the ownership interest in the Participation to have an entitlement to at least 5% of both the profits available for distribution, and the liquidation proceeds.[86]

Ownership interest for this purpose generally means the legal and beneficial ownership of the shares or other ownership interests (see Section 5.1.4).

Profits available for distribution are determined by the corporate or other legislation which governs the formation or existence of the Participating Interest. This may be in either the UAE or a foreign jurisdiction. Often this will be the accumulated realised net profits based on the relevant Accounting Standards though certain profits may not be available for distribution,[87] such as those allocated to a non-distributable legal reserve.

Profit allocation can be determined by various factors, such as shareholder agreements, company bylaws, or specific arrangements made among the shareholders or members. These factors can allow for different profit-sharing ratios from the shareholding/ownership percentages. Irrespective of the percentage of an ownership interest, it is the actual percentage entitlement to profits available for distribution and liquidation proceeds which is relevant here.

Example 15: Entitlement to profits and liquidation proceeds test

Company A (a company incorporated and resident in the UAE) holds 6% of the shares of Company D (a company incorporated and managed outside the UAE and resident in a foreign country). Based on a specific clause in the shareholder agreement, Company A is entitled to receive 6% of the profits available for distribution, but only 3% of the liquidation proceeds in the event Company D is liquidated.

Although Company A is entitled to receive at least 5% of the profits available for distribution, the 5% requirement to receive liquidation proceeds is not satisfied. Thus, Company A cannot benefit from the Participation Exemption when it receives income from or in relation to Company D.

[86] Article 23(2)(c) of the Corporate Tax Law.
[87] Ministerial Decision No. 114 of 2023.

5.8. Asset test

A Participating Interest does not qualify for the Participation Exemption if more than 50% of the Participation's direct and indirect assets consist of ownership interests or entitlements that by themselves would not qualify for the Participation Exemption regime if held directly by the Taxable Person.[88] This means that if more than half of the Participation's direct and indirect asset base is made up of such assets, the Participation Exemption would not apply.

This test is intended to prevent potential abuse whereby significant non-qualifying Participations are held through an intermediary entity in order to nonetheless benefit from the Participation Exemption in respect of the intermediary's income (i.e. income which would not otherwise qualify for the Participation Exemption).

The first consideration for the asset test is which direct or indirect assets meet the definition of ownership interests (see Section 5.1.1) or entitlements, i.e. which assets can potentially constitute a Participation, such as equity investment assets.

Subsequently, those assets must be tested as to whether they meet the conditions of the Participation Exemption. After the qualifying ownership interests or entitlements have been identified, they must be compared with the Participation's total direct and indirect assets. If more than 50% of the assets constitute non-qualifying ownership interests, then the asset test would not be met.

For the purposes of calculating the 50% threshold, the determination can be made based on either of the following:[89]

- The consolidated balance sheet of the Participation and the accounting asset values (reflected book values) according to the applicable Accounting Standard of the Participation; or
- A Market Value valuation of the direct and indirect ownership interests and direct and indirect other assets of the Participation.

If a consolidated balance sheet is not readily available or is not prepared for this purpose, then the first approach cannot be followed and a Taxable Person can only consider the second approach.

In the case of the second approach, Market Value valuation, any valuation considered should not be older than 12 months.

[88] Article 23(2)(d) of the Corporate Tax Law.
[89] Article 9(1) of Ministerial Decision No. 116 of 2023.

The asset test is a continuous test and should be met throughout the entire Tax Period in which the income from or in relation to the Participation is received.[90] This means that the asset test must be satisfied from the beginning of the Tax Period until the end of the Tax Period of the Taxable Person without any interruption. In situations where there is a disposal of the Participation, the asset test must be satisfied until the date of the disposal.

Example 16: Asset test – Consolidated balance sheet

Company A (a company incorporated and resident in the UAE) holds 10% of the shares of Company D (a company incorporated and managed outside the UAE). Company D in turn directly and indirectly holds shares in several subsidiaries. The consolidated balance sheet of Company D shows the following values (book values):

- Total assets: AED 100,000
- Investments (ownership interests): AED 60,000 consisting of:
  - qualifying ownership interest: AED 20,000
  - non-qualifying ownership interest: AED 40,000

Since less than half of the Participation's total direct and indirect assets consist of ownership interests that do not qualify for the Participation Exemption (only 40%, i.e. AED 40,000 of AED 100,000), the threshold of the asset test of the Participation Exemption is met.

Example 17: Asset test – Failing the condition within a Tax Period

Company B (a company incorporated and resident in the UAE) holds 10% of the shares of Company E (a company incorporated and managed outside the UAE). Company E in turn directly and indirectly holds shares in several subsidiaries. All companies have a Financial Year that is the Gregorian calendar year. Company E's consolidated balance sheet as of 31 August and 31 October shows the following values (book values) in AED:

	31 Aug	**31 Oct**
• Total Assets	100,000	100,000
• Investments (ownership interests) consisting of:	70,000	50,000
○ qualifying ownership interest:	10,000	30,000
○ non-qualifying ownership interest:	60,000	20,000

[90] Article 9(2) of Ministerial Decision No. 116 of 2023.

% of direct and indirect assets consisting of non-qualifying ownership interest	**60%**	**20%**

Company E resolves to distribute a Dividend as of 31 October.

Although the asset test is met at the time of the Dividend distribution (i.e. 31 October), the test is not fulfilled for the whole Tax Period of Company B. As such, the asset test according to Article 23(2)(d) of the Corporate Tax Law is not satisfied. Thus, the Dividend is not exempt from Corporate Tax under the Participation Exemption. Assuming the non-qualifying percentage stayed below 50% until the end of the following Tax Period, the asset test could be met in that subsequent period.

6. Participation Exemption: Exempt Income and loss

Certain income and losses from, or in relation to, a Participating Interest are excluded from Taxable Income. These are: Dividends from a foreign Participation, gains or losses on the transfer, sale or other disposition of a Participating Interest, foreign exchange gains or losses and impairment gains or losses in relation to Participating Interest.[91]

6.1. Dividends and other profit distribution

Article 23(5)(a) of the Corporate Tax Law provides an exemption for Dividends and other profit distributions received from a foreign Participation. In this respect note that:

- For the scope of the term "Dividend and other profit distribution" and determination of Dividend income, see Section 3.
- The use of the term "received" indicates that the exemption is available only on actual receipt. In the case of the Accrual Basis of Accounting, this is when the income is recorded, rather than when the cash payment is received. This principle applies to the types of Dividends discussed in Section 3.
- Article 23(5)(a) of the Corporate Tax Law covers only Dividends and other profit distributions from a foreign Participation. A Dividend or other profit distribution received from a juridical person that is a Resident Person is excluded from Taxable Income under Article 22(1) of the Corporate Tax Law with no further conditions (see Section 3.2.2).

Example 18: Back-to-back Dividends

Company A (a company incorporated and resident in the UAE) holds 100% of the shares in Company B (a company incorporated and resident in the UAE). Company B holds 100% of the shares in Company C (a company incorporated, resident and managed outside the UAE). Company C and Company B both declare Dividends.

The Dividend received by Company B from Company C is exempt under the Participation Exemption, provided all conditions of the Participation Exemption are satisfied.

The Dividend received by Company A from Company B, being a Dividend from a juridical person that is a Resident Person, is exempt with no further conditions.

[91] Article 23(5) of the Corporate Tax Law.

6.1.1. Tax deductible Dividends: Participation Exemption not available

The Participation Exemption in respect of Dividends and other profit distributions does not apply if the Participation can claim a deduction for Dividends or other profit distributions.[92] Thus, to the extent a Dividend or a profit distribution distributed by a Participation reduces its Taxable Income; the distribution does not benefit from the Participation Exemption in the hands of the receiving Taxable Person.

This condition is intended to prevent situations of potential double non-taxation that would arise if the Participation can claim a deduction for a Dividend or a profit distribution made to a Taxable Person, but which would have been exempt at the level of the Taxable Person benefitting from the Participation Exemption.

For the condition to be triggered, the Participation would have to have actually claimed the tax deduction for the Dividend. The Participation Exemption is not impacted if the law in the relevant foreign jurisdiction permits the Participation to claim a deduction, but the Participation does not claim the deduction.

6.2. Capital gains or losses

6.2.1. General

According to Article 23(5)(b) of the Corporate Tax Law, gains resulting from the transfer, sale or other disposition ("disposal") of a Participating Interest, or part thereof, derived after expiry of the 12-month holding period are generally exempt from Corporate Tax. Moreover, capital losses are not deductible for Corporate Tax purposes. This ensures that realising the value of the Participating Interest by way of a sale is treated the same as a realisation by way of a Dividend and other distribution of the reserves and/or assets.

The gain or loss resulting from the disposal of the Participating Interest will be the amount recorded under the Accounting Standards applied by the Taxable Person. The calculation will typically be as follows:

Proceeds
Less: cost of the disposal (see Section 6.2.2)
Less: book value of the Participating Interest at the time of the disposal
Equals: capital gain/loss

[92] Article 23(6)(a) of the Corporate Tax Law.

6.2.2. Costs of the disposal

All costs directly related to the disposal are to be taken into account when calculating the capital gain or loss (see Section 7.2.1).

Since the costs of disposal are included in the calculation of the gain or loss, they are not otherwise deductible for the purposes of calculating Taxable Income.[93]

Disposal costs which are recorded in a subsequent Tax Period to the one in which the disposal occurred are also non-deductible.

Costs incurred in a Tax Period prior to the Tax Period of a disposal present a particular challenge. The initial treatment of the costs should be determined with the knowledge available when the Tax Return is prepared. If at that time, they are not clearly linked to an intended disposal, the costs are deductible. However, if these costs (which are deducted in a previous Tax Period) are associated with an eventual disposal from which the Taxable Person earns Exempt Income in a subsequent Tax Period, an adjustment should be made to disallow an amount equal to these costs while determining the Taxable Income in the Tax Period in which the disposal takes place.

Further, expenses which are clearly linked to a disposal which was not finalised (in the sense that there is no formal commitment to a disposal, for instance because a sales contract has not been concluded), would still be derived in relation to Exempt Income and hence, the costs are non-deductible.

6.2.3. Deferred consideration and other changes in proceeds

A subsequent change to the proceeds of a disposal could occur for several reasons. There may be default on the part of a purchaser in relation to an instalment payment or deferred consideration which is contingent, for example, an earn-out arrangement. In theory, there is a distinction between changes which affect the original disposal and those which constitute the disposal of a separate asset. However, in practice, to the extent that the Participation Exemption applies to the original disposal, any additional gain or loss is treated as exempt from Corporate Tax. If this is recorded in the Financial Statements of a Tax Period other than that of the original disposal, there is no need to amend the Taxable Income of the original Tax Period, as the tax liability would not be altered.

[93] Article 23(5)(b) and Article 28(2)(b) of the Corporate Tax Law.

6.2.4. Meaning of disposal

The term “disposal” (defined as transfer, sale or other disposition) will generally mean a sale for cash consideration, but it can also comprise of other transfers or realisations of a Participating Interest that are comparable with a sale from an economic perspective.[94] The following are illustrative examples.

6.2.4.1. Share exchange

Where a Participating Interest is transferred in exchange for shares in another entity at a valuation that is different from the book value of the Participation at the time of the disposal (for example at Market Value), a gain or loss may ordinarily arise.

Example 19: Sale in exchange of shares

Company A (a company incorporated and resident in the UAE) holds 50% of the shares of Company D (a company incorporated and resident in the UAE). The ownership interest in Company D qualifies as a Participating Interest. The book value of the shares amounts to AED 100,000, the Market Value amounts to AED 500,000. Company A agreed to transfer the shares in Company D in exchange for new shares in Company X. Company X recognises the shares in Company D at their Market Value.

The Market Value would be considered as the sale price for Company A. Thus, a capital gain arises of AED 400,000 (sale price of AED 500,000 less book value of AED 100,000) that is exempt from Corporate Tax.

It is assumed that this is not a transfer eligible for Qualifying Group relief and that Business Restructuring Relief is not available.

6.2.4.2. Non-arm’s length transaction

Where a Participating Interest is wholly or partially transferred to a Related Party by way of a non-arm’s length transaction, the Taxable Income of the transferor needs to be adjusted in accordance with the rules for transactions with Related Parties to deem the sale as taking place at Market Value when determining the resulting capital gain or loss.[95] The Participation Exemption would equally apply to the adjusted income.

[94] Article 23(5)(b) of the Corporate Tax Law.
[95] Article 34 and Article 35 of the Corporate Tax Law.

6.2.4.3. Reduction or repurchase of capital

The repayment, reduction or repurchase of capital subscribed, for instance a restructuring of a company’s share capital, may result in a gain in respect of the Participation (see Section 3.1.5.1).

6.2.4.4. Distribution of a Participation as a Dividend in kind

The distribution of a Participating Interest as a Dividend in kind may result in a gain at the level of the transferring entity, i.e. Taxable Person (see Section 3.1.4).

6.2.5. Liquidation

A Participation is considered as liquidated if it ceases to have a legal existence.[96] For a company this could mean its formal closure as evidenced by its removal from the relevant register of companies.

Gains in respect of the liquidation of a Participating Interest are exempt from Corporate Tax. As an exception to the general rule, losses realised on the liquidation of a Participating Interest are not exempt, but rather they are deductible from Taxable Income.[97]

The gain or loss from a liquidation is computed as the difference between the acquisition cost of the Participation for Corporate Tax purposes (which will include any related capitalised costs or fees – see Section 7.2) and the fair value of the liquidation proceeds received by the Taxable Person.[98] All liquidation proceeds (even to the extent they may represent accumulated net profit of the entity which is being liquidated) received by the Taxable Person will be considered as capital distributions and not Dividends or other profit distributions, and accordingly will be included in the calculation of the gain or loss from liquidation. Insofar as any part disposals of the Participation have taken place, the aggregated historical acquisition costs are to be reduced in proportion to the average acquisition cost attributable to the part of the ownership interest that is disposed of.[99]

Any of the following items taken into account in the Tax Period in which the liquidation took place and the previous Tax Period must be reversed by the Taxable Person when determining the liquidation loss:[100]

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[96] Article 12(1) of Ministerial Decision No. 116 of 2023.
[97] Article 23(8) of the Corporate Tax Law.
[98] Article 12(2) of Ministerial Decision No. 116 of 2023.
[99] Article 8(5) of Ministerial Decision No. 116 of 2023.
[100] Article 12(4) of Ministerial Decision No. 116 of 2023.

- Tax Losses transferred from the Participation to the Taxable Person.
- Exempt Dividends or other profit distributions received by the Taxable Person from the Participation.
- Income or gains on the transfer of assets or liabilities between the Taxable Person and the Participation which benefited from relief for transfers within a Qualifying Group or Business Restructuring Relief.

Example 20: Liquidation loss

Company A holds 100% of the shares of Company D, both are resident and incorporated in the UAE. The acquisition cost of the Participating Interest in Company D is AED 50,000, and the Market Value of Company D's net assets is AED 10,000.

During the Tax Period ending 31 December 2024, Company D paid a Dividend of AED 10,000 to Company A. In addition to this, Company D transferred Tax Losses of AED 20,000 to Company A, who deducted this from their Taxable Income.

On 15 June 2025, Company A resolves to liquidate Company D. It is removed from the commercial register on 30 June 2025, and ceases to have legal existence. Legal fees incurred in relation to the liquidation are AED 5,000.

In the course of the liquidation, all assets will be transferred to Company A at their Market Values for tax purposes (no application of reliefs). The liquidation loss is calculated as follows:

- Acquisition cost of the Participating Interest in Company D: AED 50,000
- Less: liquidation proceeds received by Company A (Market Value of the net assets of Company D less liquidation costs borne by Company D): AED 10,000 - AED 5,000 = AED 5,000
- Equals: liquidation loss of AED 45,000

The liquidation loss that can be deducted from Taxable Income, however, must be adjusted for the following items:

- Exempt Dividend received in 2024 (i.e. preceding Tax Period): AED 10,000
- Transferred Tax Losses received in 2024: AED 20,000

Thus, the liquidation loss (after adjustment) amounts to AED 15,000 (i.e. AED 45,000 - AED 10,000 - AED 20,000).

6.2.6. Interaction with other reliefs: transfers within a Qualifying Group and Business Restructuring Relief

Where other reliefs are claimed, specifically for a transfer within a Qualifying Group or Business Restructuring Relief, no gain or loss is taken into account in relation to the disposal of a Participating Interest when calculating the Taxable Income of the transferring entity. In principle, the Participation Exemption would take priority over these reliefs as it is an automatic exemption. However, where other elected reliefs have a different tax treatment, such as no gain or loss treatment (i.e. rather than exemption), the other tax treatment will prevail.

However, in scenarios where a Participating Interest is disposed of within two years after that Participating Interest was acquired as a result of a transaction that benefited from the relief transfers within a Qualifying Group or Business Restructuring Relief, the Participation Exemption shall not apply.[101]

6.2.7. Interaction with the Tax Group

Where a member of a Tax Group receives income from the disposal of a Participating Interest that is a member of the same Tax Group, the application of the Participation Exemption is not required since those transactions will generally be eliminated when the Parent Company prepares its consolidated Financial Statements for Corporate Tax purposes.

However, in scenarios where the Participating Interest has been transferred between the members of a Tax Group and either the transferor or transferee leaves the Tax Group within two years from the date of the disposal, a possible gain or loss from the disposal needs to be taken into account when determining the Taxable Income of the Tax Group unless the income would have been exempt from Corporate Tax under the Participation Exemption or other reliefs (either transfers within a Qualifying Group or Business Restructuring Relief, see Section 5.3.4).[102]

Where a member of a Tax Group disposes of a Participating Interest in an entity that is not a member of the Tax Group, the Participation Exemption may be available (for further details see Section 8).

6.3. Foreign exchange gains or losses in relation to Participating Interest

Article 23(5)(c) of the Corporate Tax Law states that foreign exchange gains in relation to a Participating Interest are exempt, and likewise foreign exchange losses are not

[101] Article 23(9) of the Corporate Tax Law.

[102] Article 42(9) of the Corporate Tax Law.

deductible. The use of the phrase “in relation to” a Participating Interest means that the foreign exchange gain or loss must arise from, or by reason of, or in connection with the Participation Interest. The following discusses foreign exchange gains or losses which can be considered to arise “in relation to” a Participating Interest.

6.3.1. Increase or decrease in value of Participating Interest due to exchange rate fluctuation

A foreign exchange gain or loss can be realised or unrealised.

A gain or loss realised on the value of a Participating Interest (for example on sale of Participating Interest) will be “in relation to” the Participating Interest and hence excluded from Taxable Income under Article 23(5)(c) of the Corporate Tax Law.

Example 21: Currency fluctuation between date of sale of Participating Interest and receipt of foreign currency (realised gain)

Company A (a company incorporated and resident in the UAE) sold shares held in Company F (a company incorporated and managed outside the UAE) which qualified for the Participation Exemption. The sale price was fixed at GBP 10,000. At that time, the value of GBP 1 was equal to AED 4.5, so Company A recorded sale proceeds of AED 45,000 in its Financial Statements. The sale consideration was only received after 2 months. At the time of receipt, the value of GBP 1 was AED 5, meaning Company A received the equivalent of AED 50,000. The additional gain of AED 5,000 is attributable solely to foreign currency fluctuation and is, therefore, exempt from Corporate Tax under the Participation Exemption.

Unrealised foreign exchange gains or losses may arise where a change in the value of an asset due to currency fluctuation is recorded in the Taxable Person’s Financial Statements, but no transaction to realise a gain or loss has yet taken place. Taxable Persons, who prepare their Financial Statements on an accrual basis, may elect to take into account gains and losses on a realisation basis.[103] The election can either be made so that all unrealised accounting gains and losses are not taken into account,[104] or only unrealised gains and losses in relation to those assets and liabilities held on the Taxable Person’s capital account.[105] In either scenario, unrealised gains and losses may include unrealised foreign exchange gains and losses.[106]

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[103] Article 20(3) of the Corporate Tax Law.
[104] Article 20(3)(a) of the Corporate Tax Law.
[105] Article 20(3)(b) of the Corporate Tax Law.
[106] Article 20(4)(d) of the Corporate Tax Law.

If the Taxable Person has elected to include gains and losses only on a realisation basis, unrealised foreign exchange gains and losses on the value of a Participating Interest will be excluded from Taxable Income under Article 20(2)(a) of the Corporate Tax Law. Accordingly, there is no need for the Participation Exemption to apply. However, if the Taxable Person does not elect to include gains and losses on a realisation basis, unrealised foreign exchange gains and losses on the value of a Participating Interest will be excluded from Taxable Income under the Participation Exemption where the conditions are met.[107]

Example 22: Revaluation of Participating Interest (unrealised gain)

Company A (a company incorporated and resident in the UAE) acquired shares in Company F (a company incorporated and managed outside the UAE which is a Participation Interest) for GBP 1,000. At the time of purchase, the value of GBP 1 was equal to AED 4.5, and so Company A recorded the shares at AED 4,500 in its Financial Statements.

At the end of the following year Company A revalued Company F's shares in its Financial Statements to their market price. At that time, the market price of Company F shares has increased to GBP 2,000, and the value of GBP 1 is AED 5. Accordingly, in Company A's Financial Statements, the value of the Participating Interest in Company F is increased from AED 4,500 to AED 10,000. Out of total revaluation gain of AED 5,500, a gain of AED 1,000 is attributable solely to foreign currency fluctuations which is exempt from Corporate Tax under the Participation Exemption.

6.4. Impairment gains or losses

Article 23(5)(d) of the Corporate Tax Law provides for impairment gains or losses in relation to a Participating Interest to be exempt from Corporate Tax.

6.4.1. Deductible impairment loss restricts the availability of the Participation Exemption

Article 23(6)(b) of the Corporate Tax Law provides that the Participation Exemption does not apply if the Taxable Person has recognised a deductible impairment loss in respect of the Participating Interest prior to that Participating Interest meeting the other conditions of the Participation Exemption regime.

[107] Article 23(5)(c) of the Corporate Tax Law.

This will apply to reversals of partial impairments on the Participating Interest. It is also applicable in respect of any other income type covered by the Participation Exemption including Dividends and capital gains in respect of a Participating Interest.[108]

Generally, any income or gain resulting from the reversal of impairments in respect of a Participating Interest would also fall under the Participation Exemption and, therefore, be treated as exempt from Corporate Tax. However, if an impairment loss recognised in relation to a Participating Interest was deductible from Taxable Income (i.e. prior to the ownership interest becoming a qualifying Participating Interest, as otherwise it would not have been deductible), Article 23(6)(b) of the Corporate Tax Law provides that any subsequent income that would otherwise be exempt under the Participating Exemption is not exempt, up to the amount of the impairment loss that was treated as deductible for Corporate Tax.

Article 23(6)(b) of the Corporate Tax Law applies to juridical persons that are Resident Persons as well as Non-Resident Persons.

Example 23: Capital gain and impairment loss in relation to a Participating Interest

Company A holds 100% of the shares of Company D (acquisition cost AED 100,000), both are incorporated and resident in the UAE. Company A performs a write-down on the shares of Company D in the amount of AED 70,000. At this time Company D does not qualify as a Participating Interest and Company A treats the impairment loss as deductible for Corporate Tax purposes.

In the following year, the shares of Company D are sold for AED 120,000. By this time Company D qualifies as a Participating Interest. The capital gain resulting from the disposal of the shares of Company D of AED 90,000 (AED 120,000 – AED 30,000) is treated as follows:

- AED 70,000 is not exempt from Corporate Tax due to the impairment loss being treated as deductible.
- The remaining gain of AED 20,000 is exempt from Corporate Tax under the Participation Exemption.

In circumstances where a Taxable Person has made both deductible impairment losses and non-deductible impairment losses, the question arises as to how the impairment losses are matched with any income which might be covered by the Participation Exemption. The wording of Article 23(6) of the Corporate Tax Law is clear that the Participation Exemption does not apply “insofar as” there has been a

[108] Article 23(5) of the Corporate Tax Law.

deductible impairment loss in respect of the Participating Interest. This means that all deductible impairment losses must be matched with the relevant income/gain in priority to any non-deductible impairment losses.

Example 24: Deductible and non-deductible impairment loss

Company A owns shares in Company D, both are incorporated and resident in the UAE. Company A records an impairment loss of AED 30,000 (tax deductible) and subsequently an impairment loss of AED 10,000 (not tax deductible) in respect of Company D. Company A later sells the shares of Company D realising a capital gain of AED 50,000. At the time of disposal Company D meets the conditions to be Participating Interest. The gain is treated as follows:

- The first AED 30,000 of the capital gain cannot benefit from the Participation Exemption due to the tax-deductible impairment loss, and so is subject to Corporate Tax;
- The remaining capital gain of AED 20,000 can benefit from the Participation Exemption.

6.4.2. Impairment loss on loan receivable from a Participation

Article 23(6)(c) of the Corporate Tax Law provides that the Participation Exemption does not apply if the Taxable Person or its Related Party has recognised a deductible impairment loss in respect of a loan receivable from a juridical person in which the Taxable Person or a Related Party of the Taxable Person holds a Participating Interest.

The concept of this clause is similar to impairment losses in respect of Participations according to Article 23(6)(b) of the Corporate Tax Law (see Section 6.4.1). Any income in relation to the Participation is not exempt from Corporate Tax to the extent that an impairment loss has been deducted for a loan receivable. An example of an impairment loss would be a write-off of a loan receivable, for example. as part of a restructuring measure.

Example 25: Impairment on loan receivable and subsequent reversal

Company A (a company incorporated and resident in the UAE) holds 100% of the shares in Company F (a company incorporated and managed outside the UAE) and grants a loan to Company F of AED 100,000. Subsequently, due to the financial distress of Company F, Company A makes a 50% provision against the loan in the current year and treats this impairment loss of AED 50,000 as tax deductible.

In the following year, Company A receives a Dividend from Company F of AED 20,000. Due to the recognition of a tax-deductible impairment loss of AED 50,000 in the previous year, the Dividend is not treated as exempt from Corporate Tax and thus is fully taxable.

Due to an improvement in the financial situation of Company F one year later, Company A fully reverses its provision against the loan and recognises a gain of AED 50,000.

The gain resulting from the reversal is treated as Exempt Income to the extent the Dividend income in the previous year has been treated as subject to Corporate Tax due to the non-application of the Participation Exemption in relation to the initial loan impairment. Hence, AED 20,000 of the reversal gain will be Exempt Income and accordingly, the remaining AED 30,000 will be taxable.

6.4.3. Reversal of impairment loss which has restricted the availability of the Participation Exemption

A reversal of an impairment loss is exempt from Corporate Tax to the extent that the Participation Exemption was not applied to income from a Participating Interest due to a previously deducted impairment loss or impairment losses.[109]

6.5. Interplay between Participation Exemption and Foreign Permanent Establishment Exemption

Where a Resident Person has a Foreign Permanent Establishment, the Resident Person can make an election to not take into account the income or loss and associated expenditure of its Foreign Permanent Establishment in determining its Taxable Income.[110]

If a Resident Person has elected for the Foreign Permanent Establishment Exemption, then it becomes theoretical whether the Participation Exemption is available in respect of income from a Participating Interest attributable to a Foreign Permanent Establishment. In such instances, the income and associated expenditures of the Foreign Permanent Establishment shall not be taken into account in the calculation of the Taxable Income of the Resident Person. On the other hand, if a Resident Person has not elected for the Foreign Permanent Establishment Exemption, income from a Participation which is attributable to a Foreign Permanent Establishment can benefit from the Participation Exemption if the conditions are satisfied.

[109] Article 23(7) of the Corporate Tax Law.
[110] Article 24(1) of the Corporate Tax Law.

6.5.1. Impact of Foreign Permanent Establishment Tax Losses

If a Taxable Person has utilised a Tax Loss arising in a Foreign Permanent Establishment and not subsequently included in its Taxable Income the same amount of profit from the Foreign Permanent Establishment, any income arising upon incorporation of the Foreign Permanent Establishment subsequently cannot benefit from the Participation Exemption. This ceases to be the case once profit from the Foreign Permanent Establishment equal to the Tax Loss used by the Taxable Person has been included in the Taxable Person's Taxable Income.[111]

[111] Article 13 of Ministerial Decision No. 116 of 2023.

7. Expenditure related to Exempt Income

Expenditure related to Exempt Income cannot be taken into account in determining Taxable Income.[112] In other words, such expenditure is non-deductible for Corporate Tax purposes, which is symmetrical with the non-taxability of the Exempt Income. Accordingly, expenditure (other than Interest expense[113]) incurred in relation to income which benefits from the Participation Exemption is not deductible.

7.1. Related expenditure

The use of the term "related expenditure" in Article 22 of the Corporate Tax Law indicates that the expense must be in connection with Exempt Income. There should be a clear and direct nexus or connection which can be established between the expense and the Exempt Income. Expenditure which is unrelated to Exempt Income or has a remote or indirect connection with Exempt Income is not subject to disallowance.

In some instances, a Taxable Person incurs a common expense for more than one purpose, i.e. incurred for the purpose of earning both Exempt Income and non-Exempt (i.e. Taxable) Income. The tax treatment of such common expense will be as follows:

- Any part or proportion of a common expense that can be clearly identified as being incurred wholly and exclusively to derive Taxable Income is deductible;[114]
- Any part or proportion of a common expense that can be clearly identified as being incurred wholly and exclusively to derive Exempt Income is non-deductible;
- Any remaining unidentifiable balance of a common expense shall be apportioned between Taxable Income and Exempt Income on a fair and reasonable basis, having regard to the relevant facts and circumstances of the Taxable Person's Business.[115]

Example 26: Common expense incurred towards Exempt Income and Taxable Income

Mr A, as part of his Business, paid fees of AED 1,000 to a financial consultant for investment related consultancy. Mr A purchased shares of Company B (a company incorporated and resident in the UAE) for AED 8,000 and debentures of Company C (a company incorporated and managed outside the UAE) for AED 2,000. The

[112] Article 22 and Article 28(2)(b) of the Corporate Tax Law.
[113] Articles 29, 30 and 31 of the Corporate Tax Law.
[114] Article 28(3)(a) of the Corporate Tax Law.
[115] Article 28(3)(b) of the Corporate Tax Law.

Dividend income from Company B is exempt but the Interest income from the debenture is taxable. Based on the proportionate cost of the investments:

- 20% of the consultant's fees are deductible: AED 2,000 / (AED 8,000 + AED 2,000); and
- 80% of the consultant's fees are non-deductible: AED 8,000 / (AED 8,000 + AED 2,000).

7.2. Expenditure in relation to a Participating Interest

7.2.1. Expenditure in relation to acquisition and disposal of a Participating Interest

Expenditure incurred in relation to the acquisition, sale, transfer, or disposal of an entire Participating Interest, or part of a Participating Interest, is not tax deductible (with the exception of Interest expense).[116] Instead, such costs should be capitalised as part of the cost of the Participating Interest.[117] Capitalisation of the expense is required for Corporate Tax purposes regardless of whether such expenses are capitalised in the Financial Statements.

Examples of relevant expenses include, but are not limited to, professional fees, due diligence costs, litigation costs, commissions and brokerage fees, stamp duty, registration duties and other irrecoverable taxes, appraisal and valuation costs, and refinancing costs.[118]

7.2.2. Expenditure in relation to a failed acquisition of a Participating Interest

Sometimes expenses are incurred with the intention of acquiring a Participating Interest but ultimately the acquisition is not completed. In such a case, since the Participating Interest is not acquired, the expense cannot be said to relate to a Participating Interest. Where the expense is incurred wholly and exclusively for the purposes of a Taxable Person's Business, the expense may be deductible.[119]

Example 27: Expenditure in relation to a failed acquisition of shares

Company A (a company incorporated and resident in the UAE) wants to invest in shares of Company F (a company incorporated and managed outside the UAE) as

[116] Article 10(1) and Article 10(3) of Ministerial Decision No. 116 of 2023.
[117] Article 10(4) of Ministerial Decision No. 116 of 2023.
[118] Article 10(2) of Ministerial Decision No. 116 of 2023.
[119] Article 28(1) of the Corporate Tax Law.

a long-term strategic investor. In this regard, Company A pays professional fees to carry out due diligence before investing in Company F. Based on the due diligence report, Company A decides not to invest. In this case, the professional fees expense will be taken into account while determining Taxable Income and will be deductible if it is a Business expense and it is not capital in nature.

7.2.3. Other expenditure in relation to a Participating Interest

Other than expenses related to the acquisition and disposal of a Participating Interest, there could be expenses incurred, for example, to manage and administer a Participating Interest. Such expenses which have a direct connection with Exempt Income will not be taken into account in determining Taxable Income, i.e. no deduction is allowed.[120]

7.3. Expenditure in relation to short-term investment in a juridical person that is a Resident Person

Dividend income received from a juridical person that is a Resident Person is exempt with no further conditions.[121] However, other income, for example capital gains or losses on the disposal of a Participation Interest in a juridical person that is a Resident Person, is exempt subject to the conditions of the Participation Exemption. In other words, Dividends received from a juridical person that is a Resident Person are exempt, even if the holding in that Person does not qualify as a Participating Interest.

Irrespective of the accounting treatment adopted (i.e. whether or not fees, etc. associated with the acquisition are capitalised, for instance because the asset is held on the trading account for short term buying and selling of securities rather than as a long-term investment), a question can arise as to how much of the expense incurred in acquiring shares of a juridical person that is a Resident Person (which does not qualify as Participating Interest) is non-deductible. This is because the expense can relate partially to Exempt Income and partially to Taxable Income. A Dividend from a juridical person that is a Resident Person is always Exempt Income, but capital gains may be Taxable Income if the conditions of the Participation Exemption are not met.

Accordingly, the expenses related to the acquisition of shares of a juridical person that is a Resident Person may be considered as common expenses towards earning Exempt Income and Taxable Income. As discussed in Section 7.1, the share of expenses relating to Exempt Income, as apportioned on a fair and reasonable basis, will be non-deductible.

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[120] Article 22 and Article 28(3)(b) of the Corporate Tax Law.
[121] Article 22(1) of the Corporate Tax Law.

7.4. Interest expense

Interest paid in relation to Exempt Income, such as that which benefits from the Participation Exemption, is prima facie deductible unlike other expenditure incurred in deriving Exempt Income.[122] However, the amount of Interest deductible is also subject to the General Interest Deduction Limitation Rule provided in Article 30 of the Corporate Tax Law. Broadly, this limits Net Interest Expenditure to 30% of the Taxable Person's accounting earnings before the deduction of Interest, tax, depreciation and amortisation ("EBITDA"), excluding any income that is exempt under the Participation Exemption and other types of Exempt Income. In addition, regardless of whether the Participation Exemption applies, Interest expenditure may not be deductible on a Related Party loan which relates to amongst other things a Dividend from a Related Party.[123]

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[122] Article 29 of the Corporate Tax Law.

[123] Article 31(1) of the Corporate Tax Law.

8. Tax Groups

Where the conditions of Article 40 of the Corporate Tax Law are met, a Taxable Person (referred to as “Parent Company”) can make an application to form a Tax Group with one or more Resident Persons (referred to as “Subsidiary”) and, therefore, be treated as a single Taxable Person.[124]

8.1. Income from a Participating Interest within a Tax Group

Since all members of a Tax Group are treated as a single Taxable Person, any transactions between members of a Tax Group need to be eliminated when determining its Taxable Income.[125] In this context, a Parent Company is required to consolidate the financial results, assets and liabilities of each Subsidiary and prepare consolidated Financial Statements.[126]

As a result, any income from a Participating Interest in the same Tax Group (for example, Dividend income) will be disregarded when the Parent Company prepares consolidated Financial Statements. Thus, the Participation Exemption is not required or relevant in relation to Dividends or other profit distributions from Subsidiaries within a Tax Group to the extent it is received by a member of the same Tax Group.

8.2. Income from a Participating Interest outside a Tax Group

Where a member of a Tax Group receives income from a Participating Interest that is not a member of the Tax Group, the Participation Exemption may be available.

Hence, when determining the consolidated Taxable Income of the Tax Group (after eliminating intra-group transactions), an adjustment should be made for any remaining income and losses which are exempt, including related expenses.

Since a Tax Group is treated as a single Taxable Person, for the application of the Participation Exemption, each condition of Article 23 of the Corporate Tax Law must be applied in relation to the entire Tax Group and its members, that is to say on an aggregated basis. This is in line with Article 42(1) of the Corporate Tax Law, which requires the Taxable Income of a Tax Group to be determined by consolidating the financial results, assets and liabilities of its members.

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[124] Article 40(1) of the Corporate Tax Law.
[125] Article 40(4) of the Corporate Tax Law.
[126] Article 42(1) and Article 42(11) of the Corporate Tax Law.

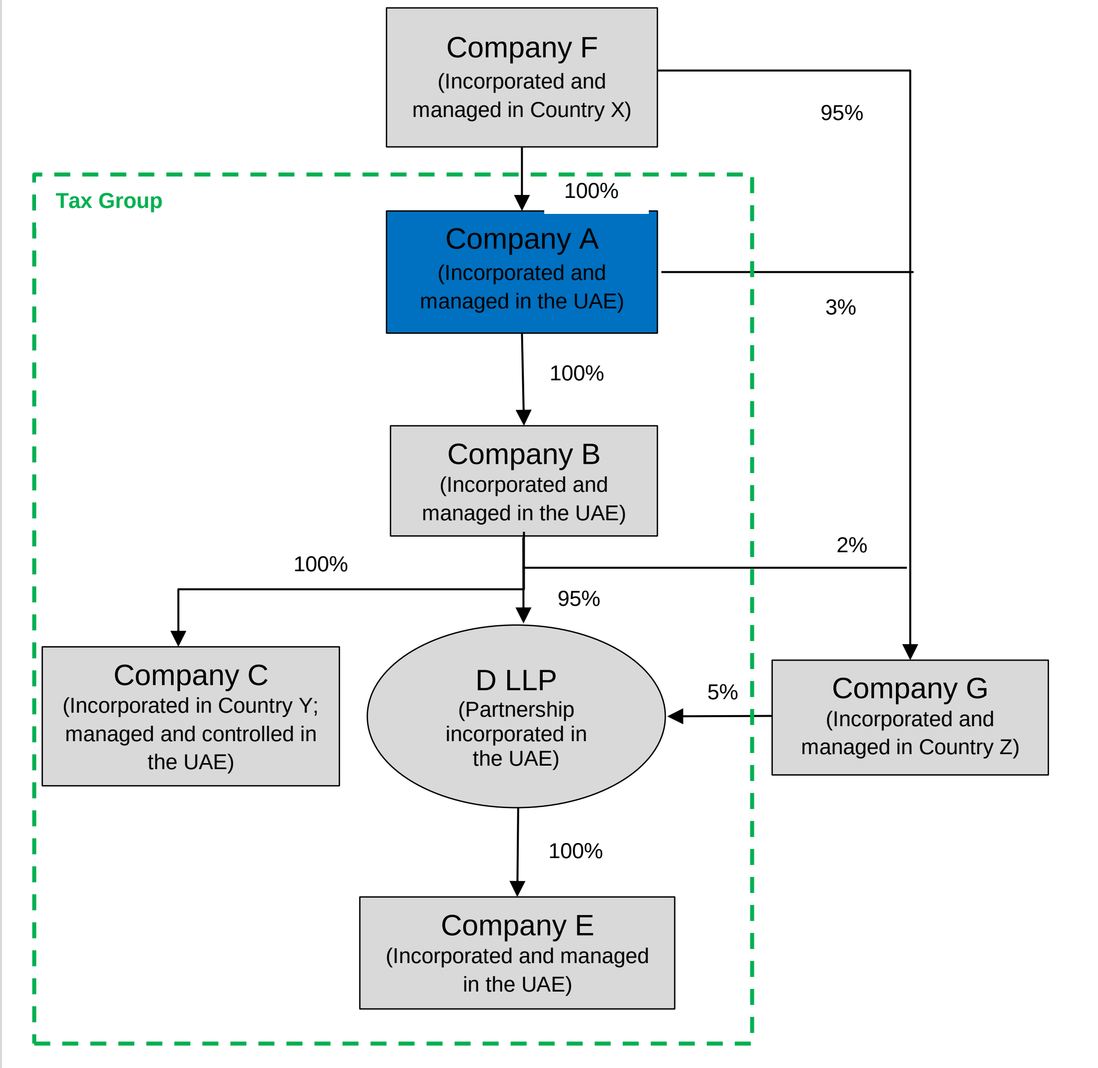
Example 28: Dividend from a Participating Interest outside the Tax Group

A Multinational Group has the following entities:

Entity name	Place of incorporation/ formation	Place of effective management and control	Whether UAE Resident Person under Article 11	Whether member of the Tax Group under Article 40
Company F	Country X	Country X	No	No (not a UAE resident)
Company A	UAE	UAE	Yes	Yes
Company B	UAE	UAE	Yes	Yes
Company C	Country Y	UAE	Yes	Yes
D LLP (incorporated partnership)	UAE	UAE	Yes	Yes
Company E	UAE	UAE	Yes	Yes
Company G	Country Z	Country Z	No	No (not a UAE resident)

Provided the relevant conditions are met, Company A (Parent Company) can make an application to form a Tax Group with Company B, Company C, D LLP and Company E (Subsidiaries).

The group structure is as follows:



- Company A acquired 3% of the shares of Company G on 1 June 2024
- Company B acquired 2% of the shares of Company G on 1 December 2024
- Company G paid a Dividend on 1 July 2025

Company A and Company B do not individually satisfy the 5% minimum ownership test in respect of Company G. However, the Tax Group is the Taxable Person in this case, and it satisfies the 5% minimum ownership test considering the aggregation of the ownership interests held by Company A (3%) and Company B (2%). The minimum holding period could be satisfied if the intention is to hold the aggregate 5% for 12 months, i.e. until at least 1 December 2025.

Assuming the other conditions of Article 23 of the Corporate Tax Law are met, the Dividend paid by Company G to Company A and Company B is excluded from the Taxable Income of the Tax Group by virtue of the Participation Exemption.

Absent the Tax Group, Company A and Company B would still be able to meet the minimum ownership requirement if both chose to be members of the same Qualifying Group. In this case their respective ownership interests shall be aggregated.[127] Hence, the Dividend paid by Company G will still be exempt by virtue of the Participation Exemption.

[127] Article 3(1)(b) of Ministerial Decision No. 116 of 2023.

9. Updates and Amendments

Date of amendment	Amendments made
October 2023	• First version

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Transfer Pricing Guide

Corporate Tax Guide | CTGTP1

October 2023

الـهـيـئـة الاتـحـاديـة لـلـضـرائـب
FEDERAL TAX AUTHORITY

Contents

1. Glossary

1.1. Definitions

Arm's Length Price: The price determined for a specific business transaction in accordance with the Arm's Length Principle.

Arm's Length Principle: The international standard that the Organisation for Economic Co-operation and Development (OECD) member countries and many other jurisdictions have agreed to use for determining transfer prices for tax purposes. The principle is set forth in Article 9 of the OECD Model Tax Convention as follows:
where conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. (OECD, 2017)

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or series of activities conducted by a Person in the course of its Business.

Business Restructuring: A cross-border or domestic reorganisation of the commercial or financial relations between Related Parties or Connected Persons, including the termination or substantial renegotiation of existing arrangements.

Comparable Uncontrolled Price Method: A Transfer Pricing method that compares the price for property or services transferred in a Controlled Transaction to the price charged for property or services transferred in a Comparable Uncontrolled Transaction in comparable circumstances.

Comparable Uncontrolled Transaction: A transaction between two independent parties that is comparable to the transaction under examination ("Controlled Transaction"). It can be either a comparable transaction between one party to the Controlled Transaction and an independent party ("internal comparable") or between two independent parties, neither of which is a party to the Controlled Transaction ("external comparable").

Connected Person: Any Person affiliated with a Taxable Person as determined in Clause 2 of Article 36 of the Corporate Tax Law.

Consolidated Financial Statements: The financial statements of the MNE Group in which the assets, liabilities, revenues, expenses, and cash flows of the Ultimate Parent Entity and Constituent Entities are presented as those of a single economic entity.

Constituent Company: Means under Article 1 of the Cabinet Resolution No. 44 of 2020 any of the following:

1. Any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for the purposes of preparing the financial reports, or would be so included therein if equity interests therein were traded on a public securities exchange;
2. Any business unit that is excluded from the MNE Group's Consolidated Financial Statements solely on size or materiality grounds;
3. Any permanent establishment pertaining to any separate business unit of the MNE Group referred to in Clauses (1) or (2) above, provided that the said business unit prepares separate financial statements for such permanent establishment for the purposes of financial reporting preparation, regulatory, tax reporting, or internal management control purposes.

Control: The direction and influence over one Person by another Person in accordance with Clause 2 of Article 35 of the Corporate Tax Law.

Controlled Transactions: Transactions or arrangements between two parties that are Related Parties or Connected Persons.

Corporate Tax: The tax regime imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Cost Plus Method: A Transfer Pricing method using the costs incurred by the supplier of goods (or services) in a Controlled Transaction. An appropriate cost-plus mark-up is added to this cost, to make an appropriate profit in light of the functions performed (taking into account assets used and risks assumed) and the market conditions. The amount after adding the cost-plus mark-up to the above costs may be regarded as an Arm's Length Price of the original Controlled Transaction.

Country-by-Country Report: A report that declares annually the details of each tax jurisdiction in which a Multinational Enterprise Group ("MNE") does business. This includes the amount of revenue, profit before income tax and income tax paid and accrued. It also requires MNEs to report their number of employees, stated capital, retained earnings and tangible assets in each tax jurisdiction. Finally, it requires MNEs to identify each entity within the group doing business in a particular tax jurisdiction and to provide an indication of the business activities each entity engages in.

Country-by-Country Reporting: An obligation to submit a Country-by-Country Report as introduced by Action 13 of the Base Erosion and Profit Shifting ("BEPS") initiative led by the Organisation for Economic Co-operation and Development ("OECD") and the Group of Twenty ("G20") industrialised nations. This is enforced in the UAE via Cabinet Resolution No. 44 of 2020 on Organising Reports submitted by Multinational Companies.

Double Taxation Agreement: An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Exempt Person: A Person exempt from Corporate Tax under Article 4 of the Corporate Tax Law.

Fiscal Year: The annual accounting period in respect to which the Reporting Entity prepares the financial statements.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

Federal Tax Authority: The authority in charge of administration, collection and enforcement of federal taxes in the UAE.

Functional Analysis: The analysis aimed at identifying the economically significant activities and responsibilities undertaken, assets used or contributed, and risks assumed by the parties to the transactions.

Group: Two or more companies related through ownership or control in accordance with Article 1 of the Cabinet Resolution No. 44 of 2020, such that it either is required to prepare Consolidated Financial Statements for the purposes of preparing financial reports under the applicable accounting principles or would be so required if the equity interests in any of the companies were traded on a public securities exchange.

Guide: Refers to the present Transfer Pricing Guide published by the FTA.

Local File: A Transfer Pricing documentation which contains detailed information on all Controlled Transactions of the Taxable Person and other information about the Business of the Taxable Person.

Market Value: The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

Master File: A Transfer Pricing documentation which provides an overview of the MNE Group Business, including the nature of its global Business operations, its overall Transfer Pricing policies, and its global allocation of income and economic activity in order to assist tax administrations in evaluating the presence of significant Transfer Pricing risk.

Minister: Minister of Finance.

MNE Group: Any Group that meets the criteria prescribed in Article 1 of Cabinet Resolution No. 44 of 2020:

1. Two or more companies the tax residence of which is located in different jurisdictions, or including one single company having its tax residence in one country and being subject to tax with respect to the activity it carries out through a permanent entity located in another country; and
2. Which has a total consolidated Group revenue that is equal to or more than AED 3,150,000,000 (UAE Dirham Three Billion One Hundred and Fifty Million) during the Fiscal Year immediately preceding the reporting Fiscal Year as indicated in its Consolidated Financial Statements for that preceding Fiscal Year.

OECD Model Convention: The 2017 version of the OECD Model Tax Convention on Income and Capital.

Natural Person: Individual human being (distinct from a juridical person).

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

OECD Transfer Pricing Guidelines: The 2022 version of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.

Person: Any Natural Person or Juridical Person.

Profit Split Method: A Transfer Pricing method that identifies the relevant profits to be split for the Related Parties or Connected Persons from a Controlled Transaction (or Controlled Transactions that can be aggregated) and then splits those profits between the Related Parties or Connected Persons on an economically valid basis that approximates the division of profits that would have been agreed at arm's length.

Recognised Stock Exchange: Any stock exchange established in the UAE that is licensed and regulated by the relevant competent authority, or any stock exchange established outside the UAE of equal standing.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Reporting Entity: The Ultimate Parent Entity of an MNE Group in accordance with Article 1 of the Cabinet Resolution No. 44 of 2020 whose tax residence is located in the UAE and is required to submit a Country-by-Country Report on behalf of the MNE Group.

Resale Price Margin: The margin representing the amount out of which a reseller would seek to cover its selling and other operating expenses and, in the light of the functions performed (taking into account assets used and risks assumed), make an appropriate profit.

Resale Price Method: A Transfer Pricing method based on the price at which a product that has been purchased from a Related Party is resold to an Independent Party. The resale price is reduced by the Resale Price Margin. What is left after subtracting the Resale Price Margin can be regarded, after adjustment for other costs associated with the purchase of the product (for example, custom duties), as an Arm's Length Price of the original transfer of property between the Related Parties or Connected Persons.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person that is subject to Corporate Tax under the Corporate Tax Law.

Transactional Net Margin Method: A Transfer Pricing method that examines the net profit margin relative to an appropriate base (for example, costs, sales, assets) that a Taxable Person realises from a Controlled Transaction (or transactions that are appropriate to be aggregated).

Transfer Pricing: Rules on setting of arm's length prices for Controlled Transactions, including but not limited to the provision or receipt of goods, services, loans and intangibles.

Ultimate Parent Entity: The Constituent Company in the MNE Group that meets the following criteria stated in Article 1 of the Cabinet Resolution No. 44 of 2020:

1. Owns directly or indirectly a sufficient interest in one or more Constituent Companies of such MNE Group as is required to prepare Consolidated Financial Statements under the accounting principles generally applicable in its jurisdiction tax residence, or be so required if its equity interests were traded on a public securities exchange in its jurisdiction tax residence; and
2. Its Group does not include any other Constituent Company that owns directly or indirectly an interest described in Clause (1) above in such entity.

1.2. Acronyms and Abbreviations

AED: United Arab Emirates Dirham

BEPS: Base Erosion and Profit Shifting

CbCR: Country-by-Country Reporting

CCA: Cost Contribution Arrangement

CPM: Cost Plus Method

CUP: Comparable Uncontrolled Price

DEMPE: Development, Enhancement, Maintenance, Protection and Exploitation

DTA: Double Taxation Agreement

FTA: Federal Tax Authority

MNE: Multinational Enterprise

OECD: Organisation for Economic Co-operation and Development

PE: Permanent Establishment

PSM: Profit Split Method

RPM: Resale Price Method

R&D: Research and Development

TNMM: Transactional Net Margin Method

TP: Transfer Pricing

UAE: United Arab Emirates

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance on the Transfer Pricing regime in the UAE with a view to making the provisions of the Transfer Pricing regulations as understandable as possible to readers. It provides readers with:

- an overview of the Transfer Pricing rules and procedures, including the determination of the Related Party transactions, whether transactions are done on an Arm's Length basis, and other related compliance requirements including Transfer Pricing documentation; and
- assistance with the most common questions businesses might have to reduce uncertainties for Taxable Persons in relation to the implementation and application of the Transfer Pricing provisions of the Corporate Tax Law.

2.3. Who should read this guide?

This guide should be read by any juridical or natural person who wants to know more about the Transfer Pricing regime in the UAE. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how key elements of the Transfer Pricing regime applies to juridical and natural persons. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Transfer Pricing regime that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Transfer Pricing regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural person.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Corporate Tax Law";
- Federal Law No. 5 of 1985 on the Civil Transactions Law of the United Arab Emirates is referred to as "Federal Law No. 5 of 1985".
- Cabinet Resolution No. 44 of 2020 on Organising Reports Submitted by Multinational Companies as "Cabinet Resolution No. 44 of 2020"; and
- Ministerial Decision No. 97 of 2023 on Requirements for Maintaining Transfer Pricing Documentation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 97 of 2023".[1]

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the provisions relating to the Corporate Tax regime in the UAE. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each person's own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

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[1] The Master File and Local File requirements, along with the existing Country-by-Country reporting requirements detailed in Cabinet Resolution No. 44 of 2020 form the three-tiered approach to Transfer Pricing documentation.

This Guide takes into consideration the guidance provided by the January 2022 OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations ("OECD Transfer Pricing Guidelines"). However, Taxable Persons should rely primarily on the Corporate Tax Law, the Ministerial Decision No. 97 of 2023, and this Guide for Transfer Pricing matters involving the UAE. This Guide should be primary source of guidance for Transfer Pricing related matters prevailing over international standards, however, if a certain aspect is not covered, taxpayers are encouraged to refer to OECD Transfer Pricing Guidelines if an issue is not addressed herein. Furthermore, the following reports have been considered:

- OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations of 2022, referred to as "OECD Transfer Pricing Guidelines";[2]
- OECD Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - 2015 Final Report, OECD/G20 Base Erosion and Profit Shifting Project, referred to as "BEPS Action 13";
- OECD 2010 report on the Attribution of Profits to Permanent Establishments issued by the OECD for further guidance;[3]
- OECD Model Tax Convention on Income and Capital of 2017, referred to as "OECD Model Convention";[4] and
- OECD 2018 Additional Guidance on the Attribution of Profits to Permanent Establishments.[5]

The FTA reiterates the need for keeping supporting documentation to justify the application of the chosen Transfer Pricing method or of the relevant rules for the specific taxable person.

This document is subject to change without notice.

[2] Available at: https://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm.

[3] Available at: https://www.oecd.org/ctp/transfer-pricing/45689524.pdf.

[4] Available at: https://www.oecd.org/ctp/treaties/model-tax-convention-on-income-and-on-capital-condensed-version-20745419.htm

[5] Available at: https://www.oecd.org/tax/transfer-pricing/additional-guidance-attribution-of-profits-to-permanent-establishments-BEPS-action-7.pdf

3. Transfer Pricing at a glance

Transfer Pricing refers to the pricing of transactions between Related Parties or Connected Persons, and has become increasingly important due to globalisation and cross border trade activities by enterprises. The significance of Transfer Pricing has resulted in the introduction of Transfer Pricing legislation in many countries. Organisations such as the OECD and the United Nations ("UN") have published detailed Transfer Pricing guidelines proposing how to govern transactions between Related Parties from a tax perspective and recommended documentation standards.

Whilst the Transfer Pricing policy of a Group may not have an overall impact on that Group's consolidated profits, the pricing of its Controlled Transactions can lead to the underpayment of tax in one or more jurisdiction. In particular, transactions and arrangements between Group entities can be used to artificially shift profits from Group entities in higher tax jurisdictions to lower tax jurisdictions, and from high-tax entities to low or no-tax entities, resulting in an overall lower tax burden for the Group.

To prevent such price distortions, tax administrations may assess the prices of transactions between Related Parties or Connected Persons to verify if the transactions have been priced at Market Value. Tax administrations may perform a Transfer Pricing adjustment if a transaction is not found to be reflective of the Market Value or Arm's Length Price.

Such adjustments can result in double taxation for MNE Groups operating in multiple jurisdictions. However, the Mutual Agreement Procedure ("MAP") article in Double Tax Agreements allows competent authorities in partner jurisdictions to interact with the intent to resolve international tax disputes involving cases of double taxation where the same profits have been taxed in two jurisdictions. The objective of the MAP process is to negotiate an arm's length position that is acceptable to both competent authorities and seek to avoid double taxation. This procedure will be further detailed in separate guidance.

To reduce the risk of audits and double taxation, when transacting with Related Parties or Connected Persons, Taxable Persons should ensure the transfer price between the parties is at arm's length (i.e. as if they were independent parties negotiating freely) and maintain supporting Transfer Pricing documentation.

Transfer Pricing rules in the UAE apply not only to MNE Groups, but also to any transactions and arrangements with Related Parties or Connected Persons in domestic groups. All these transactions need to meet the arm's length principle. In addition, transactions above the materiality threshold to be set through an FTA

Decision[6] will need to be disclosed for the purposes of Transfer Pricing ("TP") Documentation.

[6] FTA Decision to be published.

4. Transfer Pricing Principles and Fundamentals

4.1. Overview

The purpose of this section is to introduce the concept of Transfer Pricing as well as clarify the Persons and transactions in scope for the application of the Arm's Length Principle in the UAE.

4.2. What is Transfer Pricing

Transfer Pricing is primarily a tax concept, but which also has important accounting and risk-related implications. It refers to the pricing of transactions or arrangements between Related Parties or Connected Persons that are influenced by the relationship between the transacting parties. Transactions that occur between Related Parties or Connected Persons may include but are not limited to the trade of services, tangible goods, intangibles, financial transactions as well as certain transactions involving a Permanent Establishment (PE).

When independent parties transact with each other, the conditions of their commercial and financial relations (for example, the price of goods transferred, or services provided and the conditions of the transfer or provision) ordinarily are determined by market forces and negotiations. On the other hand, Related Parties or Connected Persons may not be subject to the same external market forces in their dealings and may be influenced by the relationship between the parties involved. As a result, Related Parties or Connected Persons can use non-arm's length pricing in their Controlled Transactions in order to alter the profits reported in the relevant jurisdiction or entity and thus optimise the resulting tax liabilities.

The internationally recognised standard in pricing such transactions is the Arm's Length Principle, which requires that Controlled Transactions be conducted at open market value as would be the case between independent parties.

Given the above, the Transfer Pricing provisions of the Corporate Tax Law and the Ministerial Decision No. 97 of 2023 were introduced to ensure that the 'Related Parties' and 'Connected Persons' are setting the conditions of their Controlled Transactions in a manner that is similar to those between independent parties in comparable circumstances.

4.3. The Arm's Length Principle

The Arm's Length Principle, as introduced in the UAE under Article 34 of the Corporate Tax Law, requires that transactions and arrangements between Related Parties or Connected Persons are priced as if the transactions or arrangements had occurred between independent parties under similar circumstances. It is central to the Arm's

Length Principle to consider what price two independent parties would have agreed in similar circumstances, and that this should be based, wherever possible, on direct or indirect evidence of how independent parties would have behaved.

It is important to note that the absence of a formal pricing arrangement or legal agreement between the transacting Related Parties or Connected Persons does not mean that there is no such arrangement in place. In instances where a transfer of property takes place or a service is provided without a formal arrangement or without remuneration or at remuneration below Market Value, the Arm's Length Principle should always be applied to determine whether such a transaction or arrangement would have taken place between independent parties under similar circumstances and at what value.

The Arm's Length Principle treats Related Parties and Connected Persons, such as for example, members of a Group, as if they were operating as separate entities rather than as inseparable parts of a single unified Business. Since the separate entity approach treats these members as if they were independent parties, attention is focused on the nature of the Controlled Transactions and on whether the conditions differ from the conditions that would be observed in Comparable Uncontrolled Transactions. Such a comparison of the Controlled Transaction(s) with Comparable Uncontrolled Transactions is named as a "comparability analysis" and is at the heart of the application of the Arm's Length Principle (see further in section 5).

In other words, the Corporate Tax Law requires Related Parties or Connected Persons to earn their "fair share" of profits based on the Arm's Length Principle. Thus, after applying the Arm's Length Principle, each Related Party or Connected Person should record operating profits in line with their respective functions, assets, and risks and contributions to the value chain across the Group.

Under the Corporate Tax Law and this Guide, the Arm's Length Principle needs to be applied with respect to domestic as well as cross-border Controlled Transactions.

Example 1: Transactions between Related Parties

AB Group is a furniture company group with two subsidiaries: Company A, a sawmill located in the UAE, and Company B, a manufacturing company located in Country B where corporate profits are taxed at 5%.

Company B purchases a ton of timber from Company A at a price of AED 15,000. The cost for Company A to produce a ton of timber is AED 15,000. The market price for a ton of timber is AED 20,000.

	Production cost	Sale price from Company A to Company B (related parties)	Market price
Company A (AED)	15,000	15,000	20,000

Company A has made no profit on the sale to Company B, whereas it would have made a profit of AED 5,000 had it sold its timber to a third party, resulting in an overall decrease in profit of AED 5,000 compared to if Company B had paid under an Arm's Length Price transaction.

Company B subsequently sells the goods manufactured using the timber to a third party for AED 30,000. Company B has decreased its cost of sales by AED 5,000 by purchasing at the internal transfer price from Company A as opposed to the market price from a third party. Hence, Company B has increased its profits by AED 5,000.

However, whilst Company A has seen a fall in its profit of AED 5,000 and Company B has seen an increase in its profit of AED 5,000, the overall impact on the Group's earnings is nil, as both transactions occurred within the Group and related party transactions are generally eliminated while preparing consolidated financial statements.

	Sale below market price		**Sale at market price**	
	Company A	**Company B**	**Company A**	**Company B**
Profit (AED)	0	15,000	5,000	10,000
Tax rate in jurisdiction	9%	5%	9%[7]	5%
Tax paid (AED)	0	750	450	500
Total tax paid (AED)	750		950	

Although the overall profit of the Group company has not changed, the application of Transfer Pricing and the structure of AB Company Group has resulted in total tax paid of AED 750, consisting of 0 AED for Company A and 750 AED for Company B.

Whereas if the transaction was conducted at Market Value, the total tax payable would be AED 950, comprised of AED 450 by Company A and AED 500 by Company B.

[7] For the purposes of the example, the headline rate of 9% was applied on the entire Taxable Income.

Therefore, the non-arm's length pricing of goods transferred between Related Parties has shifted profits between jurisdictions, resulting in a tax benefit for this Group. These transactions would need to be adjusted in line with the Arm's Length Principle and reflect the Market Value. As a consequence, the total tax payable by AB Group will increase.

4.4. Scope of the Transfer Pricing rules

The Transfer Pricing provisions in the UAE apply to transactions or arrangements between Persons who are Related Parties or Connected Persons.

Exempt entities or entities which have elected for the small business relief, as well as standalone entities with no Related Party transactions are subject to Transfer Pricing rules and need to meet the Arm's Length Principle in case of Controlled Transactions but are not required to prepare and keep TP Documentation.

4.4.1. Related Parties and Connected Persons

4.4.1.1. Related Parties

Transfer Pricing rules apply to Related Parties, which are defined under Article 35 of the Corporate Tax Law as any associated Persons, according to a specified degree of association. This association means pre-existing relationship with another Person through kinship (in case of natural persons), ownership or Control, regardless of whether that other Person is resident or not in the UAE.

The criteria for determining association between Related Parties have been categorised and detailed below:

4.4.1.2. Kinship or affiliation

The definition of kinship or affiliation covers the relationship of two or more individuals who are related up to the fourth degree of kinship or affiliation, including by way of adoption of guardianship.

In the context of the UAE[8], kinship includes common blood ties as determined by the ancestors or common ancestors of the individual, where an ancestor or common ancestor may include guardians or adoptive parents, and affiliation covers relationship by marriage, or if one natural person's spouse is related by kinship to the other Natural Person.

[8] Federal Law No. 5 of 1985 on the Issuance of Civil Transactions Law, and its amendments.

Degrees of kinship or affiliation include:

- The first-degree of kinship and affiliation: a Natural Person's parents and children, as well as the parents and children of their spouse.
- The second-degree of kinship and affiliation: additionally, includes a Natural Person's grandparents, grandchildren, and siblings, as well as the grandparents, grandchildren, and siblings of their spouse.
- The third-degree of kinship and affiliation: additionally, includes a Natural Person's great-grandparents, great-grandchildren, uncles, aunts, nieces and nephews, as well as the great-grandparents, great grandchildren, uncles, aunts, nieces and nephews of their spouse.
- The fourth-degree of kinship and affiliation: additionally, includes a Natural Person's great-great-grandparents, great-great-grandchildren, grand uncle, grand aunt, grandniece, grandnephew and first cousins, as well as the great-great-grandparents, great-great-grandchildren, grand uncle, grand aunt, grandniece, grandnephew and first cousins of their spouse.

4.4.1.3. Ownership

A Natural Person and a juridical person are Related Parties by way of ownership where the individual, or one or more Related Parties of the individual, are shareholders in the juridical person, and the individual, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in the juridical person.

Two or more juridical persons are Related Parties by way of ownership if:

- a juridical person, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in the other juridical person; or
- any Person, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in such two or more juridical persons.
- as per Article 35(1)(b)(1) of the Corporate Tax Law, the Natural Person or one or more Related Parties of the Natural Person are shareholders in the juridical person, and the Natural Person, alone or together with its Related Parties, directly or indirectly owns a 50% (fifty percent) or greater ownership interest in the juridical person. Likewise, as per Article 35(1)(c)(1); one juridical person, alone or together with its Related Parties, directly or indirectly owns a 50% (fifty percent) or greater ownership interest in the other juridical person.

Example 2: Computation of indirect holding

Company A holds 100% ownership interest in Company B.
Company B holds 90% ownership interest in Company C.
Company C holds 80% ownership interest in Company D.

Based on Article 35(1)(c)(1), Company B is a Related Party of Company A. This is because Company A directly owns a 50% or greater ownership interest in Company B.

Two or more juridical persons can also be considered as Related Parties where one juridical person, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in the other juridical person.

In the above case, Company A indirectly has an ownership interest in Company D. The percentage of ownership interest of Company A in Company D is 100% X 90% X 80% = 72%. As the indirect ownership interest is more than 50%, Company D is a Related Party of Company A.

4.4.1.4. Control

Persons may also be considered as Related Parties through direct or indirect 'Control'. Control is the direction and influence over one Person by another Person and can be determined in several ways including but not limited to instances where:[9]

- a Person can exercise 50% or more of the voting rights of another Person;
- a Person can determine the composition of 50% or more of the board of directors of another Person;
- a Person can receive 50% or more of the profits of another Person; or
- a Person can determine, or exercise significant influence over, the conduct of the Business and affairs of another Person.

Most of these determinants, in particular the 50% threshold, are indicators of common parent-subsidiary relationships. However, the ability of a Person to exercise 'significant influence' over another Person consists of the exercise of influence and direction on the conduct of a Business and may require consideration of different factors and circumstances that are specific to the scenario being tested.

The following examples illustrate how a Person can have Control by exercising significant influence over the actions of another Person, however, the underlying facts and circumstances need to be considered on a case-by-case basis when determining the existence of Control.

[9] Article 35(2) of the Corporate Tax Law.

Example 3: Significant influence based on debt

Company X is part of an MNE Group headquartered in the UAE. It conducts Business with an independent third-party Company Z and both have developed a strong commercial relationship over the years.

Company Z decides to expand its Business and instead of approaching a bank, it approaches Company X for a loan. Company X agrees to provide a loan.

The Balance Sheet of Company Z before the loan is shown below:

Equity and liabilities (i.e. capital)	Amount in AED million	Assets	Amount in AED million
Share capital	100	Fixed Assets	70
Liabilities		Cash and cash equivalent	30
Total capital	**100**	**Total**	**100**

The Balance Sheet of Company Z after the loan is shown below:

Equity and liabilities (i.e. capital)	Amount in AED million	Assets	Amount in AED million
Share capital	100	Fixed Assets	140
Loan from Company X	100	Cash and cash equivalent	60
Total capital	**200**	**Total assets**	**200**

In the above case, the loan from Company X constitutes 50% of the total capital of Company Z. It was also noted that after receiving this loan, Company Z registered an increase in its fixed assets and cash. A further fact-finding exercise suggests that Company X (by virtue of the loan) has started exercising significant influence over Company Z through the development of business strategy, design product portfolio and pricing, determining target customer base, and other activities, which are core to Company Z's Business.

Based on the facts, it can be reasonably established that Company X is able to exercise significant influence and as a result both Company X and Company Z can be regarded as Related Parties.

Example 4: Establishing Control – Entitlement to Profit Share

Company A, a company resident in the UAE, has licensed a software to Company B, resident in country Y, which allows it to operate and run its day-to-day business activities in country Y.

Company A and Company B signed a royalty agreement, which entitles Company A to 50% of profits generated by Company B from the use of the software in country Y as remuneration for the use of the software.

Under Article 35(2)(c) of the Corporate Tax Law, control can be established where a Person is entitled to 50% or more profits of another Person. Thus, Company A is deemed to have Control over Company B as Company A is entitled to 50% of Company B's profits.

Example 5: Establishing Control - Majority interest

Company X is a UAE company that is 51% owned by Company A (a UAE company) and 49% by Company Y (a foreign company).

While Company A owns a majority interest in Company X, the management of day-to-day operations, development of strategies, and formulation of the key market decisions are the functions of Company Y.

Based on the above, it can be established that Company Y has Control over Company X even though its shareholding is below 50% due to the key role in market decisions.

In this case, both Company A and Company Y would be considered Related Parties of Company X through ownership and Control, respectively.

4.4.1.5. Related Parties – additional criteria

"Related party" also means any of the following ties:

- a Person and its Permanent Establishment ("PE") or Foreign PE,[10] meaning that Transfer Pricing rules apply to transactions between a Person and their PE or Foreign PE;
- two or more Persons that are partners in the same Unincorporated Partnership; and
- a Person who is the trustee, founder, settlor or beneficiary of a trust or foundation and the trust or foundation, including the trust's or foundation's Related Parties.

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[10] A permanent establishment has the meaning referenced in Article 14 of the Corporate Tax Law.

4.4.1.6. Connected Persons

Where a Person is considered to be a Connected Person of a Taxable Person, all payments or benefits provided by the Taxable Person to the Connected Person are deductible for Corporate Tax purposes only to the extent that they correspond to the Arm's Length Price of the service or benefit provided and they are incurred wholly and exclusively for the purposes of the Taxable Person's Business.

A Person is considered a Connected Person of a Taxable Person if that Person is:[11]

- an individual, who directly or indirectly owns an ownership interest in the Taxable Person or Controls such Taxable Person, or a Related Party of such individual;
- a director or officer of the Taxable Person, or a Related Party of the said director or officer; or
- a partner in an Unincorporated Partnership, and any Related Parties of such partner.

Article 36(6) of the Corporate Tax Law specifies the categories of Taxable Persons where the deduction of payments or benefits provided to their Connected Persons is not restricted to the Arm's Length Price. These Taxable Persons would include any of the following:

- a Taxable Person whose shares are traded on a recognised stock exchange;
- a Taxable Person that is subject to the regulatory oversight of a competent authority in the UAE; and
- any other Person as may be determined in a decision to be issued by the Cabinet.

4.4.1.7. International agreements for the avoidance of double taxation

The domestic legislative basis for Transfer Pricing in the UAE can be found under Articles 34 to 36 of the Corporate Tax Law. In addition, the UAE also has a well-established double taxation agreement network.

Under the terms of certain agreements entered by the UAE for the avoidance of double taxation, reference is made to "Associated Enterprises". The OECD Model Convention defines the term and sets out the conditions that should be observed in transactions that include these "Associated Enterprises".[12] In particular, the OECD Model Convention states that the transactions between those parties are to be conducted in a manner that is similar to those that would occur amongst independent parties in comparable circumstances.

[11] Article 36(2) of the Corporate Tax Law.

[12] For example, in Article 9 of the OECD Model Convention.

In the event of differences between the UAE Transfer Pricing regulations and an international agreement in force in the UAE, the provisions of the international agreement will prevail.

4.4.2. Controlled Transactions

A “Controlled Transaction” is a transaction or arrangement between Related Parties or Connected Persons. Controlled Transactions generally include the supply or transfer of tangible goods, provision and receipt of services, funding and other financial transactions, and commercial exploitation of intangible assets such as patents, brands and know-how.

For the purposes of the UAE Transfer Pricing rules, all cross border Controlled Transactions (i.e. transactions between the Person and its Related Parties or Connected Persons that are located in different tax jurisdictions) as well as domestic Controlled Transactions (i.e. transactions between Related Parties or Connected Persons located in the UAE, including transactions undertaken between Free Zone Persons) must follow the Arm’s Length Principle.

5. Application of the Arm’s Length Principle

This section provides guidance on the three key steps in applying the Arm's Length Principle for Controlled Transactions:

Step 1: Identify Related Parties, Connected Persons, relevant transactions and arrangements and perform a comparability analysis accordingly.

Step 2: Selection of the most appropriate Transfer Pricing method.

Step 3: Determination of the Arm’s Length Price

5.1. Step 1: Identify Related Parties, Connected Persons, relevant transactions and arrangements and perform a comparability analysis accordingly

As stated in Section 3, a comparability analysis is at the heart of the application of the Arm’s Length Principle, which is based on a comparison of the conditions in a Controlled Transaction with the conditions that would have been met had the parties been independent and undertaking a comparable transaction under comparable circumstances.

A comparability analysis refers to the comparison of a Controlled Transaction with Comparable Uncontrolled Transaction(s). A Controlled Transaction and uncontrolled transactions are comparable if none of the differences between the transactions could materially affect the factor being examined in the methodology (for example price or margin), or if reasonably accurate adjustments can eliminate the material effects of any such differences.

A comparability analysis includes two key aspects:

a. Identifying the Related Parties, Connected Persons, commercial or financial relations between the Related Parties or Connected Persons and the conditions and economically relevant circumstances attaching to those relations in order that the Controlled Transaction is accurately delineated.
b. Comparing the conditions and the economically relevant circumstances of the Controlled Transaction as accurately delineated with the conditions and the economically relevant circumstances of Comparable Uncontrolled Transactions.

“Accurate delineation” refers to the recognition of the actual Controlled Transaction based on actual conduct over contractual form by analysing the functions performed, risks assumed and assets used by each party to the transaction.

This section provides guidance on identifying the commercial or financial relations between Related Parties or Connected Persons and on accurately delineating the Controlled Transaction.

5.1.1. Identification of the commercial and financial relations

The application of the Arm's Length Principle depends on identifying the conditions that independent parties would have agreed to in Comparable Uncontrolled Transactions. The economically relevant characteristics and circumstances can impact the conditions of a transaction between independent parties. Therefore, it is also important to identify and consider the economically relevant characteristics of the conditions of the Controlled Transaction and the circumstances in which the Controlled Transaction takes place.

In order to understand these economically relevant characteristics, it is important to identify the commercial and financial relations between the Related Parties or Connected Persons. The typical process of identifying these relations and the related conditions and circumstances generally requires the following:

1. Conducting a broad-based analysis of the industry sector (for example, mining, pharmaceutical, luxury or fast-moving consumer goods) in which the Group operates and other factors affecting performance of any businesses operating in that sector, for example, competition, economic and regulatory factors.
2. Along with gaining an understanding of the relevant industry, it is important to have a clear overview of the Group and how the Group responds to the factors affecting performance in the industry (including its business strategies, markets, products, its supply chain, and the key functions performed, material assets used, and important risks assumed).
3. Analysing what each Related Party does and their commercial or financial relations as expressed in the transactions between them.
4. Accurately delineating the actual transaction(s) between the Related Parties or Connected Persons through an analysis of the economically relevant characteristics (i.e. comparability factors) of the transaction. This will be essential in order to choose and apply the most appropriate Transfer Pricing method, in line with Article 34(5) of the Corporate Tax Law.

The economically relevant characteristics or the comparability factors are used in two phases of a Transfer Pricing analysis.

The first phase relates to the process of accurately characterising the Controlled Transaction by performing a comparability analysis, which involves establishing its terms, functions performed, assets used, and risks assumed by the Related Parties or Connected Persons, the nature of the products transferred or services provided, and the circumstances of the Related Parties or Connected Persons. The economic relevance of the comparability factors depends on the extent to which these characteristics would be taken into account by independent parties when evaluating the terms of the same transaction were it to occur between them.

Independent parties, when evaluating the terms of a potential transaction, will compare the transaction to the other options realistically available to them, and they will only enter into the transaction if they see no alternative that offers a more attractive opportunity to meet their commercial objectives. In other words, independent parties would only enter into a transaction if it is not expected to make them worse off than their next best option. For example, one party is unlikely to accept a price offered for its product by an independent party if it knows that other potential customers are willing to pay more under similar conditions or are willing to pay the same under more beneficial conditions. In making such an assessment, it may be necessary or useful to assess the transaction in a broader context, since assessment of the options realistically available to third parties is not necessarily limited to a single transaction but may take into account a broader arrangement of economically-related transactions.

The second phase relates to the process for the comparability analysis (set out in Section 5.3) on the comparison analysis between the Controlled Transactions and uncontrolled transactions to aid in determining an Arm's Length Price for the Controlled Transaction. During the selection of comparables, differences in economically relevant characteristics between the controlled and uncontrolled transactions need to be taken into account when establishing whether there is comparability between the situations being compared and what adjustments may be necessary to achieve comparability. These could be, for instance, unexpected situations such as the COVID-19 pandemic, Market Value fluctuations due to inflation or specificities due to a Related Party (newly established or loss-making due to specific circumstances).

After identifying the relevant commercial and financial relations, the comparability factors are analysed in detail below.

5.1.1.1. Contractual terms of the transaction

A transaction or arrangement is the expression of the commercial or financial relations between parties. Independent parties generally formalise transactions through written contracts which reflect the intention of the parties at the time the contract was concluded. Contracts typically include a description of responsibilities of the parties, its obligations and rights, assumption of identified risks, the pricing arrangements as well as terms and conditions associated with the goods or services covered.

When a Controlled Transaction has been formalised by Related Parties or Connected Persons through written contractual agreements, the agreement provides a starting point for delineating the transaction and determining how the responsibilities, risks, and anticipated outcomes arising from their interaction were intended to be divided at the time of entering into the contract.

In general, the written contracts alone may not provide all the information necessary to perform a Transfer Pricing analysis, or may not provide information regarding the relevant contractual terms in sufficient detail. In addition, the intention of the parties and key features of the intercompany arrangements may also be found outside of written contracts, for example, in emails, meeting notes, and other written correspondences between the parties. In such cases, the economically relevant characteristics in the other four categories listed above (functions performed, characteristics, economic circumstances and business strategies) will provide an important understanding of the actual conduct of the Related Parties or Connected Persons in relation to the Controlled Transaction under review.

In certain cases, no written contract exists or there may be a conflict between the written contract and actual conduct of the Related Parties or Connected Persons. In such cases, the below needs to be taken into consideration to identify the commercial and the financial relations between Related Parties or Connected Persons:

- Where a transaction has been formalised by Related Parties or Connected Persons in a written contract, the starting point of any analysis should begin with the contract.
- Where the conduct of the Related Parties or Connected Persons is not consistent with the terms of the written contractual agreement, further analysis of the actual conduct should be undertaken. Where there are material differences between the contractual terms and the actual conduct, the actual transaction should be determined based on the actual conduct.
- Where no written contractual agreement exists, the actual transaction is determined from the evidence of actual conduct of the Related Parties or Connected Persons provided by identifying the economically relevant characteristics of the transaction, including what functions are actually performed, what assets are actually used, and what risks are actually assumed by each of the Related Parties or Connected Persons. This analysis is further described in Section 5.1.1.2.

In the event taxpayers decide to maintain written inter-company agreements, they may consider adopting a simplified approach of maintaining them based on certain materiality thresholds, criticality of transactions and arrangements, etc. such that the cost and administrative burden do not outweigh the benefits. Contractual terms that are specifically related to risks are further described under step 2 of the six-step risk framework for analysing the risks in a Controlled Transaction (see Section 5.1.1.2 below).

5.1.1.2. Functional Analysis

In transactions between two independent parties, compensation usually reflects the functions that each enterprise performs, the assets it uses, and the risks it assumes. The same principle needs to be applied to transactions between Related Parties or Connected Persons. As such, a comprehensive Functional Analysis of the Controlled Transaction is required as part of a comparability analysis to delineate the transaction and determine comparability between the Controlled Transaction and uncontrolled transactions.

A Functional Analysis seeks to identify the economically significant activities and responsibilities undertaken, assets used or contributed, and risks assumed by the Related Parties or Connected Persons in a Controlled Transaction. The Functional Analysis focuses on the functions performed by the parties and the capabilities they provide to the Controlled Transaction. These functions and capabilities will include operational activities such as procurement, marketing, sales as well as decision-making (for example, business strategy and risks).

The analysis also considers the type of assets,[13] as well as the nature of the assets used.[14]

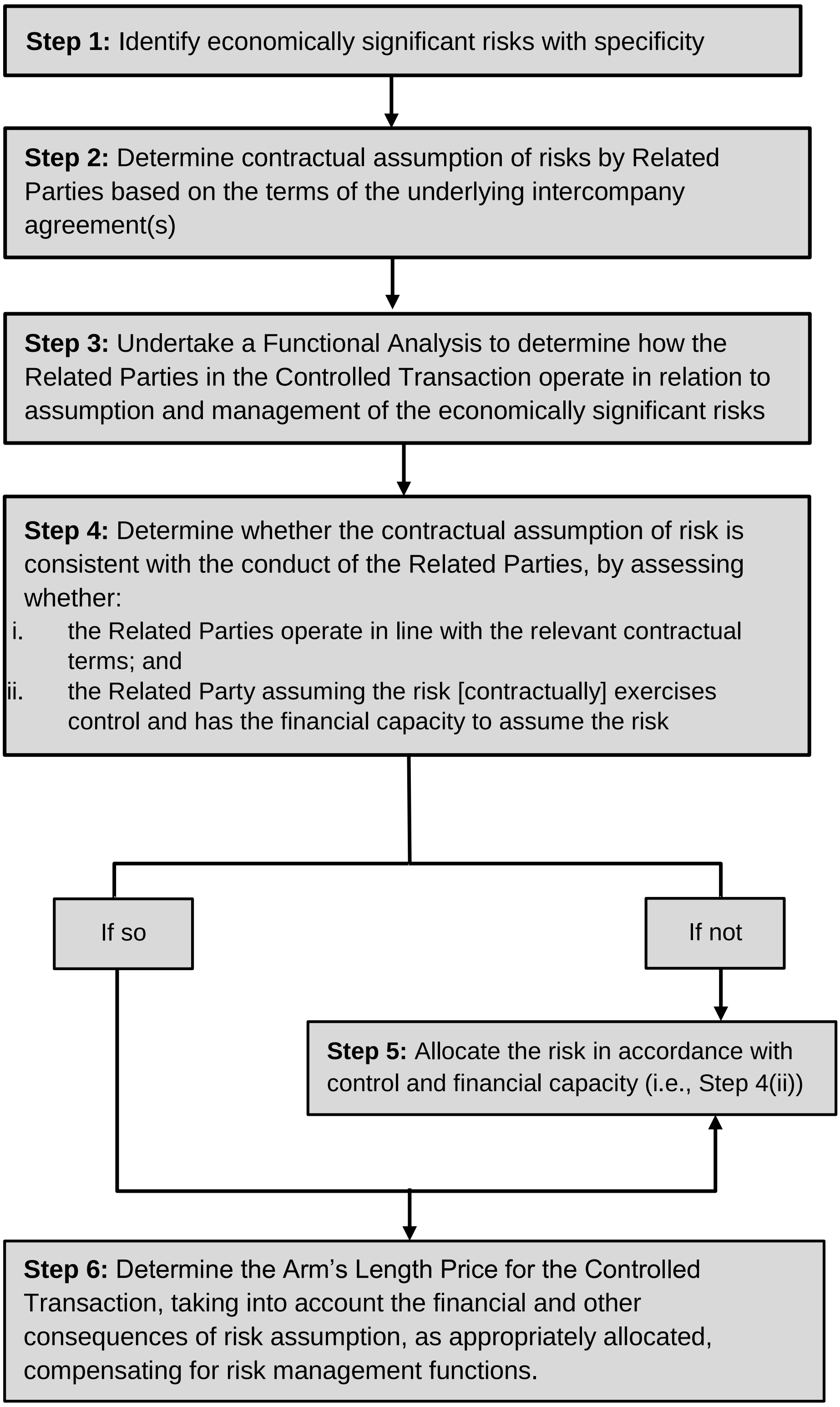
Further, the Functional Analysis will also consider the material risks assumed by each Related Party. Usually, in an open market, the assumption of increased risk would also be compensated by an increase in the expected return. Similarly, the actual assumption and allocation of risks between two Related Parties or Connected Persons would likely affect the pricing of the transaction, so the comparable transactions would also need to reflect the increased risk.

[13] Such as plant and equipment, valuable intangibles, financial assets, etc.

[14] Such as the age, market value, location, property right protections available, etc.

<u>Six-step risk framework</u>

There is a six-step process for analysing the risks in a Controlled Transaction, in order to accurately delineate the actual transaction in respect to those risks. This process is summarised as follows:



Before detailing this six-step process, the following terms need to be defined and understood:

- **Risk management:** This refers to the function of assessing and responding to risk associated with a commercial activity. Risk management comprises three elements:
  i. the capability to make decisions to take on, lay off, or decline a risk-bearing opportunity, together with the actual performance of that decision-making function,
  ii. the capability to make decisions on whether and how to respond to the risks associated with the opportunity, together with the actual performance of that decision-making function, and
  iii. the capability to mitigate risk, that is, the capability to take measures that affect risk outcomes, together with the actual performance of such risk mitigation.

- **Financial capacity to assume risk:** This can be defined as having the capital or funding to take on the risk or to lay off the risk, to pay for the risk mitigation functions and to bear the consequences of the risk if it materializes. Access to funding by the party assuming the risk takes into account the available assets and the options realistically available to access additional liquidity, if needed, to cover the costs anticipated to arise should the risk materialise.

- **Control over risk:** This involves the first two elements of risk management, that is (i) the capability to make decisions to take on, lay off, or decline a risk-bearing opportunity, together with the actual performance of that decision-making function, and (ii) the capability to make decisions on whether and how to respond to the risks associated with the opportunity, together with the actual performance of that decision-making function. Therefore, in order to exercise control over a risk, a party requires both capability and functional performance.

The six-step risk framework is further detailed below.

Step 1: Identify economically significant risks with specificity

There are many definitions of risk, but in the Transfer Pricing context it is appropriate to consider risk as the effect of uncertainty on the objectives of the business. In all of a company's operations, in every step taken to exploit opportunities, uncertainty exists, and risk is assumed. A company is likely to direct much attention to identifying uncertainties it encounters, in evaluating whether and how business opportunities should be pursued in view of their inherent risks, and in developing appropriate risk mitigation strategies which are important to shareholders seeking their required rate of return. No profit-seeking business takes on risk associated with commercial opportunities without expecting a positive return. The downside impact of risk occurs when the anticipated favourable outcomes fail to materialise. For example, a product may fail to attract as much consumer demand as projected in practice.

Risks can be categorised in various ways, but a relevant framework in a Transfer Pricing analysis is to consider the sources of uncertainty. Examples of these risk categories include strategic, operational, financial, transactional or hazard risks.

It is important to ensure that risks are not vaguely described or undifferentiated in the contract or arrangement as this may lead to difficulties in making appropriate allocations of these risks in a Transfer Pricing analysis.

Step 2: Identify the contractual assumption of risk

The identity of the party or parties assuming risks is generally set out in written contracts between the parties to a transaction. A written contract typically sets out an intended assumption of risk by the parties, but some risks may be explicitly assumed. For example, a distributor might contractually assume accounts receivable risk, inventory risk, and credit risks associated with the distributor’s sales to unrelated customers. Other risks related to that particular type of transaction might be implicitly assumed. For example, in the case of a contract that guarantees a certain level of remuneration to one of the parties would also implicitly pass on the outcome of some risks to that other party, such as unanticipated profits or losses.

The assumption of risk has a significant effect on determining the Arm’s Length Price between Related Parties or Connected Persons, and it should not be concluded that the pricing arrangements adopted in the contractual arrangements alone determine which party assumes risk. The remaining steps of the risk framework focus on determining how the parties actually manage and control risks, which determines the assumption of risks by the parties, and impacting the selection of the most appropriate Transfer Pricing method to be applied in a particular transaction.

Step 3: Functional Analysis in relation to risk

In this step, the focus is on the functions relating to the risk undertaken by the Related Parties or Connected Persons. The analysis provides information about how the Related Parties or Connected Persons operate with respect to the assumption and management of the specific, economically significant risks, and in particular which parties perform control functions and risk mitigation functions, encounter upside or downside consequences of risk outcomes, and have the financial capacity to assume the risk in the context of the Controlled Transaction.

Step 4: Risk analysis

Carrying out steps 1-3 above involves gathering of information relating to the assumption and management of risks in the Controlled Transaction. The next step is to analyse the information collected and to determine whether the contractual assumption of risk is consistent with the actual conduct of the parties and the other facts of the case by evaluating whether:

i. the Related Parties or Connected Persons follow the contractual terms; and
ii. the party assuming risk, as analysed under (i), exercises control over the risk and has the financial capacity to assume the risk.

The significance of step 4 will depend on whether the risk analysis leads to significant findings that have not been identified before. Where a party contractually assuming a risk applies that contractual assumption in its conduct, and also both exercises control over the risk and has the financial capacity to assume the risk, then the next step to consider is step 6 (disregarding step 5 on allocation of risk).

Where differences exist between contractual terms related to risk and the actual conduct of the Related Parties or Connected Persons which are economically significant and would be taken into account by third parties in pricing the transaction, the Related Parties' or Connected Persons' actual conduct should generally be taken as the best evidence concerning the intention of the Related Parties or Connected Persons in relation to the assumption of risk. In such a case, it is necessary to review the allocation of risk (step 5 of this risk framework).

Step 5: Allocation of risk

If it is established that the Related Parties or Connected Persons contractually assuming the risk do not exercise control over it or do not have the financial capacity to assume such risk (under step 4(ii)), then the risk should be allocated to the party exercising control and having the financial capacity to assume it. If multiple Related Parties or Connected Persons are identified as exercising control and having the financial capacity to assume the risk, then the risk should be allocated to the Related Parties or group of Related Parties exercising control over the risk in a predominant manner. When allocating the risk, the other parties performing risk control activities should be remunerated appropriately, considering the importance of the risk control activities performed.

Step 6: Pricing Controlled Transactions considering the consequences of risk allocation

Once the above steps are completed, the Controlled Transaction should then be priced in accordance with the tools and methods set out in the following sections of this Guide and considering the financial and other consequences of risk-assumption, and the remuneration for risk management. In order to be commercially reasonable, the assumption of a risk should be compensated with an appropriate return, and risk mitigation should be appropriately remunerated. Thus, a Person that both assumes and mitigates a risk will be entitled to greater anticipated remuneration than a Person that only assumes or only mitigates a risk but does not carry both.

Overall, when analysing risks, the FTA expects Persons to observe the following:

1. Conduct a thorough Functional Analysis to determine what risks have been assumed, what functions are performed that relate to or affect the assumption or impact of these risks and which party or parties to the transaction assume these risks. This is important even in cases where the effect of the risks assumed are not apparent in the financial statements as this does not necessarily indicate that the risks do not exist, but rather, it could mean that the risks have been effectively managed.
2. The pricing of the actual transaction should take into account the financial and other consequences of risk assumption, as well as the remuneration for risk management. A Person who assumes a risk is entitled to the upside benefits at the same time it incurs the downside costs.
3. To assume a risk for Transfer Pricing purposes, the Person needs to control and have the financial capacity to assume the risk.

5.1.1.3. Contribution to the value chain

Entities in a Group will generally conduct various activities and collaborate to deliver the relevant product or service to the Group's customers. Some of the activities are more impactful and contribute greater value to the overall profit or success of the business, whereas other activities may be more routine or supportive in nature. As an example, activities that contribute to the intellectual property of a Group and to its value creation will typically be higher value functions than the back-office support functions. The manner in which value is added at each stage in creating a product or service is known as the value chain.

Different industries and business models will have different value chains and key value drivers. As part of the Functional Analysis, it is, therefore, important to understand the relative value and contributions of each Related Party to the overall value chain of a business and the relevant product or service.

The findings of the Functional Analysis define the roles of each Related Party and assign a functional characterisation, ranging from entrepreneurial to low or no-risk entities based on the functions performed, assets employed, and risks assumed by each party.

5.1.1.4. Practical guidance for undertaking a Functional Analysis

Understanding the functions performed, assets used, and risks assumed by the parties to the transaction through a Functional Analysis assists in understanding the contribution of these parties to the value chain and, therefore, in arriving at the appropriate compensation for their activities (see Section 5.3 for further details).

As a practical guide when conducting a Functional Analysis, a functional organisation chart could be prepared for each of the parties involved in the Controlled Transaction. This functional organisation chart should identify the relevant departments and personnel within the organisation together with the functions that they perform. For the personnel, stating the title is not sufficient; information is required on the functions performed (for example, via a job description) and the actual conduct of such personnel, and on how the compensation is structured etc.

A Functional Analysis may begin by undertaking an interview with the relevant departments and personnel, and questionnaires are generally used as an indicative guide to the interviews.

Example 6: Samples of Functional Questionnaires

Table 1 below shows an example of a sample list of questions that may be considered relevant for performing a Functional Analysis for a manufacturing entity. This list is not intended to be exhaustive and should be amended to cover the relevant aspects of the specific industry, characteristics of the Business of the Person, and the nature of the Controlled Transaction being analysed. Further, these types of questions are typically used as an indicative guide to undertaking Functional Analysis interviews, and are generally not followed verbatim during such interviews.

Table 1: Sample Functional Questionnaire - Functions (Manufacturer)

Functions	Questions
Planning	• Who is responsible for preparing and approving budgets? • Who is responsible for scheduling decisions? • Do distributors buy all products manufactured?
Manufacturing	• What is the manufacturing process? • What is being manufactured? • What equipment is used in the manufacturing process?
Procurement	• Where and how are raw materials purchased? • What materials or partly finished goods are purchased? • Who performs the procurement activities? Who approves the vendors?

	• What is the procurement process involved?
Sales	• What is the sales process including pre-sales and after sales activities? • How long is the sales process and how complex or simple is it? • Which party contracts with, and invoices the customers? • Which employees determine the projects and set the sales targets? If this is done by multiple employees in the team, please describe the role of each of these employees. • Which employees negotiate the sales contracts with customers? • What are the risks related to the demand of the products and which employees manage such risk? • What is the typical length of customer contracts?
Shipping	• Who pays freight charges for the products? • Which employee(s) is(are) responsible for negotiating with shippers and selection of shippers? • Who is responsible for the shipping deadline? • Who arranges for the shipping of the products?
Quality Control	• What form of quality control is applicable? • Which employees set the quality standards and procedures? • Who performs and bears the costs for the quality control? • How many products are rejected by customers due to the product being considered 'below standard'? • Which entity bears the loss in relation to defective products?
Warehousing	• Where and how is stock held? • Which employee(s) control(s) and manages the levels of inventory? • How many days of inventory are in general applicable? • What happens with excess stock and which Person bears the risks relating to excess stock?

In addition to the above functions, businesses may also employ tangible and intangible assets in their activities.

Continuing with the above example, a manufacturing entity may use the following assets that should be evaluated in a Functional Analysis:

Table 2: Sample Functional Questionnaire – Assets (Manufacturer)

Type	Description
Tangible (Routine and non-routine)	• Any heavy machinery or equipment? • Any plant? • Any warehouse? • Any office equipment or computers?
Intangible (Routine and non-routine)	• Any technology? • Any know-how? • Any software?

Finally, a manufacturing entity may also assume the following risks which would need to be considered as part of the 6-step risk framework:

Table 3: Sample Functional Questionnaire - Risks (Manufacturer)

Type	Description
Credit Risk	Credit risk can represent the financial loss that would be recognised at the reporting date if counter parties failed completely to meet their contractual payment obligations, for example, bad debt or overdue receivables from the manufacturer's customers.
Foreign Exchange Risk	Foreign exchange risk occurs when there is a mismatch in the currency of the Controlled Transaction, reporting currency, or currency of significant revenues or expenses, for example, exchange rate movements resulting in material increase in cost of imported raw materials obtained in the foreign currency.
Market Risk	Market risk relates to market factors that may impact the profits of the business. Market risk may arise due to increased competition and relative pricing pressures of the manufactured product, change in demand patterns and needs of customers for the product manufactured, and the inability to develop/penetrate a market.
Inventory Risk	Inventory risk relates to the inventory held by a company that becomes obsolete or physically damaged before the manufactured product is sold.
Product Liability Risk	Product liability risk is associated with product failures including non-performance to generally accepted or regulatory standards. This could result in product recalls and possible injuries to end-users.

Below is an example of a high-level Functional Analysis of a manufacturer whose products are distributed by a Related Party. This example is illustrative and simplified (as compared to a full Functional Analysis) in order to highlight the key areas that are important in undertaking such an analysis.

Example 7: Functional Analysis of manufacturing entity Company A

Overview

The Functional Analysis example below focuses on Company A which is a manufacturer of microchips based in country X. Company A operates through a network of subsidiaries in multiple countries, engaged in the global distribution of microchips produced by Company A in country X.

Functions performed

Research and Development

Company A has an R&D department comprised of 50 full time employees, headed by a technical director who reports directly to Company A's board of directors based in country X. The department operates through teams engaged in technical functions related to the development, enhancement and maintenance of the hardware and software aspects of the microchips produced by Company A.

Sourcing

Company A has a procurement department staffed with 50 full time employees who have extensive experience in sourcing raw materials in the technology development industry. Working closely with the finance and legal department at Company A, this team undertakes end-to-end vendor due diligence and onboarding, including functions related to vendor identification, reviews, negotiations, selection and relationship management. In addition, the department manages purchase planning and scheduling, inbound logistics and preliminary quality and specification control in relation to the sourced raw materials.

Manufacturing

Company A owns and operates special purpose manufacturing assets and facilities for production of its branded microchips in country X. The facility is operated by a team of 3 engineers, 7 technicians and 40 assembly staff, led by the company's Director of Engineering. The facility incorporates patented production processes based on in-house designed components, which gives Company A its competitive advantage and differentiates its products in the market. Capacity utilisation and production planning is managed by Company A’s Director of Engineering in alignment with the company’s board of directors.

Inventory management

Company A owns and operates a warehouse for storage of raw materials and finished products in country X. Company A has developed inventory management policies implemented at the level of country X, as well as in the overseas territories where the distribution subsidiaries are located. The policy features standard operating procedures for stock management, re-orders, planning and risk management. Company A monitors performance of the distributors in terms of compliance with the inventory management policies. Three employees of Company A are responsible for inventory management.

Quality control

Company A’s preliminary controls are undertaken by its procurement team at the point of raw material sourcing. Subsequent controls are integrated into the manufacturing process, with sample tests and technical evaluations of semi-finished and finished products conducted before they are transferred to the packaging lines. Company A’s quality control framework also includes reporting standards and procedures which must be completed before batches are shipped out to the distributors. 5 employees of Company A perform the quality control function.

Logistics

Company A enters into long term multi-territory contracts to work with third party transportation and logistics services providers who provide outbound logistics support in transporting the finished goods to the distributors. The selection of other in-country logistics service providers subcontracted by the distributors is subject to review and approval of Company A. Company A also bears insurance costs related to global freight risk. 10 employees of Company A perform the logistics function.

Marketing

Company A’s marketing team develops the group marketing strategy and identifies and targets new customers through tailored promotions for each country. Company A has three full time employees in the marketing team. The distributors provide on-ground market intelligence which may inform Company A’s product customisations for their respective markets. Local campaigns are run on marketing materials centrally prepared in line with the global brand guidelines set and periodically reviewed by Company A.

Sales and distribution

All of Company A's products are sold through its network of Related Party and third-party distributors in both wholesale and retail channels. Sales are store-led and are also made through third party online marketplaces. 30 individuals employed by Company A are responsible for this function.

Sales projections and targets

Company A develops the global sales strategy, budget and targets, taking into account local market inputs from the distributors who provide information on market developments in their respective territories. Company A may revise the targets during a given period at its discretion. 10 individuals employed by Company A are responsible for this function.

Pricing

Company A is responsible for determining the pricing policy and profit margins at which its products are sold. Pricing is determined based on various market forces, costs incurred and global competitive landscape. Company A also sets the global discount policies and sales promotional offers whereby any local market deviations are subject to approval of the Commercial Director who is employed by Company A. 3 individuals employed by Company A are responsible for this function.

Working capital financing and management

Company A's finance department manages global cash flow and liquidity positions, determines sources and the nature of external financing. Company A also determines the receivables and collection policies implemented globally, monitors movements in distributors' inventory levels, holding costs and outstanding payables from a liquidity management perspective. 20 individuals employed by Company A are responsible for this function.

Customer relationships

Company A defines the guidelines and policies for key account management globally. Global priority accounts are directly maintained at the level of Company A, with local coordination and assistance provided by the distributors. Company A maintains direct lines of communication with its key accounts. The distributors manage routine customer enquiries and support related issues in line with the guidelines set by Company A. Critical customer concerns are directed upwards to Company A on case-by-case basis. Company A maintains a database of global customer lists.

After sales services

The distributors provide after-sales support services, mostly with regards to registering customer complaints / enquiries, provide support to customers with regard to defective product claims and product recalls. Significant complaints / claims are reported upwards. Company A bears the costs associated with customer claims and returns.

Assets employed

Tangible assets

Company A owns significant manufacturing and storage facilities including its factories, equipment and warehouses. The distributors operate through leasehold properties, utilising routine tangible assets such as office fixtures and related equipment.

Intangible assets

All patents and branding elements used by the group are developed by Company A and registered under the legal name of Company A. The distributors do not own any significant intangible assets.

Risks assumed

Market risk

This relates to the risks of losses arising from movements in the market variables like prices, volatility, increased competition in the marketplace, adverse demand conditions or the inability to develop markets or position products to service targeted customers.

Inventory risk

Inventory risk relates to the losses associated with carrying raw material or finished product inventory. Losses include obsolescence, shrinkage, destruction, or market collapse such that products are only saleable at prices that produce a loss.

R&D risk

This is the risk that the efforts devoted to the innovation, and improvement of its products and processes.

Forex risk This is the risk of expected and unexpected gains or losses on foreign currency fluctuations. Capacity utilisation risk This risk is associated with inefficiency in utilising the production capacity which adversely affects the manufacturing process. Product liability risk Product liability risk refers to a supplier's exposure to losses due to failure of its products to perform as represented to customers. Functional characterisation Based on the above summary of functions performed, assets used and risks assumed, Company A can best be characterised as a full-fledged manufacturer, while the Related Party distributors can be characterised as a routine distributor.

5.1.1.5. Characteristics of property or services

Differences in specific characteristics of property or services often account for the differences in their value in the open market. Comparisons of these features may be useful in delineating the transaction and determining the comparability of Controlled and uncontrolled transactions. Nevertheless, the importance given to this comparability factor depends on the Transfer Pricing method used.

In general, similarity in characteristics of the property or services will matter most when comparing prices of Controlled Transactions and uncontrolled transactions using the Comparable Uncontrolled Price ("CUP") method, which is a traditional transaction Transfer Pricing method and one of the five internationally accepted Transfer Pricing methods (see further in Section 5.2.2) and less when comparing profit margins in other Transfer Pricing methods. This is because profit margins generally correlate more with the functions performed, assets used and risks assumed by the tested party. The tested party is the party chosen in the Controlled transaction to which a Transfer Pricing method is applied in the most reliable manner.

Characteristics of property or services that may be important to consider in a comparability analysis include the following:

- for tangible property, the physical features, quality and reliability, and the availability and volume of supply;

- for provision of services, the nature and extent of the services; and
- for intangible property (for example, patents, trademarks, know how), the type and nature of the intangible property, the duration and degree of protection, and the anticipated benefits from the use of the intangible property.

The fact that the specific characteristics of property or services have a more significant weight when applying some of the Transfer Pricing methods than others does not mean that these characteristics can be ignored when applying methods that measure profit margins, because it may be that product differences entail or reflect different functions performed, assets used and/or risks assumed by the tested party.

5.1.1.6. Economic circumstances

Arm’s length prices may vary across different markets even for transactions involving the same property or services. Therefore, to achieve comparability, it is required that the markets in which the independent and Related Parties or Connected Persons operate are comparable and that differences do not have a material effect on price or that appropriate adjustments can be made. As a first step, it is essential to identify relevant markets taking into account available substitute goods or services.

Economic circumstances that may be relevant to determining market comparability include geographic location; the size of the markets; the extent of competition in the markets and the relative competitive positions of the buyers and sellers; the availability of substitute goods and services; and the levels of supply and demand in the market as a whole and within regions.

5.1.1.7. Business strategies

Business strategies outline the actions and decisions a company plans to take to reach its goals and objectives and must be examined when determining comparability for Transfer Pricing purposes. Business strategies take into account many aspects of an enterprise, such as innovation and new product development, degree of diversification, risk aversion, assessment of political changes, input of existing and planned labour laws, duration of arrangements, and other factors bearing upon the daily conduct of business.

Business strategies could also include market penetration schemes. A Person seeking to penetrate a market or increase its market share might temporarily charge a price for its product that is lower than the price charged for otherwise comparable products in the same market. Furthermore, a Person seeking to enter a new market or expand its market share might temporarily incur higher costs and, hence, achieve lower profits levels than other Persons operating in the same market.

An additional consideration is whether there is a plausible expectation that following the business strategy will produce a return sufficient to justify its costs within a period of time that would be acceptable in an arm's length arrangement. It is recognised that a business strategy such as market penetration may fail, and the failure does not in itself allow the strategy to be disregarded for Transfer Pricing purposes. However, if such an expected outcome was implausible at the time of the transaction, or if the business strategy is unsuccessful but nonetheless continues to run beyond what an independent party would expect, the arm's length nature of the business strategy may be questioned.

Following the guidance provided above, the Transfer Pricing analysis will identify the substance of the commercial or financial relations between the Related Parties or Connected Persons, and will accurately delineate the actual transaction by analysing the economically relevant characteristics or comparability factors.

5.1.2. Other considerations

Depending on the facts and circumstances, other factors may also be relevant in a comparability analysis. These factors may include government policies such as subsidies or price interventions, cost savings attributable to operating in a particular market, a unique assembled workforce, the impact of customs valuations, MNE group synergies. The impact of such factors on the price or profit of the Controlled or uncontrolled transaction should also be taken into consideration.

Special considerations should also be made when a Related Party consistently makes losses while the MNE Group as a whole is profitable. Parties to an MNE Group, such as independent parties, can sustain genuine losses, for a range of reasons, such as start-up costs, unfavourable economic conditions, inefficiencies, or other legitimate factors. However, independent parties would not be prepared to tolerate losses that continue indefinitely. An independent party that experiences recurring losses will eventually cease to undertake business on such terms. In contrast, Related Parties or Connected Persons that realise losses may remain in that loss-making business if the business is beneficial to the MNE Group as a whole.

In the case of an entity that is consistently realising losses while the MNE Group as a whole is profitable, the facts around its operations and conduct as well as its Controlled Transactions need to be further analysed to confirm whether the entity is receiving adequate compensation from the MNE Group in relation to the benefits derived from its activities. To confirm this, the FTA expects the Person to submit (when requested) documentation which demonstrates that the losses are not due to the impact of non-arm's length Controlled Transactions.[15]

[15] Article 55(4) of the Corporate Tax Law.

There are many factors which may result in losses. Thus, the FTA may request any additional documentation to understand the circumstances resulting in the losses as it sees fit.

5.2. Step 2: Selection of the most appropriate Transfer Pricing method

5.2.1. Transfer Pricing methods

Transfer Pricing methods are used to establish whether Controlled Transactions are conducted at arm's length. Transfer Pricing methods provide clear guidelines for MNEs and tax authorities in determining the appropriate pricing of Controlled Transactions. These methods apply the findings from the comparability analysis (see Section 5.1) to evaluate the transfer prices or profits of the Related Parties or Connected Persons involved in a Controlled Transaction against the prices or profits of independent parties in Comparable Uncontrolled Transactions.

There are five internationally accepted Transfer Pricing methods detailed in the OECD Transfer Pricing Guidelines and internalised under Article 34(3) of the Corporate Tax Law.

The Comparable Uncontrolled Price (CUP) Method, the Resale price Method ("RPM") and the Cost plus Method ("CPM") are considered traditional transaction methods and regarded as the most direct means of establishing whether conditions in the commercial and financial relations between Related Parties or Connected Persons are at arm's length. This is because any difference in the price of a Controlled Transaction from the price in a Comparable Uncontrolled Transaction can normally be traced directly back to the commercial and financial relations between the parties and the arm's length conditions can be established by directly substituting the price in the Comparable Uncontrolled Transaction for the price of the Controlled Transaction.

The Transactional Net Margin Method ("TNMM") and the Profit Split Method ("PSM") are considered transactional profit methods, which are relevant in cases where each of the parties makes valuable and unique contributions in relation to the Controlled Transaction, or where the parties engage in highly integrated activities, and where there is limited or no publicly available data on third parties. In these situations, where both parties to a transaction contribute with unique and valuable functions, a two-sided method may be more appropriate than a one-sided method.

More details and examples for each method are provided below.

5.2.1.1. The Comparable Uncontrolled Price method

The CUP method compares the price charged for property or services transferred in a Controlled Transaction to the price charged for property or services transferred in a Comparable Uncontrolled Transaction in comparable circumstances. Similar pricing between the Controlled Transaction and uncontrolled transaction(s) would indicate that the Controlled Transaction has taken place at arm's length. On the other hand, if there are material differences in the pricing, this would likely indicate that the price of the Controlled Transaction should be adjusted to align with the price of the uncontrolled transaction between independent parties.

Given that the CUP method involves a comparison of prices charged in Related Party transactions and in comparable third-party transactions, it is typically the most direct way to apply the Arm's Length Principle where such data is available. However, the method is reliant on the comparability of available data relating to comparable transactions to ensure its effectiveness.

There is no absolute hierarchy in relation to applying traditional transaction methods. However, traditional transaction methods are regarded as the most direct way of establishing whether transactions and arrangement between Related Parties and Connected Persons are in accordance with the arm's length standard.

While undertaking comparability analysis of the Controlled Transactions, if it is found that the Comparable Uncontrolled Price ("CUP") method and another Transfer Pricing method can be applied in an equally reliable way, the CUP method should be the preferred Transfer Pricing method for determining the arm's length result.

Where the CUP method is applied, the Controlled Transaction may be compared to an internal or an external Comparable Uncontrolled Transaction, depending on the circumstances:

- **Internal CUP:** where the Arm's Length Price of a Controlled Transaction is determined by the price of a similar transaction between one of the Related Parties or Connected Persons and a third party(ies).
- **External CUP:** where the Arm's Length Price of a Controlled Transaction is determined by the price of a similar transaction between two or more third parties.

An uncontrolled transaction is considered comparable to a Controlled Transaction where one of the following conditions is met:

- None of the differences that may exist between the Controlled Transaction and uncontrolled transaction or the parties undertaking those transactions could materially affect the market price of the transaction in the open market; or
- Where such differences exist, reasonably accurate adjustments can be made to eliminate any material effects on the price of the transaction resulting from such differences.

In this sense, a number of factors should be considered when determining the comparability of Controlled and uncontrolled transactions, which may include, but is not limited to:

- the type of good or service being transacted;
- the timing of the transaction; and
- the contractual terms of the transaction.

Example 8: Application of external CUP

Company S is the parent company of an MNE Group headquartered in the UAE. It is in the business of trading in listed securities on a UAE Recognised Stock Exchange.

It holds listed securities with a Market Value of AED 50 million, which it sells to a wholly owned subsidiary Company T in country X for AED 22 million. This is significantly lower than the Market Value.

In this case, the application of external CUP method is considered appropriate as it can reliably provide the arm's length result of the transaction between Company S and Company T by reference to the comparable uncontrolled arrangements represented by the quoted Market Value on the stock exchange. A sum of AED 28 million (i.e. AED 50 million – AED 22 million) should be added while calculating the Taxable Income of Company S.

Example 9: Comparability adjustment in applying the internal CUP method

Company A is a UAE based furniture manufacturer which produces and sells armchairs to a Related Party (Subsidiary Company B) and unrelated parties. The armchairs are of a similar type and quality. Other facts in relation to the transactions are summarised below:

- During the period, Company B purchased 100 armchairs from Company A at AED 500 per unit.
- During the same period, Company A sold 1,000 armchairs to an unrelated party (Company X) at AED 450 per unit, in line with Company A's discount policy - a discount of 10% for orders exceeding 500 units (AED 50 discount per product; AED 450 being the discounted price).
- In this scenario, the internal CUP may be applied in determining the Arm's Length Price of the Controlled Transaction as follows:

Comparability factor	Status	Details

Type of good	Comparable	Company A sold similar armchairs to both Company B and the unrelated party.
Timing	Comparable	The Controlled and uncontrolled Transactions were undertaken during the same period.
Contractual Terms	Comparable	The discount policy applies to sales to Related Parties, Connected Persons and unrelated parties.
Quantity	Uncomparable	Company B's order quantity was significantly lower and did not qualify for the discount.
Price per unit	Uncomparable	While the discount policy is the same, the price has been impacted by the difference in quantity which determined the application of the discount.

The application of the quantity discount has materially affected the price from a comparability standpoint, but comparability adjustments can be made to neutralise this effect.

Based on the facts above, the below adjustment to the price of the Uncontrolled Comparable Transaction would be appropriate:

Details	Company B	Company X
Order quantity (units)	100	1,000
Price per unit	AED 500	AED 450
Comparability adjustment (Add back discount at 10%)	-	AED 50
Adjusted price per unit	AED 500	AED 500

As indicated in the earlier example material differences between the Controlled Transactions and the Comparable Uncontrolled Transactions may be addressed through adjustments. However, if a reasonably accurate adjustment cannot be made, the reliability of the CUP method would be reduced, and it might be necessary to select another method instead.

Depending on the facts and circumstances of the Controlled and uncontrolled transactions, certain differences such as geographical market, existence or utilisation of valuable intangibles, functional differences, and significant contractual differences may make it impossible to reliably make sufficient comparability adjustments. In these cases, it would also be appropriate to consider another direct method to price transactions or perform a corroborative analysis based on a distinct transactional method.

Application of the CUP method for commodity transactions

The CUP method is typically the most widely used Transfer Pricing method for establishing the Arm's Length Price for the transfer of commodities between Related Parties or Connected Persons.

The reference to commodities encompasses physical products for which a quoted price is used as a reference by independent parties in the industry to set prices in uncontrolled transactions. The term 'quoted price' refers to the price of the commodity in the relevant period obtained in an international or domestic commodity exchange market. In this context, a quoted price also includes prices obtained from recognised and transparent price reporting or statistical agencies or from governmental price setting agencies. Such indexes are used as a reference by unrelated parties to determine prices in transactions between them.

In applying the CUP method for commodities, the economically relevant characteristics for comparison include, among others, the physical features and quality of the commodity, the contractual terms of the Controlled Transaction, such as volumes traded, period of the arrangements, the timing and terms of delivery, transportation, insurance, and foreign currency terms. For some commodities, certain economically relevant characteristics (for example, prompt delivery) may lead to a premium or a discount in the price applied. Where there are differences between the conditions of the Controlled Transaction and the conditions of the uncontrolled transactions or the conditions determining the quoted price for the commodity that materially affect the price of the commodity transactions being examined, reasonably accurate adjustments should be made for comparability purposes.

Where the quoted price for the commodity is relied upon in determining the Arm's Length Price of a controlled commodity transaction, it is critical to examine the extent to which these quoted prices are commonly used in the ordinary course of business in the industry to agree prices for Uncontrolled Comparable Transactions. Other comparability factors and economically relevant characteristics which may impact the price (including physical features, quality, quantity, timing, shipping terms etc.) should also be considered.

In addition, the market prices agreed to in uncontrolled commodity transactions are typically inextricably linked to the specific time or date of the underlying transactions. Therefore, the specific time and date of the quoted price linked to the transaction is a key factor when analysing the price for commodities in Related Party transactions including when applying the CUP method to price a controlled commodity transaction. The Person should provide reliable evidence that the date and time of the quoted prices relied upon for benchmarking purposes are comparable to the date and time of the Controlled Transaction. Such evidence may include proposals and acceptances, contracts, data downloads from commodity exchanges or other documents setting out the terms of the arrangements.

5.2.1.2. The Resale Price Method

The RPM is based on the price at which a product, that has been purchased from a Related Party, is resold to an independent party. The resale price would be reduced by the gross "Resale Price Margin", as well as any other costs associated with the transaction, to provide an Arm's Length Price for the original transaction between the Related Parties or Connected Persons. The "Resale Price Margin" represents the amount out of which a reseller would seek to cover its selling and other operating expenses and, in the light of the functions performed (taking into account assets used and risks assumed), to make an appropriate profit.

Typically, the RPM is applied to the reseller involved in the Controlled Transaction to compare the margins of the reseller in the Controlled Transaction to the margins earned in a comparable uncontrolled transaction, where the reseller adds relatively little value to the property being transacted. The more value the reseller adds to the property, the less appropriate it would be to apply the RPM to determine the Arm's Length Price of the transaction. This is especially so where the reseller contributes significantly to creating or maintaining intangible properties, such as trademarks or trade names or other marketing intangibles, in its activities. Thus, when applying the RPM, the tested party would ideally not own valuable intangible property.

Given the above, the RPM is often the most appropriate method where it is applied to distribution and marketing operations.

In applying the RPM, the reseller should select a Comparable Uncontrolled Transaction in which the Resale Price Margin earned by the independent reseller(s) can be reliably identified. The identified margins could serve as a benchmark to determine an arm's length Resale Price Margin in that Controlled Transaction.

Where the RPM is applied as a one-sided method, the Controlled Transaction may be compared to an internal or an external Comparable Uncontrolled Transaction depending on the circumstances:

- **Internal comparable:** where the arm's length Resale Price Margin of the reseller in the Controlled Transaction is determined by the Resale Price Margin of a similar transaction between the same reseller and an independent party.
- **External comparable:** where the arm's length Resale Price Margin of a Controlled Transaction is determined by the Resale Price Margin of a similar transaction between two independent parties.

An uncontrolled transaction is comparable to a Controlled Transaction (i.e. it is a Comparable Uncontrolled Transaction) for the purposes of the RPM if one of the two following conditions is met:

- None of the differences that may exist between the controlled and uncontrolled transaction or the parties undertaking those transactions could materially affect the Resale Price Margin in the open market; or
- Where such differences are observed, reasonably accurate adjustments may be made to eliminate any material effects resulting from such differences.

In making comparisons for the purposes of the RPM, generally fewer adjustments are needed to account for differences than under the CUP method, because minor product differences are less likely to have as material an effect on profit margins as they do on price. While less product comparability may be required in using the RPM, it remains the case that closer comparability of products will produce better results.

A Resale Price Margin is more accurate where it is realised within a short time of the reseller's purchase of the goods. The more time that elapses between the original purchase and the resale, the more likely it is that other factors - changes in market, in rates of exchange, in costs etc - will need to be taken into account in any comparison.

Where the reseller is clearly carrying on a substantial commercial activity in addition to the resale activity itself, then a reasonably substantial Resale Price Margin might be expected. The Resale Price Margin should also be expected to vary according to whether the reseller has the exclusive right to resell the goods. Exclusive rights arrangements are found in transactions between independent parties in practice and tend to influence the margin.

Further, when applying the RPM, the following should be considered:

<u>Operational comparability</u>

When the Resale Price Margin used is that of an independent party in a comparable transaction, the reliability of the RPM may be affected if there are material differences in the ways the Related Parties or Connected Persons and independent parties carry out their business. Such differences could include those that affect the level of costs taken into account (for example, the differences could include the effect of management efficiency on levels and ranges of inventory maintenance), which may well have an impact on the profitability of an enterprise but may not have an impact on the price it buys and sells its goods and services for on the open market. Thus, material operational differences in the way the business is carried out should be analysed in determining whether an uncontrolled transaction is comparable for the purposes of applying the RPM.

Comparability of functions performed, assets used and risks assumed

The nature of the functions performed, assets used, and risks assumed in any transaction can substantially affect the amount of gross margin earned in that transaction. Accordingly, for the purposes of using the RPM, it is recommended to evaluate the comparability of these factors in both the Controlled Transaction and the selected Comparable Uncontrolled Transaction. If any material differences are noted, necessary adjustments should be made to account for such differences.

The impact of accounting practices

Measurement and recognition of the items that impact the way the Resale Price Margin is calculated may differ from one enterprise to another due to varying accounting practices. For example, while an item of cost may be accounted for as an operating expense in the Controlled Transaction, the same item of cost may be accounted for as cost of sales in the uncontrolled transaction. Where such differences exist, using the Resale Price Margin without making the appropriate adjustments is likely to result in miscalculated profit margins. Necessary adjustments should be made to eliminate the effect of any material accounting practice differences.

Example 10: Application of the RPM

Company A, a Free Zone entity incorporated in the UAE, sells goods to a Related Party based in the UAE mainland, Company B, at a price of AED 450.

An independent entity, Company X, purchases similar goods from third parties for AED 400.

Both Company X and Company B subsequently resold to third party customers at a price of AED 500.

Income statement [Extract]	Company B	Company X
Sales Price (AED)	500	500
Purchase Price (AED)	(450)	(400)
Gross Profit (AED)	50	100
Resale Price Margin	10%	20%

Company B’s profit on the resale of the goods is AED 50, hence the Resale Price Margin is 10%. Had Company B purchased the goods from a third party, the profit on resale would have been AED 100 and the Resale Price Margin would have been 20%.

In the absence of any differences in the economic conditions of the controlled and independent transactions, the difference in the Resale Price Margin demonstrates that the Controlled Transaction between Company A and Company B did not occur at arm's length.

However, the Functional Analysis of the Controlled Transaction shows that Company A performs additional logistics functions, the costs of which are reflected in the price (AED 450) offered to Company B. Further investigation shows that the third-party supplier does not perform these additional logistics functions. It is also observed that Company X bears logistics costs (AED 50) and records these as operating expenses. As such, comparability adjustments may be introduced as follows:

Income statement [Extract]	Company B	Company X
Sales Price (AED)	500	500
Purchase Price (AED)	(450)	(400)
Comparability adjustment:		
logistics cost	-	(50)
Gross Profit (AED)	50	50
Resale Price Margin	10%	10%

The above highlights the importance of focusing on the Functional Analysis under the RPM. In this case, the gross resale margin of 10% is considered to be at arm's length as the difference (i.e. logistics cost) is the economically relevant characteristic impacting the independent transaction price and the Controlled Transaction price and has been adjusted accordingly.

5.2.1.3. The Cost Plus Method

The CPM considers the direct and indirect costs incurred by a supplier in supplying goods or services in a Controlled Transaction and applies an appropriate mark-up to these costs based on the functions performed by the supplier and the profit that would have been earned from an arm's length transaction depending on the market conditions. What is arrived at after adding the cost-plus mark-up to the direct and indirect costs of the supplier is then considered the Arm's Length Price of the original transaction.

The CPM is most useful where semi-finished goods are sold between Related Parties or Connected Persons, where Related Parties or Connected Persons have concluded joint facility agreements or long-term buy-and-supply arrangements, as well as where the Controlled Transaction is the provision of services.

Where the CPM is applied, the Controlled Transaction may be compared to an internal or an external Comparable Uncontrolled Transaction depending on the circumstances:

- **Internal comparable:** where the cost-plus mark-up of the supplier in the Controlled Transaction is determined by reference to the cost-plus mark-up that the same supplier earns in a similar transaction with an independent party; or
- **External comparable:** where the cost-plus mark-up of the supplier in the Controlled Transaction is determined by reference to the cost-plus mark-up that would have been earned in comparable transactions between two independent parties.

An uncontrolled transaction can be considered comparable to the Controlled Transaction for the purposes of applying the CPM if one of the following two conditions is met:

- None of the differences that may exist between the Controlled and uncontrolled transaction or the parties undertaking those transactions could materially affect the cost-plus mark-up in the open market; or
- Where such differences are observed, accurate adjustments to eliminate any material effects resulting from such differences were reasonably performed.

When applying the CPM, the following aspects should be considered:

<u>Product comparability</u>

As with the RPM, fewer adjustments may be necessary to account for product/service differences under the CPM than under the CUP method.

<u>Comparability of functions performed, assets used and risks assumed</u>

Similar to the RPM, for the purposes of the CPM, all comparability factors should be considered to the extent relevant. When there are differences that materially affect the cost-plus mark-ups earned in the controlled and uncontrolled transactions, reasonably accurate adjustments should be made to account for such differences.

<u>Comparability of cost base</u>

Applying the CPM requires the comparability of both the cost-plus mark-up and cost base in the Controlled Transactions and uncontrolled transactions. If the Controlled and uncontrolled transactions are not comparable in all aspects (including the cost base) and the differences have a material effect on the price or margin, adjustments should be made to eliminate the effects of those differences. Where the independent party adopts a definition of cost base or a method to compute cost that is different from that of the Related Party, the cost base of the independent party should be adjusted accordingly to ensure comparability.

In applying the CPM, direct and indirect costs of producing a good or providing a service are normally used to compute the cost base. Such costs are limited to the costs of the supplier of goods or services and should take into account the supplier's Functional Analysis.

The impact of accounting practices

As applicable for the RPM, a Related Party using the CPM should ensure that the accounting practices followed in both the Controlled Transaction and the selected Comparable Uncontrolled Transaction are consistent. If this is not the case, appropriate adjustments for accounting practice differences in both the Controlled Transaction and the selected Comparable Uncontrolled Transaction may be required.

Example 11: Application of the CPM

Company A and its subsidiary Company B are Related Parties and part of the same MNE Group. Company B manufactures and sells semi-finished goods to Company A.

The direct and indirect product costs per unit incurred by Company B in the production of the semi-finished goods amounts to AED 10,000. Company B sells the goods to Company A for AED 10,500 per unit (i.e. at a cost-plus mark-up of 5%).

Comparable independent manufacturers produce similar products. Based on the comparability analysis undertaken, it is established that the comparable independent manufacturers are earning a cost-plus mark-up ranging from 10% to 16%.

Accordingly, the cost-plus mark-up achieved by Company B of 5% is considered not to be at arm's length as this mark-up falls below the benchmark range of 10% to 16%.

However, further investigation of the independent comparables' operating models indicate that the comparable manufacturers do not incur or record significant freight and insurance costs, whereas, Company B's additional cost per unit is attributable to freight and insurance at AED 800. The foregoing is indicative of circumstances that significantly impact the cost-plus mark-up.

As the impact can be reliably measured and supported with evidence from financial statements, and other sources, as applicable, of Company B, as well as of the independent manufacturers, comparability adjustments may be required as follows:

	Company B [P&L extract per unit]
Selling price	10,500
Cost	(10,000)
Comparability adjustment: Add back – Freight & Insurance costs	800
Gross profit	1,300
Cost-plus mark-up	14%

The above highlights the importance of undertaking a comprehensive Functional Analysis under the CPM and ensuring comparability of the cost base to which the cost-plus mark-up is applied. In this case, the cost-plus mark-up of 14% is considered at arm's length as reliable adjustments have been made to eliminate the impact of the difference (i.e. freight and insurance costs) in the economically relevant characteristics between the Controlled and uncontrolled transactions. These adjustments are justified due to the specific conditions of the transaction.

5.2.1.4. The Transactional Net Margin Method

The TNMM examines the net profit earned from a Controlled Transaction relative to an appropriate base, such as the costs, sales or assets. In this way, the TNMM operates similarly to the CPM and RPM and should be applied in a similar manner.

In applying the TNMM, the net profit margin earned in the Controlled Transaction should be established by reference to the net profit margin earned in internal or external Comparable Uncontrolled Transactions depending on the circumstances:

- **Internal comparable:** where the net profit margin in the Controlled Transaction is determined by the net profit margin of a similar transaction between one of the Related Parties or Connected Persons and a third party.
- **External comparable:** where the net profit margin of a Controlled Transaction is determined by the net profit margin of a similar transaction between two third parties.

Additional guidance on the application of the TNMM is provided below.

5.2.1.5. The comparability standard applied to the TNMM

A comparability analysis must be performed in all cases in order to select and apply the most appropriate Transfer Pricing method, including the TNMM.

Net profit indicators are the ratio of net profit to an appropriate base (for example costs, sales, assets) and are less adversely affected by differences in products and functions compared to price and gross margins. However, there are various other factors that can significantly influence net profit indicators because of the potential for variation of operating expenses across enterprises. These factors include treatment across enterprises of operating expenses and non-operating expenses, capacity utilisation, threat of new entrants, competitive position, management efficiency and individual strategies, threat of substitute products, varying cost structures (as reflected, for example, in the age of plant and equipment), differences in the cost of capital (for example self-financing versus borrowing), and the degree of business experience (for example whether the business is in a start-up phase or is mature).

The above, and other relevant, factors need to be accounted for in order to achieve reliable comparability.

Any differences between Related Parties or Connected Persons and independent parties resulting from the above factors may have material effects on the profitability of transactions and would require reliable and accurate adjustments for the TNMM to produce a reliable measure of arm's length net margins.

5.2.1.6. Profit level indicators

The ratio of net profit and the appropriate base used in the TNMM is commonly known as the net profit indicator or profit level indicator.

In order to apply the TNMM, a net profit indicator should be selected to determine the net profitability of the Controlled Transaction. A net profit indicator expresses profitability in relation to an appropriate base such as:

(i) sales,
(ii) costs or expenses, or
(iii) assets.

Therefore, when applying the TNMM, the net profitability of the Controlled Transaction is compared to the net profitability of the uncontrolled transaction(s), using a net profit indicator.

In addition to being less affected by transactional differences than is the case with CUP method, net profit level indicators may also be more tolerant to some functional differences between the Controlled and uncontrolled transactions than gross profit margins (used in RPM and CPM). Differences in the functions performed between parties are often reflected in variations in operating expenses. Consequently, this may lead to a wide range of gross profit margins but still broadly similar levels of net profit level indicators. In addition, there may be lack of clarity in the public data with respect to the classification of expenses as gross or operating profits may make it difficult to evaluate the comparability of gross margins, while the use of profit level indicators may avoid the problem.

The following non-exhaustive examples of profit level indicators that may be considered when applying the TNMM are:

Net profit indicator	Numerator	Denominator
Operating margin or return on sales	Operating profit	Sales
Net cost-plus or full cost mark-up	Operating profit	Total costs
Return on assets or return on capital employed	Operating profit	Operating assets
Berry ratio	Gross profit	Operating expenses

As a general rule, the denominator of the net margin indicator should be set on an uncontrolled base and should reflect the relevant driver or measure of value creation as it relates to the functions performed by the tested party, taking into account the risks assumed and assets used. For example, sales may be an appropriate base for distribution activities, full costs or operating expenses may be an appropriate base for a service or manufacturing activity, and operating assets may be an appropriate base for capital-intensive activities such as certain manufacturing activities. Other bases can also be appropriate depending on the circumstances of the case.

The selection of the most appropriate profit level indicator depends on the facts and circumstances of the Controlled Transaction and the following factors should be considered:

1. Strengths and weaknesses of the various possible net profit indicators;
2. The appropriateness of the profit level indicator in view of the nature of the Controlled Transaction as determined through a Functional Analysis;
3. The availability of reliable information needed to apply the TNMM based on that indicator; and
4. The degree of comparability between Controlled and uncontrolled transactions, including the reliability of comparability adjustments that may be needed to eliminate differences between them when applying the TNMM based on that indicator.

5.2.1.7. Aggregation of transactions and company-wide analysis using TNMM

Although it is preferred that the TNMM be applied at a transactional level, it may be possible to apply the TNMM on an aggregate basis when the aggregate activities / transactions are sufficiently interlinked from economical or commercial standpoints, for example, when similar sales functions are conducted for products in similar product lines.

Applying the TNMM on a company-wide basis becomes less reliable when the party being examined is engaged in various different Controlled Transactions or functions or operates different business segments that cannot be appropriately compared on an aggregate basis with those of an independent party. Therefore, Taxable Persons should seek to apply the TNMM on a transactional basis and not on a company-wide basis whereby the method is used to analyse only the profits of the Related Parties or Connected Persons that are attributable to simpler Controlled Transactions, functions or segments that are not interlinked. Depending on the facts of each case, a company-wide analysis may not be sufficient as a basis for a comprehensive Transfer Pricing analysis. However, Taxable Persons may opt to apply the TNMM, or any other method, on a company-wide basis to corroborate the results obtained from the separate analyses performed on a transactional basis.

Example 12: Application of the TNMM

A subsidiary Company B is a UAE distributor of coffee machines. All of Company B's coffee machines are produced by an overseas Related Party, Parent Co, which owns a household electrical appliances brand name. All of Company B's merchandise is purchased from its Parent Co. Company B holds limited amounts of buffer inventory and the associated holding costs are determined to be immaterial. Parent Co provides a product warranty to customers of Company B.

After performing the appropriate Functional Analysis, Company B was able to identify a series of UAE distributors of home electrical appliances as suitable comparable companies.

However, following a review of the financial information of the potential comparable companies, it is evident that a number of them record higher levels of inventory holding/warehousing expenses. While Company B's inventory holding cost constitutes less than 1% of its operating expenses, reliable market evidence indicates that independent distributors of household electrical appliances in the UAE incur inventory holding costs at an average of 15% of operating expenses. However, the available financial information of the potential comparable companies is not detailed enough to determine the classification of the inventory holding costs. As such, it may be more reliable to examine the net operating margins in this case. Considering the relevant factors above, it is determined that the TNMM, based on a return on sales as the profit level indicator is the most appropriate method to apply in this case.

The potential comparables earn operating profit margins of 10%.

An analysis of Company B's financials is summarised below:

Company B's revenue	5,000
Company B's total purchase costs (i.e. transfer price[16])	(4,500)
Other operating expenses	(400)
Total costs	(4,900)
Operating profit	100
Operating margin (operating profit/revenue)	2%

Note that this example is for illustration purposes. Where significant differences are observed in working capital related items, consideration should be given to the impact of such differences on the profits recorded in the financials of the potential comparable companies. Where such material differences significantly impact profits, further adjustments (such as working capital adjustments) should be considered to ensure the reliability of the analysis.

5.2.1.8. The Profit Split Method

The Profit Split Method (PSM) seeks to determine the division of profits that independent parties would have expected to realise from engaging in comparable transactions. This method first identifies the combined profits of the Related Parties or Connected Persons from a Controlled Transaction(s) and splits those profits on an economically valid basis. The resulting split should approximate the division of profits that would have been anticipated and reflected in an agreement made at arm's length between independent parties.

Further guidance on the use and application of the PSM is provided below. However, this Guide does not seek to provide an exhaustive catalogue of ways in which the PSM may be applied. Application of the method will depend on the facts and circumstances of the case and the information available, but the overriding objective should be to approximate as closely as possible the split of profits that would have been realised had the Related Parties or Connected Persons been independent parties.

5.2.1.8.1. Appropriate use of the PSM

The PSM is particularly relevant in the following cases:

- Where the Related Parties or Connected Persons engage in highly integrated business operations for which a one-sided method would not be appropriate. A high degree of integration means that the way in which one party to the transaction performs functions, uses assets and assumes risks is interlinked with, and cannot

[16] Being the amount of the Controlled Transaction paid by Sub Company B to Parent Company.

reliably be evaluated in isolation from, the way in which another party to the transaction performs functions, uses assets and assumes risks.

- Where each of the parties to a Controlled Transaction make unique and valuable contributions or use unique and valuable intangibles in relation to the Controlled Transaction. Contributions are ‘unique and valuable’ where they are not comparable to contributions made by independent parties in comparable circumstances, and they represent a key source of actual or potential economic benefits in the business operations.
- Where each party to the controlled transaction shares the assumption of one or more of the economically significant risks in relation to that transaction.

In general, the PSM may be used in the absence of comparables indicating that an alternative Transfer Pricing method is the most appropriate method. However, the lack of comparables alone is insufficient to warrant the use of the PSM, and each of the above situations would need to be considered in determining whether the PSM is the most appropriate Transfer Pricing method.

5.2.1.9. Application of the PSM

There are two steps in the application of the PSM:

1. The first step is to determine the consolidated total profits earned by the Related Parties or Connected Persons from a Controlled Transaction. The profit to be split is generally the operating profit before interest and taxes.
2. The second step is to split the profit between the Related Parties or Connected Persons on an economically valid basis based on the relative value of their contributions to the Controlled Transaction(s), considering the functions performed, the assets used, and the risks assumed by each Related Party, in relation to what independent parties would have received. In general, the determination of the relevant profits to be split and of the profit splitting factors should be:
   - consistent with the Functional Analysis of the Controlled Transaction under review, and in particular reflect the assumption of the economically significant risks by the parties, and
   - capable of being measured in a reliable manner.

Where comparable data does exist, it could be useful in determining the division of profit that would have been achieved between independent parties in comparable circumstances. However, in those cases where there is no direct evidence of how independent parties in comparable circumstances would have split the profit in comparable transactions, the total profit may be split / allocated using one of the following approaches:

- Contribution analysis approach: where the total operating profit earned by the Related Parties or Connected Persons from a Controlled Transaction is divided between the Related Parties or Connected Persons based on the relative value of the contributions made by each of the Related Parties or Connected Persons participating in the Controlled Transaction.

- Residual analysis approach: This approach splits the total profit in two steps:
  - Step 1 - Each Related Party to the Controlled Transaction is allocated an arm's length return for the routine functions that it performs (for example, routine services or distribution). Typically, the return for routine contributions may be determined based on the TNMM or any other Transfer Pricing method.
  - Step 2 - The residual profit (i.e. the profit remaining after the allocation of the return for routine contributions) is split using a contribution analysis or other allocation approach based on the underlying facts and circumstances of the Controlled Transaction. The relevant non-routine contributions (i.e. the unique and valuable contributions or assets, high level of integration or the shared assumption of economically significant risks) should be identified through a Functional Analysis of each Related Party.

These approaches are not necessarily exhaustive or mutually exclusive. Alternative ways may be used to split profit, as long as there is reasonable evidence that the selected approach produces a reliable arm's length result.

The approach followed in splitting the profit should be verifiable and based on internal accounting data or on publicly available and measurable market data. In practice, internal data such as relevant assets, costs, and headcount may be used as allocation keys to split the profit. For self-developed assets, which may not be on the balance sheet, valuation techniques such as discounted cash flow may be used. If more than one allocation key is used to split the profit between the Related Parties or Connected Persons, it is necessary to determine the relative contribution of each allocation key in earning the combined profits. The measure of profits to be split will depend on the risks the parties share.

In many cases, operating profit may be the most appropriate measure of profits to be split because the parties share the risks of the entire business. However, if the parties share only the risks associated with the volume of sales and production of the products, and they do not share the risks associated with selling the products in the marketplace, then a split of gross profit may be appropriate.

The profits to be split may include actual profits or anticipated profits, or a combination thereof. Guidance on when it is appropriate to split actual vs. anticipated profits is provided below:

- The splitting of actual profits is appropriate when all the relevant parties share the assumption of the same economically significant risks or separately assume closely related ones. This type of risk assumption may arise if the business operations are highly integrated and / or each party makes unique and valuable contributions.

- A split of anticipated profits, in contrast, would be more appropriate if one of the parties does not share in the assumption of all of the economically significant risks, which might exist after entering into the transaction.

The division of the relevant profits under the PSM is achieved using one or more profit splitting factors. The Functional Analysis and a contextual analysis (for example, of the industry and business environment) are essential to the process of determining the relevant factors to use in splitting profits, including determining the weighting of applicable profit splitting factors, in cases where more than one factor is used. The determination of the appropriate profit splitting factor(s) should reflect the key contributions to value in relation to the transaction. Whether actual or anticipated profits are split, the basis for splitting profits must be determined on the basis of the information known or reasonably available at the time the Related Parties or Connected Persons entered into the Controlled Transaction.

It is generally difficult to access reliable publicly available data on what profit split independent parties would agree upon under comparable facts and circumstances. Further, issues may arise in measuring the relevant financial data (for example, costs or asset base) which are used for the actual application of the PSM. Finally, the splitting factors which could be applied are in principle subject to judgment.

Example 13: Application of the PSM (residual analysis approach)

Company A is a seller of electric vehicles in the UAE. A subsidiary Company B is an overseas subsidiary of Company A. Both companies have collaborated in the development of a powerful rechargeable battery, as well as in design technology for the manufacturing of electric vehicles. Company A holds the patent for the manufacturing technology.

Company B is the only manufacturer licensed by Company A to use the special rechargeable battery. Company A purchases all of the electric vehicles manufactured by Company B and sells them to third parties.

Both companies contribute to the success of the electric vehicles through their efforts in (i) the development of the powerful rechargeable battery; and (ii) design technology. Due to the unique nature of the intellectual property contributions of the companies, the Group is unable to find sufficiently comparable independent companies for benchmarking purposes.

The companies are able to obtain reliable data on independent electric vehicle contract manufacturers and wholesalers, who do not own any unique intangible assets in the automotive industry. The independent contract manufacturers achieve a mark-up of 15% while the wholesalers achieve a gross margin of 25%.

Company A's and Company B's respective share of profit may be determined in two stages using the PSM (residual analysis approach). See below.

Stage 1 – Determining the return for routine contributions

The simplified P&L extracts of Company A and Company B are shown below:

	Sub Company B (AED)	**Company A (AED)**
Sales	100	130
Cost of goods sold	(55)	(100)
Gross profit	45	30
Operating expenses	(5)	(10)
Operating profit	40	20

Group total operating profit = AED 60

Company B

Cost of goods sold	AED 55.00
Cost-plus mark-up - contract manufacturers (15% x AED 55)	AED 8.25
Compensation for routine manufacturing	AED 63.25

===========

Company A

Sales to third party customers	AED 130
Resale margin % - independent wholesalers (no intangibles)	25%
Resale margin (or gross profit)	AED 32.50

===========

The returns attributable to the companies for their routine contributions may be calculated as follows:

	Company B (AED) ***Routine manufacturing***	**Company A (AED)** ***Routine wholesale***
Sales	63.25	-
Cost of goods sold	(55)	-
Gross profit	8.25	32.50
Operating expenses	(5)	(10)
Operating margin	3.25	22.5

The total operating profit attributable to routine contributions of the Group is AED 3.25 + AED 22.5 = AED 25.75.

Stage 2: Splitting the residual profit

The residual profit of the Group = AED 60 – AED 25.75 = AED 34.25.

Contribution analysis

Based on internal accounting records, the companies are able to accurately identify their respective costs incurred in relation to their joint efforts in research and development ("R&D") and investments in design technology. For illustrative purposes of this example, these expenses are considered appropriate measures of the companies' non-routine contribution towards the residual profits generated by the Group.

The R&D expenses and design technology expenses incurred by each company are as follows:

	Design technology	R&D
Company A	AED 8 (80%)	AED 12 (75%)
Company B	AED 2 (20%)	AED 3 (25%)
	AED 10 (100%)	AED 15 (100%)
	============	===========

Leveraging information available within the Group, as corroborated by publicly available industry and market data, it is determined that R&D drives up to 80% of the value created in the EV industry. As such, weights may be attributed to the R&D and design technology contributions in the ratio of 4:1.

Based on relative contribution of the companies, the residual profit may be split as follows:

	Design technology	**R&D**	**TOTAL**
Weights	1 (20%)	4 (80%)	100%
Allocable residual profit	AED 6.85 (20% of AED 34.25)	AED 27.4 (80% of 34.25)	AED 34.25
Company A	AED 5.48 (80% of 6.85)	AED 20.55 (75% of 27.4)	AED 26.03
Company B	AED 1.37 (20% of 6.85)	AED 6.85 (25% of 27.4)	AED 8.22

Company A's share of residual profit AED 26.03
=========

Company B's share of residual profit AED 8.22
=========

Therefore, the adjusted operating profits of each company are as follows:

Company A = AED 26.03 + AED 22.50 = AED 48.53

Company B = AED 8.22 + AED 3.25 = AED 11.47

The adjusted tax accounts are as follows:

	Company B (AED)	**Company A (AED)**
Sales	71.47	130
Cost of goods sold	(55)	(71.47)
Gross margin	16.47	58.53
Operating expenses	(5)	(10)
Operating margin	11.47	48.53

Hence, the arm's length transfer price determined using the PSM (residual analysis approach) should be AED 71.47.

5.2.1.10. Other Transfer Pricing methods

Article 34(4) of the Corporate Tax Law stipulates that the Arm's Length Price may be calculated using methods other than the five Transfer Pricing methods listed in the Corporate Tax Law, if none of the five recognised methods can be reasonably or reliably applied, and provided these other methods satisfy the Arm's Length Principle.

Where an alternative Transfer Pricing method has been used, adequate supporting documentation explaining the reason(s) for selecting the method including reasonable sufficient economical and commercial rationale, as well as clear disclosures of the underlying empirical analysis performed in applying the method must be provided. For example, a Person engaged in a real estate development project obtained under a term lease from a Related Party may opt to apply a Discounted Cash Flow ("DCF") approach in demonstrating the arm's length nature of the controlled lease payments if none of the five recognised Transfer Pricing methods can be reasonably applied to determine an arm's length result. Where the facts and circumstances of the case, as well as the functional and comparability analyses establish that the DCF is appropriate, the Person may proceed to apply the DCF approach. However, supporting documentation should be kept in any case (pursuant to Article 55(4) of the Corporate Tax Law) to corroborate the reason for selection of this approach, relevant variables, presentation of the quantitative analysis and other relevant information and supporting documentation.

Example 14: **Arm's Length Pricing in case of no added value**

Company A is part of an MNE Group in the UAE. It incurs hotel and travel expenses for the employees of its Related Party Company B from country X visiting UAE for a conference.

These expenses are paid by Company A directly to third-party vendors on behalf of Company B and recovered on a cost-to-cost basis. Company A does not provide any further value-add or services to Company B.

Treating the expenses incurred by Company A on behalf of Company B as pass-through costs to which no profit element or mark-up is attributed in consistency with the Arm's Length Principle is the correct approach since there is no value added by Company A.

5.2.2. Selection of the most appropriate method

The selection of a Transfer Pricing method always aims at finding the most appropriate method for a particular case. For this purpose, the selection process should take into account the following:

- The strengths and weaknesses of the five recognised Transfer Pricing methods.
- The appropriateness of the method considered in view of the nature of the Controlled Transaction as determined in a Functional Analysis.
- The availability of reliable information (in particular on uncontrolled comparables) needed to apply each method. It is especially important to assess whether publicly available data can be drawn from commercial databases or other publicly available sources.
- The degree of comparability between the Controlled Transactions and independent transactions, including the accuracy of any resulting adjustments that may be required to eliminate differences between the transactions.

The FTA's preferred approach is for Transfer Pricing methods to be applied on a transactional level where possible, which means that the most appropriate method should be applied to each relevant transaction. However, there may be situations where the Transfer Pricing methods could be applied on an aggregated basis, for example applying the TNMM on a company-wide basis to test the overall profitability.

5.2.3. Using a combination of Transfer Pricing methods

In most circumstances, the use of one of the recognised Transfer Pricing methods will provide a sufficient accurate basis for determining the Arm's Length Price of a transaction. However, there may be specific cases where the application of one of the Transfer Pricing methods proves inconclusive and a combination of methods may be the most accurate approach. Where a combination of methods is used to test the Arm's Length Principle, the primary aim should be to reach a conclusion that takes account of the facts, circumstances and available evidence of the case.

For example, a Person may have applied the RPM, but struggled to introduce reliable adjustments to account for key differences observed between the Controlled and uncontrolled transaction. In such a case, the Person may opt to introduce a corroborative analysis by also applying the TNMM to demonstrate that the outcome of the Controlled Transaction is in line with the Arm's Length Principle by assessing the net margin of the tested party under an appropriate profit level indicator (as further discussed in Section 5.2.2).

5.3. Step 3: Determination of the Arm's Length Price

Once the most appropriate Transfer Pricing method has been identified, the method is applied on the tested party and on the data of Comparable Uncontrolled Transaction(s) to arrive at the Arm's Length Price.

5.3.1. Choice of the tested party

The use of CPM, RPM and TNMM requires a decision on which party to apply the Transfer Pricing method. When applying a CPM, RPM or TNMM, it is necessary to choose the party to the transaction for which a financial indicator (mark-up on costs, gross margin, or net profit indicator) is tested.

As a general rule, the tested party is the one to where:

- a Transfer Pricing method can be applied in the most reliable manner; and
- the most reliable comparables can be found.

The choice of the tested party should be consistent with the Functional Analysis of the Controlled Transaction. The party with the less complex Functional Analysis i.e. smaller scope of functions and less complex operations should be used as the tested party.

5.3.2. Comparable Uncontrolled Transactions

The economically relevant characteristics of the Controlled Transaction have to be compared with those of uncontrolled transactions that are regarded as potentially comparable in order to determine an Arm's Length Price for the Uncontrolled Transaction. A Comparable Uncontrolled Transaction can be either a comparable transaction between one party to the Controlled Transaction and an independent party (internal comparable), or between two independent parties, neither of which is a party to the Controlled Transaction (external comparable).

5.3.2.1. Internal comparables

Internal comparables may have a more direct and closer relationship to the Controlled Transaction under review than external comparables. The financial analysis may be easier and more reliable as it will presumably rely on identical accounting standards and practices for the internal comparable and for the Controlled Transaction. In addition, access to information on internal comparables may be both more complete and less costly.

However, internal comparables are not always more reliable and it is not the case that any transaction between the Person and an independent party can be regarded as a reliable comparable for Controlled Transactions carried on by the same Person. However, whenever reliable internal comparables exist, it may be unnecessary to search for external comparables.

5.3.2.2. External comparables and sources of information

There are various sources of information that can be used to identify potential external comparables. A common source of information is commercial databases which act as repositories for company accounts.

Commercial databases tend to provide access to a wide variety of potential comparables. Therefore, database searches typically start with a wide set of third-party data or companies that may be broadly comparable. These could be companies that operate in the same sector, perform similar broad functions and do not carry economic characteristics that are obviously different based on standard industry codes. The list of potential comparables is then refined using selection criteria and publicly available information (for example, from databases or reliable internet sites). Therefore, it is important that the database searches are systematically designed to develop search strategies that assist in screening the vast list of potential comparables in line with criteria that are relevant to the Controlled Transaction. It is best to seek quality over quantity of potential comparables when performing a database search and selecting comparables.

The information obtained from commercial databases may need to be refined with other publicly available information, depending on the facts and circumstances to enhance the reliability of the underlying data used in the comparability analysis.

A number of limitations to commercial databases are frequently identified. Because these commercial databases rely on publicly available information, they may not be available in all jurisdictions, since not all jurisdictions are aligned on what company data should be publicly available. Moreover, where information is available, the presentation and level of detail may vary from jurisdiction to jurisdiction because disclosure and filing requirements may differ depending on the legal form of the enterprise or the specific requirements of the jurisdiction. It is important that the identification of potential comparables is made with the objective of finding the most reliable data, recognising that they will not always be perfect. For instance, independent transactions may be scarce in certain markets and industries.

A pragmatic solution may need to be found, on a case-by-case basis, to address the limitations of the commercial databases, such as broadening the search and using information on uncontrolled transactions taking place –

- in the same industry and a comparable geographical market, but performed by third parties that may have different business strategies, business models or other slightly different economic circumstances;
- in the same industry but in other similar geographical markets; or
- in the same geographical market but in other industries.

The choice among these various options will depend on the facts and circumstances of the case, and in particular on the significance of the expected effects of comparability defects on the reliability of the analysis. However, even in cases where comparable data is scarce and imperfect, the selection of the most appropriate Transfer Pricing method (as per the guidance above) should be consistent with the Functional Analysis of the Related Parties or Connected Persons.

The FTA does not have a preference for any particular commercial database as long as it provides a reliable source of information that assists Taxable Persons in performing comparability analysis; provided that the order for applying comparables is followed (local, regional (Middle East), then other regions).

Whichever database the Taxable Person chooses to select comparables from, adequate documentation should be maintained to demonstrate the results of the comparability analysis. Where a Taxable Person has used a private database to support its transfer prices, the FTA may request access to the database in line with Article 55(4) of the Corporate Tax Law to review the Taxable Person's results and to better understand the conclusions reached.

5.3.2.3. Non-domestic comparables

As far as possible, Taxable Persons should use domestic comparables in their comparability analysis as these comparables generally have a higher degree of comparability in terms of their market and economic circumstances compared to foreign comparables. Where insufficient data is available at the domestic level, Taxable Persons can consider regional or global comparables.

5.3.2.4. Selection of potential comparables

The search for information on potentially Comparable Uncontrolled Transactions and the process of identifying comparables is dependent upon prior analysis of the Controlled Transaction and of the economically relevant characteristics or comparability factors. A methodical, consistent approach should provide some continuity or linkage in the whole analytical process, thereby maintaining a constant relationship amongst the various steps: from the preliminary analysis of the conditions of the Controlled Transaction and the comparability analysis, to the selection of the Transfer Pricing method, through to the identification of potential comparables and ultimately a conclusion about whether the Controlled Transactions being examined are consistent with the Arm's Length Principle.

Broadly, there are two ways in which the identification of potentially comparable Uncontrolled Transactions can be conducted:

- **Additive approach:** This starts with identifying a list of independent parties that are believed to carry out potentially comparable transactions. Information is then collected on transactions conducted by these independent parties to confirm whether they are in effect acceptable comparables, based on the predetermined comparability criteria. In practice, the additive approach may include both internal and external comparables.
- **Deductive approach:** This starts with a wide set of companies that operate in the same sector of activity as the tested party, perform similar broad functions as the tested party and do not present economic characteristics that are obviously different. The list is then refined using selection criteria and publicly available information (for example from databases, internet sites, information on known competitors of the tested party). In practice, the deductive approach typically starts with a search on a database.

Once the potential comparables are identified, both quantitative and qualitative criteria are used to include or reject potential comparables identified. Qualitative criteria can be found in product portfolios and business strategies. Quantitative criteria includes:
- size criteria in terms of sales, assets or number of employees,
- intangible-related criteria such as ratios of net value of intangibles/total net assets value, or ratio of R&D/sales, where available,
- criteria related to the importance of export sales, where relevant,
- criteria related to inventories in absolute or relative value, where relevant, and
- other criteria to exclude independent parties that are in particular special situations such as start-up companies, bankrupted companies, etc. when such peculiar situations are obviously not appropriate comparisons.

The choice and application of selection criteria depends on the facts and circumstances of each particular case and the above list is neither limitative nor prescriptive.

The process followed to identify potential comparables is one of the most critical aspects of the comparability analysis and it should be transparent, systematic and verifiable. In particular, the choice of selection criteria has a significant influence on the outcome of the analysis and should reflect the most meaningful economic characteristics of the transactions compared. Complete elimination of subjective judgments from the selection of comparables would not be feasible, but much can be done to increase objectivity and ensure transparency in the application of subjective judgments.

Taxable Persons should maintain appropriate supporting information that describe the criteria used to select potential comparables and the reasons for excluding some of the potential comparables. Such information can be used by the FTA to assess the reliability of the comparables used.

5.3.3. Comparability adjustments

Both for the general application of the Arm's Length Principle and more specifically in the context of each method, there may be a need to adjust the potential comparables for accuracy and reliability purposes. Comparability adjustments should be considered if (and only if) they are expected to increase the reliability of the results.

Comparability adjustments include adjustments for accounting consistency designed to eliminate the impact of differences that may arise from differing accounting practices between the Controlled and uncontrolled transactions; segmentation of financial data to eliminate the material impact of differences of non-comparable transactions; and adjustments for differences in capital, functions, assets and risks.

For example, working capital cycles and the related costs tend to have significant implications on profitability in certain industries. Where such considerations are relevant, working capital adjustments designed to account for the impact of differing levels of accounts receivable, accounts payable and inventory may be undertaken to enhance the reliability of the arm's length analysis. Where undertaken, Taxable Persons are expected to provide adequate justification for all comparability adjustments.

Under Clause 8, 9 and 10 of Article 34 of the Corporate Tax Law, the FTA may make comparability adjustments to Taxable Persons' results where the results do not fall within the arm's length range.

5.3.4. Determining the arm's length range

As Transfer Pricing is not an exact science, it is generally difficult to arrive at a single figure (for example, price or margin) that is the most reliable to establish whether the conditions of a Controlled Transaction are at arm's length.

As per Article 34(7) of the Corporate Tax Law, the application of the selected Transfer Pricing method or combination of Transfer Pricing methods on the data of Comparable Uncontrolled Transactions may result in a range of financial results or indicators (for example, prices or margins) which are all relatively equally reliable and at the same time acceptable for establishing the arm's length result of a Controlled Transaction.

This range of figures is referred to as the “arm’s length range”, and arises either from applying the same Transfer Pricing method to multiple comparable data or from applying different Transfer Pricing methods.

5.3.4.1. Application of statistical measures to determine arm's length range

If the identified range of financial results or indicators includes a sizeable number of observations, statistical tools that take account of central tendency to narrow the range (for example, the interquartile range or other percentiles) would be useful to enhance the reliability of the analysis. The use of statistical measures also prevents the impact of outliers and exceptional circumstances.

In this respect, the acceptance of the interquartile range is considered an appropriate approach to determine an arm’s length range of financial results or indicators because it provides a more robust measure of central tendency and variability compared to other statistical measures like the arithmetic mean or median. The interquartile range is obtained by dividing the dataset in four (4) equal parts. By doing so, three unique points amongst the dataset are derived, namely the lower quartile (the middle number/figure between the lowest value and the median), the median (the middle value of all observations) and the upper quartile (the middle number/figure between the median and the highest value). The interquartile range then represents all data between the lower quartile and the upper quartile.

Example 15: Use of the interquartile range

A search produces the below 3 year weighted average margins of the comparable companies:

Serial No.	Company Name	3-year weighted average margins
1	Comp 1	6.46%
2	Comp 2	8.70%
3	Comp 3	5.12%
4	Comp 4	0.83%
5	Comp 5	5.66%
6	Comp 6	7.00%
7	Comp 7	8.36%
8	Comp 8	1.80%
9	Comp 9	8.74%
10	Comp 10	3.69%
11	Comp 11	4.32%
12	Comp 12	13.90%
13	Comp 13	9.16%
14	Comp 14	3.83%

15	Comp 15	0.60%
16	Comp 16	4.34%

The above comparables are re-arranged based on ascending order of the 3-year weighted average margins of the comparable companies. This is to assist in better understanding of inter-quartile range.

Serial. No.	Company Name	3-year Weighted Average margins
1	Comp 15	0.60%
2	Comp 4	0.83%
3	Comp 8	1.80%
4	Comp 10	3.69%
5	Comp 14	3.83%
6	Comp 11	4.32%
7	Comp 16	4.34%
8	Comp 3	5.12%
9	Comp 5	5.66%
10	Comp 1	6.46%
11	Comp 6	7.00%
12	Comp 7	8.36%
13	Comp 2	8.70%
14	Comp 9	8.74%
15	Comp 13	9.16%
16	Comp 12	13.90%

The resulting full and interquartile range of the above observations is as follows:

Particulars	3-year weighted average margins
Count	16
Minimum	0.60%
Lower Quartile	3.80%
Median	5.39%
Upper Quartile	8.45%
Maximum	13.90%

The lower quartile, or first quartile (Q1) of 3.8%, is the value under which 25% of 3-year weighted average margins of the comparable companies are found when they are arranged in increasing order.

The median value is the value at the mid-point of the 3-year weighted average margins of the comparable companies. The upper quartile, or third quartile (Q3) of 8.45%, is the value under which 75% of 3-year weighted average margins of the comparable companies are found when arranged in increasing order. As a result, the interquartile range lies between 3.80% and 8.45%, with a median of 5.39%.

A substantial deviation among points in the arm's length range may indicate that the data used in establishing some of the points may not be as reliable as the data used to establish the other points in the range or that the deviation may result from features of the comparable data that require adjustments. In such cases, further analysis of those points may be necessary to evaluate their suitability for inclusion in any arm's length range.

5.3.4.2. Selecting the most appropriate point in the arm's length range

As per Article 34(7) of the Corporate Tax Law, any point within the arm's length range is acceptable in establishing the Arm's Length Price of the Controlled Transactions of a Taxable Person.

The FTA will consider the reliability of the arm's length range when assessing the appropriateness of the selected point in the range.

The FTA will also take into consideration the functional profile of the Taxpayer/Controlled Transaction when assessing the most appropriate point within the range. A point closer to the lower interquartile may be appropriate for a company performing very limited functions, holds no assets and assumes no risks. A point closer to the upper quartile may indicate high value functions, ability to assume risk and employ assets.

5.3.4.3. Extreme results

Extreme results could be produced in case the benchmarking brings about figures that fall in the extreme ends of the interquartile range. Extreme results might consist of losses or unusually high profits and can affect the financial indicators. Where one or more of the potential comparables have extreme results, further examination would be needed to understand the reasons for such extreme results. The reason might be a defect in comparability such as losses not reflecting normal business conditions, losses reflecting a level of risk that is not comparable to the one assumed in the Controlled Transaction, or exceptional conditions met by an otherwise comparable third party. An extreme result may be excluded on the basis that a previously overlooked significant comparability defect has been brought to light, not on the sole basis that the results arising from the proposed “comparable” merely appear to be very different from the results observed in other proposed “comparables”.

Generally, a loss-making uncontrolled transaction or loss-making company should trigger further investigation in order to establish whether or not it can be comparable to the Controlled Transaction. Circumstances in which loss-making transactions/ enterprises should be excluded from the list of comparables include cases where losses do not reflect normal business conditions, and where the losses incurred by third parties reflect a level of risks that is not comparable to the one assumed by the Taxable Person in its Controlled Transactions.

5.3.5. Other considerations

5.3.5.1. Timing of origin

In principle, information relating to the conditions of Comparable Uncontrolled Transactions undertaken or carried out during the same period of time as the Controlled Transaction (contemporaneous uncontrolled transactions) is expected to be the most reliable information to use in a comparability analysis. Such transactions better reflect how independent parties have behaved in an economic environment that is the same as the economic environment of the Taxable Person’s Controlled Transaction.

5.3.5.2. Timing of data collection

Taxable Persons may prepare Transfer Pricing documentation to demonstrate that they have made reasonable efforts to comply with the Arm’s Length Principle at different points of time. There are two general approaches:

- Arm’s length price-setting approach: where Transfer Pricing documentation is prepared at the time the Controlled Transactions were undertaken, or based on information that was reasonably available to the Taxable Person at that point. Such information includes not only information on comparable transactions from previous years, but also information on economic and market changes that may have occurred between those previous years and the year of the Controlled Transaction.
- Arm’s length outcome-testing approach: where the actual outcome of the Controlled Transactions is tested to demonstrate that the conditions of these transactions were consistent with the Arm’s Length Principle. Such a test typically takes place as part of the process for preparing the Tax Return at the end of the Tax Period.

It is recommended for Taxable Persons to ensure that the approaches are applied consistently and result in the same outcome for all the Related Parties or Connected Persons to the Controlled Transaction.

5.3.5.3. Multiple year data

In practice, examining multiple-year data is often useful in a comparability analysis. In order to obtain a complete understanding of the facts and circumstances surrounding the Controlled Transaction, it may be useful to examine data from both the year under examination and prior years. Looking at multiple years can reveal factors that may have influenced (or should have influenced) the determination of the transfer price. For example, the use of data from past years will show whether reported losses on a Controlled Transaction are part of a history of losses on Comparable Uncontrolled Transactions. Further examination may then reveal that this is the result of particular economic conditions in a prior year that increased costs in the subsequent year.

Multiple-year data can improve the understanding of long-term arrangements, provide insights into relevant business and product life cycles of the comparables and improve the process of selecting third-party comparables.

Use of multiple-year data and averages generally improves the reliability of the range of financial results, especially where transactional profit methods are applied. As the use of multiple-year data may produce a broader set of financial results and indicators, statistical tools will be useful in analysing the results for purposes of determining the arm's length range.

The examination of multiple-year data is typically done for 3 years inclusive of the year in which the transaction is undertaken. When using a 3-year period, at least 2 years of data should be available in order to accept the comparable company.

5.3.5.4. Frequency of updating the search for comparables

Searches for comparables should be fully updated every three years with an annual financial update of the comparables in the interim years as a minimum requirement. In case of a change in circumstances of the Controlled Transaction or Related Parties (or Connected Persons), the full analysis on the selection of comparables needs to be undertaken in the year of the change in circumstances.

6. Transfer Pricing Documentation

6.1. Introduction

Article 55 of the Corporate Tax Law specifies the Transfer Pricing documentation obligations on a Taxable Person that enters into transactions with its Related Parties or Connected Persons.

Generally, Transfer Pricing documentation refers to a set of records prepared by Taxable Persons to demonstrate their compliance with the Arm's Length Principle in their Related Party transactions. The purpose of Transfer Pricing documentation is to provide the FTA with a clear and comprehensive understanding of the Taxable Person's Transfer Pricing policies and their application, to test the Transfer Pricing outcome for each relevant period under review.

This section provides an overview of several areas related to Transfer Pricing documentation, including:

- understanding the objectives and requirements of the Transfer Pricing documentation requirements in the UAE;
- General Transfer Pricing disclosure form;
- Master File;
- Local File; and
- Country-by-Country Reporting ("CbCR").

These different Transfer Pricing requirements may apply depending on the size of the business. A Master file and local file are required from businesses that are part of an MNE Group with consolidated revenue over 3.15 billion AED or where the Taxable Person's Revenue exceeds 200 million AED. CbCR also only applies to businesses that are part of an MNE Group with consolidated revenue over 3.15 billion AED[17].

As mentioned above, the purpose of the Transfer Pricing documentation is to provide an understanding of the Taxable Person's Transfer Pricing practices, and to test the outcomes with the Arm's Length Principle in relation to Controlled Transactions. Accordingly, and in addition to the above statutory requirements, Taxable Persons are encouraged to maintain and provide to the FTA when requested any additional documentation which supports the arm's length basis of the transaction.

Under Article 55(4) of the UAE Corporate Tax Law, the FTA may request certain information from Taxable Persons who are not required to maintain a Local File and Master File. Examples of the information that the FTA may request include- Information regarding transactions with Related Parties and Connected Persons;

- any information to support the arm's length nature of the transaction,

[17] See further in Ministerial Decision No. 97 of 2023.

- any other information that the FTA deems necessary to assess the arm's length nature of the transaction, and
- information used for application of the chosen method. Such additional documentation may include (but is not limited to) documentation supporting arm's length analysis of the Controlled Transaction (i.e. Functional Analysis, benchmarking studies, intercompany agreements, meeting minutes, evidence of decisions taken, emails, invoices, workpapers computing the transfer prices, among others).

The FTA expects the Person to prepare and maintain documentation explaining all relevant information used for the application of the chosen method. Taxable Persons should provide sufficiently detailed documentation to support the factors selected, weights assigned to the factors where multiple factors are used, as well as the details of the numerical adjustments performed. To the extent possible, the documentation should include reliable publicly available market references.

6.2. Objectives of Transfer Pricing documentation

Transfer Pricing documentation is prepared with the intention of serving three primary objectives:

1. ensuring that Taxable Persons appropriately consider Transfer Pricing requirements when setting prices and other terms for transactions between Related Parties or Connected Persons, and accurately report outcomes of these transactions on their Tax Returns;
2. providing the FTA with the necessary data to conduct a Transfer Pricing risk assessment and arrive at an informed position regarding the need for an audit; and
3. providing the FTA with the necessary information to facilitate a comprehensive audit of the Transfer Pricing practices of Persons subject to Corporate Tax in the UAE, while recognising the potential need for additional information as the audit progresses.

6.3. Contemporaneous Transfer Pricing documentation

Taxable Persons are required to maintain contemporaneous Transfer Pricing documentation of their controlled transactions to demonstrate compliance with Transfer Pricing regulations and maintain the integrity of their Corporate Tax positions.

The FTA expects that documentation is maintained either at the time of the Controlled Transaction or, by the time the Taxable Person submits its Tax Return for the Tax Period in which the Controlled Transaction is undertaken. As further described below, such documentation should contain an exhaustive and detailed description of the Controlled Transactions, the economic conditions surrounding them, and the analysis and conclusions that led to the determination of the transfer prices.

By maintaining contemporaneous Transfer Pricing documentation, Taxable Persons can demonstrate that their Transfer Pricing policies comply with the Arm's Length Principle. These policies and the supporting documentation should be prepared, regularly reviewed and reassessed at least annually to reflect changes in the Taxable Person's business or structure and the regulatory and wider business environment.

6.4. Summary of the UAE Transfer Pricing documentation requirements

The relevant UAE legislation has outlined five Transfer Pricing documentation requirements for certain Taxable Persons that are required to be prepared for each Tax Period:[18]

1. **Transfer Pricing disclosure form** which covers details of the Controlled Transactions during a Tax Period.
2. **Master File** which provides a high-level overview of the Group's business and the allocation of income and economic activity within a Group. It only applies to large businesses as set out in the Ministerial Decision No. 97 of 2023.
3. **Local File** which provides detailed information on operations of the local entity and analysis and testing of the outcomes of the Controlled Transactions against the Arm's Length Principle. It only applies to large businesses as set out in the Ministerial Decision No. 97 of 2023.
4. **Country-by-Country Report** which provides jurisdictional quantitative information about an MNE Group (above AED 3,150,000,000) as well as an overview of the different activities conducted by affiliates of an MNE Group, as set out in Cabinet Resolution No. 44 of 2020.
5. **Additional supporting information** upon request of the FTA, pursuant to Article 55(4) of the Corporate Tax Law.

These distinct types of Transfer Pricing documentation are further detailed below.

6.5. Transfer Pricing disclosure form

Pursuant to Article 55(1) of the Corporate Tax Law, all Taxable Persons who undertake transactions with Related Parties or Connected Persons (domestic or foreign) in the reporting Tax Period and are above a materiality threshold are required to prepare and submit a general Transfer Pricing disclosure form, alongside their Tax Return.

A sample of the Transfer Pricing disclosure form to be completed annually by Taxable Persons will be available in due course on the FTA's website. The Transfer Pricing disclosure form includes information on the broad categories of transactions and arrangements undertaken by the Taxable Person with its Related Parties or Connected Persons. Information provided in the disclosure form includes the nature

[18] Corporate Tax Law and the Cabinet Resolution No.44 of 2020

of the Controlled Transaction(s), the value of the Controlled Transaction(s), details of the Related Party(ies) and the Transfer Pricing method(s) used to determine the arm's length value of the Controlled Transactions.

The Transfer Pricing disclosure form is to be submitted alongside the Tax return within 9 months from the end of the relevant Tax Period.

6.6. Master File and Local File

Master File and Local File are part of the three-tiered standardised approach to Transfer Pricing documentation prescribed under the OECD Transfer Pricing Guidelines and BEPS Action 13 (together with Country-by-Country Reporting). The Master File is aimed at providing a high-level overview of the Transfer Pricing policies of an MNE Group, whereas the more detailed information is contained in the local file.

Keeping both a Master File and a Local File is a requirement for Taxable Persons that are a Constituent Company of an MNE Group that has a total consolidated group Revenue of AED 3,150,000,000 or more in the relevant Tax Period, or where the Taxable Person's Revenue in the relevant Tax Period is AED 200,000,000 or more.[19]

6.6.1. Master File

A Master File is a type of Transfer Pricing documentation that provides a high-level overview of the MNE Group's global business operations, Transfer Pricing policies, information on key value drivers, and a global allocation of income and economic activity. Its purpose is to assist the FTA in evaluating significant Transfer Pricing risks and determining the MNE Group's Transfer Pricing practices in their global economic, legal, financial, and tax context. The information required in a Master File provides a "blueprint" of the MNE Group and contains relevant information that can be broken down into the following five categories:

- the MNE Group's organisational structure;
- a description of the MNE Group's business(es);
- the MNE Group's intangibles (as defined in Chapter VI of the OECD Transfer Pricing Guidelines);
- the MNE Group's intercompany financial activities; and
- the MNE Group's financial and tax positions.

A Master File is required to be prepared for each Tax Period based on the specific facts and circumstances of the MNE Group's global business for that particular Fiscal Year.

[19] Article 2(1) of Ministerial Decision No. 97 of 2023.

6.6.1.1. Master File information

The Master File content follows the requirements under Annex I to Chapter V of the OECD Transfer Pricing Guidelines.

The Taxable Persons in scope should present the MNE Group information in a Master File in a consolidated format. The Master File must include information on:

Organisational structure:

- A chart illustrating the MNE Group's legal and ownership structure and geographical location of operating entities.

Description of MNE Group's business(es):

- A general written description of the MNEs business including:
  - Important drivers of business profit.
  - A description of the supply chain for the group's five largest products and/ or service offerings by turnover plus any other products and/or services amounting to more than 5% of group turnover. The required description could take the form of a chart or a diagram.
  - A list and brief description of important service arrangements between members of the MNE Group, other than research and development (R&D) services, including a description of the capabilities of the principal locations providing important services and Transfer Pricing policies for allocating services costs and determining prices to be paid for intra-group services.
  - A description of the main geographic markets for the group's products and services that are referred to in the second bullet point above.
  - A brief written functional analysis describing the principal contributions to value creation by individual entities within the group, i.e. key functions performed, important risks assumed, and important assets used.
  - A a description of important business restructuring transactions, acquisitions and divestitures occurring during the fiscal year.

MNE Group's intangibles:

- A general description of the MNE Group's overall strategy for the development, ownership and exploitation of intangibles, including location of principal R&D facilities and location of R&D management.
- A list of intangibles or groups of intangibles of the MNE Group that are important for Transfer Pricing purposes and which entities legally own them.
- A list of important agreements among identified associated enterprises related to intangibles, including cost contribution arrangements, principal research service agreements and license agreements.
- A general description of the group's Transfer Pricing policies related to R&D and intangibles.

- A general description of any important transfers of interests in intangibles among associated enterprises during the fiscal year concerned, including the entities, countries and compensation involved.

MNE Group’s intercompany financial activities:

- A general description of how the group is financed, including important financing arrangements with unrelated lenders.
- The identification of any members of the MNE Group that provide a central financing function for the group, including the country under whose laws the entity is organised and the place of effective management of such entities.
- A general description of the MNE Group’s general Transfer Pricing policies related to financing arrangements between associated enterprises.

MNE Group’s financial and tax positions:

- The MNE Group’s annual consolidated financial statements for the fiscal year concerned if otherwise prepared for financial reporting, regulatory, internal management, tax or other purposes.
- A list and brief description of the MNE Group’s existing unilateral advance pricing agreements (APAs) and other tax rulings relating to the allocation of income among countries.

A presentation by line of business is permitted where well justified by the facts (for example, where the structure of the MNE Group is such that some significant business lines operate largely independently or were recently acquired). Where line of business presentation is used, care should be taken to assure that centralised Group functions and transactions between business lines are properly described in the Master File. Even where a line of business presentation is selected, the entire Master File consisting of all business lines should be available to each jurisdiction in order to assure that an appropriate overview of the MNE Group’s global business is provided.

6.6.2. Local File

A Local File is a type of Transfer Pricing documentation that provides more detailed information relating to specific Controlled Transactions in the relevant Tax Period. It covers transactions taking place between local country affiliate and associated enterprises, including information on the identity of Related Parties or Connected Persons, relevant financial information regarding those specific transactions, a comparability analysis and the selection and application of the most appropriate Transfer Pricing method. It supplements a Master File and helps to ensure that the Taxable Person has complied with the Arm’s Length Principle in its Transfer Pricing positions affecting a specific jurisdiction. A Local File focuses on information relevant to the Transfer Pricing analysis related to each specific transaction taking place between the Taxable Person and its Related Parties or Connected Persons in the relevant Tax Period.

The following categories of information are required in the Local File:

- Information on the local entity.
- Detailed information on each material category of controlled transactions in which the entity is involved, including a functional analysis of each, an indication of the most appropriate Transfer Pricing method (including which party is selected as the 'tested party') and the application of that method.
- Financial information.

The taxpayer is allowed to cross reference to the information contained in the master file.

While all Controlled Transactions need to be conducted in line with the Arm's Length Principle, the Ministerial Decision No. 97 of 2023 has set out scenarios where the following types of Controlled Transactions need to be documented by a Taxable Person in its Local File:

- Controlled Transactions entered into with a Non-Resident Person other than a PE of a Non-Resident Person that is subject to the same Corporate Tax rate as the Taxable Person (for example, cross border transactions).
- Controlled Transactions entered into with an Exempt Person (i.e. Persons not subject to Corporate Tax).
- Controlled Transactions entered into by a Taxable Person with a Resident Person that benefits from the small business relief.
- Controlled Transactions entered into by a Taxable Person with a Resident Person who is subject to a different Corporate Tax rate from that applicable to the Taxable Person (for example, transactions with a Qualifying Free Zone Person).

In addition to the above, it should be noted that the following Controlled Transactions are exempt from being included in a Local File:

1. Controlled Transactions entered into by the Taxable Person with Natural Persons (provided that they are acting as if they were independent of each other).
2. Controlled Transactions entered into by the Taxable Person with a juridical person that is considered to be a Related Party or a Connected Person solely by virtue of being a partner in an Unincorporated Partnership (provided that they are acting as if they were independent of each other).
3. Controlled Transactions with a PE of a Non-Resident Person provided that the PE is subject to the same Corporate Tax rate as the Taxable Person.

While the above transactions do not need to be documented in a Local File, these Controlled Transactions should nevertheless be undertaken on an arm's length basis. The Taxable Person should also be able to provide documentation to the FTA to support the arm's length nature of these transactions when requested.

The Master File and the Local File are to be prepared and maintained by the Taxable Persons as identified above contemporaneously. Such documentation may be requested to be provided to the FTA within 30 days, or by a longer period of time if agreed by the FTA.

6.6.2.1. Local File information

The Local File content follows the requirements under Annex II to Chapter V of the OECD Transfer Pricing Guidelines and must include the following information:

Local entity:

- A description of the management structure of the local entity, a local organisation chart, a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.
- A detailed description of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.
- Identification of the key competitors.

Controlled transactions:
For each material category of controlled transactions in which the entity is involved:

- A description of the material-controlled transactions (for example procurement of manufacturing services, purchase of goods, provision of services, loans, financial and performance guarantees, licenses of intangibles) and the context in which such transactions take place.
- The amount of intra-group payments and receipts for each category of controlled transactions involving the local entity (i.e. payments and receipts for products, services, royalties, interest, etc.) broken down by tax jurisdiction of the foreign payor or recipient.
- An identification of associated enterprises involved in each category of controlled transactions and the relationship amongst them.
- Copies of all material intercompany agreements concluded by the local entity.
- A detailed comparability and functional analysis of the taxpayer and relevant associated enterprises with respect to each documented category of controlled transactions, including any changes compared to prior years.
- An indication of the most appropriate Transfer Pricing method with regard to the category of transaction and the reasons for selecting that method.
- An indication of which associated enterprise is selected as the tested party, if applicable, and an explanation of the reasons for this selection.
- A summary of the important assumptions made in applying the Transfer Pricing methodology.

- If relevant, an explanation of the reasons for performing a multi-year analysis.
- A list and description of selected comparable uncontrolled transactions (internal or external), if any, and information on relevant financial indicators for independent enterprises relied on in the Transfer Pricing analysis, including a description of the comparable search methodology and the source of such information.
- A description of any comparability adjustments performed, and an indication of whether adjustments have been made to the results of the tested party, the comparable uncontrolled transactions, or both.
- A description of the reasons for concluding that relevant transactions were priced on an arm's length basis based on the application of the selected Transfer Pricing method.
- A summary of financial information used in applying the Transfer Pricing method.
- A copy of existing unilateral and bilateral/multilateral APAs and other tax rulings to which the local tax jurisdiction is not a party, and which are related to controlled transactions described above.

Financial information:

- Annual local entity financial accounts for the fiscal year concerned. If audited statements exist, they should be supplied and if not, existing unaudited statements should be supplied.
- Information and allocation schedules showing how the financial data used in applying the Transfer Pricing method may be tied to the annual financial statements.
- Summary schedules of relevant financial data for comparables used in the analysis and the sources from which that data was obtained.

6.6.3. Exceptions on maintenance of a Master File and a Local File

As per Ministerial Decision No. 97 of 2023, a Taxable Person is required to maintain both a master file and a local file if they meet either of the following conditions in the relevant Tax Period:

a) where the Taxable Person, for any time during the relevant Tax Period, is a Constituent Company of a Multinational Enterprises Group as defined in the Cabinet Resolution No. 44 of 2020 referred to above that has a total consolidated group Revenue of AED 3,150,000,000 (three billion one hundred and fifty million United Arab Emirates Dirham) or more in the relevant Tax Period; or
b) where the Taxable Person's Revenue in the relevant Tax Period is AED 200,000,000 (two hundred million United Arab Emirates Dirham) or more.

However, as an exception, any Taxable Person that is part of a UAE headquartered group that is not an MNE Group (i.e. a group that does not have business establishments outside the UAE) is not required to maintain a Master File. However, they should maintain a Local File as per the above thresholds.

A Taxable Person not meeting either of the conditions is not required to maintain either a Master File or a Local File. In such cases, the Taxable Person is still required to maintain reasonable records to support the arm's length nature of the Taxable Person's transactions or arrangements with its Related Parties and Connected Persons. The FTA can request such information to be produced within (30) thirty days following a request by the FTA, or by any such other later date as the FTA directs.[20]

6.7. Country-by-Country Reporting (CbCR)

CbCR is the third tier of Transfer Pricing documentation set in BEPS Action 13.

CbCR is a standardised report which includes aggregate tax jurisdiction information relating to the global allocation of the income, the taxes paid, and certain indicators of the location of economic activity among tax jurisdictions in which the MNE Group operates. The report also requires a listing of all the Constituent Companies for which financial information is reported, including the tax jurisdiction of incorporation, where different from the tax jurisdiction of residence, as well as the nature of the main Business Activities carried out by that Constituent Company.

The UAE introduced CbCR requirements through Cabinet Resolution No.44 of 2020. As per Cabinet Resolution No. 44 of 2020, the form of a CbCR follows the Standard Template attached in Annex (3) to Chapter (V) of the OECD Transfer Pricing Guidelines. Specifically, a CbCR includes the following three tables:

- Table 1 – Contains the quantitative information per tax jurisdiction such as unrelated party and related party revenues, stated capital, taxes accrued and paid, employee count, etc.
- Table 2 – Contains the qualitative information per Constituent Company on the main business activities undertaken during the year.
- Table 3 – Contains additional information necessary to facilitate the understanding of Tables 1 and 2 (for example, assumptions on exchange rates, source of data, etc.)

The UAE CbCR requirements are applicable to MNE Groups headquartered in the UAE with consolidated Group revenue equal to or above AED 3.15 billion (approximately EUR 750 million) during the Fiscal Year immediately preceding the reporting Fiscal Year.[21]

The Ultimate Parent Entity will be required to submit a CbCR notification in respect of each reporting Fiscal Year.[22] The CbCR notification needs to be submitted no later

[20] Article 55(4) of the Corporate Tax Law.

[21] Article 2(1)(a) of the Ministerial Decision No. 97 of 2023.

[22] Article 2(2) of Cabinet Resolution No. 44 of 2020.

than the last day of the Fiscal Year and it informs the FTA that the Ultimate Parent Entity is the reporting Entity which will file the CbCR.[23] The Ultimate Parent Entity is also required to file the CbCR no later than 12 months after the last day of each reporting year of the MNE Group in the UAE.[24] Cabinet Resolution No. 44 of 2020 stated the requirements for CbCR and includes guidance on preparation and submission of the CbCR and the CbCR notification. Taxable Persons should refer to Cabinet Resolution No. 44 of 2020 for practical guidance on the preparation and filing of the CbCR and the CbCR notification.

[23] Article 2(1) of Cabinet Resolution No. 44 of 2020.

[24] Article 4(1) of Cabinet Resolution No. 44 of 2020.

7. Special Considerations for Specific Cases

This section provides guidance on special considerations that Taxable Persons may encounter in determining arm's length conditions for transactions such as financial transactions, intra-group services and intangibles, as well as other considerations such as Cost Contribution Arrangements ("CCAs"), Business Restructuring, PEs, and Group synergies. These specific areas are relevant from a UAE perspective, as a financial and investment hub. This section also highlights some considerations on audit and risk assessments.

The guidance in this section should take into consideration the guidance provided in Section 5 of this Guide on the application of the Arm's Length Principle.

7.1. Financial transactions[25]

7.1.1. Introduction

This section provides guidance on determining whether the conditions for certain types of financial transactions between Related Parties or Connected Persons are consistent with the Arm's Length Principle. It should not be assumed that this section includes an exhaustive list of all financial transactions falling under the scope of the UAE Transfer Pricing rules. Taxable Persons are expected to conduct all financial Controlled Transactions in line with the Arm's Length Principle.

7.1.2. Treasury function

Generally, the goal of a treasury function in an MNE Group is to monitor and ensure financial stability. MNE Groups often set up dedicated treasury departments to manage and address the liquidity and financing needs of the Group. Treasury activities that are performed within MNE Groups are considered transactions between Related Parties or Connected Persons and are subject to Transfer Pricing requirements. A corporate treasury department may perform the following activities for the benefit of the Group:

- Optimising liquidity across the MNE Group to ensure that the business has sufficient cash available and that it is in the right place when it is needed and in the right currency. In certain cases, a central treasury team may act as the contact point to centralise the external borrowing of the MNE Group. External funds would then be made available within the MNE Group through intra-group lending.
- Cash management of the excess liquidity of the MNE Group in order to earn an investment return and preserve capital as needed.

[25] The following sections follow the guidance of Chapter X of the OECD Transfer Pricing Guidelines, with certain modifications to suit the domestic requirements.

- Managing financial risk through identification and analysis of, and responses to, the financial risks to which the business is exposed, including optimising the cost of capital to the advantage of the users of the MNE Group's treasury services.
- Raising debt (through bond issuances, bank loans or otherwise) and raising equity, and managing the relationship with the MNE Group's external bankers and with independent credit rating agencies.

When evaluating the Transfer Pricing issues related to treasury activities, it is important to accurately characterise and understand the actual transactions and determine what exactly the treasury functions that an entity is carrying out are before moving on to the pricing of the transactions.

7.1.2.1. Determining the arm's length remuneration for the treasury function

Often, the central treasury function is performing routine services without bearing or managing significant risks. In such cases, Taxable Persons may refer to Section 7.2 for further details on remunerating centralised services. However, it is important to separately consider the arm's length remuneration for cases where the treasury function is acting as an in-house bank that is bearing and managing significant contingent liability risk that may arise from Related Party loans, cash pooling or guarantees (further discussed below).

7.1.3. Intra-group loans

Intra-group loans are often made by a central treasury entity, but they may also arise in a variety of other scenarios such as loans from a parent company to an operating subsidiary, loans between operating subsidiaries, or shareholder loans made by investors to portfolio companies. In the case of loans provided by a centralised treasury entity, such transactions should typically be priced separately from the routine services that may also be performed by that entity.

7.1.3.1. Determining the arm's length pricing for intra-group loans

Given the abundance of data on third-party loans, it is often the case that the CUP method can be applied to price intra-group loans. For loans, the CUP method typically involves the following steps:

- Analysis of the terms of the loan relating to factors that may impact the pricing including issue date, tenor, country of the borrower, currency, options (for example, pre-payment option), interest rate type (for example, fixed vs. floating), etc.
- Analysis of the borrower's credit rating to understand the credit risk borne by the lender in extending the loan (factoring in implicit support from the group as further discussed below).
- Search for third-party loans with a similar credit rating and terms.

- Comparability adjustments if necessary and the calculation of the arm's length range.

The below sub-sections provide more details on conducting a credit rating analysis as well as performing a search for third-party loans.

7.1.3.2. Credit ratings

Credit rating is an opinion about an entity's general creditworthiness and capacity to meet its financial obligations. The creditworthiness of the borrower is one of the main factors that independent lenders take into consideration when the terms of the borrowing are being determined. Credit ratings can serve as a useful measure of creditworthiness and, therefore, help to identify potential comparables or to apply economic models in the context of intra-group loans.

Credit ratings can be determined for the overall creditworthiness of an MNE or the Ultimate Parent Entity of the MNE Group or for a specific issuance of debt. Based on prevailing facts and circumstances and provided there is comparability between the third-party debt issuance and the Controlled Transaction, when both MNE credit rating and financial instrument credit ratings are available, the rating of the particular financial instrument would be more appropriate to be used to price the controlled financial transaction.

Determining credit ratings requires consideration of both quantitative (for example, financial information of the borrower) and qualitative factors (for example, the industry and jurisdiction in which the borrower operates). An approach often used to determine a credit rating for a specific MNE is to replicate the process used to determine the credit rating of the MNE Group by applying the quantitative and qualitative analysis of the individual characteristics of the MNE using publicly available financial tools or independent credit rating agencies' methodology. This approach also takes into consideration the enhanced creditworthiness that an MNE may receive for being part of an MNE Group.

The credit rating methodology used in publicly available financial tools may differ significantly from the credit rating methodologies applied by independent credit rating agencies to determine official credit ratings and the impact of any such differences should be carefully considered. For instance, publicly available tools generally use only a limited sample of quantitative data to determine a credit rating. Official credit ratings published by independent credit rating agencies are derived from more rigorous analysis that includes quantitative analysis of historical and forecast entity performance, as well as detailed qualitative analysis of, for instance, management's ability to manage the entity, industry specific features and the entity's market share in its industry. For these reasons, the reliability of credit rating results derived from the use of publicly available financial tools may be limited when compared to independent credit rating agencies. However, this may be improved if the analysis can demonstrate consistency of ratings using publicly available tools with those provided by independent credit rating agencies. For example, when deciding whether and on what terms to lend, banks and other lenders may rely on independent credit ratings. A third-party lender may take into account independent credit ratings in terms of fixing the level of interest on a particular loan (a higher rating resulting in a lower interest rate). Credit ratings are just one area of consideration when deciding whether and on what terms to provide lending. The same considerations apply equally to Related Party loans.

In general, a lower credit rating will indicate a greater risk of default and be expected to result in higher borrowing costs.

It is important that the MNE Group appropriately documents the reasoning behind the credit rating used when pricing intra-group loans and other controlled financial transactions.

Example 16: Impact of credit rating on arm's length rates

Company Y is a company operating in Information Technology hardware industry in the UAE. Company Y obtained a 5-year term loan of AED 100 million from a Related Party lender. Company Y has a credit rating of BBB. A search was conducted to identify the conditions applied in similar third-party loans and the following factors were taken into consideration for the search:

Amount: 100 million
Tenor: 5 years
Rank: Subordinated
Currency: AED
Country of the borrower: UAE
Industry of the borrower: Information Technology hardware
Credit rating of the borrower: BBB

Accordingly, the search identified similar loan agreements. The search revealed that the interest rate charged for comparable independent agreements is 5.5% per annum with the same or similar conditions as the tested transaction.

On this basis, it is concluded that 5.5% per annum is a reasonable arm's length interest rate applicable to the AED 100 million loan borrowed by Company Y.

Impact of different credit rating:

Keeping the above example with same factors except that the credit rating of the borrower (Company Y) is A instead of BBB. On a comparable search identified for similar loan agreements, the interest rate charged for comparable independent agreements is 4% per annum with the same or similar conditions as the tested transaction.

As a result, it can be concluded that 4% is a reasonable arm's length interest rate applicable to the AED 100 million loan borrowed by Company Y.

7.1.3.3. Implicit support

The effect of Group membership is relevant for informing the conditions under which a Taxable Person would have borrowed from an independent lender at arm's length. In particular:

1. The external funding policies and practices of group management will assist in informing the form and terms and conditions of the debt the MNE would have entered into with an independent lender, including the pricing (i.e. interest rate paid), and all economically relevant characteristics such as the type of loan, its term, currency, security, covenants, business strategies, and so forth.
2. The entity may receive support from the Group to meet its financial obligations in the event of the entity getting into financial difficulty.

In the context of intra-group loans, this incidental benefit that the entity is assumed to receive solely by virtue of its Group affiliation, is referred to as 'implicit support'. The effect of potential Group support on the credit rating of an entity and any effect on that entity's ability to borrow or the interest rate paid on those borrowings would not require any payment or comparability adjustment.

Implicit support from a Group may affect the credit rating of the borrower or the rating of any debt which it issues. The relative status and strategic importance of an entity within the Group may help determine what impact that potential group support has on the credit rating of a debt issuer. The weaker the linkage of an entity to the Group, the less it would receive support. In the event that there is evidence that an entity is not likely to receive support from its Group, it may be appropriate to consider the entity on the basis of its own stand-alone credit rating only.

7.1.3.4. Performing a search for third-party loans

The arm's length interest rate for an intra-group loan can be benchmarked against publicly available data for other borrowers/third-party loans with the same credit rating as well as sufficiently similar terms and conditions and other comparability factors of the loans. In addition to credit quality, in performing a search for third-party loans, it is important to also consider key factors that would impact the pricing of the loan, such as the following:

- **The issue date** of the loan is an important factor in the pricing of the loan as interest rates may fluctuate significantly over time based on various macro-economic factors.
- **The currency** of the debt can impact the risk of the loan due to foreign exchange rate fluctuations. Certain currencies are generally considered lower risk (for example, the US Dollar ("USD") or those currencies pegged to the USD such as the AED) while other currencies are higher risk (for example, currencies undergoing or at risk of a devaluation).
- **The country of the borrower** can impact the risk of a loan due to the unique macro-economic factors of that country (for example, recession or high inflation), risk of capital controls being imposed, or political instability that could threaten the capital markets of a country.
- **The tenor** of a loan will impact the pricing of the loan as it will impact how long the lender's capital will be tied into this transaction. Under normal economic conditions, loans with a longer duration would typically require a higher interest rate to incentivise the lender to extend the loan for such a time period.
- **The options** of a loan may grant certain privileges to the lender or the borrower. For example, a pre-payment option that would allow the borrower to pay off the loan before the maturity date could add a premium to the loan due to the potential benefit provided to the borrower (for example, if interest rates are lowered, it would benefit the borrower to pay off the loan early, thereby disadvantaging the lender due to loss of interest income).
- There are **different types of rates** that may be applied to loans including fixed rate loans and floating rate loans. The interest rate of a fixed rate loan remains 'fixed' (i.e. constant) throughout the duration of the loan, whereas a floating rate loan will fluctuate based on an underlying market benchmark (for example LIBOR or EIBOR), thereby impacting the riskiness of the loan.
- **The industry** of the borrower may impact the riskiness of the loan. For example, some industries are considered to be more stable in nature or may involve significant physical capital that could reduce the risk to the lender (for example manufacturing), whereas the opposite may be true for other industries (for example technology).

The above guidance is not meant to be exhaustive, and other factors may also need to be considered in pricing an intra-group loan.

7.1.3.5. Comparability adjustments for third-party loans

In certain cases, when conducting a loan benchmarking analysis, it may not be possible to match all of the key comparability criteria of an intra-group loan. For example, certain countries do not have robust capital markets and, therefore, may not offer a sufficient number of third-party loans issued in their country or currency. As a result, comparability adjustments may be required to enhance the comparability and reliability of the third-party loan.

Example 17: Adjustments to reflect third-party rates

Company M borrows AED 100 million from a Related Party lender, and this debt has a tenor of 10 years. A search of the interest rate charged for comparable debt yields compared to debt transactions with tenors ranging from 5 to 9 years. As such, a comparability adjustment is required to reflect third-party rates for a 10-year loan. The adjustment is performed as follows:

1. Identify yields at the tenor of the intra-group loan (i.e. 10 years) using available data as of the data of the loan issuance such as a yield curve. This will be referred to as (A).
2. Identify yields at the tenor of each third-party loan using the same data source (for example, the yield curve as mentioned under step 1). This will be referred to as (B).
3. Calculate a tenor adjustment factor for each third-party loan by dividing the 10-year yield rate found in Step 1 by the yield at the tenor of each third-party loan from Step 2. This will be referred to as (C) (i.e. C = A / B).
4. Multiply the interest rate of each third-party loan (referred to as D) by the tenor adjustment factor calculated in Step 3 above to arrive at the tenor adjusted interest rate, i.e. C x D.

7.1.4. Cash Pooling

Cash pooling is a financial management technique used by companies to optimise their cash flow and efficiently manage liquidity within a group of related entities or subsidiaries. It involves the consolidation of cash balances from multiple accounts into a central pool, typically held by a parent company or a designated treasury entity. This centralisation allows companies to have a more holistic view of their cash position and utilise surplus funds more effectively. If operated efficiently it can reduce reliance on external borrowings and associated costs.

There are two basic types of cash pooling arrangements:

- Physical pooling
- Notional pooling

In a physical pooling arrangement, the bank account balances of all of the pooling members are transferred daily to a single central bank account owned by the cash pool leader, with the aim of bringing the individual pool members balances to a target balance.

In a notional pooling arrangement, some of the benefits of combining credit and debit balances of several accounts are achieved without any physical transfer of balances between the participating members' bank accounts. However, the bank may require cross-guarantees from the pool participants to enable the right to set off between accounts if necessary.

Because there is no physical transfer of funds in a notional pooling arrangement, the transactional costs of operating a notional cash pool are likely to be less than the transactional costs of operating a physical cash pool. The functions carried out by the bank would be accounted for in the charges or interest rate of the bank. The cash pool leader would perform minimal functions and have little value to add, since the functions are primarily performed by the bank, which would need to be reflected in the intra-group pricing.

7.1.4.1. Determining the arm's length remuneration in a cash pooling arrangement

Cash pooling arrangements involve transactions between Related Parties or Connected Persons and hence it is important to ensure that the arrangement is conducted in line with the Arm's Length Principle.

The appropriate reward of a cash pool leader will depend on the facts and circumstances, the functions performed, the assets used and the risks assumed in facilitating a cash pooling arrangement. In general, a cash pool leader performs routine functions such as co-ordination, forecasting, reporting and basic analysis, and the expectation is that it will receive a commensurate renumeration as a routine service provider. In more complex cash pools, additional responsibilities could include risk management, interest optimisation and external banking relationships. These types of cash pools would expect to receive more than a routine reward. The level of remuneration for a cash pool function should be directly linked to the activities and services, assets used and risks assumed by the cash pool leader, and the appropriate Transfer Pricing method should be adopted after analysing the specific facts and circumstances.

The remuneration of the cash pool members will be calculated through the determination of the arm's length interest rates applicable to the debit and credit positions within the pool. This determination will allocate the synergy benefits arising from the cash pool arrangement amongst the pool members and it will generally be done once the remuneration of the cash pool leader has been calculated.

7.1.5. Hedging

An MNE Group may make use of hedging instruments by which risk is transferred within different group entities. The hedging activity may be centralised within the treasury entity. For example, currency risk of one entity may be managed via a currency hedge that is arranged by the treasury entity. As a result, whilst individual entities in the Group may not contractually enter into hedging arrangements in their own name, their risk is nevertheless managed from the perspective of the Group as a whole.

Possible mechanisms by which an MNE Group may centralise the hedging of risk include:

- having a group treasury entity to perform the hedging function with the hedging contracts entered into in the name of the relevant operating companies or another MNE Group entity, and
- the MNE Group identifying and utilising natural hedges across the Group, in which case no formal hedging contracts are made.[26]

Where the centralised treasury function arranges a hedging contract in the name of the operating entity, that centralised treasury function can be seen as providing a service to the operating entity, for which it should receive compensation on arm's length terms in line with Section 5 of this Guide.

7.1.6. Financial guarantees

A financial guarantee is a legally binding commitment, which requires the guarantor to meet certain financial obligations in the event of a default by the party being guaranteed.

Under certain circumstances, a guarantee may be provided by an entity on a loan taken out by its Related Party from an unrelated lender. As a first step in determining the arm's length conditions of a guarantee arrangement, it is necessary to understand the economic benefit received by the borrower beyond the one that results from any potential implicit support mentioned above. In particular, an entity may receive a lower interest rate or access to more funding due to a Related Party guarantee. This is a result of having explicit support via a formalised guarantee.

7.1.6.1. Pricing a related party guarantee

Pricing a Related Party guarantee is typically done by estimating the benefit recognised by the guaranteed party in receiving a lower interest rate on its borrowings as a result of the guarantee. This approach is referred to as the "interest savings approach" and is done by calculating the difference in the guaranteed party's cost of borrowing without the guarantee as compared to its actual cost of borrowing with the guarantee. Estimating the cost of borrowing should be done in line with the guidance in this section on pricing intra-group loans as detailed above in Section 7.1.3.

[26] A natural hedge is a risk management strategy used by businesses to offset or mitigate the impact of financial risks without resorting to explicit financial transactions or derivative instruments. The concept of a natural hedge is based on the idea that certain business activities or positions are naturally correlated with other activities or positions, leading to a self-balancing effect.

7.1.7. Captive insurance

A captive insurer is a function within a Group whose role is to insure certain risks of the Group. There are several benefits of captive insurance, including the ability to save on costs by retaining the risk within the Group and overcoming the challenge of obtaining insurance coverage for certain risks that are difficult to insure against in the open market. Captive insurers should operate genuine commercial enterprise if they are to be comparable to their independent counterparts. Indicators of commerciality may include the following:

- A diversification and pooling of risk in the captive insurer; and
- An improved capital position of the entities within the MNE Group as a result of diversification.

Furthermore, captive insurance arrangements should provide genuine insurance cover where the captive is assuming risk in exchange for premiums. Some indicators of genuine insurance activities include the following:

- The need to insure the risk;
- The captive insurer has the relevant skills and experience at its disposal to underwrite and manage the risk;
- There is a probability that the risk insured will materialise; and
- The captive insurer is comparable to independent insurers in terms of capital levels, operational framework and personnel.

7.1.7.1. Determination of Arm’s Length Price of captive insurance

In pricing the captive insurance arrangement, it may be possible to apply the CUP method if there are internal comparables whereby the captive insurer has suitably similar business with unrelated customers, or if external comparables are available.

However, due to the unique nature of insurance arrangements, it is often difficult to apply the CUP method for captive insurance. Thus, it may be more reliable to evaluate the arm’s length profitability of the captive insurance entity following the guidance in Section 5 of this Guide and applying the appropriate profit level indicator. Typically, such an analysis would take into account the profitability of claims and an appropriate return on capital.

Finally, an alternative method may be considered such as an actuarial analysis to determine an arm’s length premium for insuring a particular risk. However, alternative methods come with unique challenges and should only be used where the five Transfer Pricing methods prescribed in Article 34(3) of the Corporate Tax Law are not suitable or inconclusive.

7.2. Intra-group services[27]

7.2.1. Introduction

This section focuses on services performed by one or more Group members that provide a benefit to other Group members and, whether such services are priced in accordance with the Arm's Length Principle.

In independent situations, a Person in need of a specific service may acquire that service from a third-party service provider or may perform the service itself in-house. In a similar way, a member of an MNE Group in need of a service may acquire it from independent service providers, from one of its Group members (i.e. intra-group) or perform the service itself.

Intra-group services often include those services that are typically available externally from third parties (such as legal and accounting services), in addition to those that are ordinarily performed internally (for example, by an enterprise itself, such as internal auditing or human resources). A service that qualifies as an intra-group service should be identified and remunerated in line with the Arm's Length Principle.

Further, the analysis of Transfer Pricing considerations for intra-group services, involves two main areas:

- whether intra-group services have in fact been provided; and
- whether the charge for the intra-group service is in accordance with the Arm's Length Principle.

7.2.2. Determining whether an intra-group service has been rendered

7.2.2.1. Benefits test

Under the Arm's Length Principle, the question whether an intra-group service has been rendered when an activity is performed for one or more Group members by another Group member should depend on whether the activity provides a respective Group member with economic or commercial value to enhance or maintain its business position. This can be determined by considering the following non-exhaustive factors:

- Whether the benefits have economic or commercial value such that an independent party in comparable circumstances would be willing to pay for the activity if performed by an independent party or would have undertaken to perform the activity for itself.

[27] The following sections follow the guidance of Chapter VII of the OECD Transfer Pricing Guidelines. Certain modifications have been made to suit the domestic requirements and views of the FTA.

- Whether activities are performed for another party which receives, or reasonably expects to receive, benefits from such activities. If so, there may be a service provided even if the expected benefits do not eventually materialise.
- Whether objectively there is any commercial or practical necessity for the activities to be performed for the service recipient and an independent party would be willing to pay the service provider for the performance of those activities. If not, the benefit may be too remote or incidental.
- Whether the benefits are identifiable and capable of being valued. Otherwise, there is no service provided.

7.2.2.2. Shareholder activities

Sometimes in an MNE Group, an intra-group activity is performed relating to Group members even though those Group members do not need the activity (and would not be willing to pay for it were they independent of the Group). Such an activity may be one that a Group member (usually a parent entity or a regional holding company) performs solely because of its ownership interest in one or more other Group members (i.e. in its capacity as shareholder). It may also be required to perform such activities for regulatory compliance reasons, which would also indicate these activities are performed in the service provider’s capacity as a shareholder.

These types of activities would not be considered to be intra-group services, and thus would not justify a charge to other Group members. Instead, the costs associated with this type of activity should be borne and allocated/retained at the level of the shareholder. This type of activity would be referred to as a “shareholder activity”.

The following are indicative examples of costs that may be associated with shareholder activities and should not be charged:

- Costs relating to the juridical structure of the parent entity itself, such as shareholder meetings, issuing of shares in the parent entity, stock exchange listing of the parent entity and costs of the supervisory board.
- Costs relating to reporting requirements (including financial reporting and audit) of the parent entity including the consolidation of reports, the parent entity’s audit of the subsidiary’s accounts carried out exclusively in the interest of the parent entity, and the preparation of Consolidated Financial Statements of the MNE Group.
- Costs of raising funds for the acquisition of its participations and costs relating to the parent entity’s investor relations such as a communication strategy with shareholders of the parent entity, financial analysts, funds and other stakeholders in the parent entity.
- Costs relating to compliance of the parent entity with the relevant tax laws.
- Costs which are ancillary to the corporate governance of the MNE Group as a whole.

7.2.2.3. Treatment of pass-through cost / reimbursement of expenses

Sometimes, a Group company may arrange and pay for, on behalf of its Related Parties or Connected Persons, goods or services acquired from various vendors. These are generally called pass-through costs and are subject to reimbursement.

A question may arise as to whether the Group company arranging and paying for such goods or services should add a profit element to the amount paid to the vendors when recharging such costs to Related Parties or Connected Persons.

The Group service provider may pass on the costs from the vendors without a profit element or mark-up provided that:

- the acquired goods or services are requested by and for the benefit of the Related Parties or Connected Persons;
- the Group service provider is merely the paying agent and does not enhance the value of the acquired goods or services in the process whatsoever; and
- the cost of the acquired goods or services is the legal or contractual liability of the Related Parties or Connected Persons. This condition can be met even if the Group service provider is legally or contractually liable to pay for the acquired goods or services through an inter-company agreement.

The Group service provider should nonetheless consider charging an appropriate arm's length standard margin for its function in arranging and paying for the acquired goods or services on behalf of its Related Parties or Connected Persons. This should be based on (but not limited to) the aggregate costs of performing the function, and reflect the nature of its own services and extent of value-add generated for the Related Parties or Connected Persons.

Example 18: Treatment of pass-through cost as well as service cost

Company A is the parent company of an MNE Group headquartered in the UAE. It has wholly owned subsidiaries in countries X and Y. Company A has a centralised procurement team responsible for all procurement related activities for the Group.

The subsidiary in country X seeks support from the procurement team to arrange additional office premises. Based on the request, the procurement team invites bids and assists in the entire life cycle of leasing the office premises.

As part of the arrangement, the lease contract is signed between Company A and the leasing company, with lease rental payments to be paid directly by Company A to the leasing company.

In determining the arm's length charge, Company A should apply an arm's length mark-up to the costs incurred in providing procurement support during the arrangement of the lease. Company A is also expected to recover the lease rental cost from its subsidiary without a mark-up.

7.2.2.4. Duplication

Duplication of services occurs when a service is provided to a Related Party that has already incurred costs for the same activity performed either by itself or on its behalf by an independent provider. There is no commercial or practical necessity for such duplicative service and thus, applying the benefit test, no service is considered provided. While generally this is the case, there could be situations where duplication of service may be allowed:

- Where the duplication of services is only temporary, for example, where an MNE Group is reorganising to centralise its management functions.
- Where the duplication is undertaken to reduce the risk of a wrong business decision. For example, this situation may arise if a company receives in-house accounting advice from a Related Party on an issue but chooses to get a second opinion to minimise the risk of being penalised for failing to comply with accounting standards, the costs of the in-house accounting advice received should be borne by the company.

Any consideration of possible duplication of services needs to identify the nature of the services in detail, and the reason why the company appears to be duplicating costs contrary to efficient practices. The fact that a company, for example, may be performing marketing activities in-house and also is charged for marketing services from a Group company does not in itself determine duplication. In this example there may be differences if the local entity is executing a local marketing strategy and the Group company is executing a global marketing strategy which may be indicative of different marketing activities which are not duplicative.

The FTA expects a clear rationale for suffering any duplicative costs as a result of intra-group services. As such, the Taxable Person should maintain sufficient documentation to support the Taxable Person's position in suffering costs for what may appear to be duplicative services.

7.2.2.5. Incidental benefits

In certain situations, an intra-group service relates only to some Group members but incidentally provides benefits to other Group members. For example, comprehensive group-wide studies on structural changes could be made to reorganise the Group, studies exploring the benefits of acquiring new lines of business, or to terminate a division. These activities may constitute intra-group services to the particular Group members who commissioned these studies. These Group members may incorporate the findings of the studies to support or reject key business decisions directly impacting their competitive advantage in the marketplace. As a secondary consideration, these studies may be made available to other Group members for their reference. These types of studies may also provide useful information such as highlighting operational inefficiencies or product lines with growth potential. For the Group entities that have been provided with the studies for their reference, the useful information is an incidental benefit, and it would not be appropriate to raise a charge as a provision of intra-group services. This is because the activities producing the benefits were never intended for them, and would not be ones for which an independent party ordinarily would be willing to pay. However, each case must be determined according to its own facts and circumstances.

7.2.2.6. Intra-group services rising from several layers of management

An MNE Group can include several businesses and service lines. It can have several layers of management oversight and supervision for, for example, a global business leadership team overseeing business affairs globally at large, a regional business leadership team responsible for a particular region, and a local business leadership team responsible for a country. In other words, not all MNE Groups are vertically integrated and may instead have regional or divisional sub-groups with their own management and support structures.

The MNE Group may decide to perform an allocation of the cost of its global and regional business leadership teams across all the countries of operations.

While performing such an allocation, the MNE Group should apply the principles of the benefits test discussed in Section 7.2.2.1 of the guide.

In the event that a cost allocation does not pass the benefits test, such expenditure shall be adjusted while determining the Taxable Income of the Taxable Person in accordance with Article 20 of the Corporate Tax Law. Further a close evaluation should be undertaken to ensure that multiple layering in management does not result in duplication in allocation of cost to the members of the Group.

7.2.2.7. Centralised services

Other activities that may relate to the Group are those centralised in the parent entity, or in one or more Group service centres (such as a regional headquartered company) and made available to the Group (or multiple members thereof). The activities that are centralised depend on the kind of business and on the organisational structure of the Group. However, in general, they may comprise administrative services including but not limited to:

- planning and coordination;

- information technology and computer services;
- human resource services, recruitment and training;
- financial advice, financial services, budgetary control, accounting and audit;
- legal services;
- customer services; and
- other support functions such as distribution, procurement and marketing.

These types of activities ordinarily will be considered intra-group services because they are the type of activities that independent parties would be willing to pay for or perform in-house.

Intra-group services can take many forms and can provide varying levels of benefit, it is, therefore, necessary to explore the actual facts and circumstances of the arrangement in order to determine the most appropriate Transfer Pricing method.

For a particular service arrangement, the terms of the activity can be set out in a detailed contract with the party commissioning the service. The activity may involve highly skilled personnel and vary considerably both in its nature and in its importance to the success of the activity. The actual arrangements can take a variety of forms from the undertaking of detailed programmes laid down by the principal party, extending to agreements where the research company has discretion to work within broadly defined parameters. Such an arrangement would constitute the rendering of a valuable/chargeable service.

A chargeable service may be provided even where there is no explicit agreement in place. For example, an MNE Group decides to centralise its global finance function. It will provide services which may include maintaining accounting records, preparing financial statements based on accounting records, reconciling financial data, preparing tax returns and computations and reclaim forms, performing operational and financial internal audits, and performing other services of a similar nature. The fact that a written service agreement does not exist between the service provider and a Group member does not automatically mean a service has not been provided or received. The conduct of the parties should be reviewed together with the need for the service and whether an operational burden which the Group member would have paid for or undertaken to address in-house has been removed through centralisation.

An obligation to pay for an intra-group service arises only where the benefits test is satisfied, which is determined by evaluating whether independent parties in comparable circumstances would have been willing to pay for the activity if performed by an independent service provider or would have performed the activity in-house.

Example 19: Treatment of costs related to specific regulatory requirements

Company A is a parent company of an MNE Group headquartered in country X. It is listed on a Recognised Stock Exchange in country X. It has a wholly owned subsidiary Company B in the UAE.

To comply with its regulatory requirements in country X, Company A conducts a special audit of the financial statements of Company B. This audit is separate and distinct from the audit that Company B performs under the UAE's applicable legislation. Further the special audit is not required under the UAE's applicable legislation.

Since the special audit is performed by A Co for complying with its own regulatory requirements in country X, A Co should bear the cost of the special audit and not pass it on to Company B in the UAE.

Example 20: Treatment of costs related to third-party service providers

Company B is a company that is part of an MNE Group headquartered in country A. It is listed on a Recognised Stock Exchange in country A. It has a wholly owned subsidiary Company Y in UAE.

Company B has certain financial reporting obligations in country A for, for example, preparation of consolidated financial statements. Generally, Company B hires an external third-party service provider to provide such services. However, as part of changes in the Group's internal policy, Company B asks Company Y to provide the services instead.

In this case, the service provided by Company Y should be subject to the benefits test. The benefits test would take into account, among other factors, whether Company Y provides any economic or commercial value to enhance the business position of Company B.

This can be determined by considering whether Persons who were not Related Parties or Connected Persons would be willing to pay for the activity if performed by an independent third party or performed in-house. If the activity is not one for which Persons who were not Related Parties or Connected Persons would have been willing to pay for, the activity ordinarily should not pass the benefits test. As can be observed, the analysis will depend on the actual facts and circumstances.

In this case it is assumed that Company B would have continued to hire an external third-party service provider to provide the services had the Group's internal policy not changed. Based on this fact, it can be reasonably concluded that the benefits test is passed and Company Y can charge the associated cost as per the arm's length standard.

7.2.3. Determining the arm's length charge for intra-group services

7.2.3.1. Comparability analysis

The determination of the Arm's Length Price in relation to intra-group services should be considered both from the perspective of the service provider and the service recipient. In this respect, the comparability analysis should analyse relevant considerations such as the value of the service to the recipient and how much a comparable independent enterprise would be prepared to pay for that service in comparable circumstances, as well as the costs to the service provider.

7.2.3.2. Selection of the most appropriate Transfer Pricing method

The method to be used to determine arm's length charge for intra-group services should be determined according to the guidance in Section 5 of this guide.

The Comparable Uncontrolled Price (CUP) method or a cost-based method (Cost Plus Method or Transactional Net Margin Method using a cost-based profit level indicator) are commonly used for pricing intra-group services. A CUP method is likely to be the most appropriate method where there is a comparable service provided between independent enterprises, or by the Related Party providing the services to an independent enterprise in comparable circumstances.

7.2.3.3. Direct and indirect charge methods

An MNE Group may be able to adopt direct charging arrangements, particularly where services similar to those rendered to Related Parties or Connected Persons are also rendered to independent parties. If specific services are provided not only to Related Parties or Connected Persons but also to independent parties in a comparable manner and as a significant part of its business, it could be presumed that the MNE has the ability to demonstrate a separate basis for the charge (for example, by recording the work done, the fee basis, or costs expended in fulfilling its third-party contracts). Thus, MNEs in such cases are encouraged to use the direct-charge method in relation to their intra-group transactions with their Related Parties.

However, this approach may not always be appropriate if, for example, the services to independent parties are merely occasional or marginal. The direct charge method may pose challenges in cases where there is a centralised management services activity performed for the benefit of multiple entities within a Group at the same time. MNE Groups may find they have to resort to cost allocation and apportionment methods, which often necessitate some degree of estimation or approximation as a basis for calculating an arm's length adjustment. Where cost allocation and apportionment methods are used, these are considered indirect charge methods.

When using the indirect method, the Taxable Person needs to take into account the commercial features of the individual case (for example, whether the allocation key is reasonable under the circumstances). Further, the approach should contain safeguards against manipulation, follow sound accounting principles, and be capable of producing charges or allocations of costs that are linked to the actual or reasonably expected benefits to the recipient of the service.

The indirect charge method is generally not appropriate for specific services that form a main Business Activity of the enterprise or services that are provided not only to Related Parties or Connected Persons but also to independent parties.

7.2.3.4. Determination of the cost base

Where a cost-based method is determined to be the most appropriate method to the circumstances of the case, the relevant cost base should be determined. A summary of the approach for determining the cost base for centralised services is as follows:

1. The initial step is to calculate, on an annual basis, a pool of all costs incurred by all members of the Group in performing each category of the centralised intra-group services. The costs to be pooled are the direct and indirect costs of rendering the service as well as an appropriate level of operating expenses determined using an acceptable allocation key where relevant.
2. Secondly, the cost pool should exclude costs that are attributable to an in-house activity that benefits solely the company performing the activity (including shareholder activities performed by the shareholding company).
3. Thirdly, the MNE Group should identify and remove from the pooled costs any costs that are attributable to services performed by one Group member solely on behalf of one other Group member (as this would be charged directly to the specific beneficiary).
4. Lastly, the MNE Group needs to allocate the remaining pool of costs that is attributable to the services which are provided to multiple members of the MNE Group among benefitting members of the MNE Group. More than one allocation key can be applied for this purpose based on the nature of the service and the fact that the allocation key should reasonably be linked to the expected benefit, for example, the allocation key for services related to people might employ the share of total headcount and information technology services might employ the share of total users. The same allocation key or keys must be used on a consistent basis for all allocations of costs relating to the same category of services.

7.2.3.5. Profit mark-up

In determining the arm's length charge, the service provider should apply a mark-up to all costs that are not pass-through in nature.[28] The mark-up should be determined using comparable data. However, to reduce the compliance burden on Taxable Persons, this Guide adopt the simplified approach provided under Chapter VII of the OECD Transfer Pricing Guidelines, whereby certain low value-adding intra-group services may be charged out at a cost-plus 5% mark-up without the need for a detailed benchmarking analysis. In general, low value-adding intra-group services should meet the following criteria:

- the services are of a supportive nature;
- they are not part of the core business of the MNE Group (i.e. not creating the profit-earning activities or contributing to economically significant activities of the MNE Group);
- they do not require the use of unique and valuable intangibles and do not lead to the creation of unique and valuable intangibles; and
- the services do not involve the assumption or control of substantial or significant risk by the service provider and do not give rise to the creation of significant risk for the service provider.
- accordingly, the following activities would not qualify for the safe harbour outlined in this section:
  - services constituting the core business of the MNE Group;
  - research and development services;
  - manufacturing and production services;
  - purchasing activities relating to raw materials or other materials that are used in the manufacturing or production process;
  - sales, marketing and distribution activities;
  - financial transactions;
  - extraction, exploration, or processing of natural resources;
  - insurance and reinsurance; and
  - services of corporate senior management.

Below is an illustrative example of services that may be considered low value adding and thus qualify for the safe harbour.

Example 21: Analysis of low value adding intragroup services

ABC Group operates in the chemicals industry. It provides technical services to third party customers.

[28] Pass-through costs are expenses that are incurred on behalf of service recipients. The exact amount of the cost is then then passed on to the service recipients without any markup or profit margin

The Group has its regional headquarters based in the UAE. The regional headquarters employs teams that support the Group entities operating in the region. The two services provided by the regional headquarters are as follows:

- Technical services: This service includes guidance on testing and inspection techniques to be applied when servicing the third-party customers.
- Support services: This includes keeping books and records, processing invoices, recruitment and onboarding and IT.

In establishing its Transfer Pricing policy, the regional headquarters assessed whether the above services would qualify as low value adding intragroup services as follows:

Service	**Conclusion**	**Transfer Pricing Policy**
Technical services	This service is related to the core business activities of the entities and contributes economic value to the Group. Accordingly, it is not considered low value adding in nature and the safe harbour cannot be used as a Transfer Pricing policy.	A detailed comparability analysis showed that an appropriate arm's length mark-up on cost to be applied for similar services would fall in the range of 8% -12%.
Support services	This service is supportive in nature and does not result in direct revenue generation. Accordingly, the service can be considered low value in nature and the safe harbour may be applied.	5% mark-up on cost (in line with the safe harbour)

The initial step in applying a simplified approach to low value adding services is to categorise, calculate and pool all costs associated with the low value adding services. These costs should then be allocated amongst group members based on appropriate allocation keys. The appropriate allocation key will depend on the nature of the service. For example, IT services may be allocated on number of users or employee related costs may be allocated based on headcount. The pragmatic intent of using a safe harbour means a balance needs to be struck between theoretical sophistication and practical administration. The final step is to apply a profit mark-up, in the case of the low value adding services safe harbour the mark up shall be 5%.

Taxpayers should maintain sufficient documentation to support their conclusions that services included in the simplified approach are in fact low value adding in nature.

7.2.4. Documentation

The Taxable Person is expected to prepare and maintain supporting documentation to be provided to the FTA on request. The documentation should include a clear explanation of the intra-group services provided, the identity of the beneficiaries, a summary of the benefits received, the approach adopted to determine and calculate the charges together with the justification for the choice of allocation key(s) used, an explanation of how the underlying costs relate to the service provided, and the support for any mark-up applied. This should form part of the Transfer Pricing documentation for each relevant Tax Period.

7.3. Intangibles[29]

7.3.1. Introduction

Questions regarding intangibles are perhaps the most complex in Transfer Pricing. This complexity is due to the unique characteristics of intangibles, the ease of transfer via a contractual arrangement, the difficulty in finding comparable arrangements due to their unique nature and the importance of intangibles in generating revenues for businesses.

The analysis of cases involving the use or transfer of intangibles should begin with a thorough identification of the commercial or financial relations between the Related Parties or Connected Persons and the conditions and economically relevant circumstances attached to those relations in order to accurately characterise the transaction involving the intangibles. It is especially important to understand the MNE's global business and the manner in which intangibles are used by the MNE to add or create value across the entire supply chain.

Such an analysis should include an examination of the actual conduct of the parties based on the functions performed, assets used, and risks assumed, including control of important functions and economically significant risks.

7.3.2. Identifying intangibles (Types of intangibles)

Intangibles are defined as something that is not a physical asset or a financial asset, which is capable of being owned or controlled for use in commercial activities, and whose use or transfer would be compensated had it occurred in a transaction between independent parties in comparable circumstances. Thus, there are various categories of assets under the concept of intangibles.

Distinctions can be made between trade intangibles and marketing intangibles, between routine and non-routine intangibles, and between other classes of intangibles.

[29] The following sections follow the guidance of Chapter VI of the OECD Transfer Pricing Guidelines. Certain modifications have been made to suit the domestic requirements and views of the FTA.

Some intangibles are considered to be "unique and valuable" intangibles, being classified as "hard-to-value". Such intangibles are defined as those that (i) are not comparable to intangibles used by or available to parties in potentially comparable transactions, and (ii) whose use in business operations (for example, manufacturing, provision of services, marketing, sales, or administration) is expected to yield greater future economic benefits than would be expected in the absence of the intangible.

The approach to determine the arm's length conditions and price of intangibles is the same. The FTA expects the Transfer Pricing analysis to identify the relevant intangibles and determine the arm's length conditions as set out in this Guide.

For illustrative purposes, below are some general examples of items that, under specific circumstances, may be considered intangibles. This list should not be used as a substitute for a detailed analysis and is not intended to be exhaustive.

Intangibles for Transfer Pricing purposes	● Patents ● Know-how and trade secrets ● Trademarks, trade names and brands ● Rights under contracts and government license ● Licenses and similar limited rights in intangibles
Not intangibles for Transfer Pricing purposes	● Group synergies ● Market specific characteristics ● Assembled workforce

7.3.3. Applying the Arm's Length Principle with respect to intangibles

In Transfer Pricing cases involving intangibles, it is crucial to determine the entity or entities within an MNE Group that are entitled to share in the returns derived from exploiting the intangibles. The identification and examination of intangibles are relevant in two general types of transactions:

- Transactions involving the transfer of intangibles or rights in intangibles.
- Transactions involving the use of intangibles in connection with the sale of goods or the provision of services.

The next step is to identify which entity or entities within the Group should ultimately bear the costs, investments and other burdens associated with the Development, Enhancement, Maintenance, Protection and Exploitation ("DEMPE") of intangibles. Although the legal owner of an intangible may receive the proceeds from exploitation of the intangible, other members of the MNE Group may have performed functions, used assets, or assumed risks that are expected to contribute to the value of the intangible. Members of the MNE Group performing such functions, using such assets, and assuming such risks must be compensated for their contributions under the Arm's Length Principle. The ultimate allocation of costs and other burdens related to intangibles among members of the MNE Group, is accomplished by compensating members of the MNE Group for functions performed, assets used, and risks assumed in the DEMPE of the intangibles.

The framework for analysing transactions involving intangibles between Related Parties or Connected Persons requires taking the following steps:

1. Identify the intangibles used or transferred.
2. Identify the full contractual arrangements, with special emphasis on determining legal ownership of intangibles based on the terms and conditions of legal arrangements, including relevant registrations, license agreements, other relevant contracts, and other indicators of legal ownership, and the contractual rights and obligations, including contractual assumption of risks in the relations between the Related Parties or Connected Persons.
3. Identify the parties performing functions, using assets, and managing risks related to DEMPE of the intangibles by means of the Functional Analysis, in order to determine the economic ownership of the intangibles.
4. Confirm the consistency between the terms of the relevant contractual arrangements and the conduct of the parties, and determine whether the party assuming economically significant risks actually controls the risks in practice, and has the financial capacity to assume the risks relating to the DEMPE of the intangibles.
5. Characterise the actual Controlled Transactions related to the DEMPE of the intangibles in light of the legal ownership of the intangibles, the other relevant contractual relations under relevant registrations and contracts, and the conduct of the parties, including their relevant contributions of functions, assets and risks.
6. Determine the Arm's Length Price for these transactions consistent with each party's contributions of functions performed, assets used, and risks assumed.

<u>First: Identify the intangible used or transferred</u>

In any Transfer Pricing analysis involving intangibles, it is essential to accurately identify the specific intangible used in Controlled Transactions such as trademarks, licenses etc. It is important to note that the analysis should not solely rely on accounting or legal definitions. Instead, the focus should be on determining the conditions that would be agreed upon between independent parties for a comparable transaction given that the legal definitions and ownership, as well as the accounting treatment may differ from the economic ownership and actual conditions of the transaction that form the basis of the Transfer Pricing analysis.

Second: Identify the full contractual arrangements

Next, it is important to examine the contractual arrangements and legal rights related to the intangible. The terms of a transaction can be found in written contracts, public records such as patent or trademark registrations, or in correspondence and other communications among the parties involved. Contracts define the roles, responsibilities, and rights of the parties in relation to intangibles. If there are no written terms or if the facts of the case and the actions of the parties differ from the written terms, the actual transaction must be inferred from the established facts and the conduct of the parties.

While determining legal ownership and contractual arrangements is an important first step in the analysis, for Transfer Pricing purposes, legal ownership of intangibles, by itself, does not confer any right ultimately to retain returns derived by the MNE Group from exploiting the intangible. The return ultimately retained by or attributed to the legal owner depends upon the functions it performs, the assets it uses, and the risks it assumes, and upon the contributions made by other MNE Group members through their functions performed, assets used, and risks assumed.

For example, in the case of an internally developed intangible, if the legal owner performs no relevant functions, uses no relevant assets, and assumes no relevant risks, but acts solely as a title holding entity, the legal owner will not ultimately be entitled to any portion of the return derived by the MNE Group from the exploitation of the intangible other than arm’s length compensation, if any, for holding title.

Third: Identify the parties performing functions, using assets or managing (i.e. controlling) risks in relation to the DEMPE of the intangible

As previously stated, the determination that a specific member of the Group is the legal owner of intangible assets is not, by itself, conclusive that the legal owner is automatically entitled to any income generated by the business. Hence, a functional analysis is essential to determine which member(s) perform and control DEMPE functions, provide funding and assets, and assume associated risks.

The legal owner need not physically perform all the DEMPE functions related to an intangible. While some functions could be outsourced, overall control of these functions should be with the legal owner. In cases where such outsourcing occurs to Related Parties or Connected Persons, the legal owner of the intangible should compensate the entity performing the outsourced services functions on an arm's length basis.

The relative value of contributions to DEMPE of intangibles varies based on each specific case. MNE Group members with more significant contributions should receive proportionate remuneration including compensation for using the assets.

The level of risk assumed determines the reward that an MNE member is entitled to receive. It is important that the Group member(s) asserting entitlement to returns from assuming risk actually bear responsibility for the actions that need to be taken and the costs that may be incurred if the relevant risk materialises. Specific risks that may be significant in a Functional Analysis related to intangibles, include, but are not limited to:

- Risks on the development of intangibles;
- Infringement risk;
- Product liability risk;
- Exploitation risks.

The occurrence and significance of these risks will depend on the specific facts and circumstances involved.

<u>Fourth: Confirm consistency between the contractual arrangements and the conduct of the parties and determine whether the parties assuming the economically significant risks also control the risk in relation to the DEMPE of the intangible</u>

Based on the outcome of Steps 1 to 3, an analysis should be undertaken to confirm whether there is consistency between the contractual agreements and the conduct of the parties involved in the transaction. If the contractual arrangements and conduct are consistent, the contractual agreements can serve as the basis for determining the Controlled Transactions. However, if there is a disparity between the contractual arrangements and the conduct of the Related Parties or Connected Persons, the conduct of the Related Parties or Connected Persons should be considered as the basis for determining the actual Controlled Transactions and their nature. This determination should be supported by conducting a thorough and detailed Functional Analysis, with a specific focus on the intangible aspects.

<u>Fifth: Characterise the actual Controlled Transactions related to the DEMPE of the intangibles in light of the legal ownership of the intangibles, the other relevant contractual relations under relevant registrations and contracts, and the conduct of the parties, including their relevant contributions of functions, assets and risks</u>

The clear determination of the actual Controlled Transactions should follow from the steps outlined above and the framework provided in section 5 of this guide. Once the actual Controlled Transactions have been determined, the pricing can be analysed.

<u>Sixth: Determine the Arm's Length Price for the use or transfer of intangibles</u>

After identifying the relevant transactions involving intangibles, specifically identifying the intangibles involved in those transactions, and identifying which entity or entities legally own the intangibles as well as those that contribute to the value of the intangibles, it should be possible to identify arm's length conditions for the relevant transactions.

When performing a comparability analysis to a transaction involving intangibles, the options realistically available to each of the parties to the transaction must be considered. While it is important to consider the perspectives of both parties to the transaction, the specific business circumstances of one of the parties should not be used to dictate an outcome contrary to the realistically available options of the other party.

It should also be borne in mind that intangibles often have unique characteristics, and as a result have the potential for generating returns and creating future benefits that could differ widely. In conducting a comparability analysis with regard to a transfer of intangibles, it is therefore essential to consider the unique features of the intangibles.

In selecting the most appropriate Transfer Pricing method in a case involving the use or transfer of intangibles or rights in intangibles, attention should be given to (i) the nature of the relevant intangibles, (ii) the difficulty of identifying Comparable Uncontrolled Transactions and intangibles in many, if not most, cases, and (iii) the difficulty of applying certain Transfer Pricing methods in the case of intangibles.

In the case of a transfer of an intangible or rights in an intangible that provides the business with a unique competitive advantage in the market, purportedly comparable intangibles or transactions should be carefully scrutinised. It is critical to assess whether potential comparables in fact exhibit similar profit potential.

Depending on the specific facts, any of the five prescribed Transfer Pricing methods described in section 5 of this guide might constitute the most appropriate method to the circumstances of the case where the transaction involves a controlled transfer of one or more intangibles. If none of the approved methods can be reliably applied, the use of other alternative methods may also be considered, pursuant to Article 34(4) of the Corporate Tax Law (for example, market appraisal or valuation especially in cases where there is a unique intangible or one-off transaction of an intangible).

The following example incorporates the above steps.

Example 22: Analysing transactions involving intangibles between Related Parties or Connected Persons

An MNE Group comprised of Company X and Company Y decides to develop an intellectual property (“IP”) asset, which is anticipated to be highly profitable based on Company Y’s current IP asset yield, its expertise in developing IP assets and experience in finding niche IP areas to exploit.

The intangible is expected to take 5 years of development before it can be commercially exploited. The intangible is expected to have a valuable life of 5 years. Under the development agreement between Company X and Company Y, Company Y will perform and control all activities related to the DEMPE of the IP asset. Company X will provide all funding related to development of the IP and will become the legal owner of the IP.

Once developed, Company Y will license the asset from Company X and pay a license fee based on comparable market data. During the development phase of the IP asset the contractual terms are adhered to, and no inconsistencies are observed between the Related Parties actions and the contractual terms.

A Functional Analysis finds that although Company X is the legal owner and entitled to book revenues generated from the IP asset, its contribution does not go beyond the provision of funding for the development of the intangible. The analysis shows that Company X contractually assumes the financial risk and has the capacity to assume that risk. Beyond that, Company Y exercises control over the risk, manages the risk, provides the expertise and through its experience and track record significantly de-risks the project for Company X.

Therefore, taking the above into account it is determined that the arm's length profit on Company X's financial contribution should be a risk adjusted return to capital. The remainder of the profits generated from the use of the IP asset should be recognised by Company Y. The arrangement going forward should be formalised in a legally binding agreement and documentation to support the transaction should be maintained.

7.4. Cost Contribution Arrangements[30]

7.4.1. Introduction

Cost Contribution Arrangements (CCAs) are contractual agreements entered into by Related Parties or Connected Persons within an MNE Group. A CCA is neither a distinct legal entity nor a fixed business location for all participants.

The objective of CCAs is to share the contributions and risks of joint projects involving the development, production, or acquisition of intangible or tangible assets, or the performance of services, with the anticipated benefits derived from their contributions shared equitably among the parties. In certain situations, one or more members of an MNE Group may perform services that benefit some or all of the other Group members, either immediately (for example, centralised administrative services) or in the future (for example, by contributing to the development of intangibles).

For instance, Company A and Company B may enter into a CCA to develop a new product collaboratively, with Company A contributing design expertise and Company B manufacturing expertise. By sharing the costs and risks of the project, both businesses can benefit from the resultant product without bearing the entire development and production burden.

7.4.2. Types of Cost Contribution Arrangements

Commonly encountered CCAs fall into two categories: those established for the collaborative development, production or acquisition of intangible or tangible assets ("development CCAs"); and those established for the acquisition of services ("services CCA's").

Although each particular CCA should be considered on its own facts and circumstances, key differences between these two types of CCAs will generally be that development CCAs are expected to create ongoing, future benefits for participants, while services CCAs will create current benefits only.

Development CCAs, in particular with respect to intangibles, often involve significant risks associated with what may be uncertain and distant benefits, while services CCAs often offer more certain and less risky benefits. These distinctions are useful because the complexity of development CCAs may require more refined guidance, particularly on the valuation of contributions, than may be required for services CCAs.

[30] The following sections follow the guidance of Chapter VIII of the OECD Transfer Pricing Guidelines. Certain modifications have been made to suit the domestic requirements and views of the FTA.

Under a development CCA, each participant has an entitlement to rights in the developed intangible(s) or tangible asset(s). In relation to intangibles, such rights often take the form of separate rights to exploit the intangible in a specific geographic location or for a particular application. The separate rights obtained may comprise legal ownership; alternatively, it may be that only one of the participants is the legal owner of the property, while the other participants have certain rights to use or exploit the property. In cases where a participant has such rights in any property developed by the CCA, there is no need for a royalty payment or other additional consideration for the use of the developed property consistent with the interest to which the participant is entitled under the CCA (however, the participant’s contributions may need to be adjusted if they are not proportionate to their expected benefits as per the guidance below). An example of this would be a Group of pharmaceutical companies engaging in a CCA to share the costs and risks associated with developing a new drug. Each participant contributes to the drug’s development costs proportionally to their anticipated benefits from the commercialisation of the drug.

Service sharing arrangements are established for sharing in the costs and benefits of intercompany services. In this type of CCA, the participants share the costs and risks of acquiring services that generate mutual benefits. An example of this would include a Group of companies in the same industry, for instance, that may engage in a CCA to share the costs and risks associated with developing a common information technology system. Each participant contributes to the costs of providing the services to their expected benefits from the services.

While each CCA should be evaluated based on its own facts and circumstances, some benefits of a CCA activity will be known in advance, whereas other benefits, for example, the outcome of R&D activities, will be uncertain. Some types of CCA activities will produce benefits in the short term, while others will have a longer timeframe or may not be successful at all. Nevertheless, in a CCA, there is always an expected benefit that each participant seeks from its contribution, including the attendant rights to have the CCA properly administered. Each participant’s interest in the results of the CCA activity should be established from the outset, even where the interest is interlinked with that of other participants (for example, because legal ownership of a developed intangible property is vested in only one of them but all of them have effective ownership control).

7.4.3. Applying the Arm’s Length Principle to a Cost Contribution Arrangement

The Arm's Length Principle requires that CCA participants' contributions match what independent enterprises would have agreed to contribute under comparable circumstances given their proportionate share of the total anticipated benefits they reasonably expect to derive from the arrangement. Contributions to a CCA differ from previous intra-group transfers of property or services because participants expect mutual and proportionate benefit from pooling resources and abilities. Participants also agree to share the risks and benefits of accomplishing CCA results.

Accordingly, the key step in applying the Arm's Length Principle in a CCA is to calculate the value of each participant's contribution to the joint activity, and finally to determine whether the allocation of CCA contributions (as adjusted for any balancing payments made among participants) align with their respective share of expected benefits. It should be recognised that these determinations are likely to bear a degree of uncertainty, particularly in relation to development CCAs.

In addition, particularly for the development of CCAs, the participants agree to share the upside and downside consequences of risks associated with achieving the anticipated CCA outcomes. As a result, there is a distinction between the intra-group licensing of an intangible where the licensor has borne the development risk on its own and expects compensation through the licensing fees it will receive once the intangible has been fully developed, and a development CCA in which all parties make contributions and share in the consequences of risks materialising in relation to the development of the intangible and decide that each of them, through those contributions, acquires a right in the intangible.

The expectation of mutual and proportionate benefit is fundamental to the acceptance by independent enterprises of an arrangement for sharing the consequences of risks materialising and pooling resources and skills. To apply the Arm's Length Principle to a CCA, the steps below should be followed:

Step 1: Determining participants

To be considered a participant in a CCA, one must have a reasonable expectation of benefiting from the objectives of the CCA activity itself, not just from performing part or all of the subject activity. Participants must be assigned an interest or rights in the intangibles, tangible assets, or services that are the focus of the CCA and have a reasonable expectation of benefiting from that interest or rights. In addition, participants must exercise control over the specific risks they undertake under the CCA and have the financial capacity to assume these risks. In accordance with the principles of prudent business management, the extent of capability and control required will be determined by the level of risk associated with the arrangement. While participants are permitted to outsource certain functions related to the subject activity to a non-participant entity, they must individually satisfy the requirements for exercising control over the specific risks they assume under the CCA.

Step 2: Determining the arm's length participation value

The next step is to determine the value of each participant's contributions to the arrangement. For service CCAs, contributions primarily consist of the performance of services. For development CCAs, contributions typically include the performance of development activities and additional contributions relevant to development CCA such as pre-existing tangible assets or intangibles. All contributions of current or pre-existing value must be identified and accounted for appropriately in accordance with the Arm’s Length Principle.

The value of each participant's contribution should be consistent with the value that independent business in comparable circumstances would have assigned to that contribution. Contributions should be measured at value, and while it may be easy to administer for Taxable Persons to pay current contributions at cost, using cost as a measure for current contributions is unlikely to provide a reliable basis for determining the value of relative contributions for development CCAs. All contributions made by participants to the arrangement should be recognised, including those made at the inception of the CCA and those made on an ongoing basis during the term of the CCA. Contributions to be considered include property or services that are used solely in the CCA activity, as well as property or services that are used partly in the CCA activity and partly in the participant's separate Business Activities. Contributions involving shared property or services should be determined in a commercially justifiable way, and adjustments may be necessary to achieve consistency when different jurisdictions are involved.

7.4.4. CCA entry, withdrawal and termination

Changes in a CCA membership will typically result in a re-evaluation of the proportionate shares of participants contributions and anticipated benefits. When a new entity becomes a participant in an existing CCA, it may acquire an interest in the results of prior CCA activity, such as completed or work in progress intangibles or tangible assets.

In such circumstances, the previous participants transfer part of their respective interests in the outcomes of the prior CCA activity to the new entrant. This transfer of intangibles or tangible assets must be compensated based on arm's length value for the transferred interest under the Arm’s Length Principle. This compensation is referred to as a "buy-in payment."

The CCA must be in writing and must specify the activities to be carried out, the contributions to be made by each participant, and the method for determining each participant's share of the benefits.

A participant who leaves a CCA may transfer its interest in the results of past CCA activity (including work in progress) to the remaining participants. Such a transfer must be compensated according to the Arm’s Length Principle. Such compensation is referred to as “buy-out payment”. A participant may withdraw from a CCA if the agreement permits it, or if all other participants consent to it. The withdrawal must be in writing and must include the date it becomes effective.

A participant may withdraw from a CCA if the activity is no longer anticipated to generate benefits. Participants may also terminate the CCA by mutual consent. The notice of termination must be in writing and must specify the termination's effective date.

The Arm's Length Principle requires that, when a CCA terminates, each participant retains an interest in the results, if any, of the CCA activity commensurate with their proportionate share of contributions to the CCA throughout its term (adjusted by any balancing payments actually made, including those made as a result of the termination), or is appropriately compensated for any transfer of that interest to other participants.

7.4.5. Balancing payments

Balancing payments are payments made between participants in a CCA to ensure that each participant receives its proportionate share of the benefits from the activity.

A compensating payment may be required if a participant's contributions are not proportional to their anticipated benefits and is made by participants that have received a greater share of the benefits than their contributions would warrant. However, it can also be paid to participants whose contributions are greater than the benefits received.

A balancing payment may also be required if it is determined that the value of the participant's proportionate contribution was incorrectly determined at the time it was made, or when the CCA expected benefits were incorrectly assessed. In circumstances where the contribution of a participant is not proportionate to the expected benefit and a balancing payment is not made, then the FTA has the right to adjust the profit of the Taxable Person to accurately reflect the arm's length outcome of the arrangement.

Overall, balancing payments are an essential aspect of CCAs as they ensure that each participant receives an appropriate proportionate share of the benefits from the activity. Taxable Persons would benefit from formalising arrangements through clear legal contracts and maintain sufficient documentation to support the arm's length outcome of the arrangement.

7.5. Business Restructuring[31]

7.5.1. Introduction

Business Restructuring refers to the reorganisation of the commercial or financial relations between Related Parties or Connected Persons, including the termination or substantial renegotiation of existing arrangements. Relationships with third parties (for example, suppliers, subcontractors, customers) may also be a reason for the restructuring or be affected by it. In addition, these transactions may involve the transfer of the ownership and management of intangible property rights such as patents, trademarks, brand names, etc.

Business Restructurings may often involve the centralisation of intangibles, risks, or functions with the profit potential attached to them. They may consist of:

- Conversion of full-fledged distributors (enterprises with a relatively higher level of functions and risks) into limited-risk distributors, marketers, sales agents, or commissionaires (enterprises with a relatively low level of functions and risks) for a foreign Related Party that may operate as the principal, or vice versa.
- Conversion of full-fledged manufacturers (relatively higher level of functions and risks) into contract manufacturers or toll manufacturers (relatively lower level of functions and risks) for a foreign Related Party that may operate as the principal, or vice versa.
- Transfers of intangibles or rights in intangibles to a central entity (for example, a so-called “IP company”) within the Group.
- The concentration of functions in a regional or central entity, with a corresponding reduction in scope or scale of functions carried out locally; examples may include procurement, sales support, supply chain logistics.

Groups may restructure their business for various reasons which may include the following:

- to maximise synergies and economies of scale;
- to streamline the management of business lines and to improve the efficiency of the supply chain;
- to take advantage of the development of web-based technologies that have facilitated the emergence of global organisations; and
- to preserve profitability or limit losses (for example, in the event of over-capacity or in an economic downturn).

Taxable Persons are generally free to arrange their business operations as they see fit, as long as they ensure the pricing arrangements are in line with the Arm’s Length Principle. The fact that a Business Restructuring may be motivated by sound

[31] The following sections follow the guidance of Chapter IX of the OECD Transfer Pricing Guidelines. Certain modifications have been made to suit the domestic requirements and views of the FTA.

commercial reasons at the level of the Group does not mean that it is arm's length from the perspectives of each of the restructured Group members.

Business Restructurings are typically accompanied by a reallocation of profit potential among the members of the MNE Group, either immediately after the restructuring or over a period of time. One major objective of this section is to discuss the extent to which such a reallocation of profit potential is consistent with the Arm's Length Principle and more generally how the Arm's Length Principle applies to Business Restructurings.

7.5.2. Arm's Length compensation for the restructuring itself

7.5.2.1. Understanding Business Restructuring

The application of the Arm's Length Principle to a Business Restructuring must start, as for any Controlled Transaction, with the identification of:

- the commercial or financial relations between the Related Parties or Connected Persons involved in the Business Restructuring; and
- the conditions and economically relevant circumstances in relation to those relations.

Based on these, the Controlled Transactions comprising the Business Restructuring can be properly defined.

In addition, important aspects of identifying the commercial or financial relations relevant to determining the arm's length conditions of Business Restructuring need to be analysed:

1. determination of the Controlled Transactions comprising the Business Restructuring and the relevant functions, assets and risks before and after the restructuring;
2. business reasons for and the expected benefits to arise after the Business Restructuring, including the role of synergies; and
3. determination of the other options realistically available to the Related Parties or Connected Persons.

7.5.2.2. Accurate determination of transactions comprising the Business Restructuring

In order to determine whether, an arm's length compensation would be payable upon a restructuring within an MNE Group, it is important to identify the Controlled Transactions occurring between the restructured entity and one or more other members of the Group.

The accurate characterisation of the Controlled Transactions comprising the Business Restructuring requires performing a Functional Analysis to identify the economically significant activities and responsibilities undertaken, assets used or contributed, and risks assumed before and after the restructuring by the parties involved. Accordingly, the analysis focuses on what the parties actually do and the capabilities, as well as the type and nature of assets used or contributed by the parties in pre-restructuring and post-restructuring scenarios.

7.5.2.3. The business reasons for and the expected benefits following the Business Restructuring

The pressure of competition in a globalised economy, savings from economies of scale, the need for specialisation and the need to increase efficiency and lower costs have all been described as important factors in driving Business Restructuring.

Where expected synergies are put forward by a Taxable Person as an important business reason for a restructuring, it is expected that the Taxable Person will document, at the time the restructuring is decided upon or implemented, what these synergies are, and the assumptions on which these synergies are based. This type of documentation is likely to be produced at the Group level in support of the decision-making process.

Care should be taken to ensure that the Related Parties or Connected Persons contributing to the synergistic benefit after the restructuring are appropriately remunerated.

7.5.2.4. Determination of the other options realistically available to the Related Parties or Connected Persons

In applying the Arm's Length Principle, it is not sufficient that the Business Restructuring makes commercial sense for the Group in general. The arrangements must be at arm's length at the level of each individual Taxable Person. In this respect the rights, assets and expected benefits from the arrangements (i.e. any consideration of the post-Business Restructuring arrangement and, if applicable, any payments made for the Business Restructuring itself) should be considered. Persons acting at arm's length would generally only enter into a transaction if it does not make them worse off than their next best option. There are situations where the restructured parties would not have had a clear and more attractive option realistically available to them than to accept the conditions of the restructuring (for example, a contract termination with or without indemnification). Therefore, understanding the options realistically available to the Related Parties or Connected Persons is an important part of understanding the reason for the Business Restructuring from an arm's length perspective.

7.5.2.5. Reallocation of profit potential

Business Restructurings have an impact on the profit potential of a Person. The "profit potential" means "expected future profits", although in some cases it may encompass losses. The concept of "profit potential" is often used for valuation purposes, in determining the arm's length compensation for a transfer of intangibles or of a going concern, or in determining the arm's length indemnification for the termination or substantial renegotiation of existing arrangements.

In order to determine whether at arm's length conditions the restructuring itself would give rise to a form of compensation, it is essential to understand the restructuring, including the changes that have taken place, how they have affected the Functional Analysis of the Related Parties or Connected Persons, what the business reasons for and the anticipated benefits from the restructuring were, and what options would have been realistically available to the Related Parties or Connected Persons.

A third party would not necessarily have the right to receive compensation when a change in its business arrangements results in a reduction of its profit potential or expected future profits. The Arm's Length Principle does not require compensation for a mere decrease in the expectation of future profits.

7.5.3. Other considerations

7.5.3.1. Indemnification of the restructured Person

Indemnification means any type of compensation that may be paid for detriments suffered by the restructured entity, whether in the form of an up-front payment, of a sharing in restructuring costs, of lower (or higher) purchase (or sale) prices in the context of the post-restructuring operations, or of any other form.

Terminations or renegotiations of arrangements generally involve changes in the risk and functional profiles of the relevant parties, with consequences for the allocation of profit potential between them. In addition, the termination or renegotiation of contractual relationships in the context of a Business Restructuring might cause the restructured entity to suffer determinants such as restructuring costs (for example, write-off of assets, termination of employment contracts), re-conversion costs (for example, in order to adapt its existing operation to other customer needs), and/or a loss of profit potential. In these situations, the question arises as to whether, at arm's length, indemnification should be paid to the restructured entity, and if so, how much and calculated by what method.

As a starting point to determine whether indemnification for the termination or renegotiations of existing arrangements is appropriate, the legal arrangements need to be assessed (for example, are there termination clauses present / is there a termination or notification period applicable). As a second step, it needs to be determined whether the legal arrangements include conditions that reflect arm's length circumstances.

Once the restructuring arrangements have been accurately determined and the options realistically available to the Persons have been assessed, the following aspects should be considered:

- whether commercial law supports rights to indemnification for the restructured Person under the facts of the case;
- whether the existence or absence of an indemnification clause or similar provisions under the terms of the arrangement, is arm's length; and
- the Person who should ultimately bear the costs related to the indemnification of the Person that suffers from the termination or renegotiation of the agreement.

To determine the indemnification upon a Business Restructuring the comparison of the pre-Business Restructuring and post-Business Restructuring functions performed, risks assumed, and assets used is essential to evaluate how the profit potential is impacted.

7.5.3.2. Valuations

In situations where reliable Comparable Uncontrolled Transactions for a transfer of one or more intangibles or in case of a Business Restructuring of a business (which could involve both tangible and Intangible assets) cannot be identified, it may be possible to use valuation techniques to estimate the arm's length price for the determined Controlled Transaction. It is important to carefully consider the assumptions and other motivations that support particular applications of valuation techniques.

Business Restructurings sometimes involve the transfer of a going concern (i.e. a functioning, economically integrated business unit). The transfer of a going concern in this context means the transfer of assets, bundled with the ability to perform certain functions and assume certain risks.

The valuation of a transfer of a going concern should reflect all the valuable elements that would be remunerated between independent parties in comparable circumstances.

The application of income-based valuation techniques, especially valuation techniques premised on the calculation of the discounted value of projected future income streams or cash flows derived from the exploitation of the business, intangible, or going concern being valued, may be particularly useful when properly applied.

Where valuation techniques are utilised in a Transfer Pricing analysis involving the transfer of intangibles or rights in intangibles, it is necessary to apply such techniques in line with international valuation standards and in a manner that is consistent with the Arm's Length Principle and the principles of this Guide.

Depending on the facts and circumstances of the individual case, there may be a situation where an agreeable range of values cannot be arrived at for the transfer of assets or going concerns, for example, because of differences in the buyer and seller's positions. This may be an indication that a termination payment is required or the possibility that the transaction should be disregarded.

It is not the intention of this Guide to set out a comprehensive summary of the valuation techniques used by valuation professionals or to endorse or reject one or more sets of valuation standards applied by valuation or accounting professionals or to describe in detail or specifically endorse one or more specific valuation techniques or methods as being especially suitable for use in a Transfer Pricing analysis.

Nonetheless, it is important to recognise that the value estimates based on valuation techniques can be volatile and rely on various assumptions. Due to the importance of the underlying assumptions and valuation parameters, Taxable Persons using valuation techniques should be explicit in the valuation parameters and assumptions and should substantiate the valuation techniques (including the reasonableness of such assumptions) when creating the valuation model. These concerns, amongst others, are important in evaluating the reliability of the particular application of a valuation technique.

7.5.3.3. Remuneration of post-restructuring Controlled Transactions

The Arm's Length Principle and this Guide do not apply differently to post-restructuring Controlled Transactions as opposed to transactions that were structured as such from the beginning. The Arm's Length Principle must be applied not only to the post-restructuring Controlled Transactions, but also to additional Controlled Transactions that comprise the Business Restructuring.

7.6. Permanent Establishment

7.6.1. Introduction

A Permanent Establishment (PE) has the meaning contained in Article 14 of the Corporate Tax Law. According to Article 24(4) of the Corporate Tax Law, when determining the income and associated expenditure of a PE, a Resident Person and each of its PEs should be treated as separate and independent entities. This approach is known as the "separate entity approach".

Taxable Persons may carry on business activity through a number of different options including PEs. The principles outlined in this Guide apply to Taxable Persons who carry on business activity through a PE. Therefore, transactions between Related Parties or Connected Persons where one of the parties is a PE would need to be conducted in line with the Arm's Length Principle.

7.6.2. The separate entity approach

In certain situations, a Non-Resident Person may perform activities which result in the creation of a PE in the UAE. Similarly, a Resident Person may conduct activities in another jurisdiction through a PE.

The FTA expects Taxable Persons to attribute the appropriate amount of profits and associated costs to PEs in accordance with the Arm's Length Principle. The Arm's Length Principle requires treating a PE as if it is a separate entity that operates independently from other parts of the Group and the parent to whom the PE belongs (i.e. a head office).

The separate entity approach is a hypothetical construct that distinguishes the functions, assets and risks of the PE from its parent entity and in doing so identifies the profits that the PE would have earned at arm's length in its dealings with other parts of the Group.

References to attributing "profits" should also be understood as applying equally to attributing losses. Additionally, profits may be attributed to a PE even though the enterprise as a whole has never made profits, and vice versa, the application of the separate entity approach may result in nil profits being attributed to the PE despite the fact that the head office may have made profits. In order to accurately attribute the profit between the PE and its parent, a two-step analysis is required:

Step one:

The first step involves conducting a Functional Analysis to identify the activities performed by the PE on one side, and the head office on the other side, treating each as separate to the other. This analysis should also take into account the assets used and the risks assumed by the PE. The Functional Analysis should lead to:

- attributing to the PE the rights and obligations arising from the dealings between the Head Office and separate persons;
- the identification of significant people functions relevant to the assets, and the attribution of economic ownership of assets to the PE. The "significant people functions" considers the key value creating functions performed by the people contracted by the PE. Part of the analysis should allocate risks, assets and rewards to the function and take into account the significant people function role as key decision makers with the ability to assume risks;

- the identification of other functions of the PE;
- the recognition and determination of the nature of those dealings between the PE and other parts of the same enterprise (i.e. the head office); and
- the attribution of capital based on the assets and risks attributed to the PE.

Step two:

Determine the compensation of any transactions between the head office and the PE through:

- the determination of comparability between the dealings and uncontrolled transactions, established by applying this guide's comparability factors directly (characteristics of property or services, economic circumstances, and business strategies) or by analogy (Functional Analysis and contractual terms) in light of the particular factual circumstances of the PE; and
- selecting and applying by analogy to the guidance in this guide the most appropriate method to the circumstances of the case to arrive at an arm's length compensation for the dealings between the PE and the rest of the enterprise, taking into account the functions performed and the assets and risks attributed to the PE.

The FTA expects Taxable Persons will follow the above approach when attributing profits to PEs and that contemporaneous documentation supporting the application of the approach will be maintained and provided to the FTA upon request. This is expected to form part of the Transfer Pricing documentation prepared for each period.

In situations where an issue is not addressed within this guide, Taxable Persons are encouraged to refer to the 2010 report[32] and the 2018 report[33] on the attribution of profits to PEs issued by the OECD.

Example 23: Attribution of profits to PE

Company A is the parent company of an MNE Group headquartered in country X. It has a core business of procurement and sale of goods in country X.

Company A has a PE in the UAE that performs procurement activity on behalf of Company A from unrelated suppliers in the UAE. The PE habitually exercises an authority to conduct a Business or Business Activity in the UAE. The PE does not own title of the goods at any point of time nor has any entitlement to the amount charged by Company A from its customers.

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32 Available at: https://www.oecd.org/ctp/transfer-pricing/45689524.pdf

33 Available at: https://www.oecd.org/tax/transfer-pricing/additional-guidance-attribution-of-profits-to-permanent-establishments-BEPS-action-7.pdf

Company A pays a commission to the PE as a percentage of cost of purchases made on its behalf.

As mentioned earlier, to accurately attribute the profit between the PE and its head office, a two-step analysis is required:

Step One: The first step involves conducting a Functional Analysis to identify the activities performed by the PE on one side, and the head office on the other side, treating each as separate to the other. This analysis should also take into account the assets used and the risks assumed by the PE. The Functional Analysis shows that:

- A Co is performing the function of sale of goods to independent third-party customers in country X.
- The PE is performing procurement support.

Step two: Determining the compensation for the transactions and arrangements between A Co and its PE.

The attribution of profits should be done by applying the Arm's Length Principle on the transactions and arrangements between A Co and its PE in the UAE.

The appropriate attribution should be at the arm's length result that A Co would have had to pay if the transactions had been performed by an unrelated supplier performing similar functions in the UAE on behalf of A Co.

7.7. Group synergies[34]

Sometimes, MNE Groups and the Related Parties or Connected Persons that comprise such Groups may benefit from interactions or synergies amongst Group members that would not generally be available to independent parties in a similar circumstance. An example of these synergies may include combined purchasing power or economies of scale, combined and integrated computer and communication systems, integrated management, elimination of duplication, increased borrowing capacity, and numerous similar factors.

Such Group synergies are often favourable to the Group as a whole and therefore may heighten the aggregate profits earned by Group members, depending on whether expected cost savings are, in fact, realised, and on competitive conditions.

[34] This section follows the guidance of section D.8 of Chapter 1 of the OECD Transfer Pricing Guidelines. Certain modifications have been made to suit the domestic requirements and views of the FTA.

In other circumstances, such synergies may be negative, as when the size and scope of corporate operations create bureaucratic barriers not faced by smaller operations, or when one portion of the business is forced to work with computer or communication systems that are not the most efficient for its business because of Group-wide standards established by the MNE Group.

Parties within an MNE Group should not be considered to receive an intra-group service or be required to make any payment when it obtains incidental benefits attributable solely to its being part of a larger MNE Group. In this context, the term incidental refers to benefits arising solely by virtue of Group affiliation and in the absence of deliberate concerted actions or transactions leading to that benefit. Such incidental synergistic benefits of Group membership need not be separately compensated or specifically allocated among members of the MNE Group.

In some circumstances, however, synergistic benefits and burdens of Group membership may arise because of deliberate concerted Group actions and may give an MNE Group a material, clearly identifiable structural advantage or disadvantage in the marketplace over market participants that are not part of an MNE Group and that are involved in comparable transactions. Whether such a structural advantage or disadvantage exists, what the nature and source of the synergistic benefit or burden may be, and whether the synergistic benefit or burden arises through deliberate concerted Group actions can only be determined through a thorough functional and comparability analysis.

For example, if a Group takes affirmative steps to centralise purchasing in a single Group company to take advantage of volume discounts, and that group company resells the items it purchases to other Group members, a deliberate concerted Group action occurs to take advantage of Group purchasing power.

Similarly, if a central purchasing manager at the parent company or regional management centre performs a service by negotiating a Group wide discount with a supplier on the condition of achieving minimum Group wide purchasing levels, and Group members then purchase from that supplier and obtain the discount, deliberate concerted Group action has occurred notwithstanding the absence of specific purchase and sale transactions among Group members. Where a supplier unilaterally offers one member of a Group a favourable price in the hope of attracting business from other Group members, however, no deliberate concerted Group action would have occurred.

Where corporate synergies arising from deliberate concerted Group actions do provide a member of an MNE Group with material advantages or burdens not typical of comparable independent companies, it is necessary to determine (i) the nature of the advantage or disadvantage, (ii) the amount of the benefit or detriment provided, and (iii) how that benefit or detriment should be divided among members of the MNE

Group. Where a deliberate concerted effort results in a chargeable benefit, the Taxable Person should maintain supporting documentation to support the arm's length pricing.

If important Group synergies exist and can be attributed to deliberate concerted Group actions, the benefits of such synergies should generally be shared by members of the Group in proportion to their contribution to the creation of the synergy. For example, where members of the Group take deliberate concerted actions to consolidate purchasing activities to take advantage of economies of scale resulting from high volume purchasing, the benefits of those large scale purchasing synergies, if any exist after an appropriate reward to the party coordinating the purchasing activities, should typically be shared by the members of the Group in proportion to their purchase volumes.

Comparability adjustments may be warranted to account for Group synergies.

7.8. Other cases

7.8.1. Reliance on arm's length standard carried out by members of MNE Group

An MNE Group may have commercial dealings with Related Parties and Connected Persons in multiple countries, giving rise to various transactions and arrangements.

The MNE Group may have a Group-wide Transfer Pricing policy for common transactions and arrangements based on the arm's length standard for such transactions and arrangements.

Such a Transfer Pricing policy should be evaluated from the UAE context based on two parameters:

- whether the Taxable Person is carrying out similar transactions and arrangements with Related Parties and Connected Persons; and
- whether the arm's length result of the Group-wide Transfer Pricing policy takes into account local and/or regional comparables in order to meet the arm's length standard.

Even where the transactions and arrangements are similar in nature, there may be situations where local and/or regional comparables are not available to meet the arm's length standard. This can happen for example due to the non-availability, or delay in availability, of necessary financial information in the public domain. In such a case, it is expected that the Taxable Person shall maintain an audit trail to demonstrate this. If local and/or regional comparables are available but not considered, the Group-wide Transfer Pricing policy should be re-evaluated to consider such comparables and accordingly determine the arm's length standard. Alternatively, a Taxable Person could independently determine arm's length standard on transactions and arrangements with Related Parties and Connected Persons.

7.8.2. Cash/bank settlement between Related Parties and Connected Persons

In the course of transactions and arrangements between Related Parties or Connected Persons, it is generally expected that any outstanding amount is consistently settled as per the internal policy of the MNE Group.

The Arm's Length Principle requires that there should be a reasonable mechanism and governance between Related Parties or Connected Persons on raising inter-company invoices and the time period for the settlement process. If the actual settlement period exceeds what the Related Parties or Connected Persons agree upon on a regular basis, the extended credit period could be regarded as an advancement of loan. As a result, a compensation in the form of a fee or interest could be charged. The reasoning is that Persons who were not Related Parties or Connected Persons would not engage in a similar transaction or arrangement where a receivable or payable is not settled on time without compensation, for example in the form of interest or penalties.

Example 24: Arm's length interest rate applied due to aging of receivables

Company X is the parent company of an MNE Group headquartered in the UAE. It has wholly owned subsidiaries in countries A and B.

Company X provides certain services to its subsidiary in country A for a Market Value of AED 10 million. Company X provides the same services to its subsidiary in country B for AED 5 million.

Company X has a group wide 90 days payment term policy on all transactions (independent as well as Related Parties) from the date of issuance of invoice.

Company X raises an invoice to both the subsidiaries. The subsidiary in country A settles within 90 days but the subsidiary in country B does not. It is subsequently observed that the outstanding invoice has aged for more than 400 days without any commercial or business rationale.

As per Article 34(2) of the Corporate Tax Law, a transaction or arrangement between Related Parties meets the arm's length standard if the results of the transaction or arrangement are consistent with the results that would have been realised if Persons who were not Related Parties had engaged in a similar transaction or arrangement under similar circumstances.

In the absence of any commercial or business rationale, such a delay in payment is not how Persons who were not Related Parties would carry out a similar transaction or arrangement.

As a result, Company X should charge an arm's length interest rate on the outstanding receivable balance for the period beyond 90 days until the time the amount is settled.

8. Transfer Pricing audit and risk assessment

8.1. Burden of Proof

Transfer Pricing documentation should allow the FTA to ascertain that the tax outcome of the Tax Period has been affected by Transfer Pricing practices that are not in line with the Arm's Length Principle.

The burden of proof falls on the Taxable Person to maintain sufficient supporting documentation as well as to make timely submissions to the FTA in order to support the position taken in the tax return as it relates to the Controlled Transactions that are in scope for each Tax Period.

The FTA has the right to make queries and request information and data for its review and to arrive at a conclusion regarding the Transfer Pricing practices of the Taxable Person.

8.2. Transfer Pricing adjustments

Transfer Pricing adjustments are designed to ensure that the taxable outcome of the Controlled Transaction is aligned with the Arm's Length Principle.

Transfer Pricing adjustments can be initiated by both Taxable Persons and the FTA in cases where it is believed that a transaction has not been conducted in an arm's length manner. Both scenarios are outlined below.

It is worth noting that the Transfer Pricing disclosure form is based on the self-assessment model and as such the burden will be on the Taxable Person to ensure that the transactions undertaken in the Fiscal year are aligned with the Arm's Length Principle.

Transfer Pricing adjustments by the FTA

According to Article 34 of the Corporate Tax Law, if the result of the Controlled Transaction does not fall within the arm's length range, the FTA shall adjust the Taxable Income contained within the Tax Return to achieve the arm's length result that best reflects the facts and circumstances of the transaction or arrangement. The FTA will also make available to the Taxable Person the information relied on to make the adjustment.

Where the FTA or a Taxable Person adjusts the Taxable Income for a transaction or arrangement to meet the arm's length standard, the FTA will reflect this adjustment in the Taxable Income of the local Related Party that is party to the relevant transaction or arrangement.

In accordance with Article 34(11) of the Corporate Tax Law, in cases where the application of the Arm's Length Principle results in an adjustment to the transfer price made by a foreign competent authority,[35] the Taxable Person can request the FTA to make a corresponding adjustment to their Taxable Income under the applicable provisions of the relevant Double Taxation Agreement. The FTA will review the foreign tax authority's position and where appropriate may proceed with a corresponding adjustment.

Below are illustrative examples of domestic and cross-border corresponding adjustments:

Example 25: Cross-border corresponding adjustments

Company A, a UAE resident entity, sells finished goods to its local Related Party, Company X.

Company A has a Transfer Pricing policy in place whereby the goods are sold to its Related Party at cost plus 6% mark-up. The FTA assessed the Transfer Pricing policy applied in relation to the 'sale of goods' transaction and determined that an arm's length mark-up for similar transactions under similar conditions would be 8% on cost.

The FTA has accordingly adjusted the profitability of Company A as follows:

	Company A accounts	
	Pre-adjustment (Cost plus 6%)	**Post-adjustment (Cost plus 8%)**
Revenue from Company X	5,300,000	5,400,000
Operating cost	5,000,000	5,000,000
Profit	300,0000	400,000

As a result of the above adjustment, Company A and Company X approached the FTA and requested a corresponding adjustment to limit the impact of the double taxation on the same income for the MNE Group. The FTA reviewed the appropriateness of the position and agreed to make a corresponding adjustment as follows:

	Company X accounts	
	Pre-adjustment (Cost plus 6%)	**Post-adjustment (Cost plus 8%)**

35 Article 34(11) of the Corporate Tax Law.

Revenue from third parties	6,500,000	6,500,000
Cost of finished goods from Company A	5,300,000	5,400,000
Profit	1,200,000	1,100,000

Transfer Pricing adjustment by the Taxable Person

It is recommended that the Taxable Person constantly monitors the conduct of its Controlled Transaction(s) throughout a Tax Period to ensure that these are conducted in accordance with the Arm's Length Principle. The Taxable Person will have the option to seek clarifications on a point of law from the FTA.

As discussed above, the burden of proof is on the Taxable Person when preparing the Tax Return. As such, Taxable Persons should apply arm's length pricing in the first instance, but by continually monitoring the Controlled Transactions, Taxable Persons can make real time adjustments before submitting their Tax Returns.

After submitting their Tax Returns, Taxable Persons may make Transfer Pricing adjustments where these result in increased taxable profits or reduced allowable losses, or make adjustments that result in decreased taxable profits or greater allowable losses. A decrease in the taxable profits or increase in allowable losses may only be affected through the operation of the FTA procedures.

8.3. Non-recognition

Article 50 of the Corporate Tax Law allows the FTA to counteract or adjust transactions or arrangements that are not entered into or carried out for a valid commercial reason. If the main purpose of a transaction is to obtain a Corporate Tax advantage that is not consistent with the intention or purpose of the Corporate Tax Law, the FTA may take action to change the outcome of such transaction or arrangement.

Where the arrangements made in relation to the Controlled Transaction differ from those which would have been adopted by independent parties, the FTA may, if deemed appropriate, adjust or disregard the Controlled Transaction and replace it with an alternative transaction.

The key question in the analysis is whether the actual transaction possesses the commercial rationality of arrangements that would be agreed between independent parties under comparable economic circumstances, not whether the same transaction can be observed between independent parties. The failure to recognise a Controlled Transaction that possesses the commercial rationality of an arm's length arrangement is not an appropriate application of the Arm's Length Principle.

9. Updates and Amendments

Date of amendment	Amendments made
October 2023	• First version

FEDERAL TAX AUTHORITY

Corporate TAX FAQs

1. What is a "Business" or "Business Activity"?
   The terms "Business" and "Business Activity" as defined in the Corporate Tax Law identify when the activities of certain persons give rise to a UAE CT liability by considering the person to be a taxable person.

   "Business" means any economic activity, whether continuous or short term, conducted by any person. It is implied that a business is conducted with a profit motive, and that there is the existence of some system and organisation to the activity conducted. However, a business or business activity for UAE CT purposes does not lose its identity simply because it does not make a profit.

   For the application of the Corporate Tax Law to companies and other juridical persons, all activities conducted and assets used or held will generally be considered activities conducted, and assets used or held, for the purposes of a "Business".

   Individuals can earn income from wages and salaries, investments or from practising a commercial, industrial or professional activity, either directly or as sole proprietor of a business. For natural persons, a Cabinet Decision will be issued in due course specifying further information on what would bring a natural person within the scope of UAE CT.

2. Will the income of UAE branches of a UAE business be subject to UAE CT?
   Yes. The income of UAE branches will be included in the taxable income and UAE CT return of their UAE "parent" or "head office".

3. Will transfer pricing rules apply to both domestic and cross border transactions?
   Yes. Transfer pricing rules apply to UAE businesses that have transactions with Related Parties and Connected Persons, irrespective of whether the Related Parties or Connected Persons are located in the UAE mainland, a Free Zone or in a foreign jurisdiction.

4. I am already registered for VAT purposes. Do I have to register for UAE CT?
   Yes. Taxpayers will be required to register for UAE CT (and update their details, if required), even if they are already registered for VAT.

5. What is CT?
   CT is a form of direct tax levied on the net income or profit of corporations and other businesses. CT is sometimes also referred to as "Corporate Income Tax" or "Business Profits Tax" in other jurisdictions.

6. Will UAE branches of foreign businesses be subject to UAE CT?
   Where no election is made or the income of the foreign branch or permanent establishment is not eligible for an exemption from CT, the UAE CT payable on the income of the foreign branch or permanent establishment can be reduced by the corporate tax (or similar) paid on the relevant income in the foreign jurisdiction.

7. Why is the UAE introducing CT?
   A competitive CT regime based on international best practices is expected to cement the UAE's position as a leading global hub for business and investment and accelerate the UAE's

development and transformation to achieve its strategic objectives.

Introducing a CT regime also reaffirms the UAE's commitment to meeting international standards for tax transparency and preventing harmful tax practices.

8. Who is a Natural Person?
   The term "Natural Person" in the Corporate Tax Law means an individual.

9. Is the UAE the first country to introduce CT?
   Most countries in the world have a comprehensive CT regime, including most of the countries in the Middle East.

10. When will the UAE CT regime become effective?
    The UAE CT regime will become effective for financial years starting on or after 1 June 2023.

    Examples:
    ● A business that has a financial year starting on 1 July 2023 and ending on 30 June 2024 will become subject to UAE CT from 1 July 2023 (which is the beginning of the first financial year that starts on or after 1 June 2023)
    ● A business that has a financial year starting on 1 January 2023 and ending on 31 December 2023 will become subject to UAE CT from 1 January 2024 (which is the beginning of the first financial year that starts on or after 1 June 2023)

11. Are UAE branches separate juridical persons?
    No. UAE branches of a domestic or a foreign juridical person are an extension of their "parent" or "head office" and, therefore, are not considered separate juridical persons.

12. Who will be subject to UAE CT?

    UAE CT applies to juridical persons incorporated in the UAE and juridical persons effectively managed and controlled in the UAE, as well as to foreign juridical persons that have a permanent establishment (see section Foreign persons) in the UAE (see question 'Who is considered resident for UAE CT purposes?' under section Scope and rate).
    Individuals will be subject to CT only if they are engaged in a business or business activity in the UAE, either directly or through an unincorporated partnership or sole proprietorship. A Cabinet Decision will be issued in due course specifying further information on what would bring a natural person within the scope of UAE CT.

13. Will UAE entities owned by UAE or GCC nationals be subject to UAE CT?
    Yes – the UAE CT does not differentiate between nationality or residence. Juridical persons that are incorporated or resident in the UAE, or that have a permanent establishment in the UAE, will be subject to UAE CT. This applies irrespective of the residence and nationality of the individual founders or (ultimate) owners of the entity.

14. Will foreign companies and other juridical persons be subject to UAE CT?
    Foreign entities that operate in the UAE through a permanent establishment or that are considered resident in the UAE for CT purposes will be subject to UAE CT. Merely earning UAE sourced income would not trigger CT payable or require the foreign entity to register and file for UAE CT.

15. Will UAE CT be applicable to businesses in each Emirate?

Yes. The UAE CT is a Federal tax and will therefore apply across all the Emirates.

16. Will I have to pay UAE CT alongside Emirate level taxes?
Businesses engaged in the extraction of the UAE's natural resources and in certain non-extractive activities that are subject to Emirate level taxation will be outside the scope of UAE CT, subject to meeting certain conditions. Other businesses may be subject to both Federal CT and Emirate level taxation. Emirate level taxes paid will not be able to be credited against or otherwise reduce the amount of Federal CT payable.
17. What is taxable income?
The taxable income for a Tax Period is the accounting net profit (or loss) of the business, after making adjustments for certain items as defined in the Corporate Tax Law.

18. Will UAE CT replace VAT in the UAE?
No, CT and VAT are two different types of taxes. Both will continue to apply in the UAE.

19. What expenditure will be deductible for the purposes of calculating taxable income?
In principle, all legitimate business expenses incurred to derive taxable income will be deductible, although the timing of the deduction may vary for different types of expenses and the accounting method applied. For capital assets, expenditure would generally be recognised by way of depreciation or amortisation deductions over the economic life of the asset or benefit.

    Expenditure that has a dual purpose, such as expenses incurred for both personal and business purposes, will need to be apportioned with the relevant portion of the expenditure treated as incurred wholly and exclusively for the purpose of the taxable person's business.

20. Will I have to pay UAE CT alongside VAT in the UAE?
If you are a registered business for VAT, you will have to pay VAT and CT separately. If your business is not VAT registered you may still have to pay CT.

    https://tax.gov.ae/en/taxes/corporate.tax/faqs.aspx

FEDERAL TAX AUTHORITY

Introduction to corporate Tax

1.Introduction

The Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses (hereinafter referred to as the "Corporate Tax Law") was issued by His Highness Sheikh Mohamed bin Zayed Al Nahyan, President of the United Arab Emirates ("UAE President"), on 3 October 2022.
The Corporate Tax Law provides the legislative basis for the introduction and implementation of a Federal Corporate Tax ("Corporate Tax") in the UAE and is effective for financial years starting on or after 1 June 2023.
The introduction of Corporate Tax is intended to help the UAE achieve its strategic objectives and accelerate its development and transformation. The certainty of a competitive Corporate Tax regime that adheres to international standards, together with the UAE's extensive network of double tax treaties, will cement the UAE's position as a leading jurisdiction for business and investment.
Given the position of the UAE as an international business hub and global financial centre, the UAE Corporate Tax regime builds from best practices globally and incorporates principles that are internationally known and accepted. This ensures that the UAE Corporate Tax regime will be readily understood and is clear in its implications

2.What is Corporate Tax?

Corporate Tax is a form of direct tax levied on the net income of corporations and other businesses. Corporate Tax is sometimes also referred to as "Corporate Income Tax" or "Business Profits Tax" in other jurisdictions.

3.Who is subject to Corporate Tax?

Broadly, Corporate Tax applies to the following "Taxable Persons":

- UAE companies and other juridical persons that are incorporated or effectively managed and controlled in the UAE;
- Natural persons (individuals) who conduct a Business or Business Activity in the UAE as specified in a Cabinet Decision to be issued in due course; and
- Non-resident juridical persons (foreign legal entities) that have a Permanent Establishment in the UAE (which is explained under Section 8).

Juridical persons established in a UAE Free Zone are also within the scope of Corporate Tax as "Taxable Persons" and will need to comply with the requirements set out in the Corporate Tax Law. However, a Free Zone Person that meets the conditions to be considered a Qualifying Free Zone Person can benefit from a Corporate Tax rate of 0% on their Qualifying Income (the conditions are included in Section 14).
Non-resident persons that do not have a Permanent Establishment in the UAE or that earn UAE sourced income that is not related to their Permanent Establishment may be subject to Withholding Tax (at the rate of 0%). Withholding tax is a form of Corporate Tax collected at source by the payer on behalf of the recipient of the income. Withholding taxes exist in many tax systems and typically apply to the cross-border payment of dividends, interest, royalties and other types of income.

Exempt and Taxable Persons

4.Who is exempt from Corporate Tax?

Certain types of businesses or organizations are exempt from Corporate Tax given their importance and contribution to the social fabric and economy of the UAE. These are known as Exempt Persons and include:

Automatically exempt	• Government Entities • Government Controlled Entities that are specified in a Cabinet Decision
Exempt if notified to the Ministry of Finance (and subject to meeting certain conditions)	• Extractive Businesses • Non-Extractive Natural Resource Businesses
Exempt if listed in a Cabinet Decision	• Qualifying Public Benefit Entities
Exempt if applied to and approved by **the Federal Tax Authority** *(and subject to meeting certain conditions)*	• Public or private pension and social security funds • Qualifying Investment Funds • Wholly-owned and controlled UAE subsidiaries of a Government Entity, a Government Controlled Entity, a Qualifying Investment Fund, or a public or private pension or social security fund

In addition to not being subject to Corporate Tax, Government Entities, Government Controlled Entities that are specified in a Cabinet Decision, Extractive Businesses and Non-Extractive Natural Resource Businesses may also be exempted from any registration, filing and other compliance obligations imposed by the Corporate Tax Law, unless they engage in an activity which is within the charge of Corporate Tax.

5.How is a Taxable Person subject to Corporate Tax?

In line with the tax regimes of most countries, the Corporate Tax Law taxes income on both a residence and source basis. The applicable basis of taxation depends on the classification of the Taxable Person.

- A “Resident Person” is taxed on income derived from both domestic and foreign sources (i.e. a residence basis).
- A “Non-Resident Person” will be taxed only on income derived from sources within the UAE (i.e. a source basis).

Residence for Corporate Tax purposes is not determined by where a person resides or is domiciled but instead by specific factors that are set out in the Corporate Tax Law. If a Person does not satisfy the conditions for being either a Resident or a Non-Resident person then they will not be a Taxable Person and will not therefore be subject to Corporate Tax.

6.Who is a Resident Person?

Companies and other juridical persons that are incorporated or otherwise formed or recognised under the laws of the UAE will automatically be considered a Resident Person for Corporate Tax purposes. This covers juridical persons incorporated in the UAE under either mainland legislation or applicable Free Zone regulations, and would also include juridical persons created by a specific statute (e.g. by a special decree).

Foreign companies and other juridical persons may also be treated as Resident Persons for Corporate Tax purposes where they are effectively managed and controlled in the UAE. This shall be determined with regard to the specific circumstances of the entity and its activities, with a determining factor being where key management and commercial decisions are in substance made.

Natural persons will be subject to Corporate Tax as a "Resident Person" on income from both domestic and foreign sources, but only insofar as such income is derived from a Business or Business Activity conducted by the natural person in the UAE. Any other income earned by a natural person would not be within the scope of Corporate Tax.

Resident Persons, Non-Resident Persons and Permanent Establishment

7.Who is a Non-Resident Person?

Non-Resident Persons are juridical persons who are not Resident Persons and:

- have a Permanent Establishment in the UAE; or
- derive State Sourced Income.

Non-Resident Persons will be subject to Corporate Tax on Taxable Income that is attributable to their Permanent Establishment (which is explained under Section 8).

Certain UAE sourced income of a Non-Resident Person that is not attributable to a Permanent Establishment in the UAE will be subject to Withholding Tax at the rate of 0%.

8.What is a Permanent Establishment?

The concept of Permanent Establishment is an important principle of international tax law used in corporate tax regimes across the world. The main purpose of the Permanent Establishment concept in the UAE Corporate Tax Law is to determine if and when a foreign person has established sufficient presence in the UAE to warrant the business profits of that foreign person to be subject to Corporate Tax.

The definition of Permanent Establishment in the Corporate Tax Law has been designed on the basis of the definition provided in Article 5 of the OECD Model Tax Convention on Income and Capital and the position adopted by the UAE under the Multilateral Instrument to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. This allows foreign persons to use the relevant Commentary of Article 5 of the OECD Model Tax Convention when assessing whether they have a Permanent Establishment or not in the UAE. This assessment should consider the provisions of any bilateral tax agreement between the country of residence of the Non-Resident Person and the UAE.

Taxable Income and Tax calculation

9.What is Corporate Tax imposed on?

Corporate Tax is imposed on Taxable Income earned by a Taxable Person in a Tax Period.
Corporate Tax would generally be imposed annually, with the Corporate Tax liability calculated by the Taxable Person on a self-assessment basis. This means that the calculation and payment of Corporate Tax is done through the filing of a Corporate Tax Return with the Federal Tax Authority by the Taxable Person.
The starting point for calculating Taxable Income is the Taxable Person's accounting income (i.e. net profit or loss before tax) as per their financial statements. The Taxable Person will then need to make certain adjustments to determine their Taxable Income for the relevant Tax Period. For example, adjustments to accounting income may need to be made for income that is exempt from Corporate Tax and for expenditure that is wholly or partially non-deductible for Corporate Tax purposes.

10.What income is exempt?

The Corporate Tax Law also exempts certain types of income from Corporate Tax. This means that a Taxable Persons will not be subject to Corporate Tax on such income and cannot claim a deduction for any related expenditure. Taxable Persons who earn exempt income will remain subject to Corporate Tax on their Taxable Income.
The main purpose of certain income being exempt from Corporate Tax is to prevent double taxation on certain types of income. Specifically, dividends and capital gains earned from domestic and foreign shareholdings will generally be exempt from Corporate Tax. Furthermore, a Resident Person can elect, subject to certain conditions, to not take into account income from a foreign Permanent Establishment for UAE Corporate Tax purposes.

11.What expenses are deductible?

In principle, all legitimate business expenses incurred wholly and exclusively for the purposes of deriving Taxable Income will be deductible, although the timing of the deduction may vary for different types of expenses and the accounting method applied. For capital assets, expenditure would generally be recognized by way of depreciation or amortization deductions over the economic life of the asset or benefit.
Expenditure that has a dual purpose, such as expenses incurred for both personal and business purposes, will need to be apportioned with the relevant portion of the expenditure treated as deductible if incurred wholly and exclusively for the purpose of the taxable person's business.
Certain expenses which are deductible under general accounting rules may not be fully deductible for Corporate Tax purposes. These will need to be added back to the Accounting Income for the purposes of determining the Taxable Income. Examples of expenditure that is or may not be deductible (partially or in full) include:

Types of Expenditures	Limitation to deductibility
• Bribes • Fines and penalties (other than amounts awarded as compensation for damages or breach of contract). • Donations, grants or gifts made to an entity that is not a Qualifying Public Benefit Entity. • Dividends and other profits distributions • Corporate Tax imposed under the Corporate Tax Law • Expenditure not incurred wholly and exclusively for the purposes of the Taxable person's Business • Expenditure incurred in deriving income that is exempt from Corporate Tax	No deduction
• Client entertainment expenditure	Partial deduction of 50% of the amount of the expenditure
• Interest expenditure	Deduction of net interest expenditure exceeding a certain de minimis threshold up to 30% of the amount of earnings before the deduction of interest, tax, depreciation and amortisation (except for certain activities)

Tax Rates

12.What is the Corporate Tax rate?

Corporate Tax will be levied at a headline rate of 9% on Taxable Income exceeding AED 375,000.
Taxable Income below this threshold will be subject to a 0% rate of Corporate Tax.
Corporate Tax will be charged on Taxable Income as follows:

Resident Taxable Persons	
Taxable Income not exceeding AED 375,000 (this amount is to be confirmed in a Cabinet Decision)	0%
Taxable Income exceeding AED 375,000	9%
Qualifying Free Zone Persons	
Qualifying Income	0%
Taxable Income that does not meet the Qualifying Income definition	9%

13.What is the Withholding Tax rate?

A 0% withholding tax may apply to certain types of UAE sourced income paid to non-residents. Because of the 0% rate, in practice, no withholding tax would be due and there will be no withholding tax related registration and filing obligations for UAE businesses or foreign recipients of UAE sourced income. Withholding tax does not apply to transactions between UAE resident persons.

Free Zone Persons

14.When can a Free Zone Person be a Qualifying Free Zone Person?

A Free Zone Person that is a Qualifying Free Zone Person can benefit from a preferential Corporate Tax rate of 0% on their "Qualifying Income" only.

In order to be considered a Qualifying Free Zone Person, the Free Zone Person must:

- maintain adequate substance in the UAE;
- derive 'Qualifying Income';
- not have made an election to be subject to Corporate Tax at the standard rates; and
- comply with the transfer pricing requirements under the Corporate Tax Law.

The Minister may prescribe additional conditions that a Qualifying Free Zone Person must meet.

If a Qualifying Free Zone Person fails to meet any of the conditions, or makes an election to be subject to the regular Corporate Tax regime, they will be subject to the standard rates of Corporate Tax from the beginning of the Tax Period where they failed to meet the conditions.

Tax Groups

15.What are Tax Groups, and when can they be formed?

Two or more Taxable Persons who meet certain conditions (see below) can apply to form a “Tax Group” and be treated as a single Taxable Person for Corporate Tax purposes.

To form a Tax Group, both the parent company and its subsidiaries must be resident juridical persons, have the same Financial Year and prepare their financial statements using the same accounting standards.

Additionally, to form a Tax Group, the parent company must:

- own at least 95% of the share capital of the subsidiary;
- hold at least 95% of the voting rights in the subsidiary; and
- is entitled to at least 95% of the subsidiary’s profits and net assets.

The ownership, rights and entitlement can be held either directly or indirectly through subsidiaries, but a Tax Group cannot include an Exempt Person or Qualifying Free Zone Person.

16. How to calculate the Taxable Income of a Tax Group?

To determine the Taxable Income of a Tax Group, the parent company must prepare consolidated financial accounts covering each subsidiary that is a member of the Tax Group for the relevant Tax Period. Transactions between the parent company and each group member and transactions between the group members would be eliminated for the purposes of calculating the Taxable Income of the Tax Group.

Administration

17.Registering, filing and paying Corporate Tax

All Taxable Persons (including Free Zone Persons) will be required to register for Corporate Tax and obtain a Corporate Tax Registration Number. The Federal Tax Authority may also request certain Exempt Persons to register for Corporate Tax.

Taxable Persons are required to file a Corporate Tax return for each Tax Period within 9 months from the end of the relevant period. The same deadline would generally apply for the payment of any Corporate Tax due in respect of the Tax Period for which a return is filed.

Illustrated below are examples of the registration, filing and payment deadlines associated for Taxable Persons with a Tax Period (Financial Year) ending on 31 May or 31 December (respectively).

https://tax.gov.ae/en/taxes/corporate.tax/corporate.tax.topics/administration.aspx

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Exempt Income: Dividends and Participation Exemption

Corporate Tax Guide | CTGEXI1

October 2023

Contents

1. Glossary

Accounting Standards: The accounting standards specified in Ministerial Decision No. 114 of 2023.

Accrual Basis of Accounting: An accounting method under which the Taxable Person recognises income when earned and expenditure when incurred.

AED: The United Arab Emirates dirham.

Authority: Federal Tax Authority.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or series of activities conducted by a Person in the course of its Business.

Business Restructuring Relief: A relief from Corporate Tax for business restructuring transactions, available under Article 27 of the Corporate Tax Law and as specified under Ministerial Decision No.133 of 2023.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Connected Person: Any Person affiliated with a Taxable Person as determined in Article 36(2) of the Corporate Tax Law.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses and any of its amendments.

Dividend: Any payments or distributions that are declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which do not constitute a return on capital or a return on debt claims, whether such payments or distributions are in cash, securities, or other properties, and whether payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue. This will include any payment or benefit which in substance or effect constitutes a distribution of profits made in connection with the acquisition or redemption or cancellation of shares or termination of other ownership interests or rights or any transaction or arrangement with a Related Party or Connected Person which does not comply with Article 34 of the Corporate Tax Law.

Double Taxation Agreement: An international signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Exempt Income: Any income exempt from Corporate Tax under the Corporate Tax Law.

Exempt Person: A Person exempt from Corporate Tax under Article 4 of the Corporate Tax Law.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Financial Year: The Gregorian calendar year, or the twelve-month period for which the Taxable Person prepares Financial Statements.

Foreign Permanent Establishment: A place of Business or other form of presence outside the UAE of a Resident Person that is determined in accordance with the criteria prescribed in Article 14 of the Corporate Tax Law.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established, or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

General Interest Deduction Limitation Rule: The limitation provided under Article 30 of the Corporate Tax Law.

IFRS: International Financial Reporting Standards.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic Financial Instrument and other payments economically equivalent to interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Islamic Financial Instrument: A financial instrument which is in compliance with Sharia principles.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Market Value: The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

Membership and Partner interests: The equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.

Membership or Partnership Capital: The capital paid to a juridical person where the paid capital is divided into membership or partnership interests by a Person in order to be a member or partner and have the rights of membership or partnership in that juridical person.

Net Interest Expenditure: The Interest expenditure amount that is in excess of the Interest income amount as determined in accordance with the provisions of the Corporate Tax Law.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Ordinary Shares: The category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.

Parent Company: A Resident Person that can make an application to the FTA to form a Tax Group with one or more Subsidiaries in accordance with Article 40(1) of the Corporate Tax Law.

Participating Interest: An ownership interest in the shares or capital of a juridical person that meets the conditions referred to in Article 23 of the Corporate Tax Law.

Participation: The juridical person in which the Participating Interest is held.

Participation Exemption: An exemption from Corporate Tax for income from a Participating Interest, available under Article 23 of the Corporate Tax Law and as specified under Ministerial Decision No.116 of 2023.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural person or juridical person.

Personal Investment: Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law.

Preferred Shares: The category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Group: Two or more Taxable Persons that meet the conditions of Article 26(2) of the Corporate Tax Law.

Redeemable Shares: The category of capital stock or equity interest which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

Small Business Relief: A Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period in accordance with Article 21 of the Corporate Tax Law and Ministerial Decision No. 73 of 2023 on Small Business Relief.

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Subsidiary: A Resident Person in which the share capital or Membership or Partnership Capital, as applicable, is held by a Parent Company, in accordance with Article 40(1) of the Corporate Tax Law.

Tax Group: Two or more Taxable Persons treated as a single Taxable Person according to the conditions of Article 40 of the Corporate Tax Law.

Tax Loss: Any negative Taxable Income as calculated under the Corporate Tax Law for a given Tax Period.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was signed on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance to Taxable Persons, helping them to understand the exemptions in the Corporate Tax Law for Dividends and other profit distributions, such as the Participation Exemption. The Participation Exemption permits certain income, such as Dividends and capital gains, to be exempt from Corporate Tax, where a Taxable Person holds a significant, long-term ownership interest in a juridical person. This guide explains some of the terms and conditions in the Corporate Tax Law, and covers the following:

- How Dividends and other profit distributions are defined;
- Which income (and related expenditure) from a Participation is exempt;
- Who is eligible for the exemption;
- How the Participation Exemption operates; and
- What are the related implications in terms of Tax Groups.

This guide does not cover Unincorporated Partnerships.

2.3. Who should read this guide?

This guide should be read by Taxable Persons who receive Dividends from a Resident juridical person, and income or gains from a Participating Interest. A Taxable Person includes both juridical persons and natural persons where the income is not their Personal Investment income.[1] This guide needs to be read in conjunction with the Corporate Tax Law, implementing decisions and other relevant guidance published by the FTA.

[1] Article 2(2)(b) of Cabinet Decision No. 49 of 2023.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how key elements of the Dividends and Participation Exemption apply. The examples in this guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural persons.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Corporate Tax Law”;
- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax is referred to as “Cabinet Decision No. 49 of 2023”;
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 73 of 2023”;
- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 114 of 2023”;
- Ministerial Decision No. 116 of 2023 on the Participation Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 116 of 2023”; and

- FTA Decision No. 13 of 2023 on Determination of Conditions for Conversion of Amounts Quantified in a Currency other than the United Arab Emirates Dirham for the Purposes of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “FTA Decision No. 13 of 2023”.

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the provisions relating to the Corporate Tax regime in the UAE. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each Person’s own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Dividends and other profit distributions

Under the Corporate Tax Law, Dividends and other profit distributions received from a juridical person that is a Resident Person are exempt with no further conditions.[2] Dividends and other profit distributions received from a foreign juridical person are exempt under the Participation Exemption, provided the relevant conditions are satisfied.[3]

The purpose of the exemption from Corporate Tax is to prevent Dividends and other profit distributions from potentially being subject to double taxation.

3.1. What is a Dividend?

3.1.1. Overview

A Dividend is not defined in the Corporate Tax Law. However, Ministerial Decision No. 116 of 2023 provides a definition of "Dividend". While the Ministerial Decision is issued specifically in relation to the Participation Exemption, the FTA will apply the same definition to Dividends from a juridical person that is a Resident Person under Article 22(1) of the Corporate Tax Law.

The definition of a Dividend includes a number of important concepts listed below, each of which will be addressed separately:

- Ordinary Dividend: Any payment or distribution that is declared or paid on or in respect of shares or other rights to participate in the profits of the issuer of such shares or rights, payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue (see Section 3.1.2).
- Dividend in kind: Dividend in kind includes stock dividends, bonus shares (for example scrip dividends), and other forms of actual or constructive profit distributions. Thus, a Dividend can take the form of cash, securities, or other property or assets (see Section 3.1.4).
- Other distributions: Any payment or benefit made in connection with the acquisition of shares by the issuing entity, or redemption or cancellation of shares or termination of other ownership interests or rights which in substance constitutes a distribution of profit will be treated as a Dividend (see Section 3.1.5).
- Non-arm's length payments: Any payment or benefit that arises to a Related Party or Connected Person (who is a shareholder) as a result of a transaction or arrangement which does not comply with the arm's length principle will constitute

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2 Article 22(1) of the Corporate Tax Law.
3 Article 22(2) of the Corporate Tax Law.

a distribution of profit in substance and accordingly, qualify as a Dividend, to the extent to which it is not at arm's length (see Section 3.1.6).

3.1.2. Ordinary Dividend

This refers to a payment or distribution that is declared or paid in respect of shares or other rights to participate in the profits of the issuer.

3.1.2.1. What is a share?

The term "share" refers to a unit of ownership in a company which may entitle the holder to a number of rights including the right to vote, the right to participate in a distribution of the company's profits, and the right to a return on the company's capital. The particular rights attaching to a share will depend on the constitutional documents of the company.

The term includes all types of shares issued by a company which carry a right to participate in the company's profits, for example Ordinary Shares, Preferred Shares, Redeemable Shares, non-voting shares, bearer shares, registered shares, etc.

The instruments that are recognised as share capital and the rights attaching to shares are usually determined by the terms under which they are issued within the framework of the company law of the jurisdiction in which the company is incorporated.

For the application of the Participation Exemption, shares or similar interests shall be treated as ownership interests only if the Accounting Standards applied by the Person owning them treats those instruments as equity instruments[4] (see Section 5.1.1).

3.1.2.2. Other rights to participate in profits

"Other rights to participate in profits" can cover instruments (other than shares) issued by entities, which grant holders the right to participate in the relevant entity's profits. This concept makes provision for distribution of profits of other entities which are juridical persons, but are not companies, to also benefit from the exemptions under Article 22 of the Corporate Tax Law, provided all other requirements are met. For example, a member's interest in an incorporated partnership or units of a trust where such entities are treated as a separate legal person according to the law under which they are incorporated.

[4] Article 2(2) of Ministerial Decision No. 116 of 2023.

“Other rights to participate in profits” also includes instruments such as Membership and Partner Interests as well as Islamic Financial Instruments referred to in Ministerial Decision No. 116 of 2023.

3.1.2.3. “In respect of” shares or rights to participate in profits

The phrase “in respect of” as used in the definition of Dividend, is the reason something is done or a benefit is granted to a Person, in their capacity as a shareholder or holder of the right to profits.

Example 1: Amount not received in capacity of shareholder

A parent company receives a payment of Interest in respect of a loan to a wholly owned subsidiary. This is not a Dividend because the payment is not received by the parent company in relation to its shares held in the subsidiary, but rather in its capacity as a lender.

3.1.2.4. Profits out of which Dividends are distributed

Subject to applicable governing corporate laws and regulations, a Dividend can be paid out of current year profits or retained earnings, or from any account or legal reserve, or from capital reserves or revenue. This does not affect the treatment for Corporate Tax purposes.

Profits available for distribution (i.e. distributable profits) may be determined from the Financial Statements or the notes thereto. For Corporate Tax purposes, it does not matter whether distributions are made out of current period profits, or those of earlier periods.

3.1.3. Payments that do not qualify as a Dividend

As defined, a return on debt-claims does not qualify as a Dividend. Accordingly, income from convertible debentures or bonds cannot be considered a Dividend, until and unless the instruments are actually converted into shares.

Some debt-claims, such as bonds and debentures, carry an indirect right to participate in a debtor’s profits. Generally, income from such debt-claims does not qualify as a Dividend if the terms of the arrangement evidence a loan arrangement, for example, where loans merely carry a right to Interest dependent or contingent, to some limited extent, on the profits made by the debtor but do not have any other characteristics of a share or other form of ownership interest in a juridical person.

However, Interest on a loan may qualify as a Dividend insofar as the lender effectively shares the risks run by the company, i.e. when repayment depends largely on the success or otherwise of the company's Business and the loan is therefore classified as equity under the Accounting Standards applied by the Taxable Person. The question as to whether the lender shares the risks run by the company and whether this means that the Interest on the loan is in substance a Dividend must be determined in each individual case in light of all the relevant facts and circumstances.

3.1.4. Dividend in kind

3.1.4.1. General

A Dividend will usually take the form of a cash amount. However, as defined, it can also take a different form, such as securities or other properties, or some other asset of the entity making the distribution. This is referred to as a Dividend in kind.

In the case where a Dividend in kind is received, the value of the Dividend in the hands of the Taxable Person is the value recorded in its Financial Statements prepared as per the applicable Accounting Standards, as long as the value is recorded at Market Value.

3.1.4.2. Issuance of bonus shares

Bonus shares usually refer to additional shares that a company allocates to its existing shareholders out of its profits or reserves, without receiving new consideration from the shareholders. Since bonus shares are in effect a payment out of a company's profit and reserves, they meet the definition of a Dividend.

3.1.5. Other distributions

3.1.5.1. In substance distributions

As per the definition of Dividend, a payment or benefit made in connection with the following would be considered a Dividend to the extent it constitutes, in substance, a distribution of profit:

- The acquisition by a company of its own shares (buy-back of shares);
- The redemption of shares;
- The cancellation of shares (capital reduction); or
- The termination of other ownership interests or rights.

This Section must be read in conjunction with the discussion of ordinary Dividend (see Section 3.1.2). Hence, it is possible that only part of such payments or benefits would be classified as a Dividend.

In order to fall within the definition of a Dividend in any of the above instances, payments or benefits should be made out of distributable profits (see Section 3.1.2.4). Thus, where payments are made to shareholders or rights holders in connection with the acquisition, redemption or cancellation of shares or termination of other ownership interests or rights, the Dividend amount will be the difference between the proceeds received by the shareholder and the paid-up value of the shares, limited to the amount of distributable accumulated profits (or retained earnings). The balance amount (if any) may be an exempt capital gain if the conditions of the Participation Exemption are satisfied.

Example 2: Distribution on cancellation of shares

Company A (a company incorporated and resident in the UAE) wholly owns Company Z (a company incorporated and managed outside the UAE).

Out of 100 shares issued to Company A, Company Z cancels 50 shares by paying AED 450 to its shareholder, Company A. This represents the Market Value of those shares. The distribution on cancellation of shares is paid out of capital contributed and Company Z's retained earnings.

The balance sheet of Company Z just before cancellation of shares is as follows:

Equity and Liabilities	**Amount (AED)**	**Assets**	**Amount (AED)**
Capital (100 shares of AED 5 each)	500	Cash	700
Distributable profits	200		
Total	**700**	**Total**	**700**

Balance sheet of Company Z after cancellation of shares is as follows:

Equity and Liabilities	**Amount (AED)**	**Assets**	**Amount (AED)**
Capital (50 shares of 5 AED each)	250	Cash	250

Total	250	Total	250

The taxation of AED 450 received by Company A will be as follows:

- AED 250 represents the capital initially subscribed and is not taxable.
- AED 200 is a Dividend because it is sourced from distributable profits. This Dividend is exempt provided the conditions of the Participation Exemption are satisfied.

3.1.6. Non-arm's length: constructive Dividend

Constructive Dividends are payments or benefits received by a shareholder as an assignment of income, despite the absence of a formal distribution. This could arise, for example, as a result of a transaction under which a parent company receives compensation that exceeds the fair value of the goods or services provided by it, to its subsidiary. As defined, any payment or benefit that arises to a Related Party or Connected Person (who is a shareholder) as a result of a transaction or arrangement which does not comply with the arm's length principle will constitute a distribution of profit in substance and accordingly, qualify as a Dividend, to the extent to which it is not at arm's length.

3.2. Taxation of Dividends and other profit distributions

3.2.1. Personal Investment income (natural person only)

For a natural person, whether resident or non-resident, Personal Investment activities are excluded from the definition of Business or Business Activity for Corporate Tax purposes.[5] Hence, where Dividend income received by a natural person is Personal Investment income, it is not Taxable Income for Corporate Tax purposes.

Example 3: Natural person as a shareholder

Mr A and Mrs B are both shareholders in Company A (a company incorporated and resident in the UAE). Mr A purchased his shares as a Personal Investment, while Mrs B did it as part of her Business Activity. Company A makes a Dividend distribution to both shareholders.

The Dividend income received by Mr A is Personal Investment income and not subject to Corporate Tax. The Dividend income received by Mrs B is specifically

[5] Article 2(2)(b) of Cabinet Decision No. 49 of 2023.

exempted as a Dividend received from a juridical person that is a Resident Person.[6]

3.2.2. Dividend from a Resident Person

A Dividend received from a juridical person that is a Resident Person is always Exempt Income for Corporate Tax purposes with no further conditions.[7]

3.2.3. Foreign Dividends

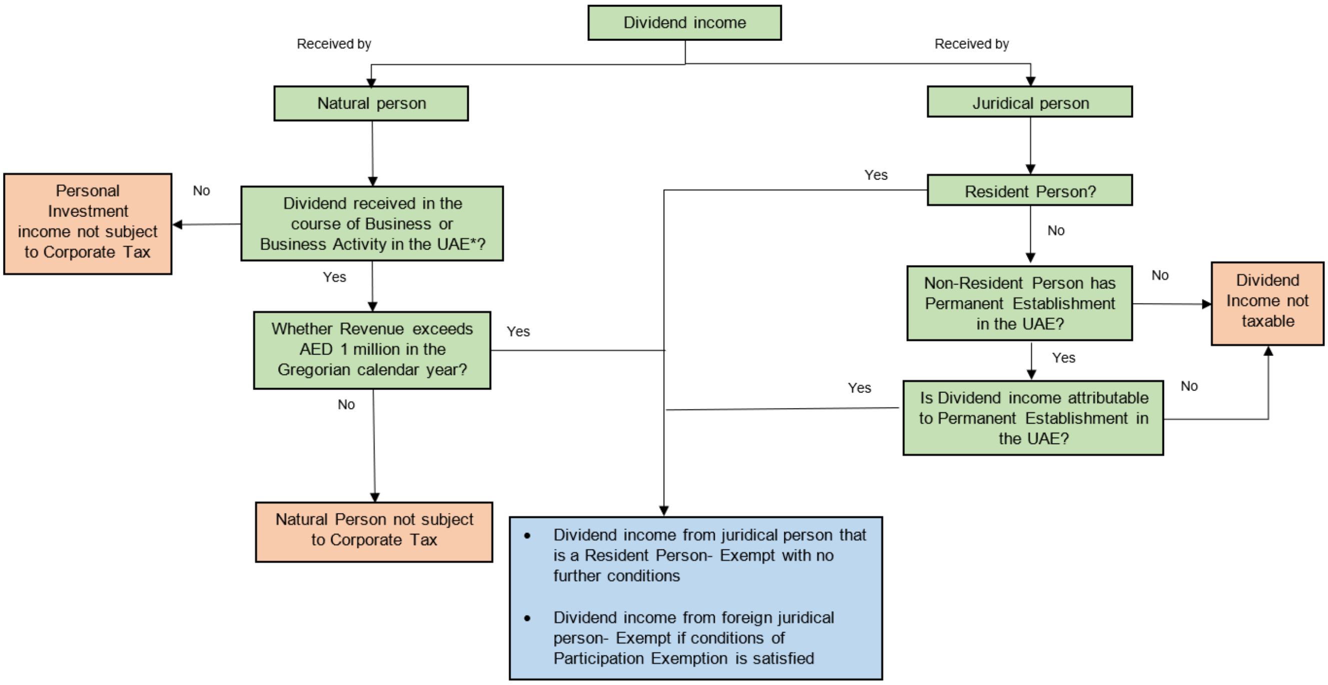
A foreign Dividend is a Dividend received from a foreign juridical person that is a Non-Resident Person. A foreign Dividend is Exempt Income for Corporate Tax purposes if the conditions of the Participation Exemption are satisfied (see Section 5).[8]

If the conditions are not satisfied, the foreign Dividend will be included in the Taxable Income of a juridical person that is a Resident Person.[9] In the case of a Resident Person who is a natural person, the foreign Dividend will similarly be included in the Taxable Income if it is attributed to a Business or Business Activity, unless it represents Personal Investment income.[10]

In the case of a juridical person that is a Non-Resident Person, foreign Dividend income is subject to Corporate Tax only insofar as it is attributable to a Permanent Establishment of that Non-Resident Person in the UAE.[11] However, it will be Exempt Income if the conditions of the Participation Exemption are satisfied.[12]

Figure 1: Overview of taxation of Dividend income under the Corporate Tax Law

[6] Article 22(1) of the Corporate Tax Law.
[7] Article 22(1) of the Corporate Tax Law.
[8] Article 22(2) of the Corporate Tax Law.
[9] Article 12(1) of the Corporate Tax Law.
[10] Article 12(2) of the Corporate Tax Law.
[11] Article 12(3)(a) of the Corporate Tax Law.
[12] Article 22(2) and 22(3) of the Corporate Tax Law.



**Natural Person conducting Business in the UAE qualifies as Resident Person under the Corporate Tax Law.*

4. Participation Exemption: overview

4.1. Introduction

Certain income received by a Taxable Person from a Participating Interest in a juridical person is exempt from Corporate Tax.[13] This goes beyond the automatic exemption for Dividends from a juridical person that is a Resident Person, and provides an exemption (subject to conditions) for foreign Dividends, capital gains or losses, foreign exchange gains or losses, and impairment gains or losses. Similarly, as is the case for Dividends in Section 3, the intention of the Participation Exemption is to eliminate double taxation.

To illustrate this, Company A earns profit of USD 1,000 in its state of residence (Country A) on which it pays tax in Country A. Out of these taxed profits, Company A distributes USD 100 to its sole shareholder as a Dividend. In this case, taxing the Dividend income of USD 100 in the hands of the shareholder will lead to double taxation (i.e. the USD 100 profits being taxed both at the level of Company A as well as at the level of its shareholder), which the Participation Exemption regime aims to eliminate.

The Participation Exemption rules are broadly structured as follows:[14]

- Providing the definition and conditions of a Participating Interest;[15]
- Clarifying the types of income and losses from a Participating Interest which are exempt from Corporate Tax;[16]
- Clarifying the implications of a failure to meet the conditions of the Participation Exemption.[17]

4.2. Definition of Participating Interest

In broad terms, a Participating Interest is a significant, long-term ownership interest in a juridical person (the "Participation") that suggests some degree of control or influence over the Participation. In line with this principle, several conditions must all be satisfied in order to qualify as a Participating Interest:

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[13] Article 22(2) and Article 22(3) of the Corporate Tax Law.
[14] Article 23 of the Corporate Tax Law.
[15] Articles 23(2), 22(3), 23(4), 23(6), 23(7) and 23(11) of the Corporate Tax Law.
[16] Article 23(5) and Article 23(8) of the Corporate Tax Law.
[17] Article 23(9) and Article 23(10) of the Corporate Tax Law.

- A Participating Interest represents a 5% or greater ownership interest in a Participation ("minimum ownership test").[18]
- Alternatively, the ownership test can be satisfied if the acquisition cost of the ownership interest is equal to or exceeds a specific threshold (AED 4 million) ("minimum acquisition cost test").[19]
- The Participating Interest must be held, or intended to be held, for an uninterrupted period of at least 12 months ("holding period test").[20]
- The Participation must be subject to Corporate Tax, or equivalent foreign corporate tax at a rate of 9% or more ("subject to tax test").[21] Qualifying Free Zone Persons, Exempt Persons and holding companies, subject to certain conditions, are treated as having met the subject to tax test.[22]
- The ownership interest in the Participation must entitle the holder to receive at least 5% of the profits and liquidation proceeds ("entitlement to profits and liquidation proceeds test").[23]
- Not more than 50% of the direct and indirect assets of the Participation must consist of ownership interests which would not qualify for the Participation Exemption if held directly ("asset test").[24]

For more detailed discussion on these conditions see Section 5.

4.3. Exempt Income and losses

The Participation Exemption can, provided the necessary conditions are met, provide an exemption from Corporate Tax for the following:[25]

- Dividends and other profit distributions received from a foreign Participation that is not a Resident Person.[26]
- In relation to a Participating Interest, whether derived from a Resident Person or a foreign juridical person that is a Non-Resident Person:
    - Gains or losses on the transfer, sale, or other disposition of a Participating Interest (or part thereof).[27]

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18 Article 23(2) of the Corporate Tax Law.
19 Article 23(11) of the Corporate Tax Law and Article 8(1) of Ministerial Decision No. 116 of 2023.
20 Article 23(2)(a) of the Corporate Tax Law.
21 Article 23(2)(b) of the Corporate Tax Law.
22 Article 23(3) and Article 23(4) of the Corporate Tax Law.
23 Article 23(2)(c) of the Corporate Tax Law.
24 Article 23(2)(d) of the Corporate Tax Law.
25 Article 23(5) of the Corporate Tax Law.
26 Article 23(5)(a) of the Corporate Tax Law.
27 Article 23(5)(b) of the Corporate Tax Law.

- Foreign exchange gains or losses.[28]
- Impairment gains or losses.[29]

The Participation Exemption applies the same treatment to both gains and losses. Thus, no deduction for Corporate Tax is allowed for capital losses, foreign exchange losses or impairment losses where the conditions for a Participating Interest are met. For more discussion on Exempt Income and losses under the Participation Exemption, see Section 6.

In general terms, other income that is not directly related to the ownership of a Participating Interest, such as income from services provided to the Participation or Interest income earned under a loan granted to the Participation, will in principle not be exempt from Corporate Tax by virtue of the Participation Exemption.

Expenditure incurred in relation to Exempt Income, which includes where the Participation Exemption applies, is not deductible for Corporate Tax purposes,[30] except for Interest expense.[31] See Section 7 regarding the non-deductibility of expenditure.

4.4. Automatic exemption: no election required

The Participation Exemption applies without the need for the Taxable Person to make an election or file an application with the FTA. Accordingly, if the relevant conditions are met, the Participation Exemption will apply automatically with regards to all relevant income derived from Participating Interests. All conditions of the Participation Exemption must be satisfied at the time income is derived from a Participating Interest. The timing of when income is derived will normally be based on the Financial Statements prepared by the Taxable Person under the applicable Accounting Standards (an exception would be where the Cash Basis of Accounting is applied).

4.5. Availability of exemption to both Resident Person and Non-Resident Person

Any Taxable Person, Resident or Non-Resident Persons, can benefit from the Participation Exemption in respect of relevant income if the conditions are satisfied. Thus, income from a Participating Interest that is attributable to a UAE Permanent Establishment of a Non-Resident Person will be exempt if the conditions of the Participation Exemption are met.

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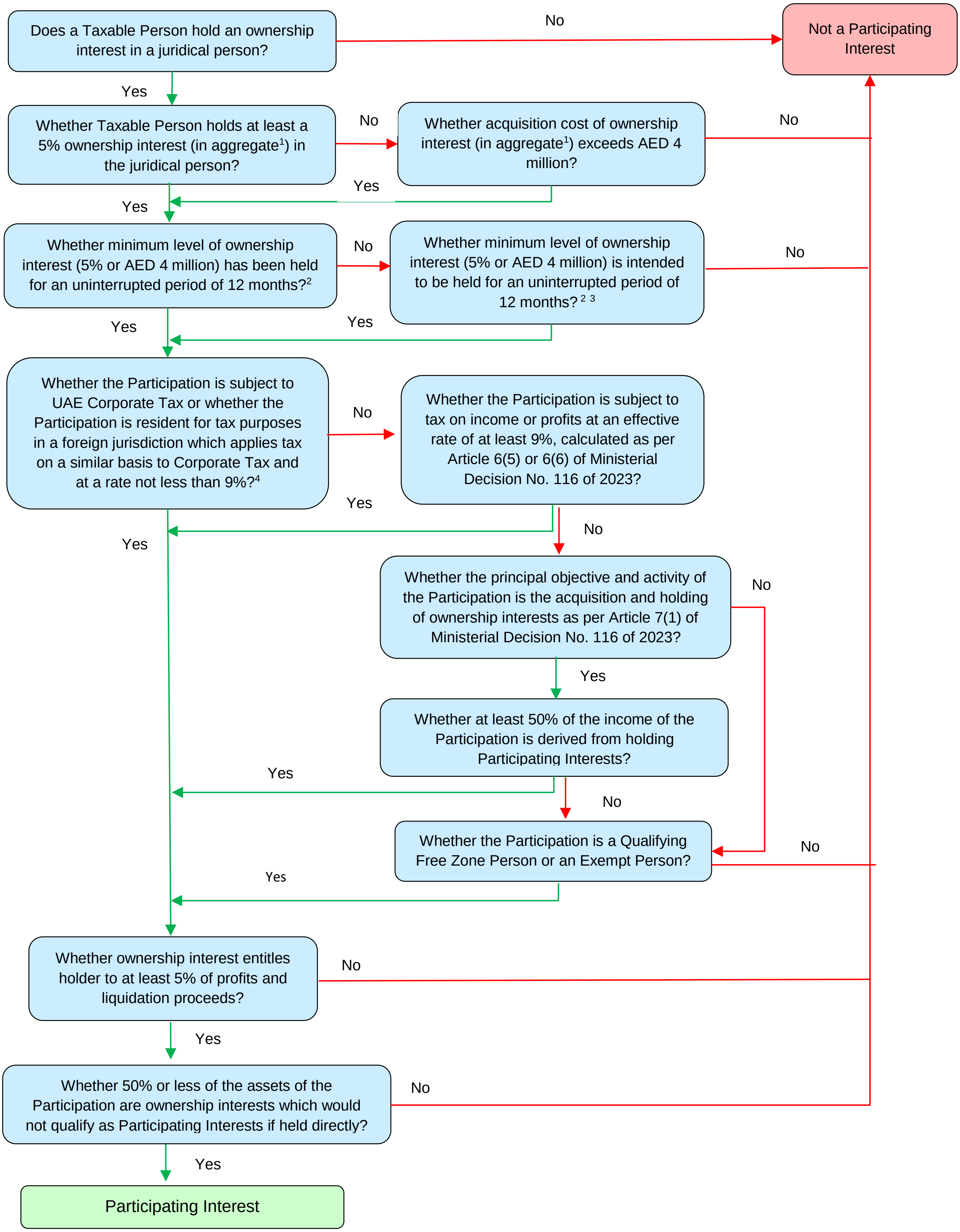
[28] Article 23(5)(c) of the Corporate Tax Law.
[29] Article 23(5)(d) of the Corporate Tax Law.
[30] Article 22 and Article 28(2)(b) of the Corporate Tax Law.
[31] Article 29 of the Corporate Tax Law.

5. Participation Exemption: definition of Participating Interest

In order for income to benefit from the Participation Exemption, it must relate to a Participating Interest. The following flowchart sets out the conditions to qualify as a Participating Interest. It follows the order they are listed in Article 23 of the Corporate Tax Law. In practice it may not be necessary to consider the conditions in sequence in order to reach a conclusion.

Figure 2: Overview of conditions to qualify as a Participating Interest



¹ Aggregation of ownership interests as per Article 3 of Ministerial Decision No. 116 of 2023. See Section 5.2.1

² Article 4 of Ministerial Decision No. 116 of 2023 provides a relaxation in holding period condition where ownership interest is acquired in accordance with Article 27(1) [business restructuring relief]. See Section 5.3.3.

³ In the case of capital gains, the intention to hold an ownership interest does not apply. The ownership interest must have actually been held for a period of 12 months, or for a period of 2 years where the ownership interest is acquired in scenarios covered under Article 23(9). Refer Section 5.3.4

⁴ Determined as per Article 6(2), 6(3), 6(4) of Ministerial Decision No. 116 of 2023. See Section 5.5.2

5.1. Ownership interest test

The first condition to qualify for the Participation Exemption is that a Taxable Person must hold an "ownership interest" in the shares or capital of a juridical person. The meaning of the term "share" is discussed in Section 3.1.2.1. Further, other methods of dividing capital that would constitute ownership interests include membership interests and other securities or rights that entitle the holder to profits and liquidation proceeds of the entity. Examples include interests in certain incorporated partnerships or units issued by an investment fund.

5.1.1. What is an ownership interest?

An ownership interest can be understood as any equity or similar interest (for example, a partnership interest) that carries rights to the profits and liquidation proceeds of the Participation.

A holding can qualify as an ownership interest for the purposes of Article 23 of the Corporate Tax Law only if it is treated as an equity interest under the Accounting Standards applied by the Taxable Person holding the ownership interest.[32] This would distinguish between an ownership interest and other rights to the profits and liquidation proceeds of an entity, such as profit-sharing agreements with employees that do not carry any equity rights to the entity or creditors' rights to compel the sale of certain assets to satisfy an obligation of an entity that is in default.

To the extent that shares or capital held by a Taxable Person grant the same rights to both the profits as well as the liquidation proceeds of the Participation, no consideration needs to be given to the different classes of shares or capital issued. An ownership interest can include, but is not limited to, holdings in any one or a combination of the following instruments:[33]

Type of instrument	**Description**
Ordinary Shares	Category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.
Preferred Shares	Category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

[32] Article 2(2) of Ministerial Decision No. 116 of 2023.
[33] Article 2(1) of Ministerial Decision No. 116 of 2023.

Type of instrument	Description
Redeemable Shares	Category of capital stock or equity interest which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.
Membership and Partner Interests	Equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.
Islamic Financial Instrument or a combination of arrangements that form part of the same Islamic Financial Instrument	Islamic Financial Instrument is a financial instrument which is compliant with Sharia principles.

The above list of ownership instruments is only illustrative. Other types of participating rights to the profits and liquidation proceeds of the Participation and treated as an equity interest under the applicable Accounting Standards, may also qualify as ownership interests. For example, the definition of Ordinary Shares refers to capital stock which gives its owner equal entitlement to voting rights, profits, and liquidation proceeds. However, shares that do not carry voting rights but have rights to profits and liquidation proceeds can also qualify as an ownership interest.

Ownership interests may carry rights to profits and liquidation proceeds in different percentages. For example, an ownership interest may carry a right to 20% of the profits of an entity but only 10% of the liquidation proceeds. These will need to be looked at separately when determining the "entitlement to profits and liquidation proceeds test" (see Section 5.7).

5.1.2. Debt instruments issued by the Participation

Debt instruments can be contrasted with equity instruments in the nature of the liability and risk. Whilst equity gives a residual claim on the assets of the entity, a debt instrument involves an obligation to pay an amount of principal and / or interest usually according to a predefined formula. Typically, the creditor (the lender) is paid in priority to equity holders, having less risk than equity holders, though may not have recourse to the entity's assets. Hence, ordinarily debt instruments do not qualify as an ownership interest for the purposes of the Participation Exemption.

However, a debt instrument (including those convertible into equity) is treated as an ownership interest if it is classified as an equity interest under the Accounting Standards applied by the Taxable Person.[34] Thus, compound financial instruments or hybrid instruments which have features of debt as well as equity may qualify as an ownership interest depending on their accounting classification under the Accounting Standards applied by the Taxable Person.

5.1.3. Options

An option is a right to buy (call option) or sell (put option) something for a fixed price at a future date. Accordingly, holding an option does not imply that the holder actually or in fact has an ownership interest in an entity. Therefore, the holding of an option would not be considered as holding an ownership interest.

5.1.4. Owner of ownership interests

The specified income from a Participation is exempt only if it is received by a Taxable Person in their capacity as "owner" of an ownership interest or ownership interests in the Participation. Income derived from a Participation in any other capacity, such as a lender or service provider, is not exempt from Corporate Tax under the Participation Exemption.[35]

A Taxable Person shall be treated as holding an ownership interest where the ownership interest is controlled by the Taxable Person and the Taxable Person has the right to the economic benefits produced by the ownership interest under the Accounting Standards as applied by the Taxable Person.[36]

The person receiving the income must be the economic owner of the ownership interest. A person is the economic owner when they have (or are entitled to) all or substantially all the benefits and burdens of ownership, including rights to profits, liquidation proceeds, or voting in respect of the Participation, and they have not renounced or transferred such rights under another arrangement.

Thus, if a person holds the ownership interest in the capacity of an agent, nominee, fiduciary or administrator, so that they are simply a conduit for another person who in fact is entitled to the benefits and burdens of ownership, the former is not the economic

[34] Article 5 of Ministerial Decision No. 116 of 2023.
[35] Article 11 of Ministerial Decision No. 116 of 2023.
[36] Article 2(3) of Ministerial Decision No. 116 of 2023.

owner of the ownership interest. Accordingly, they will not be entitled to the Participation Exemption with respect to income from the Participation.

Even if a person legally holds the ownership interest in their own name (i.e. legal owner), they may potentially not qualify as the economic owner if the right to use and enjoy the benefits of the ownership interest is constrained by a contractual or legal obligation to pass on the benefit received to another person. Such an obligation will normally derive from relevant legal agreements but may also be found to exist on the basis of facts and circumstances showing that, in substance, the legal owner does not have the right to use and enjoy the benefits of an ownership interest in an unconstrained manner.

5.2. Minimum ownership test

A Participating Interest must represent a 5% or greater ownership of the shares or capital of the juridical person.[37] A less than 5% ownership interest in a juridical person will not qualify for the Participation Exemption, unless the minimum acquisition cost test is met (see Section 5.4).

5.2.1. Computation of percentage ownership

The percentage ownership must be calculated as:

Percentage ownership (PO) = $\frac{X}{Y}$*100 where:

X = Paid-up capital of ownership interests held by a Taxable Person in the Participation. Different types of ownership interests held by the Taxable Person in the same juridical person can be aggregated for the purposes of applying the 5% threshold test.[38]

Y = Total paid-up capital of the Participation or the total equity interest contributions made to the Participation, as applicable.[39]

Example 4: Computing percentage of holding

Company A has paid-up share capital of AED 10,000: AED 1,000 towards Ordinary Shares and AED 9,000 towards Preferred Shares. Company B holds 20% of the Ordinary Shares in Company A and does not hold any Preferred Shares.

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[37] Article 23(2) of the Corporate Tax Law.
[38] Article 3(1)(a) of Ministerial Decision No. 116 of 2023.
[39] Article 2(5) of Ministerial Decision No. 116 of 2023.

- Paid-up capital of ownership interest held by Company B (X): 20% of AED 1,000 Ordinary Shares = AED 200.
- Total paid-up capital of the Participation (Y): AED 10,000 (Ordinary and Preferred Share capital together)
- Company B's percentage ownership: $\frac{200}{10,000}$*100=2%

Accordingly, Company B's ownership interest amounts to only 2% of the total paid-up share capital in Company A, i.e. Ordinary and Preferred Share capital together. In this case, Company B does not meet the 5% ownership interest threshold required for the Participation Exemption.

5.2.2. Aggregation of Qualifying Group holdings

Ownership interests in the same juridical person held by other members of a Qualifying Group are aggregated with those of the Taxable Person.[40]

5.2.3. Falling below the 5% ownership threshold

Since the Participation Exemption is automatic and applies without the need for an election or an application, all conditions must be satisfied at the time income is derived from a Participating Interest (see Section 4.4).

Therefore, if at the time the income is derived, the Taxable Person does not hold at least a 5% ownership interest, the condition is not met and accordingly, the income is not exempt under the Participation Exemption, unless the minimum acquisition cost test is met (see Section 5.4).

The timing of when income is derived will normally be based on the Financial Statements prepared by the Taxable Person under the applicable Accounting Standards (an exception would be where the Cash Basis of Accounting is applied).

[40] Article 3(1)(b) of Ministerial Decision No. 116 of 2023.

Example 5: Sale of ownership interests in tranches

Company A (a company incorporated and resident in the UAE) adopts a Tax Period of 1 January to 31 December. Company A has acquired shares in Company Z (a company incorporated and managed outside the UAE) and has the following transactions with respect to the investment:

Date	Transaction
1 November 2022	Acquired 20% of shares of Company Z below AED 4 million
1 March 2024	Sold 17% of shares of Company Z for proceeds exceeding original cost
1 June 2024	Received Dividend from Company Z
1 August 2024	Acquired additional 2% of shares of Company Z
1 August 2025	Acquired additional 2% of shares of Company Z
31 December 2025	Received Dividend from Company Z

Assuming that the other relevant conditions are satisfied, the tax treatment of the various income items is as follows:

- Gain from sale of shares on 1 March 2024: At the time of sale, Company A held more than 5% ownership interest for more than 12 months, so the gain on sale is exempt. (If the sale had resulted in a loss, the loss would have been excluded from the Taxable Income of Company A).
- Dividend received on 1 June 2024: At the time the Dividend income is received, Company A holds only 3% of the shares in Company Z with an acquisition cost of less than AED 4 million. This is below the required 5% ownership and minimum acquisition cost threshold, and consequently, the Dividend is not exempt.
- Dividend received on 31 December 2025: At the time the Dividend income is received, Company A holds 7% of the shares in Company Z so the ownership threshold condition is met. Further, a shareholding of 5% has been held for more than 12 months (the additional 2% acquired on 1 August 2024 resulted in a 5% holding – the 2% acquired on 1 August 2025 would be considered for the purpose of this test if there is an intention to hold these shares for at least 12 months). Thus, the 12-month holding period test is also met. Therefore, the Dividend received on 31 December 2025 is exempt.

5.3. Holding period test

A Participating Interest must be held, or intended to be held, for a continuous period of at least 12 months.[41] The 12-month holding period is provided to prevent a scenario where a Taxable Person, holding less than 5% of a Participating Interest, increases their holding shortly before receiving income from the Participating Interest, primarily for the purpose of securing the benefits of the Participation Exemption. Thus, a 12-month holding period ensures that the benefit of Participation Exemption is available to long-term holdings.

5.3.1. Intention to hold Participating Interest for at least 12 months

Whether the Taxable Person has held a Participating Interest for 12 months is tested on the date when income from a Participating Interest is derived.

However, there is no requirement for the Participating Interest to be held for the full Tax Period, nor is it required for the minimum holding period to be met at the time the income is derived (subject to the exceptions noted in Section 5.3.4). Income received before the minimum holding period is completed can also benefit from the Participation Exemption, as long as the Taxable Person has the intention to hold the Participating Interest for at least 12 months, indicating that it is not merely a short-term investment.

Whether or not the Participating Interest is intended to be held for at least 12 months may generally be inferred from the relevant facts and circumstances, including, for example:

- Whether the Taxable Person is engaged in the Business of buying and selling securities (as a trader).
- The accounting treatment of the Participating Interest in the Financial Statements of the Taxable Person (fixed asset investment as opposed to stock/inventory, for example).
- The intention at the time of acquiring the Participating Interest – was it acquired with the intention of disposing of it at a profit, or was it acquired as a long-term investment?

Where a Taxable Person benefits from the Participation Exemption on the basis of an intention to meet the 12-month holding period, but subsequently does not achieve that condition, the income previously not taken into account in determining Taxable Income must be included in the calculation of Taxable Income in the Tax Period where the condition is breached.[42]

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[41] Article 23(2)(a) of the Corporate Tax Law.
[42] Article 23(10) of the Corporate Tax Law.

Example 6: 12-month holding period not satisfied subsequently

Company A (a company incorporated and resident in the UAE) purchases 10% of the shares of Company Z (a company incorporated and managed outside the UAE) in October 2024 with the intention of holding them as a long-term investment. Company A receives a Dividend from Company Z in November 2024. Company A follows the Gregorian calendar year as its Tax Period.

For the 2024 Tax Period, Company A treats the Dividend income as exempt on the basis that it intends to hold the shares for at least 12 months. However, due to commercial reasons, in March 2025, Company A sells 8% of the shares of Company Z. In such a case, the Dividend income treated as exempt in 2024 will be added to the Taxable Income of Company A in the 2025 Tax Period. The reason why Company A was unable to satisfy its intention of holding the shares for at least 12 months is not relevant.

5.3.2. Different ownerships interests in a juridical person held for different periods

A Taxable Person can hold different ownership interests (which can be the same or a different class of shares) in a single juridical person which are purchased on different dates such that some of the ownership interests are held for 12 months while some are not. In such a case, where the Taxable Person disposes of part of their ownership interests, the question arises as to whether the holding period test is satisfied.

Different types of ownership interests held by the Taxable Person in the same juridical person are to be aggregated while testing the conditions of the Participation Exemption.[43] Once the conditions of the Participation Exemption are met, the ownership interests form a single Participation. Accordingly, where part of a Participating Interest is disposed of, the holding period condition is to be tested in respect of the Participation as a whole and not each ownership interest individually.

Example 7: Disposal of part of ownership interest

Company A (a company incorporated and resident in the UAE) purchases and sells shares of Company Z (a company incorporated and managed outside the UAE) as follows:

[43] Article 3(1)(a) of Ministerial Decision No. 116 of 2023.

Transaction	Holding %	Holding Period
Purchase of Ordinary Shares of Company Z	6%	5 years
Purchase of Preferred Shares of Company Z	3%	3 months
Sale of Preferred Shares of Company Z	2%	N/A

In this case, even though the Preferred Shares sold have been held for only 3 months, the holding period test is satisfied based on Company A's overall ownership interest in Company Z, which is over 12 months.

5.3.3. Transfer of ownership interest in case of business restructuring

Where a Taxable Person exchanges an ownership interest in one juridical person for that in another juridical person, and where this exchange does not give rise to Taxable Income, due to the application of Business Restructuring Relief,[44] the ownership of the two interests is treated as a single continuous ownership (not two separate ownership periods) provided that both qualify as Participating Interests.[45] This means the period of ownership can look through a qualifying business restructuring.

5.3.4. Required holding period exceptions

Generally, income from a Participating Interest before the 12-month holding period is completed can still benefit from the Participation Exemption, as long as the intention is to hold the interest for at least 12 months. However, there are two exceptions when the intention is not sufficient, and in such cases the Participation Exemption only applies after the relevant holding period requirement has actually been met.

The first case is in the case of capital gains or losses (see Section 6.2). To be exempt, the Participating Interest must have been held for the required period of 12 months. Thus, where a Participating Interest has not been held for at least 12 months, a capital gain or loss on the sale, transfer or other disposition of the asset will not be exempt.[46]

In the second case, the Participation Exemption does not apply for a period of two years where the Participation is acquired under the following circumstances:[47]

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[44] Article 27 of the Corporate Tax Law.
[45] Article 4 of Ministerial Decision No. 116 of 2023.
[46] Article 23(5)(b) of the Corporate Tax Law.
[47] Article 23(9) of the Corporate Tax Law.

- In exchange for the transfer of an ownership interest that is not a Participating Interest, i.e. the asset held previously would not have qualified for the Participation Exemption;
- In the case of an exempt transfer within a Qualifying Group;[48] or
- In the case of an exempt transfer covered by Business Restructuring Relief.[49]

In the above circumstances, the Participating Interest must be held for at least two years (i.e. 24 months) before the Participation Exemption can apply.

Example 8: Participation acquired in exchange for transfer of an ownership interest that is not a Participating Interest

Company A (a company incorporated and resident in the UAE) holds 10% of the shares of Company F (a company incorporated and managed outside the UAE). The shares do not carry the right to liquidation proceeds of Company F and hence do not satisfy one of the necessary conditions to qualify as a Participating Interest.

Company X (a company incorporated and resident of the UAE) holds 6% of the Ordinary Shares in Company G (a company incorporated and managed outside the UAE). The shares of Company G satisfy the conditions to be a Participating Interest.

Company A transfers shares held in Company F to Company X in exchange for shares of Company G. In this case, even if Company A has the intention to hold shares of Company G for more than 12 months, the Participation Exemption will not be available with respect to income derived from Company G shares for 2 years from the date of acquisition of the shares. This is because the shares of Company G were acquired in exchange for an ownership interest (i.e. the shares of Company F) which does not qualify as a Participating Interest.

5.4. Minimum acquisition cost test

As an alternative to the requirement to have a 5% or greater ownership interest (see Section 5.2), a Taxable Person will be treated as having a Participating Interest if the acquisition cost exceeds AED 4 million.[50]

The minimum acquisition cost threshold serves as an administrative simplification, recognising that a material investment in a juridical person is often representative of the long-term nature of the investment and would generally provide the holder with some degree of control or influence over the entity.

[48] Article 26 of the Corporate Tax Law.
[49] Article 27 of the Corporate Tax Law.
[50] Article 23(11) of the Corporate Tax Law read with Article 8(1) of Ministerial Decision No. 116 of 2023.

If the Taxable Person does not meet the minimum acquisition cost threshold (i.e. AED 4 million) for an uninterrupted period of at least 12 months, income previously not taken into account in determining Taxable Income on the basis of the Participation Exemption is included in the calculation of Taxable Income in the Tax Period where the condition is breached.[51]

5.4.1. Aggregation of acquisition costs

For the purposes of this test, the acquisition cost of different types of ownership interests held by a Taxable Person in the same juridical person are aggregated. What needs to be determined is if the aggregate acquisition cost is equal to or exceeds the minimum acquisition cost (currently AED 4 million).[52]

Example 9: Determining acquisition cost on aggregate basis

A Taxable Person has acquired the following ownership interests in Company A (a company incorporated and resident in the UAE):

- Firstly, Ordinary Shares for AED 1 million;
- Secondly, Preferred Shares for AED 2 million; and
- Thirdly, Redeemable Shares for AED 2 million.

In this case, the minimum acquisition cost test is met when the Redeemable Shares are acquired since the aggregate acquisition cost of all ownership interests held in Company A exceeds AED 4 million.

Further, the acquisition costs of ownership interests in the same juridical person held by members of a Qualifying Group (as defined in Article 26(2) of the Corporate Tax Law) in which the Taxable Person is a member, are aggregated.[53] The minimum acquisition cost test is met if the aggregate acquisition cost of ownership interests held by all members of the Qualifying Group together exceed the threshold of AED 4 million. Thus, the intra-group transfer of ownership interests between members of a Qualifying Group does not have an impact on the minimum acquisition cost test.

[51] Article 23(11) of the Corporate Tax Law read with Article 23(2) of the Corporate Tax Law..
[52] Article 3(2) of Ministerial Decision No. 116 of 2023.
[53] Article 3(2) of Ministerial Decision No. 116 of 2023.

5.4.2. Computation of acquisition cost

The aggregate acquisition cost is computed as follows:[54]

Cost	Notes
Value of contributions made or consideration paid towards ownership interest in Participation.[55]	• Includes consideration paid/repaid in cash or in kind.[56] • The value is determined at the time of the transaction, i.e. when the capital contribution was made. No account is taken of any subsequent value adjustments made under the Accounting Standards applied by the Taxable Person holding the ownership interest.[57] Thus, what is relevant here is the actual historical cost of acquiring the ownership interest (e.g. cash paid) and not, for instance, the adjusted book value or Market Value of the ownership interest.
Add: Value of any subsequent contributions made or consideration paid towards ownership interest in Participation.[58]	
Less: Value of equity/ capital repayment made by the Participation (for example on redemption or buy back of shares).[59]	
Less: Cost attributable to part of the ownership interest sold, transferred or otherwise disposed of.	Where an ownership interest is partly sold, transferred, or otherwise disposed of, the aggregated acquisition cost shall be reduced in proportion to the average acquisition cost attributable to the part of the ownership interest that is sold, transferred or otherwise disposed of.[60] **Example 10: Determining cost on partial sale** A Taxable Person holds the following interests in a juridical person:

[54] Article 8 of Ministerial Decision No. 116 of 2023.
[55] Article 8(2)(a) of Ministerial Decision No. 116 of 2023.
[56] Article 8(2)(a) of Ministerial Decision No. 116 of 2023.
[57] Article 8(3) of Ministerial Decision No. 116 of 2023.
[58] Article 8(2)(b) of Ministerial Decision No. 116 of 2023.
[59] Article 8(2)(b) of Ministerial Decision No. 116 of 2023.
[60] Article 8(5) of Ministerial Decision No. 116 of 2023.

<table>
<tr><th>Cost</th><th>Notes</th></tr>
<tr><td></td><td>
<table>
<tr><th>Type of interest</th><th>Cost</th></tr>
<tr><td>Preferred Shares</td><td>AED 2 million</td></tr>
<tr><td>Ordinary Shares
• Tranche 1: 10,000 shares
• Tranche 2: 20,000 shares</td><td>
AED 1 million
AED 5 million</td></tr>
</table>

The Taxable Person sells 5,000 Ordinary Shares. In this case, the cost will be average acquisition cost attributable to the Ordinary Shares [(5,000/ 30,000) * 6 million] = AED 1 million.
</td></tr>
<tr><td>Add: Expenditure incurred by the Taxable Person in relation to the acquisition or transfer of ownership interests which is capitalised as an acquisition cost of Participating Interest.[61]</td><td>Expenses incurred in relation to the acquisition, sale, transfer, or disposal of an entire Participating Interest or part of a Participating Interest should be capitalised for Corporate Tax purposes, even if such expenses are not capitalised in the Financial Statements.[62] For examples, see Section 7.2.1</td></tr>
</table>

In addition to above, the following aspects should be taken into account when computing the acquisition cost:

- Foreign currency: for Corporate Tax purposes, all amounts must be quantified in UAE dirham. Hence, if an acquisition cost is incurred in another currency, it must be converted to UAE dirham.[63] The relevant exchange rate at the date of acquisition or formation of the relevant ownership interest should be used.[64]
- The cost of acquisition can be zero for certain ownership interests. As mentioned above, the minimum acquisition cost test requires the use of the actual cost regardless of the accounting treatment. Thus, where no cost is incurred, for example on the issue of bonus shares not in lieu of a Dividend, there will be no cost of acquisition for the purpose of this test.
- The cost of acquisition of an ownership interest is the cost in the hands of the previous owner where the Taxable Person has acquired the ownership interest

[61] Article 8(2)(c) of Ministerial Decision No. 116 of 2023.
[62] Article 10(4) of Ministerial Decision 116 of 2023.
[63] Article 43 of the Corporate Tax Law read with FTA Decision No. 13 of 2023.
[64] Article 8(4) of Ministerial Decision No. 116 of 2023.

from another Qualifying Group member and the relief under Article 26 of the Corporate Tax Law was applied to the relevant transaction.
- In the case where Business Restructuring Relief applies, the cost of acquisition of the ownership interests received by the Taxable Person is the value to the other Person of the Business transferred.[65]

5.5. Subject to tax test

Under the "subject to tax" test, the Participation must be subject to an adequate level of taxation.[66] This test will be satisfied if the Participation is subject to:

- UAE Corporate Tax; or
- Any other tax similar to Corporate Tax in its country of residence at a rate of at least 9%.

As mentioned, the purpose of the Participation Exemption is to prevent double taxation where a Participation that distributes a profit or whose shares or other ownership interests are being sold may have already been taxed on its profits. Accordingly, and to prevent income from being shifted to foreign jurisdictions to inappropriately benefit from the Participation Exemption, income derived from subsidiaries that are resident in no or low-tax jurisdictions would generally not benefit from the Participation Exemption regime (see Section 5.6 for exceptions).

5.5.1. Subject to Corporate Tax or similar

It should normally be clear when a Participation which is a Resident Person in the UAE is subject to UAE Corporate Tax.

The Participation is considered to have met the subject to tax requirement under Article 23(2)(b) of the Corporate Tax Law for a specific Tax Period when it is resident for tax purposes throughout that same Tax Period in another country or a foreign territory that levies a tax meeting all of the following requirements:

- The tax is applied on a similar basis to Corporate Tax; and
- The tax is levied at a rate not less than 9%.[67]

For a Participation which is tax resident in a foreign jurisdiction to meet the subject to tax test, the relevant foreign jurisdiction must have a corporate tax regime that is

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[65] Article 27(3) of the Corporate Tax Law.
[66] Article 23(2)(b) of the Corporate Tax Law.
[67] Article 6(1) of Ministerial Decision No. 116 of 2023.

similar in nature to the UAE Corporate Tax for the entire Tax Period during which the Taxable Person holds the Participation.

The following factors regarding the jurisdiction in which the Participation is resident do not imply that the jurisdiction does not have a similar tax to Corporate Tax: [68]

- Differences in reductions and reliefs (e.g. different treatment of entertainment expenditure or interest expense, a more favourable exemption for capital gains and dividend income, or the ability to carry back tax losses incurred).
- Lower tax rates applicable to certain brackets of income.
- Targeted incentives or exemptions of a temporary nature, e.g. tax credits or exemptions from corporate tax for setting up a manufacturing site or moving headquarter functions to a foreign country. The incentives must be granted for a certain period. A permanent tax exemption would not be considered as being of a temporary nature.
- Application of alternative taxes on income or profits such as:
    - A system which requires the 'standard' tax liability to be compared with an alternative calculation on a secondary basis, with tax payable being the higher of the two, e.g., certain countries apply a corporate alternate minimum tax on the adjusted financial statement income of a taxpayer if the amount of tax liability determined under the alternative minimum tax rules exceeds the tax liability determined under regular income tax rules; or
    - A broad-based corporate tax regime that does not apply to locally or regionally owned companies for instance being exempt from corporate taxation but subject to Zakat or a different form of effective taxation.

The determination of being subject to Corporate Tax (or any other tax of a similar character to Corporate Tax), must be made based on a consideration of all relevant facts and circumstances concerning the tax legislation of the jurisdiction in question.

In the following cases, the tax imposed by the jurisdiction in which the Participation is resident will not be treated as having a similar nature to Corporate Tax and therefore the condition will not be satisfied:[69]

- The tax is applicable only to selected activities performed in the jurisdiction such as banking and insurance activities, resulting in most businesses not being within the scope of the foreign country's corporate tax regime.
- The tax paid is refunded at the time of distribution of the relevant profits or income, resulting in the profits earned by businesses in that jurisdiction not being taxed.

[68] Article 6(3) of Ministerial Decision No. 116 of 2023.
[69] Article 6(4) of Ministerial Decision No. 116 of 2023.

- The tax is only due in the event of a distribution of profits or income. Thus, it is required that income and profits of businesses in the foreign jurisdiction are taxed as earned / accrued irrespective of when distributed.

5.5.2. Foreign tax rate of at least 9%

If a Participation is resident in a jurisdiction that levies a corporate tax of a similar character to the UAE, at a statutory tax rate of at least 9%, the subject to tax test is met. A recalculation of the foreign Participation's tax base to apply UAE Corporate Tax principles is not required.

However, if the statutory corporate tax rate in the foreign jurisdiction is below 9%, the subject to tax test can be met if the Participation's effective tax rate is at least 9% on any of the following alternative bases:[70]

- Actual effective tax rate: the actual tax paid in respect of the period divided by the profit before tax under the Accounting Standards as applied by the Participation.

Example 11: Actual effective tax rate (calculated based on the rules as applied by the foreign Participation) Company A (a company incorporated and resident in the UAE) holds 100% of shares of Company B (a company incorporated and managed outside the UAE). Company B is resident in Country B, which levies corporate tax at the rate of 5%. In order to benefit from the Participation Exemption, Company A would need to demonstrate that the income of the Participation is subject to effective taxation of at least 9%. In respect of the current period, Company B paid total corporate tax of USD 5,500 in Country B and the entity has an accounting profit before tax of USD 50,000. Whilst the statutory tax rate for Company B is less than 9%, the effective tax rate is 11% (i.e. USD 5,500 / USD 50,000), therefore the subject to tax test is met.

- Theoretical effective tax rate: the effective tax rate if the Participation recalculated its accounting net profits on the basis required by the UAE Corporate Tax.[71]

Example 12: Theoretical effective tax rate (calculated based on UAE rules) Company A (a company incorporated and resident in the UAE) holds 100% of

[70] Article 6(5) of Ministerial Decision No. 116 of 2023.

[71] Accounting net profits calculated in accordance with the Accounting Standards specified in the Ministerial Decision No. 114 of 2023.

shares of Company B (a company incorporated and managed outside the UAE). Company B is resident in Country B, which levies a statutory corporate tax at the rate of 5.5%. Company A needs to provide evidence that the income of Company B is subject to effective taxation of at least 9% according to the basis provided for in the UAE Corporate Tax Law.

For the current Tax Period, Company B paid taxes of total USD 4,000 and the entity has an accounting profit before tax of USD 50,000 according to local accounting standards, so the actual effective tax rate of 8% (i.e. USD 4,000 of USD 50,000) is below the 9% threshold.

When applying IFRS, the accounting net profit of Company B would have been USD 40,000. Thus, the theoretical effective tax rate is 10% (i.e. USD 4,000 of USD 40,000), therefore the subject to tax test is met.

- Other taxes: in case the jurisdiction in which the Participation is resident does not impose a tax that is similar to Corporate Tax, the total tax charged on income, equity or net worth, or a combination of any or all of these, divided by the accounting net profit.[72]

Example 13: Participation taxed on net worth

Company A (a company incorporated and resident in the UAE) holds 100% of shares of Company B (a company incorporated and managed outside the UAE). Company B is resident in Country B. Under the corporate tax regime of Country B, local companies are charged a levy at the rate of 2% on the company's net worth.

For the current Tax Period, Company B paid USD 5,000 on its net worth and has an accounting profit before tax of USD 50,000 according to local accounting standards. Thus, the effective tax rate is 10% (i.e. USD 5,000 of USD 50,000) and therefore the subject to tax test is met.

5.6. Exceptions to the subject to tax test

The following exceptions mean that income from Participations which are Qualifying Free Zone Persons, Exempt Persons, holding companies and entities that elect to apply Small Business Relief are treated as satisfying the subject to tax test, even if they are not taxed, or are taxed but at a rate of less than 9%.

5.6.1. Qualifying Free Zone Persons and Exempt Persons

[72] Article 6(6) of Ministerial Decision No. 116 of 2023.

Dividends from a Free Zone Person, as a juridical person that is a Resident Person in the UAE, would be automatically exempt, so the following is relevant in respect of Qualifying Free Zone Persons for income other than Dividends and other profit distributions.

For the purpose of the subject to tax test, a Participation that is a Qualifying Free Zone Person under Article 18 of the Corporate Tax Law, or an Exempt Person under Article 4 of the Corporate Tax Law, is deemed to satisfy the subject to tax test.[73]

In case a Participation ceases to be a Qualifying Free Zone Person or an Exempt Person during a Tax Period, there would be no practical impact on the subject to tax test as described in Section 5.5, as the Participation would then become subject to UAE Corporate Tax which would satisfy the subject to tax test.[74]

5.6.2. Holding companies

Holding companies are treated as having satisfied the subject to tax test if both of the following conditions are met:[75]

- The principal objective and activity of the holding company is the acquisition and holding of investments that also meet the conditions of Participating Interest.[76]
- The income of the holding company substantially consists of income from the Participating Interests.[77]

5.6.2.1. Intention of holding of investments

The following conditions must be met by a holding company to be considered that its principal objective is the acquisition and holding of shares or equitable interests:[78]

- Be directed and managed in the relevant other country or foreign territory.[79] This condition should be interpreted in view of the concept of place of effective management. This is where the most senior person or group of persons (for example board of directors) make key management and commercial decisions,

[73] Article 23(4) of the Corporate Tax Law.
[74] Article 4(5) and Article 18(2) of the Corporate Tax Law.
[75] Article 23(3) of the Corporate Tax Law.
[76] Article 23(3)(a) of the Corporate Tax Law.
[77] Article 23(3)(b) of the Corporate Tax Law.
[78] Article 7(1) of Ministerial Decision No. 116 of 2023.
[79] Article 7(1)(a) of the Ministerial Decision No. 116 of 2023.

the place where the actions to be taken by the entity as a whole are determined. However, all relevant facts and circumstances must be considered.

- Comply with the requirement to submit any documents, records or information to the relevant authority under the laws and regulations applicable to such Participation in the relevant other country or foreign territory.[80] This includes all general obligations that must be met by the Participation in the foreign country, including but not limited to regulatory, financial and tax compliance.
- Have adequate personnel and premises for the acquisition and holding of the shares or equitable interests in the relevant other country or foreign territory, having regard to the level of activity carried on by the Participation and the extent to which those activities are performed on behalf or for the benefit of the Participation by another Person in that other country or foreign territory.[81] Such substance requirements should include for example an adequate number of full-time employees with necessary qualifications required to perform the activities conducted by the holding company, along with incurring an adequate amount of operating expenses to generate the income received by the Participation.
- Not conduct any other activities other than those that are incidental or ancillary to the acquisition and holding of shares or equitable interests.[82] Such activities may include management functions provided to the subsidiary's operations, e.g. financial and risk management, corporate governance, human resources, legal and compliance, communication, and stakeholder management etc. Moreover, financing of subsidiaries (e.g. granting loans) can also be seen as ancillary to the core Business of a holding company.

5.6.2.2. Income substantially consists of income from Participating Interests

The holding company's income must consist of an average of at least 50% of Dividends, capital gains and other income from investments which qualify as Participating Interests during the relevant Tax Period and the preceding Tax Period.[83]

The percentage of income is computed as follows:

Percentage income = $\frac{X}{Y}$*100 where:

X = Sum of the holding company's income from Participating Interests

Y= Total income in the relevant or the preceding Tax Period

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[80] Article 7(1)(b) of the Ministerial Decision No. 116 of 2023.
[81] Article 7(1)(c) of the Ministerial Decision No. 116 of 2023.
[82] Article 7(1)(d) of the Ministerial Decision No. 116 of 2023.
[83] Article 7(2) of Ministerial Decision No. 116 of 2023.

The percentage income is computed for the relevant Tax Period and the preceding Tax Period. If the average result of the relevant Tax Period and the preceding Tax Period is at least 50%, the condition is met.

The relevant Tax Period is the one in which the Participation Exemption would apply to a Taxable Person's income.

Example 14: Exception to the subject to tax test – holding company

Company A (a company incorporated and resident in the UAE) holds 100% of the shares of Company D (a company incorporated and managed outside the UAE and resident in a foreign country) and subject to 7% corporate tax. Company D respectively holds 100% of the shares of Companies X, Y and Z. Company D also holds 3% of the shares in Company P with an acquisition cost of less than AED 4 million. Company D provides management functions to subsidiaries and takes the strategic investment decisions. Further, Company D owns an office building and has 15 employees, including a board of directors. All strategic decisions are taken in the country of residence of Company D. All involved entities comply with the local rules.

For the purpose of the Participation Exemption, Company D will be treated as having satisfied the subject to tax test if the principal objective is the holding of Participating Interests and more than 50% of its income is from Participating Interests. Based on the facts above, it could be said that the principal objective of Company D is the holding of the Participating Interests.

Since the shares in Company P do not qualify as a Participating Interest due to the holding being below 5% and the minimum acquisition cost, its income will not be counted for the purpose of the calculation. Only Companies X, Y and Z will be considered as Participating Interests. Therefore, only income from these companies will be considered for the purpose of assessing whether the 50% threshold is met.

	Tax Periods		
Description	**Previous**	**Current**	**Total**
	AED in millions		
Dividend income from Companies X, Y and Z	8	3	11
Interest income received from Companies X, Y and Z	3	3	6
Dividend income from Company P	2	1	3
Interest income received from Company P	4	4	8

Total Income	18	20	38
Total income from Participating Interest	**11**	**6**	**17**
% of income from Participating Interest	**61%**	**30%**	**45%**

Therefore, Company D has only 45% income from Participating Interests. This is below the requirement of 50% and so it will not be considered as having met the subject to tax test in the current period. Thus, the Participation Exemption would not apply when Company A received, for example, Dividends from Company D.

5.6.3. Small Business Relief

5.6.3.1. Where a Participation elects for Small Business Relief

The subject to tax test requires that the Participation is subject to:

- Corporate Tax, or
- Other tax of similar character to Corporate Tax imposed in the foreign jurisdiction in which the Participation is resident, at a rate not less than 9%.

Where the Participation is subject to UAE Corporate Tax, the effective tax rate is not relevant. As regards to a Participation in a Resident Person that elects Small Business Relief, it would satisfy the subject to tax test as it remains, in principle, subject to Corporate Tax in the UAE, albeit being treated as having not derived any Taxable Income.[84] Therefore, Small Business Relief would not prevent it from being a Participating Interest.

5.6.3.2. Where a Taxable Person elects to the Small Business Relief

A Resident Person which had elected Small Business Relief would not need to consider the Participation Exemption in relation to income it received, as it is treated as not having derived any Taxable Income. Thus, any exemptions, including the Participation Exemption, are disregarded. This has no Corporate Tax implication as a Taxable Person would not need to rely on the Participation Exemption until they exceed the threshold for Small Business Relief (currently where Revenue does not exceed AED 3 million).[85]

If a Taxable Person does not elect to apply Small Business Relief or the conditions for this relief are not met, the general Corporate Tax principles apply, including the Participation Exemption.

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[84] Article 21 of the Corporate Tax Law.

[85] Article 2(1) of Ministerial Decision No. 73 of 2023.

5.7. Entitlement to profits and liquidation proceeds test

The Corporate Tax Law requires the ownership interest in the Participation to have an entitlement to at least 5% of both the profits available for distribution, and the liquidation proceeds.[86]

Ownership interest for this purpose generally means the legal and beneficial ownership of the shares or other ownership interests (see Section 5.1.4).

Profits available for distribution are determined by the corporate or other legislation which governs the formation or existence of the Participating Interest. This may be in either the UAE or a foreign jurisdiction. Often this will be the accumulated realised net profits based on the relevant Accounting Standards though certain profits may not be available for distribution,[87] such as those allocated to a non-distributable legal reserve.

Profit allocation can be determined by various factors, such as shareholder agreements, company bylaws, or specific arrangements made among the shareholders or members. These factors can allow for different profit-sharing ratios from the shareholding/ownership percentages. Irrespective of the percentage of an ownership interest, it is the actual percentage entitlement to profits available for distribution and liquidation proceeds which is relevant here.

Example 15: Entitlement to profits and liquidation proceeds test

Company A (a company incorporated and resident in the UAE) holds 6% of the shares of Company D (a company incorporated and managed outside the UAE and resident in a foreign country). Based on a specific clause in the shareholder agreement, Company A is entitled to receive 6% of the profits available for distribution, but only 3% of the liquidation proceeds in the event Company D is liquidated.

Although Company A is entitled to receive at least 5% of the profits available for distribution, the 5% requirement to receive liquidation proceeds is not satisfied. Thus, Company A cannot benefit from the Participation Exemption when it receives income from or in relation to Company D.

[86] Article 23(2)(c) of the Corporate Tax Law.
[87] Ministerial Decision No. 114 of 2023.

5.8. Asset test

A Participating Interest does not qualify for the Participation Exemption if more than 50% of the Participation's direct and indirect assets consist of ownership interests or entitlements that by themselves would not qualify for the Participation Exemption regime if held directly by the Taxable Person.[88] This means that if more than half of the Participation's direct and indirect asset base is made up of such assets, the Participation Exemption would not apply.

This test is intended to prevent potential abuse whereby significant non-qualifying Participations are held through an intermediary entity in order to nonetheless benefit from the Participation Exemption in respect of the intermediary's income (i.e. income which would not otherwise qualify for the Participation Exemption).

The first consideration for the asset test is which direct or indirect assets meet the definition of ownership interests (see Section 5.1.1) or entitlements, i.e. which assets can potentially constitute a Participation, such as equity investment assets.

Subsequently, those assets must be tested as to whether they meet the conditions of the Participation Exemption. After the qualifying ownership interests or entitlements have been identified, they must be compared with the Participation's total direct and indirect assets. If more than 50% of the assets constitute non-qualifying ownership interests, then the asset test would not be met.

For the purposes of calculating the 50% threshold, the determination can be made based on either of the following:[89]

- The consolidated balance sheet of the Participation and the accounting asset values (reflected book values) according to the applicable Accounting Standard of the Participation; or
- A Market Value valuation of the direct and indirect ownership interests and direct and indirect other assets of the Participation.

If a consolidated balance sheet is not readily available or is not prepared for this purpose, then the first approach cannot be followed and a Taxable Person can only consider the second approach.

In the case of the second approach, Market Value valuation, any valuation considered should not be older than 12 months.

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88 Article 23(2)(d) of the Corporate Tax Law.
89 Article 9(1) of Ministerial Decision No. 116 of 2023.

The asset test is a continuous test and should be met throughout the entire Tax Period in which the income from or in relation to the Participation is received.[90] This means that the asset test must be satisfied from the beginning of the Tax Period until the end of the Tax Period of the Taxable Person without any interruption. In situations where there is a disposal of the Participation, the asset test must be satisfied until the date of the disposal.

Example 16: Asset test – Consolidated balance sheet

Company A (a company incorporated and resident in the UAE) holds 10% of the shares of Company D (a company incorporated and managed outside the UAE). Company D in turn directly and indirectly holds shares in several subsidiaries. The consolidated balance sheet of Company D shows the following values (book values):

- Total assets: AED 100,000
- Investments (ownership interests): AED 60,000 consisting of:
  - qualifying ownership interest: AED 20,000
  - non-qualifying ownership interest: AED 40,000

Since less than half of the Participation's total direct and indirect assets consist of ownership interests that do not qualify for the Participation Exemption (only 40%, i.e. AED 40,000 of AED 100,000), the threshold of the asset test of the Participation Exemption is met.

Example 17: Asset test – Failing the condition within a Tax Period

Company B (a company incorporated and resident in the UAE) holds 10% of the shares of Company E (a company incorporated and managed outside the UAE). Company E in turn directly and indirectly holds shares in several subsidiaries. All companies have a Financial Year that is the Gregorian calendar year. Company E's consolidated balance sheet as of 31 August and 31 October shows the following values (book values) in AED:

	31 Aug	31 Oct
• Total Assets	100,000	100,000
• Investments (ownership interests) consisting of:	70,000	50,000
o qualifying ownership interest:	10,000	30,000
o non-qualifying ownership interest:	60,000	20,000

[90] Article 9(2) of Ministerial Decision No. 116 of 2023.

% of direct and indirect assets consisting of non-qualifying ownership interest	**60%**	**20%**

Company E resolves to distribute a Dividend as of 31 October.

Although the asset test is met at the time of the Dividend distribution (i.e. 31 October), the test is not fulfilled for the whole Tax Period of Company B. As such, the asset test according to Article 23(2)(d) of the Corporate Tax Law is not satisfied. Thus, the Dividend is not exempt from Corporate Tax under the Participation Exemption. Assuming the non-qualifying percentage stayed below 50% until the end of the following Tax Period, the asset test could be met in that subsequent period.

6. Participation Exemption: Exempt Income and loss

Certain income and losses from, or in relation to, a Participating Interest are excluded from Taxable Income. These are: Dividends from a foreign Participation, gains or losses on the transfer, sale or other disposition of a Participating Interest, foreign exchange gains or losses and impairment gains or losses in relation to Participating Interest.[91]

6.1. Dividends and other profit distribution

Article 23(5)(a) of the Corporate Tax Law provides an exemption for Dividends and other profit distributions received from a foreign Participation. In this respect note that:

- For the scope of the term "Dividend and other profit distribution" and determination of Dividend income, see Section 3.
- The use of the term "received" indicates that the exemption is available only on actual receipt. In the case of the Accrual Basis of Accounting, this is when the income is recorded, rather than when the cash payment is received. This principle applies to the types of Dividends discussed in Section 3.
- Article 23(5)(a) of the Corporate Tax Law covers only Dividends and other profit distributions from a foreign Participation. A Dividend or other profit distribution received from a juridical person that is a Resident Person is excluded from Taxable Income under Article 22(1) of the Corporate Tax Law with no further conditions (see Section 3.2.2).

Example 18: Back-to-back Dividends

Company A (a company incorporated and resident in the UAE) holds 100% of the shares in Company B (a company incorporated and resident in the UAE). Company B holds 100% of the shares in Company C (a company incorporated, resident and managed outside the UAE). Company C and Company B both declare Dividends.

The Dividend received by Company B from Company C is exempt under the Participation Exemption, provided all conditions of the Participation Exemption are satisfied.

The Dividend received by Company A from Company B, being a Dividend from a juridical person that is a Resident Person, is exempt with no further conditions.

[91] Article 23(5) of the Corporate Tax Law.

6.1.1. Tax deductible Dividends: Participation Exemption not available

The Participation Exemption in respect of Dividends and other profit distributions does not apply if the Participation can claim a deduction for Dividends or other profit distributions.[92] Thus, to the extent a Dividend or a profit distribution distributed by a Participation reduces its Taxable Income; the distribution does not benefit from the Participation Exemption in the hands of the receiving Taxable Person.

This condition is intended to prevent situations of potential double non-taxation that would arise if the Participation can claim a deduction for a Dividend or a profit distribution made to a Taxable Person, but which would have been exempt at the level of the Taxable Person benefitting from the Participation Exemption.

For the condition to be triggered, the Participation would have to have actually claimed the tax deduction for the Dividend. The Participation Exemption is not impacted if the law in the relevant foreign jurisdiction permits the Participation to claim a deduction, but the Participation does not claim the deduction.

6.2. Capital gains or losses

6.2.1. General

According to Article 23(5)(b) of the Corporate Tax Law, gains resulting from the transfer, sale or other disposition ("disposal") of a Participating Interest, or part thereof, derived after expiry of the 12-month holding period are generally exempt from Corporate Tax. Moreover, capital losses are not deductible for Corporate Tax purposes. This ensures that realising the value of the Participating Interest by way of a sale is treated the same as a realisation by way of a Dividend and other distribution of the reserves and/or assets.

The gain or loss resulting from the disposal of the Participating Interest will be the amount recorded under the Accounting Standards applied by the Taxable Person. The calculation will typically be as follows:

Proceeds
Less: cost of the disposal (see Section 6.2.2)
Less: book value of the Participating Interest at the time of the disposal
Equals: capital gain/loss

[92] Article 23(6)(a) of the Corporate Tax Law.

6.2.2. Costs of the disposal

All costs directly related to the disposal are to be taken into account when calculating the capital gain or loss (see Section 7.2.1).

Since the costs of disposal are included in the calculation of the gain or loss, they are not otherwise deductible for the purposes of calculating Taxable Income.[93]

Disposal costs which are recorded in a subsequent Tax Period to the one in which the disposal occurred are also non-deductible.

Costs incurred in a Tax Period prior to the Tax Period of a disposal present a particular challenge. The initial treatment of the costs should be determined with the knowledge available when the Tax Return is prepared. If at that time, they are not clearly linked to an intended disposal, the costs are deductible. However, if these costs (which are deducted in a previous Tax Period) are associated with an eventual disposal from which the Taxable Person earns Exempt Income in a subsequent Tax Period, an adjustment should be made to disallow an amount equal to these costs while determining the Taxable Income in the Tax Period in which the disposal takes place.

Further, expenses which are clearly linked to a disposal which was not finalised (in the sense that there is no formal commitment to a disposal, for instance because a sales contract has not been concluded), would still be derived in relation to Exempt Income and hence, the costs are non-deductible.

6.2.3. Deferred consideration and other changes in proceeds

A subsequent change to the proceeds of a disposal could occur for several reasons. There may be default on the part of a purchaser in relation to an instalment payment or deferred consideration which is contingent, for example, an earn-out arrangement. In theory, there is a distinction between changes which affect the original disposal and those which constitute the disposal of a separate asset. However, in practice, to the extent that the Participation Exemption applies to the original disposal, any additional gain or loss is treated as exempt from Corporate Tax. If this is recorded in the Financial Statements of a Tax Period other than that of the original disposal, there is no need to amend the Taxable Income of the original Tax Period, as the tax liability would not be altered.

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[93] Article 23(5)(b) and Article 28(2)(b) of the Corporate Tax Law.

6.2.4. Meaning of disposal

The term "disposal" (defined as transfer, sale or other disposition) will generally mean a sale for cash consideration, but it can also comprise of other transfers or realisations of a Participating Interest that are comparable with a sale from an economic perspective.[94] The following are illustrative examples.

6.2.4.1. Share exchange

Where a Participating Interest is transferred in exchange for shares in another entity at a valuation that is different from the book value of the Participation at the time of the disposal (for example at Market Value), a gain or loss may ordinarily arise.

Example 19: Sale in exchange of shares

Company A (a company incorporated and resident in the UAE) holds 50% of the shares of Company D (a company incorporated and resident in the UAE). The ownership interest in Company D qualifies as a Participating Interest. The book value of the shares amounts to AED 100,000, the Market Value amounts to AED 500,000. Company A agreed to transfer the shares in Company D in exchange for new shares in Company X. Company X recognises the shares in Company D at their Market Value.

The Market Value would be considered as the sale price for Company A. Thus, a capital gain arises of AED 400,000 (sale price of AED 500,000 less book value of AED 100,000) that is exempt from Corporate Tax.

It is assumed that this is not a transfer eligible for Qualifying Group relief and that Business Restructuring Relief is not available.

6.2.4.2. Non-arm's length transaction

Where a Participating Interest is wholly or partially transferred to a Related Party by way of a non-arm's length transaction, the Taxable Income of the transferor needs to be adjusted in accordance with the rules for transactions with Related Parties to deem the sale as taking place at Market Value when determining the resulting capital gain or loss.[95] The Participation Exemption would equally apply to the adjusted income.

[94] Article 23(5)(b) of the Corporate Tax Law.
[95] Article 34 and Article 35 of the Corporate Tax Law.

6.2.4.3. Reduction or repurchase of capital

The repayment, reduction or repurchase of capital subscribed, for instance a restructuring of a company's share capital, may result in a gain in respect of the Participation (see Section 3.1.5.1).

6.2.4.4. Distribution of a Participation as a Dividend in kind

The distribution of a Participating Interest as a Dividend in kind may result in a gain at the level of the transferring entity, i.e. Taxable Person (see Section 3.1.4).

6.2.5. Liquidation

A Participation is considered as liquidated if it ceases to have a legal existence.[96] For a company this could mean its formal closure as evidenced by its removal from the relevant register of companies.

Gains in respect of the liquidation of a Participating Interest are exempt from Corporate Tax. As an exception to the general rule, losses realised on the liquidation of a Participating Interest are not exempt, but rather they are deductible from Taxable Income.[97]

The gain or loss from a liquidation is computed as the difference between the acquisition cost of the Participation for Corporate Tax purposes (which will include any related capitalised costs or fees – see Section 7.2) and the fair value of the liquidation proceeds received by the Taxable Person.[98] All liquidation proceeds (even to the extent they may represent accumulated net profit of the entity which is being liquidated) received by the Taxable Person will be considered as capital distributions and not Dividends or other profit distributions, and accordingly will be included in the calculation of the gain or loss from liquidation. Insofar as any part disposals of the Participation have taken place, the aggregated historical acquisition costs are to be reduced in proportion to the average acquisition cost attributable to the part of the ownership interest that is disposed of.[99]

Any of the following items taken into account in the Tax Period in which the liquidation took place and the previous Tax Period must be reversed by the Taxable Person when determining the liquidation loss:[100]

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[96] Article 12(1) of Ministerial Decision No. 116 of 2023.
[97] Article 23(8) of the Corporate Tax Law.
[98] Article 12(2) of Ministerial Decision No. 116 of 2023.
[99] Article 8(5) of Ministerial Decision No. 116 of 2023.
[100] Article 12(4) of Ministerial Decision No. 116 of 2023.

- Tax Losses transferred from the Participation to the Taxable Person.
- Exempt Dividends or other profit distributions received by the Taxable Person from the Participation.
- Income or gains on the transfer of assets or liabilities between the Taxable Person and the Participation which benefited from relief for transfers within a Qualifying Group or Business Restructuring Relief.

Example 20: Liquidation loss

Company A holds 100% of the shares of Company D, both are resident and incorporated in the UAE. The acquisition cost of the Participating Interest in Company D is AED 50,000, and the Market Value of Company D's net assets is AED 10,000.

During the Tax Period ending 31 December 2024, Company D paid a Dividend of AED 10,000 to Company A. In addition to this, Company D transferred Tax Losses of AED 20,000 to Company A, who deducted this from their Taxable Income.

On 15 June 2025, Company A resolves to liquidate Company D. It is removed from the commercial register on 30 June 2025, and ceases to have legal existence. Legal fees incurred in relation to the liquidation are AED 5,000.

In the course of the liquidation, all assets will be transferred to Company A at their Market Values for tax purposes (no application of reliefs). The liquidation loss is calculated as follows:

- Acquisition cost of the Participating Interest in Company D: AED 50,000
- Less: liquidation proceeds received by Company A (Market Value of the net assets of Company D less liquidation costs borne by Company D): AED 10,000 - AED 5,000 = AED 5,000
- Equals: liquidation loss of AED 45,000

The liquidation loss that can be deducted from Taxable Income, however, must be adjusted for the following items:

- Exempt Dividend received in 2024 (i.e. preceding Tax Period): AED 10,000
- Transferred Tax Losses received in 2024: AED 20,000

Thus, the liquidation loss (after adjustment) amounts to AED 15,000 (i.e. AED 45,000 - AED 10,000 - AED 20,000).

6.2.6. Interaction with other reliefs: transfers within a Qualifying Group and Business Restructuring Relief

Where other reliefs are claimed, specifically for a transfer within a Qualifying Group or Business Restructuring Relief, no gain or loss is taken into account in relation to the disposal of a Participating Interest when calculating the Taxable Income of the transferring entity. In principle, the Participation Exemption would take priority over these reliefs as it is an automatic exemption. However, where other elected reliefs have a different tax treatment, such as no gain or loss treatment (i.e. rather than exemption), the other tax treatment will prevail.

However, in scenarios where a Participating Interest is disposed of within two years after that Participating Interest was acquired as a result of a transaction that benefited from the relief transfers within a Qualifying Group or Business Restructuring Relief, the Participation Exemption shall not apply.[101]

6.2.7. Interaction with the Tax Group

Where a member of a Tax Group receives income from the disposal of a Participating Interest that is a member of the same Tax Group, the application of the Participation Exemption is not required since those transactions will generally be eliminated when the Parent Company prepares its consolidated Financial Statements for Corporate Tax purposes.

However, in scenarios where the Participating Interest has been transferred between the members of a Tax Group and either the transferor or transferee leaves the Tax Group within two years from the date of the disposal, a possible gain or loss from the disposal needs to be taken into account when determining the Taxable Income of the Tax Group unless the income would have been exempt from Corporate Tax under the Participation Exemption or other reliefs (either transfers within a Qualifying Group or Business Restructuring Relief, see Section 5.3.4).[102]

Where a member of a Tax Group disposes of a Participating Interest in an entity that is not a member of the Tax Group, the Participation Exemption may be available (for further details see Section 8).

6.3. Foreign exchange gains or losses in relation to Participating Interest

Article 23(5)(c) of the Corporate Tax Law states that foreign exchange gains in relation to a Participating Interest are exempt, and likewise foreign exchange losses are not

[101] Article 23(9) of the Corporate Tax Law.
[102] Article 42(9) of the Corporate Tax Law.

deductible. The use of the phrase “in relation to” a Participating Interest means that the foreign exchange gain or loss must arise from, or by reason of, or in connection with the Participation Interest. The following discusses foreign exchange gains or losses which can be considered to arise “in relation to” a Participating Interest.

6.3.1. Increase or decrease in value of Participating Interest due to exchange rate fluctuation

A foreign exchange gain or loss can be realised or unrealised.

A gain or loss realised on the value of a Participating Interest (for example on sale of Participating Interest) will be “in relation to” the Participating Interest and hence excluded from Taxable Income under Article 23(5)(c) of the Corporate Tax Law.

Example 21: Currency fluctuation between date of sale of Participating Interest and receipt of foreign currency (realised gain)

Company A (a company incorporated and resident in the UAE) sold shares held in Company F (a company incorporated and managed outside the UAE) which qualified for the Participation Exemption. The sale price was fixed at GBP 10,000. At that time, the value of GBP 1 was equal to AED 4.5, so Company A recorded sale proceeds of AED 45,000 in its Financial Statements. The sale consideration was only received after 2 months. At the time of receipt, the value of GBP 1 was AED 5, meaning Company A received the equivalent of AED 50,000. The additional gain of AED 5,000 is attributable solely to foreign currency fluctuation and is, therefore, exempt from Corporate Tax under the Participation Exemption.

Unrealised foreign exchange gains or losses may arise where a change in the value of an asset due to currency fluctuation is recorded in the Taxable Person’s Financial Statements, but no transaction to realise a gain or loss has yet taken place. Taxable Persons, who prepare their Financial Statements on an accrual basis, may elect to take into account gains and losses on a realisation basis.[103] The election can either be made so that all unrealised accounting gains and losses are not taken into account,[104] or only unrealised gains and losses in relation to those assets and liabilities held on the Taxable Person’s capital account.[105] In either scenario, unrealised gains and losses may include unrealised foreign exchange gains and losses.[106]

[103] Article 20(3) of the Corporate Tax Law.
[104] Article 20(3)(a) of the Corporate Tax Law.
[105] Article 20(3)(b) of the Corporate Tax Law.
[106] Article 20(4)(d) of the Corporate Tax Law.

If the Taxable Person has elected to include gains and losses only on a realisation basis, unrealised foreign exchange gains and losses on the value of a Participating Interest will be excluded from Taxable Income under Article 20(2)(a) of the Corporate Tax Law. Accordingly, there is no need for the Participation Exemption to apply. However, if the Taxable Person does not elect to include gains and losses on a realisation basis, unrealised foreign exchange gains and losses on the value of a Participating Interest will be excluded from Taxable Income under the Participation Exemption where the conditions are met.[107]

Example 22: Revaluation of Participating Interest (unrealised gain)

Company A (a company incorporated and resident in the UAE) acquired shares in Company F (a company incorporated and managed outside the UAE which is a Participation Interest) for GBP 1,000. At the time of purchase, the value of GBP 1 was equal to AED 4.5, and so Company A recorded the shares at AED 4,500 in its Financial Statements.

At the end of the following year Company A revalued Company F's shares in its Financial Statements to their market price. At that time, the market price of Company F shares has increased to GBP 2,000, and the value of GBP 1 is AED 5. Accordingly, in Company A's Financial Statements, the value of the Participating Interest in Company F is increased from AED 4,500 to AED 10,000. Out of total revaluation gain of AED 5,500, a gain of AED 1,000 is attributable solely to foreign currency fluctuations which is exempt from Corporate Tax under the Participation Exemption.

6.4. Impairment gains or losses

Article 23(5)(d) of the Corporate Tax Law provides for impairment gains or losses in relation to a Participating Interest to be exempt from Corporate Tax.

6.4.1. Deductible impairment loss restricts the availability of the Participation Exemption

Article 23(6)(b) of the Corporate Tax Law provides that the Participation Exemption does not apply if the Taxable Person has recognised a deductible impairment loss in respect of the Participating Interest prior to that Participating Interest meeting the other conditions of the Participation Exemption regime.

[107] Article 23(5)(c) of the Corporate Tax Law.

This will apply to reversals of partial impairments on the Participating Interest. It is also applicable in respect of any other income type covered by the Participation Exemption including Dividends and capital gains in respect of a Participating Interest.[108]

Generally, any income or gain resulting from the reversal of impairments in respect of a Participating Interest would also fall under the Participation Exemption and, therefore, be treated as exempt from Corporate Tax. However, if an impairment loss recognised in relation to a Participating Interest was deductible from Taxable Income (i.e. prior to the ownership interest becoming a qualifying Participating Interest, as otherwise it would not have been deductible), Article 23(6)(b) of the Corporate Tax Law provides that any subsequent income that would otherwise be exempt under the Participating Exemption is not exempt, up to the amount of the impairment loss that was treated as deductible for Corporate Tax.

Article 23(6)(b) of the Corporate Tax Law applies to juridical persons that are Resident Persons as well as Non-Resident Persons.

Example 23: Capital gain and impairment loss in relation to a Participating Interest

Company A holds 100% of the shares of Company D (acquisition cost AED 100,000), both are incorporated and resident in the UAE. Company A performs a write-down on the shares of Company D in the amount of AED 70,000. At this time Company D does not qualify as a Participating Interest and Company A treats the impairment loss as deductible for Corporate Tax purposes.

In the following year, the shares of Company D are sold for AED 120,000. By this time Company D qualifies as a Participating Interest. The capital gain resulting from the disposal of the shares of Company D of AED 90,000 (AED 120,000 – AED 30,000) is treated as follows:

- AED 70,000 is not exempt from Corporate Tax due to the impairment loss being treated as deductible.
- The remaining gain of AED 20,000 is exempt from Corporate Tax under the Participation Exemption.

In circumstances where a Taxable Person has made both deductible impairment losses and non-deductible impairment losses, the question arises as to how the impairment losses are matched with any income which might be covered by the Participation Exemption. The wording of Article 23(6) of the Corporate Tax Law is clear that the Participation Exemption does not apply “insofar as” there has been a

[108] Article 23(5) of the Corporate Tax Law.

deductible impairment loss in respect of the Participating Interest. This means that all deductible impairment losses must be matched with the relevant income/gain in priority to any non-deductible impairment losses.

Example 24: Deductible and non-deductible impairment loss

Company A owns shares in Company D, both are incorporated and resident in the UAE. Company A records an impairment loss of AED 30,000 (tax deductible) and subsequently an impairment loss of AED 10,000 (not tax deductible) in respect of Company D. Company A later sells the shares of Company D realising a capital gain of AED 50,000. At the time of disposal Company D meets the conditions to be Participating Interest. The gain is treated as follows:

- The first AED 30,000 of the capital gain cannot benefit from the Participation Exemption due to the tax-deductible impairment loss, and so is subject to Corporate Tax;
- The remaining capital gain of AED 20,000 can benefit from the Participation Exemption.

6.4.2. Impairment loss on loan receivable from a Participation

Article 23(6)(c) of the Corporate Tax Law provides that the Participation Exemption does not apply if the Taxable Person or its Related Party has recognised a deductible impairment loss in respect of a loan receivable from a juridical person in which the Taxable Person or a Related Party of the Taxable Person holds a Participating Interest.

The concept of this clause is similar to impairment losses in respect of Participations according to Article 23(6)(b) of the Corporate Tax Law (see Section 6.4.1). Any income in relation to the Participation is not exempt from Corporate Tax to the extent that an impairment loss has been deducted for a loan receivable. An example of an impairment loss would be a write-off of a loan receivable, for example. as part of a restructuring measure.

Example 25: Impairment on loan receivable and subsequent reversal

Company A (a company incorporated and resident in the UAE) holds 100% of the shares in Company F (a company incorporated and managed outside the UAE) and grants a loan to Company F of AED 100,000. Subsequently, due to the financial distress of Company F, Company A makes a 50% provision against the loan in the current year and treats this impairment loss of AED 50,000 as tax deductible.

In the following year, Company A receives a Dividend from Company F of AED 20,000. Due to the recognition of a tax-deductible impairment loss of AED 50,000 in the previous year, the Dividend is not treated as exempt from Corporate Tax and thus is fully taxable.

Due to an improvement in the financial situation of Company F one year later, Company A fully reverses its provision against the loan and recognises a gain of AED 50,000.

The gain resulting from the reversal is treated as Exempt Income to the extent the Dividend income in the previous year has been treated as subject to Corporate Tax due to the non-application of the Participation Exemption in relation to the initial loan impairment. Hence, AED 20,000 of the reversal gain will be Exempt Income and accordingly, the remaining AED 30,000 will be taxable.

6.4.3. Reversal of impairment loss which has restricted the availability of the Participation Exemption

A reversal of an impairment loss is exempt from Corporate Tax to the extent that the Participation Exemption was not applied to income from a Participating Interest due to a previously deducted impairment loss or impairment losses.[109]

6.5. Interplay between Participation Exemption and Foreign Permanent Establishment Exemption

Where a Resident Person has a Foreign Permanent Establishment, the Resident Person can make an election to not take into account the income or loss and associated expenditure of its Foreign Permanent Establishment in determining its Taxable Income.[110]

If a Resident Person has elected for the Foreign Permanent Establishment Exemption, then it becomes theoretical whether the Participation Exemption is available in respect of income from a Participating Interest attributable to a Foreign Permanent Establishment. In such instances, the income and associated expenditures of the Foreign Permanent Establishment shall not be taken into account in the calculation of the Taxable Income of the Resident Person. On the other hand, if a Resident Person has not elected for the Foreign Permanent Establishment Exemption, income from a Participation which is attributable to a Foreign Permanent Establishment can benefit from the Participation Exemption if the conditions are satisfied.

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[109] Article 23(7) of the Corporate Tax Law.
[110] Article 24(1) of the Corporate Tax Law.

6.5.1. Impact of Foreign Permanent Establishment Tax Losses

If a Taxable Person has utilised a Tax Loss arising in a Foreign Permanent Establishment and not subsequently included in its Taxable Income the same amount of profit from the Foreign Permanent Establishment, any income arising upon incorporation of the Foreign Permanent Establishment subsequently cannot benefit from the Participation Exemption. This ceases to be the case once profit from the Foreign Permanent Establishment equal to the Tax Loss used by the Taxable Person has been included in the Taxable Person's Taxable Income.[111]

[111] Article 13 of Ministerial Decision No. 116 of 2023.

7. Expenditure related to Exempt Income

Expenditure related to Exempt Income cannot be taken into account in determining Taxable Income.[112] In other words, such expenditure is non-deductible for Corporate Tax purposes, which is symmetrical with the non-taxability of the Exempt Income. Accordingly, expenditure (other than Interest expense[113]) incurred in relation to income which benefits from the Participation Exemption is not deductible.

7.1. Related expenditure

The use of the term "related expenditure" in Article 22 of the Corporate Tax Law indicates that the expense must be in connection with Exempt Income. There should be a clear and direct nexus or connection which can be established between the expense and the Exempt Income. Expenditure which is unrelated to Exempt Income or has a remote or indirect connection with Exempt Income is not subject to disallowance.

In some instances, a Taxable Person incurs a common expense for more than one purpose, i.e. incurred for the purpose of earning both Exempt Income and non-Exempt (i.e. Taxable) Income. The tax treatment of such common expense will be as follows:

- Any part or proportion of a common expense that can be clearly identified as being incurred wholly and exclusively to derive Taxable Income is deductible;[114]
- Any part or proportion of a common expense that can be clearly identified as being incurred wholly and exclusively to derive Exempt Income is non-deductible;
- Any remaining unidentifiable balance of a common expense shall be apportioned between Taxable Income and Exempt Income on a fair and reasonable basis, having regard to the relevant facts and circumstances of the Taxable Person's Business.[115]

Example 26: Common expense incurred towards Exempt Income and Taxable Income

Mr A, as part of his Business, paid fees of AED 1,000 to a financial consultant for investment related consultancy. Mr A purchased shares of Company B (a company incorporated and resident in the UAE) for AED 8,000 and debentures of Company C (a company incorporated and managed outside the UAE) for AED 2,000. The

[112] Article 22 and Article 28(2)(b) of the Corporate Tax Law.
[113] Articles 29, 30 and 31 of the Corporate Tax Law.
[114] Article 28(3)(a) of the Corporate Tax Law.
[115] Article 28(3)(b) of the Corporate Tax Law.

Dividend income from Company B is exempt but the Interest income from the debenture is taxable. Based on the proportionate cost of the investments:

- 20% of the consultant's fees are deductible: AED 2,000 / (AED 8,000 + AED 2,000); and
- 80% of the consultant's fees are non-deductible: AED 8,000 / (AED 8,000 + AED 2,000).

7.2. Expenditure in relation to a Participating Interest

7.2.1. Expenditure in relation to acquisition and disposal of a Participating Interest

Expenditure incurred in relation to the acquisition, sale, transfer, or disposal of an entire Participating Interest, or part of a Participating Interest, is not tax deductible (with the exception of Interest expense).[116] Instead, such costs should be capitalised as part of the cost of the Participating Interest.[117] Capitalisation of the expense is required for Corporate Tax purposes regardless of whether such expenses are capitalised in the Financial Statements.

Examples of relevant expenses include, but are not limited to, professional fees, due diligence costs, litigation costs, commissions and brokerage fees, stamp duty, registration duties and other irrecoverable taxes, appraisal and valuation costs, and refinancing costs.[118]

7.2.2. Expenditure in relation to a failed acquisition of a Participating Interest

Sometimes expenses are incurred with the intention of acquiring a Participating Interest but ultimately the acquisition is not completed. In such a case, since the Participating Interest is not acquired, the expense cannot be said to relate to a Participating Interest. Where the expense is incurred wholly and exclusively for the purposes of a Taxable Person's Business, the expense may be deductible.[119]

Example 27: Expenditure in relation to a failed acquisition of shares

Company A (a company incorporated and resident in the UAE) wants to invest in shares of Company F (a company incorporated and managed outside the UAE) as

[116] Article 10(1) and Article 10(3) of Ministerial Decision No. 116 of 2023.
[117] Article 10(4) of Ministerial Decision No. 116 of 2023.
[118] Article 10(2) of Ministerial Decision No. 116 of 2023.
[119] Article 28(1) of the Corporate Tax Law.

a long-term strategic investor. In this regard, Company A pays professional fees to carry out due diligence before investing in Company F. Based on the due diligence report, Company A decides not to invest. In this case, the professional fees expense will be taken into account while determining Taxable Income and will be deductible if it is a Business expense and it is not capital in nature.

7.2.3. Other expenditure in relation to a Participating Interest

Other than expenses related to the acquisition and disposal of a Participating Interest, there could be expenses incurred, for example, to manage and administer a Participating Interest. Such expenses which have a direct connection with Exempt Income will not be taken into account in determining Taxable Income, i.e. no deduction is allowed.[120]

7.3. Expenditure in relation to short-term investment in a juridical person that is a Resident Person

Dividend income received from a juridical person that is a Resident Person is exempt with no further conditions.[121] However, other income, for example capital gains or losses on the disposal of a Participation Interest in a juridical person that is a Resident Person, is exempt subject to the conditions of the Participation Exemption. In other words, Dividends received from a juridical person that is a Resident Person are exempt, even if the holding in that Person does not qualify as a Participating Interest.

Irrespective of the accounting treatment adopted (i.e. whether or not fees, etc. associated with the acquisition are capitalised, for instance because the asset is held on the trading account for short term buying and selling of securities rather than as a long-term investment), a question can arise as to how much of the expense incurred in acquiring shares of a juridical person that is a Resident Person (which does not qualify as Participating Interest) is non-deductible. This is because the expense can relate partially to Exempt Income and partially to Taxable Income. A Dividend from a juridical person that is a Resident Person is always Exempt Income, but capital gains may be Taxable Income if the conditions of the Participation Exemption are not met.

Accordingly, the expenses related to the acquisition of shares of a juridical person that is a Resident Person may be considered as common expenses towards earning Exempt Income and Taxable Income. As discussed in Section 7.1, the share of expenses relating to Exempt Income, as apportioned on a fair and reasonable basis, will be non-deductible.

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[120] Article 22 and Article 28(3)(b) of the Corporate Tax Law.
[121] Article 22(1) of the Corporate Tax Law.

7.4. Interest expense

Interest paid in relation to Exempt Income, such as that which benefits from the Participation Exemption, is prima facie deductible unlike other expenditure incurred in deriving Exempt Income.[122] However, the amount of Interest deductible is also subject to the General Interest Deduction Limitation Rule provided in Article 30 of the Corporate Tax Law. Broadly, this limits Net Interest Expenditure to 30% of the Taxable Person's accounting earnings before the deduction of Interest, tax, depreciation and amortisation ("EBITDA"), excluding any income that is exempt under the Participation Exemption and other types of Exempt Income. In addition, regardless of whether the Participation Exemption applies, Interest expenditure may not be deductible on a Related Party loan which relates to amongst other things a Dividend from a Related Party.[123]

[122] Article 29 of the Corporate Tax Law.
[123] Article 31(1) of the Corporate Tax Law.

8. Tax Groups

Where the conditions of Article 40 of the Corporate Tax Law are met, a Taxable Person (referred to as "Parent Company") can make an application to form a Tax Group with one or more Resident Persons (referred to as "Subsidiary") and, therefore, be treated as a single Taxable Person.[124]

8.1. Income from a Participating Interest within a Tax Group

Since all members of a Tax Group are treated as a single Taxable Person, any transactions between members of a Tax Group need to be eliminated when determining its Taxable Income.[125] In this context, a Parent Company is required to consolidate the financial results, assets and liabilities of each Subsidiary and prepare consolidated Financial Statements.[126]

As a result, any income from a Participating Interest in the same Tax Group (for example, Dividend income) will be disregarded when the Parent Company prepares consolidated Financial Statements. Thus, the Participation Exemption is not required or relevant in relation to Dividends or other profit distributions from Subsidiaries within a Tax Group to the extent it is received by a member of the same Tax Group.

8.2. Income from a Participating Interest outside a Tax Group

Where a member of a Tax Group receives income from a Participating Interest that is not a member of the Tax Group, the Participation Exemption may be available.

Hence, when determining the consolidated Taxable Income of the Tax Group (after eliminating intra-group transactions), an adjustment should be made for any remaining income and losses which are exempt, including related expenses.

Since a Tax Group is treated as a single Taxable Person, for the application of the Participation Exemption, each condition of Article 23 of the Corporate Tax Law must be applied in relation to the entire Tax Group and its members, that is to say on an aggregated basis. This is in line with Article 42(1) of the Corporate Tax Law, which requires the Taxable Income of a Tax Group to be determined by consolidating the financial results, assets and liabilities of its members.

[124] Article 40(1) of the Corporate Tax Law.
[125] Article 40(4) of the Corporate Tax Law.
[126] Article 42(1) and Article 42(11) of the Corporate Tax Law.

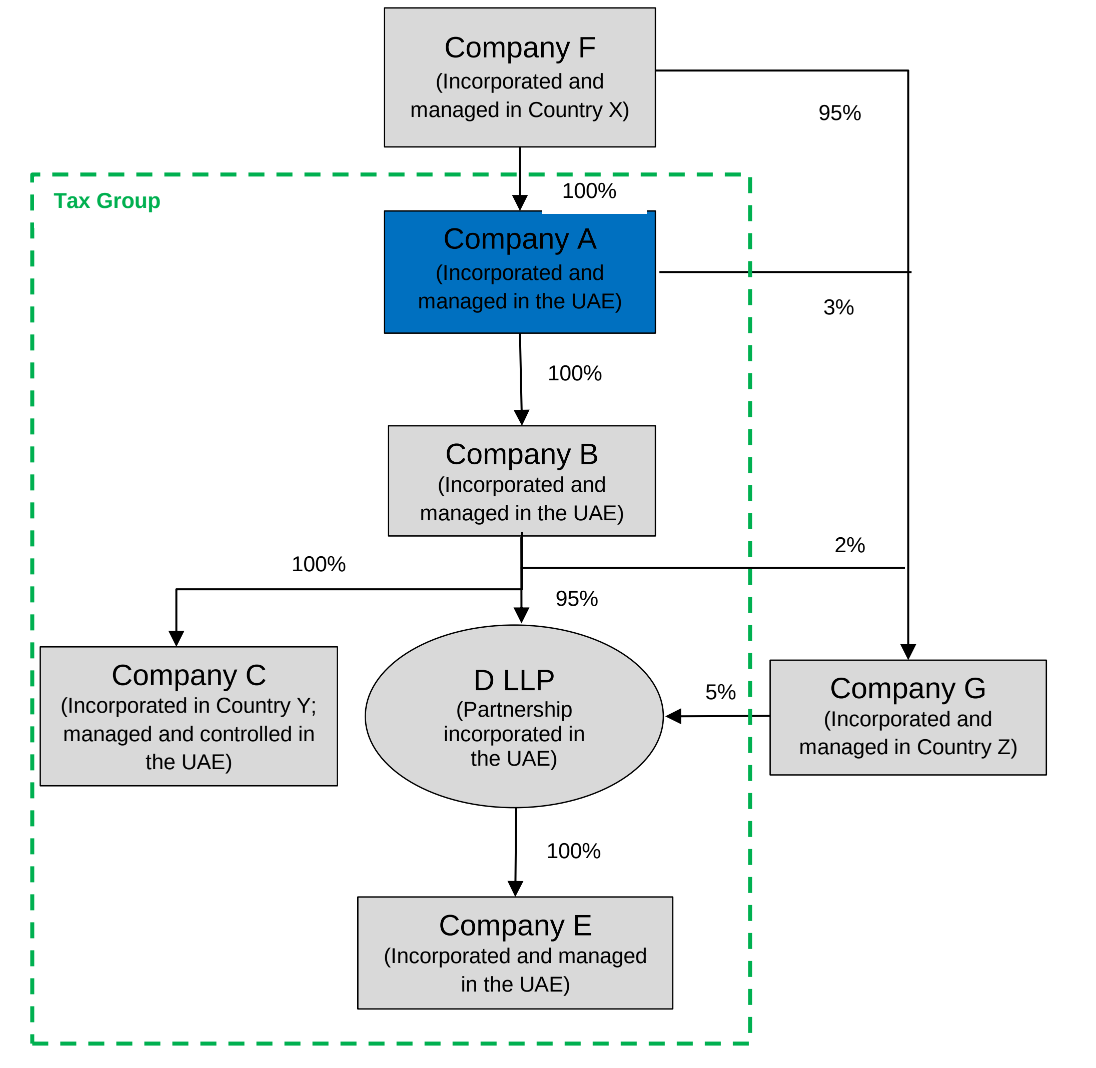
Example 28: Dividend from a Participating Interest outside the Tax Group

A Multinational Group has the following entities:

Entity name	**Place of incorporation/ formation**	**Place of effective management and control**	**Whether UAE Resident Person under Article 11**	**Whether member of the Tax Group under Article 40**
Company F	Country X	Country X	No	No (not a UAE resident)
Company A	UAE	UAE	Yes	Yes
Company B	UAE	UAE	Yes	Yes
Company C	Country Y	UAE	Yes	Yes
D LLP (incorporated partnership)	UAE	UAE	Yes	Yes
Company E	UAE	UAE	Yes	Yes
Company G	Country Z	Country Z	No	No (not a UAE resident)

Provided the relevant conditions are met, Company A (Parent Company) can make an application to form a Tax Group with Company B, Company C, D LLP and Company E (Subsidiaries).

The group structure is as follows:



- Company A acquired 3% of the shares of Company G on 1 June 2024
- Company B acquired 2% of the shares of Company G on 1 December 2024
- Company G paid a Dividend on 1 July 2025

Company A and Company B do not individually satisfy the 5% minimum ownership test in respect of Company G. However, the Tax Group is the Taxable Person in this case, and it satisfies the 5% minimum ownership test considering the aggregation of the ownership interests held by Company A (3%) and Company B (2%). The minimum holding period could be satisfied if the intention is to hold the aggregate 5% for 12 months, i.e. until at least 1 December 2025.

Assuming the other conditions of Article 23 of the Corporate Tax Law are met, the Dividend paid by Company G to Company A and Company B is excluded from the Taxable Income of the Tax Group by virtue of the Participation Exemption.

Absent the Tax Group, Company A and Company B would still be able to meet the minimum ownership requirement if both chose to be members of the same Qualifying Group. In this case their respective ownership interests shall be aggregated.[127] Hence, the Dividend paid by Company G will still be exempt by virtue of the Participation Exemption.

[127] Article 3(1)(b) of Ministerial Decision No. 116 of 2023.

9. Updates and Amendments

Date of amendment	Amendments made
October 2023	• First version

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FEDERAL TAX AUTHORITY

Non-Resident Persons

Corporate Tax Guide | CTGNRP1

October 2023

Contents

1. Glossary

Authority: Federal Tax Authority.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or activities, conducted by a Person in the course of its Business.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid**.**

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Double Taxation Agreement: An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established, or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

Immovable Property: Means any of the following:

a. Any area of land over which rights or interests or services can be created.

b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.
c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic financial instrument and other payments economically equivalent to interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Minister: Minister of Finance.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural person or juridical person.

Personal Investment: Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Income: Any income derived by a Qualifying Free Zone Person that is subject to Corporate Tax at the rate specified in Article 3(2)(a) of the Corporate Tax Law.

Real Estate Investment: Any investment activity conducted by a natural person related to, directly or indirectly, the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not conducted, or does not require to be conducted through a Licence from a Licensing Authority.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Registration: A procedure under which a Person registers for Corporate Tax purposes with the FTA.

Tax Registration Number: A unique number issued by the FTA to each Person who is registered for Corporate Tax purposes in the UAE.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

Withholding Tax: Corporate Tax to be withheld from State Sourced Income in accordance with Article 45 of the Corporate Tax Law.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance to natural persons or juridical persons who are not considered Resident Persons for Corporate Tax purposes and who derive income from the UAE, to help them understand whether they are subject to tax in the UAE as a Non-Resident Person. It provides readers with an overview of:

- Who is a Non-Resident Person for the purposes of Corporate Tax in the UAE;
- What are the Corporate Tax obligations on a Non-Resident Person; and
- What income of a Non-Resident Person is subject to Corporate Tax in the UAE.

2.3. Who should read this guide?

The guide should be read by any natural person or juridical person who is not considered to be a Resident Person as per the provisions of the Corporate Tax Law and is deriving any income from the UAE. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how key elements of the Corporate Tax Law apply to Non-Resident Persons. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural persons.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as "Tax Procedures Law";
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Corporate Tax Law";
- Cabinet Decision No. 85 of 2022 on Determination of Tax Residency is referred to as "Cabinet Decision No. 85 of 2022";
- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax is referred to as "Cabinet Decision No. 49 of 2023";
- Cabinet Decision No. 56 of 2023 on Determination of a Non-Resident Person's Nexus in the State for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Cabinet Decision No. 56 of 2023";
- Ministerial Decision No. 27 of 2023 on Implementation of Certain Provisions of Cabinet Decision No. 85 of 2022 on Determination of Tax Residency is referred to as "Ministerial Decision No. 27 of 2023";
- Ministerial Decision No. 43 of 2023 Concerning Exception from Tax Registration for the Purpose of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 43 of 2023";
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses as "Ministerial Decision No. 73 of 2023";
- Ministerial Decision No. 83 of 2023 on the Determination of the Conditions under which the Presence of a Natural Person in the State would not Create a Permanent Establishment for a Non-Resident Person for the Purposes of Federal

Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 83 of 2023";

- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 114 of 2023"; and
- Ministerial Decision No. 127 of 2023 on Unincorporated Partnership, Foreign Partnership and Family Foundation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 127 of 2023".

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the tax implications for a Non-Resident Person as per the provisions of the Corporate Tax Law. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each person's own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax for Non-Resident Persons. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Definition of a Non-Resident Person

Under the Corporate Tax Law, a Non-Resident Person is defined as a Person who is not a Resident Person. It is therefore necessary to first consider whether a Person is a Resident Person (in which case this guide will not be applicable).

A Person is a Resident Person in the following cases:

- A natural person if they conduct a Business or Business Activity in the UAE.
- A juridical person if it is incorporated or otherwise established or recognised in the UAE or is incorporated or otherwise established or recognised outside the UAE but effectively managed and controlled in the UAE.

Therefore, a Non-Resident Person is:

- A natural person who is not a Resident Person but:
  - has a Permanent Establishment in the UAE and has a Turnover attributable to their Permanent Establishment that exceeds AED 1,000,000 within a Gregorian calendar year; or
  - derives State Sourced Income, (i.e. income accruing in, or derived from, the UAE) (see Section 8).

- A juridical person that is incorporated or formed outside the UAE and not effectively managed and controlled in the UAE to the extent they:[1]
  - have a Permanent Establishment in the UAE (i.e. a fixed place of Business or other form of presence in the UAE) (see Section 7);
  - derive State Sourced Income, (i.e. income accruing in, or derived from, the UAE) (see Section 8); or
  - have a nexus in the UAE (see Section 9).

Note that the concept of nexus is applicable only to a Non-Resident Person that is a juridical person (and not a natural person). A Non-Resident Person that is a juridical person can have a nexus in the UAE if they earn income from Immovable Property in the UAE.[2]

It is important to note that not all non-resident persons are subject to Corporate Tax in the UAE. However, the Corporate Tax Law defines the term "Non-Resident Person" to mean a taxable non-resident person. Therefore, the term "Non-Resident Person" is

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[1] Article 11(4) of the Corporate Tax Law.
[2] Article 2 of Cabinet Decision No. 56 of 2023.

used throughout this Guide to mean a non-resident person subject to Corporate Tax in the UAE unless specifically stated otherwise.

4. When is a Non-Resident Person required to register for Corporate Tax purposes?

4.1. Juridical persons

A Non-Resident Person that is a juridical person is required to register for Corporate Tax purposes and obtain a Tax Registration Number when the Non-Resident Person is subject to Corporate Tax due to having:[3]

1. a Permanent Establishment in the UAE (see Section 7);[4] or
2. a nexus in the UAE (see Section 9).[5]

As soon as the Person determines that their activities will trigger a Permanent Establishment in the UAE or that they have a nexus in the UAE, they are considered a Non-Resident Person under the Corporate Tax Law and should register with the FTA for Corporate Tax purposes to avoid any compliance delays that may result in administrative penalties.

A Non-Resident Person that is a juridical person, derives only State Sourced Income (see Section 8) and does neither have a Permanent Establishment in the UAE nor a nexus in the UAE, shall not register for Corporate Tax purposes.[6]

Example 1: Marketing company deriving State Sourced Income Company M is a marketing company (a juridical person incorporated in and a tax resident of Country M) that operates abroad and derives income from its UAE based client. Company M posts marketing material on social media for its UAE client. Company M does not have any formal representation or employees or office space in the UAE. Accordingly, it is likely that Company M would neither have a Permanent Establishment nor a nexus in the UAE. Instead, it only derives State Sourced Income (fees from the UAE client) and, therefore, is not required to register for Corporate Tax purposes.[7]

[3] Article 51(1) of the Corporate Tax Law.
[4] Article 11(4)(a) of the Corporate Tax Law.
[5] Article 11(4)(c) of the Corporate Tax Law.
[6] Article 2(1)(e) of Ministerial Decision No. 43 of 2023 and Article 4 of Cabinet Decision 56 of 2023.
[7] Article 2(1)(e) of Ministerial Decision No. 43 of 2023.

Note: Certain categories of State Sourced Income that are not attributable to a Permanent Establishment, may be subject to Withholding Tax (currently at the rate of 0%) (see Section 5.4).[8]

Example 2: Marketing company with a nexus in the UAE

The same marketing company, Company M from Example 1 (a juridical person incorporated in and a tax resident of Country M), receives rental income in respect of a building it owns in the UAE, in addition to earning fees from its marketing activities from the UAE client. In this case Company M would have a nexus in the UAE (due to the rental income earned),[9] and would be required to register for Corporate Tax purposes (see Section 9).[10]

Example 3: A consultant working in the UAE for a client of their foreign employer

An employee of Company C (a juridical person incorporated in and a tax resident of Country C) is providing services to a UAE client of Company C from their home in the UAE (without officially residing in the UAE). This may constitute a Permanent Establishment in the UAE, if specific conditions are met (see Section 7).

In this situation, Company C would be required to register for Corporate Tax purposes due to the existence of a Permanent Establishment in the UAE.

4.2. Natural persons

A Non-Resident Person that is natural person is required to register for Corporate Tax purposes and obtain a Tax Registration Number when the Non-Resident Person has a Turnover attributable to their Permanent Establishment in the UAE that exceeds AED 1,000,000 within a Gregorian calendar year.

[8] Article 45(1) of the Corporate Tax Law.
[9] Article 2 of Cabinet Decision No. 56 of 2023.
[10] Article 4 of Cabinet Decision No. 56 of 2023.

5. What income of a Non-Resident Person is subject to Corporate Tax in the UAE?

5.1. Income attributable to a Permanent Establishment or nexus

Taxable Income that is attributable to a Non-Resident Person's Permanent Establishment or nexus in the UAE is subject to Corporate Tax.[11]

Corporate Tax is imposed on the Taxable Income of a Non-Resident Person at the same rate as for a Resident Person, as follows:[12]

- 0% (zero percent) on the first AED 375,000 of Taxable Income.
- 9% (nine percent) on the amount that exceeds AED 375,000 of Taxable Income.

In the event that the Non-Resident Person is a Qualifying Free Zone Person (for example, a branch operating in a Free Zone), then Corporate Tax shall be imposed at the following rates:[13]

- 0% (zero percent) on Qualifying Income.
- 9% (nine percent) on Taxable Income that is not Qualifying Income.

Taxable Income attributable to a Non-Resident Person's Permanent Establishment can be derived from both inside and outside the UAE (see Section 7.1 for more details on the attribution of profits to a Permanent Establishment).

Income attributable to a Person's nexus is any income derived by a Non-Resident Person that is a juridical person from Immovable Property in the UAE.[14] (see Section 9).

Taxable Income is calculated for a Tax Period on the basis of adequate, standalone Financial Statements prepared in accordance with accounting standards accepted in the UAE, adjusted as per the provisions of Article 20 of the Corporate Tax Law.

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[11] Articles 12(3)(a) and 12(3)(c) of the Corporate Tax Law.
[12] Article 3(1) of the Corporate Tax Law.
[13] Article 3(2) of the Corporate Tax Law.
[14] Article (2)(1) of Cabinet Decision No. 56 of 2023.

5.2. Business or Business Activities of a non-resident natural person that are subject to Corporate Tax

Businesses or Business Activities of a non-resident natural person would be subject to Corporate Tax only if the gross amount of Turnover derived through conducting the Businesses or Business Activities (for example, through a Permanent Establishment) in the UAE, exceeds AED 1,000,000 during a Gregorian calendar year.[15]

Furthermore, the following are not considered as Businesses or Business Activities for a natural person, and, therefore, are not subject to Corporate Tax for a non-resident natural person and are not taken into account in the determination of a natural person's Turnover:[16]

- wages, salary or any other amounts received by a natural person from their employer by virtue of their employment contract, whether in cash or in kind;
- any return on Personal Investments, made in the relevant person's personal capacity, not through a Licence from a Licensing Authority, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law; and
- any income from a Real Estate Investment not conducted through a Licence from a Licensing Authority.

5.3. State Sourced Income

Income is considered State Sourced Income in any of the following instances:[17]

- Where it is derived from a Resident Person.
- Where it is derived from a Non-Resident Person and the income is paid or accrued in connection with, and attributable to, a Permanent Establishment of that Non-Resident Person in the UAE.
- Where it is otherwise accrued in or derived from activities performed, assets located, capital invested, rights used, services performed or benefitted from in the UAE.

Each of the above situations is considered in further detail in Section 8.

[15] Cabinet Decision No. 49 of 2023.
[16] Article 2(2) of Cabinet Decision No. 49 of 2023.
[17] Article 13(1) of the Corporate Tax Law.

5.4. State Sourced Income and Withholding Tax

Certain State Sourced Income, derived by a Non-Resident Person, that is not attributable to a Permanent Establishment, may be subject to Withholding Tax. The current Withholding Tax rate is 0%.[18]

5.5. State Sourced Income and Permanent Establishment

State Sourced Income and income attributable to a Permanent Establishment in the UAE are not mutually exclusive. State Sourced Income can be attributable to a Permanent Establishment and, therefore, Corporate Tax is imposed on State Sourced Income that is attributable to a Permanent Establishment in the UAE.

5.6. State Sourced Income and nexus

State Sourced Income and income from a nexus in the UAE are not mutually exclusive. State Sourced Income includes income from a nexus and, therefore, Corporate Tax is imposed on State Sourced Income that is related to a nexus in the UAE.

5.7. Small business relief: unavailable to a Non-Resident Person

As per the Corporate Tax Law, only a Resident Person can elect for small business relief.[19] Therefore, Non-Resident Persons are not eligible for the small business relief. However, this may be affected by applicable Double Taxation Agreements.

5.8. Exempt income from operating aircraft or ships in international transportation

Income derived by a Non-Resident Person from operating aircraft or ships in international transportation is exempt (i.e. not subject to Corporate Tax) as long as the Non-Resident Person is in the Business of undertaking any of the following activities:[20]

- International transport of passengers, livestock, mail, parcels, merchandise or goods by air or by sea.
- Leasing or chartering aircrafts or ships used in international transportation.
- Leasing of equipment which are integral to the seaworthiness of ships or the airworthiness of aircrafts used in international transportation.

[18] Article 45(1) of the Corporate Tax Law.
[19] Article 21(1) of the Corporate Tax Law.
[20] Article 25(1) of the Corporate Tax Law.

This exemption only applies if similar provisions are applied to a UAE Resident Person conducting the same activities in the country or territory in which the Non-Resident Person is resident.[21]

Example 4: International transport company

Company B is an international transport company (a juridical person incorporated in and a tax resident of Country B) that operates a ship that transports merchandise to and from the UAE.

Country B exempts income derived by a UAE Resident Person from operating ships in international transportation within the jurisdiction of Country B.

Since a similar reciprocal exemption is available to a UAE Resident Person conducting international transportation in Country B, income derived by Company B from operating ships in international transportation within the jurisdiction of the UAE will be exempt from Corporate Tax in the UAE.

5.9. Interaction of the Corporate Tax Law with Double Taxation Agreements

A Non-Resident Person (juridical or natural person) who is subject to tax under the provisions of the Corporate Tax Law may be entitled to seek relief under a relevant Double Taxation Agreement. This guide only addresses the tax implications for Non-Residents under UAE Corporate Tax Law, i.e. without consideration of the potential implications of a Double Taxation Agreement.

Non-Resident Persons should assess the potential implications of a Double Taxation Agreement, taking into account the relevant facts and circumstances, read with Cabinet Decision No. 85 of 2022 and Ministerial Decision No. 27 of 2023, where relevant.

A Double Taxation Agreement that is in force in the UAE, takes precedence over the provisions of the Corporate Tax Law to the extent there is any inconsistency.[22] Therefore, meeting the definition of a Resident Person under the UAE Corporate Tax Law, does not automatically mean that a Resident Person will be a tax resident in the UAE where a Double Taxation Agreement applies. Tax residence may be assigned to the UAE or to another jurisdiction under a Double Taxation Agreement depending on the facts and circumstances and the content of the relevant agreement.

[21] Article 25(2) of the Corporate Tax Law.

[22] Article 66 of the Corporate Tax Law.

Example 5: Natural person conducting Business in the UAE (an applicable Double Taxation Agreement does not exist)

Mr C (a national of Country C) comes to the UAE to conduct Business for 4 months. The Turnover of Mr C from the UAE Business is AED 2,000,000 within the 2024 Gregorian calendar year. The UAE and Country C do not have an applicable Double Taxation Agreement.

In the absence of any existing Double Taxation Agreement, Mr C will be treated as a Resident Person for Corporate Tax purposes in the UAE, as he is conducting a Business in the UAE.[23] Since his Turnover from the Business has exceeded AED 1,000,000 in a Gregorian calendar year,[24] Mr C will be required to register for Corporate Tax purposes,[25] and the income derived from conducting a Business in the UAE will be subject to Corporate Tax.[26]

Example 6: Natural person conducting a Business in the UAE (an applicable Double Taxation Agreement exists)

Ms D (a national of Country D) comes to the UAE to conduct a Business. She rents an office space for 4 months within the 2024 Gregorian calendar year and remains in the UAE for these 4 months only. The Turnover of Ms D from the Business in the UAE is AED 2,000,000 within the 2024 Gregorian calendar year. The UAE and Country D have an applicable Double Taxation Agreement.

Implication under Corporate Tax Law:

Ms D may be treated as a Resident Person for Corporate Tax purposes as she is conducting a Business in the UAE.[27]

Implication under Double Taxation Agreement:

As per the Double Taxation Agreement between the UAE and Country D, an individual is treated as a resident of the UAE if they are a national of the UAE or spend, at least, 183 days in the relevant calendar year in the UAE.

[23] Article 11(3)(c) of the Corporate Tax Law.
[24] Article 2(1) of Cabinet Decision No. 49 of 2023.
[25] Article 2(3) of Cabinet Decision No. 49 of 2023.
[26] Article 12(2) of the Corporate Tax Law.
[27] Article 11(3)(c) of the Corporate Tax Law.

On the basis that Ms D is not a national of the UAE and has spent less than 183 days in the UAE in the 2024 calendar year, she will not be a resident of the UAE as per the Double Taxation Agreement between the UAE and Country D and will be considered as a Non-Resident in the UAE for Corporate Tax purposes.

On the basis that the presence of Ms D in the UAE does not constitute a Permanent Establishment in the UAE since the presence does not exceed 6 months (see Section 7), Ms D will not have to register for Corporate Tax purposes.

Note: Double Taxation Agreements may rely on different criteria to determine the residence of natural persons.

6. Other UAE Corporate Tax requirements for a Non-Resident Person

6.1. Standalone Financial Statements and attribution

A Non-Resident Person that is required to register for Corporate Tax purposes is subject to the same rules as a Resident Person with regards to their reporting requirements. The Taxable Income for a Non-Resident Person is to be determined on the basis of adequate and standalone Financial Statements prepared for financial reporting purposes in accordance with accounting standards accepted in the UAE (which are International Financial Reporting Standards "IFRS").[28] Notwithstanding this, a Taxable Person may calculate its Taxable Income on the basis of Financial Statements prepared using the Cash Basis of Accounting, if specific conditions are met.[29]

A Non-Resident Person must determine its Taxable Income which is attributable to a Permanent Establishment or nexus in the UAE. Attribution of income and expenditure to a Permanent Establishment should be based on the arm's length principle and internationally accepted attribution methodologies as a Non-Resident Person and its Permanent Establishment are considered to be Related Parties.[30]

6.2. Tax Return submission

On the same basis as a Resident Person, a Non-Resident Person must file a Tax Return with the FTA and settle the Corporate Tax payable, no later than (9) nine months from the end of the relevant Tax Period.[31]

A Tax Period, the period for which a Tax Return is required to be filed for the purposes of Corporate Tax, is normally the Gregorian calendar year, or the (12) twelve-month period for which the Taxable Person prepares Financial Statements.[32] However, in specific cases, a Taxable Person can make an application to the FTA to extend a current period to a maximum of 18 months or to shorten the subsequent period to between 6 and 12 months.[33]

[28] Article 20(1) of the Corporate Tax Law and Article 4(1) of Ministerial Decision No. 114 of 2023.
[29] Article 2 of Ministerial Decision No. 114 of 2023.
[30] Article 35(1)(d) of the Corporate Tax Law.
[31] Article 48 and Article 53(1) of the Corporate Tax Law.
[32] Article 57 of the Corporate Tax Law.
[33] Article 58 of the Corporate Tax Law.

6.3. Record keeping

Notwithstanding the provisions of the Tax Procedures Law, a Non-Resident Person must maintain all records and documents for a period of 7 years following the end of the Tax Period to which they relate.[34]

[34] Article 56 of the Corporate Tax Law.

7. Permanent Establishment

7.1. Overview

Broadly, a Permanent Establishment of a Non-Resident Person can arise in the UAE where:[35]

- there is a fixed or permanent place in the UAE through which the Non-Resident Person wholly or partly conducts its Business (see Section 7.2);
- a Person habitually exercises an authority to conduct a Business or Business Activity in the UAE on behalf of the Non-Resident Person (see Section 7.3); or
- a Non-Resident Person has any other form of nexus in the UAE as may be specified in a decision issued by the Cabinet.

It is important to note that the relevant provisions of any Double Taxation Agreement between the country of tax residence of the Non-Resident Person and the UAE must be considered in the assessment of whether a specific case constitutes a Permanent Establishment in the UAE.

Different forms of Permanent Establishments are discussed in the following Sections.

7.2. Fixed place Permanent Establishment

7.2.1. Essential factors determining the existence of a fixed place Permanent Establishment

A Non-Resident Person is considered to have a Permanent Establishment in the UAE where it has a fixed or permanent place in the UAE through which the Business of the Non-Resident Person, or any part thereof, is conducted.[36]

There are certain essential factors and guiding principles that must be tested to determine whether a Non-Resident Person has a fixed place Permanent Establishment in the UAE:

- The Non-Resident Person must have a “place of Business” in the UAE which could include a facility, such as an office, a work location, premises or, in certain instances, machinery or equipment, which is used by the Non-Resident Person to carry on its Business in the UAE on a regular/recurrent basis (hereinafter referred to as “place of Business test”).

[35] Article 14(1) of the Corporate Tax Law.
[36] Article 14(1)(a) of the Corporate Tax Law.

- The place of Business must be "fixed" i.e. it must be established at a distinct place with a certain degree of "permanence" (hereinafter referred to as "permanence test"). A case-by-case evaluation needs to be made considering all relevant factors but an aggregate period of more than 6 months (even if not continuous), in the relevant 12 consecutive months, will typically indicate permanence.
- The place of Business must be at the disposal of the Non-Resident Person. The mere presence at a particular location does not necessarily mean that the location is at its "disposal". The Non-Resident Person must have the right or effective power to use such place of Business (hereinafter referred to as the "disposal test").
- The activities performed by the Non-Resident Person at such place of Business must be core income-generating activities and not of a preparatory or auxiliary nature (hereinafter referred to as the "Business Activity test").

Typically, a Non-Resident Person will have a fixed place Permanent Establishment in the UAE only if its operations satisfy all the above factors and having regard to all relevant facts and circumstances.

7.2.2. Immaterial factors for determining the existence of a fixed place Permanent Establishment

Determining whether a Non-Resident Person has a Permanent Establishment in the UAE is a fact and context specific exercise that needs to be evaluated on a case-by-case basis. However, the following (illustrative) factors would typically be immaterial, i.e. should not influence the evaluation:

- Ownership of the Non-Resident's place of Business is immaterial. Even rented premises can constitute a Permanent Establishment.
- The formal legal right to use a particular place is not required if the Non-Resident Person has effective control over such location i.e. it is at its disposal to conduct its Business Activities. For example, a Permanent Establishment can exist where a Non-Resident Person illegally occupies a certain location to conduct its Business Activities.
- An exclusive right over a place is immaterial. A Non-Resident Person can have a Permanent Establishment even in cases where it conducts its Business through a specific location that belongs to another Person or that is used by several other Persons to perform their own Business Activities at the common location.

By way of illustrative examples, the table below addresses some of the issues and questions that may arise regarding whether a Non-Resident has a fixed place Permanent Establishment in the UAE:

Issue	Examples
Should the place of Business be physically "fixed"?	• Company F (a juridical person incorporated in and a tax resident of Country F) provides a floating restaurant experience to its customers in the UAE which is attached to a hot air balloon and supported by a crane which makes the restaurant mobile. • In this case, such place would constitute a fixed place Permanent Establishment for Company F even if it is not actually "fixed" to the soil as there is a clear link between the place of Business and a specific geographical location in the UAE.
What is the impact of multiple work locations?	• A Non-Resident Person has been awarded a contract whereby parts of a substantial offshore platform/structure are assembled at various locations within the UAE and then moved to another location within the UAE for final assembly. This is considered part of a single project and the fact that the work was not undertaken in "one particular location" is immaterial. Activities performed at each location would be part of a cohesive project, and hence the project could be regarded as a fixed place Permanent Establishment for the Non-Resident Person. • The very nature of certain construction/installation projects is such that a Non-Resident Person may have to perform different segments of the project in different locations, or the Business Activity may have to be relocated continuously or from time to time as the project progresses.
Whether client's premises can be at the disposal of a Non-Resident Person?	• Company B (a juridical person that is incorporated in and a tax resident of Country B) has been awarded a 2-year contract by a government owned company (client) in the UAE for rendering business consulting services to enhance the production of goods. The project requires employees of Company B to perform its activities from the client's office. • Employees of Company B would have to seek specific permission to enter the client's premises on each occasion. They may be given temporary access cards, desks, access to training or meeting rooms for performance of contracted services only. • In the event where, in substance, these restrictions do not establish, for Company B, any effective control or free

Issue	Examples
	right to use the client's premises, they are unlikely to be at Company B's disposal such that no Permanent Establishment in the UAE arises (even if other tests i.e. place of Business, permanence and Business Activity are satisfied, due to the presence of the employees in the UAE). • However, where Company B's employees had relatively free access such as long-term access cards, desk assignment, etc. over such an extended period, it is likely that in substance the disposal test would be satisfied and as such Company B would have a fixed place Permanent Establishment in the UAE (since the other tests i.e. place of Business, permanence and Business Activity are also satisfied, due to the presence of the employees). • Note: if Company B's activities do not constitute a Permanent Establishment, it would still have State Sourced Income (see Section 8).
Whether hotel rooms can be considered as being at the disposal of Non-Resident Person?	• Company G (a juridical person that is incorporated and a tax resident in Country G) has been awarded a 2-year contract by a UAE company for rendering business consulting services to enhance production capacity. • Company G sent a few employees to the UAE to execute the project but did not set up/acquire any office space in the UAE. • During their 2-year stay in the UAE, Company G decided its employees would stay in a hotel and the employees conducted their project related activities from the hotel premises. • In this case, Company G would have a fixed place Permanent Establishment in the UAE even if it does not have formal office space. The hotel would be treated as its place of Business since the employees worked from there and the hotel premises were in essence at their disposal.
Whether an employee's home office can be at the disposal of a Non-Resident Person?	• Company C (a juridical person that is incorporated in and a tax resident of Country C), is engaged in rendering software development services. Considering the industry practice, nature of work and time zone difference with customers, Company C allows its employees to work from home.

Issue	Examples
	• Accordingly, some employees of Company C decided to work from their home in the UAE, occasionally. • While Company C has provided its employees with a laptop and connectivity instrument such as a data card, remote connectivity etc, in this case, Company C would not have a fixed place Permanent Establishment in the UAE, as it has no access rights and the homes of the employees are not at its disposal, and due to the following factors: - Company C does not bear the costs/expenses related to the home office. - Company C does not have either a formal or a legal right of access to the home office. - Intermittent or incidental use of the home does not satisfy disposal condition. - even if the home office is used on a regular/continuous basis by some employees, Company C never “required” the employees to work from their home, it is merely an “option” given to the employees.

Note that all relevant facts and circumstances must be examined on a case-by-case basis to determine whether a Permanent Establishment exists, and that conclusions drawn in this guide including the table above are purely for illustrative purposes.

Furthermore, even if a fixed place Permanent Establishment is not created for a Non-Resident Person, it would need to be assessed whether an agency Permanent Establishment exists (see Section 7.3). Additionally, provisions of the Corporate Tax Law will have to be read with the relevant Double Taxation Agreement (where available and effective) to determine the existence of a Permanent Establishment in the UAE. To the extent the provisions of a Double Taxation Agreement are inconsistent with the Corporate Tax Law, the Double Taxation Agreement provisions will prevail (see Section 5.9).

7.2.3. Specific inclusions to a fixed place Permanent Establishment

The Corporate Tax Law provides a list of illustrative and non-exhaustive examples of a fixed or permanent place of Business in the UAE as follows:[37]

[37] Article 14(2) of the Corporate Tax Law.

a. A place of management where management and commercial decisions that are necessary for the conduct of the Business are, in substance, made.
b. A branch.
c. An office.
d. A factory.
e. A workshop.
f. Land, buildings and other real property.
g. An installation or structure for the exploration of renewable or non-renewable natural resources.
h. A mine, an oil or gas well, a quarry or any other place of extraction of natural resources, including vessels and structures used for the extraction of such resources.
i. A building site, a construction project, or place of assembly or installation, or supervisory activities in connection therewith, but only if such site, project or activities, whether separately or together with other sites, projects or activities, last more than 6 months, including connected activities that are conducted at the site or project by one or more Related Parties of the Non-Resident Person.

The above specific inclusions are to be read in the context of the general definition of a fixed place Permanent Establishment. Hence, the essential factors discussed in Section 7.2.1 equally apply to the specific inclusions and should be satisfied in order for a Non-Resident Person to create a Permanent Establishment in the UAE. Accordingly, the terms listed, "a place of management", "a branch", "an office", etc. must be interpreted in such a way that such places of Business constitute Permanent Establishments only if they meet the requirements of fixed place Permanent Establishment and are not used solely for "preparatory'' and "auxiliary'' activities.

The following sections discuss each of the above listed illustrative examples.

7.2.3.1. Place of management

"Place of management" represents a place where decisions related to day-to-day management of the Business (or part of the Business) are taken, or functions which relate to the management, supervision or direction are carried out.

"Management" in this case is the internal management of the company and does not include providing management services to other companies.

Examples related to place of management are discussed below:

Example 7: Company with a place of management in the UAE

A foreign company has multiple divisions which make sales internationally. The company establishes a “management office" in the UAE for supervisory and coordination functions for one division. That office would be regarded as a “place of management” and, therefore, the division (rather than the company as a whole) would constitute a fixed place Permanent Establishment in the UAE.

Example 8: Manager travelling to the UAE for meetings

A manager of a foreign company, who is authorised to take management decisions, makes a business trip to the UAE to meet some clients and discuss potential business opportunities. The manager carrying out their duties, which in this case are not related to the day-to-day management of the foreign company, while being in the UAE, would not necessarily fulfil the criteria for creating a fixed place Permanent Establishment.

7.2.3.2. Branch

A UAE branch of a Non-Resident Person is deemed to be an extension of the Non-Resident Person. For example, where a Non-Resident Person that carries on a retail Business, opens a branch or outlet in the UAE.

7.2.3.3. Office

An office includes any place where a Person works or conducts its Business Activities and may include a representative office, hotel room, hotel business centre, home office, etc. However, it is important to note that there would need to be a fact-specific determination in each case.

Example 9: Employee creating a Permanent Establishment for Non-Resident Person

Company I (a juridical person incorporated in and a tax resident of Country I) is awarded a contract for rendering consultancy services for a UAE client. To execute this project, Company I sends its employees to the UAE where they work from a dedicated hotel apartment rented by Company I from 1 January 2024 to 31 August 2024 (i.e. for a period of 8 months).

Implications under the Corporate Tax Law:

As working from the hotel for a period of 8 months constitutes a "fixed place of Business", Company I shall have a fixed place Permanent Establishment in the UAE under the Corporate Tax Law.

Implications under the Double Taxation Agreement:

However, as per the Double Taxation Agreement between UAE and Country I, a company incorporated in Country I and executing a project in the UAE through its employees, is considered to create a Permanent Establishment only if the presence of its employees in the UAE exceeds 9 months.[38]

Since Company I is a company incorporated and tax resident of Country I, it would be entitled to benefit from the Double Taxation Agreement between the UAE and Country I while determining whether it creates a Permanent Establishment in the UAE.

Considering the above facts, while the presence of Company I's employees in the UAE would create a "fixed place" Permanent Establishment for Company I in the UAE, as per the Corporate Tax Law (as its employees are present in the UAE, conducting core Business Activities and working from a fixed place of Business that is at the disposal of Company I), Company I would not have a Permanent Establishment under the Double Taxation Agreement between the UAE and Country I which provides a threshold of 9 months for creating a Permanent Establishment if services are rendered through the presence of employees in the UAE.

In the absence of a Permanent Establishment in the UAE (and assuming it does not have any other operations in/revenues from the UAE), Company I will not be required to register for Corporate Tax or undertake any Corporate Tax filing obligations.

7.2.3.4. Factory or workshop

A factory or workshop includes any location where goods are manufactured or assembled.

[38] Refer to Section 10.1 - Annexure 1 for the extract of Article 5 on Permanent Establishment as per Double Taxation Agreement between the UAE and Country I.

7.2.3.5. Land, buildings, and other real property

Land, buildings and other real property means immovable property. The mere ownership of land, building, and immovable property by a Non-Resident Person in the UAE would not trigger a Permanent Establishment unless the requirements for a fixed place Permanent Establishment are met. However, a Non-Resident juridical person earning income from an Immovable Property located in the UAE would have a nexus in the UAE (see Section 9).[39]

Example 10: A company acquires land in the UAE

Company A, a company incorporated and effectively managed in Country A, and not a registered Business in the UAE, provides engineering/consulting services. It has acquired land in the UAE as an investment opportunity, considering the growing real estate industry in the UAE. The land is then leased to an unrelated event management company to organise various conferences.

In this case, the land will not constitute a Permanent Establishment for Company A as it is neither used by Company A to undertake its core Business Activities (which are engineering services) nor is the land at its disposal once it has been leased to the event management company. Hence, any rental income generated from such land would not be treated as income that is attributable to a Permanent Establishment of Company A in the UAE. However, Company A would be considered to have a nexus in the UAE and hence would be subject to UAE Corporate Tax on the Taxable Income attributable to the Immovable Property.[40]

Example 11: Office space used to collect information

Company A, not a registered Business in the UAE, manufactures fast moving consumer goods (“FMCG”). It has acquired a residential property in the UAE as an investment opportunity. The property is also used by Company A as an office space for a few of its employees when visiting the UAE to collect information and market insights regarding the products manufactured by Company A. The employees of Company A attend seminars and conferences related to Company A’s Business, undertake discussions with wholesale/retail chains to understand consumer preferences, make calls to various customers for feedback regarding Company A’s products, etc.

[39] Article 14(1)(c) of the Corporate Tax Law and Cabinet Decision No. 56 of 2023.
[40] Article 2 of Cabinet Decision No. 56 of 2023.

In this case, while the property is at the disposal of Company A, its core Business Activity of manufacturing products is not conducted through such location. The activity pertains to collecting information which would qualify as preparatory or auxiliary in nature (see Section 7.2.4) and hence it will not constitute a Permanent Establishment for Company A. Furthermore, Company A would not be considered to have nexus in the UAE as it is not deriving any income from the property.

7.2.3.6. Exploration activities and extraction activities

The list of activities that would constitute a fixed place Permanent Establishment under the Corporate Tax Law encompasses exploration and extraction activities.[41] Exploration activities cover the exploration of renewable or non-renewable resources through an installation or structure in the UAE. This may include, for example, vessels used for the prospection of natural resources off-shore, or the extraction of natural resources through a mine, oil or gas well, quarry or any other place of extraction. The wording “any other place of extraction of natural resources” should be interpreted broadly. It includes, for example, all places of extraction of oil and gas whether onshore or offshore.

7.2.3.7. Building site, construction project, assembly or installation project

A building site, construction project, assembly or installation project or related supervisory activities, including connected activities that are conducted by one or more Related Parties of the Non-Resident Person, can create a Permanent Establishment in the UAE if such site or project exists for more than 6 months in any 12-month period.[42] In case a Non-Resident Person conducts Business Activities in multiple sites/projects in the UAE, in order to determine the 6-month duration, time spent at all sites/projects/activities should be aggregated.

This includes not only construction of buildings but also construction of roads, bridges or canals, the renovation (involving more than mere maintenance or redecoration) of buildings, roads, bridges or canals, laying of pipelines and excavating and dredging.

The term “assembly or installation project” is not restricted to an installation related to a construction project. It also includes installation of equipment, such as a complex machine, in an existing building or outdoors.

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[41] Article 14(2)(g) and (h) of the Corporate Tax Law.
[42] Article 14(2)(i) of the Corporate Tax Law.

Example 12: Building site or construction project

Company I (a juridical person that is incorporated in and a tax resident of Country I), starts a construction project in the UAE on 1 April 2024 and completes the work on 30 November 2024 (i.e. within 8 months).

Implications under the Corporate Tax Law:

Since Company I's project duration in the UAE has exceeded 6 months, it will constitute a Permanent Establishment in the UAE as per the Corporate Tax Law.

Implications under the Double Taxation Agreement:

Country I has an effective Double Taxation Agreement with the UAE which specifies that a company that is tax resident in Country I only creates a Permanent Establishment if the construction project "continues" for more than 9 months in the UAE.[43] Company I would be eligible to benefit from such an agreement while determining if it has a Permanent Establishment in the UAE.

Considering the above, the construction project will not create a Permanent Establishment for Company I in the UAE as the applicable Double Taxation Agreement specifies a 9-month threshold (versus a 6-month threshold for construction projects under the Corporate Tax Law). In the absence of a Permanent Establishment in the UAE (and assuming it does not have any other operations in/revenues from the UAE), Company I is not considered a Taxable Person for Corporate Tax purposes (unless it has a nexus) and will not be subject to Corporate Tax Registration and filing obligations.

Transitional considerations

Where a project started before the Corporate Tax Law became applicable, only the length of time from the beginning of the first Tax Period (i.e. Tax Periods commencing on or after 1 June 2023) of the Non-Resident Person is taken into account. Any time before the start date of the Non-Resident Person's first Tax Period does not count towards the permanence test (6 months).

[43] Refer to Section 10.1 - Annexure 1 for extract of Article 5 on Permanent Establishment as per Double Taxation Agreement between the UAE and Country I.

Example 13: Project starting before 1 June 2023

Company F (a juridical person that is incorporated in and a tax resident of Country F), which has a Financial Year from 1 June to 31 May, starts an installation project in the UAE on 1 March 2023 and completes work on 30 September 2023.

Although the project duration was 7 months, only the 4-month period between 1 June to 30 September 2023 would be counted, and as this is less than 6 months, no fixed place Permanent Establishment would arise.

Subcontracting

If a Non-Resident Person (general contractor) which has undertaken the performance of a comprehensive project subcontracts all or multiple parts of such a project to other enterprises (subcontractors, whether or not they are Related Parties), the period spent by a subcontractor working on the building site must be considered as being time spent by the general contractor on the building project for the purposes of determining whether a Permanent Establishment exists for the general contractor. In that case, the site should be considered to be at the disposal of the general contractor during the time spent on that site by any subcontractor (whether or not they are Related Parties) where circumstances indicate that, during that time, the general contractor clearly has the construction site at its disposal by reason of factors such as the fact that they have legal possession of the site, control access to and use of the site and have overall responsibility for what happens at that location during that period. The subcontractor may also have a Permanent Establishment at the site if their activities there last more than 6 months.

Automatic equipment

A Permanent Establishment may exist if the Business of the Non-Resident Person is carried on mainly through automatic equipment where the activities of the personnel are restricted to setting up, operating, controlling and maintaining such equipment. Determining whether or not automatic machines (i.e. gaming and vending equipment) set up by a Non-Resident Person in the UAE constitute a Permanent Establishment depends on whether or not the Non-Resident Person carries on a Business Activity besides the initial setting up of the machines. A Permanent Establishment does not exist if the Non-Resident Person merely sets up the machines and then leases the machines to other enterprises. A Permanent Establishment may exist, however, if the Non-Resident Person which sets up the machines also operates and maintains them for its own account. This would also apply if the machines are operated and maintained by an agent dependent on the Non-Resident Person.

Example 14: Vending machines

Company B, a company that is incorporated in and tax resident in Country B and not established in the UAE, is in the Business of providing vending machines (manufacture and set-up), and is contracted by Company U (a UAE company) to set up vending machines in all the malls owned by Company U in the UAE. After the initial set-up, the vending machines are leased to Company U, who then operates and maintains the machines.

In this case, the vending machines do not constitute a Permanent Establishment for Company B as it does not undertake any Business operations in the UAE beyond the initial set-up of the vending machine. Also, once the machine is under lease, it will no longer be at the disposal of Company B.

Splitting of contracts

To curb potential abuse in the form of artificially splitting-up contracts regarding a building site or a construction project, some or all of which are less than 6 months at different locations; or splitting contracts between Related Parties of a Non-Resident Person such as other group companies;[44] the Corporate Tax Law provides that the duration threshold of 6 months will be tested by consolidating all such activities.[45] Such abuse may also fall under the application of the General Anti-abuse Rule.[46]

Example 15: Artificial splitting-up of contract

Company N (a juridical person that is incorporated in and a tax resident of Country N) is awarded a 9-month contract by a UAE company for developing a modular building. At the request of Company N, the contract was split into:

a. fabrication of the modules (Contract 1)
b. assembly/installation of the modules (Contract 2).

Company N executed Contract 1 pertaining to fabrication at Site A in the UAE, which lasted for 5 months. Contract 2 pertaining to assembly/installation was executed at Site B in the UAE, which lasted for 4 months.

[44] Article 35 of the Corporate Tax Law.
[45] Article 14(2)(i) of the Corporate Tax Law includes the wording "including connected activities that are conducted at the site or project by one or more Related Parties of the Non-Resident Person."
[46] Article 50 of the Corporate Tax Law.

If Company N relies on the above to support an assertion that it has not created a Permanent Establishment in the UAE, then, in this case, there has been artificial splitting of contracts as the two contracts relate to the same project. Hence, Company N may not claim that it does not have a Permanent Establishment in the UAE based on the fact that each contract lasted less than 6 months. In order to determine the duration of time spent by Company N in the UAE, time spent on both contracts will be considered. Since such time exceeds 6 months, Company N will have a Permanent Establishment in the UAE.

Example 16: Contract split between Related Parties

The conclusion in Example 15 above will not change even if Contract 1 is executed by Company N and Contract 2 is executed by a sister company, Company M (which has the same parent company as Company N), based on the fact that the contract has been split artificially between two Related Parties for the same project.[47]

In this case, both Company N and Company M will have a Permanent Establishment in the UAE, even if their individual contracts did not exceed the 6-month threshold.

Example 17: Non-Resident executes multiple and simultaneous contracts in the UAE

Company A, a company incorporated in and tax resident of Country A, has been awarded three construction contracts by three different (and unrelated) UAE companies as follows:

- Company B requires Company A to construct a building in the UAE
- Company C requires Company A to construct a mall in the UAE
- Company D requires Company A to construct a highway in the UAE

All the three contracts were to be executed by Company A at different sites in the UAE. Company A commenced work on all the three contracts simultaneously in 1 January 2024 and completed all the contracts by 30 April 2024 (i.e. within four months).

In this case, Company A did not artificially split the contracts as they were awarded by three different UAE companies for three completely unrelated projects. Since Company A’s presence in the UAE was only for 4 months (i.e. did not exceed 6

[47] Article 35 of the Corporate Tax Law.

months), Company A’s construction projects will not constitute a fixed place Permanent Establishment in the UAE even if it executed multiple contracts during its presence in the UAE (i.e. from 1 January to 30 April 2024).

Duration/period of existence of a site/project

A building site, a construction project, or place of assembly or installation exists from the date on which the contractor begins their work, including any preparatory work, in the country where the construction is to be established, for example, if they install a planning office for the construction or temporary housing for the employees assigned to work on the building site or construction project.

A period during which a site/project is being tested by the Non-Resident Person should also generally be counted.

In practice, the delivery (“handing-over”) of the site/project to the client will usually represent the end of the period of work, provided the Non-Resident Person no longer works on the site after its delivery for the purposes of completing its construction.

A site/project would not be regarded as ceasing to exist when work is temporarily discontinued due to seasonal (for example, extreme weather) or other temporary interruptions (for example, shortage of labour/material). Such time periods shall be included in determining the life of a site/project.

Example 18: Work temporarily discontinued

1 June – Non-Resident Person started work to build a dam in the UAE
31 July – stopped work due to extreme weather (i.e. after 2 months of work)
31 August – resumed work (i.e. after a 1-month break)
31 October – stopped work due to shortage of material (i.e. after 2 months of work)
30 November – resumed work (i.e. after a 1-month break)
31 January – completed the construction and handed over the site to client (i.e. after 2 months of work)

In this case the project will be regarded as a Permanent Establishment because more than 6 months elapsed between the date the project was first commenced (1 June) and completed (31 January).

7.2.4. Preparatory or auxiliary activities

A Non-Resident Person conducting Business Activities in the UAE will not constitute a Permanent Establishment if such activities are not core Business or income generating activities (as the Business Activity test will not be satisfied).[48] Such activities may be categorised as preparatory or auxiliary activities, that are specifically carved out from the meaning of a fixed place Permanent Establishment.

“Preparatory” activities are those activities which precede commencement of core Business Activities and support the core Business Activities.

"Auxiliary" activities are those which aid or support the core Business function, without being part of the essential and significant part of the activity of the enterprise. They are secondary to the main or general functions of the enterprise which realise profits. It is unlikely that an activity that requires a significant proportion of the assets or employees of the enterprise could be considered as having an auxiliary character.

Preparatory or auxiliary activities cease to be economically viable when separated from the rest of the enterprise. Although such activities are only an insignificant portion of the enterprise's overall income generating activities, such activities are still considered economically viable because they are supplemented by work performed by other parts of the enterprise.

In this regard, the Corporate Tax Law specifies that a fixed or permanent place in the UAE shall not be considered a Permanent Establishment of a Non-Resident Person if it is only used for:[49]

1. Storing, displaying or delivering of goods or merchandise belonging to that Person.
2. Keeping a stock of goods or merchandise belonging to that Person for the sole purpose of processing by another Person.
3. Purchasing goods or merchandise or collecting information for the Non-Resident Person.
4. Conducting any other activity of a preparatory or auxiliary nature for the Non-Resident Person.
5. Conducting any combination of the above listed activities, provided that the overall activity is of a preparatory or auxiliary nature.

7.2.4.1. Storing, displaying or delivering of goods or merchandise

A place that is used for storing, displaying or delivering goods or merchandise belonging to the Non-Resident Person will not create a Permanent Establishment in the UAE if the place is used solely to perform the said activities for the customers of the Non-Resident Person.[50]

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[48] Article 14(3) of the Corporate Tax Law.
[49] Article 14(3) of the Corporate Tax Law.
[50] Article 14(3)(a) of the Corporate Tax Law.

A Non-Resident Person owning and operating warehousing facilities in the UAE for the purpose of providing delivery and warehousing services to other businesses or not to its own customers would not be covered by the exclusion. In that case, the warehouse would constitute a Permanent Establishment as per the Corporate Tax Law.

Example 19: Storage and delivery of spare parts

Company B sells electronic household appliances to customers in the UAE. It maintains a place of Business in the UAE solely for storage and delivery of spare parts to those customers. Such place will not constitute a Permanent Establishment for Company B based on the exclusion of storage and delivery activities listed in the Corporate Tax Law.[51]

Example 20: Storage and delivery of spare parts (continued)

If Company B maintains the place of Business for storage and delivery of spare parts to its customers and, in addition, maintenance and repair of appliances is offered, then this would constitute a fixed place of Business for Company B as this goes beyond solely being a storage and delivery activity. It will not be considered as preparatory or auxiliary in nature since after-sale services constitute a part of the services that Company B offers to its customers.

Example 21: Activity representing an important part of the Business

Company A (incorporated in and tax resident of Country A) has a core Business Activity of selling/distributing goods. It maintains in the UAE a very large warehouse in which employees work for the main purpose of storing and delivering goods owned by Company A which Company A sells online to its customers in the UAE.

In this case, the activities of Company A in the UAE will not be preparatory or auxiliary in nature since the storage and delivery activities, which are performed through the warehouse, represent an important part of Company A's sale/distribution Business and clearly constitute a significant income generating Business Activity for Company A.

[51] Article 14(3)(a) of the Corporate Tax Law.

Hence, whether the activities of a Non-Resident Person in the UAE have a preparatory or auxiliary character will be fact and context-specific, taking account of the impact such activities have on the overall Business of the Non-Resident Person.

7.2.4.2. Keeping a stock of goods for processing purposes

The exclusion of keeping a stock of goods or merchandise is applicable only where a stock of goods or merchandise belonging to the Non-Resident Person is maintained by another Person for the sole purpose of processing by that other Person in facilities operated by the same other Person and the Non-Resident Person does not have the facilities at its disposal.[52] Such place cannot, therefore, be a Permanent Establishment of that Non-Resident Person. Where, for example, a logistics company operates a warehouse in the UAE and continuously stores in that warehouse goods or merchandise belonging to a Non-Resident Person to which the logistics company is not related, the warehouse does not constitute a fixed place of Business at the disposal of the Non-Resident Person and the exception is, therefore, irrelevant. Where, however, that Non-Resident Person is allowed and actually exercises unlimited access to a separate part of the warehouse for the purpose of inspecting and maintaining the goods or merchandise stored therein, the exception would be applicable and the question of whether a Permanent Establishment exists will then depend on whether these activities constitute a preparatory or auxiliary activity.

7.2.4.3. Purchasing goods or merchandise or collecting information

A place that is used for purchasing goods or merchandise or collecting information for the Non-Resident Person will not create Permanent Establishment for the Non-Resident Person if the aforementioned activities do not constitute or are not part of the main service that the company renders and generates income from. This is because the activities of purchasing goods or merchandise or collecting information would not be economically viable when separated from the rest of the enterprise.[53]

Example 22: A buyer purchasing goods for a client

Company A, incorporated in and tax resident of Country A, is a car dealer. It sources vehicles from the UAE and sets up a purchasing office in the UAE. The employees of Company A who are based in the UAE identify and acquire vehicles which are sold to Company A's customers in multiple countries. Because the

[52] Article 14(3)(b) of the Corporate Tax Law.

[53] Article 14(3)(c) of the Corporate Tax Law.

purchasing office represents an essential and significant part of Company A's Business (without being able to source cars on favourable terms, it would not be able to sustain its Business), and so the activities are not preparatory or auxiliary. Therefore, it constitutes a Permanent Establishment in the UAE.

7.2.4.4. Combination of activities

If a Non-Resident Person conducts, in the same fixed place of Business, multiple activities which are preparatory or auxiliary in nature, it does not imply that the Non-Resident Person has a Permanent Establishment in the UAE, provided the overall activities resulting from such a combination are preparatory or auxiliary in nature.[54]

In some cases, it may be difficult to distinguish between activities (or combination of activities) which have a preparatory or auxiliary character and those which do not. The decisive criterion is whether the activities form an essential/significant part of the overall activities of an enterprise. Each individual case will have to be examined on its own merits.

Consider the example discussed under Section 7.2.3.5 (Example 11), wherein Company A, which manufactures FMCG products, did not create a Permanent Establishment in the UAE because its employees in the UAE performed non-core Business Activities in the UAE (i.e. collecting information).

However, now assume that Company A decides to expand its Business Activities at the same place of Business in the UAE and now undertakes research and development on various nutrients, preservatives, chemicals, etc. to be directly used in the manufacturing/production of various FMCG goods. In this case, the activities performed in the UAE are no longer preparatory or auxiliary in nature as they are an essential part of the overall Business of Company A. Hence under these circumstances, Company A would have a Permanent Establishment in the UAE.

7.2.4.5. Duration for which preparatory activities are conducted at the place of Business can be indicative but not decisive

Preparatory activities are performed in contemplation of conducting activities which constitute an essential/significant part of the activities of the enterprise. The duration for which preparatory activities are conducted at a particular place would be considered in light of the nature of the core activities of the enterprise. The fact that the preparatory activities are conducted for an extended period of time would not trigger on its own a Permanent Establishment.[55]

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[54] Article 14(3)(e) of the Corporate Tax Law.
[55] Article 14(4)(b) of the Corporate Tax Law.

Example 23: Training employees to prepare them for work

Company C (incorporated and tax resident of Country C) which is in the Business of software development services, may train its employees in the UAE for a substantial period, before such employees are sent to various parts of the world to work at client sites. Training that takes place in the UAE constitutes preparatory activity for Company C since conducting training is not its core Business Activity.

7.2.4.6. Implications where preparatory or auxiliary activities are performed for a third party

Preparatory or auxiliary activities refers to activities that are carried on by an enterprise solely for itself. Hence, if a Non-Resident Person performs activities which are traditionally of a preparatory or auxiliary nature for another Person, the same would constitute a Permanent Establishment for the Non-Resident as it is not "solely" conducting such activities for itself.[56]

Example 24: Advertising for other Persons

If a Non-Resident Person maintains an office in the UAE for advertising its own products or services, and is also engaged in advertising on behalf of other companies at that location, then such office/location would be regarded as a Permanent Establishment for the Non-Resident Person.

7.2.4.7. Anti-fragmentation

The Corporate Tax Law Permanent Establishment provisions include an anti-fragmentation rule.[57] Anti-fragmentation takes a substance approach to guard against potentially abusive practices whereby a cohesive Business Activity is fragmented into a number of small operations in order to argue that each has a preparatory or auxiliary character.

Geographical coherence, nature of the activity and the commercial rationale of outsourcing or fragmenting several business processes from the main activity, may be relevant in testing whether the combination of activities continues to be of preparatory or auxiliary nature.

[56] Article 14(3) of the Corporate Tax Law.
[57] Article 14(4) of the Corporate Tax Law.

If all the operations conducted by a Non-Resident and its Related Parties, either in the same location or different locations, form a cohesive Business operation (had they not been artificially fragmented), there would be a Permanent Establishment.

Example 25: Company using a Related Party to deliver services

Company C (a juridical person that is incorporated in and a tax resident of Country C) supplies spare parts. It registers a number of branches in the UAE. One branch source goods and manages logistics. A second deals with all administrative aspects including invoicing. A third branch manages sales. Company C considers the third branch as a Permanent Establishment but treats the first and second as auxiliary activities which do not constitute a Permanent Establishment.

In this case, all the branches of Company C are a single Permanent Establishment in the UAE and the artificial fragmentation of activities does not prevent them being regarded as such.

7.2.4.8. Can a subsidiary company, incorporated in the UAE, of a non-resident parent company be regarded as a fixed place Permanent Establishment?

The existence of a subsidiary company in the UAE does not, by itself, create a Permanent Establishment of its non-resident parent company. This follows from the principle that, for the purpose of taxation, a subsidiary company is an independent legal entity. Even though the trade/Business carried on by the subsidiary company is managed/overseen by the parent company, that does not automatically imply that the subsidiary company is a Permanent Establishment of the parent company as all the factors needed to give rise to a fixed place Permanent Establishment may not be present. However, this has to be tested against whether the subsidiary is in essence acting as an agent or has been incorporated to artificially split/dissect cohesive Business Activities of the non-resident parent.

7.2.4.9. Additional exclusions from fixed place Permanent Establishment

A natural person will not create a Permanent Establishment for a Non-Resident Person even if the natural person is present in the UAE, provided that:[58]

1. The natural person is in the UAE due to an unpredictable temporary and exceptional situation which is beyond their control, which occurred while the natural person was already in the UAE (see Section 7.2.4.10); or

[58] Article 14(7) of the Corporate Tax Law.

2. The natural person who is employed by the Non-Resident Person does not conduct core income-generating activities of the Non-Resident Person or its Related Parties, and the Non-Resident Person does not derive any State Sourced Income, for instance sales to UAE customers (see Section 8 for details).

Example 26: Internal accountant of a Non-Resident

A natural person employed as an accountant of a Non-Resident Person in the healthcare industry is working remotely from the UAE, for example, a "digital nomad".

Based on the Non-Resident Person's Business Activity, the accounting department is considered as administrative support ("back office") and does not have a core role in the income generating activities of the Business. As such there would be no fixed place Permanent Establishment for the Non-Resident Person due to the presence of the accountant in the UAE (considering the exclusion discussed in point (2) in Section 7.2.4.9).

Variation to Example 26: On the other hand, if the accountant who is an employee of a Non-Resident Person engaged in the healthcare industry, rendered healthcare services to clients in the UAE, then based on the Business Activity of this particular Non-Resident Person, the activities may have central importance in generating income and, therefore, the exclusion from creating a fixed place Permanent Establishment would not apply.

Note that these additional exclusions augment the preparatory and auxiliary exclusions. As such, the additional exclusions set out above would only need to be considered if the presence of a natural person in the UAE was sufficient to otherwise create a fixed place Permanent Establishment.

7.2.4.10. Exceptional situations

For the purposes of point (1) of Section 7.2.4.9, the presence of a natural person in the UAE can only qualify as due to an exceptional situation in case it is temporary and all of the following conditions are satisfied:[59]

1. The presence of the natural person in the UAE is a consequence of exceptional circumstances of a public or private nature.
2. The exceptional circumstances cannot reasonably be predicted by the natural person or the Non-Resident Person.

[59] Article 2(1) of Ministerial Decision No. 83 of 2023.

3. The natural person did not express any intention to remain in the UAE when the exceptional circumstances end.
4. The Non-Resident Person did not have a Permanent Establishment in the UAE before the occurrence of the exceptional circumstances.
5. The Non-Resident Person did not consider that the natural person is creating a Permanent Establishment or deriving income in the UAE as per the tax legislation applicable in other jurisdictions.

Exceptional circumstances

In the above context, an exceptional circumstance is a situation or an event beyond the natural person's control, which takes place while the natural person is already in the UAE, and which could not have been reasonably predicted or prevented and which did not allow them to leave the UAE as originally planned.

- The following circumstances may qualify as exceptional circumstances of a public nature:[60]

    1. Adoption of public health measures by the competent authorities in the UAE or in the jurisdiction of the original workplace or by the World Health Organization.
    2. Imposition of travel restrictions by the competent authorities in the UAE or in the jurisdiction of the original workplace.
    3. Imposition of legal sanctions on the natural person preventing them from leaving the UAE.
    4. Acts of war or occurrence of terrorist attacks.
    5. Occurrence of natural disasters or force majeure beyond reasonable control.
    6. Any other circumstances similar to those provided for above as prescribed by the FTA.

- The following circumstances may qualify as exceptional circumstances of a private nature:[61]

    1. Occurrence of an emergency health condition affecting the natural person or their relatives up to the fourth degree, including by way of adoption or guardianship.
    2. Any other circumstances similar to those provided for above as prescribed by the FTA.

[60] Article 2(2)(a) of Ministerial Decision No. 83 of 2023.
[61] Article 2(2)(b) of Ministerial Decision No. 83 of 2023.

Example 27: A pandemic

An individual working for Company A (incorporated and tax resident of Country A) travels to the UAE for vacation and cannot leave the UAE due to a global health pandemic. Where an individual is unable to leave the UAE, due to travel restrictions or health reasons, it would not result in a Permanent Establishment as their presence in the UAE was due to an unpredictable temporary and exceptional situation which is beyond the individual's control, which occurred while the individual was already in the UAE. However, the exception would not apply if a natural person travelled to the UAE knowing it was likely they would not be able to leave due to imminent travel restrictions.

Example 28: Act of war

A war breaks out in Country B where an individual works for Company B (incorporated and tax resident of Country B). The individual decides to travel to the UAE and conduct the Business Activities of Company B from a rented office after the start of the war which ends up lasting for 8 months.

In this case, the provisions related to exceptional circumstances will not apply as the war started before the individual decided to travel to the UAE, and, therefore, the above situation would create a Permanent Establishment for Company B.

7.3. Agency Permanent Establishment

Even if a Person, that is not a Resident Person, does not have a fixed place of Business in the UAE, it could nonetheless have an agency Permanent Establishment unless it is an agent that is legally or economically independent from the principal (see Section 7.3.2).[62]

Person A, that is not a Resident Person, will be deemed to have an agency Permanent Establishment in the UAE due to the activities of a Person B (who can be either a natural person or a juridical person), if these activities are conducted for and on behalf of Person A. Person B can either be a Resident Person or Non-Resident Person in the UAE.

[62] Article 14(5) and Article 14(6) of the Corporate Tax Law.

7.3.1. When does a Person create an agency Permanent Establishment for a Non-Resident Person?

A Person would create an agency Permanent Establishment for a Non-Resident Person if such Person, on a regular basis: [63]

- concludes contracts in the UAE on behalf of a Non-Resident Person; or
- negotiates contracts in the UAE on behalf of a Non-Resident Person and such contracts are concluded by the Non-Resident Person without any material modification to the terms of the contracts.

The conclusion/negotiation of contracts by such Person must take place repeatedly and not merely in isolated cases, for it to be habitual and thus, constitute a Permanent Establishment for the Non-Resident Person.

Furthermore, whether such Person constitutes a Permanent Establishment for the Non-Resident Person should be determined based on commercial realities of the situation. The mere fact that a Person has “attended” or “participated” in negotiations between the Non-Resident Person and its UAE customers will not be sufficient, by itself, to determine that such Person has concluded/negotiated contracts on behalf of the Non-Resident Person.

A Person’s actions should be binding on the Non-Resident Person vis-à-vis the end customer, and it cannot be said to be acting on behalf of a Non-Resident Person if the Non-Resident Person is not directly or indirectly affected by the actions performed by such Person.

It is immaterial whether the contracts are concluded in the name of the Non-Resident Person or such other Person who is acting on behalf of the Non-Resident Person.

This means that even commissionaire or undisclosed principal arrangements can trigger a Permanent Establishment in the UAE for a Non-Resident Person.

In general terms, a commissionaire arrangement refers to an arrangement whereby a Person sells products in its own name but on behalf of another (Non-Resident) Person (who is the owner of these products). In theory, the commissionaire does not usually bind the principal and the customer cannot sue the Non-Resident Person, as there is no contractual relationship between the Non-Resident Person and the customer.

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[63] Article 14(5) of the Corporate Tax Law.

However, in substance, the obligation to perform is on the owner of the goods (i.e. Non-Resident Person) who sells directly to the customer.

To ensure commissionaire arrangements are not used to avoid the creation of a Permanent Establishment by the Non-Resident Person, emphasis is placed on substance over form. Therefore, where the activities of a Person/commissionaire bind the Non-Resident Person to perform activities, this would trigger a Permanent Establishment, even if the contracts are not in the name of the Non-Resident Person.

Example 29: An agent creating an agency Permanent Establishment for another company

A pharmaceutical company, Company P (a juridical person that is incorporated in and a tax resident of Country U) sells its medicines across the globe. For sales of its medicines in the Middle East region, including the UAE, it has appointed a distribution company, Company D (a juridical person that is incorporated in and a tax resident of Country B) that exclusively works for Company P.

Company D regularly meets potential customers of Company P in the UAE and convinces them to purchase medicines of Company P and negotiates all the essential terms of the contract (i.e. price, place of delivery, terms of payments, etc). Thereafter, Company D passes the sales leads to Company P and the contracts are concluded and executed directly by Company P. Company D does not have the authority to conclude the contract with UAE customers on behalf of Company P.

Implications under the Corporate Tax Law:

In this case, as per the Corporate Tax Law, the activities of Company D give rise to an agency Permanent Establishment in the UAE for Company P (due to its negotiation activities) even though Company D does not have the authority to conclude contracts on behalf of Company P with UAE customers.

Implications under the Double Taxation Agreement:

However, the UAE and Country U have an effective Double Taxation Agreement that specifies that a company that is tax resident in Country U (i.e. foreign company) creates an agency Permanent Establishment in the UAE only if a person (for example, agent, other than an independent agent) acts on behalf of the foreign company and habitually exercises in the UAE an authority to conclude contracts on behalf of the foreign company. Unlike the provisions of the Corporate Tax Law, under the Double Taxation Agreement between the UAE and Country U, a person does not create an agency Permanent Establishment in the UAE for a foreign company merely by habitually negotiating contracts that are concluded by the foreign company without any material modification.[64]

As Company P is incorporated and tax resident of Country U, it would be entitled to benefit from the Double Taxation Agreement while determining if it has an agency Permanent Establishment in the UAE.

Based on the Double Taxation Agreement between the UAE and Country U, as the Company D neither concludes nor has the authority to conclude contracts on behalf of Company P, Company D will not constitute a Permanent Establishment for Company P in the UAE. In absence of a Permanent Establishment in the UAE (and assuming Company P does not have any other operations in/revenues from the UAE), Company P will not be required to register for Corporate Tax or undertake any filing obligations as it only derives State Sourced Income not attributable to a Permanent Establishment.

Example 30: Commissionaire arrangement can constitute an agency Permanent Establishment for a Non-Resident Person

Company D (a juridical person incorporated in and a tax resident of Country D) manufactures and sells clothes internationally. It has entered into a commissionaire arrangement with Company E to sell its clothes to customers in the UAE, for which Company E receives a commission from Company D.

Company E acts as a representative of Company D in the UAE market and enters into a contract for sale with the customers in the UAE, in its own name (i.e. Company E's), issuing invoices to the customers in the UAE.

Legal title for the goods passes from Company D to the customers in the UAE (note, this is not the same as the physical delivery of the goods, which may well be from Company E to the customer). Legal title does not pass to Company E. The products remain the property of Company D until they pass to the customers in UAE.

In case any issue is identified in the purchased products, customers will have recourse to Company D (and not Company E).

Company E, which is acting in its own name, but on behalf of Company D, will

[64] Refer to Section 10.2 - Annexure 2 for the extract of Article 5 on Permanent Establishment Article as per the Double Taxation Agreement between the UAE and Country U.

constitute an agency Permanent Establishment for Company D in the UAE. A commission agent cannot be said to be conducting their own Business or Business Activity when they perform activities which, economically/usually, should be performed by another Person (i.e. the Non-Resident Person).

7.3.2. Independent agents: When does a Person not create an agency Permanent Establishment for a Non-Resident Person?

Even if the conditions specified in Section 7.3.1 are met, a Non-Resident Person will not have an agency Permanent Establishment in the UAE if: [65]

- the Person who is acting on behalf of the Non-Resident Person is an "independent agent"; and
- the Person performs activities for the Non-Resident Person in its ordinary course of Business.

However, if such Person acts exclusively or almost exclusively on behalf of the Non-Resident Person or it is legally or economically dependent on the Non-Resident Person, then it will not be an "independent agent" and will still create an agency Permanent Establishment for the Non-Resident Person in the UAE.

A Non-Resident Person will not have a Permanent Establishment in the UAE if another Person merely promotes and/or markets goods or services of the Non-Resident Person in the UAE in a way that does not directly result in the conclusion of contracts.

For a Person to create an agency Permanent Establishment for a Non-Resident Person, it should be involved in concluding or negotiating contracts that constitute the "Business" of the Non-Resident Person. It would be irrelevant if a Person concludes contracts which relate to activities which would be considered preparatory or auxiliary (for example, contracts that are not income generating for the Non-Resident Person) in the UAE for a Non-Resident Person.

Some illustrative examples are discussed below:

[65] Article 14(6) of the Corporate Tax Law.

Example 31: Representatives of a pharmaceutical company

Representatives of a pharmaceutical company (incorporated in and tax resident of Country A) actively promote medicines produced by such Non-Resident Person by contacting doctors in the UAE who subsequently prescribe these medicines to their patients. Such marketing activity does not directly result in the conclusion of contracts between the doctors and the Non-Resident Person. Hence, such activities of the representatives do not create an agency Permanent Establishment for the Non-Resident Person in the UAE even though sales of the medicines may increase as a result of the marketing activity.

Example 32: Permanent Establishment triggered by a subsidiary

Company C (incorporated in and tax resident of Country A) distributes various goods/services worldwide through its websites. Company U (incorporated in and tax resident of the UAE) is a wholly owned subsidiary of Company C. Company U's employees send emails, make telephone calls to, or visit large organisations to convince them to buy Company C’s products and services and are, therefore, responsible for large accounts in the UAE. When customers in the UAE are persuaded by employees of Company U to purchase a given quantity of goods/services, they indicate the price that will be payable for that quantity, that a contract must be concluded online with Company C before the goods/services can be provided by Company C and explain the standard terms of contract with Company C including the fixed price structure, which the employees are not authorised to modify. The customers subsequently conclude the contracts online for the quantities discussed with Company U’s employees. In this case, Company U’s employees negotiate the contract with the end customers which are accepted by Company C without any modifications. Company U and its employees are acting on behalf of Company C. The fact that Company U's employees cannot modify the terms of the contracts does not mean that the conclusion/negotiation of the contracts is not the direct result of the activities performed by Company U employees. Hence, the activities of Company U employees would create an agency Permanent Establishment for Company C in the UAE.

Example 33: Permanent Establishment triggered by a subsidiary (continued from Example 32)

Company U acts as a distributor of goods/services of Company C in the UAE and in doing so it sells to the UAE customers goods/services that it procures “on its own account” from Company C. It is neither acting on behalf of Company C nor selling property that is owned by Company C since the property that is sold to the end customers is owned by the distributor i.e. Company U.

Even though the employees of Company U perform the same functions as discussed in Example 32, Company U and its employees are not acting "on behalf" of Company C and hence Company C does not have a Permanent Establishment in the UAE.

Important notes:

- An analysis of whether a Non-Resident Person has a Permanent Establishment in the UAE is a fact and context specific exercise.
- Additionally, even if a Non-Resident Person does not have a Permanent Establishment in the UAE, it should consider if it has nexus in the UAE, as this would make it subject to Corporate Tax in the UAE.
- As discussed in Section 5.9, Double Taxation Agreements should be considered when determining the existence of Permanent Establishments where these agreements are effective and signed between the UAE and jurisdiction of the relevant party(ies).

8. State Sourced Income

Corporate Tax shall be imposed on a Taxable Person, including a Non-Resident Person, if the Non-Resident Person derives State Sourced Income, i.e. income accruing in, or derived from, the UAE.[66] This condition (deriving State Sourced Income) is one of three independent conditions for identifying whether a Person is a Non-Resident Person.

Accordingly, a Person that is not a Resident Person in the UAE, and that derives income from the UAE should determine if the income qualifies as State Sourced Income. There will not be a need for the Non-Resident Person to register for Corporate Tax if the State Sourced Income they derive is not attributable to a UAE Permanent Establishment or a nexus in the UAE.

State Sourced Income, derived by a Non-Resident Person, that is not attributable to a Permanent Establishment, may be subject to Withholding Tax; however, as mentioned in Section 5.4, Withholding Tax is currently levied at the rate of 0%.[67]

In the case of a Non-Resident Person, State Sourced Income includes:

1. Income derived from a Resident Person, i.e. income derived from a juridical person or natural person that is considered a Resident Person as per the Corporate Tax Law:[68]

Example 34: Sale of goods in the UAE

Company A (incorporated in and tax resident of Country A) sells goods to Company B (a UAE Resident Person) in the State. The income for Company A received from these sales will be considered State Sourced Income because the income is derived from a Resident Person in the UAE.

2. Income derived by a Non-Resident Person from another Non-Resident Person to the extent it is attributable to a Business or Business Activity conducted by that other Non-Resident Person through a Permanent Establishment in the UAE.[69]

[66] Article 11(4)(b) of the Corporate Tax Law.
[67] Article 45(1)(a) of the Corporate Tax Law.
[68] Article 13(1)(a) of the Corporate Tax Law.
[69] Article 13(1)(b) of the Corporate Tax Law.

Example 35: Income derived from a UAE Permanent Establishment of a Non-Resident Person

Income is derived by Company A (a company incorporated in and tax resident of Country C) by providing consulting services from Country C, to a UAE branch of Company B (a company also incorporated in and tax resident of Country C). The UAE branch of Company B is considered to be a Permanent Establishment of Company B in the UAE. The income that Company A derives is considered State Sourced Income as it derives the income from a Permanent Establishment of a Non-Resident Person, which is the branch of Company B.

3. Income otherwise accrued in or derived from activities performed, assets located, capital invested, rights used, or services performed or benefitted from in the UAE.[70] In other words, income may be considered to have a UAE source (State Sourced Income) for Corporate Tax purposes where the place of use, or performance of the activity, or the tangible or intangible assets generating the income, are located in the UAE.

Example 36: Investment in the UAE financial market

A Non-Resident Person invests in a security listed on a UAE financial market (for example, Dubai Financial Market, Abu Dhabi Securities Exchange) that pays dividends. The income accrued due to this investment is State Sourced Income because it is accrued or derived from assets located in the UAE.

4. Further examples of State Sourced Income (which are subject to any conditions and limitations that the Minister may determine) include:[71]

   a. Income from the sale of goods: The general rule for the sale of goods is that the income is sourced to where the sale and resulting transfer of title takes place, i.e. State Sourced Income is derived where the buyer that will own the good is a Resident Person in the UAE.
   b. Income from services: Income from services would generally be considered State Sourced Income where the service is rendered in the UAE or where the ultimate recipient or beneficiary of the service is located in the UAE. In other words, the service provider (or their employees/representatives) is (are) located in the UAE while providing the service, or the Person benefiting from the service is a Resident Person in the UAE.

[70] Article 13(1)(c) of the Corporate Tax Law.
[71] Article 13(2) of the Corporate Tax Law.

c. Income from a contract: Income from the performance of contracts would generally be sourced in the place where the contract is performed or to where the ultimate recipient or beneficiary of the performance under the contract is located. This is not intended to cover income earned under an employment contract or income from a contract involving movable or immovable property which will be sourced where the property is located. In that respect, income from the sale of a business opportunity would be considered as State Sourced Income.

Example 37: Income generated due to a contract

Company X (incorporated in and tax resident of Country A) wins a contract with a UAE government department to build a government facility. Due to business considerations (for example, lack of resources), Company X decided to transfer the work of executing the contract to another juridical person, Company Y (also incorporated in and tax resident of Country A), in exchange for a fee. The fee earned by Company X is considered as Stated Sourced Income.

d. Income from movable or immovable property: Income arising from the use or sale of tangible property is sourced from the place where the property is located. For example, the sale of an apartment located in the UAE, or rental income earned from property located in the UAE (or from an interest in such property) would generally be considered State Sourced Income.
e. Income from the disposal of shares or capital rights of a Resident Person: Capital gains and other income derived from the sale of shares or other rights in the capital of a juridical person is considered to be State Sourced Income where the juridical person is incorporated or resident in the UAE for Corporate Tax purposes.
f. Income from intellectual or intangible property: Income received from the use, the right to use, or the granting of the permission to use in the UAE of patents, trademarks, trade brands, copyrights, artistic or scientific work, secret formula or process, goodwill and other such intangible or intellectual property in the UAE would generally be sourced from the UAE. This is irrespective of the location and residence for Corporate Tax purposes of the payor and recipient of the income.

Example 38: Sale of right of use of a patent

Company A (incorporated in and tax resident of Country A) innovates by creating new battery technology for electric vehicles and registers the patents for the new technology in Country A, then sells the rights of use of the patents to an electric vehicle maker Company T (also incorporated in and tax resident of Country A), and

Company T uses the patents in its manufacturing facility in the UAE to produce batteries used in Company T's electric vehicles. The income derived from the sale of the rights to use the patents in the UAE would be State Sourced Income for Company A.

g. Interest income: Interest income is sourced from the UAE if it meets any of the following conditions:
   1. the loan is secured by movable or immovable property located in the UAE, i.e. Interest may be considered State Sourced Income where the collateral that secures the relevant loan or financing arrangement is located in the UAE; or
   2. the borrower is a Resident Person; or
   3. the borrower is a Government Entity.

h. Insurance income: Insurance or reinsurance premiums are considered to be State Sourced income in any of the following instances:
   1. the insured asset is located in the UAE;
   2. the insured Person is a Resident Person; or
   3. the insured activity is conducted in the UAE.

9. Nexus in the UAE

Corporate Tax is imposed on juridical Non-Resident Persons who have a nexus in the UAE. Non-Resident Persons that have a nexus in the UAE are required to register for Corporate Tax purposes. The nexus concept does not apply to natural persons.

A juridical Non-Resident Person will be considered to have a nexus in the UAE if it derives income from any Immovable Property in the UAE, which means:[72]

a. any area or land over which rights or interest or services can be created; or
b. any building, structure or engineering work attached to the land permanently or attached to the seabed; or
c. any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Income from Immovable Property will include income derived by way of sale, disposal, assignment, direct use, leasing or sub-leasing or any other form of exploitation of Immovable Property.[73] Taxable Income from Immovable Property will be subject to Corporate Tax as follows:

- 0% (zero percent) on the first AED 375,000 of Taxable Income
- 9% (nine percent) on the amount above AED 375,000 of Taxable Income

If a Non-Resident Person is a Qualifying Free Zone Person, then the provisions related to the Free Zone Corporate Tax regime will apply on income from Immovable Property received by such Person.

Example 39: ATM machine in the UAE

Company B, a bank not established in the UAE, installs, operates and maintains ATM machines in various malls, hotels and movie theatres in the UAE from which it earns service fees.

In this case, Company B will be considered to have a nexus in the UAE because the ATM is "machinery or equipment which is permanently attached to a building".

Note that a fixed place Permanent Establishment in the UAE is also created in this

[72] Cabinet Decision No. 56 of 2023.
[73] Article 2(2) of Cabinet Decision No. 56 of 2023.

case because the ATM machines are used by the Non-Resident Person to carry on its Business in the UAE on a regular/recurrent basis (see Section 7.2).

Example 40: Wind turbines

Company N (incorporated in and tax resident of Country N) installs a wind turbine which is fixed on the seabed in a location which falls within the territorial waters of the UAE and derives income from the power generated by the turbine. In this case, Company N will be considered to have both a nexus in the UAE and a Permanent Establishment in the UAE as the wind turbine would be considered as an installation to exploit renewable energy. Hence, income derived by Company N that is attributable to its nexus and Permanent Establishment in the UAE would be subject to Corporate Tax.

Example 41: Land rented out for events

Company A, a company not established in the UAE, owns land in the UAE and routinely rents out such land to various companies to hold events, conferences, etc. In this case, Company A will be considered to have a nexus in the UAE.

10. Annexures

10.1. Annexure 1 – Relevant extract of Double Taxation Agreement between the UAE and Country I

"Article 5

Permanent Establishment

1. *For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.*

2. *The term "permanent establishment" includes especially:*

   a. *a place of management;*
   b. *a branch;*
   c. *an office;*
   d. *a factory;*
   e. *a workshop;*
   f. *a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;*
   g. *a farm or plantation;*
   h. *a building site or construction or assembly project or supervisory activities in connection therewith, but only where such site, project or activity continues for a period of more than 9 months;*
   i. *the furnishing of services including consultancy services by an enterprise of a Contracting State through employees or other personnel in the other Contracting State, provided that such activities continue for the same project or connected project for a period or periods aggregating more than 9months within any twelve-month period.*

3. *Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:*

   a. *the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;*
   b. *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;*
   c. *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;*
   d. *the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;*
   e. *the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.*

4. *Notwithstanding the provisions of paragraphs (1) and (3), where a person - other than an agent of independent status to whom paragraph (5) applies - is acting on behalf of an enterprise and has, and habitually exercises in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to the purchase of goods or merchandise for the enterprise.*

5. *An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of independent status within the meaning of this paragraph."*

10.2. Annexure 2 – Relevant extract of Double Taxation Agreement between the UAE and Country U

"Article 5

Permanent Establishment

1. *For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.*

2. *The term "permanent establishment" includes especially:*

   a. *a place of management;*
   b. *a branch;*
   c. *an office;*
   d. *a factory;*
   e. *a workshop;*
   f. *a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;*

3. *A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 months.*

4. *Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:*

a. *the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;*
b. *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;*
c. *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;*
d. *the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;*
e. *the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.*
f. *the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.*

5. *Notwithstanding the provisions of paragraphs (1) and (2), where a person - other than an agent of independent status to whom paragraph (6) applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.*

6. *An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.*

7. *The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.”*

11. Updates and Amendments

Date of amendment	Amendments made
October 2023	• First version

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Corporate Tax – General Guide

Corporate Tax Guide | CTGGCT1

September 2023

Contents

1. Glossary

Accounting Income: The accounting net profit or loss for the relevant Tax Period as per the Financial Statements prepared in accordance with the provisions of Article 20 of the Corporate Tax Law.

Accounting Standards: The accounting standards specified in Ministerial No. 114 of 2023.

Accrual Basis of Accounting: An accounting method under which the Taxable Person recognises income when earned and expenditure when incurred.

Auditor: An independent Person licensed and registered by the competent authorities of the UAE, that is appointed and remunerated by a private pension fund or a private social security fund to audit its Financial Statements.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or series of activities, conducted by a Person in the course of its business.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Commercial Property: Immovable Property or part thereof:

a. used exclusively for a Business or Business Activity.
b. not used as a place of residence or accommodation including hotels, motels, bed and breakfast establishments, serviced apartments and the like.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Corporate Tax Payable: Corporate Tax that has or will become due for payment to the FTA in respect of one or more Tax Periods.

Designated Zone: A designated zone as defined in Federal Decree-Law No. 8 of 2017 on Value Added Tax, and its amendments, and which has been specified as a Free Zone for the purposes of the Corporate Tax Law.

Dividend: Any payments or distributions that are declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which do not constitute a return of capital or a return on debt claims, whether such payments or distributions are in cash, securities, or other properties, and whether payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue. This will include any payment or benefit which in substance or effect constitutes a distribution of profits made in connection with the acquisition or redemption or cancellation of shares or termination of other ownership interests or rights or any transaction or arrangement with a Related Party or Connected Person which does not comply with Article 34 of the Corporate Tax Law.

Double Taxation Agreement: An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Excluded Activities: Any activities determined by a decision issued by the Minister and conducted by a Qualifying Free Zone Person from which non-Qualifying Income is derived.

Exempt Person: A Person exempt from Corporate Tax under Article 4 of the Corporate Tax Law.

Extractive Business: The Business or Business Activity of exploring, extracting, removing, or otherwise producing and exploiting the Natural Resources of the UAE, or any interest therein as determined by the Minister.

Federal Government: The government of the UAE.

Financial Asset: Financial asset as defined in the Accounting Standards applied by the Taxable Person.

Financial Liability: Financial liability as defined in the Accounting Standards applied by the Taxable Person.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Financial Year: The Gregorian calendar year, or the twelve-month period for which the Taxable Person prepares Financial Statements.

Foreign Partnership: A relationship established by contract between two Persons or more, such as a partnership or trust or any other similar association of Persons, in accordance with the laws of a foreign jurisdiction.

Foreign Permanent Establishment: A place of Business or other form of presence outside the UAE of a Resident Person that is determined in accordance with the criteria prescribed in Article 14 of the Corporate Tax Law.

Foreign Tax Credit: Tax paid under the laws of a foreign jurisdiction on income or profits that may be deducted from the Corporate Tax due, in accordance with the conditions of Article 47(2) of the Corporate Tax Law.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established, or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

General Interest Deduction Limitation Rule: The limitation provided under Article 30 of the Corporate Tax Law.

Government Controlled Entity: Any juridical person, directly or indirectly wholly owned and controlled by a Government Entity, as specified in a decision issued by the Cabinet at the suggestion of the Minister.

Government Entity: The Federal Government, Local Governments, ministries, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.

IFRS: International Financial Reporting Standards.

IFRS for SMEs: International Financial Reporting Standards for small and medium enterprises.

Immovable Property: Means any of the following:

a. Any area of land over which rights or interests or services can be created.
b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.
c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic Financial Instrument and other payments economically equivalent to interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Islamic Financial Instrument: A financial instrument which is in compliance with Sharia principles and is economically equivalent to any instrument provided for under Article 2(2) of Ministerial Decision No. 126 of 2023, or a combination thereof.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Local Government: Any of the governments of the Member Emirates of the Federation.

Mandated Activity: Any activity conducted by a Government Controlled Entity in accordance with the legal instrument establishing or regulating the entity, that is specified in a decision by the Cabinet at the suggestion of the Minister.

Market Value: The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

Membership and Partner Interests: The equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.

Membership or Partnership Capital: The capital paid to a juridical person where the paid capital is divided into membership or partnership interests by a Person in order to be a member or partner and have the rights of membership or partnership in that juridical person.

Minister: Minister of Finance.

Ministry: Ministry of Finance.

Natural Resources: Water, oil, gas, coal, naturally formed minerals, and other non-renewable, non-living natural resources that may be extracted from the UAE's Territory.

Net Interest Expenditure: The Interest expenditure amount that is in excess of the Interest income amount as determined in accordance with the provisions of the Corporate Tax Law.

Non-Extractive Natural Resource Business: The Business or Business Activity of separating, treating, refining, processing, storing, transporting, marketing or distributing the Natural Resources of the UAE.

Non-Free Zone Person: Any Person who is not a Free Zone Person.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Ordinary Shares: The category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.

Parent Company: A Resident Person that can make an application to the FTA to form a Tax Group with one or more Subsidiaries in accordance with Article 40(1) of the Corporate Tax Law.

Participating Interest: An ownership interest in the shares or capital of a juridical person that meets the conditions referred to in Article 23 of the Corporate Tax Law.

Participation: The juridical person in which the Participating Interest is held.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural person or juridical person.

Personal Investment: Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law.

Preferred Shares: The category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

Qualifying Activities: Any activities determined by a decision issued by the Minister and conducted by a Qualifying Free Zone Person from which Qualifying Income is derived.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Group: Two or more Taxable Persons that meet the conditions of Clause Article 26(2) of the Corporate Tax Law.

Qualifying Income: Any income derived by a Qualifying Free Zone Person that is subject to Corporate Tax at the rate specified in Article 3(2)(a) of the Corporate Tax Law.

Qualifying Infrastructure Project: A project that meets the conditions of Article 14 of Ministerial Decision No. 126 of 2023.

Qualifying Infrastructure Project Person: A Resident Person that meets the conditions of Article 14(2) of Ministerial Decision No. 126 of 2023.

Qualifying Investment Fund: Any entity whose principal activity is the issuing of investment interests to raise funds or pool investor funds or establish a joint investment fund with the aim of enabling the holder of such an investment interest to benefit from the profits or gains from the entity's acquisition, holding, management or disposal of investments, in accordance with the applicable legislation and when it meets the conditions set out in Article 10 of the Corporate Tax Law.

Qualifying Public Benefit Entity: Any entity that meets the conditions set out in Article 9 of the Corporate Tax Law and that is listed in a decision issued by the Cabinet at the suggestion of the Minister.

Real Estate Investment: Any investment activity conducted by a natural person related to, directly or indirectly, the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not conducted, or does not require to be conducted through a Licence from a Licensing Authority.

Recognised Stock Exchange: Any stock exchange established in the UAE that is licensed and regulated by the relevant competent authority, or any stock exchange established outside the UAE of equal standing.

Redeemable Shares: The category of capital stock or equity interest which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

Ship: Any structures normally operating, or set for operating in maritime navigation regardless of its power and tonnage**.**

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Subsidiary: A Resident Person in which the share capital or Membership or Partnership Capital, as applicable, is held by a Parent Company, in accordance with Article 40(1) of the Corporate Tax Law.

Tax Deregistration: A procedure under which a Person is deregistered for Corporate Tax purposes with the FTA.

Tax Group: Two or more Taxable Persons treated as a single Taxable Person according to the conditions of Article 40 of the Corporate Tax Law.

Tax Loss: Any negative Taxable Income as calculated under the Corporate Tax Law for a given Tax Period.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Registration: A procedure under which a Person registers for Corporate Tax purposes with the FTA.

Tax Registration Number: A unique number issued by the FTA to each Person who is registered for Corporate Tax purposes in the UAE.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

Unincorporated Partnership: A relationship established by contract between two Persons or more, such as a partnership or trust or any other similar association of Persons, in accordance with the applicable legislation of the UAE.

Withholding Tax: Corporate Tax to be withheld from State Sourced Income in accordance with Article 45 of the Corporate Tax Law.

Withholding Tax Credit: The Corporate Tax amount that can be deducted from the Corporate Tax due in accordance with the conditions of Article 46(2) of the Corporate Tax Law.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was signed on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance on Corporate Tax in the UAE with a view to making the provisions of the Corporate Tax Law as understandable as possible to readers. It provides readers with:

- an overview of the main Corporate Tax rules and procedures, including the determination of the Corporate Tax base, the calculation of Corporate Tax, the filing of Corporate Tax Returns, and other related compliance requirements; and
- assistance with the most common questions businesses might have.

2.3. Who should read this guide?

This guide should be read by those who want to know more about the Corporate Tax regime in the UAE. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

This guide is split into chapters by topic. This includes an initial chapter that explains where to seek further assistance should further questions arise based on the content of this guide, or on areas that are not specifically dealt with here.

Subsequent chapters are organised by subject matter to cover the fundamentals of the Corporate Tax regime in the UAE. This includes what Corporate Tax is, who is subject to Corporate Tax, what types of income are taxable, and how a Taxable Person's Corporate Tax liability is calculated. There is also a chapter covering the Corporate Tax administration process, from Tax Registration and record keeping to submitting returns and making payments.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in topic specific guides.

In some instances, simple examples are used to illustrate how key elements of the Corporate Tax regime function. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural person.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as "Tax Procedures Law";
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Corporate Tax Law";
- Cabinet Resolution No. 44 of 2020 on Organising Reports Submitted by Multinational Companies is referred to as "Cabinet Resolution No. 44 of 2020'';
- Cabinet Decision No. 116 of 2022 on the Determination of Annual Income Subject to Corporate Tax is referred to as "Cabinet Decision No. 116 of 2022";
- Cabinet Decision No. 37 of 2023 Regarding the Qualifying Public Benefit Entities for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Cabinet Decision No. 37 of 2023";

- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that Are Subject to Corporate Tax is referred to as “Cabinet Decision No. 49 of 2023”;
- Cabinet Decision No. 55 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 55 of 2023”;
- Cabinet Decision No. 56 of 2023 on Determination of a Non-Resident Person’s Nexus in the State for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 56 of 2023”;
- Cabinet Decision No. 75 of 2023 on the Administrative Penalties for Violations Related to the Application of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 75 of 2023”;
- Cabinet Decision No. 81 of 2023 on Conditions for Qualifying Investment Funds for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 81 of 2023”
- Ministerial Decision No. 43 of 2023 Concerning Exception from Tax Registration for the Purpose of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 43 of 2023”;
- Ministerial Decision No. 68 of 2023 on the Treatment of all Businesses and Business Activities Conducted by a Government Entity as a Single Taxable Person is referred to as “Ministerial Decision No. 68 of 2023”;
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 73 of 2023”;
- Ministerial Decision No. 82 of 2023 on the Determination of Categories of Taxable Persons Required to Prepare and Maintain Audited Financial Statements for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 82 of 2023”;
- Ministerial Decision No. 83 of 2023 on the Determination of the Conditions under which the Presence of a Natural Person in the State would not Create a Permanent Establishment for a Non-Resident Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 83 of 2023”;
- Ministerial Decision No. 97 of 2023 on Requirements for Maintaining Transfer Pricing Documentation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 97 of 2023”

- Ministerial Decision No. 105 of 2023 on the Determination of the Conditions under which a Person may Continue to be Deemed as an Exempt Person, or Cease to be Deemed as an Exempt Person from a Different Date for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 105 of 2023";
- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 114 of 2023";
- Ministerial Decision No.115 of 2023 on Private Pension Funds and Private Social Security Funds for the Purposes of Federal Decree-Law No. 47 of 2022 is referred to as "Ministerial Decision No.115 of 2023";
- Ministerial Decision No. 116 of 2023 on the Participation Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 116 of 2023";
- Ministerial Decision No. 120 of 2023 on the Adjustments Under the Transitional Rules for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 120 of 2023";
- Ministerial Decision No. 125 of 2023 on Tax Group for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 125 of 2023";
- Ministerial Decision No. 126 of 2023 on the General Interest Deduction Limitation Rule for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 126 of 2023";
- Ministerial Decision No. 127 of 2023 on Unincorporated Partnership, Foreign Partnership and Family Foundation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No.127 of 2023";
- Ministerial Decision No. 132 of 2023 on Transfers Within a Qualifying Group for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 132 of 2023";
- Ministerial Decision No. 133 of 2023 on Business Restructuring Relief for the Purposes of Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 133 of 2023";
- Ministerial Decision No.134 of 2023 on the General Rules for Determining Taxable Income for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 134 of 2023";

- Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities for the Purposes of Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 139 of 2023";
- Federal Tax Authority Decision No. 5 of 2023 on Conditions for Change in Tax Period for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "FTA Decision No. 5 of 2023";
- Federal Tax Authority Decision No. 6 of 2023 on Tax Deregistration Timeline for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "FTA Decision No. 6 of 2023"; and
- Federal Tax Authority Decision No. 7 of 2023 on Provisions of Exemption from Corporate Tax for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "FTA Decision No. 7 of 2023".

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the provisions relating to the Corporate Tax regime in the UAE. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each person's own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Getting Additional Help

3.1. Government support channels

The UAE government has made a range of resources available to help the public understand and comply with the Corporate Tax regime. Readers of this guide may find it helpful to refer to the following sources for additional information:

- Ministry of Finance website
- FTA website
- Corporate Tax Law
- Explanatory Guide on Corporate Tax Law
- Corporate Tax FAQs
- Corporate Tax Law Implementing Decisions on the Ministry of Finance and FTA websites
- Corporate Tax FTA Decisions on the FTA website

4. What is Corporate Tax?

4.1. Chapter summary

This chapter sets out a brief overview of the core principles of Corporate Tax and how the Corporate Tax system functions as a whole. This provides a foundation for the information given in the following chapters.

4.2. What is Corporate Tax?

Corporate Tax is a form of direct tax levied on the Taxable Income of corporations and other Businesses. Corporate Tax is sometimes also referred to as 'Corporate Income Tax' or 'Business Profits Tax' in other jurisdictions.

Corporate Tax is charged on a wide range of Business profits, and those subject to Corporate Tax in the UAE include not only companies but also certain partnerships, unincorporated entities and natural persons conducting a Business or Business Activities.

Corporate Tax is paid on an annual basis with reference to the Tax Period of a Taxable Person. A Tax Period is the Financial Year or part thereof for which a Tax Return needs to be filed. The Financial Year is the period of 12 months for which Financial Statements are prepared.[1] Payment of Corporate Tax is due within nine months from the end of the applicable Tax Period.[2]

The UAE Corporate Tax regime applies to Tax Periods commencing on or after 1 June 2023.[3]

4.3. How does Corporate Tax work?

Taxable Persons are subject to Corporate Tax on their Taxable Income - this is their Accounting Income with certain adjustments made for Corporate Tax purposes.

Generally, Corporate Tax is imposed on Taxable Income at the following rates:

- 0% (zero percent) on the portion of the Taxable Income not exceeding AED 375,000.

[1] Article 57 of the Corporate Tax Law.
[2] Article 48 of the Corporate Tax Law.
[3] Article 69 of the Corporate Tax Law.

- 9% (nine percent) on the portion of the Taxable Income exceeding AED 375,000.

Example 1: Calculation of Corporate Tax

A LLC is a company incorporated in the UAE. In the Tax Period ending March 2025, A LLC generated Revenue of AED 8 million and incurred expenses of AED 2 million, resulting in a net profit of AED 6 million per its Financial Statements.

A LLC's Taxable Income for its Tax Period will be the accounting net profit (or loss) of the business, after making tax adjustments for certain items specified in the Corporate Tax Law. For the purposes of this example, A LLC does not need to make any tax adjustments, thus its Taxable Income will be AED 6 million for the Tax Period.

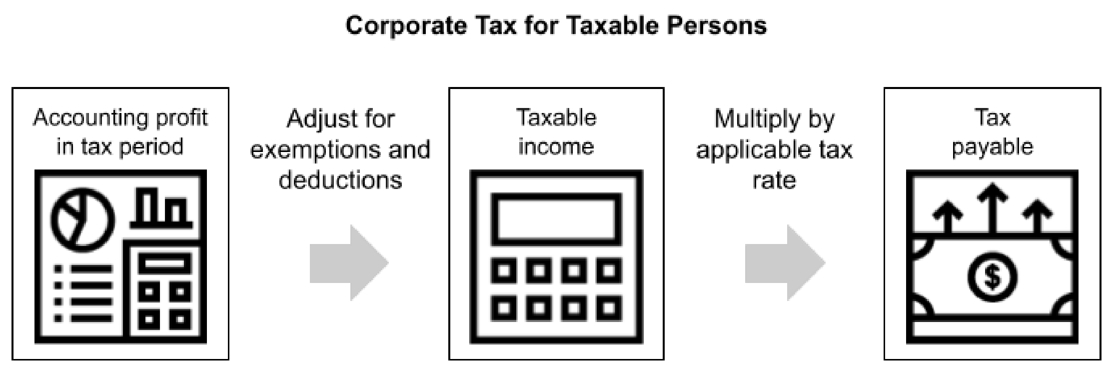
A LLC's Corporate Tax liability will be calculated as follows:

- The first AED 375,000 of Taxable Income will be subject to Corporate Tax at 0%: AED 375,000 x 0% = AED0

- The portion of the Taxable income exceeding AED 375,000 will be subject to Corporate Tax at 9%: (AED 6,000,000 - AED 375,000) x 9% = AED 5,625,000 x 9% = AED 506,250

A LLC's UAE Corporate Tax liability for the Tax Period will be AED 506,250.

In order to calculate its UAE Corporate Tax payable, A LLC will need to consider if there are any available tax credits to reduce its UAE Corporate Tax liability (see Section 9.3).



Specific rules cover the identification of Taxable Persons subject to Corporate Tax (see Section 5). The rules cover all companies and other legal entities (i.e. juridical persons) as well as individuals (i.e. natural persons) conducting a Business or Business Activity. As the UAE does not have an equivalent tax on the income of natural persons, this approach is intended to provide for a level playing field on the tax treatment between incorporated businesses and unincorporated businesses undertaken by natural persons.

Employment income and other specific types of income earned by natural persons based in the UAE and natural persons based in foreign jurisdictions, are not within the scope of the UAE Corporate Tax regime (see Section 5.3.3).

Both incorporated and unincorporated businesses, including businesses operated by natural persons, can potentially benefit from small business relief if they meet the relevant requirements. This means that these businesses would not need to pay Corporate Tax (see Section 7.2) but they will be required to meet the compliance obligations provided for in the Corporate Tax Law for each Tax Period. This includes the obligation to register for Corporate Tax purposes, file a Tax Return and retain all relevant documents and records to support their Corporate Tax filings.

Provided that the relevant conditions are met, certain categories of Persons, known as Exempt Persons, are exempt from Corporate Tax, notably:

- Persons that are part of, or operate under the ownership and control of, the Federal Government or the Local Governments of the UAE;
- certain entities that are established for specific public welfare or social aims, such as certain public benefit entities;
- oil and gas and other Natural Resource activities that are taxed at the Emirate-level; and
- certain pensions or social security funds and investment funds.

Further details on Exempt Persons and the relevant qualifying conditions can be found in Section 5.7.

Taxable Persons must calculate their Taxable Income on an annual basis using their accounting net profit or loss for the relevant period as set out in their Financial Statements (i.e. their Accounting Income) as the starting point for this calculation. A number of adjustments should be applied to exclude specific Exempt Income, or to limit the amount of deductions available on expenditure (see Chapter 6).

The Corporate Tax regime also provides for the carry-forward and transfer of available Tax Losses (see Section 6.7), and requires Taxable Persons to specifically account for transactions with Related Parties and Connected Persons using the arm's length principle (see Section 6.6).

A 0% rate of Corporate Tax applies to Qualifying Income earned by certain Free Zone entities (known as Qualifying Free Zone Persons). Further details can be found in Section 5.5 and Section 9.2.2.

The Corporate Tax regime also includes targeted reliefs designed to allow certain intra-group transactions to be undertaken without giving rise to a Corporate Tax liability. These are set out in Chapter 7.

Where Persons conduct Business together, either as groups of companies related by ownership, or as partnerships, special rules may apply for the calculation and payment of Corporate Tax. These are set out in Chapter 8.

Taxable Persons are required to self-assess their Corporate Tax liabilities by submitting a Tax Return on an annual basis and to pay the Corporate Tax liability to the FTA. Tax Returns must be filed and payments made within nine months from the end of the Taxable Person's Tax Period (see Section 10.5).

Other key aspects of the administration of Corporate Tax are set out in Chapter 10.

5. Who is subject to Corporate Tax?

5.1. Chapter summary

This chapter provides an overview of who is subject to Corporate Tax and who is specifically exempted. The chapter sets out the types of Persons that are subject to Corporate Tax and the activities that are within scope of the tax. It covers the main exemptions that apply to certain types of entities, such as Government Entities or Qualifying Public Benefit Entities. It also sets out treatments that apply to Free Zone businesses, and Family Foundations.

5.2. Taxable Persons

Persons subject to Corporate Tax are known as Taxable Persons.[4] Taxable Persons are either Resident Persons or Non-Resident Persons as defined under Article 11 of the Corporate Tax Law.[5]

In broad terms, Corporate Tax applies to:

- Juridical persons (such as corporations) that are incorporated in the UAE or foreign juridical persons that are effectively managed and controlled in the UAE (see Section 5.3.1);[6]
- Non-resident juridical persons (foreign juridical entities) that have a Permanent Establishment in the UAE (see Section 5.4.1);[7]
- Non-Resident Persons deriving State Sourced Income (see Section 5.4.3);[8]
- Non-resident juridical persons that have a 'nexus' in the UAE by virtue of earning income from Immovable Property in the UAE (see Section 5.4.4);[9] and
- Natural persons who conduct Business or Business Activities in the UAE and have a Turnover of over AED 1,000,000 per Gregorian calendar year from such Business or Business Activities (see Section 5.3.3).[10]

[4] Article 1 of the Corporate Tax Law.
[5] Article 11(2) of the Corporate Tax Law.
[6] Article 11(3)(a) and 11(3)(b) of the Corporate Tax Law.
[7] Article 11(4)(a) of the Corporate Tax Law.
[8] Article 11(4)(b) of the Corporate Tax Law.
[9] Article 11(4)(c) of the Corporate Tax Law and Cabinet Decision No. 56 of 2023.
[10] Article 11(3)(c) and 11(6) of the Corporate Tax Law and Article 2(1) of Cabinet Decision No. 49 of 2023.

5.3. Resident Taxable Persons

There are specific rules for determining whether natural persons and juridical persons are Resident Persons for Corporate Tax purposes.

5.3.1. Resident juridical persons

A juridical person refers to an entity incorporated or otherwise established or recognised under the laws and regulations of the UAE, or under the laws of a foreign jurisdiction, that has a legal personality separate from its founders, owners and directors. Separate legal personality means that the entity has its own rights, obligations and liabilities distinct from its founders or owners.

A juridical person is a Resident Person for the purposes of Corporate Tax if it is either:

- incorporated or otherwise established or recognised in the UAE (this includes juridical persons incorporated, established or otherwise registered in Free Zones);[11] or
- incorporated or otherwise established or recognised outside the UAE but is effectively managed and controlled in the UAE.[12]

Examples of juridical persons that are incorporated or otherwise established or recognised in the UAE include Joint Liability Companies, Limited Partnership Companies, Limited Liability Companies (LLCs), Public Joint Stock Companies (PJSCs), Private Joint Stock Companies (PJSCs), foundations, trusts that have been established under the UAE mainland legislation, and other entity forms that have a separate legal personality under the applicable UAE mainland legislation or Free Zone regulations. UAE branches of a domestic or foreign juridical person are regarded as an extension of their head office and, therefore, are not considered separate juridical persons.[13]

5.3.2. Effective management and control

Determining residence for Corporate Tax purposes solely on the basis of place of incorporation may not reflect the economic reality of where the business is actually managed or controlled. Accordingly, determination of residence for Corporate Tax purposes will take into account whether the juridical person incorporated or otherwise recognised in a foreign jurisdiction is effectively managed and controlled in the UAE,

[11] Article 11(3)(a) of the Corporate Tax Law.
[12] Article 11(3)(b) of the Corporate Tax Law.
[13] Article 11(5) of the Corporate Tax Law.

in line with tax regimes in other countries that apply the concepts of “central management and control” and “place of effective management” rules for this same purpose.

Whether a juridical person is effectively managed and controlled in the UAE needs to be determined with regard to the specific facts and circumstances of the juridical person and its activities. A key factor is where key management and commercial decisions that are necessary for the conduct of the juridical person’s Business are in substance made. This could be the place where the highest level of decisions that are essential for the management of the juridical person are made, or where decisions that play a leading part in the management of a company from an economic and functional perspective are made. Typically, this will be where a company’s board of directors (or any equivalent body for other types of juridical persons) makes these decisions.

However, depending on the specific facts and circumstances, other factors such as where the controlling shareholders make decisions, the location of another Person or body to which the board has delegated its decision-making powers, or the location where the board members or executive management of the juridical person reside may also need to be considered. It is important to note that there can only be one place of effective management and control at any one time.

For a juridical person to be considered effectively managed and controlled in the UAE, it is not necessary for its board members (or equivalent) to be resident in the UAE.

Example 2: Juridical person effectively managed and controlled in the UAE

C Ltd is a limited company registered in a foreign jurisdiction.

C Ltd is mainly owned by an individual who resides in the UAE (Mr D). C Ltd’s annual board meetings are held outside of the UAE, in the country where the company is registered. These meetings are attended by local directors whose only involvement in the company is attending such meetings.

The local directors do not receive information that would enable them to reasonably reach commercial decisions and they always follow the suggestions of Mr D. Mr D provides these suggestions remotely from his home in the UAE.

Based on these facts, it is likely that C Ltd is effectively managed and controlled from the UAE, as the local directors simply agree with all suggestions made by Mr D, and Mr D provides such suggestions from the UAE.

5.3.3. Resident natural persons

Residence for Corporate Tax purposes is not determined by where a natural person resides or is domiciled. For natural persons, residence for Corporate Tax purposes is concerned with the person's business connection to the UAE. It is this connection, rather than other factors such as nationality or where a person is physically present, that gives the UAE the powers to levy Corporate Tax on an individual's Business or Business Activity.

This approach means, for example, that natural persons conducting Businesses or Business Activities in the UAE are Resident Persons for Corporate Tax irrespective of their nationality, whether they hold a residency visa in the UAE, whether their income is sourced in the UAE or from abroad, or how much time they may physically spend in the UAE.

Specifically, Corporate Tax only applies to natural persons who are engaged in Businesses or Business Activities in the UAE and earn Turnover from these Businesses or Business Activities in excess of AED 1,000,000 in a Gregorian calendar year.[14] This includes sole establishments and individual partners in Unincorporated Partnerships that conduct a Business or Business Activity in the UAE (see Section 8.2.1). A sole establishment is a trading Business owned by a natural person, where the proprietor is not separate from the Business. This is because of the direct relationship and control of the natural person over the Business and their unlimited liability for the Business' debts and other obligations. In such case the natural person trades in his own name instead of through a separate legal entity.

Business is defined as any economic activity, whether continuous or for a set period of time, conducted by any Person.[15] It is implied in the definition that the activity is conducted with the intention of generating profits, and that some system and organisation exist for the activity conducted. However, a Business or Business Activity does not necessarily need to make a profit.

The definition includes any industrial, commercial, agricultural, vocational, professional or service activity, excavation activity and any other activity of an independent character related to the use of tangible and intangible property. This should be interpreted broadly to include any activity related to the development, sale, production, manufacturing, exploitation, marketing or distribution of physical and intangible properties.

[14] Article 11(3)(c) of the Corporate Tax Law and Article 2(1) of Cabinet Decision No. 49 of 2023.
[15] Article 1 of the Corporate Tax Law.

The term “vocational” is to be interpreted as a skilled craft or trade, and “profession” is an occupation in which skill is applied to the affairs of others to meet their needs. Common examples of professional activities include accountancy, consulting, architecture, medical and legal services.

Whilst Business includes vocational, commercial, industrial and professional activities, it does not include employment, and Corporate Tax does not apply to a natural person’s salary, wages and other employment income. It also does not include income from Personal Investments and Real Estate Investments.[16]

In this regard, Personal Investments are activities that a natural person undertakes in their personal capacity and not through a Licence (or not required to be undertaken through a Licence), and the activities are not considered a commercial business under Federal Decree-Law No. 50 of 2022 issuing the Commercial Transactions Law.[17]

Real Estate Investments are activities undertaken by an individual in relation to the direct or indirect sale, lease, sub-lease and rental of land or real estate property in the UAE that are not conducted through a Licence (or are not required to be conducted through a Licence).[18]

Although a Business is typically carried on continuously and there is repetition of commercial activity, the definition allows for a short-term commercial activity to be considered a Business for Corporate Tax purposes.

For further details on taxable Business or Business Activities for natural Persons, readers are advised to consult Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax.

5.3.4. Impact of Double Taxation Agreements on Resident Taxable Persons

In some cases, due to cross-border activities, a Person may be resident for Corporate Tax purposes in more than one jurisdiction. For example, a company may be incorporated in one jurisdiction but effectively managed and controlled in another. If these criteria are used, as in the UAE, to determine the tax residence of a juridical person, this company would be tax resident in both jurisdictions.

[16] Article 2(2) of Cabinet Decision No. 49 of 2023.
[17] Article 1 of Cabinet Decision No. 49 of 2023.
[18] Article 1 of Cabinet Decision No. 49 of 2023.

In instances where there is an in-force Double Taxation Agreement between the UAE and that other jurisdiction, this agreement will, in general, contain provisions to determine where that Person would be considered as resident. These provisions take precedence over the treatment under the Corporate Tax Law and its implementing decisions.[19]

In general, Double Taxation Agreements include rules to solve dual residence situations for juridical persons either based on the place of effective management criterion or through the mutual agreement procedure.

5.4. Non-Resident Taxable Persons

A juridical person is subject to Corporate Tax if it is not a Resident Person under the conditions above, but either:

- has a Permanent Establishment in the UAE; or[20]
- derives State Sourced Income (subject to a 0% Withholding Tax); or[21]
- earns income from Immovable Property in the UAE.[22]

5.4.1. Non-Resident Person with a Permanent Establishment in the UAE

The concept of a Permanent Establishment is used in tax regimes across the world to determine if and when a foreign juridical person has established sufficient presence in a country to warrant the direct taxation of their profits in that country. Generally, a country only has the right to tax the profits of a foreign business if that business has a Permanent Establishment in that country.

A Non-Resident Person may have a Permanent Establishment in the UAE if:

- they conduct a Business through a fixed or permanent place in the UAE.[23] This could for example include an office, a factory or a building site lasting for more than 6 months where the Business is wholly or partly conducted; or
- another Person has and habitually exercises an authority to conduct a Business or Business Activity in the UAE on behalf of the Non-Resident Person.[24] This includes situations where the Person concludes contracts in the UAE on behalf of the Non-Resident Person or negotiates contracts without the need for any

[19] Article 66 of the Corporate Tax Law.
[20] Article 11(4)(a) of the Corporate Tax Law.
[21] Article 11(4)(b) of the Corporate Tax Law.
[22] Article 11(4)(c) of the Corporate Tax Law and Article 2(1) of Cabinet Decision No. 56 of 2023.
[23] Article 14(1)(a) of the Corporate Tax Law.
[24] Article 14(1)(b) of the Corporate Tax Law.

material modification by the Non-Resident Person. For example, where a Business regularly sends out sales representatives to the UAE who agree and sign contracts in the UAE.[25]

5.4.2. Preparatory and auxiliary activities

A Non-Resident Person is not considered to have a Permanent Establishment in the UAE if the activities conducted through the fixed place of business are of a preparatory and auxiliary nature.[26] For the purpose of assessing whether the activities of a Non-Resident Person are of a preparatory and auxiliary nature, the mere physical presence of a natural person in the UAE will not automatically create a Permanent Establishment for a Non-Resident Person. The circumstances in which the physical presence of a natural person would not result in a Permanent Establishment include where such presence is a consequence of a temporary and exceptional situation.[27]

The presence of a natural Person in the UAE shall be considered a consequence of a temporary and exceptional situation where all of the following conditions are met:[28]

- The presence of the natural person in the UAE is a consequence of exceptional circumstances of a public or private nature.
- The exceptional circumstances cannot reasonably be predicted by the natural person or the Non-Resident Person.
- The natural person did not express any intention to remain in the UAE when the exceptional circumstances end.
- The Non-Resident Person does not have a Permanent Establishment in the UAE before the occurrence of the exceptional circumstances.
- The Non-Resident Person did not consider that the natural person is creating a Permanent Establishment or deriving income in the UAE as per the tax legislation applicable in other jurisdictions.

5.4.3. Non-Resident Person that derives State Sourced Income

Any Person that is a Non-Resident Person and receives State Sourced Income is subject to Corporate Tax on this income by way of Withholding Tax if the income is not attributable to a Permanent Establishment of the Non-Resident Person in the UAE.[29]

[25] Article 14(5) of the Corporate Tax Law.
[26] Article 14(3)(d) of the Corporate Tax Law.
[27] Article 14(7)(a) of the Corporate Tax Law.
[28] Article 2(1) of Ministerial Decision No. 83 of 2023.
[29] Article 12(3)(b) of the Corporate Tax Law.

Income is considered to be State Sourced if:

- it is derived from a Resident Person;[30] or
- it is derived from a Non-Resident Person in connection with the Non-Resident Person's Permanent Establishment in the UAE;[31] or
- it is derived from activities or contracts performed in the UAE, assets located in the UAE, capital invested, rights used, or services performed or benefitted from in the UAE.[32]

State Sourced Income may include:

- income from the sale of goods in the UAE;[33]
- income from movable or Immovable Property in the UAE;[34] or
- income from the disposal of shares of a Resident Person.[35]

In instances where a Non-Resident Person earns State Sourced Income only and where this income is not attributable to a Permanent Establishment in the UAE, the income is currently subject to a 0% Withholding Tax. Practically, this means no Corporate Tax liability arises in this situation.

5.4.4. Non-resident juridical person that has a nexus in the UAE (derives income from UAE Immovable Property)

Corporate Tax is also applicable when there is a nexus between a Non-Resident juridical person and the UAE. The nexus is the connecting link for Corporate Tax purposes.

Cabinet Decision No. 56 of 2023 specifies that when any Non-Resident juridical person earns income from Immovable Property in the UAE, the Non-Resident juridical person will have a nexus in the UAE.[36] As a result, Non-Resident juridical persons are subject to Corporate Tax on income attributable to the Immovable Property in the UAE.[37]

Immovable Property includes rights over areas of land, buildings, structures, or engineering work permanently attached to land or seabed, or any fixture or equipment

[30] Article 13(1)(a) of the Corporate Tax Law.
[31] Article 13(1)(b) of the Corporate Tax Law.
[32] Article 13(1)(c) of the Corporate Tax Law.
[33] Article 13(2)(a) of the Corporate Tax Law.
[34] Article 13(2)(d) of the Corporate Tax Law.
[35] Article 13(2)(e) of the Corporate Tax Law.
[36] Article 2(1) of Cabinet Decision No. 56 of 2023.
[37] Article 12(3)(c) of the Corporate Tax Law.

which makes up a permanent part of the land or is permanently attached to a building, structure, engineering work or seabed.[38] Taxable Income attributable to Immovable Property includes income derived from a right in rem, sale, disposal, assignment, direct use, letting (including subletting) and any other form of exploitation of Immovable Property.[39]

5.4.5. Impact of Double Taxation Agreements on Non-Resident Taxable Persons

In some situations, related to cross-border activities, double taxation may occur due to the overlap in the taxing rights claimed by different jurisdictions.

The definition of Permanent Establishment in the Corporate Tax Law generally follows the principles provided in Article 5 of the OECD Model Tax Convention on Income and Capital. A Non-Resident Person may need to consider these principles and the relevant provisions of any Double Taxation Agreement between the country of residence of the Non-Resident Person and the UAE, in their assessment of whether they have a Permanent Establishment in the UAE.

If a Non-Resident Person has a Permanent Establishment in the UAE under a specific Double Taxation Agreement, the primary taxing rights on the income earned from the activity of the Permanent Establishment will be allocated to the UAE, as the source State. However, each case will need to be determined considering the nature of the Business of the Non-Resident Person and its own facts and circumstances, as well as the terms of the applicable Double Taxation Agreement.

In instances where the terms of a Double Taxation Agreement are inconsistent with the provisions of the Corporate Tax Law, the terms of the Double Taxation Agreement would prevail.[40]

5.5. Free Zone Persons

When a Free Zone Person meets certain conditions, it will be considered as a Qualifying Free Zone Person and is eligible for a 0% Corporate Tax rate on its Qualifying Income.[41] The 0% Corporate Tax rate is available to Qualifying Free Zone

[38] Article 1 of Cabinet Decision No. 56 of 2023.
[39] Article 2(2) of Cabinet Decision No. 56 of 2023.
[40] Article 66 of the Corporate Tax Law.
[41] Article 3(2)(a) of the Corporate Tax Law.

Persons until the expiry of the tax incentive period provided for in the legislation of the relevant Free Zone (unless renewed).[42]

In order to be considered as a Qualifying Free Zone Person, a Free Zone Person must meet the following requirements:

- derive Qualifying Income from relevant transactions (see Section 5.5.1);[43]
- maintain adequate substance in the UAE (see Section 5.5.4);[44]
- satisfy the de minimis requirement (see Section 5.5.5);[45]
- have not elected to be subject to Corporate Tax (see Section 5.5.6);[46]
- comply with the transfer pricing rules and documentation requirements under the Corporate Tax Law;[47] and
- prepare and maintain audited Financial Statements for the purposes of the Corporate Tax Law.[48]

The Minister may prescribe additional conditions to be met by a Free Zone Person in order to be considered as a Qualifying Free Zone Person.[49]

For further details on the Free Zone Corporate Tax regime, readers are advised to consult Cabinet Decision No. 55 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person[50] and the Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities.[51]

5.5.1. Qualifying Income

Qualifying Income is the income that can benefit from the 0% Corporate Tax rate.

Unlike ordinary Taxable Persons, Qualifying Free Zone Persons are not entitled to a 0% rate on their first AED 375,000 of Taxable Income that is not considered as Qualifying Income. Therefore, any Taxable Income that is not Qualifying Income will be taxed at the general rate of 9% (see Section 9.2.2).

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42 Article 18(4) of the Corporate Tax Law.
43 Article 18(1)(b) of the Corporate Tax Law and Article 3 of Cabinet Decision No. 55 of 2023.
44 Article 18(1)(a) of the Corporate Tax Law
45 Article 4 of Ministerial Decision No. 139 of 2023.
46 Article 18(1)(c) of the Corporate Tax Law.
47 Article 18(1)(d) of the Corporate Tax Law.
48 Article 5(1)(b) of Ministerial Decision No. 139 of 2023.
49 Article 18(1)(e) of the Corporate Tax Law.
50 Cabinet Decision No. 55 of 2023.
51 Ministerial Decision No. 139 of 2023.

Qualifying Income includes:[52]

- Income derived from transactions with other Free Zone Persons, except for income derived from Excluded Activities;[53]
- Income derived from transactions with any Non-Free Zone Person, domestic and foreign, only in the case of Qualifying Activities that are not Excluded Activities; and
- Any other income where the de minimis requirement is satisfied.

For further details on Qualifying Income, readers are advised to consult Cabinet Decision No. 55 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person and Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities.

5.5.2. Excluded Activities

Qualifying Income does not include income derived from Excluded Activities.[54] The Excluded Activities are listed in Ministerial Decision No. 139 of 2023 Regarding Qualifying Activities and Excluded Activities, and include:[55]

- Transactions with natural persons, except in relation to certain Qualifying Activities;
- Banking, insurance, finance and leasing activities that are subject to the relevant regulatory oversight of the relevant competent authority in the UAE, except for certain exceptions;
- Ownership or exploitation of UAE immovable property, other than Commercial Property located in a Free Zone provided such activity in relation to Immovable Property located in a Free Zone is conducted with other Free Zone Persons;
- Ownership or exploitation of intellectual property assets; and
- Activities that are ancillary (which serve no independent function) to the above activities.

[52] Article 3(1) of Cabinet Decision No. 55 of 2023.
[53] Article 3 of Ministerial Decision No. 139 of 2023.
[54] Article 3(1)(a) and (b) of Cabinet Decision No. 55 of 2023.
[55] Article 3 of Ministerial Decision No. 139 of 2023.

5.5.3. Qualifying Activities

Qualifying Income includes income derived from transactions with Non-Free Zone Persons only in respect of Qualifying Activities.[56] These activities are defined in Ministerial Decision No. 139 of 2023, and include:[57]

- Manufacturing of goods or materials;
- Processing of goods or materials;
- Holding of shares and other securities;
- Ownership, management and operation of Ships;
- Reinsurance services subject to the regulatory oversight of the relevant competent authority in the UAE;
- Fund management services subject to the regulatory oversight by the relevant competent authority in the UAE;
- Wealth and investment management services subject to the regulatory oversight by the relevant competent authority in the UAE;
- Headquarter services to Related Parties;
- Treasury and financing services to Related Parties;
- Financing and leasing of Aircraft, including engines and rotable components;
- Distribution of goods or materials in or from a Designated Zone to a customer that resells such goods or materials, or parts thereof or processes or alters such goods or materials or parts thereof for the purposes of sale or resale;
- Logistics services; and
- Any ancillary activities (which serve no independent function) to the above activities.

5.5.4. Adequate substance requirements

To meet the adequate substance requirements, a Free Zone Person must have their core-income generating activities (e.g. the activities that are of central importance) performed within the Free Zone, these can be undertaken by the Free Zone Person or outsourced to a Related Party or third party who is located in a Free Zone. The Qualifying Free Zone Person must also have adequate supervision over any activities that are outsourced to a Free Zone Related Party or third party.[58]

The Qualifying Free Zone Person (or its outsourced party) must be able to demonstrate that it has adequate staff and assets, and that it incurs adequate operating expenditures within the Free Zone.

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[56] Article 3(1)(b) of Cabinet Decision No. 55 of 2023.

[57] Article 2 of Ministerial Decision No. 139 of 2023.

[58] Article 7 of Cabinet Decision No. 55 of 2023.

As businesses vary, 'adequate substance' is determined on a case-by-case basis, following the test criteria. This may include the number of qualified full-time employees, adequate operating expenditure and physical assets. In any case, the analysis also takes into account the nature and level of activities performed by the Qualifying Free Zone Person, the Qualifying Income earned, and any other relevant facts and circumstances.

5.5.5. The de minimis requirement

For a Free Zone Person to be a Qualifying Free Zone Person, the de minimis requirements must be met.[59]

The de minimis requirements are met where the non-qualifying Revenue in a Tax Period does not exceed the lower of:[60]

- AED 5,000,000; and
- 5% of total Revenue (calculated as total amount of non-qualifying Revenue ÷ total Revenue).

The de minimis requirement allows a Qualifying Free Zone Person to earn a small or incidental amount of non-qualifying Income without being disqualified from the Free Zone Corporate Tax regime.[61] Where the requirement has been met, income that does not fulfil the first two categories of Qualifying Income (see Section 5.5.1) will be treated as Qualifying Income.[62]

The total amount of non-qualifying Revenue as well as the amount of total Revenue (for the second limb of the de minimis requirement) are adjusted for by removing the following Revenues:

- Revenue attributable to a domestic or foreign Permanent Establishment of the Qualifying Free Zone Person;[63] and
- Revenue attributable to the following transactions:
  - Transactions with Non-Free Zone Persons in respect of Commercial Property located in a Free Zone;[64] and

[59] Article 5(1)(a) of Ministerial Decision No. 139 of 2023.
[60] Article 4 of Ministerial Decision No. 139 of 2023.
[61] Article 4 of Cabinet Decision No. 55 of 2023.
[62] Article 3(1)(c) of Cabinet Decision No. 55 of 2023.
[63] Article 4(3)(b) of Cabinet Decision No. 55 of 2023.
[64] Article 4(3)(a)(1) of Cabinet Decision No. 55 of 2023.

- Transactions with any Persons in respect of Immovable Property that is not Commercial Property located in a Free Zone.[65]

5.5.6. Election to be taxed at the general rates of Corporate Tax

A Qualifying Free Zone Person can elect to be taxed at the general rates of Corporate Tax.[66] The election will be effective from either the commencement of the Tax Period in which the election is made, or the commencement of the following Tax Period and for the following four Tax Periods, after which the election can be made again.[67]

In addition, if a Qualifying Free Zone Person fails to meet any of the conditions above at any particular time during a Tax Period, it will cease to be eligible for the 0% Corporate Tax rate from the beginning of that Tax Period and will be taxed at the general rates of Corporate Tax for five Tax Periods starting with the Tax Period in which the conditions have not been met.[68]

A Free Zone Person that makes an election to be taxed at the general rates of Corporate Tax will cease to be, or not become, a Qualifying Free Zone Person, as they no longer satisfy the conditions. As a result, restrictions from applying certain provisions of the Corporate Tax Law will no longer apply. This means, for example, that the Free Zone Person can become a member of a Tax Group or elect for the small business relief subject to meeting the relevant conditions.

Example 3: Excluded Activity

E LLC is a Free Zone Person, and generates all of its income from leasing a property which is not located in a Free Zone. As this is Revenue from an Excluded Activity, this income is not Qualifying Income.

As E LLC only earns non-qualifying Revenue, it will not satisfy the de minimis requirement and, therefore, will not be considered a Qualifying Free Zone Person.

[65] Article 4(3)(a)(2) of Cabinet Decision No. 55 of 2023.
[66] Article 19(1) of the Corporate Tax Law.
[67] Articles 18(1)(c) of the Corporate Tax Law and Article 5(2) of Ministerial Decision No. 139 of 2023.
[68] Article 18(2) of the Corporate Tax Law and Article 5(2) of Ministerial Decision No. 139 of 2023.

Example 4: Qualifying Income

F LLC and G LLC are both Free Zone Persons. F LLC (a Qualifying Free Zone Person) owns a number of warehouses located in a Free Zone.
During the Tax Period, F LLC sells one of its warehouses to G LLC. As the transaction is between two Free Zone Persons, and the sale relates to Commercial Property in a Free Zone, the income earned on the sale is Qualifying Income and is eligible for the 0% Corporate Tax rate subject to meeting the other relevant requirements.

Example 5: De minimis requirements

H LLC is a Free Zone Person that sells vehicles to other Free Zone Persons. During the Tax Period it has a total Revenue of AED 80,000,000. H LLC maintains adequate substance in the Free Zone, has not made an election to be subject to UAE Corporate Tax under the general rates, and complies with the transfer pricing rules and other documentation requirements set out in the Corporate Tax Law.

During the Tax Period, it undertakes a small number of transactions with individuals and earns AED 4,500,000 of Revenue. The remaining AED 75,500,000 meets the requirements to be considered as Qualifying Income.

As transactions with individuals are generally Excluded Activities, and Revenue from these sales exceeded the de minimis threshold of AED 4,000,000 (being the lower of 5% of AED 80,000,000 and AED 5,000,000), H LLC will not be eligible to be a Qualifying Free Zone Person.

5.6. Family Foundations

There are a number of different structures that are used to manage personal wealth and investments for asset protection, succession, philanthropic and other reasons. These include, for example, a contractual trust, a private trust company or a foundation to hold and manage personal assets and investments.

Whilst some of these structures and arrangements are by default treated as fiscally transparent for Corporate Tax purposes, some types of trusts and foundations have a separate legal personality, such as foundations established in ADGM or DIFC. These types of entities are treated the same as any other juridical person, with their income being within the scope of Corporate Tax. Where these types of entities are merely used to hold and manage personal assets and wealth on behalf and for the benefit of beneficiaries who are natural persons, this will result in an inconsistent Corporate Tax treatment compared with if instead the natural persons were to hold and manage the assets directly.

Therefore, entities that are considered as "Family Foundations" for Corporate Tax purposes can, subject to meeting certain conditions, apply to the FTA to be treated as an Unincorporated Partnership (see Section 8.2.1).[69] If the application is approved, the Family Foundation will be treated as tax transparent and the beneficiaries would be seen as directly owning or benefiting from the activities and assets of the Family Foundation. Where the FTA approves this application, the Family Foundation shall be treated as an Unincorporated Partnership effective from the commencement of the Tax Period in which the application is made, or from the commencement of a future Tax Period, or any other date determined by the Authority.

5.7. Exempt Persons

5.7.1. Types of Exempt Persons

Exemptions from Corporate Tax are provided for particular Persons where there are strong public interest and policy justifications for not subjecting them to tax. These Persons are known as "Exempt Persons".[70]

Exempt Persons fall into one of four categories:

- Automatically Exempt Persons: Government Entities;
- Exempt if they notify the Ministry of Finance, and meet relevant conditions: Extractive Businesses and Non-Extractive Natural Resource Businesses;
- Exempt if listed in a Cabinet Decision and meet relevant conditions: Government Controlled Entities and Qualifying Public Benefit Entities; and
- Exempt upon application to, and approval by, the FTA:[71]
    - Public and private pension or social security funds;
    - Qualifying Investment Funds;
    - Juridical persons incorporated in the UAE that are wholly owned and controlled by certain Exempt Persons; and
    - Any other Person as may be determined in a decision issued by the Cabinet at the suggestion of the Minister.

[69] Article 17(1) of the Corporate Tax Law and Article 5 of Ministerial Decision No. 127 of 2023.
[70] Article 4(1) of the Corporate Tax Law.
[71] FTA Decision No. 7 of 2023.

If an Exempt Person no longer meets the criteria for exemption, generally, they cease to be an Exempt Person from the beginning of the Tax Period in which they no longer meet the criteria and will be subject to Corporate Tax on all of their Taxable Income.[72] In certain temporary and unforeseen circumstances, the Person can make an application to the FTA to continue to be treated as an Exempt Person, despite temporarily not meeting the criteria for exemption.[73]

5.7.2. Automatically Exempt Persons

This category covers Government Entities which include the Federal Government, Local Governments, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.

Government Entities are essentially considered administrative bodies that carry out government functions under the control of the UAE Federal Government or Emirate-level Governments. It is internationally common for a government to exempt its own activities from taxation, as those activities are generally conducted as part of their governmental and public duties.

Government Entities are exempt automatically, meaning that they do not have to apply to the FTA for exempt status as long as they meet the necessary requirements.[74]

However, a Government Entity shall be subject to Corporate Tax if it conducts a Business or Business Activity under a Licence issued by a Licensing Authority. Any Business or Business Activity conducted by a Government Entity under a Licence issued by a Licensing Authority shall be treated as an independent Business, and the entity will be subject to Corporate Tax in relation to that licensed Business or Business Activity and will be required to register for Corporate Tax.[75]

5.7.3. Exempt Persons if they notify the Ministry, and meet relevant conditions

This category includes both Extractive Businesses and Non-Extractive Natural Resource Businesses. Where these Businesses meet the relevant conditions, they will be exempt from Corporate Tax.[76] Where an Extractive Business or Non-Extractive

72 Article 4(5) of the Corporate Tax Law.

73 Article 4(6)(b) of the Corporate Tax Law and Articles 2, 3 and 4 of Ministerial Decision No. 105 of 2023.

74 Article 5(1) of the Corporate Tax Law.

75 Article 5(2) of the Corporate Tax Law.

76 Article 7(1) and Article 8(1) of the Corporate Tax Law.

Natural Resource Business conducts an independent Business that is not ancillary to its ordinary business and this Business accounts for more than 5% of their total Revenue, it will be required to register with the FTA for Corporate Tax.[77]

The UAE Constitution considers the Natural Resources in each Emirate to be the public property of that Emirate, and Persons engaged in the extraction and exploitation of Natural Resources are typically subject to some form of Emirate-level taxation. Accordingly, if certain conditions are met, Persons engaged in the Extractive Business and/or Non-Extractive Natural Resource Business are exempt from Corporate Tax.

An Extractive Business involves the activity of exploring, extracting, removing or otherwise producing and exploiting Natural Resources;[78] in the context of the Corporate Tax Law, a Non-Extractive Natural Resource Business involves the steps which take a Natural Resource product from its raw, extracted form to its final point of sale.[79]

The rules for Non-Extractive Natural Resource Businesses are similar to those for Extractive Businesses. In each case, a Person is exempt from Corporate Tax if they:

- have a right, concession or Licence issued by a Local Government to undertake their Extractive Business or Non-Extractive Natural Resource Business;[80]
- are effectively subject to tax under the applicable legislation of an Emirate;[81] and
- have notified the Ministry of Finance of their Exempt Person status and their compliance with the applicable conditions.[82]

A Person is considered effectively subject to tax under the applicable legislation of the Emirate if the Local Government imposes a tax on income or profits, a royalty or revenue tax, or any other form of tax, charge, levy or fiscal measures in respect of such Person's Extractive or Non-Extractive Natural Resource Business.[83]

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77 Article 7(3) and Article 8(3) of the Corporate Tax Law.

78 In this instance, "Natural Resources" are defined as water, oil, gas, coal, naturally formed minerals and other non-renewable, non-living natural resources that may be extracted from the UAE's Territory. This means renewable resources, such as solar energy, wind, animals, and plant materials are not considered "Natural Resources" for the purpose of assessing whether a Person may be exempt from Corporate Tax under Articles 4(1)(c) or 4(1)(d) of the Corporate Tax Law.

79 Article 1 of the Corporate Tax Law.

80 Articles 7(1)(a) and 8(1)(a) of the Corporate Tax Law.

81 Articles 7(1)(b) and 8(1)(c) of the Corporate Tax Law.

82 Articles 7(1)(c) and 8(1)(d) of the Corporate Tax Law.

83 Articles 7(6) and 8(6) of the Corporate Tax Law.

Additionally, a Non-Extractive Natural Resource Business must not derive income from Persons outside of the scope of Corporate Tax (e.g. natural persons who do not undertake a Business or Business Activity).[84] This limits the exemption to Businesses that engage solely in transactions with other businesses, as opposed to with an end customer or consumer.

Thus, if the Person derives income from any person who is not within the scope of the Corporate Tax Law (e.g. natural persons who do not undertake a Business or Business Activity) or from any other Person that is not a business or other organised entity, this exemption from Corporate Tax will not be available.

5.7.4. Exempt if listed in a Cabinet Decision and meet relevant conditions

5.7.4.1. Government Controlled Entities

Government Controlled Entities are juridical persons that are directly or indirectly wholly owned and controlled by one or more Government Entities and are listed in a Cabinet Decision.

Government Controlled Entities need to be wholly owned and controlled by a Government Entity. Such entities may be set up where, for reasons of accountability or management, these entities need to be legally separated from the Government Entity.

A Mandated Activity is any activity conducted by a Government Controlled Entity in accordance with the legal instrument establishing or regulating the entity, that is specified in a decision issued by the Cabinet. Not all activities of a Government Controlled Entity would automatically be considered a Mandated Activity. If a Government Controlled Entity conducts Business or Business Activities that is not its mandated activities, it shall be subject Corporate Tax on those Business or Business Activities.

5.7.4.2. Qualifying Public Benefit Entities

Qualifying Public Benefit Entities that meet the necessary requirements can apply to the Ministry to be listed in a Cabinet Decision and be exempt from Corporate Tax. Cabinet Decision No. 37 of 2023 has been published and lists all entities considered as Qualifying Public Benefit Entities.

[84] Article 8(1)(b) of the Corporate Tax Law.

Qualifying Public Benefit Entities play a critical role in the social and cultural fabric of the UAE. In recognition of this, these entities can be exempt from Corporate Tax, provided they meet certain conditions.

In order to be exempt from Corporate Tax, public benefit entities must be established and operated either:

- Exclusively for a public benefit activity. The Corporate Tax Law sets out a non-exhaustive list of 'worthy purpose categories' that may entitle a public benefit entity to this exemption. The categories are umbrella terms that would cover any related public benefit activities: religious, charitable, scientific, artistic, cultural, athletic, educational, healthcare, environmental, humanitarian, animal protection or other similar purposes;[85] or
- As a professional entity, chamber of commerce, or similar entity operated exclusively for the promotion of social welfare or public benefit.[86]

Additionally, in order to be exempt from Corporate Tax, the entity must:

- Not conduct a Business or Business Activity, except for activities which are directly related to the entity's charitable or public benefit purpose;[87]
- Use its income and assets solely for the purposes for which it was established, or as payment for necessary and reasonable expenditure;[88] and
- Not use any of its income or assets for the personal benefit of its shareholders, members, trustees, founders or settlors (except where its shareholders, members, trustees, founders or settlors are Qualifying Public Benefit Entities, Government Entities or Government Controlled Entities).[89]

If a public benefit entity meets these conditions, it will need to apply to the Ministry of Finance to be listed in a Cabinet Decision No. 37 of 2023 Regarding the Qualifying Public Benefit Entities and become a Qualifying Public Benefit Entity. A Qualifying Public Benefit Entity will be exempt from Corporate Tax from the beginning of the Tax Period in which it is listed in a relevant Cabinet Decision.[90]

For the purposes of monitoring compliance with the exemption requirements, the FTA may request any relevant information or records from a Qualifying Public Benefit Entity

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[85] Article 9(1)(a)(1) of the Corporate Tax Law.
[86] Article 9(1)(a)(2) of the Corporate Tax Law.
[87] Article 9(1)(b) of the Corporate Tax Law.
[88] Article 9(1)(c) of the Corporate Tax Law.
[89] Article 9(1)(d) of the Corporate Tax Law.
[90] Article 9(2) of the Corporate Tax Law.

to verify that the entity continues to meet the relevant conditions to be exempt from Corporate Tax.[91] The information requested must be provided within the timeline specified by the FTA[92] and may include, for example, books and records to demonstrate that the resources of the Qualifying Public Benefit Entity were used only for its stated public benefit purpose, copies of agreements entered into by the Qualifying Public Benefit Entity, and details of its employees, officers and fiduciaries. The list of Qualifying Public Benefit Entities will be updated periodically, if needed, to add or remove entities from the existing list.[93]

For further details on Qualifying Public Benefit Entities, readers are advised to consult Cabinet Decision No. 37 of 2023 on Qualifying Public Benefit Entities.[94]

5.7.5. Exempt Persons upon application to the FTA

The following Persons are exempt from Corporate Tax where an application has been approved by the FTA, demonstrating that they meet the necessary requirements:[95]

- A public pension fund or social security fund, or a private pension fund or social security fund that is subject to regulatory oversight of the competent authority in the UAE and meets certain conditions;[96]
- A Qualifying Investment Fund,[97] and
- A juridical person incorporated in the UAE that is wholly owned (directly or indirectly) and controlled by the following Exempt Person:[98]
  - a Government Entity,
  - a Government Controlled Entity,
  - a Qualifying Investment Fund that meets the relevant conditions specified in Cabinet Decision No. 81 of 2023;
  - a public pension fund or social security fund; or
  - a private pension, fund or social security fund that meets the relevant conditions specified in Ministerial Decision No. 115 of 2023.

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[91] Article 9(3) of the Corporate Tax Law.
[92] Article 9(3) of the Corporate Tax Law.
[93] Article 3 of Cabinet Decision No. 37 of 2023.
[94] Cabinet Decision No. 37 of 2023.
[95] Article 4(3) of the Corporate Tax Law and FTA Decision No. 7 of 2023.
[96] Article 4(1)(g) of the Corporate Tax Law and Ministerial Decision No. 115 of 2023.
[97] Article 4(1)(f) of the Corporate Tax Law.
[98] Article 4(1)(g) of the Corporate Tax Law.

5.7.5.1. Public pension funds and social security funds

Public pension funds and social security funds are typically initiated, sponsored and governed by a Federal or Local Government Entity. However, as the entitlement to receive the benefits from these funds and any surplus assets of the fund normally rests with the beneficiaries, they are not typically considered to be wholly owned and controlled by the Government Entity which oversees them.

Recognising their importance, public pension funds and social security funds can make an application to the FTA to be exempt from Corporate Tax.

5.7.5.2. Private pension and social security funds

The same Exempt Person status may be available to certain private pension funds or social security funds that meet the relevant conditions following an application to and approval by the FTA to be exempt from Corporate Tax.[99]

To be eligible for exemption from Corporate Tax, these private pension funds and social security funds need to be subject to regulatory oversight of a competent authority in the UAE, and must have a pool of assets that have been designated as "pension plan assets" or "fund assets" by law or a contract governing the establishment and operation of the funds.[100]

These assets must be solely used to finance the pension plan benefits or end of service benefit.[101]

Additionally, the plan members/beneficiaries must have a right or a contractual claim or entitlement to the assets or earnings of the fund.[102]

The fund must have an Auditor, which is required to confirm annually that the requirements for the fund to be exempt have been complied with.[103]

Income received by the fund can only come from:[104]

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[99] Article 4(1)(g) of the Corporate Tax Law.
[100] Article 4(1)(g) of the Corporate Tax Law and Articles 2(1) and 3(1) of Ministerial Decision No. 115 of 2023.
[101] Articles 2(1) and 3(1) of Ministerial Decision No. 115 of 2023.
[102] Article 2(2) of Ministerial Decision No. 115 of 2023.
[103] Articles 2(4) and 3(3) of Ministerial Decision No. 115 of 2023.
[104] Articles 2(3), 3(2) and 4 of Ministerial Decision No. 115 of 2023.

- investments or deposits held solely for the benefit of the fund and the investments do not constitute a Business operated by the fund;
- underwriting commissions charged for the fund;
- rebates given to fund managers that are not considered payment for their services; or
- any other income earned through investments for the benefit of plan members or beneficiaries.

For further details on how private pension funds or social security funds may be exempt from Corporate Tax, readers are advised to consult Ministerial Decision No. 115 of 2023 on Private Pension Funds and Private Social Security Funds.

5.7.5.3. Qualifying Investment funds

The UAE is a leading asset and wealth management hub, and offers a range of investment fund regimes and fund vehicles that cater to a wide variety of fund manager and investor requirements.

Whilst there are various structures that collective investment funds may take, the term 'investment fund' refers to a contractual arrangement or legal entity whose primary purpose is to pool investor funds and invest such funds in accordance with a defined investment policy.

Regardless of the type of investment fund, the Corporate Tax Law seeks to ensure the tax neutrality of investment funds so that investors, whether domestic or foreign, are in the same or a similar tax position as if they had invested directly in the underlying assets of the fund. In recognition of the neutrality principle, an investment fund that meets the relevant conditions can make an application to the FTA for exemption from Corporate Tax as a Qualifying Investment Fund.[105]

In order to qualify for exemption, the investment fund must meet all of the following conditions:

- The fund or its manager must be subject to the regulatory oversight of a UAE or foreign competent authority;[106]
- Interests in the fund must be traded on a Recognised Stock Exchange, or must be marketed and made available sufficiently widely to investors;[107] and

[105] Article 10(1) of the Corporate Tax Law.
[106] Article 10(1)(a) of the Corporate Tax Law.
[107] Article 10(1)(b) of the Corporate Tax Law.

- The main or principal purpose of the fund is not to avoid Corporate Tax.[108]

In addition, depending on the types of investment funds, readers are advised to consult on the additional conditions specified in Cabinet Decision No. 81 of 2023 On Conditions for Qualifying Investment Funds.

5.7.6. Registration and record keeping obligations of Exempt Persons

There is no requirement for Government Entities, Government Controlled Entities, Extractive Businesses and Non-Extractive Natural Resource Businesses to register with the FTA for Corporate Tax purposes, if they do not have a Business or Business Activity that is subject to Corporate Tax.[109] However, Exempt Persons are required to maintain records which evidence their exempt status for 7 years from the end of the Tax Period to which they relate.[110] This includes any information, accounts, documents and records to enable the Exempt Person's status to be readily ascertained by the FTA.

Although ordinarily exempt, Government Entities, Government Controlled Entities, Persons engaged in Extractive Businesses that meet the conditions under Article 7 of the Corporate Tax Law, and Persons engaged in Non-Extractive Natural Resource Businesses that meet the conditions under Article 8 of the Corporate Tax Law, may sometimes conduct Business that is within the scope of Corporate Tax.

For example, this occurs when a Government Entity has a Licence to conduct a commercial activity in its own name.[111] This could be, for example, in order to enter into partnership with a private sector Business to develop infrastructure, or in order to sell goods or services. These licensed activities are treated as if they are an independent Business and, insofar as the relevant taxable Business Activity is concerned, the Exempt Person will be treated as if they were a Taxable Person and subject to the obligations set out in the Corporate Tax Law, including, for example, to register for Corporate Tax and file a Tax Return in relation to their taxable Business or Business Activity.[112]

[108] Article 10(1)(c) of the Corporate Tax Law.
[109] Article 2(1) of Ministerial Decision No. 43 of 2023.
[110] Article 56(2) of the Corporate Tax Law.
[111] Article 5(2) of the Corporate Tax Law.
[112] Articles 5(3) and 5(4) of the Corporate Tax Law.

Example 6: Government Entity conducting independent Business

A Federal Government Authority, which is a Government Entity and Exempt Person for Corporate Tax purposes, offers tours of its offices to the public on Tuesdays and Wednesdays. The Authority charges an admission fee for these tours and has been issued with a Licence to conduct this Business. This is the only Business conducted by the Authority.

As the Authority is conducting a Business under a Licence, the Authority will be treated as a Taxable Person in relation to this Business only. The Authority must maintain Financial Statements and calculate the Taxable Income of the Business as if it were a separate and independent Business.

This does not impact the exempt status of the Authority and, therefore, it is not subject to Corporate Tax on any of its other income derived from its non-licensed activities that are an extension or part of the Government's sovereign and public functions.

6. What is subject to Corporate Tax?

6.1. Chapter summary

This chapter introduces the key concept of Taxable Income and explains how it is calculated. It provides details on exempt forms of income, allowable deductions and reliefs and the adjustments needed to determine the final Taxable Income amount. It also includes a description of transactions and arrangements between Related Parties and Connected Persons, including an explanation of the arm's length principle and the application of transfer pricing rules. This chapter also covers the treatment of Tax Losses and transitional rules.

6.2. Taxable Income

All tax laws define what is subject to tax, known as the tax base. For Corporate Tax purposes, the tax base is a Taxable Person's Taxable Income. The Taxable income is determined as follows:

- Resident Persons are subject to Corporate Tax on their income from both inside and outside the UAE.
- Non-Resident Persons with a Permanent Establishment or a nexus in the UAE are subject to Corporate Tax on income attributable to that Permanent Establishment or nexus. If the Non-Resident does not have a Permanent Establishment or a nexus in the UAE but derives income from the UAE, that income would be subject to withholding tax at the rate of 0%.
- Natural persons are only subject to Corporate Tax on the Taxable Income of their Business or Business Activity derived from the UAE, or from outside the UAE if it is connected to the Business or Business Activity being carried out in the UAE.

Taxable Income is determined by applying the adjustments set out in Section 6.2.2 to a Taxable Person's annual Accounting Income, which should be taken from the Financial Statements that are produced in accordance with accepted accounting standards. Accounting standards that are accepted in the UAE for Corporate Tax purposes are the International Financial Reporting Standards (IFRS), or IFRS for small and medium-sized entities (IFRS for SMEs) for a Taxable Person with Revenue of AED 50,000,000 or less in the relevant Tax Period.[113]

For those that already maintain accepted Financial Statements, these can be used in calculating Taxable Income and, provided evidence is maintained regarding any

[113] Article 20(1) of the Corporate Tax Law and Article 4 of Ministerial Decision No. 114 of 2023.

adjustments made, generally, there is no need to maintain two sets of records. This limits administrative burdens and ensures consistency in reporting.

For some businesses, becoming subject to Corporate Tax may involve new requirements to maintain Financial Statements, although there are certain administrative simplifications to support these businesses and manage such burdens. For example, eligible businesses may benefit from small business relief, meaning they do not need to calculate their Taxable Income and have reduced record keeping requirements (see Section 7.2).[114]

Taxable Persons can prepare Financial Statements using the Cash Basis of Accounting rather than the Accrual Basis of Accounting if their Revenue does not exceed AED 3,000,000 for the relevant Tax Period.[115] Businesses may also be able to apply to the FTA to make use of the Cash Basis of Accounting rather than the Accrual Basis of Accounting in exceptional circumstances.[116]

6.2.1. Tax Period

A Taxable Person's (other than a natural person) Tax Period is their Financial Year, or part thereof, for which a Tax Return is required to be filed.[117] This is usually the 12 month period for which they prepare their Financial Statements. If the Taxable Person does not prepare Financial Statements, their Financial Year will be the Gregorian calendar year (i.e. 1 January - 31 December).[118] The Tax Period of a Taxable Person which is a natural person is always the Gregorian calendar year.

If a Taxable Person wishes to change their Tax Period, they can make an application to the FTA to change the start and end date of their Tax Period.[119] This can be particularly relevant for Taxable Persons (whether incorporated in the UAE or elsewhere) that form part of a multinational group to avoid having to prepare two sets of accounts based on different periods.

For further details on change in Tax Period, readers are advised to consult FTA Decision No. 5 of 2023 on Conditions for Change in Tax Period.

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[114] Article 21 of the Corporate Tax Law.
[115] Article 2(1) of Ministerial Decision No. 114 of 2023.
[116] Article 2(2) of Ministerial Decision No. 114 of 2023.
[117] Article 57(1) of the Corporate Tax Law.
[118] Article 57(2) of the Corporate Tax Law.
[119] Article 58 of the Corporate Tax Law.

6.2.2. Adjustments

The following adjustments should be considered in relation to a Taxable Person's Accounting Income to determine their Taxable Income:

- Unrealised gains or losses;[120]
- Exempt Income;[121]
- Deductions;[122]
- Reliefs for specific transaction types;[123]
- Transfer pricing adjustments relating to transactions between Related Parties or Connected Persons;[124] and
- Tax Losses.[125]

Further detail on each of these adjustments is provided below.

Other adjustments may be required in other specific cases, such as when determining the Taxable Income in relation to:

- Transfers within a Qualifying Group,
- Claiming business restructuring relief, and
- A partner in an Unincorporated Partnership.[126]

6.3. Unrealised gains and losses

It is common for assets or liabilities held by a Business to change in value for accounting purposes even where no actual transactions have taken place. For example, assets on the balance sheet may be revalued, or holdings of foreign currencies or loan liabilities denominated in a foreign currency may fluctuate with exchange rates.

As the value of an asset or liability changes, gains or losses could arise even where there has been no actual disposal or transfer (i.e. "realisation") of the asset or liability. Thus, where an asset has appreciated (i.e. increased in value) without being realised (e.g. sold), a Taxable Person could face potential tax liabilities despite receiving no

[120] Article 20(2)(a) of the Corporate Tax Law.
[121] Article 20(2)(b) of the Corporate Tax Law.
[122] Article 20(2)(d) of the Corporate Tax Law.
[123] Article 20(2)(c) of the Corporate Tax Law.
[124] Article 20(2)(e) of the Corporate Tax Law.
[125] Article 20(2)(f) of the Corporate Tax Law.
[126] Article 6 of Ministerial Decision No. 134 of 2023.

cash payment that could be used to fund the tax liability. A similar (but opposite) consideration also arises in relation to the Taxable Person's liabilities.

Taxable Persons are required to include any realised or unrealised gains and losses reported in the Financial Statements in the calculation of their Taxable Income, if they would not subsequently be recognised in their income statement.[127] This is unless they make the election to use the realisation basis as outlined in Section 6.3.1.

6.3.1. Election to use the Realisation Basis

For the purpose of calculating their Taxable Income, businesses who prepare their Financial Statements using the Accrual Basis of Accounting may elect to take into account gains and losses on a realisation basis.[128] Broadly, this election can be made either in relation to all assets and liabilities that are subject to fair value or impairment accounting under the applicable accounting standards (i.e. IFRS or IFRS for SMEs), or just those that are classified as capital under IFRS or IFRS for SMEs.[129]

Where the election has been made, the Taxable Person must exclude any unrealised gains and losses when the value of a non-Financial Asset changes.[130]

Additionally, where the election has been made, the Taxable Person will also exclude any change in the value of a liability or a Financial Asset when calculating gains or losses, unless they are calculating the gain or the loss upon the realisation of the liability or the Financial Asset.[131]

Upon realisation of the asset or liability, the Taxable Person will need to include any amounts that were not previously taken into account for Corporate Tax purposes as a result of the adjustments mentioned above.[132]

Realisation includes selling or disposing of the asset or liability, transferring it, settling it, or writing it off in accordance with the accounting standards applied by the Taxable Person (i.e. IFRS or IFRS for SMEs).[133]

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[127] Article 2(1) of Ministerial Decision No. 134 of 2023.
[128] Article 8(1) of Ministerial Decision No. 134 of 2023.
[129] Article 20(3) of the Corporate Tax Law.
[130] Articles 2(3)(a) and 2(4)(a) of Ministerial Decision No. 134 of 2023.
[131] Articles 2(3)(b) and 2(4)(b) of Ministerial Decision No. 134 of 2023.
[132] Articles 2(3)(c) and 2(4)(c) of Ministerial Decision No. 134 of 2023.
[133] Article 9(2) of Ministerial Decision No. 134 of 2023.

The decision to make, or not make, an election to apply the realisation basis must be made by the Taxable Person during their first Tax Period, and will be deemed irrevocable except under exceptional circumstances and pursuant to approval by the FTA.[134] If the Taxable Person does not make the election to apply the realisation basis in their first Tax Period then this will be considered an irrevocable election in itself.

Example 7: Fair value gain on land

During the Financial Year ending 31 December 2025, C LLC, a UAE resident company, recognised a revaluation gain in its Financial Statements of AED 10,000,000 in respect of some land which is measured at fair value. The original cost of the land was AED 50,000,000 and following the revaluation the net book value of the land is AED 60,000,000. The land was not sold at the end of the Tax Period and, therefore, the revaluation gain is considered 'unrealised'.

If no election is made, C LLC would be subject to tax on the unrealised gain of AED 10,000,000 in relation to the Tax Period ending on 31 December 2025. However, if C LLC elects to apply the realisation basis in respect of all assets and liabilities that are subject to fair value or impairment accounting, then the company would not have to include the revaluation gain of AED 10,000,000 when calculating their Taxable Income for this Tax Period.

Example 8: Loss below original cost

During the Financial Year ending 31 December 2025, S LLC, a UAE resident company, recognised a revaluation loss in its Financial Statements in respect of an asset measured at fair value. The original cost of the asset was AED 250,000, and following the revaluation the net book value of the asset is AED 200,000.

The asset has not been sold at the end of the Tax Period. The revaluation loss of AED 50,000 is considered 'unrealised'.

6.4. Exempt Income

Several exemptions are provided for within the Corporate Tax regime.[135] The purpose of these exemptions is to either:

- exempt income and capital gains arising from the activity of another juridical person or a foreign branch on the basis that it has already been taxed; or

[134] Article 8(3) of Ministerial Decision No. 134 of 2023.

[135] Articles 22 to 25 of the Corporate Tax Law.

- align the UAE Corporate Tax treatment with international standards, and in particular in relation to the taxation of international transportation.

These exemptions are symmetrical: any expenditure incurred in deriving Exempt Income cannot be deducted for Corporate Tax purposes.[136] If expenditure is incurred for deriving both Taxable Income and Exempt Income, it must be apportioned, so that only the proportion of expenditure incurred wholly and exclusively for deriving Taxable Income will be deductible. If the proportion is not identifiable, then an appropriate proportion can be deducted if determined on a 'fair and reasonable' basis, having regard to all relevant facts and circumstances.[137]

What is fair and reasonable will depend on the circumstances and facts of each case. In many cases, there will be more than one method of apportioning expenses which is fair and reasonable to use. The fair and reasonable approach chosen should accurately reflect the underlying activity, should not be unnecessarily burdensome and complex for the Taxable Person to determine and justify, and for the FTA to understand and review.

Specific rules determine whether or not exemptions apply in particular circumstances. These are discussed in more detail below.

Example 9: Apportionment of expenditure relating to Exempt Income

C LLC is a UAE resident company which sells food and drink products in the UAE and around the world. As a result of its global operations, it has Permanent Establishments in several other countries. All of these countries impose corporate income tax, or a similar tax to Corporate Tax at a rate of more than 9%. C LLC has elected to exempt income and related expenditure from these Permanent Establishments when calculating its Taxable Income in accordance with the Foreign Permanent Establishment exemption rules under Article 24 of the Corporate Tax Law. (For further details on Foreign Permanent Establishment exemption, see Section 6.4.3)

C LLC enters into many contracts with suppliers and customers, both in the UAE and at its Permanent Establishments around the world. C LLC uses a Dubai-based legal firm to review and advise on all these global agreements. For this service, C LLC pays a fixed annual fee of AED 12,000,000. In the past year, C LLC's legal advisors reviewed 120 contracts - 85 in respect of its Taxable Income generating activity and 35 in respect of its Exempt Income generated by its Foreign Permanent Establishments.

[136] Article 28(2)(b) of the Corporate Tax Law.
[137] Article 28(3) of the Corporate Tax Law.

When calculating its Taxable Income, C LLC cannot claim the deduction of the total cost of the legal services. This is because some of the legal work related to the Foreign Permanent Establishments and, as the income from these are exempted from Corporate Tax due to the election made by C LLC, any related expenditure must also be excluded from the calculation of Taxable Income.

Only the proportion of expenditure incurred wholly and exclusively for deriving Taxable Income will be deductible. However, C LLC pays a fixed fee for legal services and the expenditure incurred in relation to its Taxable Income cannot be identified. It is therefore necessary to determine an appropriate proportion on a fair and reasonable basis.

As C LLC can identify the proportion of contracts which were sent for review in relation to its Taxable Income and Exempt Income generating activities, one of the possible ways that C LLC could determine the amount of the legal costs that would be deductible could be to apportion the expenditure according to the split of Taxable Income and Exempt Income generating activities based on the number of contracts. In other words, when calculating its Taxable Income, C LLC could claim a deduction of AED 8,500,000 (AED 12,000,000 x 85/120) related to its Taxable Income generating activity and consider the remaining AED 3,500,000 of legal expenses as attributable to Exempt Income earned by the Foreign Permanent Establishments and, therefore, not deductible.

The above approach assumes that the amount of work associated with each contract is equal. If, for example, C LLC received an itemised statement showing the amount of time their legal advisors spent on each contract, the legal fee could be apportioned according to the time spent on each contract. If the itemised statement revealed that the foreign contracts were more complex, and the legal advisors spent half of their time (and, therefore, half of the fees) reviewing the 35 foreign contracts, C LLC could claim a deduction of AED 6,000,000 (AED 12,000,000 x 50%), and consider the remaining AED 6,000,000 of legal expenses as attributable to Exempt Income earned by the Foreign Permanent Establishments and, therefore, not deductible.

These are just two illustrative ways that C LLC could apportion the legal fees and, depending on the facts and circumstances. Other methods may also be considered appropriate.

6.4.1. Domestic dividends

Dividends, and other profit distributions, received from a Resident Person are exempt from Corporate Tax. There are no additional conditions a Taxable Person has to meet in order to benefit from this exemption.[138]

This reflects a distinction between payments a juridical person makes in order to earn its profits, and distributions it makes out of its profits which will already have been taxed under the Corporate Tax regime. This exemption also covers distributions made by a Resident Free Zone juridical person (whether qualifying or not) to another Resident Person.

Example 10: Distributions received from a juridical person that is a Resident Person

C LLC owns and operates a hotel in the UAE. C LLC's Accounting Income for the Tax Period was AED 8,000,000.

The income was mainly derived from operating the hotels it owns. However, it also owns 50% of F LLC, a UAE resident company. During the Tax Period, F LLC paid C LLC AED 700,000 in dividends. C LLC did not incur any expenditure in relation to its ownership of F LLC.

As dividends received from UAE Resident Persons are exempt from Corporate Tax, this amount should be excluded when calculating Taxable Income.

C LLC's Taxable Income (assuming no other adjustments), is therefore AED 7,300,000 (AED 8,000,000 – AED 700,000).

6.4.2. Income exempt under the participation exemption

6.4.2.1. Distributions received from foreign juridical persons

Dividends and other profit distributions received from foreign juridical persons are exempt from Corporate Tax if the recipient has a Participating Interest in the foreign company.[139] A Participating Interest is a significant long-term ownership interest in the shares or capital of a juridical person (the "Participation") that provides the basis for the exercise of some level of control or influence over the activities of the Participation. A Participating Interest exists where all of the following conditions are met:

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[138] Article 22(1) of the Corporate Tax Law.

[139] Article 22(2) and 22(3) of the Corporate Tax Law.

- The Taxable Person has an ownership interest of 5% or greater in the shares or capital of the Participation which has been held, or is intended to be held, for a period of at least 12 months;[140]
- The Taxable Person is entitled to at least 5% of distributable profits and at least 5% of liquidation proceeds of the Participation;[141]
- No more than 50% of the Participation's assets consist of ownership interests that would not have qualified for an exemption from Corporate Tax if they were held directly by the Taxable Person.[142]
- The Participation is subject to Corporate Tax, or a similar tax, in the country in which it is resident at a rate of at least 9% (i.e. the "subject to tax" requirement).[143] A Participation is considered to meet this requirement for a given Tax Period when it is resident for tax purposes in a foreign jurisdiction throughout this same Tax Period, and:[144]
  - that jurisdiction has a headline statutory tax rate of at least 9%, or
  - it can demonstrate that it is subject to an effective tax on profits, income or equity of at least 9% in that jurisdiction.

The relief applies to various types of ownership interests.[145] Ownership interest includes holding any one or a combination of the following instruments:[146]

- Ordinary Shares;
- Preferred Shares;
- Redeemable Shares;
- Membership and Partner Interests; and
- Other types of securities, capital contributions and rights that entitle the owner to receive profits and liquidation proceeds.

In addition, an ownership interest with a historical acquisition cost of AED 4,000,000 or greater can qualify for the participation exemption.[147]

[140] Article 23(2)(a) of the Corporate Tax Law.
[141] Article 23(2)(c) of the Corporate Tax Law.
[142] Article 23(2)(d) of the Corporate Tax Law.
[143] Article 23(2)(b) of the Corporate Tax Law.
[144] Article 6(1) of Ministerial Decision No. 116 of 2023.
[145] Article 3 of Ministerial Decision No. 116 of 2023.
[146] Article 2 of Ministerial Decision No. 116 of 2023.
[147] Article 8 of Ministerial Decision No. 116 of 2023.

The participation exemption will not apply if, under the Corporate Tax legislation applicable in the foreign jurisdiction, the Participation can claim a deduction for the dividend or other distributions made to the Taxable Person.[148]

Example 11: Exempt income from a Participating Interest
J LLC, a UAE resident company buys a 10% shareholding in K LLC, a juridical person resident in Country A and fully subject to tax in Country A, in the Tax Period ending 31 December 2025 for AED 1,000,000. This 10% shareholding entitles J LLC to receive 10% of K LLC's distributable profits and 10% of liquidation proceeds (if K LLC is liquidated).   In the Tax Period ending 31 December 2026, J LLC receives AED 14,000,000 in cash dividends from K LLC. The dividends will be exempt under the participation exemption.   In the Tax Period ending 31 December 2027, J LLC sells part of its shareholding in K LLC, after which it is left with a 3% shareholding in K LLC. The disposal will be exempt under the participation exemption.   In the Tax Period ending 31 December 2028, J LLC receives AED 3,000,000 in cash dividends from K LLC. This dividend will not be exempt because the conditions for the Participating Interest are no longer satisfied (i.e. holding 5% or greater, or acquisition cost in excess of AED 4,000,000 in the shareholding and being entitled to receive at least 5% of K LLC's distributable profits and liquidation proceeds of K LLC).

6.4.2.2. Participation exemption for other income and gains

Other income and gains may also be exempt if they are derived from a Participating Interest. This applies to holdings in both Resident and Non-Resident Participations. The requirements for a Participating Interest in both a Resident and Non-Resident are the same, save that in relation to a Participation Interest in a Resident, a Participation in a Qualifying Free Zone Person or an Exempt Person is considered to meet the subject to tax requirement.[149] If a Taxable Person holds a Participating Interest for a period of at least 12 months, or has the intention to do so, it will be exempt from Corporate Tax on:

[148] Article 23(6)(a) of the Corporate Tax Law.
[149] Article 23(4) of the Corporate Tax Law.

- Gains or losses on the transfer, sale, or other disposition of the whole or part of the Participating Interest;[150]
- Foreign exchange gains or losses in relation to a Participating Interest;[151] and
- Impairment gains or losses in relation to a Participating Interest.[152]

Expenditure incurred in relation to the acquisition, transfer, sale, or other disposition of the whole or part of the Participating Interest will not be deductible.[153] This includes professional fees, due diligence costs, litigation costs, commissions and brokerage fees, and other associated costs.[154]

Only income received by the Taxable Person in their capacity as a shareholder (i.e. as an owner of the ownership interest) can be exempt. Other income earned from the Participation from other relations, such as that of a debtor-creditor (e.g. Interest income received) or buyer-seller (e.g. service fee received), will remain subject to Corporate Tax.[155]

For further details on the participation exemption, readers are advised to consult Ministerial Decision No. 116 of 2023 on Participation Exemption.[156]

6.4.3. Foreign Permanent Establishment exemption

To eliminate or reduce potential international double taxation, a Resident Person can make an election when determining its Taxable Income to have income derived from Foreign Permanent Establishments exempted from Corporate Tax in the UAE.[157]

Where such an election is made, the Resident Person will not need to include the following items in their Taxable Income:

- Income, and associated expenditure, in any of its Foreign Permanent Establishments;[158] and
- Losses in any of its Foreign Permanent Establishments.[159]

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[150] Article 23(5)(b) of the Corporate Tax Law.
[151] Article 23(5)(c) of the Corporate Tax Law.
[152] Article 23(5)(d) of the Corporate Tax Law.
[153] Article 10(1) of Ministerial Decision No. 116 of 2023.
[154] Article 10(2) of Ministerial Decision No. 116 of 2023.
[155] Article 11 of Ministerial Decision No. 116 of 2023.
[156] Ministerial Decision No. 116 of 2023.
[157] Article 24(1) of the Corporate Tax Law.
[158] Article 24(2)(b) of the Corporate Tax Law.
[159] Article 24(2)(a) of the Corporate Tax Law.

In addition, any Foreign Tax Credit that would have been available if the election had not been made will not be available to be used by the Resident Person.[160]

In determining income and associated expenditure, a Resident Person and its Foreign Permanent Establishments must be treated as separate and independent Businesses. Any transactions which take place between them must be treated as having taken place at Market Value.[161]

In the case of deciding to exclude the income, expenses and losses of the Foreign Permanent Establishments from the calculation of Taxable Income, the election will only apply to the Resident Person's Foreign Permanent Establishments which are subject to Corporate Tax, or a tax of a similar character to Corporate Tax, in the relevant foreign country at a rate of not less than 9% (i.e. the "subject to tax requirement").[162]

The election must apply to all foreign Permanent Establishments that meet the subject to tax requirement.[163] A Resident Person may not elect to apply the exemption for specific Permanent Establishments.

Example 12: Exempt Income from Foreign Permanent Establishments

K LLC is a UAE resident corporation. In addition to its main business operations being conducted in the UAE, K LLC has Foreign Permanent Establishments in three foreign jurisdictions, Country A, Country B and Country C. After applying all relevant adjustments, K LLC's Taxable Income for the Tax Period was AED 15,600,000. This included the following income and expenditure from each of its Foreign Permanent Establishments:

Country	Country A	Country B	Country C
Gross Income (AED)	750,000	2,550,000	3,700,000
Expenditure (AED)	200,000	3,400,000	1,750,000

K LLC decides to make an election to not take into account income and expenditure from its Foreign Permanent Establishments. While the Foreign Permanent

[160] Article 24(2)(c) of the Corporate Tax Law.
[161] Articles 24(4) and 24(5) of the Corporate Tax Law.
[162] Article 24(7) of the Corporate Tax Law.
[163] Article 24(6) of the Corporate Tax Law.

Establishments in Country A and Country B are subject to tax similar in character to Corporate Tax at a rate of more than 9% in their respective countries, the corporate income tax rate in Country C is 5%. This is below the Corporate Tax threshold and means that the income and expenditure related to K LLC's Foreign Permanent Establishment in Country C will remain part of its Taxable Income. The exemption does not apply in this case.

Even though the Foreign Permanent Establishment in Country A made a profit in the Tax Period, whilst the Foreign Permanent Establishment in Country B made a loss, K LLC must apply the exemption to all its Foreign Permanent Establishments that meet the "subject to tax" requirement. It cannot select solely to include the losses from Country B without including the profits from Country A.

K LLC Taxable Income	15,600,000
Less	
Country A Permanent Establishment Income	750,000
Country B Permanent Establishment Income	2,550,000
Plus	
Country A Permanent Establishment Expenditure	200,000
Country B Permanent Establishment Expenditure	3,400,000
Equals	
K LLC final Taxable Income	15,900,000

6.4.4. Income from operating aircraft or ships in international transportation

The UAE is a major international logistics and transportation hub and, in recognition of this, income earned by a Non-Resident Person from the operation of aircraft or ships in international transportation is exempt from Corporate Tax if certain conditions are met.[164]

In this regard, the Non-Resident Person should be in the Business of:

- International transport of passengers, livestock, mail, parcels, merchandise or goods by air or sea;
- Leasing or chartering aircrafts or ships used in international transportation; or
- Leasing of equipment which is integral to the seaworthiness of ships or airworthiness of aircrafts used in international transportation.[165]

In addition, the exemption only applies if the country in which the Non-Resident Person resides provides an equivalent exemption from Corporate Tax, or a similar tax, to UAE Resident Persons engaged in the operation of aircraft or ships in international transportation.[166] This is known as the "reciprocity" principle and is consistent with international norms in the taxation of international transportation.

6.5. Deductions

6.5.1. General deductibility rules

Accounting Income is calculated by deducting a business's expenditure from the Revenue generated in the same period. However, not all expenditure recognised under general accounting rules is deductible for Corporate Tax purposes. Non-deductible expenditure will need to be added back to Accounting Income when calculating Taxable Income.

The general rule is that expenditure must be incurred wholly and exclusively for the purposes of the Taxable Person's Business and must not be capital in nature for the expenditure to be deductible for Corporate Tax purposes.[167] Additional specific deduction rules are applicable for entertainment and Interest expenditure.

6.5.2. Wholly and exclusively incurred expenditure

It is necessary to consider the purpose for incurring the expenditure to assess whether it can be deducted for Corporate Tax purposes. For it to be fully deductible, the expenditure needs to be incurred "wholly and exclusively" for Business purposes,

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[164] Article 25 of the Corporate Tax Law.
[165] Article 25(1) of the Corporate Tax Law.
[166] Article 25(2) of the Corporate Tax Law.
[167] Article 28(1) of the Corporate Tax Law.

which means that the full amount has been incurred solely for these purposes. If the expenditure is incurred for non-Business purposes, then it must be added back when calculating Taxable Income.[168]

Example 13: The importance of a Taxable Person's purpose when incurring expenditure

If an individual operating through a sole establishment carries on a Business administering an online sales platform and such individual pays for dental work for themselves, then it is likely that such expenditure will not have been incurred for the purposes of the Business. Rather, it was incurred for their own private purposes and the expenses would not be deductible for Corporate Tax purposes.

Furthermore, if a company that owns an online sales platform pays for the dental work of its owner (shareholder) who is not involved in the operation of the company, then such expenditure also will not have been incurred for the purposes of the Business. The expense was for the purpose of providing a personal benefit to an owner and as such the expenses would not be deductible for Corporate Tax purposes.

If expenditure is incurred partly for Business purposes and partly for some other purposes, the amount must be apportioned so that only the part relating to the derivation of Taxable Income will be allowed as a deduction. This includes any identifiable part or proportion of the expenditure incurred wholly and exclusively for Business purposes, as well as an amount that has been apportioned determined on a fair and reasonable basis.[169]

What is fair and reasonable will depend on the circumstances and facts of each case. In many cases, there would be more than one method of apportioning expenses which is fair and reasonable to use. The fair and reasonable approach chosen should accurately reflect the underlying activity, should not be unnecessarily burdensome and complex for the Taxable Person to determine and justify, and for the FTA to understand and review.

Example 14: Apportionment of non-business expenditure

Mr A is a florist. He owns a delivery van which is primarily used for collecting supplies and making deliveries to customers. However, outside of regular business hours, Mr A uses the van for personal errands, such as shopping and driving his children to school.

[168] Article 28(2)(a) of the Corporate Tax Law.
[169] Article 28(3) of the Corporate Tax Law.

Throughout the Tax Period, Mr A recorded the mileage of his business and personal journeys. The mileage records revealed that journeys made for a business purpose accounted for 60% of the use of the van, while the remaining 40% of use related to Mr A's personal use of the van.

Mr A's Accounting Income for the Tax Period is AED 4,500,000. Vehicle expenses were calculated to be AED 120,000.

The vehicle expenses were not incurred wholly and exclusively for the purposes of Mr A's Business and a deduction can, therefore, not be claimed on the vehicle expenses in full. However, as Mr A can identify the proportion which relates to Business use (60% of journeys), AED 72,000 (60% of AED 120,000) can be claimed as an expense deduction. The remaining 40% (AED 48,000) cannot be deducted as an expense for Corporate Tax purposes.

In order to reflect that 40% of vehicle expenses are disallowed, when calculating his Taxable Income, Mr A must add AED 48,000 back to his Accounting Income. Mr A's Taxable Income, assuming that no other adjustments need to be made, would thus be AED 4,548,000 (AED 4,500,000 + AED 48,000).

6.5.3. Capital expenditure

Capital expenditure is expenditure that creates an enduring benefit to a business and is not deductible for Corporate Tax purposes. This is in contrast to revenue expenditure which supports the day-to-day operations of the business. For example, purchasing a long-term asset like machinery would be a capital expense but paying for routine maintenance to keep the machinery running would be a revenue expense. The question of whether expenditure is of a capital or revenue nature will depend on the particular facts and circumstances, and will need to be determined on a case by case basis.

While capital expenditure is not deductible, the depreciation of the costs of capital assets is a deductible expense for Corporate Tax purposes. Depreciation is an accounting concept which allows for the cost of an asset to be spread over the life of the asset (representing the reduction of the asset's value), even though there is no cash outlay to the business.

Example 15: Capital or revenue expenditure

If a building contractor buys a car for use by office staff, this car will bring an enduring benefit to the business, and will be treated as a capital asset. Therefore, the expenditure incurred in acquiring this vehicle will likely not be deductible for Corporate Tax purposes.

The costs of maintaining this vehicle will be deductible as they do not provide an enduring benefit to the business.

On the other hand, if the same car was purchased by a car dealership business to be resold, then the costs of acquiring the vehicle would likely be treated as deductible for Corporate Tax purposes, as in this case, the car is more akin to inventory and the cost would be revenue in nature.

Example 16: Capital or revenue expenditure

A cake shop buys a computer for use by office staff, and this computer has an expected useful economic life of 5 years.

The initial expenditure for acquiring this computer will likely be treated as capital expenditure and not be deductible for Corporate Tax purposes, as this expenditure brings an enduring benefit to the business. If the business recognises a depreciation expense over the useful life of the asset, then this expenditure is deductible in the year the depreciation expense is recognised.

6.5.4. Special rules for the deductibility of certain expenses

6.5.4.1. Interest expenditure

Businesses regularly borrow money and take out loans for a wide variety of reasons, for example to purchase business assets, to meet costs, or increase working capital. As a result, Interest is a common business expense.

Interest expenditure can be deducted when calculating Taxable Income for the Tax Period in which it is incurred.[170] However, there are some limitations on the deduction of Interest expenditure.[171]

[170] Article 29 of the Corporate Tax Law.
[171] Articles 30 and 31 of the Corporate Tax Law.

General Interest Deduction Limitation Rule

The Corporate Tax Law refers to the amount of Interest that is deductible as Net Interest Expenditure. Net Interest Expenditure is the difference between the amount of Interest expenditure incurred (including any carried forward Net Interest Expenditure) and the Interest income derived during a Tax Period.[172]

When the Net Interest Expenditure exceeds AED 12,000,000 in a Tax Period, the amount of deductible Net Interest Expenditure is the greater of:

- 30% of EBITDA (earnings before the deduction of Interest, tax, depreciation and amortisation) for a Tax Period, calculated as the Taxable Income for the Tax Period with adjustments for:[173]
    - Net Interest Expenditure for the relevant Tax Period,
    - Depreciation and amortisation expenditure taken into account in determining the Taxable Income for the relevant Tax Period, and
    - Any Interest income or expenditure relating to historical financial assets or liabilities held prior to 9 December 2022.

  and,
- the de minimis threshold of AED 12,000,000.[174]

This is known as the "General Interest Deduction Limitation Rule".

For the purpose of the General Interest Deduction Limitation Rule, any amount on Islamic Financial Instruments that is economically equivalent to Interest under a conventional financing arrangement will be treated as Interest.[175]

Any Net Interest Expenditure disallowed in a Tax Period by the General Interest Deduction Limitation Rule can be carried forward and utilised in the subsequent 10 Tax Periods in the order in which the amount was incurred, subject to the same conditions.[176]

The General Interest Deduction Limitation Rule does not apply to:

- Banks;[177]

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[172] Article 30(2) of the Corporate Tax Law.
[173] Article 30(1) of the Corporate Tax Law and Article 9(1) of Ministerial Decision No. 126 of 2023.
[174] Article 8 of Ministerial Decision No. 126 of 2023.
[175] Article 4 of Ministerial Decision No. 126 of 2023.
[176] Article 30(4) of the Corporate Tax Law.
[177] Article 30(6)(a) of the Corporate Tax Law.

- Insurance Providers;[178] or
- Natural persons undertaking a Business or Business Activity in the UAE.[179]

In addition, Resident Persons who are responsible for, or who facilitate the provision, maintenance, or operation of Qualifying Infrastructure Projects, i.e. specific long-term infrastructure projects that meet the following conditions, shall not be subject to the General Interest Deduction Limitation Rule in relation to Net Interest Expenditure incurred from the financing of these projects. A project will be considered as a Qualifying Infrastructure Project where all the following conditions are met:[180]

- It is exclusively for the public benefit of the UAE;
- It is exclusively for the purposes of providing transport, utilities, education, healthcare or any other service within the UAE as may be specified by the Minister;
- Its assets may not be disposed of at the discretion of the relevant Qualifying Infrastructure Project Person;
- The assets provided, operated or maintained by the project should last, or be expected to last for at least ten years, or another period as may be specified by the Minister;
- The project assets are situated in UAE's Territory;
- All of the project's Interest income and Interest expenditure arise in the UAE; and
- The project satisfies any other conditions that may be prescribed by the Minister.

If Net Interest Expenditure is below the AED 12,000,000 de minimis threshold for a Tax Period, the General Interest Deduction Limitation Rule does not apply.[181] This means that, subject to the provision of Article 30 of the Corporate Tax Law, the full amount of Interest expenditure incurred in a Tax Period can be deducted.

Additionally, limitations on the deduction of Interest may impact the commerciality of some financing arrangements. As such, financing arrangements agreed prior to the publication date of the Corporate Tax Law (i.e. 9 December 2022), and that meet the other conditions specified in Ministerial Decision No. 126 of 2023, are not subject to the General Interest Deduction Limitation Rule restrictions.[182]

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178 Article 30(6)(b) of the Corporate Tax Law.
179 Article 30(6)(c) of the Corporate Tax Law.
180 Article 14(c) of Ministerial Decision No. 126 of 2023.
181 Article 8(1) of Ministerial Decision No. 126 of 2023.
182 Article 11 of Ministerial Decision No. 126 of 2023.

Example 17: General Interest Deduction Limitation Rule

C LLC has Revenue of AED 150,000,000, adjusted EBITDA of AED 130,000,000 and Profit Before Tax of AED 60,000,000 for its Financial Year ending 31 December 2025. In 2025, C LLC incurs costs including Interest expenditure of AED 80,000,000. C LLC also receives Interest income of AED 30,000,000, resulting in a Net Interest Expenditure of AED 50,000,000.

C LLC may deduct its Net Interest Expenditure of AED 50,000,000 up to the greater of 30% of its adjusted EBITDA or the de minimis of AED 12,000,000. 30% of C LLC's adjusted EBITDA of AED 130,000,000 would be AED 39,000,000, which is above the de minimis and, hence, is the maximum deductible Net Interest Expenditure in 2025.

C LLC's total Net Interest Expenditure in 2025 is AED 50,000,000 and C LLC may only deduct AED 39,000,000 of Net Interest Expenditure in this Tax Period. AED 11,000,000 of Net Interest Expenditure would be disallowed in 2025 and carried forward to the subsequent Tax Periods (up to 10 Tax Periods).

In the Financial Year ending 31 December 2026, C LLC had Revenue of AED 200,000,000, adjusted EBITDA of AED 180,000,000 and Profit Before Tax of AED 140,000,000. C LLC incurs Interest expenditure of AED 80,000,000 and also receives Interest income of AED 60,000,000, resulting in a Net Interest Expenditure of AED 20,000,000 for 2026.

In 2026, 30% of C LLC's adjusted EBITDA of AED 180,000,000 would be AED 54,000,000, which is above the de minimis and, hence, is the maximum deductible Net Interest Expenditure in 2026. C LLC can deduct all of its Net Interest Expenditure in the period of AED 20,000,000, as well as an additional amount up to AED 34,000,000 of Net Interest Expenditure in the period. Hence, it may utilise its carried forward Net Interest Expenditure of AED 11,000,000 from 2025 and further reduce its Taxable Income in 2026. This would result in a Taxable Income of AED 129,000,000 for 2026.

Specific Interest deduction limitation

No deduction is allowed for Interest expenditure incurred on a loan obtained, directly or indirectly, from a Related Party in respect of any of the following transactions:

- A dividend or profit distribution to a Related Party;[183]

[183] Article 31(1)(a) of the Corporate Tax Law.

- A redemption, repurchase, reduction or return of share capital to a Related Party;[184]
- A capital contribution to a Related Party;[185] or
- The acquisition of an ownership Interest in a Business that is, or becomes, a Related Party following the acquisition.[186]

The purpose of this provision is to prevent the Corporate Tax base from being eroded by transactions and arrangements between Taxable Persons and their Related Parties for the sole or main purpose of creating deductible interest expenditure where the income derived from the relevant transaction or arrangement can benefit from an exemption from Corporate Tax.

Whilst generally these deductions are not allowable for Corporate Tax purposes, the deduction restriction does not apply if the Taxable Person can demonstrate that the main purpose of obtaining the loan and carrying out the transaction is not to gain a Corporate Tax advantage.[187] This will be based on the specific facts and circumstances applicable to each transaction. However, if it can be demonstrated that the Related Party receiving the Interest is subject to Corporate Tax or a similar tax in a foreign country at a rate of at least 9% on the Interest income, then no Corporate Tax advantage will be deemed to have arisen.[188]

Example 18: Interest expenditure

M LLC is a UAE resident company which operates hotels globally. M LLC is wholly owned by P Ltd registered in Country A, a foreign jurisdiction. During the Tax Period ending December 2026, M LLC borrowed money from an unrelated commercial lender to finance the completion of a new hotel complex and paid AED 14,000,000 in Interest.

During the same Tax Period, M LLC borrowed funds from Q LLC at a rate higher than the rate offered by the unrelated commercial lender and paid AED 4,000,000 in Interest. The purpose of this loan was to enable M LLC to make a dividend payment to P Ltd. Q LLC is registered in Country B, a foreign jurisdiction, and is wholly owned by P Ltd - the same company which owns M LLC, making Q LLC a Related Party of M LLC.

Q LLC is not subject to Corporate Tax, or any similar tax, on the Interest received.

[184] Article 31(1)(b) of the Corporate Tax Law.
[185] Article 31(1)(c) of the Corporate Tax Law.
[186] Article 31(1)(d) of the Corporate Tax Law.
[187] Article 31(2) of the Corporate Tax Law.
[188] Article 31(3) of the Corporate Tax Law.

M LLC's EBITDA in Tax Period ending December 2026 was AED 55,000,000. The total Interest expenditure in the Tax Period was AED 18,000,000 and no Interest was earned. Additionally, M LLC had AED 7,500,000 of Net Interest Expenditure carried forward from the previous Tax Period ending December 2025.

In line with the rules on deductions for Interest expenditure, M LLC can only deduct Net Interest Expenditure if it is less than 30% of EBITDA. This means that M LLC can deduct up to the greater of 30% of its adjusted EBITDA or the de minimis of AED 12,000,000. 30% of M LLC's adjusted EBITDA of AED 55,000,000 would be AED 16,500,000, which is above the de minimis and, hence, is the maximum deductible Net Interest Expenditure.

When determining Net Interest Expenditure, any disallowable expenditure must be excluded.

Given that C LLC obtained the loan from Q LLC to make a dividend payment, the interest on this loan is disallowed automatically by Article 31 of the Corporate Tax Law, unless the taxpayer can show that the main purpose of obtaining this loan is not to gain a Corporate Tax advantage. M LLC did not obtain the loan on an arm's length basis, and based on the facts above, the only reason M LLC obtained a loan was to claim interest and reduce its taxable income

Thus, this amount must be excluded and no deduction can be claimed for Corporate Tax purposes. M LLC's Net Interest Expenditure for the Tax Period ending December 2026 is, therefore, AED 14,000,000 (AED 18,000,000 – AED 4,000,000).

As M LLC's Net Interest Expenditure of AED 14,000,000 is lower than the limit of AED 16,500,000, the brought forward Net Interest Expense can be utilised at the amount of AED 2,500,000 (AED 16,500,000 – AED 14,000,000). The carried forward Net Interest Expenditure is then reduced to AED 5,000,000 (AED 7,500,000 – AED 2,500,000). The maximum amount M LLC can claim as a deduction for Net Interest Expenditure in the Tax Period ending December 2026 is AED 16,500,000.

Given that the Net Interest Expenditure is AED 14,000,000, and M LLC was allowed to utilise AED 16,500,000, a further deduction of AED 2,500,000 is made from Accounting Income when calculating its Taxable Income. As above, the disallowed AED 4,000,000 will also be adjusted for.

The remaining carried forward Net Interest Expenditure amount of AED 5,000,000 can be carried forward and deducted in the subsequent 10 Tax Periods after the interest expenditure arose in the order in which the amount was incurred and subject to the

same interest capping rules.

For further details on the General Interest Deduction Limitation Rule, readers are advised to consult Ministerial Decision No. 126 of 2023 on the General Interest Deduction Limitation Rule.

6.5.4.2. Entertainment expenditure

It is common for costs to be incurred to entertain customers, shareholders, suppliers, or other business partners. However, this type of entertainment often contains a private element that would prevent the expenditure from being wholly and exclusively incurred for Business purposes.

As the private element can be difficult to estimate and apportion when looking at entertainment expenditure, a 50% deduction is allowed for Corporate Tax purposes in all cases of this type of expenditure.[189]

Entertainment expenditure includes expenditure in connection with meals, accommodation, transportation, admission fees, as well as facilities and equipment used in connection with such entertainment.[190]

Entertainment expenditure may include personal non-business expenditure, requiring the expenditure to be apportioned. Where the entertainment expenditure is not wholly and exclusively incurred for the purposes of the business, a Taxable Person will need to identify the appropriate proportion to be treated as entertainment expenditure and only 50% of that proportion will be deductible.

Example 19: Entertainment expenditure

A family owned company owns a box at a football stadium, which is only used to entertain the company's clients. There is a business purpose so the wholly and exclusively rule is satisfied. In this case, 50% of the cost would be treated as deductible as entertainment expenditure. The remaining 50% is not deductible.

Conversely, if the box was used by the owner's (the shareholder's) own family, the expenditure would be disallowed entirely as this would be personal consumption without a business purpose.

[189] Article 32(1) of the Corporate Tax Law.
[190] Article 32(2) of the Corporate Tax Law.

The deductibility limitation does not apply for expenditure incurred for staff entertainment. This means that, for example, the cost of internal entertainment such as staff parties can be fully deducted for Corporate Tax purposes unless the staff are family members and the event is private in nature (such as a wedding).

Example 20: Entertainment expenditure
R LLC is a manufacturer of IT equipment, which recently decided to expand its operations by opening a new factory. In order to celebrate the opening of the new factory and generate sales, R LLC entertained a number of customers at the new facility. R LLC's Accounting Income for the Tax Period was AED 7,000,000, which included AED 300,000 of business entertainment expenditure. As only 50% of business entertainment expenditure is an allowable deduction for Corporate Tax purposes, AED 150,000 must be added back to R LLC's Accounting Income when calculating its Taxable Income. Therefore, assuming there is no other adjustment which must be made, R LLC's Taxable Income for the Tax Period is AED 7,150,000.

6.5.5. Non-deductible expenses

Aside from the circumstances discussed above, deductions are also specifically disallowed for:

- Expenditure not incurred for the purposes of the Taxable Person's Business;[191]
- Expenditure incurred in deriving Exempt Income;[192]
- Losses not connected with or arising out of the Taxable Person's Business;[193]
- A donation, grant or gift made to an organisation that is not a Qualifying Public Benefit Entity (see Section 5.7.4.2);[194]
- Any fines and penalties, other than amounts awarded as compensation for damages or breach of contract;[195]
- Bribes;[196]

[191] Article 28(2)(a) of the Corporate Tax Law.
[192] Article 28(2)(b) of the Corporate Tax Law.
[193] Article 28(2)(c) of the Corporate Tax Law.
[194] Article 33(1) of the Corporate Tax Law.
[195] Article 33(2) of the Corporate Tax Law.
[196] Article 33(3) of the Corporate Tax Law.

- Dividends, profit distributions or benefits of a similar nature paid to an owner of the Taxable Person;[197]
- Amounts withdrawn from the Business by a natural person who is a Taxable Person or a partner in an Unincorporated Partnership; [198]
- Corporate Tax;[199]
- Recoverable input VAT;[200]
- Tax on income imposed outside the UAE (however, tax relief may be available as a Foreign Tax Credit);[201] and
- Contributions made by employers to a private pension fund in respect of its employees which are not paid in the Tax Period or are in excess of 15% of the employee's total remuneration in the relevant Tax Period.[202]

6.6. Transactions between Related Parties and Connected Persons, and transfer pricing rules

Where two parties are closely linked, their relationship may influence any transactions between them. There are rules in place to ensure that these closely linked parties (known as Related Parties) do not manipulate the values of transactions between themselves in order to obtain a Corporate Tax advantage.

Related Parties must apply the "arm's length principle" when entering into a transaction or arrangement with each other. This means that the price of a transaction between Related Parties should be the same as if the transaction had taken place between two unrelated independent parties.[203]

Where the price of the transaction or arrangement between Related Parties is not considered to be at arm's length, the FTA will adjust the Taxable Person's Taxable Income to achieve the arm's length result that best reflects the circumstances of the transaction or arrangement.[204]

If the FTA makes an adjustment to a transaction or arrangement involving a Taxable Person to meet the arm's length standard, it shall also make a corresponding

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[197] Article 33(4) of the Corporate Tax Law.
[198] Article 33(5) of the Corporate Tax Law.
[199] Article 33(6) of the Corporate Tax Law.
[200] Article 33(7) of the Corporate Tax Law.
[201] Articles 33(8) and 47 of the Corporate Tax Law.
[202] Article 5(2) of Ministerial Decision No. 115 of 2023.
[203] Article 34(2) of the Corporate Tax Law.
[204] Article 34(8) of the Corporate Tax Law.

adjustment to the Taxable Income of the Related Party that is a party to the relevant transaction or arrangement.[205]

Ministerial Decision No. 134 of 2023 sets out the adjustments that must be made when calculating the Taxable Income from the transfer of an asset or liability between Related Parties.[206]

If a foreign tax authority makes an adjustment to a transaction or arrangement involving a Taxable Person to meet the arm's length standard, the Taxable Person can make an application to the FTA to make a corresponding adjustment to its UAE Taxable Income.[207]

A corresponding adjustment is an adjustment to the Corporate Tax liability of a UAE Taxable Person following a primary adjustment made by a foreign tax authority to the taxable base of a Related Party to the UAE Taxable Person, so that the allocation of profits by both jurisdictions is consistent. The purpose of such an adjustment is to prevent double taxation (or double non-taxation) which could arise as a result of the primary transfer pricing adjustment.

6.6.1. Related Parties

Broadly, a Related Party is an individual or juridical person that has a pre-existing relationship with another Person through ownership, Control or kinship (in the case of individuals). With respect to ownership and Control, it is internationally common to set the related party ownership threshold at 50% or more, on the basis that a simple majority is typically sufficient to exert influence and direction over another entity.

Two Persons are considered Related Parties for Corporate Tax purposes if they are:

- Two or more natural persons related to the fourth degree of kinship or affiliation, including by adoption or guardianship;[208] This would include the following:
    - The first-degree of kinship and affiliation includes a natural person's parents and children, as well as the parents and children of their spouse;
    - The second-degree of kinship and affiliation additionally includes a natural person's grandparents, grandchildren, and siblings, as well as the grandparents, grandchildren, and siblings of their spouse;

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[205] Article 34(10) of the Corporate Tax Law.

[206] Article 3 of Ministerial Decision No. 134 of 2023.

[207] Article 34(11) of the Corporate Tax Law.

[208] Article 35(1)(a) of the Corporate Tax Law and Federal Law No. 5 of 1985 on the Issuance of Civil Transactions Law, and its amendments.

- The third-degree of kinship and affiliation additionally includes a natural person's great-grandparents, great grandchildren, uncles, aunts, nieces and nephews, as well as the great-grandparents, great grandchildren, uncles, aunts, nieces and nephews of their spouse;
- The fourth-degree of kinship and affiliation additionally includes a natural person's great-great-grandparents, great-great-grandchildren, grand uncle, grand aunt, grandniece, grandnephew and first cousins, as well as the great-great-grandparents, great-great-grandchildren, grand uncle, grand aunt, grandniece, grandnephew and first cousins of their spouse.

- A natural person and a juridical person where:
  - The natural person, or one or more Related Parties of the individual, are shareholders in the juridical person, and the natural person, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in the juridical person; or
  - The natural person, alone or together with its Related Parties, directly or indirectly Controls the juridical person.[209]
- Two or more juridical persons where:
  - One juridical person, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in the other juridical person; or
  - One juridical person, alone or together with its Related Parties, directly or indirectly Controls the other juridical person; or
  - Any Person, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in or Controls such two or more juridical persons;[210] or
- A Person and its Permanent Establishment or Foreign Permanent Establishment;[211]
- Two or more Persons that are partners in the same Unincorporated Partnership;[212] or
- A Person who is the trustee, founder, settlor or beneficiary of a trust or foundation, and the trust or foundation, including the trust's or foundation's Related Parties.[213]

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209 Article 35(1)(b) of the Corporate Tax Law
210 Article 35(1)(c) of the Corporate Tax Law
211 Article 35(1)(d) of the Corporate Tax Law
212 Article 35(1)(e) of the Corporate Tax Law
213 Article 35(1)(f) of the Corporate Tax Law

6.6.2. Control

For the purposes of determining whether two or more Persons are Related Parties, Control means the ability of a Person, in their own right or by agreement, to influence another Person including through the ability to, among others:

- Exercise 50% or more of the voting rights of another Person;[214]
- Determine the composition of 50% or more of the board of directors of another Person;[215]
- Receive 50% or more of the profits of another Person;[216] or
- Determine, or exercise significant influence over, the conduct of the Business and affairs of another Person.[217]

6.6.3. Connected Persons

Payments or benefits provided by a Taxable Person to its Connected Persons are deductible only to the extent that the payment or benefit corresponds with the Market Value of the service or benefit provided by the Connected Person, and where the payment or benefit is incurred wholly and exclusively for the purposes of the Taxable Person's Business.[218]

For example, an owner of a business will be able to deduct their salary when determining the Business' Taxable Income but only insofar as this salary corresponds with the Market Value. In order to determine if the value of a service or benefit provided matches its Market Value, the arm's length principle should be applied.[219]

Connected Persons capture a broader group of Persons than Related Parties. A Connected Person of a Taxable Person is:

- A natural person who directly or indirectly owns an ownership interest in, or Controls, the Taxable Person (for example, the individual owner of a limited liability company);[220]

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[214] Article 35(2)(a) of the Corporate Tax Law
[215] Article 35(2)(b) of the Corporate Tax Law
[216] Article 35(2)(c) of the Corporate Tax Law
[217] Article 35(2)(d) of the Corporate Tax Law.
[218] Article 36(1) of the Corporate Tax Law.
[219] Article 36(5) of the Corporate Tax Law.
[220] Article 36(2)(a) of the Corporate Tax Law.

- A director or officer of the Taxable Person (for example, a Managing Director of a limited liability company);[221] or
- A Related Party of either of the above Persons (for example, a son of the owner of a limited liability company).[222]

This limitation does not apply to a company whose shares are traded on a Recognised Stock Exchange, or a Taxable Person that is subject to the regulatory oversight of a competent authority in the UAE.[223]

Example 21: Related Parties, Control and Connected Persons

Mr B is a first cousin of Ms C.

Mr B owns 75% of B LLC.

Ms C owns 20% of C LLC. She owns preferential shares which entitle her to 60% of the voting rights in C LLC.

Ms C is also a partner in an Unincorporated Partnership, JKL Partners. The other partner is a UAE corporation, D Ltd.

Mr B and Ms C are Related Parties - they are related to the fourth degree of kinship.

Mr B and B LLC are Related Parties - Mr B is an individual who owns more than 50% of the juridical person B LLC.

Mr B and C LLC are Connected Persons - Mr B is an individual who is related to Ms C and Ms C owns more than 50% of the voting rights in C LLC.

Ms C and C LLC are Related Parties - Ms C is an individual who Controls a juridical person, C LLC, as she holds more than 50% of the voting rights in C LLC.

Ms C and D Ltd are Related Parties - they are partners in the same Unincorporated Partnership.

B LLC and D Ltd are unrelated juridical persons.

Ms C and B LLC are Connected Persons - Ms C is Mr B's first cousin and Mr B owns

[221] Article 36(2)(b) of the Corporate Tax Law.
[222] Article 36(2)(c) of the Corporate Tax Law.
[223] Article 36(6) of the Corporate Tax Law.

more than 50% of B LLC.

6.6.4. Transfer pricing

Transfer pricing rules aim to ensure that the price of a transaction is not influenced by the relationship between the parties involved. In order to achieve this and to avoid artificially profit shifting, the internationally recognised arm's length principle is used for transactions between Related Parties and Connected Persons. The transfer pricing rules apply to both cross-border and domestic transactions carried out by juridical persons and individuals.

6.6.4.1. General transfer pricing disclosure requirements

Taxable Persons may be subject to certain transfer pricing disclosure requirements in case of entering into transactions or arrangements with Related Parties, which may allow the FTA to conduct a comprehensive and reasonable transfer pricing risk assessment, and confirm whether these transactions with Related Parties and Connected Persons have been conducted in accordance with the arm’s length principle.[224]

The FTA can require a Taxable Person to disclose information regarding their transactions and arrangements with their Related Parties and Connected Persons, together with their Tax Return.[225]

The purpose of maintaining transfer pricing related information is to describe how the Taxable Person has determined the transfer prices of transactions with Related Parties and Connected Persons, and why those transfer prices are sufficiently comparable to prices applied by independent parties in a similar situation.

A Taxable Person must comply with a request issued by the FTA to provide information which supports the arm’s length nature of its transactions or arrangements with its Related Parties and Connected Persons. This information must be submitted within 30 days following the request, or by any such other later date as directed by the FTA.[226]

[224] Article 55 of the Corporate Tax Law.
[225] Article 55(1) of the Corporate Tax Law.
[226] Article 55(4) of the Corporate Tax Law.

6.6.4.2. Master file and local file

In addition to the submission of a general transfer pricing disclosure form, Taxable Persons need to maintain a 'master file' and a 'local file' if their Revenue in the relevant Tax Period is AED 200,000,000 or more, or they are part of a Multinational Enterprise Group (MNE) with total consolidated group revenue over or equal to AED 3,150,000,000 in the preceding Financial Year.[227]

Generally, a master file is a 'blueprint' of a group's activity, containing information on its economic activities in different jurisdictions and its overall transfer pricing policy.

On the other hand, a local file contains more detail than a master file, specifically in relation to Related Party and Connected Persons transactions undertaken by group members. The purpose is to provide functional and economic analysis to support the arm's length basis of its transactions.

6.7. Tax Losses

Where a Taxable Person's deductible expenditure exceeds its income that is subject to Corporate Tax, it will have negative Taxable Income. This is known as a Tax Loss. Many businesses make losses at some point in their lifecycle. For example, a new business may initially have losses while it is investing in growing its Business, or a more mature Business may make a loss over a period because of a temporary, adverse trading environment.

Businesses who have a Tax Loss will be able to use the Tax Loss to reduce Taxable Income in future Tax Periods (provided the necessary conditions are met).[228] This is to ensure that the amount of Corporate Tax paid by Businesses would (subject to certain conditions) be the same irrespective of when such profits or losses arise. In certain circumstances, Tax Losses can also be used to offset against the Taxable Income of another Business.

A Taxable Person cannot claim Tax Loss relief for:[229]

- Losses incurred before the date of commencement of Corporate Tax;
- Losses incurred before a Person becomes a Taxable Person; or
- Losses incurred from an asset or activity that generates income which is exempt from Corporate Tax.

[227] Article 2(1) of Ministerial Decision No. 97 of 2023.
[228] Article 37(1) of the Corporate Tax Law.
[229] Article 37(3) of the Corporate Tax Law.

A Taxable Person cannot claim Tax Losses for the Tax Period in which they have elected to benefit from small business relief.

6.7.1. Tax Loss relief

A Taxable Person can carry forward Tax Losses and offset them against Taxable Income in subsequent Tax Periods, subject to meeting certain conditions.[230] These Tax Losses carried forward can be used to reduce the Taxable Person's income in the Tax Period by a maximum of 75% of that Taxable Income.[231] This ensures that Corporate Tax is applied to the economic unit that generates Taxable Income as a whole.

Taxable Persons must use available Tax Losses in a Tax Period before any remaining Tax Loss can be carried forward to the next period, or transferred to another Taxable Person subject to meeting the required conditions. For example, if a Taxable Person has carried forward Tax Losses of less than 75% of their Taxable Income, they must use all of the Tax Losses in the current period and cannot choose to carry these Tax Losses forward.[232] Tax Losses cannot be carried back to previous Tax Periods.

Example 22: Carried forward Tax Losses

C LLC is a UAE resident company. In the Tax Period ending 31 December 2026 it makes a Tax Loss of AED 6,000,000.

For the Tax Periods ending 31 December 2027 and 31 December 2028 respectively, C LLC has Taxable Income of AED 5,000,000 per year.

C LLC will be subject to Corporate Tax as follows:

- In the Tax Period ending on 31 December 2026, C LLC makes a Tax Loss and there are no amounts to be taxed.
- In the Tax Period ending on 31 December 2027, C LLC has Taxable Income of AED 5,000,000. This means that the maximum Tax Loss that can be used to offset against its Taxable Income is AED 5,000,000 x 75% = AED 3,750,000. C LLC will have a final Taxable Income of AED 1,250,000 (AED 5,000,000 – AED 3,750,000). This means that C LLC must pay Corporate Tax of AED 78,750 (AED 375,000 x 0% + AED 875,000 x 9%).

[230] Article 39 of the Corporate Tax Law.
[231] Article 37(2) of the Corporate Tax Law.
[232] Article 37(4) of the Corporate Tax Law.

C LLC will have Tax Losses of AED 2,250,000 (AED 6,000,000 – AED 3,750,000) to carry forward.

In the Tax Period ending on 31 December 2028, C LLC has Taxable Income of AED 5,000,000. The maximum Tax Loss that can be used to offset against its Taxable Income is AED 5,000,000 x 75% = AED 3,750,000. This means that the full amount of Tax Losses of AED 2,250,000 brought forward are available to be offset against the Taxable Income of AED 5,000,000 in this Tax Period.

C LLC will have a final Taxable Income of AED 2,750,000 (AED 5,000,000 – AED 2,250,000). This means that C LLC must pay Corporate Tax of AED 213,750 (AED 375,000 x 0% + AED 2,375,000 x 9%). C LLC will have no Tax Losses to carry forward.

(Amounts in AED)	**31/12/2026**	**31/12/2027**	**31/12/2028**
Taxable Income (pre-Tax Loss relief)	(6,000,000)	5,000,000	5,000,000
Tax Loss utilised	0	3,750,000	2,250,000
Final Taxable Income	0	1,250,000	2,750,000
Tax Loss carried forward	6,000,000	2,250,000	0
Corporate Tax Payable	0	78,750	213,750

6.7.2. Tax Losses and change of ownership

Specific rules apply for juridical persons that have Tax Losses carried forward and have had a change of ownership in the Tax Period.

A Tax Loss can be carried forward by a Taxable Person provided the owners of the Taxable Person continuously hold at least 50% ownership from the start of the period in which the Loss is incurred to the end of the Tax Period in which the Tax Loss is used to offset against Taxable Income.

If there is a change in ownership of more than 50%, Tax Losses can still be carried forward provided the same or similar Business is carried on following the change in ownership.[233]

[233] Articles 39(1)(a) and 39(1)(b) of the Corporate Tax Law.

These rules do not apply where the Taxable Person's shares are listed on a Recognised Stock Exchange.[234]

6.7.3. Transfer of Tax Losses

Tax Losses may be transferred between Taxable Persons that are Resident juridical persons, where all of the following conditions are met:[235]

- one entity has a direct or indirect ownership interest of at least a 75% in the other, or a third entity has a direct or indirect ownership interest of at least 75% of the shares in both;
- they share the same Financial Year;
- they prepare their Financial Statements using the same accounting standards;
- none of the Persons are Exempt Persons or Qualifying Free Zone Persons.

Taxable Persons must meet the qualifying common ownership conditions from the start of the Tax Period in which the Tax Loss is incurred to the end of the Tax Period in which the transferred Tax Loss is used before they are able to transfer Tax Losses.[236]

The Taxable Person who transfers the Tax Losses will have the amount of the Tax Losses available to them, reduced by the amount they have transferred.[237]

Transferred Tax Losses can reduce the recipient's Taxable Income by a maximum of 75% of their Taxable Income in that Tax Period.[238] There is no corresponding minimum amount of Tax Loss which must be transferred, however the maximum that can be transferred to the recipient is 75% of their Taxable Income in that Tax Period.

A single Taxable Person may transfer their Tax Losses to more than one Taxable Person provided that in each case the relationship of the recipient Taxable Person with the Taxable Person transferring their Tax Losses meets the relevant conditions. Similarly, a recipient company can claim Tax Losses from more than one transferring company provided that the total Tax Loss offset does not exceed 75% of the recipient's Taxable Income and that all other conditions for the transfer of Tax Losses are met.

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[234] Article 39(3) of the Corporate Tax Law.
[235] Article 38(1) of the Corporate Tax Law.
[236] Article 38(1)(d) of the Corporate Tax Law.
[237] Article 38(2)(c) of the Corporate Tax Law.
[238] Articles 38(2)(a) and 38(2)(b) of the Corporate Tax Law.

Example 23: Transfer of Tax Losses

C LLC owns 75% of the shares of F LLC and both meet all the requirements to qualify for the transfer of loss relief.

C LLC makes a loss of AED 2,000,000 and F LLC makes a profit of AED 2,000,000 in the same Tax Period. C LLC chooses to transfer AED 1,500,000 of Tax Losses to F LLC. This is the maximum amount that F LLC can offset against its Taxable Income. This gives F LLC a final Taxable Income of AED 500,000. The remaining AED 500,000 of unutilised losses is carried forward by C LLC to the subsequent Tax Period.

(Amounts in AED)	**C LLC**	**F LLC**
Taxable Income / (Loss)	(2,000,000)	2,000,000
Tax Loss transferred	1,500,000	0
Tax Losses received	0	(1,500,000)
Final Taxable Income / (Loss)	(500,000)	500,000
Tax Loss carried forward	(500,000)	0

6.8. Determination of Taxable Income

Calculating Taxable Income is a two-step process:

- The Taxable Person must first determine their Accounting Income. This will be based on Financial Statements prepared according to accounting standards recognised in the UAE (IFRS or IFRS for SMEs). Qualifying Free Zone Persons and any other Taxable Persons with revenue over AED 50 million must prepare and maintain audited Financial Statements.
- The second step is to apply the relevant adjustments to the Accounting Income to arrive at the Taxable Income amount.[239]

Taxable Persons have to submit a Tax Return to the FTA within 9 months after the end of each Tax Period.[240]

[239] Article 20(2) of the Corporate Tax Law.
[240] Article 53(1) of the Corporate Tax Law.

The Tax Return is self-assessed, and Taxable Persons must provide their Accounting Income and details of any relevant adjustments, such as exemptions and reliefs claimed.

Example 24: Calculation of Taxable Income

C LLC is a UAE resident company. At the end of its most recent Tax Period, its Financial Statements show an Accounting Income of AED 10,000,000. It has previously made an election to exempt its income from its Foreign Permanent Establishment in Country B. C LLC also has carried forward Tax Losses of AED 2,000,000.

Its Accounting Income for the most recent Tax Period includes the following items:

- Dividends received from UAE Resident companies: AED 1,000,000;
- Income from its Foreign Permanent Establishment in Country B: AED 1,500,000;
- Net Interest Expenditure: AED 7,000,000; and
- Entertainment expenditure: AED 500,000.

In order to determine its Taxable Income, C LLC must make the following adjustments to the Accounting Income in respect of these items:

- Domestic dividends are Exempt Income for Corporate Tax purposes. As a result, the dividend income of AED 1,000,000 should be excluded from C LLC's Accounting Income;
- C LLC has made an election to exempt its income from its Foreign Permanent Establishment. As a result, the income from its Permanent Establishment in Country B of AED 1,500,000 should also be excluded from C LLC's Accounting Income (assuming the relevant conditions have been met);
- Net Interest Expenditure is deductible in full as it is less than the de minimis Net Interest Expenditure of AED 12,000,000; and
- Only 50% of entertainment expenditure is an allowable expense for Corporate Tax purposes. As a result, 50% of the expenditure (AED 500,000 x 50% = AED 250,000) must be added back to C LLC's Accounting Income.

C LLC's Taxable Income is therefore:

Accounting Income	10,000,000
Less: Domestic dividends	(1,000,000)
Less: Foreign Permanent Establishment income	(1,500,000)
Add: Interest expenditure	0

Add: Entertainment expenditure	250,000
Taxable Income	**7,750,000**

C LLC can use its carried forward Tax Losses to reduce its Taxable Income by up to 75% of its Taxable Income. As the amount of carried forward Tax Losses of AED 2,000,000 is less than 75% of its Taxable Income (AED 7,750,000 x 75% = AED 5,812,500), C LLC can use all of its available Tax Losses in this Tax Period.

C LLC's final Taxable Income is therefore:

Taxable Income	7,750,000
Less: Tax Losses	(2,000,000)
Final Taxable Income	**5,750,000**

6.9. Transitional rules

In order to compute the Corporate Tax liabilities for a Taxable Person's first Tax Period, it is necessary for Taxable Persons to have both an opening and a closing balance sheet. The opening balance sheet for the first Tax Period should be the closing balance sheet on the last day of the Person's Financial Year that ends immediately before its first Tax Period commences.[241]

If no accounts were prepared for the previous Financial Year, a closing balance sheet will have to be prepared under an appropriate accounting standard, as applicable and regardless of whether the Cash Basis of Accounting or Accrual Basis of Accounting is applied.

Ministerial Decision No. 120 of 2023 includes certain adjustments a Taxable Person may make (by way of an election) in relation to intangible assets, Immovable Property, and Financial Assets and Financial Liabilities owned by the Taxable Person before it becomes subject to Corporate Tax.[242] These elections must be made on the submission of the Taxable Person's first Tax Return, and are deemed irrevocable except under exceptional circumstances that require FTA approval.[243]

In relation to Immovable Property, if Immovable Property owned by the Taxable Person prior to the Taxable Person's first Tax Period is recorded on a historical cost

[241] Article 61(1) of the Corporate Tax Law.
[242] Ministerial Decision No. 120 of 2023.
[243] Articles 2(5), 3(4) and 4(3) of Ministerial Decision No. 120 of 2023.

basis in the Financial Statements, the Taxable Person can elect in its first Tax Period to adjust its Taxable Income in calculating the gain on the disposal of any Immovable Property in order that only gains accruing while within the scope of Corporate Tax will be taxed. The Taxable Person can select whether they use a 'time apportionment method' or a 'valuation method' when determining the amount of the gain that shall be excluded.[244]

The 'valuation method' allows the Taxable Person to exclude the amount of the gain that would have arisen at the start of their first Tax Period had the Immovable Property been disposed of at Market Value and the cost of the Immovable Property was the higher of the original cost and the net book value.[245] This would require the Taxable Person to determine the Market Value of the Immovable Property at the start of their first Tax Period on the basis as set out in Ministerial Decision No. 120 of 2023.

Alternatively, the Taxable Person could choose to use the 'time apportionment method' to exclude the amount of the gain that would have arisen at the start of their first Tax Period.[246] This allows the Taxable Person to exclude a proportion of the total gain in accordance with the proportion of time the Immovable Property was owned prior to the start of the Taxable Person's first Tax Period and the time of disposal of the Immovable Property.

For intangible assets, any apportionment must be on the basis of time apportionment;[247] while for Financial Assets and Financial Liabilities, any apportionment must be on the basis of valuations at the start of the period where the assets came within the scope of Corporate Tax.[248]

For further details on these transitional rules, readers are advised to consult Ministerial Decision No. 120 of 2023 on the Adjustments Under the Transitional Rules.

Example 25: Valuation Method

Before their first Tax Period, S LLC acquired a Financial Asset from a company, W LLC. S LLC records the Financial Asset on a historical cost basis at AED 70,000 in its Financial Statements.

[244] Article 2 of Ministerial Decision No. 120 of 2023.
[245] Article 2(2)(a) of Ministerial Decision No. 120 of 2023.
[246] Articles 2(2)(b) and 2(4) of Ministerial Decision No. 120 of 2023.
[247] Articles 3(2) and 3(3) of Ministerial Decision No. 120 of 2023.
[248] Article 4(2) of Ministerial Decision No. 120 of 2023.

At the beginning of its first Tax Period in June 2023, an independent expert valued the Financial Asset at AED 100,000. When filing its first set of Tax Returns, S LLC made an election to adjust its Taxable Income for the purposes of calculating gains or losses on all Financial Assets and Financial Liabilities owned before the start of their first Tax Period.

In 2025, S LLC sold the Financial Asset for AED 120,000. As S LLC has elected to use the valuation method, S LLC will only be taxed on the portion of the gain that can be attributed to periods after 1 June 2023.

As a result, S LLC will only need to recognise the gain of AED 20,000 (AED 120,000 – AED 100,000) rather than the full gain of AED 50,000 (AED 120,000 – AED 70,000).

Example 26: Time Apportionment Method

G LLC purchases and develops properties in the UAE. G LLC purchased a Dubai property on 1 June 2022, and recognises this on the historical cost basis of AED 2,000,000.

When filing its first Tax Return for the Tax Period ended 31 May 2024, G LLC made an election to adjust its Taxable Income for the purposes of calculating gains or losses on the Dubai property using the time apportionment method.

On 1 June 2024, G LLC sold its Dubai property for AED 3,500,000. G LLC has elected to use the time apportionment method for the purposes of determining how much of the gain shall be excluded. Given that the Immovable Property was owned for two years in total and G LLC owned the property for a year before their first Tax Period, this means that half of the gain can be excluded for the purposes of determining G LLC's Taxable Income.

As a result, G LLC will only need to recognise, for Corporate Tax purposes, a gain of AED 750,000, as this is the portion of the full gain of AED 1,500,000 that can be attributed to the time between 1 June 2023 and 1 June 2024.

7. Reliefs

7.1. Chapter summary

This chapter provides an overview of the reliefs available under the Corporate Tax Law. Specifically, it sets out small business relief, relief for transfer of assets and liabilities between companies in a Qualifying Group and business restructuring relief.

7.2. Small business relief

Small business relief is provided to eligible UAE businesses, and reduces their Corporate Tax burden and compliance costs in the Corporate Tax regime, primarily by alleviating the burden of having to calculate and pay Corporate Tax in each relevant Tax Period where the conditions are satisfied.

Any eligible Taxable Person with Revenue equal to or below AED 3,000,000 in a relevant Tax Period and all previous Tax Periods (ending on or before 31 December 2026), can elect to be treated as having no Taxable Income in that period and will not be obliged to calculate its Taxable Income or complete a full Tax Return.[249] Where a Taxable Person has elected to benefit from small business relief, they will still be able to carry forward any unutilised Tax Losses[250] and disallowed Net Interest Expenditure[251] arising from prior Tax Periods to be used in future Tax Periods in which small business relief no longer applies.

To be eligible for small business relief, the Taxable Person in question must not be a Constituent Company of a Multinational Enterprise that is required to prepare a Country-by-Country Report under the UAE's Country-by-Country Reporting legislation.[252] In addition, a Qualifying Free Zone Person cannot claim small business relief.[253]

For the Tax Period that a Resident Person elects to benefit from small business relief, the Resident Person will not be required to maintain transfer pricing documentation, if applicable. However, they will still be required to apply the arm's length principle.[254]

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[249] Article 2(1) of Ministerial Decision No. 73 of 2023.
[250] Article 37 of the Corporate Tax Law and Article 4 of Ministerial Decision No. 73 of 2023.
[251] Article 30 of the Corporate Tax Law and Article 5 of Ministerial Decision No. 73 of 2023.
[252] Article 3(1) of Ministerial Decision No. 73 of 2023 and Cabinet Resolution No. 44 of 2020.
[253] Article 3(2) of Ministerial Decision No. 73 of 2023.
[254] Article 21(2)(e) of the Corporate Tax Law.

For further details on small business relief, readers are advised to consult Ministerial Decision No. 73 of 2023 on Small Business Relief, and the Corporate Tax Guide on Small Business Relief.

Example 27: Electing for small business relief

Mr X operates a Business in Abu Dhabi. He is a Resident Person for Corporate Tax Purposes. His Tax Period ends on 31 December each year. To date, Mr X's Revenue has never exceeded the small business relief threshold of AED 3,000,000 per Tax Period in any Tax Period. In the most recent Tax Period ending 31 December 2025, Mr X derived Revenue of AED 2,000,000.

Mr X is eligible to benefit from small business relief as his Revenue for the 31 December 2025 Tax Period does not exceed AED 3,000,000, which is also the case for previous years' Tax Periods. In order to benefit from the relief, he must make an election in his Tax Return.

Mr X will be treated as having no Taxable Income for the 31 December 2025 Tax Period. This means that he will not have to calculate his Taxable Income, and will have no Corporate Tax liability in the Tax Period.

Example 28: Carried forward unutilised Tax Losses when electing for small business relief

C LLC is a UAE Resident company. In the Tax Period ending 31 December 2025, C LLC's Revenue was AED 1,700,000. At the beginning of the Tax Period, C LLC had unutilised Tax Losses of AED 400,000. In the prior year, C LLC's Revenue did not exceed the AED 3,000,000 relief threshold.

C LLC elects for small business relief for the Tax Period ending 31 December 2025. C LLC's carried forward Tax Losses cannot be used in this Tax Period, but can be carried forward and used in future Tax Periods in which the small business relief is not elected provided the relevant conditions are met.

In the Tax Period ending 31 December 2026, C LLC sold a factory to B LLC for AED 5 million, resulting in its Revenue exceeding the AED 3 million (per Tax Period) small business relief eligibility threshold. In this case, C LLC will not be eligible for small business relief for the Tax Period Ending 31 December 2026.

C LLC will need to determine its Taxable Income for the 31 December 2026 Tax Period. To the extent C LLC has a positive Taxable Income, it is able to utilise its Tax Losses

of AED 400,000 brought forward from the prior Tax Period, subject to the 75% utilisation restriction. Should there be any remaining Taxable Income following the utilisation of the available Tax Losses, any Taxable Income exceeding AED 375,000 will be taxable at 9%.

7.3. Transfers within a Qualifying Group

It is a common practice for closely related Businesses to transfer assets and liabilities between each other for operational reasons. Ordinarily, there would be a taxable gain or loss where an asset or liability is transferred for an amount different to its net book value. However, Corporate Tax relief is available where an asset or liability is transferred between members of a Qualifying Group which allows the transfer to take place without giving rise to a Corporate Tax liability.[255]

Taxable Persons will be treated as being members of the same Qualifying Group if they meet all of the following conditions:[256]

- The Taxable Persons are juridical persons that are Resident Persons, or Non-Resident Persons that have a Permanent Establishment in the UAE;[257]
- Either Taxable Person has a direct or indirect ownership interest of at least 75% in the other Taxable Person, or a third Person has a direct or indirect ownership interest of at least 75% in each of the Taxable Persons;[258]
- None of the Persons are an Exempt Person;[259]
- None of the Persons are a Qualifying Free Zone Person;[260]
- The Financial Year of each of the Taxable Person ends on the same date;[261] and
- Both Taxable Persons prepare their Financial Statements using the same accounting standards.[262]

Where an election is made to apply the transfer within a Qualifying Group provisions, assets or liabilities held on capital account that have been transferred between

[255] Article 26(1) of the Corporate Tax Law.
[256] Article 26(2) of the Corporate Tax Law.
[257] Article 26(2)(a) of the Corporate Tax Law.
[258] Article 26(2)(b) of the Corporate Tax Law.
[259] Article 26(2)(c) of the Corporate Tax Law.
[260] Article 26(2)(d) of the Corporate Tax Law.
[261] Article 26(2)(e) of the Corporate Tax Law.
[262] Article 26(2)(f) of the Corporate Tax Law.

members of a Qualifying Group are treated as being transferred at the net book value of the asset or liability so that no gain or loss arises.[263]

The amount paid or received for the transfer will be treated as being equal to the value at which the transferor (the Taxable Person that transferred the asset or liability) records the transferred asset or liability.[264]

When calculating their Taxable Income, and unless and until the asset is subsequently transferred or sold to a third party, the transferee will exclude any depreciation, amortisation or other change in the value of the transferred asset or liability to the extent that it relates to the gain or loss that arose to the transferor that has not been subject to Corporate Tax due to the application of the relief for transfers within a Qualifying Group.[265]

Upon realisation of the asset or liability, the transferee will need to include any amount that has not been recognised for Corporate Tax purposes, other than any such amount that arose prior to the most recent acquisition where the relief did not apply.[266]

An election must be made by the transferor to apply this treatment and both the transferor and transferee must maintain a record of the agreement to transfer the asset or liability at net book value.[267]

The election is made alongside the Tax Return for the Tax Period in which the transfer occurs.[268] This election is irrevocable and will apply to all future transfers of assets and liabilities held on capital account by the transferor within the Qualifying Group in all future Tax Periods.[269]

The relief will be clawed back if, within two years of the transfer, there is a subsequent transfer of the asset or liability outside of the Qualifying Group, or either the transferor or transferee ceases to be a member of the same Qualifying Group.[270] In either of these scenarios, the transferor shall treat the transfer as having taken place at Market Value at the date of the original transfer, and shall account for any gain or loss that arises as a result in the Tax Return for the Tax Period in which the subsequent transfer

[263] Article 3(4) of Ministerial Decision No. 132 of 2023.
[264] Article 26(3)(b) of the Corporate Tax Law.
[265] Article 4(1) of Ministerial Decision No. 134 of 2023.
[266] Article 4(2) of Ministerial Decision No. 134 of 2023.
[267] Articles 3(1) and 6 of Ministerial Decision No. 132 of 2023.
[268] Article 3(2) of Ministerial Decision No. 132 of 2023.
[269] Article 3(3) of Ministerial Decision No. 132 of 2023.
[270] Article 26(4) of the Corporate Tax Law.

occurred.[271] If the transferor no longer exists (for example, they have ceased to carry out a Business), the transferee would be responsible for meeting any Corporate Tax obligation on the deferred gain or loss.[272]

Example 29: Relief for transfers within a Qualifying Group

C LLC and D LLC are both manufacturing businesses wholly owned by X LLC. C LLC and D LLC also meet all other conditions to be considered as members of a Qualifying Group.

During the Tax Period, D LLC won a large contract to supply goods to a new customer. In order to manufacture these goods, it needs specialist machinery. C LLC had this kind of machinery and, due to a recent change in its clients' needs, no longer requires the machinery. C LLC transferred the machinery to D LLC. C LLC did not request payment and D LLC did not pay for the machinery. At the time of the transfer, the net book value of the machinery was AED 800,000 and its Market Value was AED 1,200,000. D LLC uses the fair value method of accounting and as a result, recognised the asset at a net book value of AED 1,200,000 for accounting purposes.

For Corporate Tax purposes, the machinery can be treated as having been transferred at the asset's net book value, AED 800,000. This means that when calculating their Taxable Income, C LLC will be treated as having received AED 800,000 and D LLC will be treated as having paid AED 800,000 for the machinery. As a result, no gain or loss will arise for C LLC for Corporate Tax purposes.

(Amounts in AED)	**C LLC**	**D LLC**
Amount deemed to have been received for Corporate Tax purposes	800,000	n/a
Less: Net book value of the machine brought forward	(800,000)	n/a
Gain / loss arising for Corporate Tax purposes on the transfer of the machine	0	n/a

271 Article 26(5) of the Corporate Tax Law.
272 Article 5 of Ministerial Decision No. 132 of 2023.

Example 30: Subsequent transfer

One year later D LLC lost the contract with the large customer and therefore no longer required the specialist machinery. As a result, D LLC sold the machinery to a third party for AED 1,500,000.

The relief shall no longer apply because there is a subsequent transfer of the asset outside of the Qualifying Group within 2 years. As a result, C LLC (the original transferor) shall treat the transfer from C LLC to D LLC as having taken place at Market Value at the date of the transfer, and shall include a gain of AED 400,000 (AED 1,200,000 – AED 800,000) in the Tax Return for the Tax Period in which D LLC subsequently transferred the asset.

Given that the transferor has paid Corporate Tax on the gain arising on the original transfer (due to the clawback), this means that the original gain does not need to be taken into account by the transferee. Therefore, for the purposes of calculating the gain / loss that will be subject to Corporate Tax for D LLC, the tax treatment would follow the accounting treatment, meaning that the taxable gain for D LLC will be AED 300,000 (AED 1,500,000 – AED 1,200,000).

For further details on Transfers within a Qualifying Group, readers are advised to consult Ministerial Decision No. 132 of 2023 on Transfers Within a Qualifying Group.

7.4. Business restructuring relief

In certain circumstances, where an entire Business or an independent part of a Business is transferred in exchange for shares or other ownership interests, business restructuring relief may apply to eliminate the Corporate Tax impact of these transactions. Under this relief, no gains or losses need to be taken into account when calculating the Taxable Income for either party.[273]

In order for this relief to apply, all of the following conditions need to be met:

- The transfer is undertaken in accordance with, and meets all the conditions imposed by, the applicable legislation of the UAE;[274]
- The Taxable Persons are Resident Persons, or Non-Resident Persons that have a Permanent Establishment in the UAE;[275]

[273] Article 27(1) of the Corporate Tax Law.
[274] Article 27(2)(a) of the Corporate Tax Law.
[275] Article 27(2)(b) of the Corporate Tax Law.

- None of the Persons are an Exempt Person;[276]
- None of the Persons are a Qualifying Free Zone Person;[277]
- The Financial Year of each of the Taxable Persons ends on the same date;[278]
- The Taxable Persons prepare their Financial Statements using the same accounting standards;[279] and
- The transfer is undertaken for valid commercial reasons which reflect economic reality.[280]

An individual can use this relief in order to transfer their Business to an incorporated entity as long as the relevant conditions are satisfied.

Where business restructuring relief applies, the assets and liabilities transferred will be treated as being transferred at their net book value at the time of transfer so that neither a gain nor a loss arises.[281]

This is an optional relief, and the Person that transferred the Business ('the transferor') can choose whether to elect for the relief to apply on a case-by-case basis.[282] Both the transferor and transferee need to maintain a record of the agreement to transfer the Business at net book value.[283]

The relief is available where a Business is transferred in exchange for ownership interests and other forms of consideration (such as cash). Where other forms of considerations are part of the overall consideration for the Business transfer, the Market Value of any other form of consideration cannot exceed the net book value of the assets and liabilities transferred, or 10% of the nominal value of the ownership interests issued.[284]

When calculating their Taxable Income, the transferee will exclude any depreciation, amortisation or other change in the value of the transferred assets and liabilities to the extent that the change in value relates to the gain or loss that arose to the transferor

[276] Article 27(2)(c) of the Corporate Tax Law.
[277] Article 27(2)(d) of the Corporate Tax Law.
[278] Article 27(2)(e) of the Corporate Tax Law.
[279] Article 27(2)(f) of the Corporate Tax Law.
[280] Article 27(2)(g) of the Corporate Tax Law.
[281] Article 27(3)(a) of the Corporate Tax Law.
[282] Article 4 of Ministerial Decision No. 133 of 2023.
[283] Articles 4(1) and 9 of Ministerial Decision No. 133 of 2023.
[284] Article 2 of Ministerial Decision No. 133 of 2023.

that has not been subject to Corporate Tax due to the application of business restructuring relief.[285]

Upon realisation, the transferee will need to include any gain or loss that has not previously been recognised for Corporate Tax purposes in respect of the assets and liabilities since the most recent acquisition to which business restructuring relief did not apply.[286]

Tax Losses transferred as part of a business restructuring may only become carried forward Tax Losses available for the transferee if the transferee continues to conduct a similar Business or Business Activity following the transfer.[287] This will usually mean that:

- the transferee uses some or all of the same assets that were used by the transferor prior to the transfer;
- the transferee has not made significant changes to the core identity or operations of the Business since the transfer; and
- any changes that have been made have resulted from the development or use of assets, services, processes, products or methods that existed before the transfer.
- This relief will not apply if, within two years of the initial transfer:
  - The shares or other ownership interests in either the transferor or the transferee are sold, transferred or otherwise disposed of, in whole or part, to a Person that is not a member of the Qualifying Group (as defined in Section 7.3) to which the transferor or the transferee belong;[288] or
  - There is a subsequent transfer or disposal of the Business or independent part of the Business which was transferred.[289]

In either of these scenarios, the transferor shall treat the transfer as having taken place at Market Value at the date of the transfer, and shall account for any gain or loss that arises as a result in the Tax Return for the Tax Period in which the subsequent transfer occurred.[290] If the transferor is no longer a Taxable Person (for example, they have ceased to exist or cease to have a Permanent Establishment in the UAE), or if they are an individual, the transferee would be responsible for meeting any Corporate Tax obligation on the deferred gain or loss.[291]

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[285] Article 5(1) of Ministerial Decision No. 134 of 2023.
[286] Article 5(2) of Ministerial Decision No. 134 of 2023.
[287] Article 5 of Ministerial Decision No. 133 of 2023.
[288] Article 27(6)(a) of the Corporate Tax Law.
[289] Article 27(6)(b) of the Corporate Tax Law.
[290] Article 27(7) of the Corporate Tax Law.
[291] Article 8 of Ministerial Decision No. 133 of 2023.

Example 31: Business restructuring relief

F LLC is a UAE resident company that sells agricultural machinery. Z LLC is a UAE resident company that operates an agricultural machinery repair business.

During the Tax Period, Z LLC bought F LLC’s business in return for 20% of the shares in Z LLC. The net book value of F LLC’s business at the time of transfer was AED 2,300,000. The Market Value of the shares received by F LLC was AED 2,700,000, which equals the Market Value of the business. Z LLC measures assets at fair value and, therefore, recognised the assets and liabilities of the business at a net book value of AED 2,700,000 for accounting purposes.

For Corporate Tax purposes, the business will be treated as having been transferred to Z LLC at its net book value, AED 2,300,000. This means that when calculating their Taxable Income, F LLC will be treated as having received AED 2,300,000 and Z LLC will be treated as having paid AED 2,300,000 for the business. As a result, no gain or loss accrues to F LLC or Z LLC.

(Amounts in AED)	**F LLC**	**Z LLC**
Amount deemed to have been received for Corporate Tax purposes	2,300,000	n/a
Less: Net book value of the Business brought forward	2,300,000	n/a
Gain / loss arising for Corporate Tax purposes on the transfer of the Business	0	n/a

Example 32: Subsequent transfer

One year later, Z LLC sold the business for AED 3,000,000. Business restructuring relief shall no longer apply because there is a subsequent transfer of the Business which was transferred. As a result, F LLC (the transferor) shall treat the original transfer from F LLC to Z LLC as having taken place at Market Value at the date of the transfer, and F LLC shall take into account a gain of AED 400,000 (AED 2,700,000 – AED 2,300,000) in the Tax Return for the Tax Period in which Z LLC subsequently sold the Business.

Given that the transferor has paid Corporate Tax on the gain arising on the original transfer (due to the clawback), this means that the original gain does not need to be taken into account by the transferee. Therefore, for the purposes of calculating the gain / loss that will be subject to Corporate Tax for Z LLC, the tax treatment would follow the accounting treatment. This means that the taxable gain for Z LLC will be AED 300,000 (AED 3,000,000 – AED 2,700,000).

For further details on business restructuring relief, readers are advised to consult Ministerial Decision No. 133 of 2023 on Business Restructuring Relief.[292]

[292] Ministerial Decision No. 133 of 2023.

8. Special regimes

8.1. Chapter summary

This chapter sets out the treatment of partnerships and Tax Groups under the Corporate Tax Law. It explains what is meant by a partnership and how it is taxed. It also introduces the requirements associated with forming a Tax Group and explains how to calculate the Taxable Income of a Tax Group.

8.2. Taxation of partnership and their partners

8.2.1. Unincorporated Partnerships

Individuals, companies and other legal entities may join with others to form a partnership, usually established under a contract and jointly conduct Business or hold investments. Partnerships can take a range of different forms, and can be incorporated, such as Limited Liability Partnerships (LLPs), or Unincorporated Partnerships, such as general partnerships and joint ventures (JVs).

Incorporated partnerships (see Section 8.2.2) have a separate legal personality from their partners and are treated as a juridical person that is subject to Corporate Tax at the partnership level.

However, where a partnership does not have a separate legal personality, each partner is treated as:

- conducting the Business of the partnership;[293]
- having a status, intention, and purpose of the partnership;[294]
- holding assets that the partnership holds;[295] and
- being party to any arrangement to which the partnership is a party.[296]

In this case, the Unincorporated Partnership is not considered a Taxable Person in its own right, as it is not considered a juridical person.[297] This means that the partnership itself is not subject to Corporate Tax, and each partner is subject to Corporate Tax on their income from the partnership.[298] The activities of the partnership are treated as

[293] Article 16(2)(a) of the Corporate Tax Law.
[294] Article 16(2)(b) of the Corporate Tax Law.
[295] Article 16(2)(c) of the Corporate Tax Law.
[296] Article 16(2)(d) of the Corporate Tax Law.
[297] Article 2 of Ministerial Decision No. 127 of 2023.
[298] Article 16(1) of the Corporate Tax Law.

being carried out by the partners, and each partner is taxed in proportion to their distributive share in the partnership.

8.2.1.1. Taxable Income of partners in an Unincorporated Partnership

Partners in an Unincorporated Partnership are taxed in accordance with the wider Corporate Tax regime. In particular, individuals that are partners in an Unincorporated Partnership are taxed on the same basis as if they were conducting Business on their own. Therefore, they are only subject to Corporate Tax on income arising from categories of Business and Business Activities that are subject to Corporate Tax for individuals (see Section5.3.3).

However, the partners in an Unincorporated Partnership may make an application to the FTA for the Unincorporated Partnership to be treated as a Taxable Person (i.e. to have the Corporate Tax liability be determined and assessed at the level of the partnership).[299]

Once the application is approved, and to the extent there are any individuals who are partners in that Unincorporated Partnership, Cabinet Decision No. 49 of 2023 will no longer be applicable in relation to the activities of those individual partners in the Unincorporated Partnership, as the Unincorporated Partnership, and not the partners, is treated as conducting the Business (unless the partners conduct other business or business activities separate from the Unincorporated Partnership). This means that all partnership income will be Taxable Income subject to Corporate Tax for the Unincorporated Partnership. The application will be deemed irrevocable except under exceptional circumstances and pursuant to approval by the FTA.[300]

Where the application for an Unincorporated Partnership to be treated as a standalone Taxable Person has been approved by the FTA, any Taxable Income for the partnership will be excluded from the Taxable Income of the partner.[301] The partners will also exclude any gains or losses on the transfer, sale or disposal of all or part of their interest in the Unincorporated Partnership if this interest meets the conditions of the participation exemption (see Section 6.4.2).[302]

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[299] Article 16(8) of the Corporate Tax Law.
[300] Article 3(1) of Ministerial Decision No. 127 of 2023.
[301] Article 6(1) of Ministerial Decision No. 134 of 2023.
[302] Article 6(2) of Ministerial Decision No. 134 of 2023.

The Unincorporated Partnership needs to notify the FTA in case of any partner joining or leaving the Unincorporated Partnership within 20 business days.[303]

For further details on Unincorporated Partnerships, readers are advised to consult the relevant Ministerial Decisions, including Ministerial Decision No. 127 of 2023 on Unincorporated Partnership, Foreign Partnership and Family Foundation[304]

8.2.1.2. Allocation of partnership assets, liabilities, income and expenditure

Where an Unincorporated Partnership has not made an application to be treated as a standalone Taxable Person:

- A partner's distributive share is the share of partnership profits they are entitled to under the partnership agreement. Where the distributive share cannot be determined (e.g. if there is no partnership agreement), the FTA can prescribe the manner in which profits shall be allocated amongst the partners.[305]
- Any partnership assets, liabilities, income or expenditure will be allocated to each partner in proportion to their distributive share in the partnership.[306]

Where an Unincorporated Partnership has not made the election to be treated as a Taxable Person, a partner in the Unincorporated Partnership should follow the ordinary steps outlined in Chapter 6 when calculating their Taxable Income. A partner's Taxable Income is based on their share of the partnership's income, expenses, assets and liabilities. They should also take into account:

- expenditure incurred directly by the partner in conducting the Business of the partnership;[307] and
- Interest expenditure incurred by the partner in relation to contributions made to the capital account (e.g., cash or assets) of the partnership.[308]

This expenditure needs to meet the normal rules for deductibility of business expenses. For example, a partner will not be allowed to deduct expenditure relating to personal travel or home rent given that neither of this expenditure is incurred for the purposes of the business.

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[303] Article 3(2) of Ministerial Decision No. 127 of 2023.
[304] Ministerial Decision No. 127 of 2023 and Ministerial Decision No. 134 of 2023.
[305] Article 16(3) of the Corporate Tax Law.
[306] Article 16(3) of the Corporate Tax Law.
[307] Article 16(4)(a) of the Corporate Tax Law.
[308] Article 16(4)(b) of the Corporate Tax Law.

Any Interest paid to a partner by the partnership on their capital account will be treated as an allocation of income to the partner.[309] This forms part of the partner's Taxable Income and is, therefore, not a deductible expense for the partner in calculating their Taxable Income.

Where a partner receives a salary, draw down or other income derived from their profit share, these amounts will be treated as allocations of income to the partner and will, therefore, usually be taxable on the partner as a distributive share of any partnership profits.

Example 33: Taxation of an Unincorporated Partnership

An Unincorporated Partnership (X Partnership) has three partners, Miss A and Mr B who are individuals, and C LLC, a juridical person. All partners have the same Financial Year.

Miss A is entitled to 40% of partnership profits while Mr B and C LLC are entitled to 30% each.

During its most recent Tax Period, X Partnership had a net Accounting Income of AED 9,000,000. This was made up of income of AED 15,000,000 and expenses of AED 6,000,000. The income and expenditure would be allocated as follows:

Miss A (40% share of assets, liabilities, income or expenditure):

Income	6,000,000
Expenditure	(2,400,000)
Accounting Income	**3,600,000**

Mr B (30% share of assets, liabilities, income or expenditure):

Income	4,500,000
Expenditure	(1,800,000)
Accounting Income	**2,700,000**

C LLC (30% share of assets, liabilities, income or expenditure):

Income	4,500,000
Expenditure	(1,800,000)

[309] Article 16(5) of the Corporate Tax Law.

Accounting Income	**2,700,000**

Each partner would then need to make their own tax adjustments to calculate their Taxable Income.

8.2.1.3. Application to be treated as a Taxable Person

As noted above, partners in an Unincorporated Partnership can make an application to be taxed at the partnership level, with the partnership itself becoming a Taxable Person.[310] This application will apply from the commencement of the Tax Period in which the application is made or from the commencement of a future Tax Period, or any other date determined by the FTA.[311]

The effect of this treatment is to ensure that Taxable Income is calculated at the partnership level rather than at the individual partner level. Whilst all partners remain jointly and severally liable for the Corporate Tax Payable for all Tax Periods in which they were partners, a single partner will need to be appointed as the partner responsible for complying with Corporate Tax related obligations on behalf of the partnership.[312]

8.2.2. Incorporated partnerships

Where a partnership is incorporated in the UAE and has a separate legal personality, as is the case for Limited Liability Partnerships and Limited Partnership Companies, they will be treated as a juridical person for Corporate Tax purposes. Their treatment will, therefore, be the same as other juridical persons such as Limited Liability Companies and Public Joint Stock Companies.

8.2.3. Tax treatment of a foreign partnership

A Foreign Partnership is a relationship established by contract between two or more Persons, such as a partnership or trust or any other similar association of Persons, in accordance with laws of a foreign jurisdiction. Foreign partnerships will be treated as Unincorporated Partnerships for the purposes of UAE Corporate Tax if:

- the foreign partnership is not subject to tax in the foreign country or territory;[313]

[310] Article 16(8) of the Corporate Tax Law.
[311] Article 16(10) of the Corporate Tax Law.
[312] Article 16(9)(c) of the Corporate Tax Law.
[313] Article 16(7)(a) of the Corporate Tax Law.

- each partner in the foreign partnership is individually subject to tax in respect of their distributive share;[314]

This means that in order for the Foreign Partnership to be treated as an Unincorporated Partnership for UAE Corporate Tax purposes, such partnership must be treated as not taxable in its own right in the foreign country or territory where it was formed, and the partners should be taxed on their distributive share of income received by or accrued to the partnership, subject to the tax residence of the partners and the respective tax treatment of income earned by the partners in the country of formation. Additionally, the foreign partnership must submit an annual declaration to the FTA to confirm that these conditions are met.[315] Moreover, the foreign country or territory and the UAE must have adequate arrangements in place for the purpose of sharing tax information regarding the partners in the foreign partnership.[316]

Where these conditions are met, the foreign partnership will be treated as an Unincorporated Partnership and each of the partners treated as individual Taxable Persons, unless an application is made to the FTA to be taxed at the partnership level, with the foreign partnership itself becoming a Taxable Person.

8.3. Tax Group regime

Companies under common ownership can form a Tax Group, subject to meeting the relevant conditions.[317] This allows the Tax Group to be treated as a single Taxable Person, reducing the compliance burden on individual companies by consolidating accounts and eliminating intra-group transactions, and increasing flexibility in the utilisation of Tax Losses.[318]

Businesses and business activities conducted by a Government Entity can also apply for this treatment.[319]

For further details on Tax Groups, readers are advised to consult the relevant Ministerial Decisions, including Ministerial Decision No. 125 of 2023 on Tax Groups.[320]

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314 Article 16(7)(b) of the Corporate Tax Law.
315 Article 4(1)(a) of Ministerial Decision No. 127 of 2023.
316 Article 4(1)(b) of Ministerial Decision No. 127 of 2023.
317 Article 40(1) of the Corporate Tax Law.
318 Article 3 of Ministerial Decision No. 114 of 2023.
319 Articles 2 and 3 of Ministerial Decision No. 68 of 2023.
320 Ministerial Decision No. 125 of 2023 and Ministerial Decision No. 68 of 2023.

8.3.1. Requirements to form a Tax Group

In order to form a Tax Group, a Parent Company must make an application to the FTA. The application must be made by the Parent Company and each of the Subsidiaries seeking to become members of the Tax Group. Both the Parent Company and its Subsidiaries must be resident juridical persons under the Corporate Tax Law and under a relevant Double Taxation Agreement (if applicable), have the same Financial Year, and prepare their Financial Statements using the same accounting standards.[321] No member of the Tax Group can be an Exempt Person[322] or Qualifying Free Zone Person.[323]

In addition, there are ownership requirements such that the Parent Company must directly or indirectly:

- own at least 95% of the share capital of the Subsidiary;[324]
- hold at least 95% of the voting rights in the Subsidiary;[325] and
- be entitled to at least 95% of the Subsidiary's profits and net assets.[326]

A Parent Company or Subsidiary must not be considered resident for tax purposes in another jurisdiction under a relevant Double Taxation Agreement.[327] This may require the Parent Company or Subsidiary to maintain documentation to confirm that it is not resident for tax purposes in another jurisdiction, such as a confirmation from the relevant tax authority of the other jurisdiction.[328]

8.3.2. Formation and cessation of a Tax Group

A Tax Group will be formed from the beginning of the Tax Period specified in the application submitted to the FTA. The FTA may also determine the formation date as being the beginning of any other Tax Period.[329]

A Tax Group will cease to exist if the FTA approves the dissolution of the Tax Group, or if the Parent Company no longer meets the necessary conditions throughout the

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[321] Articles 40(1)(a), 40(1)(g) and 40(1)(h) of the Corporate Tax Law.
[322] Article 40(1)(e) of the Corporate Tax Law.
[323] Article 40(1)(f) of the Corporate Tax Law.
[324] Article 40(1)(b) of the Corporate Tax Law.
[325] Article 40(1)(c) of the Corporate Tax Law.
[326] Article 40(1)(d) of the Corporate Tax Law.
[327] Article 3 of Ministerial Decision No. 125 of 2023.
[328] Article 3 of Ministerial Decision No. 125 of 2023.
[329] Article 41(1) of the Corporate Tax Law.

relevant Tax Period.[330] The FTA may also dissolve or change the Parent Company of a Tax Group at the FTA's discretion based on information available to the FTA. If this happens, the FTA will notify the Parent Company.[331]

8.3.3. Joining or leaving a Tax Group

A Subsidiary is able to join an existing Tax Group by applying to the FTA with the Parent Company.[332] Newly established Parent Companies or Subsidiaries can join an existing Tax Group from the date of their incorporation, and do not have to wait until the beginning of the following Tax Period.[333]

A Subsidiary must leave an existing Tax Group if:

- an application to leave the Tax Group by the Parent Company and that Subsidiary is approved by the FTA; or
- if the Subsidiary no longer meets the relevant conditions to remain in the Tax Group.[334]

A Parent Company of a Tax Group can also make an application to the FTA to be replaced by another Parent Company without discontinuing the Tax Group if the new Parent Company meets all of the conditions satisfied by the former Parent Company.[335] An application can also be made if the former Parent Company ceases to exist and the new Parent Company or a Subsidiary is its universal legal successor.

A company will be treated as having left the Tax Group from the beginning of the Tax Period in which it no longer meets the conditions.

8.3.4. Compliance with Corporate Tax requirements

The Parent Company represents the Tax Group and is responsible for complying with the Tax Group's Corporate Tax obligations.[336] Nevertheless, both the Parent Company and each Subsidiary are jointly and severally liable for Corporate Tax Payable by the Tax Group for each of the Tax Periods in which they are members of

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[330] Article 40(11) of the Corporate Tax Law and Ministerial Decision No. 125 of 2023.
[331] Article 40(13) of the Corporate Tax Law.
[332] Article 40(9) of the Corporate Tax Law.
[333] Article 5(5) of Ministerial Decision No. 125 of 2023.
[334] Article 40(10) of the Corporate Tax Law.
[335] Article 40(12) of the Corporate Tax Law.
[336] Article 40(5) of the Corporate Tax Law.

the Tax Group.[337] This liability can be limited to one or more members of the Tax Group if approved by the FTA.[338]

8.3.5. Taxable Income of a Tax Group

To determine the Taxable Income of a Tax Group, the Parent Company must consolidate the financial accounts of each subsidiary for the relevant Tax Period by the way of aggregation. It must eliminate transactions between the members of a Tax Group, including adjustments from valuations, and transactions between two or more members of the same Tax Group.[339]

The unutilised Tax Losses of a subsidiary that joins a Tax Group will become carried forward losses of the Tax Group.[340] These are known as "pre-grouping Tax Losses". Pre-grouping Tax Losses that are carried forward can only be used to offset the Taxable Income of the Tax Group insofar as this income is attributable to the subsidiary which brought the Tax Losses into the Tax Group.[341] The pre-grouping Tax Losses that are to be carried forward to be utilised in the Tax Group cannot exceed the 75% Tax Loss relief limit. The limit will be applied to the Taxable Income of the Tax Group (see Section 6.7.1.).[342]

If a new Subsidiary joins an existing Tax Group, the unutilised Tax Losses of the existing group cannot be used to offset the Taxable Income of the new Subsidiary.[343] If a Subsidiary leaves a Tax Group, the Subsidiary will retain any unutilised pre-grouping Tax Losses brought into the Tax Group, but any Tax Losses incurred while it was a Subsidiary of the Tax Group will remain with the Tax Group.[344]

The 75% cap on the utilisation of carried forward Tax Losses and the limitation on Tax Losses carry forward are applicable at the level of the Tax Group.[345]

[337] Article 40(6) of the Corporate Tax Law.
[338] Article 40(7) of the Corporate Tax Law.
[339] Article 42(1) of the Corporate Tax Law and Article 6 of Ministerial Decision No. 125 of 2023.
[340] Article 42(3) of the Corporate Tax Law.
[341] Article 42(3) of the Corporate Tax Law.
[342] Article 7 of Ministerial Decision No. 125 of 2023.
[343] Article 42(4) of the Corporate Tax Law.
[344] Article 42(6) of the Corporate Tax Law.
[345] Article 42(5) of the Corporate Tax Law.

Example 34: Formation of a Tax Group

C LLC is a UAE resident company. C LLC acquired F LLC (another UAE resident company) on 31 March 2026.

F LLC wholly owns Z LLC (another UAE resident company). C LLC owns 100% of the share capital and holds 100% of the voting rights of F LLC. F LLC owns 100% of the share capital and holds 100% of the voting rights of Z LLC. All of the companies use the same accounting standards and have the same Financial Year.

Although C LLC does not *directly* own any share capital or hold any voting rights in Z LLC, it does so indirectly through its ownership of Z LLC's owner, F LLC. C LLC, therefore, meets the ownership requirements of F LLC and Z LLC in order to form a Tax Group, as C LLC indirectly owns over 95% of the share capital and voting rights of both F LLC and, by extension, Z LLC.

C LLC (as the Parent Company), F LLC and Z LLC made an application to form a Tax Group, effective from the Tax Period beginning 1 September 2026.

The application to form a Tax Group was approved by the FTA. At the end of the Tax Group's first Tax Period on 31 August 2027, each group company's Accounting Income for the year, before consolidation, is as follows:

C LLC	AED 10,000,000
F LLC	AED 8,000,000
Z LLC	AED 9,000,000

During that period, F LLC and Z LLC received dividends from UAE resident companies totalling AED 3,000,000, and C LLC spent AED 250,000 on client entertainment. C LLC had AED 5,500,000 of brought forward Tax Losses from its previous Tax Period (1 September 2025 - 31 August 2026).

In order to determine its Taxable Income for the period, C LLC must first consolidate, by way of aggregation, the Accounting Income of each company in the group and then make the necessary tax adjustments, including applying its Tax Losses, at a group level.

Domestic dividends are Exempt Income for Corporate Tax purposes. As a result, the dividend income of AED 3,000,000 should be excluded from C LLC's Accounting Income.

Only 50% of entertainment expenditure is an allowable expense for Corporate Tax purposes. As a result, 50% of the expenditure (AED 250,000 x 50% = AED 125,000) must be added back to C LLC's Accounting Income.

C LLC's Taxable Income is therefore:

C LLC - Accounting Income	10,000,000
F LLC - Accounting Income	8,000,000
Z LLC - Accounting Income	9,000,000
Consolidated Accounting Income	**27,000,000**
Domestic dividends	(3,000,000)
Entertainment expenditure	125,000
Taxable Income	**24,125,000**

As the Parent Company, C LLC's Tax Losses incurred before grouping can be set off against the Taxable Income of the Tax Group. C LLC can, therefore, reduce the Tax Group's Taxable Income by a maximum of 75% for the relevant Tax Period (AED 24,125,000 x 75% = AED 18,093,750). As the amount of carried forward Tax Losses is less than this, C LLC can use the whole of its AED 5,500,000 of Tax Losses in this Tax Period. The Tax Group's final Taxable Income is therefore:

Taxable Income of Tax Group	**24,125,000**
Tax Losses	(5,500,000)
Final Taxable Income	**18,625,000**

This is the Tax Group's Taxable Income which should be reported to the FTA for the Tax Period ending on 31 August 2027.

The Tax Group's Corporate Tax liability will be as follows:

0% x 375,000	0

9% x 18,250,000	1,642,500
Corporate Tax Payable	**1,642,500**

On 4 November 2027, C LLC sold 50% of its shares in F LLC. As C LLC no longer holds sufficient shares in F LLC, and indirectly in Z LLC, the conditions for these three companies to remain in a Tax Group are no longer met. The Tax Group will cease to exist from the beginning of the Tax Year starting 1 September 2027.

9. How is any Corporate Tax liability calculated?

9.1. Chapter summary

This chapter sets out how to apply Corporate Tax to Taxable Income and compute how much Corporate Tax is due. This calculation will be done in a Tax Return. The chapter also describes the available tax credits and explains how these should be applied.

9.2. Applicable Corporate Tax rates

The amount of Corporate Tax due in a Tax Period is calculated by applying the appropriate Corporate Tax rate to the Taxable Person's Taxable Income (see Chapter 6).

9.2.1. General tax rates

Corporate Tax applies to Taxable Income at the following rates:[346]

Taxable Income not exceeding AED 375,000	0%
Taxable Income exceeding AED 375,000	9%

Any single Taxable Person only gets to apply a 0% rate to their first AED 375,000 once per Tax Period. This continues to apply where multiple Persons have come together to form a single Taxable Person. If individual companies form a Tax Group, or an Unincorporated Partnership applies to be taxed at the partnership level, only the Taxable Person (i.e. either the Tax Group or the partnership) will be able to apply the 0% rate to the first AED 375,000 of its collective Taxable Income.

For further details on the Taxable Income threshold, readers are advised to consult Cabinet Decision No. 116 of 2022 on the Taxable Income Threshold.

[346] Article 3(1) of the Corporate Tax Law.

Example 35: Application of Corporate Tax rates to Tax Groups

If three individual companies had Taxable Income each of AED 5,000,000 then each company would pay tax of AED 416,250, a total of AED 1,248,750. Each company's Corporate Tax liability calculation would be as follows:

Rate	Taxable Income (AED)	Corporate Tax Payable (AED)
0%	375,000	0
9%	4,625,000	416,250
Total Corporate Tax due per company		416,250
Total Corporate Tax Payable for all three companies		1,248,750

If these companies formed a Tax Group, the Corporate Tax due on their total Taxable Income of AED 15,000,000 would be AED 1,316,250. The Tax Group's Corporate Tax liability calculation would be as follows:

Rate	Taxable Income (AED)	Corporate Tax Payable (AED)
0%	375,000	0
9%	14,625,000	1,316,250
Total Corporate Tax Payable for all three companies		1,316,250

9.2.2. Corporate Tax rates for Qualifying Free Zone Persons

Corporate Tax applies to Qualifying Free Zone Persons at the following rates:[347]

Qualifying Income	0%
Taxable Income that is not Qualifying Income	9%

The Corporate Tax rate applied to Qualifying Free Zone Persons depends on whether income is Qualifying Income or not (see Section 5.5).

A Qualifying Free Zone Person is subject to the standard 9% Corporate Tax rate without being disqualified from the Free Zone regime on the following income:

- Income that is attributable to a domestic or a foreign Permanent Establishment;[348]
- Income derived from Commercial Property located in a Free Zone where the transaction is with a Person who is not a Free Zone Person;[349] and
- Income derived from residential and other non-Commercial Property located in a Free Zone.[350]

Income from these above sources is treated as regular Taxable Income that does not benefit from the 0% rate.

Unlike ordinary Taxable Persons, Qualifying Free Zone Persons are not entitled to a 0% rate on their first AED 375,000 of Taxable Income that is not Qualifying Income. Therefore, any Taxable Income that is not Qualifying Income will be subject to tax at the general rate of 9%.

9.2.3. Withholding Tax rate

At the time of enacting the Corporate Tax Law, the rate of Withholding Tax was 0%.[351] Withholding Tax should be deducted by a Resident Person from a payment made to a Non-Resident for certain categories of State Sourced Income derived by the Non-Resident Person, and remitted to the FTA. Tax credits are given to Taxable Persons

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[347] Article 3(2) of the Corporate Tax Law.
[348] Article 5 of Cabinet Decision No. 55 of 2023.
[349] Article 6(1)(a) of Cabinet Decision No. 55 of 2023.
[350] Article 6(1)(b) of Cabinet Decision No. 55 of 2023.
[351] Article 45(1) of the Corporate Tax Law.

who have had Withholding Tax deducted from payments to them. (See Section 9.3.1 for more information on Withholding Tax Credit).

As the rate of Withholding Tax is currently 0%, this means that, currently, no tax needs to be withheld.

9.3. Tax credits

In some cases, Taxable Persons may be entitled to credits which they can use to offset against their Corporate Tax liability. These credits arise if they have paid tax on the same income already, either in the UAE or in a foreign country.

9.3.1. Requirements for the Withholding Tax Credit

Withholding taxes are a common form of collecting income tax on cross-border transactions. Under these regimes, tax is deducted at the source when certain payments are made to, for example, overseas Persons. Sometimes withholding taxes are also levied on domestic transactions. Typically, the payor of the income is charged with the task of deducting the tax from certain kinds of payments and remitting that amount to the tax administration.

Withholding taxes usually apply to certain types of activities by foreign parties, or activities that do not typically require a Person to register for tax, for example, dividends and interest payments in certain countries.

As part of the introduction of Corporate Tax, the UAE has introduced a Withholding Tax that applies to certain categories of income paid to a Non-Resident Person to the extent the income is not attributed to a Permanent Establishment in the UAE.[352] However, the rate of this tax is 0% meaning that, currently, no tax will need to be withheld.

If the rate is changed in future, a Non-Resident Person who becomes subject to Corporate Tax would be able to reduce their Corporate Tax Payable by any Withholding Tax that has already been deducted in the same Tax Period.[353] This is known as Withholding Tax Credit. Any excess Withholding Tax Credit will be refunded.[354]

[352] Article 45(1) of the Corporate Tax Law.
[353] Article 46(1) of the Corporate Tax Law.
[354] Article 46(3) of the Corporate Tax Law.

9.3.2. Foreign Tax Credit

Corporate Tax Payable may be reduced by any available Foreign Tax Credit for the same Tax Period.[355] Foreign Tax Credit is the amount of foreign taxes paid on foreign sourced income which has not been exempted. This relief is unilateral and does not rely on a Double Taxation Agreement or any other reciprocal action from the foreign taxing jurisdiction.

In order to apply Foreign Tax Credit, the pre-tax foreign income must be included in the Taxable Income of the UAE Resident Person. The amount of Corporate Tax due should be calculated based on the overall Taxable Income, and Foreign Tax Credit can then be deducted from the amount of Corporate Tax Payable.

The amount of Foreign Tax Credit cannot exceed the amount of Corporate Tax due on the foreign source income,[356] and a Foreign Tax Credit cannot be carried forward or back.[357] No refund will be given for unutilised Foreign Tax Credit. In addition, Foreign Tax Credit can only be applied after any Withholding Tax Credit has been applied.[358]

Taxable Persons must maintain all necessary records for the purposes of claiming Foreign Tax Credit.[359] This could include, for example, Withholding Tax certificates, statements of payments or assessments by the relevant foreign tax authority.

Example 36: Application of Foreign Tax Credit

C LLC is a UAE resident company that does business through Permanent Establishments in a number of foreign countries.

During the Tax Period, C LLC paid AED 300,000 in foreign taxes on the AED 1,500,000 of income it earned in foreign countries. C LLC has not made an election to exempt the income from its Foreign Permanent Establishments.

At the end of the Tax Period, C LLC's Corporate Tax liability was AED 1,000,000. C LLC can reduce its Corporate Tax liability using available Foreign Tax Credit. However, the amount of Foreign Tax Credit is limited to the amount of Corporate Tax that would have been paid in the UAE on the foreign income (AED 1,500,000 x 9% = AED

[355] Article 47(1) of the Corporate Tax Law.
[356] Article 47(2) of the Corporate Tax Law.
[357] Article 47(3) of the Corporate Tax Law.
[358] Article 44 of the Corporate Tax Law.
[359] Article 47(4) of the Corporate Tax Law.

135,000). This is less than the amount of tax C LLC paid in the foreign countries. The surplus amount (AED 300,000 – AED 135,000 = AED 165,000) cannot be carried forward or back and will not be refunded.

The amount of Corporate Tax due is therefore AED 1,000,000 – AED 135,000 = AED 865,000.

9.3.3. Impact of Double Taxation Agreements on Foreign Tax credits

Double Taxation Agreements between the UAE and other countries will generally provide for methods for the elimination of double taxation. In the event that a Resident Person derives foreign source income from a country with which the UAE has an in-force Double Taxation Agreement, the agreement with that country will generally provide either for the exemption method, the credit method or the application of both methods depending on the nature of the income and the specific provisions of the Double Taxation Agreement.

The provisions of Double Taxation Agreements take precedence over the Corporate Tax Law if the terms of the Double Taxation Agreement are inconsistent with the Corporate Tax Law.[360] This treatment is internationally common and accepted.

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[360] Article 66 of the Corporate Tax Law.

10. Administration of Corporate Tax

10.1. Chapter Summary

This chapter explains how the Corporate Tax Law will be administered. It includes information for Taxable Persons on their administrative compliance responsibilities, such as registration, filing, and payment, as well as further guidance on clarifications and assessments, record keeping obligations and the general anti-abuse rule.

10.2. Registration and Deregistration

All Taxable Persons should register for Corporate Tax with the FTA and obtain a Tax Registration Number for Corporate Tax.[361] This needs to be done before a deadline to be determined by the FTA. All Taxable Persons are encouraged to register for Corporate Tax as soon as they become aware that they will be within the scope of Corporate Tax.

Non-Resident Persons that do not have a Permanent Establishment in the UAE and only earn State Sourced Income can choose not to register for Corporate Tax purposes. However, Non-Resident Persons that have a nexus in the UAE (arising from earning income from Immovable Property in the UAE – see Section 5.4.4) are required to register.[362]

The FTA can, at its discretion, register a Person for Corporate Tax if, on the basis of information available to it, the FTA believes the Person is a Taxable Person.[363]

If a Corporate Tax registered Person ceases to be a Taxable Person for any reason, they should file a Tax Deregistration application with the FTA.[364] Tax Deregistration will only take place when all Corporate Tax liabilities and penalties due have been paid, and all Tax Returns have been filed.[365] If the Tax Deregistration application is approved by the FTA, the FTA will deregister the Person for Corporate Tax purposes, with effect from the date of cessation of the Business or from such other date as may be determined by the FTA.[366]

[361] Article 51(1) of the Corporate Tax Law.
[362] Article 4 of Cabinet Decision No. 56 of 2023.
[363] Article 51(3) of the Corporate Tax Law.
[364] Article 52(1) of the Corporate Tax Law.
[365] Article 52(2) of the Corporate Tax Law.
[366] Article 52(3) of the Corporate Tax Law.

Failure to submit a deregistration application within 3 months of the date the entity ceases to exist, cessation of the Business, dissolution, liquidation or otherwise, will result in a penalty of AED 1,000, and a further AED 1,000 on the same date monthly, up to a maximum of AED 10,000. [367]

For more details on the Tax Deregistration timelines refer to FTA Decision No. 6 of 2023 on Tax Deregistration Timeline.

Where a Person does not comply with the Tax Deregistration requirements, the FTA may, at its discretion and based on the information available to it, deregister the Taxable Person. This Tax Deregistration will be effective from the later of the last day of the Tax Period that the Taxable Person satisfied their Corporate Tax obligations or the date the Taxable Person ceases to exist.[368]

10.3. Financial Statements

Financial Statements record the financial activities and performance of a Business, and are a key element of Corporate Tax Law. A Taxable Person's Accounting Income (profit or loss) as stated in the Financial Statements is used as the starting point for calculating Taxable Income.

Taxable Persons that earn Revenue that does not exceed AED 3,000,000 in the Tax Period may use the Cash Basis of Accounting.[369]

Once a Taxable Person's Revenue exceeds AED 3,000,000 in the Tax Period, they must prepare Financial Statements using the Accrual Basis of Accounting except under exceptional circumstances and following the FTA's approval.[370]

Taxable Persons must prepare Financial Statements in accordance with IFRS. However, Taxable Persons that earn Revenue that does not exceed AED 50,000,000 may apply IFRS for SMEs.[371]

Applying IFRS creates a common definition of Accounting Income across business types and industries. For further details on accounting standards for Corporate Tax,

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[367] Cabinet Decision No. 75 of 2023.

[368] Article 52(4) of the Corporate Tax Law.

[369] Article 2(1) of Ministerial Decision No. 114 of 2023.

[370] Article 20(1) of the Corporate Tax Law and Article 2 of Ministerial Decision No. 114 of 2023.

[371] Article 4(2) of Ministerial Decision No. 114 of 2023.

readers are advised to consult Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for Corporate Tax Purposes.[372]

The FTA can, by notice or by issuing a decision, request a Taxable Person to submit the Financial Statements used to determine their Taxable Income.[373] Where a Taxable Person is a partner in an Unincorporated Partnership, the FTA can request the partner to submit Financial Statements that show both the partnership's overall assets, liabilities, income and expenditure, and the partner's distributable share of assets, liabilities, income and expenditure.[374]

Some Taxable Persons may be required to maintain audited Financial Statements. This means that the Financial Statements must be checked by an external licensed auditor.[375]

The following Persons are required to maintain audited Financial Statements:[376]

- A Taxable Person deriving Revenue exceeding AED 50,000,000 during the relevant Tax Period; and
- A Qualifying Free Zone Person.

For further details on audited Financial Statements, readers are advised to consult Ministerial Decision No. 82 of 2023 on Maintaining Audited Financial Statements.[377]

10.4. Applications and elections

In order to apply some of the provisions in the Corporate Tax Law, Taxable Persons will need to make the relevant elections or applications.

Elections can be applied unilaterally by Taxable Persons, and do not require an approval from the FTA to give effect to the Corporate Tax treatment. In order for an election to become effective, it is only necessary for a Taxable Person to inform the FTA of their decision. No action or confirmation from the FTA is needed. Taxable Persons can elect to:

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[372] Ministerial Decision No. 114 of 2023.
[373] Article 54(1) of the Corporate Tax Law.
[374] Article 54(3) of the Corporate Tax Law.
[375] Article 54(2) of the Corporate Tax Law.
[376] Article 2 of Ministerial Decision No. 82 of 2023.
[377] Ministerial Decision No. 82 of 2023.

- Benefit from the small business relief;[378]
- Exempt their Foreign Permanent Establishment income;[379]
- Account for gains and losses on a realisation basis;[380]
- Be subject to Corporate Tax at the general rate, if they are a Qualifying Free Zone Person; [381]
- Apply the relief in relation to transfers in a Qualifying Group;[382]
- Apply the business restructuring relief;[383] and
- Apply Transitional Relief.[384]

Unlike elections, applications require approval by the FTA. For example, a group of companies cannot form a Tax Group without having made an application and received an approval from the FTA.[385] Provisions which require a Taxable Person to make an application cannot take effect until the FTA has approved the application.

Taxable Persons will be required to demonstrate that they meet any necessary criteria, and the FTA can ask for any additional information it requires to make its decision. The following is a non-exhaustive list of aspects of the Corporate Tax Law which require an application from a Taxable Person to the FTA:

- To be exempt from Corporate Tax, if the Person is a public pension fund or a public social security fund, a private pension fund or a private social security fund that meet the relevant conditions, or a Qualifying Investment Fund;[386]
- To be exempt from Corporate Tax, if they are a juridical person that is wholly owned and controlled by certain types of Exempt Persons[387] and meet the relevant condition (e.g. used exclusively for holding assets or investing funds for the benefit of the Exempt Person);[388]
- To continue to be exempt from Corporate Tax if the Person temporarily fails to meet the conditions of exemption;[389]

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[378] Article 21(1) of the Corporate Tax Law and Ministerial Decision No.73 of 2023.
[379] Article 24(1) of the Corporate Tax Law.
[380] Article 20(3) of the Corporate Tax Law and Ministerial Decision No.134 of 2023.
[381] Article 19(1) of the Corporate Tax Law.
[382] Article 26 of the Corporate Tax Law and Ministerial Decision No. 132 of 2023.
[383] Article 27 of the Corporate Tax Law.
[384] Ministerial Decision No. 120 of 2023.
[385] Article 40(1) of the Corporate Tax Law.
[386] Article 4(3) of the Corporate Tax Law.
[387] Article 4(1)(h) of the Corporate Tax Law.
[388] Articles 4(1)(h) and 4(3) of the Corporate Tax Law.
[389] Article 4(6)(b) of the Corporate Tax Law and Ministerial Decision No. 105 of 2023 .

- To treat a Government Entity's taxable Businesses as a single Taxable Person;[390]
- To treat an Unincorporated Partnership as a single Taxable Person;[391]
- To treat a Family Foundation as an Unincorporated Partnership;[392]
- To request a clarification from the FTA;[393]
- To request a refund from the FTA;[394]
- To adjust Taxable Income following an adjustment by a foreign tax authority;[395]
- To move from the Cash Basis of Accounting to Accrual Basis of Accounting;[396]
- To form, join or leave a Tax Group, replace a Parent Company in a Tax Group, or cease to be a Tax Group;[397]
- To deregister for Corporate Tax;[398] and
- To change their Tax Period.[399]

10.5. Tax Returns and payments

Consistent with Corporate Tax being a self-assessed regime, Taxable Persons should pay Corporate Tax and file their Corporate Tax Return within 9 months from the end of the relevant Tax Period.[400] For example, a Taxable Person with a Financial Year ending on 31 December is required to file their Tax Return and pay Corporate Tax on or before 30 September the following year.

Submitting a Tax Return late or a delay in making a payment of Corporate Tax Payable will result in a penalty of:

- AED 500 for each month of delay, or part thereof, for the first twelve months;
- AED 1,000 for each month of delay, or part thereof, from the thirteenth month onwards.[401]

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[390] Article 5(6) of the Corporate Tax Law.
[391] Article 16(8) of the Corporate Tax Law.
[392] Article 17(1) of the Corporate Tax Law.
[393] Article 59(1) of the Corporate Tax Law.
[394] Article 49(1) of the Corporate Tax Law.
[395] Article 34(11) of the Corporate Tax Law.
[396] Article 20(6) of the Corporate Tax Law.
[397] Articles 40(1), 40(3), 40(9), 40(10), 40(11) and 40(12) of the Corporate Tax Law.
[398] Article 52(1) of the Corporate Tax Law.
[399] Article 58 of the Corporate Tax Law.
[400] Articles 48 and 53 of the Corporate Tax Law.
[401] Cabinet Decision No. 75 of 2023.

The Tax Return can be submitted by the Taxable Person, or another Person who has the right to do so on the Taxable Person's behalf, for example, a tax agent or a legal representative.

Where a Tax Group has been formed, the Parent Company will be required to file Tax Returns on behalf of the whole Tax Group. There is no need for a separate return to be filed for each member of the Tax Group.[402]

In addition to the information required in the Tax Return, the Taxable Person must also provide any other information reasonably required by the FTA, including for example, the Financial Statements used to calculate Taxable Income.[403]

10.6. Clarifications and assessments

Certainty is an important hallmark of an efficient tax regime, and it is considered international best practice to create a stable tax environment in which Persons can be certain about their Corporate Tax treatment.

Tax clarifications provide an opportunity for Persons to obtain certainty on their tax position upfront. A Person can apply to the FTA for a clarification regarding the application of the Corporate Tax Law.[404]

The FTA may undertake an assessment of a Person's Corporate Tax affairs under specific circumstances and conditions to be prescribed by the FTA.[405]

If the tax position reported by the Taxable Person is not accurate, or administrative requirements have not been fulfilled, the Taxable Person may be liable for penalties under the Tax Procedures Law and the Corporate Tax Law.[406]

10.7. Record keeping

Taxable Persons are required to maintain records and documentation that:

- support the information provided in a Tax Return or in any other document to be submitted to the FTA;[407] and

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402 Article 53(7) of the Corporate Tax Law.
403 Article 53(3) of the Corporate Tax Law.
404 Article 59(1) of the Corporate Tax Law.
405 Article 60(1) of the Corporate Tax Law.
406 Article 60 of the Corporate Tax Law, Tax Procedures Law and Cabinet Decision No. 75 of 2023.
407 Article 56(1)(a) of the Corporate Tax Law.

- enable the Taxable Person's Taxable Income to be readily ascertained by the FTA.[408]

The FTA may request that a Taxable Person submits the Financial Statements used to determine their Taxable Income for a given Tax Period.[409] These documents should, therefore, be maintained by all Taxable Persons.

Apart from Financial Statements, the Corporate Tax Law does not specify which records or documentation should be maintained, or the format in which they should be kept. This reflects the fact that the records and documentation required will differ according to the type and complexity of the Business that the Taxable Person conducts.

Notwithstanding differences between Taxable Persons, the information maintained should typically include, but it is not limited to:

- A record of the Taxable Person's transactions in the Tax Period;
- A record of the Taxable Person's assets, including details of any purchases or disposals;
- A record of the Taxable Person's liabilities; and
- A record of any stock held at the end of the Tax Period.

Examples of specific documents which might be kept include but are not limited to:
- Bank statements;
- Loan or financing documentation;
- Sale and purchase ledgers;
- Invoices or other records of daily earnings, such as till rolls;
- Order records and delivery notes; and
- Other relevant business correspondence.

There is no requirement that these documents are maintained in their original format and it may be possible to keep them in an alternative format. For example, paper receipts could be scanned and stored electronically.

Failure of a Taxable Person to keep the required records and other information specified in the Tax Procedures Law and Corporate Tax Law will result in one of the following penalties:

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408 Article 56(1)(b) of the Corporate Tax Law.
409 Article 54(1) of the Corporate Tax Law.

- AED 10,000 for each violation;
- AED 20,000 in each case of repeated violation within 24 months from the date of the last violation.[410]

10.7.1. Exempt Persons

Exempt Persons must maintain records that enable the Exempt Person's status to be readily ascertained by the FTA.[411] The documentation required will depend on the reason that a Person is exempt from Corporate Tax.

10.7.2. How long should records be kept?

Taxable Persons and Exempt Persons must keep records and documents for seven years following the end of the Tax Period to which they relate.[412]

This requirement applies to the Tax Period to which the documents relate, and not the Tax Period in which they were created. For example, if a Taxable Person uses the cash basis accounting method, they may have invoices or bills which were raised in a Tax Period before the one in which they were paid. In this instance, the seven-year period starts from the Tax Period in which the invoices or bills were paid.

Taxable Persons and Exempt Persons are responsible for maintaining all their records and documents. Taxable Persons must provide the FTA with any information, documents or records reasonably required by the FTA when requested to do so. The records must therefore be easily accessible if the FTA requests them.

10.8. General anti-abuse rule

A general anti-abuse rule is used to prevent the use of 'abusive' transactions or arrangements, which may be legal within the parameters of the Law, but are not in-line with the Law's intended spirit and purpose.[413]

The rule allows the FTA to counteract or adjust Corporate Tax advantages obtained as a result of transactions or arrangements which are considered to be abusive (by the application of a test).[414] The test is whether, having regard to all of the relevant circumstances, it can be reasonably concluded that the transactions and

[410] Cabinet Decision No. 75 of 2023.
[411] Article 56(2) of the Corporate Tax Law.
[412] Articles 56(1) and 56(2) of the Corporate Tax Law.
[413] Article 50(1) of the Corporate Tax Law.
[414] Article 50(3) of the Corporate Tax Law.

arrangements were entered into without a valid commercial reason and their main purpose is to obtain a Corporate Tax advantage that is not consistent with the intention of the Law.[415]

[415] Article 50(1) of the Corporate Tax Law.

11. Updates and Amendments

Date of amendment	Amendments made
September 2023	• First version

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Accounting Standards and Interaction with Corporate Tax

Corporate Tax Guide | CTGACS1

November 2023

Contents

1. Glossary

Accounting Income: The accounting net profit or loss for the relevant Tax Period as per the Financial Statements prepared in accordance with the provisions of Article 20 of the Corporate Tax Law.

Accounting Standards: The accounting standards specified in Ministerial Decision No. 114 of 2023.

Accrual Basis of Accounting: An accounting method under which the Taxable Person recognises income when earned and expenditure when incurred.

AED: The United Arab Emirates dirham.

Auditor: An independent Person licensed and registered by the competent authorities of the UAE, that is appointed and remunerated by a private pension fund or a private social security fund to audit its Financial Statements.

Authority: Federal Tax Authority.

Bank: A Person licensed in the UAE as a bank or finance institution or an equivalent licensed activity that allows the taking of deposits and the granting of credits as defined in the applicable legislation of the UAE.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Restructuring Relief: A relief from Corporate Tax for business restructuring transactions, available under Article 27 of the Corporate Tax Law and as specified under Ministerial Decision No.133 of 2023.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Connected Person: Any Person affiliated with a Taxable Person as determined in Article 36(2) of the Corporate Tax Law.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Cost Method of Accounting: The cost method of accounting as defined in the International Financial Reporting Standards ("IFRS"), or an equivalent method of accounting under the Accounting Standards applied by the Taxable Person.

Dividend: Any payments or distributions that are declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which do not constitute a return on capital or a return on debt claims, whether such payments or distributions are in cash, securities, or other properties, and whether payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue. This will include any payment or benefit which in substance or effect constitutes a distribution of profits made in connection with the acquisition or redemption or cancellation of shares or termination of other ownership interests or rights or any transaction or arrangement with a Related Party or Connected Person which does not comply with Article 34 of the Corporate Tax Law.

Equity Method of Accounting: The equity method of accounting as defined in the International Financial Reporting Standards ("IFRS"), or an equivalent method of accounting under the Accounting Standards applied by the Taxable Person.

Exempt Person: A Person exempt from Corporate Tax under Article 4 of the Corporate Tax Law.

Financial Asset: Financial asset as defined in the Accounting Standards applied by the Taxable Person.

Financial Liability: Financial liability as defined in the Accounting Standards applied by the Taxable Person.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Financial Year: The Gregorian calendar year, or the twelve-month period for which the Taxable Person prepares Financial Statements.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

IFRS: International Financial Reporting Standards.

IFRS for SMEs: International Financial Reporting Standards for small and medium-sized enterprises.

Immovable Property: Means any of the following:

a. Any area of land over which rights or interests or services can be created.
b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.
c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Insurance Provider: A Person licensed in the UAE as an insurance provider that accepts risks by entering into or carrying out contracts of insurance, in both the life and non-life sectors, including contracts of reinsurance and captive insurance, as defined in the applicable legislation of the UAE.

Intangible Asset: An intangible asset as defined in the Accounting Standards applied by the Taxable Person.

Market Value: The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

Membership or Partnership Capital: The capital paid to a juridical person where the paid capital is divided into membership or partnership interests by a Person in order to be a member or partner and have the rights of membership or partnership in that juridical person.

Parent Company: A Resident Person that can make an application to the FTA to form a Tax Group with one or more Subsidiaries in accordance with Article 40(1) of the Corporate Tax Law.

Participation Exemption: An exemption from Corporate Tax for income from a Participating Interest, available under Article 23 of the Corporate Tax Law and as specified under Ministerial Decision No.116 of 2023.

Person: Any natural person or juridical person.

Qualifying Financial Asset: Financial Asset that meets the conditions under Article 4(1) of Ministerial Decision No. 120 of 2023.

Qualifying Financial Liability: Financial Liability that meets the conditions under Article 4(1) of Ministerial Decision No. 120 of 2023.

Qualifying Group: Two or more Taxable Persons that meet the conditions of Article 26(2) of the Corporate Tax Law.

Qualifying Immovable Property: Immovable Property that meets the conditions under Article 2(1) of Ministerial Decision No. 120 of 2023.

Qualifying Intangible Asset: Intangible Asset that meets the conditions under Article 3(1) of Ministerial Decision No. 120 of 2023.

Qualifying Public Benefit Entity: Any entity that meets the conditions set out in Article 9 of the Corporate Tax Law and that is listed in a decision issued by the Cabinet at the suggestion of the Minister.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

Small Business Relief: A Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period in accordance with Article 21 of the Corporate Tax Law and Ministerial Decision No. 73 of 2023.

Subsidiary: A Resident Person in which the share capital or Membership or Partnership Capital, as applicable, is held by a Parent Company, in accordance with Article 40(1) of the Corporate Tax Law.

Tax Group: Two or more Taxable Persons treated as a single Taxable Person according to the conditions of Article 40 of the Corporate Tax Law.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

UAE: United Arab Emirates.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance on the interaction of Accounting Standards with Corporate Tax. It provides readers with an overview of:

- Preparation of Financial Statements;
- The Cash Basis of Accounting;
- The realisation basis of accounting;
- Other adjustments under Article 20(2)(i) of the Corporate Tax Law; and
- Adjustments under the transitional rules.

For more information related to Accounting Standards that govern how particular types of transactions and events should be reported in Financial Statements, please refer to the official documentation released by the relevant standard setter/Accounting Standards board. For further information on IFRS, visit https://www.ifrs.org.

2.3. Who should read this guide?

This guide should be read by any Person that is responsible for preparing the Financial Statements of Taxable Persons for Corporate Tax purposes. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how accounting concepts interact with key elements of the Corporate Tax. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural persons.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Law No. 12 of 2014 on the Regulation of the Auditing Profession is referred to as “Federal Law No. 12 of 2014”;
- Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as “Tax Procedures Law”;
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Corporate Tax Law”;
- Ministerial Resolution No. 403 of 2015 Concerning the International Standards of the Auditing Profession is referred to as “Ministerial Resolution No. 403 of 2015”;
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 73 of 2023”;
- Ministerial Decision No. 82 of 2023 on the Determination of Categories of Taxable Persons Required to Prepare and Maintain Audited Financial Statements for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 82 of 2023”;
- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 114 of 2023”;
- Ministerial Decision No.115 of 2023 on Private Pension Funds and Private Social Security Funds for the Purposes of Federal Decree-Law No. 47 of 2022 on the

Taxation of Corporations and Businesses is referred to as "Ministerial Decision No.115 of 2023";

- Ministerial Decision No. 120 of 2023 on the Adjustments Under the Transitional Rules for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 120 of 2023";
- Ministerial Decision No. 125 of 2023 on Tax Group for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 125 of 2023"; and
- Ministerial Decision No.134 of 2023 on the General Rules for Determining Taxable Income for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 134 of 2023".

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the interaction of Accounting Standards with the Corporate Tax regime in the UAE. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each Person's own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Accepted Accounting and Reporting Standards

The Corporate Tax Law provides that the Taxable Income of each Taxable Person shall be determined separately, on the basis of properly prepared, standalone (unconsolidated) Financial Statements for financial reporting purposes in accordance with the Accounting Standards accepted in the UAE for Corporate Tax purposes.[1]

Ministerial Decision No. 114 of 2023 specifies that the only Accounting Standards accepted in the UAE for Corporate Tax purposes are the International Financial Reporting Standards ("IFRS") and the International Financial Reporting Standard for small and medium-sized entities ("IFRS for SMEs").

3.1. IFRS

Taxable Persons shall use IFRS as the Accounting Standards accepted in the UAE for Corporate Tax purposes.[2]

3.2. IFRS for SMEs

For Corporate Tax purposes, Taxable Persons may use IFRS for SMEs if they derive Revenue not exceeding AED 50 million in a Tax Period.[3]

IFRS for SMEs should not be used as the default Accounting Standard. The Taxable Person may use IFRS for SMEs only if they satisfy the Revenue requirement. Where the requirement is not satisfied, IFRS shall be used.

3.3. Accounts not prepared under IFRS or IFRS for SMEs

As mentioned above, Taxable Persons are required under the Corporate Tax Law to use IFRS or IFRS for SMEs (as applicable) to calculate Taxable Income. Failure to do so will be viewed as a violation of the Corporate Tax Law and may result in administrative penalties.[4] Nonetheless, for purposes other than Corporate Tax, Taxable Persons may use different accounting standards as long as all relevant calculations and reporting are performed and provided (where required) using IFRS or IFRS for SMEs for Corporate Tax purposes.

[1] Article 20(1) of the Corporate Tax Law.
[2] Article 4(1) of Ministerial Decision No. 114 of 2023.
[3] Article 4(2) of Ministerial Decision No. 114 of 2023.
[4] Article 24(1)(a) of Tax Procedures Law.

An Exempt Person under the Corporate Tax Law may use other accounting standards. However, if an Exempt Person, specifically a Government Entity, a Government Controlled Entity, an Extractive Business or a Non-Extractive Natural Resource Business, has Business or Business Activities treated as a separate taxable Business (or Businesses) as per the Corporate Tax Law, the Exempt Person is required to use IFRS or IFRS for SMEs to prepare the Financial Statements for that taxable activity.[5] This would also be the case if it were subsequently determined that the conditions for exemption had not been met.

3.4. Determination of amount and timing of Revenue and expenditure

The Accounting Standards determine the amount of Revenue and expenditure, and the period in which they are recognised, for the purpose of calculating Taxable Income. This is then subject to any specific adjustments required to calculate Taxable Income as prescribed by the Corporate Tax Law. For instance, to disallow non-deductible expenditure.[6]

3.5. Financial Statements of a Tax Group

A Tax Group is required to prepare consolidated Financial Statements (using IFRS or IFRS for SME's) for the purpose of determining the Taxable Income of a Tax Group.[7] This means preparation of stand-alone Financial Statements on the basis of aggregation of the stand-alone Financial Statements of the Parent Company and each Subsidiary that is a member of the Tax Group, as if the Tax Group were a single Taxable Person. In this respect, the financial results, assets and liabilities of all members of the Tax Group must be consolidated, eliminating any transactions between the Parent Company and each Subsidiary.[8]

Transactions between certain members of the Tax Group should be determined consistent with the arm's length principle.[9]

3.6. Audit requirement for Financial Statements

Taxable Persons deriving Revenue exceeding AED 50 million during the relevant Tax Period and all Qualifying Free Zone Persons (irrespective of the level of Revenue) are required to prepare and maintain audited Financial Statements for the purposes of the

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[5] Articles 5(2), 6(3), 7(4)(a) and 8(4)(a) of the Corporate Tax Law read with Article 4 of Ministerial Decision No. 114 of 2023.
[6] Article 20(2) of the Corporate Tax Law.
[7] Article 42(1) and Article 42(11) of the Corporate Tax Law.
[8] Article 42(1) of the Corporate Tax Law and Article 3 of the Ministerial Decision No. 114 of 2023.
[9] Article 34 of the Corporate Tax Law and Article 8(2) of Ministerial Decision No. 125 of 2023.

Corporate Tax Law.[10] The threshold of AED 50 million is not pro-rated if a Tax Period is longer or shorter than 12 months. The audit must be performed by a UAE-registered auditor, pursuant to Federal Law No. 12 of 2014 on the Regulation of the Auditing Profession and its amendments, read together with Ministerial Resolution No. 403 of 2015 Concerning the International Standards of the Auditing Profession, or any other applicable legislation.

If a Tax Group derives Revenue exceeding AED 50 million on a consolidated basis during the relevant Tax Period, the consolidated Financial Statements of the Tax Group (as the Taxable Person) will be required to be audited. However, the Corporate Tax Law does not require separate Financial Statements of the Parent Company and Subsidiary members to be audited, even when a member's Revenue exceeds AED 50 million.[11]

In addition, private pension or social security funds that have made an application to and received an approval from the FTA to be exempt from Corporate Tax must have an Auditor.[12] The Auditor must, on an annual basis, confirm the compliance of the fund with the provisions of Ministerial Decision No. 115 of 2023.[13]

[10] Article 2 of Ministerial Decision No. 82 of 2023.
[11] Article 2(1) of Ministerial Decision No. 82 of 2023.
[12] Article 2(4) and Article 3(3) of Ministerial Decision No. 115 of 2023.
[13] Article 6(1) of Ministerial Decision No. 115 of 2023.

4. Accounting Methods

4.1. Accrual Basis of Accounting

4.1.1. Revenue and expenditure recognition

Under the Accrual Basis of Accounting, Revenue and expenditure are recognised when they are earned or incurred, not necessarily when payments are received or made, or invoices received or sent.

Thus, under the Accrual Basis of Accounting, Revenues and expenses are included in Taxable Income in the Tax Period in which they are earned or incurred. Therefore, when a provider delivers a service to a customer (assuming both use the Accrual Basis of Accounting), and the customer pays the provider later (for example, 2 months after the service is provided), Revenue is earned by the provider and is included in its Taxable Income and the expenditure is incurred by the customer and is included in its Taxable Income when the service is performed, i.e. before any payment is made or received, or invoices received or sent.

Example 1: Revenue recognition under the Accrual Basis of Accounting

Company X has a Financial Year ending on 30 April.

- On 5 April 2025 - Company X delivered consulting services worth AED 12,000 to Customer A.
- On 10 May 2025 - Company X sent Customer A an invoice.
- On 15 June 2025 - Customer A paid for the services.

Company X should recognise the Revenue as soon as the services are provided, as this is when it was earned. Therefore, the Revenue should be recorded on 5 April 2025, which falls in its Financial Statements for the year ending on 30 April 2025. It does not matter when the invoice is issued or the payment is received.

Example 2: Expense recognition under the Accrual Basis of Accounting (continuation of Example 1)

Customer A also has a Financial Year ending on 30 April.

Customer A should recognise the expense when the service is delivered on 5 April 2025, as this is when the expense was incurred. It does not matter when the invoice was received or the payment was made.

Therefore, for Corporate Tax purposes, Customer A recognises the expense of AED 12,000 in the Tax Period ending 30 April 2025.

4.2. Cash Basis of Accounting

4.2.1. Eligibility

For the purposes of Corporate Tax, a Person may prepare Financial Statements using the Cash Basis of Accounting if:[14]

- Their Revenue does not exceed AED 3 million within the relevant Tax Period; or
- In exceptional circumstances and pursuant to an application submitted by the Person to the FTA.

If their Revenue does not exceed AED 3 million, the Person can apply the Cash Basis of Accounting without needing to submit an application to the FTA.

Revenue is a defined term in the Corporate Tax Law and means the gross amount of income derived during a Tax Period. Revenue should be determined based on the arm's length principle. When determining the Revenue, the income from all Business Activities undertaken by a particular juridical person must be taken into account, and certain defined Business Activities in the case of a natural person. The Cash Basis of Accounting should be used to determine whether the AED 3 million threshold is exceeded.

Once a Taxable Person's Revenue exceeds AED 3 million in the Tax Period, they must prepare Financial Statements on an accrual basis, except under exceptional circumstances and following the FTA's approval.

4.2.2. Revenue and expenditure recognition

Under the Cash Basis of Accounting, Revenue and expenditure are reported, for Corporate Tax purposes, in the Tax Period in which the amounts are received or paid. The Cash Basis of Accounting applies equally to both Revenue and expenditure recognition. There is no balance sheet under the Cash Basis of Accounting.

A credit sale, for example, is not reported as Revenue by the seller at the time of issuing the invoice, delivering the products or rendering the service. This is because the cash is not received at any of these moments. Under the Cash Basis of Accounting the seller records the Revenue only when they receive the payment.

[14] Article 2 of Ministerial Decision No. 114 of 2023.

Example 3: Revenue recognition under the Cash Basis of Accounting

Company A, a Taxable Person using the Cash Basis of Accounting with a Financial Year ending on 31 December, concludes the following two transactions in November 2024:

1. A cash sale for AED 10,000;
2. A credit sale for AED 15,000 where a payment of AED 9,000 is received in December and the remaining balance is received in January 2025.

The Revenue is recognised as follows:

Transaction	2024 Tax Period	2025 Tax Period
1	10,000	-
2	9,000	6,000

When it comes to expenditure, a credit purchase, for example, is not recognised as an expense by the buyer at the time of receiving the invoice or the products/services. This is because the cash at that moment has not been paid. When the buyer makes the payment, they would report the amount paid as expenditure.

Example 4: Expense recognition under the Cash Basis of Accounting

Company B, a Taxable Person with a Financial Year ending on 31 December, using the Cash Basis of Accounting, pays its employees' salaries on the 2nd day following each month. The salaries for the month of December 2024 amount to AED 80,000 and are paid via bank transfer on 2 January 2025.

As Company B uses the Cash Basis of Accounting, it will not recognise these salaries as an expense in December 2024 (2024 Tax Period). Instead the expense will be recorded in January 2025 (i.e. the 2025 Tax Period) when paid.

The Cash Basis of Accounting does not alter the nature of payments. For example, payment for the purchase of an asset, receipt of a loan or repayment of loan principal are not Revenue or expenditure (though the interest element of any payment would be taxable or deductible subject to normal rules). Nonetheless, under the Cash Basis of Accounting, a deduction may be taken in respect of assets purchased in place of the tax relief which would ordinarily be given for depreciation on the Accrual Basis of Accounting (no depreciation is recorded under the Cash Basis of Accounting).

Revenue and expenditure are recognised under the Cash Basis of Accounting at the date of receipt or payment. For example, where a customer pays cash for the purchase of a good, the seller should recognise the Revenue on the day of the transaction, and the buyer should recognise the expenditure on the same day, assuming both apply the cash basis.

However, payments can be made other than in cash, for example, credit or debit card payment, cheque payment and in-kind payment. Where the payment is made through one of these methods, the actual cash flow should be considered.

For example, a credit card payment by a buyer will not be considered a cash payment until they settle their credit card bill, while for the seller the receipt of cash, i.e. when their bank account is credited, can be earlier.

A debit card payment would be considered as an immediate payment for the buyer because the cash is directly debited from their bank account.

A cheque payment would be considered a cash payment when the cheque is cashed by the seller and when the cash is blocked or debited from the buyer's bank account.

4.2.3. What are exceptional circumstances?

An example of an exceptional circumstance and a reason to be permitted to use the Cash Basis of Accounting could be where the Taxable Person expects to exceed the AED 3 million threshold for only one Tax Period.[15] A Taxable Person should maintain evidence that it had a basis to expect this.

4.2.4. Calculation of the threshold for using Cash Basis of Accounting

In determining whether the Taxable Person's Revenue exceeds the AED 3 million threshold,[16] the Revenue is that of the Tax Period in question. Thus, for any given Tax Period, it will only be known with certainty whether the threshold has been exceeded after the end of the Tax Period.

The Cash Basis of Accounting should be used to determine whether the AED 3 million threshold is exceeded (see Section 4.2.1).

4.2.5. Fluctuations in Revenue: switching to/from Accrual Basis of Accounting

During its life cycle, a Taxable Person may face Revenue fluctuations. If Revenue derived during a Tax Period exceeds AED 3 million by applying the Cash Basis of Accounting, the Taxable Person should switch to the Accrual Basis of Accounting

[15] Article 2(2) of Ministerial Decision No. 114 of 2023.

[16] Article 2(1) of Ministerial Decision No. 114 of 2023.

since they no longer meet the conditions prescribed under Article 20(5) of the Corporate Tax Law. However, there is potential for this to qualify as an "exceptional circumstance" for which an application can be made and the FTA may approve or not the continued use of the Cash Basis of Accounting (see Section 4.2.3).

4.2.6. Interaction with Small Business Relief

Businesses that elect for Small Business Relief are able to prepare financial statements based on the Cash Basis of Accounting, if their revenue does not exceed AED 3 million.[17]

One of the conditions of Small Business Relief is that Revenue does not exceed AED 3 million,[18] where Revenue is the gross amount of income derived during a Tax Period calculated according to applicable accounting standards.

According to Ministerial Decision No. 114 of 2023, the applicable accounting standard is International Financial Reporting Standards ("IFRS") or IFRS for SME's. However, a Person may prepare Financial Statements using the Cash Basis of Accounting, where the Person derives Revenue that does not exceed AED 3 million, as explained in Section 4.2.1.

Accordingly, a Person may apply either IFRS (or IFRS for SMEs) or the Cash Basis of Accounting in order to calculate their Revenue to determine if they are eligible for Small Business Relief. The Cash Basis of Accounting is always used to determine eligibility to prepare Financial Statements on the Cash Basis of Accounting for Corporate Tax purposes. Therefore, if IFRS or IFRS for SMEs is used to determine Revenue for the purpose of Small Business Relief, the cash basis still has to be used with regard to eligibility for the Cash Basis of Accounting.

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[17] Ministerial Decision No. 114 of 2023.

[18] Article 2(1) of Ministerial Decision No.73 of 2023.

5. Realisation basis of accounting

5.1. Realised versus unrealised

In broad terms, based on the general principles of the Accounting Standards:

- Realised gains are gains that have been converted into consideration received (for example, cash) by the completion of a transaction. The same is equally applicable for losses.
- Unrealised gains are gains that have not been converted into consideration and can arise in respect of, for example, items subject to fair value accounting, such as financial instruments which are liquid and short-term. The same is equally applicable for losses.

5.1.1. Fair value accounting

Fair value accounting uses current market values as the basis for recognising the value of certain assets and liabilities in the Financial Statements. The objective is to estimate the price at which a transaction to sell an asset or to transfer a liability would take place between market participants under the market conditions applicable on the measurement date.[19]

5.1.2. Impairment

Entities recognise and record the value of their assets in their accounts. The value of an asset is determined by the market and can change as time passes. The core principle is that an asset must not be carried in the Financial Statements of the entity at a value higher than the highest amount that can be recovered through its use or sale. If the carrying amount exceeds the recoverable amount, the asset is described as "impaired" and the entity must reduce the carrying amount to its recoverable amount and recognise an impairment loss.[20]

5.2. Realisation basis for Corporate Tax purposes

Where the Accrual Basis of Accounting is used by a Taxable Person in preparing their Financial Statements, unrealised gains or losses arising from a change in the value of an asset or liability are recorded in the Financial Statements even when no transaction to realise such gains or losses has yet taken place. It is, therefore, possible that profits (or losses) could arise where there has been no actual disposal or settlement (i.e. realisation) of the relevant asset or liability and, therefore, no consideration could be

[19] IFRS 13 Fair Value Measurement.
[20] IAS 36 Impairment of Assets.

used to pay any Corporate Tax liability that may arise as a result. An example of this would be a change in the exchange rate affecting the value of a foreign currency contract to be settled in a future Tax Period. Another example would be the creation or release of a provision for a doubtful debt.

To prevent a Corporate Tax liability arising where there is no consideration to fund the resulting Corporate Tax payable, Taxable Persons who prepare their Financial Statements on an Accrual Basis of Accounting may elect to take into account gains and losses on a realisation basis.[21] This means that, for the purposes of calculating their Taxable Income for a Tax Period, instead of gains and losses in respect of assets and liabilities being determined on the basis of revaluation or other change in book value, gains or losses are taken into account only when an asset is disposed of or a liability is settled, or a different realisation event occurs.

5.2.1. What constitutes realisation?

The realisation of an asset or a liability includes, but is not limited to, the following:[22]

- The sale, disposal, transfer (other than non-taxable transfers described below), settlement and complete worthlessness of an asset as per the Accounting Standards used by the Taxable Person.
- The settlement, assignment, transfer (other than non-taxable transfers described below), and forgiveness of a liability as per the Accounting Standards used by the Taxable Person.

On the other hand, certain transfers are not considered a realisation of assets or liabilities. These include:[23]

- A non-taxable transfer of assets or liabilities between members of a Qualifying Group (that is not a Tax Group) as defined under Article 26 of the Corporate Tax Law.
- A transfer of assets or liabilities which qualifies for Business Restructuring Relief under Article 27 of the Corporate Tax Law.

[21] Article 20(3) of the Corporate Tax Law.
[22] Article 9(2) of Ministerial Decision No. 134 of 2023.
[23] Article 9(1) of Ministerial Decision No. 134 of 2023.

5.2.2. Election to use the realisation basis for Taxable Persons other than Banks or Insurance Providers

A Taxable Person, other than a Bank or Insurance Provider, that prepares Financial Statements on an Accrual Basis of Accounting, may elect to take into account gains and losses on a realisation basis in relation to either:[24]

- All assets and liabilities that are subject to fair value or impairment accounting under the applicable Accounting Standards; or
- All assets and liabilities held on the capital account at the end of a Tax Period, whilst taking into account any unrealised gain or loss that arises in connection with assets and liabilities held on the revenue account at the end of that period.

5.2.3. Election to use realisation basis for Banks and Insurance Providers

Banks and Insurance Providers that are Taxable Persons and that prepare Financial Statements on an Accrual Basis of Accounting may elect to recognise gains and losses on a realisation basis only in relation to all assets and liabilities held on the capital account at the end of a Tax Period.[25] Accordingly, Banks and Insurance Providers are subject to Corporate Tax when using the Accrual Basis of Accounting in respect of any unrealised gain or loss that arises in connection with assets and liabilities held on the revenue account at the end of the Tax Period.

5.2.4. Timeline for making the election to use the realisation basis

The election for the realisation basis must be made by the Taxable Person during the first Tax Period which practically will be at the time of submitting the first Tax Return.[26]

5.2.5. Revocation of election to use realisation basis in exceptional circumstances

The election to use the realisation basis is irrevocable. However, it may be revoked under exceptional circumstances and pursuant to approval by the FTA.[27] Exceptional circumstances would be assessed by the FTA on a case-by-case basis.

[24] Article 20(3) of the Corporate Tax Law.
[25] Article 8(2) of Ministerial Decision No. 134 of 2023.
[26] Article 8(3) of Ministerial Decision No. 134 of 2023.
[27] Article 8(3) of Ministerial Decision No. 134 of 2023.

5.2.6. Effect of applying realisation basis to Taxable Income

Taking into account gains and losses on a realisation basis means that unrealised gains and losses recorded in the Taxable Person's Financial Statements would be disregarded for Corporate Tax purposes. This means:

- For assets and liabilities subject to fair value or impairment accounting, all unrealised gains would not be taxable, and all unrealised losses would not be deductible, until both (gains and losses) are realised.
- For assets and liabilities held on capital account, unrealised gains and losses, including unrealised foreign exchange gains and losses, would not be taxable or deductible, respectively, until they are realised.[28]
- For assets and liabilities held on revenue account, unrealised gains and losses arising would continue to be taken into account in determining Taxable Income.

A Taxable Person that has elected to use the realisation basis must make certain additional adjustments in respect of the relevant assets and liabilities when calculating the Taxable Income.[29] These adjustments include:[30]

- In cases other than upon realisation, any depreciation, amortisation or other change in the value of an asset (other than a Financial Asset) should be excluded from the Accounting Income when calculating the Taxable Income to the extent that the adjustment amount relates to a change in net book value exceeding the original cost of that asset.
- In cases other than upon realisation, any change in the value of a liability or a Financial Asset, including amortisation, should be excluded from the Accounting Income when calculating the Taxable Income.
- Upon the realisation of an asset or a liability, any amounts that had not been previously recognised for Corporate Tax purposes (for example, unrealised gains or losses) must be included in the Taxable Income. However, any such amount that arose prior to the most recent acquisition where Business Restructuring Relief or the relief for transfers within a Qualifying Group did not apply should not be included in the Taxable Income.

[28] Article 20(4)(d) of the Corporate Tax Law.
[29] Article 2 of Ministerial Decision No. 134 of 2023.
[30] Articles 2(3) and 2(4) of Ministerial Decision No. 134 of 2023.

5.2.7. Definition of capital account

"Assets held on capital account" refers to assets that:[31]

- the Person does not trade;
- are eligible for depreciation; or
- are treated under applicable Accounting Standards as property, plant and equipment, investment property, intangible assets, or other non-current assets.

"Liabilities held on capital account" refers to liabilities incurred which do not give rise to deductible expenditure for Corporate Tax purposes,[32] or liabilities treated under applicable Accounting Standards as non-current liabilities.[33] For example:

- Accrued liabilities or provisions relating to donations, grants or gifts to an entity that is not a Qualifying Public Benefit Entity.
- Long-term debt (for example, long-term notes payable, bonds payable).

"Assets and liabilities held on revenue account" refers to assets and liabilities other than those held on capital account.[34]

[31] Article 20(4)(a) of the Corporate Tax Law.
[32] Article 28 to 33 of the Corporate Tax Law.
[33] Article 20(4)(b) of the Corporate Tax Law.
[34] Article 20(4)(c) of the Corporate Tax Law.

Example 5: Adjustment of Accounting Income other than upon realisation

This example considers the adjustments required other than upon realisation in the case of an asset where the net book value exceeds the original cost. The asset is not a Financial Asset.

Company B acquires a building from a third party for AED 500,000 around the end of Tax Period 1 and records its net book value as AED 500,000. Company B has elected to take into account gains and losses on a realisation basis in relation to all assets and liabilities held on capital account.

At the beginning of Tax Period 2, Company B re-values the building to AED 600,000. The change in value of AED 100,000 reflected in its Accounting Income represents an unrealised gain. Since Company B has elected for the realisation basis, it should exclude the unrealised gain of AED 100,000 from its Taxable Income in Tax Period 2.

Company B depreciates the building using a straight-line method over 10 years, starting from Tax Period 2. The resulting accounting depreciation is AED 60,000.

Since Company B has elected for the realisation basis, when calculating its Taxable Income in Tax Period 2, the entire AED 60,000 depreciation shall be added back, as it relates to a change in the net book value exceeding the original cost (i.e. from AED 600,000 to AED 540,000).

Company B will continue to adjust for such depreciation until it brings the asset's net book value to an amount that is equal or less than AED 500,000 (the original cost of the asset). Therefore, in Tax Period 3, it will need to add back AED 40,000 depreciation, which is the remaining depreciation relating to the net book value exceeding the original cost (i.e. from AED 540,000 to AED 500,000). This results in AED 20,000 depreciation to be allowed in the determination of its Taxable Income in Tax Period 3.

In Tax Period 4 Company B shall not make any depreciation adjustment (i.e. the full amount of depreciation will be allowed in the determination of its Taxable Income), since the asset's net book value does not exceed the original cost. This also applies to the subsequent Tax Periods.

The following table summarises the adjustments for the 4 Tax Periods:

Description	Tax Period 1	Tax Period 2	Tax Period 3	Tax Period 4
Building carrying value (opening balance)	500,000	500,000	540,000	480,000
Appreciation	-	100,000	-	-
Accounting depreciation	-	(60,000)	(60,000)	(60,000)
Building net book value (closing balance)	500,000	540,000	480,000	420,000
Pre-depreciation Accounting Income	200,000	200,000	200,000	200,000
Accounting Income	200,000	140,000	140,000	140,000
Taxable Income adjustment – disregard unrealised gain	-	(100,000)	-	-
Taxable Income adjustment – add back depreciation	-	60,000	40,000	-
Taxable Income	200,000	100,000	180,000	140,000

Example 6: Adjustment of Accounting Income other than upon realisation

This example considers the adjustments required other than upon realisation in the case of an asset where the net book value is below the original cost. The asset is not a Financial Asset.

Company B acquires a building from a third party for AED 500,000 at the end of Tax Period 1 and records its net book value as AED 500,000.

Company B has elected to take into account gains and losses on a realisation basis in relation to all assets and liabilities held on capital account.

Company B re-values the building to AED 400,000 in Tax Period 2. The change in value of AED 100,000 reflected in its Accounting Income represents an unrealised loss.

Since Company B has elected for the realisation basis, it should exclude the unrealised loss of AED 100,000 in the determination of its Taxable Income in Tax Period 2.

Company B depreciates the building using a straight-line method over 10 years, starting from Tax Period 2. The resulting accounting depreciation is AED 40,000.

Contrary to Example 5 above, as the net book value is below original cost, no adjustment is required in relation to the depreciation of AED 40,000 in Tax Periods 2, 3 and 4, respectively, because this will not result in tax deduction above the original cost.

Example 7: Adjustment of Accounting Income before and upon realisation

Company B acquires a building from a third party for AED 500,000 around the end of Tax Period 1 and records its net book value as AED 500,000.

Company B has elected to take into account gains and losses on a realisation basis in relation to all assets and liabilities held on capital account.

Company B re-values the building to AED 600,000 at the beginning of Tax Period 2. The change in value of AED 100,000 reflected in its Accounting Income represents an unrealised gain.

Since Company B has elected for the realisation basis, it should exclude the unrealised gain of AED 100,000 from its Taxable Income of Tax Period 2.

Company B depreciates the building using a straight-line method over 10 years starting from Tax Period 2. The resulting accounting depreciation is AED 60,000.

Since Company B has elected for the realisation basis, when calculating its Taxable Income in Tax Period 2, the entire AED 60,000 depreciation shall be added back as it relates to a change in the net book value exceeding the original cost (i.e. from AED 600,000 to AED 540,000).

At the beginning of Tax Period 3, Company B decides to sell the building for its net book value of AED 540,000.

For the purposes of determining its Taxable Income, Company B will include the amount of AED 100,000 that has not been recognised previously for Corporate Tax purposes and claim a deduction for the depreciation adjustment of AED 60,000 previously made in Tax Period 2.

Description	**Tax Period 1**	**Tax Period 2**	**Tax Period 3**
Building carrying value (opening balance)	500,000	500,000	540,000
Appreciation	-	100,000	-
Accounting depreciation	-	(60,000)	-
Building net book value (closing balance)	500,000	540,000	-
Pre-Depreciation Accounting Income	200,000	200,000	200,000
Accounting Income	200,000	140,000	200,000
Taxable Income adjustment –deduct unrealised gain	-	(100,000)	-
Taxable Income adjustment – add back depreciation	-	60,000	-
Taxable Income adjustment – include unrealised gain	-	-	100,000
Taxable Income adjustment – deduct depreciation			(60,000)
Taxable Income	200,000	100,000	240,000

Example 8: Adjustment of Accounting Income when the realisation basis is elected only for capital account items in case of an asset held on revenue account

Company X sells home appliances. Due to market developments Company X considers that it will have to discount certain products in order to sell them. Accordingly, it records a write-down of AED 100,000 at the end of its Tax Period. At that time Company X still owns the inventory and so the loss recorded in Company X's income statement is unrealised.

Company X has elected to take into account gains and losses on a realisation basis in relation to all assets and liabilities held on capital account. The inventory is an asset item held on revenue account, and as such, is not covered by the election.

Therefore, Company X should not adjust its Accounting Income in computing its Taxable Income in respect of the unrealised inventory impairment of AED 100,000, i.e. the unrealised loss should be included in its Taxable Income.[35]

[35] Article 2(4) of Ministerial Decision No. 134 of 2023.

6. Other Adjustments to Accounting Income

The starting point for calculating Taxable Income is the Accounting Income. This is then adjusted in accordance with Article 20(2) of the Corporate Tax Law.

This guide only covers adjustments to the extent they are related to accounting matters. Please refer to Article 20(2) of the Corporate Tax Law for additional information about determining Taxable Income.

6.1. Transactions with Related Parties

Transactions and arrangements between Related Parties must meet the arm's length principle.[36] In case of a transfer of an asset or a liability between Related Parties, if the consideration paid exceeds or is lower than the Market Value, adjustments shall be made by the transferor and the transferee, to achieve the arm's length result.[37]

Where the transferee overpays for an asset or a liability, generally the transferor would not recognise a gain for Corporate Tax purposes for the amount exceeding the Market Value.[38] However, in its Financial Statements, the transferee will record a net book value equal to the purchase price, which exceeds the Market Value. Given that the amount in excess of Market Value has not been taken into account for Corporate Tax, the transferee is not allowed to claim depreciation, amortisation, or other changes in value which relate to the untaxed gain.

Similarly, where the transferee underpays for an asset or a liability, the transferor must recognise the difference between the Market Value and the sale price in calculating its Taxable Income. In its Financial Statements, the transferee will record a net book value equal to the purchase price, which is lower than the Market Value. For Corporate Tax purposes, the transferee should not recognise the gain already taxed in the hands of the transferor. This eliminates any possible double taxation.

The adjustments to be made by the transferee in the event of a non-arm's length transfer between Related Parties are discussed further below.

6.1.1. Consideration in excess of Market Value

Where the amount of consideration paid by the transferee exceeds the Market Value, the transferee shall apply an adjustment to:[39]

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[36] Article 34(1) of the Corporate Tax Law.
[37] Article 3 of Ministerial Decision No. 134 of 2023.
[38] Article 34 of the Corporate Tax Law.
[39] Article 3(1)(a) of Ministerial Decision No. 134 of 2023.

a. In cases other than upon realisation (for example whilst the asset is held and used by the transferee): exclude any depreciation, amortisation or other change in value of the asset or liability to the extent that it relates to a change in value between the net book value of that asset or liability as recognised by the transferee upon the transfer and the Market Value.

   Where the above circumstances apply, the transferee may elect to recognise the excess amount derived from the difference between the net book value and the Market Value as an adjustment in calculating the Taxable Income and the above adjustment shall no longer be required in respect of that asset or liability.[40]

b. Upon the realisation of an asset or a liability by the transferee: include any amount by which the net book value used by the transferee when calculating the gain or loss, exceeds the Market Value identified under paragraph (a) above.

If the net book value of the asset or liability becomes equal to or less than the Market Value, or an election is made to recognise the excess amount derived from the difference between the net book value and the Market Value in Taxable Income, the adjustments under paragraphs (a) and (b) above will no longer be required.

Please note that the adjustment in this section always applies, regardless of whether the realisation basis election, as per Section 5.2, has been made or not.

Example 9: Transactions with Related Parties – consideration in excess of Market Value

Company A and Company B are Related Parties. Company A (transferor) owns a yacht with a Market Value of AED 10 million. It sells the yacht to Company B (transferee) for AED 15 million, in excess of Market Value by AED 5 million.

For Corporate Tax purposes, the seller, Company A, would not include the amount exceeding the Market Value, being AED 5 million, in its Taxable Income.[41] It would thus include AED 10 million in its Taxable Income.

As the recipient of the yacht, Company B is the transferee, and needs to consider the adjustments required for transactions with Related Parties.[42]

If Company B recognises in the Financial Statements the net book value of the yacht as AED 15 million (the purchase price), while the Market Value is lower at

[40] Articles 3(2) and 3(3) of Ministerial Decision No. 134 of 2023.
[41] Article 34 of the Corporate Tax Law.
[42] Article 3 of Ministerial Decision No. 134 of 2023.

AED 10 million, it will not be able to claim a deduction for depreciation or for any other change in value when calculating its Taxable Income, until the net book value of the yacht reduces to a value that is equal to or less than the Market Value of AED 10 million.[43]

Subsequently, Company B determines that the yacht should be written down to AED 12 million. No deduction is available for the AED 3 million loss for the purposes of calculating the Taxable Income as it relates to a change in value between the net book value of the yacht as recognised upon the transfer and the Market Value (i.e. AED 15 million and AED 10 million).

Later, Company B sells the yacht (a realisation event) when the net book value is still AED 12 million. It will make an adjustment to increase its Taxable Income by AED 2 million, which is the difference between the current net book value of AED 12 million and the Market Value on the original transfer of AED 10 million.[44] The intention in relation to the overall effect of the adjustments is to give a symmetrical result for Corporate Tax purposes and ensure that, in a situation where the consideration paid by the transferee exceeds Market Value, the transferee does not claim deductions for depreciation, amortisation, or other changes in value where the net book value exceeds the Market Value.

6.1.2. Consideration lower than Market Value

Where the amount of consideration paid by the transferee is lower than the Market Value, and where the transferor has included the difference between the Market Value and the consideration in its Taxable Income, the following adjustments apply:[45]

a. In cases other than upon realisation: exclude any change in value of the asset or liability, to the extent that it relates to a change in the value between the Market Value of that asset or liability and its net book value as recognised by the transferee upon transfer.
b. Upon the realisation of an asset or a liability by the transferee: reduce the amount of gain by the difference in the Market Value and the net book value at the time of transfer, other than any net amount that has not been included in the Taxable Income under paragraph (a) above.

Where the net book value of the asset or liability becomes equal or higher than the Market Value, the adjustments under paragraphs (a) and (b) above will no longer apply to that asset or liability.

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[43] Article 3(1)(a)(1) of Ministerial Decision No. 134 of 2023.
[44] Article 3(1)(a)(2) of Ministerial Decision No. 134 of 2023.
[45] Article 3(1)(b) of Ministerial Decision No. 134 of 2023.

Example 10: Transactions with Related Parties – consideration lower than Market Value

This is similar to the previous example, but addresses the situation where consideration paid is lower than Market Value. Company A and Company B are Related Parties. Company B (transferee) acquires a yacht from Company A (transferor) for AED 7 million and the Market Value of the yacht is AED 10 million.

Company A must make an adjustment in the calculation of its Taxable Income to include AED 3 million (being the difference between the Market Value and the consideration paid by Company B).

At the time of the transfer, Company B recognises the net book value of the yacht as AED 7 million (being the consideration paid) in its Financial Statements.

Company B subsequently re-values the yacht to the Market Value of AED 10 million, recognising an unrealised gain of AED 3 million for accounting purposes. When calculating its Taxable Income for the relevant Tax Period, Company B (whether or not it has made an election to use realisation basis) should exclude the unrealised gain of AED 3 million since such amount has already been recognised by Company A and taxed.[46]

If in the future Company B sells the yacht for AED 11 million and makes a gain of AED 1 million then the taxable gain for Company B will, therefore, be AED 1 million.[47]

6.2. Transfers within a Qualifying Group

Where there has been a transfer of assets or liabilities between Taxable Persons that are members of the same Qualifying Group that is not a Tax Group, and where the no gain or loss relief under Article 26(1) of the Corporate Tax Law applies, the following adjustments will apply in the calculation of the Taxable Income of the transferee:[48]

a. In cases other than upon realisation**:** to exclude any depreciation, amortisation or other change in the value of an asset or a liability, to the extent that it relates to a gain or loss that arose for the transferor and was not taxed or deducted respectively by the transferor due to the application of the provisions of Article 26(1) of the Corporate Tax Law. This means that if, for example, a gain for the transferor was not taken into account for Corporate Tax purposes under Article

[46] Article 3(1)(b)(1) of Ministerial Decision No. 134 of 2023.
[47] Article 3(1)(b)(2) of Ministerial Decision No. 134 of 2023.
[48] Article 4 of Ministerial Decision No. 134 of 2023.

26(1) of the Corporate Tax Law, the transferee cannot claim depreciation on that gain either.

b. Upon the realisation of an asset or a liability: to include any amount that has not been recognised for Corporate Tax purposes under paragraph (a) above and Article 26(1) of the Corporate Tax Law. This will not apply to an amount that arose prior to the most recent acquisition where Article 26(1) of the Corporate Tax Law did not apply.

Example 11: Adjustments in relation to transfers within a Qualifying Group

Company A and Company B are members of a Qualifying Group. Company A acquires a building for AED 10 million. Company A (transferor) subsequently transfers the building to Company B (transferee) for AED 12 million at the end of Tax Period 1.

Company A has made an election to apply the provisions of Article 26(1) of the Corporate Tax Law and, therefore, the gain of AED 2 million will not be recognised for Corporate Tax purposes in the hands of Company A.

Upon transfer, Company B records the building at a net book value of AED 12 million. Company B depreciates the asset using a straight-line method over 10 years. The resulting depreciation in Tax Period 2 is AED 1.2 million. The net book value as at the end of Tax Period 2 is AED 10.8 million.

When calculating its Taxable Income in Tax Period 2, Company B will need to add back the AED 1.2 million depreciation. In this regard, Company B will continue to adjust for depreciation by adding it back to Taxable Income until the building's net book value is equal to or less than AED 10 million (the acquisition cost of the building by Company A).[49]

The depreciation in Tax Period 3 is AED 1.2 million. The net book value as at the end of the Tax Period 3 is AED 9.6 million.

When calculating its Taxable Income in Tax Period 3, Company B will need to add back AED 800,000 of the depreciation. This amount brings the building's net book value to AED 10 million.[50] Thus in Tax Period 3, Company B will be entitled to claim depreciation of AED 400,000.

[49] Article 4(1) of Ministerial Decision No. 134 of 2023.
[50] Article 4(1) of Ministerial Decision No. 134 of 2023.

If Company B retains the building in Tax Period 4, it would be entitled to claim the full depreciation amount of AED 1.2 million for the purposes of determining its Taxable Income and would thus not make any adjustment in relation to depreciation in Tax Period 4.

If, in Tax Period 4, Company B sells the building to a third party. For the purposes of calculating its Taxable Income, Company B will include the gain of AED 2 million that arose for Company A during the transfer to Company B that has not been recognised previously for Corporate Tax purposes and claim a deduction for the depreciation adjustment of AED 1.2 million previously made in Tax Period 2 and AED 800,000 made in Tax Period 3.[51]

Supposing the Accounting Income for Companies A and B were as follows:

	Company A	**Company B**		
Tax Period	**Tax Period 1**	**Tax Period 2**	**Tax Period 3**	**Tax Period 4**
Accounting Income	2,000,000	3,000,000	3,000,000	5,400,000

The below table illustrates the adjustments to be made and the Taxable Income of Companies A and B:

	Company A	**Company B**		
Tax Period	**Tax Period 1**	**Tax Period 2**	**Tax Period 3**	**Tax Period 4**
Accounting Income	2,000,000	3,000,000	3,000,000	5,400,000
Adjustments	(2,000,000)	1,200,000	800,000	2,000,000 (1,200,000) (800,000)
Taxable Income	-	4,200,000	3,800,000	5,400,000

6.3. Business Restructuring Relief

Where Business Restructuring Relief under Article 27(1) of the Corporate Tax Law applies, the following adjustments shall apply in the calculation of the Taxable Income of the transferee:

a. In cases other than upon realisation: to exclude any depreciation, amortisation or other change in the value of an asset or a liability, to the extent that it relates to a

[51] Article 4(2) of Ministerial Decision No. 134 of 2023.

gain or loss that arose to the transferor that has not been recognised by virtue of the Business Restructuring Relief.

b. Upon realisation of an asset or liability: to include any amount that has not been recognised under paragraph (a) above and Article 27(1) of the Corporate Tax Law. This will not apply to an amount that arose prior to the most recent acquisition where the Business Restructuring Relief did not apply.[52]

The adjustments for Business Restructuring Relief operate in the same way as adjustments for transfers within a Qualifying Group.

6.4. Gains and losses not recognised in the income statement

When calculating Taxable Income, Taxable Persons are required to adjust their Accounting Income to include any realised or unrealised gains and losses that are reported in the Financial Statements insofar as they would not be subsequently recognised in the statement of income.[53]

This may happen in different scenarios. For instance, any gain or loss recorded in the statement of other comprehensive income that will not be subsequently included or reclassified to the statement of income in future periods.

Example 12: Adjustment of Accounting Income for a gain not recognised in the income statement

Company A acquired land for AED 100,000. It recorded the land on its balance sheet under non-current assets at a net book value of AED 100,000. In the Tax Period after acquisition, Company A re-values the land to AED 120,000 due to a higher market demand in the location of the land. Company A does not intend to sell the land.

As per the Accounting Standards and the business model adopted by the company, the AED 20,000 increase in value of the land is recorded in the statement of other comprehensive income. In accordance with the Accounting Standards, Company A is not required to subsequently include this gain in its income statement.

Company A does not expect to subsequently recognise this amount in its income statement. It has not elected for the realisation basis. Therefore, Company A will adjust its Accounting Income to include the unrealised gain of AED 20,000 when calculating its Taxable Income.

[52] Article 5 of Ministerial Decision No. 134 of 2023.

[53] Article 2(1) of Ministerial Decision No. 134 of 2023.

6.5. Cost Method of Accounting to replace Equity Method of Accounting

Under IFRS, the Equity Method of Accounting allows parent companies (not in the context of a Tax Group) to apply special rules to account for investments in associates and joint ventures. The parent company records its proportionate share of the equity accounted investment's financial results in the income statement or statement of other comprehensive income and the profit distributions received reduce the carrying value of the investment.

To avoid double taxation of the equity accounted investment's income (i.e. at the investment and parent level), the parent company should replace the effect of Equity Method of Accounting, if applied, with the effect of Cost Method of Accounting for Corporate Tax purposes. This means that in its Taxable Income calculation, the Parent Company should not include the share of income or loss of the equity accounted investment. Instead, only Dividends and other profit distributions (which may qualify for exemption under Article 22 of the Corporate Tax Law) should be recognised for Corporate Tax purposes.

6.6. Other adjustments

6.6.1. No deduction for expenditure which does not qualify for relief under general tax deduction rules

Any expenditure that does not meet the conditions described under Articles 28 to 33 (Chapter Nine on Deductions) of the Corporate Tax Law is not deductible regardless of its treatment in the Financial Statements.[54]

6.6.2. Capital expenditure

For the purposes of Corporate Tax, the definition of expenditure that is capital in nature is that which is treated as such under the Accounting Standards applied by the Taxable Person.[55] Examples would be costs incurred to acquire and improve an asset, such as acquiring new machinery, improving infrastructure or building facilities, import duties, any costs directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management, costs of site preparation, initial delivery and handling costs.

Whilst a tax deduction is not available for expenditure which is capital in nature,[56] the associated depreciation, amortisation or similar changes are deductible for Corporate

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[54] Article 7(1) of Ministerial Decision No. 134 of 2023.

[55] Article 7(4) of Ministerial Decision No. 134 of 2023.

[56] Article 28(1) of the Corporate Tax Law.

Tax purposes. However, if the capitalised expenditure would not have been deductible had it been expenditure that is not capital in nature, the associated depreciation, amortisation or similar changes would not qualify for a tax deduction.[57] For instance, if a Taxable Person incurred interest expenditure that would not otherwise be deductible, for example on a loan obtained from a Related Party to acquire shares in another Related Party,[58] and that interest expenditure was then capitalised to gain a Corporate Tax advantage, any write-off of the capitalised interest would not qualify for a deduction for Corporate Tax purposes.

Expenditure that is capital in nature that has not been deducted for the purpose of calculating Taxable Income (except where it would not have been allowable if it was not treated as capital in nature) is deductible for Corporate Tax purposes in the calculation of gains or losses upon the realisation of the asset or liability.[59]

Example 13: Deduction of capitalised expenditure

In Tax Period 1, Company A, a Taxable Person, purchases a piece of land for AED 3,000,000 and pays AED 90,000 fees to a real estate agent.

If the fees of AED 90,000 should be capitalised according to IFRS, they are not deductible in Tax Period 1, as they are capital in nature. Company A shall add those fees to the acquisition cost so that the land cost becomes AED 3,090,000.

In Tax Period 4, Company A sells the land for AED 3,300,000.

Upon realisation, i.e. at the time of disposal in Tax Period 4, Company A shall deduct those fees when calculating the gain as follows:

Taxable gain = AED 3,300,000 – AED 3,090,000 = AED 210,000.

57 Article 7(2) of Ministerial Decision No. 134 of 2023.
58 Article 31(1) of the Corporate Tax Law.
59 Article 7(3) of Ministerial Decision No. 134 of 2023.

7. Adjustments under the transitional rules

7.1. Background and purpose of the transitional rules

For Corporate Tax purposes, a Taxable Person's opening balance sheet shall be the closing balance sheet prepared for the period immediately before their first Tax Period.[60] This establishes the starting point for the application of Corporate Tax.

For instance, for assets or liabilities recorded on a historical cost basis, the opening balance sheet will be the net book value as of the last day of the Financial Year immediately preceding the first Tax Period, and not the Market Value at that date or the full original acquisition cost (if it is already partially depreciated or amortised).

During or after their first Tax Period, Taxable Persons that apply the historical Cost Method of Accounting might find themselves, upon disposal of assets or liabilities, realising gains which are partially associated with periods preceding their first Tax Period.

However, if assets or liabilities are recorded on a fair market value basis, the opening balance sheet in their first Tax Period will be the Market Value of the assets or liabilities, and the gain on disposal will not include gains related to periods preceding the first Tax Period.

Thus, where a Taxable Person applies the historical cost basis, the transitional rules aim to limit the taxable gain to the gain which arises after the start of the first Tax Period, in relation to certain categories of assets as specified in Ministerial Decision No. 120 of 2023.

Example 14: Asset acquired prior to the first Tax Period

A Taxable Person acquired an asset in a period prior to their first Tax Period for AED 1,000 (an arm's length amount).

The asset is recorded on the historical cost basis

Under the historical cost basis, the asset is reported in the opening balance sheet at the start of the first Tax Period for the same original cost of AED 1,000 (assuming no depreciation has previously been recorded on that asset), even though the Market Value of the asset at the start of the first Tax Period is AED 1,700.

[60] Article 61(1) of the Corporate Tax Law.

During that first Tax Period, the asset is disposed of for AED 2,200 realising a taxable gain of AED 1,200 (sale price AED 2,200 less cost AED 1,000), out of which AED 700 relates to periods prior to the first Tax Period (with AED 500 arising subsequently).

The asset is recorded on the fair market value basis

Considering the same facts, if alternatively, the Taxable Person applies the fair market value basis, the asset will be reported in its opening balance sheet for AED 1,700, the Market Value.

The realised taxable gain will be AED 500 (sale price AED 2,200 less cost AED 1,700).

Under the transitional rules, Taxable Persons with Financial Assets or Financial Liabilities, Immovable Property and Intangible Assets owned before the first Tax Period and recorded on historical cost basis may elect to adjust their Taxable Income to exclude gains or losses related to the period(s) preceding the first Tax Period as follows:

- Exclude gains and losses when disposing of Financial Assets and Financial Liabilities.[61]
- Exclude just gains when disposing of Immovable Property and Intangible Assets.[62]

The election can only be made for the relevant assets or liabilities that are measured on the historical cost basis. The election must be made upon the submission of the first Tax Return and is irrevocable except under exceptional circumstances and pursuant to approval by the FTA.[63]

7.2. Gains on disposal of Qualifying Immovable Property

A Taxable Person may elect to adjust their Taxable Income for calculating the gains on the disposal of any Qualifying Immovable Property.[64] The election should be made for each Qualifying Immovable Property (i.e. on an asset-by-asset basis) upon submission of the first Tax Return.[65]

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[61] Article 4 of Ministerial Decision No. 120 of 2023.
[62] Articles 2 and 3 of Ministerial Decision No. 120 of 2023.
[63] Articles 2(5), 3(4) and 4(3) of Ministerial Decision No. 120 of 2023.
[64] Article 2(1) of Ministerial Decision No. 120 of 2023.
[65] Article 2(5) of Ministerial Decision No. 120 of 2023.

7.2.1. What is a Qualifying Immovable Property

A Qualifying Immovable Property is defined as any Immovable Property that meets all of the following conditions:[66]

- it is owned prior to the first Tax Period;
- it is measured in the Financial Statements on a historical cost basis; and
- it is disposed of or deemed to be disposed of during or after the first Tax Period for the purposes of determining the Taxable Income for a value exceeding the net book value.

7.2.2. Two methods to compute the excluded amount of the gain

In relation to the Qualifying Immovable Property, there are two methods to compute the excluded amount of the gain and the Taxable Person may elect either method. The methods are as follows:[67]

Method 1: Valuation method

The excluded amount is the amount of the gain that would have arisen had the Qualifying Immovable Property been disposed of at Market Value at the start of the first Tax Period, and considering the cost of the Qualifying Immovable Property as the higher of the original cost and the net book value.[68]

The Market Value at the start of the first Tax Period shall be determined by the relevant government competent authority in the UAE such as the Department of Municipalities and Transport (DMA) in Abu Dhabi, the Dubai Land Department (DLD) in Dubai, or similar authorities for each Emirate. It may also be determined by outsourced third parties authorised by the government competent authority.

The Market Value will, therefore, be determined based on the government competent authority's rules and regulations.

[66] Article 1 and Article 2(1) of Ministerial Decision No. 120 of 2023.
[67] Article 2(2) of Ministerial Decision No. 120 of 2023.
[68] Article 2(2)(a) of Ministerial Decision No. 120 of 2023.

Example 15: Valuation method on Qualifying Immovable Property

Company C has a first Tax Period from 1 August 2023 to 31 July 2024.

On 1 August 2023, the opening balance sheet shows the following in respect of an Immovable Property:

- Original cost: AED 20 million
- Accumulated depreciation: AED 3 million
- Net book value: AED 17 million

The Immovable Property was purchased on 1 August 2020 (assumed to be at arm's length) and is measured on a historical cost basis.

The Immovable Property is a Qualifying Immovable Property.

In the Tax Return of the first Tax Period, Company C makes an election for the transitional relief (under the valuation method) in respect of the Immovable Property.

Market Value at the start of the first Tax Period:

Step 1 – Company C obtains a valuation from the relevant government competent authority in the UAE and the Market Value of the Qualifying Immovable Property on 1 August 2023, as determined by the government competent authority is AED 24 million.

Taxable Income adjustments upon disposal:

Step 2 - Company C sells the Immovable Property for AED 27 million on 31 July 2024, when its net book value is AED 16,000,000 following the recognition of depreciation of AED 1,000,000 for the year ended 31 July 2024.

The Taxable Income adjustments for the Tax Period of disposal will therefore be as follows:

Calculation of total gain	**Amounts (in AED)**
Sale price	27,000,000
Net book value	16,000,000
Total gain	11,000,000
Calculation of excluded gain (i.e. pre-Corporate Tax gain)	
Market Value	24,000,000

Higher of the original cost and the net book value (i.e. AED 20,000,000 vs AED 17,000,000	20,000,000
Excluded gain (Market Value - Higher of the original cost and the net book value)	4,000,000
Calculation of taxable gain (i.e. post-Corporate Tax gain)	
Taxable gain (Total gain – Excluded gain)	7,000,000

Method 2: Time apportionment method

The excluded gain amount is calculated by applying four steps to pro-rate the excluded gain based on the period elapsed between the time the asset was purchased and the start of the first Tax Period.

To explain these steps, the same facts mentioned in the previous example are used below (except that the Taxable Person elects to use the time apportionment method):[69]

Example 16: Time apportionment method on Qualifying Immovable Property (same facts as Example 15)

The Taxable Income adjustments for the Tax Period of disposal will be as follows:

Calculation of the excluded gain (i.e. pre-Corporate Tax gain):

Step 1 - Calculate the amount of gain that would have arisen upon the disposal of the Qualifying Immovable Property, had its cost been equal to the higher of the original cost and the net book value at the start of the first Tax Period.

Gain = 27,000,000 – 20,000,000 = 7,000,000

Step 2 - Divide the number of days the Qualifying Immovable Property is owned before the first Tax Period by the total number of days the Qualifying Immovable Property is owned.

[69] Article 2(2)(b) of Ministerial Decision No. 120 of 2023.

$$A = \frac{\text{the number of days the Qualifying Immovable Property is owned before the first Tax Period}}{\text{The total number of days the Qualifying Immovable Property is owned}}$$

$$A = \frac{\text{1,094 (Number of days between 1 August 2020 and 31 July 2023)}}{\text{1,460 (Number of days between 1 August 2020 and 31 July 2024)}} = 0.7493$$

Step 3 - Multiply the amount calculated in Step 1 by the amount calculated in Step 2

B = Gain x A
B = 7,000,000 x 0.7493 = 5,245,100

Step 4 - The amount calculated in Step 3 shall be the amount of gain on the Qualifying Immovable Property excluded from the Taxable Income during the relevant Tax Period.

Excluded gain amount = 5,245,100

Calculation of the taxable gain (i.e. post-Corporate Tax gain):

Total gain = Sale price – Net book value
= 27,000,000 – 16,000,000
= 11,000,000

Taxable gain = Total gain – Excluded gain
= 11,000,000 – 5,245,100 = 5,754,900

7.3. Gains on disposal of Qualifying Intangible Assets

A Taxable Person may elect to adjust its Taxable Income for calculating the gains on disposal of all Qualifying Intangible Assets.[70] This could include, for example goodwill, trademarks and patents.

The election applies to all Qualifying Intangible Assets, i.e. it is not an asset-by-asset election and will be deemed irrevocable except under exceptional circumstances and pursuant to approval by the FTA.[71]

[70] Article 3(1) of Ministerial Decision No. 120 of 2023.
[71] Article 3(4) of Ministerial Decision No. 120 of 2023.

7.3.1. What is a Qualifying Intangible Asset

A Qualifying Intangible Asset is defined as any Intangible Asset that meets all of the following conditions:[72]

- it is owned prior to the first Tax Period;
- it is measured in the Financial Statements on a historical cost basis; and
- it is disposed of or deemed to be disposed of during or after the first Tax Period for the purposes of determining the Taxable Income for a value exceeding the net book value.

An Intangible Asset is defined as an intangible asset as defined in the Accounting Standards applied by the Taxable Person.[73]

7.3.2. How to compute the excluded gain

Only the time apportionment method can be used to calculate the excluded gain for Qualifying Intangible Assets. It is based on the period elapsed between the time the asset was purchased and the start of the first Tax Period.[74]

Except under exceptional circumstances and pursuant to approval by the FTA, only a maximum period of (10) ten years can be used to calculate the number of days the Qualifying Intangible Asset is owned before the first Tax Period.[75]

The calculation is demonstrated in the following example:

Example 17: Taxable Income adjustments for Qualifying Intangible Assets

Company D has a first Tax Period starting from 1 August 2023 to 31 July 2024. On 1 August 2023, its opening balance sheet shows the following in respect of Intangible Assets:

- Original cost: AED 15 million
- Amortisation: AED 5 million
- Net book value: AED 10 million

The Intangible Assets were acquired on 1 August 2021 on an arm's length basis, and are measured on a historical cost basis.

[72] Article 3(1) of Ministerial Decision No. 120 of 2023.
[73] Article 1 of Ministerial Decision No.120 of 2023.
[74] Article 3(2) of Ministerial Decision No. 120 of 2023.
[75] Article 3(5) of Ministerial Decision No. 120 of 2023.

Company D sells the Intangible Assets on 31 July 2024 for AED 20 million. The Intangible Assets are considered Qualifying Intangible Assets.

In the Tax Return of the first Tax Period, Company D makes an election for the transitional relief in respect of all its Qualifying Intangible Assets.

Calculation of the excluded gain (i.e. pre-Corporate Tax gain):

Step 1 – Calculate the amount of gain that would have arisen upon the disposal of the Qualifying Intangible Asset, had its cost been equal to the higher of the original cost and the net book value at the start of the first Tax Period.

Gain = 20,000,000 – 15,000,000 = 5,000,000

Step 2 - Divide the number of days the Qualifying Intangible Asset is owned before the first Tax Period by the total number of days the Qualifying Intangible Asset is owned.

$$A=\frac{\text{the number of days the Qualifying Immovable Property is owned before the first Tax Period}}{\text{The total number of days the Qualifying Immovable Property is owned}}$$

$$A=\frac{\text{729 (Number of days between 1 August 2021 and 31 July 2023)}}{\text{1,095 (Number of days between 1 August 2021 and 31 July 2024)}}=0.6657$$

Step 3 - Multiply the amount calculated in Step 1 by the amount calculated in Step 2

B= Gain x A
B= 5,000,000 x 0.6657 = 3,328,500

Step 4 - The amount calculated in Step 3 shall be the amount of gain on the Qualifying Intangible Asset excluded from the Taxable Income during the relevant Tax Period.

Excluded gain amount = 3,328,500

Calculation of the taxable gain (i.e. post-Corporate Tax gain)

Total gain = Sale price – Net book value
= 20,000,000 – 10,000,000
= 10,000,000

Taxable gain = Total gain – Excluded gain
= 10,000,000 – 3,328,500
= 6,671,500

7.4. Gains and losses on disposal of Qualifying Financial Assets and Qualifying Financial Liabilities

A Taxable Person may elect to adjust its Taxable Income when calculating the gains and losses on all Qualifying Financial Assets and Qualifying Financial Liabilities.[76] This could include, for example, investments held on trading account (for example shareholdings which do not qualify for the Participation Exemption) and loans payable or receivable.

When made, this election applies to all Qualifying Financial Assets and Qualifying Financial Liabilities, i.e. it is not made at the level of individual assets and liabilities. It is deemed irrevocable except under exceptional circumstances and pursuant to approval by the FTA.[77]

Unlike other similar adjustments (see Sections 7.2 and 7.3), this election applies not only for gains but also for losses.

7.4.1. What is a Qualifying Financial Asset

A Qualifying Financial Asset is defined as a Financial Asset that meets all of the following conditions:[78]

- it is owned prior to the first Tax Period; and
- it is measured in the Financial Statements on a historical cost basis.

A Financial Asset is a financial asset as defined in the Accounting Standards applied by the Taxable Person.[79]

7.4.2. What is a Qualifying Financial Liability

A Qualifying Financial Liability is defined as a Financial Liability that meets all of the following conditions:[80]

- it is owned prior to the first Tax Period; and
- it is measured in the Financial Statements on a historical cost basis.

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[76] Article 4(1) of Ministerial Decision No. 120 of 2023.
[77] Article 4(3) of Ministerial Decision No. 120 of 2023.
[78] Article 1 and Articles 4(1)(a) and 4(1)(b) of Ministerial Decision No. 120 of 2023.
[79] Article 1 of Ministerial Decision No. 120 of 2023.
[80] Article 1 and Article 4(1)(a) and 4(1)(b) of Ministerial Decision No. 120 of 2023.

A Financial Liability is a financial liability as defined in the Accounting Standards applied by the Taxable Person.[81]

7.4.3. How to compute the excluded gain or loss

There is only one method available for computing the excluded gain or loss on Qualifying Financial Assets and Qualifying Financial Liabilities. The Taxable Person excludes the amount of the gain or loss that would have arisen, at the start of the first Tax Period, had the Qualifying Financial Assets or Qualifying Financial Liabilities been disposed of at Market Value and considering the cost of these Assets or Liabilities as being equal to the net book value.[82]

There is no requirement for Market Value to be determined by a competent government authority.

Example 18: Taxable Income adjustments for Qualifying Financial Assets

Company E has a first Tax Period from 1 February 2024 to 31 January 2025. On 1 February 2024, its opening balance sheet shows the following Financial Assets:

Shares in Company Z: AED 10,000 representing 1,000 shares for a cost of AED 10 per share.

The shares in Company Z are Qualifying Financial Assets. These shares were bought on the stock exchange, i.e. on an arm's length basis, in September 2023 for AED 10,000 and do not benefit from any other exemption or relief for Corporate Tax purposes.

In its first Tax Return, Company E makes the election to apply the transitional relief in respect of all its Qualifying Financial Assets and Qualifying Financial Liabilities.

Company E sells the shares in August 2025 on the stock exchange for AED 5 per share and for a total of AED 5,000.

Calculation of the excluded gain (loss), i.e. pre-Corporate Tax gain (loss):

Step 1 – Market Value at the start of the first Tax Period

[81] Article 1 of Ministerial Decision No. 120 of 2023.
[82] Article 4(2) of Ministerial Decision No. 120 of 2023.

Since the shares are traded on a stock exchange, the Market Value at the start of the first Tax Period, would be the price traded as of 1 February 2024. Assuming the price per share was AED 7: Total Market Value = AED 7,000 Step 2 – The cost (equal to the net book value) The cost (equal to the net book value) = AED 10,000 Step 3 – Excluded gain (loss) amount Excluded gain (loss) amount = Market Value at the start of the first Tax Period – the cost (equal to the net book value) Excluded gain (loss) amount = 7,000 – 10,000 = (3,000) Calculation of the taxable gain (loss), i.e. post-Corporate Tax gain (loss): Total gain (loss) = Sale price – Net book value = 5,000 – 10,000 = (5,000) Taxable gain or allowable (loss) = Total gain (loss) – Excluded gain (loss) = (5,000) – (3,000) = (2,000)

7.5. Impact of group ownership

Where relevant assets and liabilities (Immovable Property, Intangible Assets, or Financial Assets and Financial Liabilities) are owned by another member of a Qualifying Group or a Tax Group prior to acquisition by the Taxable Person, there is a "look through" provision such that the calculation of the excluded gain or loss also takes account of that period of ownership.[83] The conditions are set out below.

[83] Article 5 of Ministerial Decision No. 120 of 2023.

7.5.1. Ownership of Transferred Assets and Liabilities

Transferred Assets and Liabilities are Immovable Property, Intangible Assets, Financial Assets and Financial Liabilities that have been held solely by the Taxable Person and by one or more of the following Persons:[84]

- a member of the same Qualifying Group of the Taxable Person that has acquired the relevant assets or liabilities in accordance with Article 26(1) of the Corporate Tax Law; or
- a member of the same Tax Group of the Taxable Person that has acquired the relevant assets or liabilities in accordance with Article 42(1) of the Corporate Tax Law.

The term ownership includes the ownership by any Person who falls within the above categories.

7.5.2. Calculation of the period of ownership of Non-Financial Transferred Assets

Assets, other than Financial Assets, which are included within the definition of Transferred Assets and Liabilities are referred to as Non-Financial Transferred Assets.[85]

For the purpose of calculating the excluded amount of gain in respect of Non-Financial Transferred Assets under the time apportionment method, the period of the ownership includes the period of ownership by:[86]

- any member of the same Qualifying Group of the Taxable Person that has acquired the relevant assets in accordance with Article 26(1) of the Corporate Tax Law; or
- any member of the same Tax Group of the Taxable Person that has acquired the relevant assets in accordance with Article 42(1) of the Corporate Tax Law.

Any period of ownership before the most recent Non-Qualifying Transfer is excluded.[87] A Non-Qualifying Transfer is a transfer that is not covered, or would not have been covered had the Corporate Tax Law been effective, under Article 26(1) or under Article 42(1) of the Corporate Tax Law.[88]

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[84] Article 5(1) of Ministerial Decision No. 120 of 2023.
[85] Article 5(2)(a) of Ministerial Decision No. 120 of 2023.
[86] Article 5(3) of Ministerial Decision No. 120 of 2023.
[87] Article 5(4) of the Ministerial Decision No. 120 of 2023.
[88] Article 5(2)(c) of Ministerial Decision No. 120 of 2023.

Example 19: Computation of excluded gain of an Immovable Property for a Taxable Person within a Qualifying Group

Company F and G are members of a Qualifying Group.[89] Both companies have a first Tax Period from 1 January 2024 to 31 December 2024. On 1 January 2024, Company G's opening balance sheet includes land of AED 30,000,000.

Additional information:

- Both companies are subsidiaries of Company H. Since 2010, Company H has owned 90% of Company F and 70% of Company G. Company H's shareholding in Company G increased to 90% on 1 January 2021.
- Company F purchased the land from a third party on 1 January 2019 for AED 27,000,000.
- On 1 September 2020, Company F transferred the land to Company G for AED 30,000,000.
- The sale transaction was conducted at arm's length.
- The land is recorded in Company G's Financial Statements on a historical cost basis.
- Company G sells the land on 31 December 2024 to a third party for AED 35,000,000.
- Company G elects to adjust their Taxable Income for calculating the gain for the land using the time apportionment method (see Section 7.2).

Summary of the relevant facts for the calculation of the excluded amount of gain:

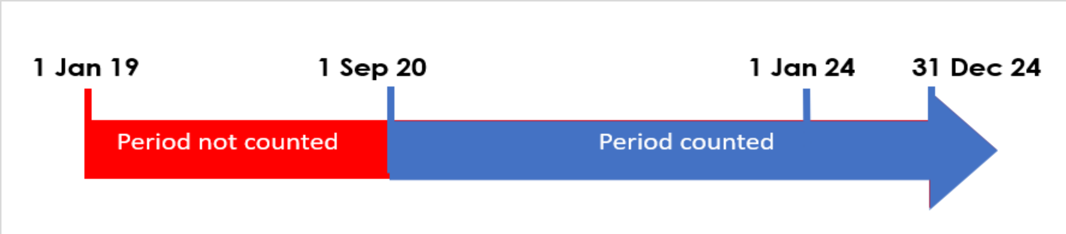
Particulars	Purchase date and amount (AED)	Transfer date and amount (AED)	Sale date and amount (AED)
Land	1 January 2019	1 September 2020	31 December 2024
	27,000,000	30,000,000	35,000,000

Analysis:

Both Company G and Company F are members of a Qualifying Group in 2024. However, they would not have been members of the same Qualifying Group had the Corporate Tax Law been effective on 1 September 2020 (the date of the transfer). This is because Company H had a 70% shareholding in Company G at the time of transfer. Accordingly, the ownership period from 1 January 2019 to 1 September

[89] Article 26 of the Corporate Tax Law.

2020 when the Immovable Property was held by Company F cannot be included in the total ownership period of Company G in the same asset.



Note: Had Company H held more than 75% in both Company G and Company F at the time of transfer, then Company G's ownership period would have been counted from 1 January 2019.

Calculation of the excluded amount of gain of the land:

Step 1 - Calculate the amount of gain that would have arisen upon the disposal of the Qualifying Immovable Property, had its cost been equal to the higher of the original cost and the net book value at the start of the first Tax Period.

Gain = 35,000,000 – 30,000,000 = 5,000,000

Step 2 - Divide the number of days the Qualifying Immovable Property is owned before the first Tax Period by the total number of days the Qualifying Immovable Property is owned.

$$A=\frac{\text{the number of days the Qualifying Immovable Property is owned before the first Tax Period}}{\text{The total number of days the Qualifying Immovable Property is owned}}$$

$$A=\frac{\text{1,216 (Number of days between 1 September 2020 and 31 December 2023)}}{\text{1,582 (Number of days between 1 September 2020 and 31 December 2024)}}=0.7686$$

Only the period from 1 September 2020 is considered.

Step 3 – Multiply the amount calculated in paragraph Step 1 by the amount calculated in Step 2

B = Gain x A
B = 5,000,000 x 0.7686 = 3,843,000

Step 4 - The amount calculated in Step 3 shall be the amount of gain on the Qualifying Immovable Property excluded from the Taxable Income during the relevant Tax Period.

Excluded gain = 3,843,000

Accordingly, the taxable gain would be decreased by AED 3,843,000 as follows:

Description	Amount in AED
Total gain	5,000,000
Excluded gain	(3,843,000)
Taxable gain	1,157,000

7.6. Subsequent movements in other assets or liabilities in the opening balance sheet

The Corporate Tax treatment of movements in other items in the opening balance sheet will follow the accounting treatment. For example, a provision in respect of inventory recorded before a company was subject to Corporate Tax and then reversed after it was subject to Corporate Tax would normally be taxable at the time the credit was recorded in the accounts. This is because inventory is not an Immovable Property, an Intangible Asset or a Financial Asset eligible for the transitional relief.

7.7. Arm's length principle: opening balance sheet

Items in the opening balance sheet relating to transactions with Related Parties, such as other group companies, should reflect arm's length market pricing, consistent with the arm's length principle.[90] Where this is not the case, any deductible or taxable amounts in the first and subsequent Tax Periods (where relevant) should be adjusted to reflect the arm's length basis.

For example, if inventory was acquired from another group company prior to the first Tax Period at a price higher than the Market Value, the subsequent tax deduction in respect of the related cost of goods would be limited to the arm's length amount.

[90] Article 61(2) of the Corporate Tax Law.

8. Updates and Amendments

Date of amendment	Amendments made
November 2023	• First version

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Taxation of Foreign Source Income

Corporate Tax Guide | CTGFSI1

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الـهـيـئـة الاتحـاديـة لـلـضـرائـب
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Contents

1. Glossary

Accounting Income: The accounting net profit or loss for the relevant Tax Period as per the Financial Statements prepared in accordance with the provisions of Article 20 of the Corporate Tax Law.

Accounting Standards: The accounting standards specified in Ministerial Decision No. 114 of 2023.

Accrual Basis of Accounting: An accounting method under which the Taxable Person recognises income when earned and expenditure when incurred.

AED: The United Arab Emirates dirham.

Authority: Federal Tax Authority.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or activities, conducted by a Person in the course of its Business.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Connected Person: Any Person affiliated with a Taxable Person as determined in Article 36(2) of the Corporate Tax Law.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Corporate Tax Payable: Corporate Tax that has or will become due for payment to the FTA in respect of one or more Tax Periods.

Dividend: Any payments or distributions that are declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which do not constitute a return on capital or a return on debt claims. These payments or distributions are considered dividends whether based in cash, securities, or other properties, and whether payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue. This will include any payment or benefit which in substance or effect constitutes a distribution of profits made in connection with the acquisition or redemption or cancellation of shares or termination of other ownership interests or rights. It also comprises any transaction or arrangement with a Related Party or Connected Person which does not comply with Article 34 of the Corporate Tax Law.

Domestic Permanent Establishment: A place of Business or other form of presence of a Qualifying Free Zone Person outside the Free Zone in the UAE.

Double Taxation Agreement: An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Exempt Income: Any income exempt from Corporate Tax under the Corporate Tax Law.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Financial Year: The Gregorian calendar year, or the twelve-month period for which the Taxable Person prepares Financial Statements.

Foreign Permanent Establishment: A place of Business or other form of presence outside the UAE of a Resident Person that is determined in accordance with the criteria prescribed in Article 14 of the Corporate Tax Law.

Foreign Tax Credit: Tax paid under the laws of a foreign jurisdiction on income or profits that may be deducted from the Corporate Tax due, in accordance with the conditions of Article 47(2) of the Corporate Tax Law.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

Government Entity: The Federal Government, Local Governments, ministries, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.

IFRS: International Financial Reporting Standards.

IFRS for SMEs: International Financial Reporting Standard for small and medium-sized entities.

Immovable Property: Means any of the following:

a. Any area of land over which rights or interests or services can be created.
b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.
c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic financial instrument and other payments economically equivalent to interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Market Value: The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Participating Interest: An ownership interest in the shares or capital of a juridical person that meets the conditions referred to in Article 23 of the Corporate Tax Law.

Participation: The juridical person in which the Participating Interest is held.

Participation Exemption: An exemption from Corporate Tax for income from a Participating Interest, available under Article 23 of the Corporate Tax Law and as specified under Ministerial Decision No. 116 of 2023.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural person or juridical person.

Personal Investment: Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 issuing the Commercial Transactions Law.

Qualifying Activities: Any activities determined in accordance with Article 2 of Ministerial Decision No. 265 of 2023 and conducted by a Qualifying Free Zone Person from which Qualifying Income is derived.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Income: Any income derived by a Qualifying Free Zone Person that is subject to Corporate Tax at the rate specified in Article 3(2)(a) of the Corporate Tax Law.

Real Estate Investment: Any investment activity conducted by a natural person related to, directly or indirectly, the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not conducted, or does not require to be conducted, through a Licence from a Licensing Authority.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

Small Business Relief: A Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period in accordance with Article 21 of the Corporate Tax Law and Ministerial Decision No. 73 of 2023.

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Tax Loss: Any negative Taxable Income as calculated under the Corporate Tax Law for a given Tax Period.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

Voluntary Disclosure: A form prepared by the FTA pursuant to which a Taxpayer notifies the FTA of an error or omission in the Tax Return, Tax Assessment or Tax refund application, in accordance with the provisions of Article 10 of the Tax Procedures Law.

Wage: The wage that is given to the employee in consideration of their services under the employment contract, whether in cash or in kind, payable annually, monthly, weekly, daily, hourly, or by piece-meal, and includes all allowances, and bonuses in addition to any other benefits provided for, in the employment contract or in accordance with the applicable legislation in the UAE.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance to taxpayers on the taxation of foreign source income under the Corporate Tax Law. The guide explains the following:

- Relevance of foreign source income under the Corporate Tax Law;
- What is considered foreign source income for Taxable Persons under the Corporate Tax Law?
- Which Taxable Persons are subject to tax on foreign source income?
- When is foreign source income taxable?
- Determining Taxable Income and Exempt Income in respect of foreign source income; and
- What is a Foreign Tax Credit, and how is it computed?

2.3. Who should read this guide?

The guide should be read by a Taxable Person who receives or derives income from sources outside the UAE, including a Qualifying Free Zone Person. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in topic specific guides.

In some instances, simple examples are used to illustrate how the key Corporate Tax rules apply to foreign source income. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural person.

The numerical examples in the guide are provided in the context of Taxable Persons, other than a Qualifying Free Zone Person. While the principles discussed in the examples equally apply in the context of a Qualifying Free Zone Person, the tax calculations may differ on the basis of the Corporate Tax rate applicable under Article 3(2) of the Corporate Tax Law.

Further, where relevant, the analysis in the examples in the guide are subject to the impact of the relevant Double Taxation Agreement, if any. To the extent the terms of a Double Taxation Agreement are inconsistent with the provisions of the Corporate Tax Law, the terms of the Double Taxation Agreement shall prevail.[1]

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as “Tax Procedures Law”;
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Corporate Tax Law”;
- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax is referred to as “Cabinet Decision No. 49 of 2023”;
- Cabinet Decision No. 56 of 2023 on Determination of a Non-Resident Person’s Nexus in the UAE for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 56 of 2023”;

[1] Article 66 of the Corporate Tax Law.

- Cabinet Decision No. 74 of 2023 on the Executive Regulation of Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as “Cabinet Decision No. 74”;
- Cabinet Decision No. 100 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 100 of 2023”;
- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 114 of 2023”;
- Ministerial Decision No. 116 of 2023 on the Participation Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 116 of 2023”;
- Ministerial Decision No. 134 of 2023 on the General Rules for Determining Taxable Income for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 134 of 2023”;
- Ministerial Decision No. 265 of 2023 regarding Qualifying Activities and Excluded Activities for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 265 of 2023”;
- Federal Tax Authority Decision No. 5 of 2023 on Conditions for Change in Tax Period for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “FTA Decision No. 5 of 2023”; and
- Federal Tax Authority Decision No. 13 of 2023 on Determination of Conditions for Conversion of Amounts Quantified in a Currency other than the United Arab Emirates Dirham for the Purposes of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “FTA Decision No. 13 of 2023”.

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the provisions of the Corporate Tax Law. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it reads when the guide is published. Each Person’s own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of the Corporate Tax Law. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Relevance of foreign source income under the Corporate Tax Law

A Resident Person in the UAE, or a Non-Resident Person with a Permanent Establishment in the UAE, may earn income from a foreign jurisdiction i.e. "foreign source income" due to activities, operations or assets in another jurisdiction. The UAE Corporate Tax treatment of foreign source income depends on the type of Person receiving the income, the nature of the income and the availability of exemptions and reliefs.

In the case of a Taxable Person, foreign source income may be subject to Corporate Tax as follows:

- A juridical Resident Person, for example a company incorporated in the UAE, is subject to tax on its worldwide income. Hence, any foreign source income may be subject to Corporate Tax in the UAE.[2]
- A natural Resident Person is subject to tax on any income derived from a Business or Business Activity they conduct in the UAE if the total Turnover from such a Business or Business Activities is above AED 1 million within a Gregorian calendar year.[3] Thus, any foreign source income which is linked to the Business or Business Activity they conduct in the UAE may be subject to Corporate Tax in the UAE.[4]

A Non-Resident Person having a Permanent Establishment in the UAE is typically taxed on the income generated from activities conducted in the UAE. Thus, if it receives any foreign source income attributable to its Permanent Establishment in the UAE, that income may be subject to Corporate Tax.[5]

The next step is to consider if any exemptions are available with respect to the foreign source income, typically to reduce or eliminate potential double taxation.[6] For example:

- the Participation Exemption with respect to Dividends, profit distributions and capital gains derived from juridical Non-Resident Persons (see Section 7.2.1)[7]

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[2] Article 12(1) of the Corporate Tax Law.
[3] Article 2(1) of Cabinet Decision No. 49 of 2023.
[4] Article 12(2) read with Article 11(6) of the Corporate Tax Law.
[5] Article 12(3)(a) of the Corporate Tax Law.
[6] Article 20(2)(b) of the Corporate Tax Law.
[7] Article 23 of the Corporate Tax Law.

- the Foreign Permanent Establishment exemption whereby the income and associated expenditure of certain foreign business operations is disregarded when determining Taxable Income (see Section 7.2.2)[8]

Where no exclusion or exemption applies, the foreign source income is taxable in the UAE. However, if taxes are paid in the foreign jurisdiction on the foreign source income, this may give rise to a Foreign Tax Credit, potentially reducing the Corporate Tax Payable in the UAE (see Section 8).[9]

[8] Article 24 of the Corporate Tax Law.

[9] Article 44(2) read with Article 47 of the Corporate Tax Law.

4. What is foreign source income?

Foreign source income, for the purposes of the Corporate Tax Law, is any income which has originated in a foreign jurisdiction and is earned or received by a Person in the UAE.

While such income may be subject to tax in the hands of certain Taxable Persons in the UAE (see Section 5), the Corporate Tax Law itself does not expressly define "foreign source income". It does, however, define State Sourced Income in Article 13, which is broadly, income considered to have been originated in or that is derived from the UAE. Conversely, foreign source income would typically be income derived from outside the UAE. Further, foreign source income could be accrued in or derived from activities performed, assets located, capital invested, rights used, or services performed or benefitted from outside the UAE.

4.1. Examples of foreign source income

A non-exhaustive list of income coming from a foreign source which may be considered for the purposes of the Corporate Tax Law includes:

- dividends and other profit distributions from juridical Non-Resident Persons,
- income from the disposal of shares or capital of a juridical Non-Resident Persons,
- interest income from a loan or deposit outside the UAE,
- income from the sale of goods or provision of services outside the UAE,
- income from movable or immovable property located outside the UAE,
- royalties for use of intellectual or intangible property outside the UAE, and
- profits, or losses, of a Foreign Permanent Establishment of a Resident Person.

In all cases, income would not be considered as foreign source income if it is State Sourced Income.

4.2. Is income derived from a Free Zone Person foreign source income?

A Free Zone is a designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.[10] Further, a Free Zone Person is defined as a juridical person incorporated, established or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.[11]

Since a Free Zone is an area within the UAE territory, income derived from a Free Zone Person will either be:

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[10] Article 1 of the Corporate Tax Law.

[11] Article 1 of the Corporate Tax Law.

- income derived from a Resident Person, or
- income derived from a Non-Resident Person that is attributable to a Permanent Establishment of that Non-Resident Person in the UAE.

Hence, income derived from a Free Zone Person does not qualify as foreign source income.

4.3. Is income derived by a Qualifying Free Zone Person from a Permanent Establishment foreign source income?

A Qualifying Free Zone Person may derive income or profits from a Domestic or Foreign Permanent Establishment.

Income or profits from a Domestic Permanent Establishment, which is a Permanent Establishment located in the mainland in the UAE, is not considered foreign source income.

Income or profits derived by a Qualifying Free Zone Person from its Foreign Permanent Establishment, which is a Permanent Establishment located outside the UAE, is foreign source income.

5. Who is subject to tax on foreign source income?

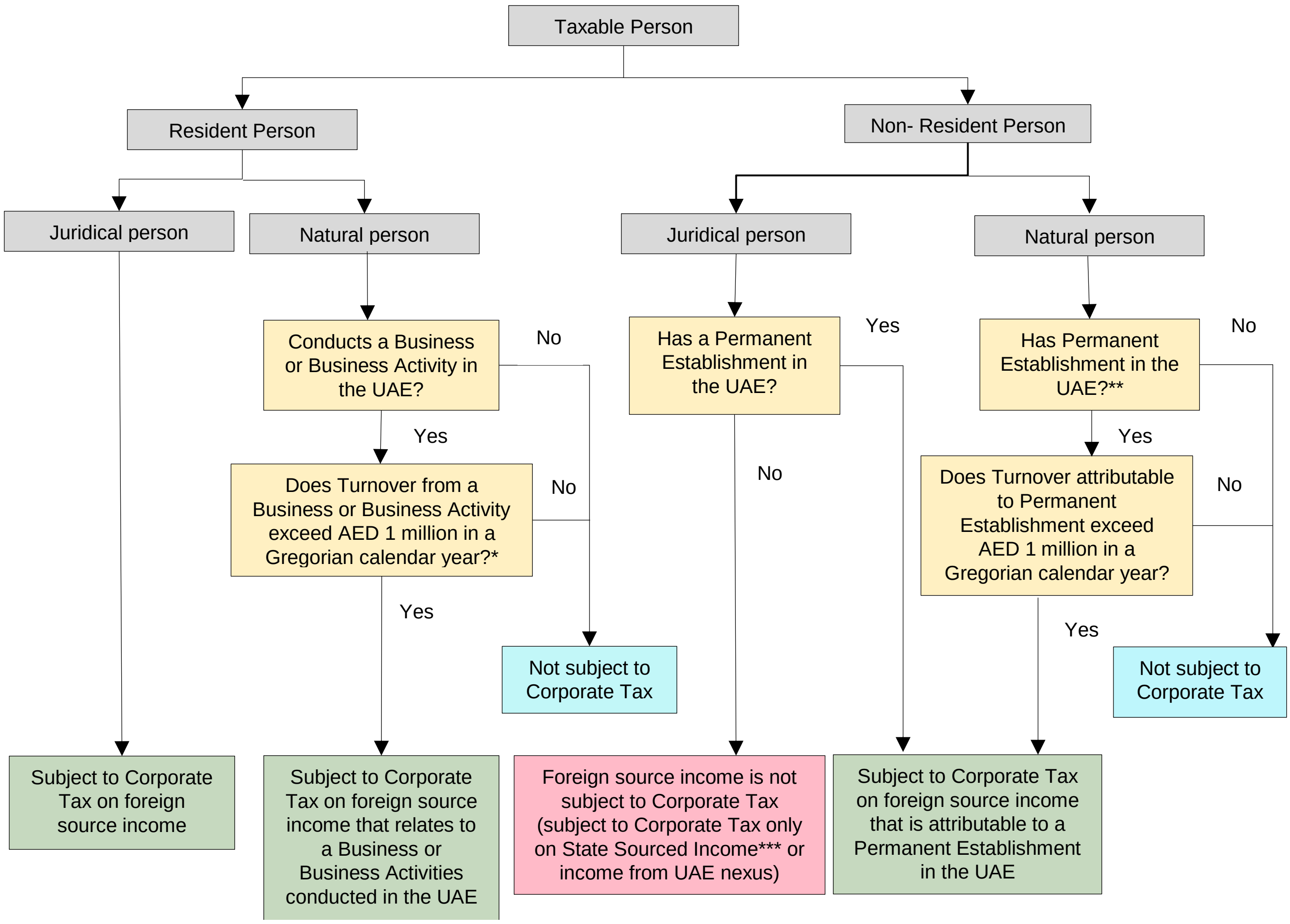
A Taxable Person may be either a Resident Person or a Non-Resident Person. A Resident Person or a Non-Resident Person can be either a juridical person or a natural person.

The income subject to Corporate Tax in the hands of a Taxable Person depends on that Person's legal status (i.e. juridical person or natural person), and their residence status (i.e. Resident Person or Non-Resident Person).[12]

The residence status together with the legal status determine (a) whether foreign source income is subject to Corporate Tax in the hands of a Taxable Person, and (b) the extent to which such income is subject to Corporate Tax.

[12] Article 12 of the Corporate Tax Law.

Figure 1: Taxation of foreign source income for a Taxable Person under the Corporate Tax Law



* Wages, Personal Investment income, and Real Estate Investment income do not count as Turnover from a Business or Business Activity.
** If a natural person conducts a Business or Business Activity in the UAE, they are a Resident Person under the Corporate Tax Law, subject to an applicable Double Taxation Agreement.
*** Subject to withholding tax, currently at a rate of 0%.

5.1. Resident Person under the Corporate Tax Law

As noted above, a Resident Person is either a juridical person or a natural person. Whether they are subject to Corporate Tax on their foreign source income and the extent to which the UAE has taxing rights in relation to this income is discussed below.

5.1.1. Juridical person

A juridical person is considered as a Resident Person if it is incorporated in the UAE, or incorporated outside of the UAE but effectively managed and controlled in the UAE.[13] It is subject to Corporate Tax on its worldwide income under the Corporate Tax Law, i.e. on:[14]

- income derived from the UAE, and
- income derived from outside the UAE.

Accordingly, a Resident Person which is a juridical person is subject to Corporate Tax on both its domestic and foreign source income. To mitigate or prevent potential double taxation of foreign source income, the Corporate Tax Law exempts certain types of foreign source income via the Participation Exemption (see Section 7.2.1) and the Foreign Permanent Establishment exemption (see Section 7.2.2). To the extent foreign source income is included in the Taxable Income of a Taxable Person, potential double taxation can be reduced or eliminated by way of a Foreign Tax Credit (see Section 8).

Further, the taxation of foreign source income in the hands of a Resident Person can be impacted by a Double Taxation Agreement under certain scenarios (see Section 5.3).

5.1.2. Natural person

A natural person is a Resident Person if they conduct a Business or Business Activity(ies) in the UAE[15] that are not considered an excluded income for Corporate Tax purposes.[16] Hence, such person is taxable on:[17]

- income derived from the UAE, and
- income derived from outside the UAE, insofar as it relates to the Business or Business Activity conducted by the natural person in the UAE.

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[13] Article 11(3)(a) and 11(3)(b) of the Corporate Tax Law.
[14] Article 12(1) of the Corporate Tax Law.
[15] Article 11(3)(c) of the Corporate Tax Law.
[16] Wages, Personal Investment income and Real Estate Investment income, irrespective of their source, are excluded.
[17] Article 12(2) of the Corporate Tax Law.

In other words, a natural person is subject to Corporate Tax on foreign source income if it is related to their Business or Business Activity(ies) in the UAE.

Accordingly, if a natural person, whether they are a Resident Person or a Non-Resident Person, carries on a wholly separate Business in a foreign jurisdiction, which does not relate to their Business or Business Activity conducted in the UAE, the income from the Business in the foreign jurisdiction will not be taxable in the UAE.

Wages, Personal Investment income and Real Estate Investment income are not subject to Corporate Tax, irrespective of their source.[18] Furthermore, natural persons are only subject to Corporate Tax if the total Turnover derived from their Business or Business Activity(ies) exceeds AED 1 million within a Gregorian calendar year.[19]

Example 1: Calculating the AED 1 million Turnover threshold for natural persons

Mr A, a natural person, who lives in and is a citizen of Country U, is engaged in the following Businesses:

Business	Nature of Business Activity	Turnover from Business (Amount in AED)
Brokerage services for commercial properties	Mr A sets up a sole proprietor Business in the UAE rendering brokerage services for commercial properties to various clients in the UAE as well as outside the UAE.	800,000
Interior design services	Business carried out by Mr A entirely in Country U and the services are rendered to various clients in Country U. The employees, assets, bank accounts, and offices for this Business are separate from the brokerage Business and are based in Country U.	2,000,000

[18] Article 2(2) of Cabinet Decision No. 49 of 2023.
[19] Article 2(1) of Cabinet Decision No. 49 of 2023.

Businesses or Business Activities conducted by a natural person, whether resident or non-resident, are subject to Corporate Tax only where the total Turnover derived from such Businesses or Business Activities exceeds AED 1 million within a Gregorian calendar year.[20]

In this example, Mr A conducts two Businesses. The brokerage Business is conducted by Mr A in the UAE. The interior design Business is a wholly separate Business, unconnected to the brokerage Business, conducted outside of the UAE using separate employees, assets, bank accounts, and offices.

Mr. A, being a Resident Person under Article 11(3)(c) of the Corporate Tax Law, will be subject to Corporate Tax on both UAE and foreign source income derived from the brokerage Business, if Turnover from this Business exceeds AED 1 million. The income derived from interior design services will not be subject to Corporate Tax since it is a separate Business conducted wholly outside the UAE.[21]

Accordingly, only the domestic and foreign Turnover from the Business conducted in the UAE that is not Wage, Personal Investment income or Real Estate Investment income, is considered for calculating the Turnover threshold of AED 1 million. In this case, the Turnover from the brokerage Business conducted in the UAE is AED 800,000, which is below AED 1 million. Hence, Mr A is not subject to Corporate Tax and is not required to register for Corporate Tax.

Example 2: Separate Businesses

Mr B, a natural person who lives in and is a citizen of Country B, is engaged in the following Businesses:

Business	Nature of Business Activity
Manufacture and sale of paper	• Mr B has a factory in Country B which manufactures paper. The labour, raw materials and assets required for this activity are entirely in Country B. • The product is sold to third party customers and is also used by Mr B in his paper craft Business.
Manufacture and sale of paper craft items	• Mr B has a Licence from a Licensing Authority in the UAE under which various paper craft items (typically decorative items) are prepared in the UAE and sold both in and outside the UAE.

[20] Article 11(6) read with Article 2(1) of Cabinet Decision No. 49 of 2023.
[21] Article 11(3)(c) read with Article 11(6), Article 12(2) and Cabinet Decision No. 49 of 2023.

	• The paper used as raw material for the manufacture of craft items is manufactured by Mr B in Country B. However, the labour, assets and factory required for the craft Business are entirely in the UAE and are separate from the paper Business.

Mr B conducts a Business or Business Activity in the UAE. Hence, he qualifies as a Resident Person under Article 11(3)(c) of the Corporate Tax Law. Accordingly, he is subject to tax on income derived from a UAE source and also foreign source income to the extent it relates to his Business in the UAE.[22]

- Since the manufacturing and sale of paper crafts items is conducted in the UAE, income from items sold in the UAE as well as outside the UAE will be subject to Corporate Tax.
- The Business of manufacturing and selling paper is conducted using independent resources in Country B. The labour, raw materials and assets required for this activity are entirely in Country B and hence is a separate Business conducted outside the UAE. Merely because the product from this Business is used as a raw material in the Business of craft items does not imply that it is the same Business.

Based on the available information, the income from the craft paper Business would be subject to Corporate Tax in the UAE and income from the Business of manufacturing and selling paper would not be subject to Corporate Tax.

Note:

- For the purposes of this example, it is assumed that the total Turnover of Mr B from his Business or Business Activity conducted in the UAE (i.e. paper crafts business) exceeds AED 1 million within a Gregorian calendar year.
- The analysis above may differ under a Double Taxation Agreement as the application of the Agreement might impact the residence status. Refer to Section 5.3.

Example 3: Foreign income related to a Business in the UAE

Mr C is a natural person who is a tax resident of Country C. Mr C provides fashion design services to various clients around the world, including in the UAE.

Mr C earns the following income from the UAE:

[22] Article 11(3)(c), Article 11(6) and Article 12(2) of the Corporate Tax Law read with Cabinet Decision No. 49 of 2023.

Income derived from the UAE	Corporate Tax implications
• Income from Business Activity: Mr C has an office in the UAE to meet and conduct meetings with his UAE clients of his fashion design Business.	Mr C is conducting a Business in the UAE. Hence, he will be treated as a Resident Person for Corporate Tax purposes and income generated from consulting clients in the UAE will be subject to Corporate Tax, provided the total Turnover from Mr C's Business or Business Activities conducted in the UAE exceeds AED 1 million within a Gregorian calendar year.[23]
• Rental income: Mr C has an apartment in the UAE that he has rented out to earn rental income for which he does not require a Licence from a Licensing Authority. The apartment is not used to conduct his Business.	The rental income from the apartment will be treated as Real Estate Investment income and, hence, is not be subject to Corporate Tax.[24]

Mr C earns the following income from Country C:

Income derived from Country C	Corporate Tax implications
• Wages from working part time for an employer based in Country C.	Although Mr C is a Resident Person under the Corporate Tax Law, Mr C's wages will not be subject to Corporate Tax, as Corporate Tax does not apply to a natural person's salary, wages and other employment income.[25]
• Rental income from an apartment in Country C not used for Business purposes.	Although Mr C is a Resident Person under the Corporate Tax Law, the rental income from the apartment, which does not require a Licence from a Licensing Authority in the UAE, will be treated as Real Estate Investment income and, therefore, will not be subject to Corporate Tax.[26]

[23] Article 11(6) of the Corporate Tax Law read with Cabinet Decision No. 49 of 2023.
[24] Article 11(6) of the Corporate Tax Law read with Cabinet Decision No. 49 of 2023.
[25] Article 11(6) of the Corporate Tax Law read with Cabinet Decision No. 49 of 2023.
[26] Article 11(6) of the Corporate Tax Law read with Cabinet Decision No. 49 of 2023.

Note: The analysis above may differ under a Double Taxation Agreement as the application of the Agreement might impact the residence status. Refer to Section 5.3.

5.2. Non-Resident Person under the Corporate Tax Law

As noted above, a Non-Resident Person can be a juridical person or a natural person. Whether such Persons are subject to Corporate Tax on their foreign source income and the extent to which the UAE has taxing rights on such foreign source income is discussed below.

5.2.1. Juridical person

A juridical person is a Non-Resident Person if it is incorporated or formed outside the UAE and not effectively managed and controlled in the UAE. Such person is a Taxable Person to the extent it:[27]

- has a Permanent Establishment in the UAE;
- derives UAE sourced income; or
- has a nexus in the UAE.[28]

A juridical person that is a Non-Resident Person is subject to Corporate Tax on the following:[29]

- Taxable Income attributable to its UAE Permanent Establishment.
- State Sourced Income that is not attributable to its UAE Permanent Establishment.
- Taxable Income that is attributable to its UAE nexus.

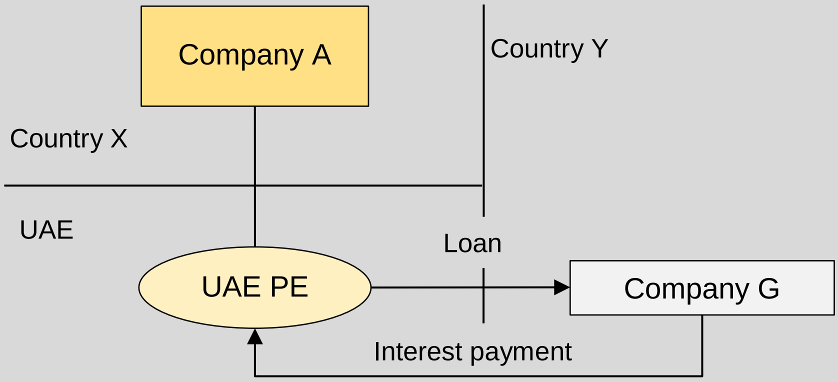
State Sourced Income and UAE nexus income are, by their nature, not foreign source income as there is a link present with the UAE. Therefore, a Non-Resident Person, which is a juridical person, can only have foreign source income if it has a Permanent Establishment in the UAE.

Where a Non-Resident Person, which is a juridical person, has a Permanent Establishment in the UAE, it will be subject to Corporate Tax on Taxable Income attributable to that Permanent Establishment.[30] Taxable Income, irrespective of its source (i.e. whether derived from the UAE or a foreign jurisdiction) will be subject to Corporate Tax if it is attributable to its Permanent Establishment in the UAE. In other words, a Non-Resident Person can be subject to Corporate Tax on foreign source

[27] Article 11(4) of the Corporate Tax Law.
[28] Article 11(4)(c) of the Corporate Tax Law read with Cabinet Decision No. 56 of 2023.
[29] Article 12(3) of the Corporate Tax Law.
[30] Article 12(3)(a) of the Corporate Tax Law.

income provided the foreign source income is attributable to its Permanent Establishment in the UAE.

Example 4: Foreign source income attributable to UAE Permanent Establishment



Company A is incorporated in and tax resident of Country X. It is managed outside the UAE but has a Permanent Establishment in the UAE ("UAE PE"). Therefore, Company A is a Non-Resident Person under the UAE Corporate Tax Law.

UAE PE has made a loan to Company G (a company incorporated in and tax resident of Country Y). The security/collateral on the loan is an immovable property situated outside the UAE.

The Interest received by the UAE PE on the loan does not have a UAE source since:[31]

- the loan is not secured by Immovable Property located in the UAE,
- the borrower (i.e. Company G) is not a Resident Person, and
- the borrower (i.e. Company G) is not a Government Entity.

However, since the foreign source Interest income is attributable to Company A's Permanent Establishment in the UAE, the Interest will be subject to Corporate Tax in the hands of Company A's Permanent Establishment in the UAE.

[31] As per Article 13(2)(g) of the Corporate Tax Law, Interest income is UAE sourced if the loan is secured by movable or immovable property located in the UAE; or the is secured by movable or immovable property located in the State; or the borrower is a Government Entity.

5.2.2. Natural person

As noted above, a natural person who conducts a Business or Business Activity in the UAE is a Resident Person and will be subject to Corporate Tax (see Section 5.1.2).[32]

A natural person, who is not a Resident Person, is a Non-Resident Person if they:[33]

- have a Permanent Establishment in the UAE and a Turnover attributable to their Permanent Establishment that exceeds AED 1 million within a Gregorian calendar year; or
- derive State Sourced Income.

State Sourced Income is not considered foreign source income as there is a link present with the UAE. Therefore, a Non-Resident Person, which is a natural person, can only have foreign source income if they have a Permanent Establishment in the UAE (with a Turnover exceeding AED 1 million within a Gregorian calendar year) and the foreign source income is attributable to its Permanent Establishment in the UAE.

5.3. Impact of Double Taxation Agreements on foreign source income

A Double Taxation Agreement takes precedence over the provisions of the Corporate Tax Law to the extent there is any inconsistency between the agreement and the provisions of the Corporate Tax Law.[34] Therefore, meeting the definition of a Resident Person under the Corporate Tax Law, i.e. referred to in the agreement as UAE domestic law, does not automatically mean that a Resident Person will be tax resident in the UAE where a Double Taxation Agreement applies. Residence may be assigned to the UAE or another jurisdiction under an applicable Double Taxation Agreement. This impacts the taxation of foreign source income.

For instance, where an applicable Double Taxation Agreement assigns residence to another jurisdiction, that foreign jurisdiction will have the taxing right as a residence country over the income of that Person. In this situation, the UAE would not have a taxing right over any income of that Person unless that income is sourced from the UAE under the Corporate Tax Law and to the extent the taxing right is allocated to the UAE under the applicable Double Taxation Agreement.

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[32] Article 11(3)(c) of the Corporate Tax Law.
[33] Article 11(4) of the Corporate Tax Law.
[34] Article 66 of the Corporate Tax Law.

6. When does foreign source income become taxable in the UAE?

As noted above in Section 5, whether a Person is taxable on their foreign source income depends on their legal status (juridical person or natural person) and tax residence status (Resident Person or Non-Resident Person).

Once it is determined that the UAE has the taxing rights with respect to the foreign source income received by a Taxable Person and that income is subject to Corporate Tax, it is pertinent to determine the Tax Period in which such foreign source income would be subject to Corporate Tax.

For a juridical person, the Tax Period is the 12-month period for which the person prepares its Financial Statements.[35] A juridical person can make an application to the FTA to change its Tax Period or use a different Tax Period.[36] However, for a natural person, the Tax Period is always the Gregorian calendar year, or a part thereof if the Business is conducted only for part of the Gregorian calendar year.

The timing of taxation of foreign source income follows the general income attribution rules of the Corporate Tax Law. Accordingly, the timing of taxation of foreign source income depends on whether the Taxable Person has adopted the Cash Basis or Accrual Basis of Accounting (see Sections 7.1.1 and 7.1.2).

- Cash Basis of Accounting is a method under which the Taxable Person recognises income and expenditure as and when cash payments are received and paid;[37]
- Accrual Basis of Accounting is a method under which the Taxable Person recognises income when earned and expenditure when incurred,[38] i.e. revenue and costs may be recorded in the Financial Statements before or after the cash payments are received or paid. Financial Statements must be prepared based on IFRS or IFRS for SMEs (see Section 7.1.1 below).[39]

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35 Article 57(2) of the Corporate Tax Law.
36 Article 58 of the Corporate Tax Law read with FTA Decision No. 5 of 2023.
37 Article 1 of Ministerial Decision No. 114 of 2023.
38 Article 1 of Ministerial Decision No. 134 of 2023.
39 Article 4 of Ministerial Decision No. 114 of 2023.

7. How is foreign source income taxed?

7.1. Determining Taxable Income

Article 20 of the Corporate Tax Law provides general rules for determining the Taxable Income of a Taxable Person.

The accounting net profit, or loss, as per the Financial Statements is the starting point for determining Taxable Income for a particular Tax Period, which is then adjusted as required, for example for all exemptions, reliefs, other deductions, non-deductible expenditure, tax loss relief, etc.[40]

The general rules for determining Taxable Income apply equally to foreign source income earned by a Taxable Person.

7.1.1. Applicable Accounting Standards

For the purposes of the UAE Corporate Tax Law, a Taxable Person is required to prepare Financial Statements based on IFRS. Where the Revenue of the Taxable Person does not exceed AED 50 million, they may choose to apply IFRS for SMEs instead.[41] Revenue is defined as the gross amount of income derived by a Taxable Person during a Tax Period.[42]

Accordingly, where a Taxable Person earns or receives foreign source income, they are required to apply the same Accounting Standards as required for domestic (i.e. UAE) income.

7.1.2. Cash Basis of Accounting

While Taxable Persons are generally required to use the Accrual Basis of Accounting, they may use the Cash Basis of Accounting where their Revenue does not exceed AED 3 million, or in exceptional circumstances pursuant to an application submitted to the FTA.[43]

Accordingly, a Taxable Person can apply the Cash Basis of Accounting where total Revenue (i.e. Revenue from UAE and foreign sources) generated for a Tax Period does not exceed AED 3 million.

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[40] Article 20(2) of the Corporate Tax Law.
[41] Article 4 of the Ministerial Decision No. 114 of 2023.
[42] Definition in Article 1 of the Corporate Tax Law.
[43] Article 2 of the Ministerial Decision No. 114 of 2023.

Example 5: Revenue derived from UAE and foreign sources

Company A (a company incorporated and resident in the UAE) is in the business of distributing consumer products worldwide. During the Tax Period from 1 January 2024 to 31 December 2024, it received the following:

- AED 1,500,000 – sales revenue from customers in the UAE.
- AED 900,000 – sales revenue from customers in Country S.
- AED 500,000 – Dividend from Company B, a wholly owned subsidiary in the UAE.
- AED 110,000 – Dividend from Company F, a wholly owned subsidiary incorporated and resident in Country S.

It is assumed that the ownership interest held by Company A in Company F qualifies as a Participating Interest under Article 23 of the Corporate Tax Law.

Since the Revenue accrued by Company A from all the above sources exceeds AED 3,000,000 (i.e. AED 3,010,000 in total), it cannot adopt the Cash Basis of Accounting. It is irrelevant that its total Revenue from foreign sources (AED 900,000 plus AED 110,000) does not exceed the prescribed threshold of AED 3,000,000, as Revenue is calculated on a worldwide basis.

Additionally, whilst the Dividends received from its subsidiaries (Company B and Company F) are not taxable as they are Exempt Income,[44] such receipts still count towards the Revenue threshold of AED 3,000,000 for the purposes of determining whether it can adopt Cash Basis of Accounting.

7.1.3. Expenditure and losses relating to foreign source income

The general rules for determining Taxable Income apply in relation to foreign source income. Namely, any expenditure incurred wholly and exclusively for Business purposes is normally allowable as a deduction. There are exceptions such as costs relating to Exempt Income, for example, costs incurred to acquire a Participating Interest in a foreign Participation. Any loss incurred would be offset in accordance with the normal rules.[45] Note that expenditure associated with a Foreign Permanent Establishment is not deductible where a Foreign Permanent Establishment exemption election has been made under Article 24 of the Corporate Tax Law (see Section 7.2.2).

[44] Exempt under Article 22(1) in respect of Dividend income from a juridical Resident Person and Article 22(2) in respect of Dividend from a foreign Participation.

[45] As per Article 20(2)(d) and 20(2)(f) of the Corporate Tax Law.

Example 6: Expenses and losses relating to foreign source income

Company G (a company incorporated and resident in the UAE) is engaged in the export of electronic items and has earned foreign source income and incurred expenses during the relevant Tax Period as follows:

Item	Amount (in AED)
Income from the export of goods	20 million
Dividends received from foreign Participation	5 million
Less: Cost of goods sold	(10 million)
Less: Marketing and distribution cost	(15 million)
Less: Expense incurred in managing investments in foreign Participations	(0.5 million)
Accounting net profit/(loss)	(0.5 million)

To determine the Taxable Income of Company G:

- Dividends received from a foreign Participation are exempt under the Participation Exemption.[46] Hence, the Dividend income (i.e. AED 5 million) and expense incurred to earn the Dividend, which is an Exempt Income, (i.e. AED 0.5 million) will not be considered in determining Taxable Income.
- As a consequence, the income less expenses results in a loss of AED 5 million. This loss can be carried forward and set off in subsequent years.[47]

7.1.4. Aggregation of foreign income and expenditure

Taxable Income and deductible expenditure from all sources, whether domestic or foreign, are aggregated for the purposes of calculating Taxable Income. Thus, Tax Losses from a foreign source can be offset against income from UAE sources when determining Taxable Income. This excludes expenses relating to Exempt Income (for instance foreign Dividends which qualify for the Participation Exemption) and losses or expenses relating to a Foreign Permanent Establishment where an election has been made under Article 24 of the Corporate Tax Law (see Section 7.2.2).

[46] Article 22(2) read with Article 23 of the Corporate Tax Law.
[47] As per Article 37 and Article 39 of the Corporate Tax Law.

Example 7: Net loss in relation to foreign source income

Company A (a company incorporated and resident in the UAE) distributes consumer products in the UAE and also exports to Country S. Its sales to Country S do not constitute a Permanent Establishment in Country S. During the Tax Period from 1 January 2024 to 31 December 2024, it received/incurred the following:

UAE-related:
- AED 5,000,000 – sales revenue from customers in the UAE.
- AED 2,000,000 – costs in relation to domestic sales.

Country S-related:
- AED 2,000,000 – sales revenue from customers in Country S.
- AED 3,500,000 – costs in relation to Country S sales, including loss due to fire which destroyed stock destined for Country S customers.

Company A makes a net profit of AED 3,000,000 with respect to its UAE operations, whereas it made a net loss of AED 1,500,000 with respect to its foreign source income from Country S.

Company A is required to aggregate all its domestic and foreign income and costs to calculate its Taxable Income. Thus, in this case, the overall Taxable Income of Company A would be AED 1,500,000.

Note that Company A does not qualify for Small Business Relief in the Tax Period ending 31 December 2024 because its Revenue exceeds AED 3 million.

7.1.5. Income in foreign currency to be converted to AED

It is likely that most foreign source income will be in a currency other than AED. It is also possible that financial records relating to foreign business operations are in the local currency of the foreign jurisdiction.

For the purposes of determining Taxable Income and Corporate Tax, amounts quantified in foreign currency have to be converted into AED based on the applicable exchange rate published by the Central Bank of the UAE, as follows:[48]
- spot rates, based on currency exchange markets, where it is reasonable to do so;
- monthly average rates where it is not reasonable to use spot rates and using a monthly average provides a reasonable approximation of Corporate Tax Payable; or

[48] Article 43 of the Corporate Tax Law read with Article 13(1) of FTA Decision No. 13 of 2023.

- yearly average exchange rates where it is not reasonable to use spot rates or monthly average rates.

The method adopted to convert amounts from foreign currency to AED should be used consistently throughout a Tax Period.[49] A Taxable Person is required to keep records of the reason for the currency translation method selected and the rates used.[50]

If a change to the currency conversion method is made in a subsequent Tax Period, a Taxable Person is required to keep records of the reason(s) for the change.[51]

7.2. Exemptions of particular relevance for foreign source income

7.2.1. Participation Exemption

Certain income in relation to a Participating Interest is exempt from Corporate Tax if it meets the conditions set out in Article 23 of the Corporate Tax Law. A Participating Interest is a significant ownership interest in a juridical person. Various conditions including minimum 5% ownership or minimum acquisition cost of AED 4 million and a 12-month holding period are required to be satisfied. The exemption covers, amongst other income, Dividends and other profit distributions, as well as capital gains or losses from the transfer, sale or other disposal of a Participating Interest.[52]

If a Resident Person has a Foreign Permanent Establishment (see Section 7.2.2), and has utilised a Tax Loss incurred in that Foreign Permanent Establishment, that Tax Loss must be fully offset by the Taxable Income from the Foreign Permanent Establishment in a subsequent Tax Period or Tax Periods before the Taxable Person can elect to apply the Foreign Permanent Establishment exemption.[53] Where a Foreign Permanent Establishment is incorporated before the previously utilised Tax Loss is fully offset, any Dividends or other income arising upon or following incorporation of the Foreign Permanent Establishment cannot benefit from the Participation Exemption until such income offsets the entirety of the previously utilised Tax Loss.[54]

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[49] Article 2(2) of FTA Decision No. 13 of 2023.
[50] Article 2(3) of FTA Decision No. 13 of 2023.
[51] Article 2(4) of FTA Decision No. 13 of 2023.
[52] Articles 22(2) and Article 22(3) read with Article 23 of the Corporate Tax Law.
[53] Article 13(1) of Ministerial Decision No. 116 of 2023.
[54] Article 13(2) of Ministerial Decision No. 116 of 2023.

7.2.2. Foreign Permanent Establishment exemption

7.2.2.1. Overview

A Resident Person can make an election to disregard the income and associated expenditure of its Foreign Permanent Establishment while determining the Resident Person's Taxable Income.[55] This is subject to satisfaction of certain conditions, as discussed below.

7.2.2.2. Conditions for claiming Foreign Permanent Establishment exemption

For the purpose of this exemption, the Foreign Permanent Establishment must meet the conditions of Article 14 of the Corporate Tax Law if the foreign activities were carried on in the UAE.[56]

A Resident Person can elect to disregard the income and associated expenditure of its Foreign Permanent Establishments while determining its Taxable Income if those Permanent Establishments are subject to Corporate Tax, or a tax of a similar character, at a rate not less than 9% under the applicable tax legislation of the foreign jurisdiction in which it is located.[57] If this condition is not satisfied, the net income derived from the Foreign Permanent Establishment would not be eligible for the Foreign Permanent Establishment exemption.

An election for the exemption applies to all Foreign Permanent Establishments of the Resident Person that meet the required conditions.[58] A Resident Person having multiple Foreign Permanent Establishments cannot choose different treatments for different Foreign Permanent Establishments. In other words, if a Resident Person wishes to claim exemption from Corporate Tax for one of its Foreign Permanent Establishments, all of its other Foreign Permanent Establishments will be exempt as well, provided they meet the condition above, prescribed under Article 24(7) of the Corporate Tax Law.

However, if Tax Losses incurred in a Foreign Permanent Establishment have been previously offset against other profits (for example, from the head office), an election

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[55] Article 24(1) of the Corporate Tax Law.

[56] Conditions of Article 14 have to be applied in the relevant context when reading Article 24 of the Corporate Tax Law i.e. the expression "Resident Person" shall be used instead of the expression "Non-Resident Person" and the expression "outside the State" shall be used instead of the expression "in the State".

[57] Article 24(7) of the Corporate Tax Law.

[58] Article 24(6) of the Corporate Tax Law.

under Article 24 of the Corporate Tax Law is not permitted until that Tax Loss is fully offset by the Taxable Income from that Foreign Permanent Establishment in a subsequent Tax Period or Tax Periods.[59]

7.2.2.3. Implications of electing for Foreign Permanent Establishment exemption

Where a Resident Person makes an election for the Foreign Permanent Establishment exemption, it applies to all Foreign Permanent Establishments.[60] Thus, it is not possible to choose to include some, but not all, Foreign Permanent Establishments. An exception would be any Permanent Establishments which do not qualify for the exemption due to failing the requirement to be subject to a sufficient level of tax.

Where the Foreign Permanent Establishment exemption applies, the following are not taken into account in determining Taxable Income:[61]

- losses of the Foreign Permanent Establishment,
- income and the associated expenditure of the Foreign Permanent Establishment, and
- Foreign Tax Credits in relation to the Foreign Permanent Establishment.

Each Foreign Permanent Establishment is treated as an independent Person, separate from the UAE head office, meaning Taxable Income for the purposes of the Corporate Tax Law is calculated as if each Foreign Permanent Establishment is a separate Person.[62] The net income of all Foreign Permanent Establishments is exempted when determining the Taxable Income of the Resident Person i.e. the UAE head office.

Regarding the allocation of profit, a Foreign Permanent Establishment is deemed to be a Related Party of the UAE head office.[63] Therefore, any transactions between a Foreign Permanent Establishment and its UAE head office, or other Related Parties of the UAE head office, must be in line with the arm's length principle (transfer pricing provisions) under Article 34 of the Corporate Tax Law (i.e. pricing at arm's length).

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[59] Article 13(1) of Ministerial Decision No. 116 of 2023.
[60] Article 24(6) of the Corporate Tax Law.
[61] Article 24(2) of the Corporate Tax Law.
[62] Article 24(4) of the Corporate Tax Law.
[63] Article 35(1)(d) of the Corporate Tax Law.

Example 8: Related Party transactions (transfer of assets and repatriation of funds)

Company A (a company incorporated and resident in the UAE) has set up a clothes-manufacturing unit (branch office) in Country B which constitutes a Foreign Permanent Establishment. It also has a subsidiary, Company U, which is a company incorporated and resident in Country U.

To enhance clothes manufacturing, machinery is transferred from Company U to Company A's Foreign Permanent Establishment in Country B.

At the end of the Tax Period the Foreign Permanent Establishment repatriates its profit to its head office i.e. Company A.

Whilst legally the Foreign Permanent Establishment is part of Company A, for Corporate Tax purposes it is treated as a separate and independent Person which is related to the head office and any other Related Party of the head office. Thus, when determining the profit which could benefit from the Foreign Permanent Establishment exemption, the transfer of the asset from Company U to the Foreign Permanent Establishment of Company A must be in line with the arm's length principle.

The repatriation of surplus funds from the branch in Country B to its head office in in the UAE is receipt of own funds by Company A since branch and head office are the same legal person. Hence, the repatriation transaction is not a taxable event from the perspective of Company A and is ignored for Corporate Tax purposes. This is the case whether or not an election has been made for the Foreign Permanent Establishment exemption.

7.3. Determining Corporate Tax Payable

The Corporate Tax Law does not prescribe any separate Corporate Tax rates for foreign source income. Thus, foreign source income is aggregated with all other income when determining Taxable Income. For a Taxable Person, other than a Qualifying Free Zone Person, the applicable rates currently are:[64]

- 0% for Taxable Income up to and including AED 375,000; and
- 9% for Taxable Income exceeding AED 375,000.

Where a Taxable Person has paid foreign tax in another jurisdiction, a tax credit may be available.[65] Refer to Section 8 for details.

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[64] Article 3(1) of the Corporate Tax Law.
[65] Article 47 of the Corporate Tax Law.

8. Foreign Tax Credit

8.1. What is Foreign Tax Credit?

As discussed in Section 5, Resident Persons or Non-Resident Persons with a Permanent Establishment in the UAE are subject to tax on foreign source income. To mitigate or prevent potential double taxation of foreign source income, the Corporate Tax Law exempts certain types of foreign source income through the Participation Exemption (see Section 7.2.1) and the Foreign Permanent Establishment exemption (see Section 7.2.2). However, to the extent foreign source income is nevertheless included in the Taxable Income of a Taxable Person, potential double taxation can be reduced or eliminated by way of a Foreign Tax Credit.

A Foreign Tax Credit allows a Taxable Person to deduct taxes paid under the tax laws of a foreign jurisdiction from the UAE Corporate Tax due on the same income.[66]

8.1.1. Foreign taxes for which Foreign Tax Credit is available

A Foreign Tax Credit is available for any foreign tax that is of a similar character to Corporate Tax. The following conditions should be all satisfied for a foreign tax to be considered of similar character to Corporate Tax:

- The foreign tax is imposed by and payable to the government (federal or state government) of a foreign jurisdiction.
- Payment of the foreign tax is compulsory and enforceable by tax laws in that foreign jurisdiction.
- The foreign tax is imposed on profit or net income (i.e. income less deductions). Foreign withholding tax is deemed to meet this requirement.

The provisions of any applicable Double Taxation Agreement shall be taken into consideration when determining which foreign taxes are eligible for a Foreign Tax Credit (see Section 8.5).

The following factors are not relevant in determining if a foreign tax is of similar character to Corporate Tax:

- whether the amount is imposed under a separate legislation from the primary taxing legislation of the foreign jurisdiction;
- the name given to the tax paid in the foreign jurisdiction; and
- the method by which an amount is collected: even if a foreign jurisdiction collects an amount by way of a withholding tax mechanism, such tax remains creditable if it is a tax levied by the foreign jurisdiction on business income.

[66] Article 47(1) of the Corporate Tax Law.

The following is a non-exhaustive list of taxes that are not considered to be of a similar character to Corporate Tax:

- consumption taxes such as value added tax, goods and services tax, or sales tax,
- customs duty or excise tax or other forms of import duties,
- transaction taxes such as stamp tax and capital duty,
- property taxes and wealth taxes calculated based on ownership of specified items or value of assets without regard to income, and
- estate tax or other forms of inheritance taxes and duties.

Some jurisdictions may impose taxes calculated on multiple components to the tax base: some taxes on income and others on non-income elements. The other taxes levied in a foreign jurisdiction may be in respect of a taxpayer's activities in that jurisdiction and be administratively and conceptually part of the system of corporate taxation in that foreign jurisdiction. Where such taxes are predominately a tax on a taxpayer's income, and it would be administratively burdensome to split its income and non-income components, provided the amount can meet the other conditions outlined above and none of the exclusions apply, then such taxes should be treated as being of similar character to UAE Corporate Tax. An example of a tax with multiple components is the corporate Zakat levied by the Kingdom of Saudi Arabia. The Zakat operates as a tax on income or equity or both and will, therefore, be considered as similar to Corporate Tax.

Amounts paid to a foreign government as interest, fines, penalties, or any similar obligation are not taxes imposed on income, but instead are levied due to defaults such as late payment of tax. Hence, such amounts paid in a foreign jurisdiction are not similar in essence to Corporate Tax and do not qualify for Foreign Tax Credit.

8.1.2. When will foreign tax be considered as "paid"?

A Foreign Tax Credit is potentially available with respect to tax "paid" under the tax law of a foreign jurisdiction. In this regard, "paid" means the following:

- The amount that has been remitted to the tax authorities in the foreign jurisdiction; or
- The amount that has accrued to the tax authorities in the foreign jurisdiction and as such represents a committed amount to the foreign tax authority but it is not yet paid.

A Taxable Person is required to maintain all necessary records for the purposes of claiming a Foreign Tax Credit (see Section 8.6).[67] If a Taxable Person has claimed Foreign Tax Credit for a Tax Period, they should be able to provide proof of the tax paid to the foreign tax authority, if requested by the FTA.

[67] Article 47(4) of the Corporate Tax Law.

The amount would not be considered as "paid" to the foreign tax authority under the following scenarios:

- where the tax liability in the foreign jurisdiction is contingent or not yet formally accrued (for example a foreign tax authority has assessed higher taxable income but the Person has challenged the assessment before court or judicial authorities and a final decision has not been issued yet); or
- where the amount of tax paid in a foreign jurisdiction has been refunded or has been confirmed as being refundable.

It is possible that a Taxable Person has claimed a Foreign Tax Credit with respect to tax paid in a foreign jurisdiction but that tax is subsequently refunded in the foreign jurisdiction. This will result in a reduction of the Foreign Tax Credit available to the Taxable Person under the Corporate Tax Law. Where this results in an increase in Corporate Tax Payable in excess of AED 10,000, the Taxable Person must submit a Voluntary Disclosure to the FTA within 20 Business Days from the date when the Taxable Person became aware of the repayment of foreign tax in the foreign jurisdiction.[68]

If the increase in Corporate Tax Payable is AED 10,000 or less, the Taxable Person must correct the Foreign Tax Credit claim in the earlier of the following:

- the Tax Return that has become due for submission for a previous Tax Period; or
- the Tax Return for the Tax Period in which foreign tax is refunded.[69]

If, conversely, the foreign tax paid increases with the result that a higher Foreign Tax Credit could be claimed, a Taxable Person may submit a Voluntary Disclosure,[70] along with an application for a Corporate Tax refund. The FTA will then assess the impact of the higher Foreign Tax Credit on the Taxable Person's Corporate Tax position.[71]

8.2. Who can claim Foreign Tax Credit?

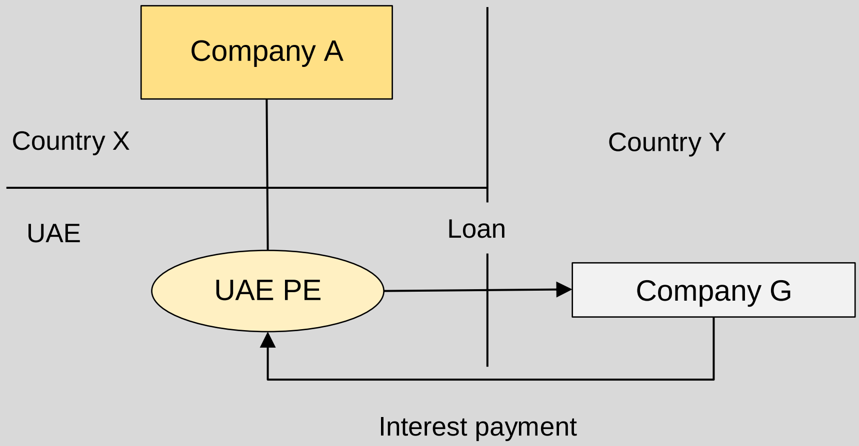
Where foreign source income is taxable under the Corporate Tax Law, a Taxable Person can claim a Foreign Tax Credit for tax paid on this income in a foreign jurisdiction. As discussed in Section 5, foreign source income is taxable for the following Taxable Persons:

- Resident juridical person;

[68] Article 10(1)(a) of Cabinet Decision No. 74 of 2023.
[69] Article 10(1)(b) of Cabinet Decision No. 74 of 2023.
[70] Article 10(1) or Article 10(2) of the Tax Procedures Law.
[71] Article 23 of the Tax Procedures Law.

- Resident natural person to the extent such foreign source income relates to a Business or Business Activities conducted by the natural person in the UAE if the total Turnover exceeds AED 1 million in the Gregorian calendar year; and
- Non-Resident Person having a Permanent Establishment in the UAE and the foreign source income is attributable to the Permanent Establishment.

Example 9: Foreign Tax Credit in hands of a Non-Resident Person



Company A is incorporated in and tax resident in Country X. It is managed outside the UAE but has a Permanent Establishment in the UAE (UAE PE). Therefore, Company A is a Non-Resident Person under UAE Corporate Tax Law.

The UAE PE of Company A has granted a loan to Company G, resident in Country Y. The Interest on the loan is foreign source income attributable to Company A's Permanent Establishment in the UAE. The Interest income is subject to withholding tax in Country Y at the time of payment to Company A's Permanent Establishment in UAE.

The Corporate Tax Payable by Company A's UAE Permanent Establishment on the foreign source income can be reduced by a Foreign Tax Credit in respect of taxes paid in Country Y, subject to conditions on calculation set out in Section 8.3.

8.3. How to calculate the Foreign Tax Credit

8.3.1. General

The Foreign Tax Credit cannot exceed the amount of UAE Corporate Tax due on the relevant foreign income.[72] Thus, the amount of Foreign Tax Credit is the lower of the following:

[72] Article 47(2) of the Corporate Tax Law.

- The actual amount of tax paid on foreign source income in the foreign jurisdiction.
  - Foreign tax paid is likely to be in a currency other than AED. For the purposes of the Corporate Tax Law, any amount quantified in another currency must be converted to AED (see Section 7.1.5).[73]

And

- The amount of the Corporate Tax due on the foreign source income.
  - Since Corporate Tax applies to income on a net basis, the net foreign source income is to be determined by deducting economically linked expenditure from the relevant income. The deductibility of expenditure will be in accordance with the provisions of the Corporate Tax Law.[74] It is possible that the foreign country has taxed the foreign source income on a gross basis, particularly in the case of withholding tax. However, since the Corporate Tax Law taxes income net of expenses, a Foreign Tax Credit is to be determined on net foreign source income.
  - Foreign Tax Credit is not available in respect of Exempt Income such as foreign Dividends exempt in the UAE under the Participation Exemption, even if taxes on such income have been withheld in the foreign jurisdiction. Similarly, Foreign Tax Credit will not be available if the Taxable Person has a loss position under the Corporate Tax Law (see Section 8.3.4).
  - As there are two rates of Corporate Tax in the UAE (i.e. 0% and 9%),[75] the Corporate Tax due on foreign source income is to be determined on a weighted average basis using the following formula:

    Corporate Tax due on relevant foreign source income = $\frac{X*Y}{Z}$

    X= Corporate Tax due on total Taxable Income of the Taxable Person before any Foreign Tax Credit

    Y= Relevant foreign source income

    Z= Total Taxable Income of the Taxable Person

Example 10: Calculating Foreign Tax Credit
Company A (a company incorporated and resident in the UAE) has total net Taxable Income of AED 10 million during the relevant Tax Period out of which AED 1 million is net Interest income earned from Country X, i.e. foreign source income. In Country X, Company A has paid withholding tax equivalent to AED 50,000.
The Corporate Tax Payable of Company A will be as follows:

[73] Article 43 of the Corporate Tax Law.

[74] Deductions as specified under Chapter 9 of the Corporate Tax Law.

[75] Article 3 of the Corporate Tax Law.

Item	Amount (AED)
Taxable Income (including foreign source income of AED 1 million)	10,000,000
Corporate Tax due on Taxable Income [(10,000,000 - 375,000) * 9%]	866,250
Less: Foreign Tax Credit: [lower of the following: ● AED 50,000 (being the actual amount of foreign tax paid in the foreign jurisdiction) ● AED 86,625 [866,250 * 1 million / 10 million] (being the amount of the UAE Corporate Tax due on the foreign source income)]	(50,000)
Corporate Tax Payable	816,250

8.3.2. Unutilised Foreign Tax Credit

Any unutilised Foreign Tax Credit cannot be carried forward to future Tax Periods or carried back to earlier Tax Periods.[76] Thus, unutilised Foreign Tax Credit will be forfeited. Further, a deduction from taxable profits for the unutilised Foreign Tax Credit is not possible.[77]

Example 11: Excess Foreign Tax Credit

Company A (a company incorporated and resident in the UAE) derived AED 1 million as foreign source royalty income from Company B, resident of Country X. At the time of payment, the equivalent of AED 100,000 was withheld in Country X as withholding tax. To earn this income, Company A has incurred expenditure of AED 200,000.

Assuming that Company A does not have any other income and does not elect for Small Business Relief, the Corporate Tax Payable by Company A will be as follows:

Item	Amount (AED)
Foreign source income	1,000,000
Less: Expenditure	200,000
Taxable Income	800,000
Corporate Tax due on Taxable Income [(800,000 - 375,000) * 9%]	38,250

[76] Article 47(3) of the Corporate Tax Law.
[77] Article 33(8) of the Corporate Tax Law.

Less: Foreign Tax Credit: [lower of the following: • AED 100,000 (being the actual amount of foreign tax paid in the foreign jurisdiction) • AED 38,250 (being the amount of the Corporate Tax due on the foreign source income)]	(38,250)
Corporate Tax Payable	0
Balance unutilised Foreign Tax Credit (which will be forfeited)	61,750

8.3.3. Income-by-income approach: multiple sources of foreign income

The Foreign Tax Credit cannot exceed the amount of Corporate Tax due on the "relevant" foreign income.[78] The use of the term "relevant" indicates that a Foreign Tax Credit is to be calculated on an income-by-income basis. Thus, where a Taxable Person has multiple sources of foreign income, the excess Foreign Tax Credit of one foreign source income cannot be set off against the Corporate Tax due on another foreign source income.

Example 12: Multiple sources of foreign income

Company A, a company incorporated and resident in the UAE, has earned foreign source income as follows:

Item	Foreign source income (net of expense) (AED)	Foreign tax (AED)
Interest earned from Country X	100,000	1,000
Royalty earned from Country Y	500,000	50,000
Total	600,000	51,000

Assuming that Company A does not have any other income and does not elect for Small Business Relief, the Corporate Tax Payable by Company A will be as follows:

Item	Amount (AED)
Taxable Income	600,000
Corporate Tax due on Taxable Income [(600,000-375,000) * 9%]	20,250
Less: Foreign Tax Credit for tax paid in Country X	(1,000)

[78] Article 47(2) of the Corporate Tax Law.

[lower of the following: • AED 1,000 (being the actual amount of foreign tax paid in the foreign jurisdiction) • AED 3,375 [100,000/600,000 of 20,250] (being the amount of the Corporate Tax due on the foreign source income)]	
Less: Foreign Tax Credit for tax paid in Country Y [lower of the following: • AED 50,000 (being the actual amount of foreign tax paid in the foreign jurisdiction) • AED 16,875 [500,000/600,000 of 20,250] (being the amount of the Corporate Tax due on the foreign source income)]	(16,875)
Corporate Tax Payable	2,375
Unutilised Foreign Tax Credit in relation to foreign tax paid in Country Y (which is forfeited)	33,125

Note that the excess Foreign Tax Credit in relation to Country Y cannot be set off against the tax due on income from Country X.

8.3.4. Scenarios where no Foreign Tax Credit is allowed

A Foreign Tax Credit cannot exceed the amount of Corporate Tax due on the relevant foreign income.[79] Accordingly, where there is no Corporate Tax Payable on foreign source income, no Foreign Tax Credit is allowed against such income. Therefore, a Foreign Tax Credit is not available in respect of Exempt Income. Likewise, a Foreign Tax Credit is not available where no Corporate Tax is payable due to an election for Small Business Relief or a natural person's Turnover being below AED 1 million. This is also the case where foreign source income is Qualifying Income of a Qualifying Free Zone Person, i.e. subject to 0% Corporate Tax.

Also, where a Taxable Person's Taxable Income is negative, i.e. they make a loss, there is no Corporate Tax Payable. In such a case, if Taxable Income includes foreign source income on which tax has been paid in the foreign jurisdiction, no Foreign Tax Credit is available in the absence of any Corporate Tax Payable.

Example 13: Exempt Income

Company A, a company incorporated and resident in UAE, owns 100% of the shares in Company B, a company incorporated and managed in Country X and tax resident of Country X. Company B qualifies as a Participating Interest for the purpose of the

[79] Article 47(2) of the Corporate Tax Law.

Participation Exemption. Company A receives Dividend income from Company B. Country X has levied withholding tax on the Dividend.

In the UAE, the Dividend is exempt under the Participation Exemption and so there is no Corporate Tax Payable in respect of it. Accordingly, a Foreign Tax Credit is not available in respect of the withholding tax paid in Country X.

Example 14: Loss scenario

Company A, a company incorporated and resident in the UAE, has the following Taxable Income in the Tax Period ending 31 December 2024:

Item	Taxable Income (AED)
UAE source net income / (loss)	(1,000,000)
Net interest income from Country X	500,000
Net Taxable Income/(loss)	(500,000)

Foreign source Interest income has been subject to withholding tax in Country X of AED 5,000.

Since Company A has an overall tax loss in the Tax Period, there is no Corporate Tax Payable. Accordingly, a Foreign Tax Credit cannot be claimed in respect of the tax paid in Country X and as such the unutilised Foreign Tax Credit is forfeited.[80]

Example 15: Qualifying Free Zone Person's Qualifying Income derived from foreign source

Company A, a company incorporated and resident in the UAE, is a Qualifying Free Zone Person. Company A makes a loan to its wholly owned foreign subsidiary (Company F) in Country F and receives Interest income from Company F. Withholding tax is deducted from its Interest income in Country F.

In the UAE, the Interest income is income derived from a transaction with a Non-Free Zone Person in respect of a Qualifying Activity.[81] Hence it is Qualifying Income[82] which is subject to tax at the rate of 0% in the hands of Company A. Accordingly, a Foreign Tax Credit is not available in respect of the withholding tax

[80] Article 47(3) of the Corporate Tax Law.
[81] Under Article 2(1)(j) of Ministerial Decision No. 265 of 2023, treasury and financing services by a Qualifying Free Zone Person to its Related Parties is a Qualifying Activity.
[82] Article 3(1)(b) of Cabinet Decision No. 100 of 2023.

paid in Country F as the credit is limited to the amount of UAE Corporate Tax, which is nil.

8.4. Timing mismatches

Corporate Tax due can be reduced by the amount of a Foreign Tax Credit for the "relevant Tax Period".[83] However, there may be a mismatch of relevant Tax Periods between the UAE and the foreign jurisdiction. For instance, the foreign source income may be taxed at a different time or on a different basis in the UAE and the foreign jurisdiction (for example, cash basis vs accrual basis).

To address any timing mismatch issues, a symmetrical approach is applied, where foreign tax paid follows the corresponding foreign source income on which such tax is paid. Accordingly, credit for foreign tax paid will be allowed in the Tax Period in which the foreign source income forms part of Taxable Income under the Corporate Tax Law.

Example 16: Accrual basis vs realisation basis

Company A, a company incorporated and resident in the UAE, has a Permanent Establishment in a foreign country, Country X. In Year 1, the assets of the Permanent Establishment are revalued to fair market value in accordance with the applicable Accounting Standards, resulting in an unrealised gain. In Year 2, Company A sells the assets of the Permanent Establishment, thereby realising the gain.

In Year 1, the unrealised gain is taxed in Country X on an accrual basis and Company A pays tax on such income in Country X.

In the UAE, Company A has not elected for the Foreign Permanent Establishment exemption under Article 24 of the Corporate Tax Law. It has elected to take into account gains and losses on a realisation basis under Article 20(3) of the Corporate Tax Law. Hence, the unrealised gain is taxable in the UAE only in Year 2 when the gain is realised on sale of asset.

In Year 1, the unrealised gain is not part of the Taxable Income of Company A so credit for foreign tax paid in Country X cannot be claimed in Year 1. However, when the gain is taxable in the UAE in Year 2, a Foreign Tax Credit for the tax paid in Country X in Year 1 can be claimed.

[83] Article 47(1) of the Corporate Tax Law.

Example 17: Variation on accrual basis vs realisation basis

Company A, a company incorporated and resident in the UAE, has a Permanent Establishment in a foreign country, Country X. In Year 1, the assets of the Permanent Establishment are revalued to fair market value in accordance with the applicable Accounting Standards, resulting in an unrealised gain. In Year 3, Company A sells the assets of the Permanent Establishment, thereby realising the gain. Company A does not have any other income in Year 3.

In Year 1, the profits of the Permanent Establishment, including the unrealised gain, are equivalent to AED 2 million. The profits are taxed in Country X on an accrual basis. Company A pays tax at the rate of 20% on its income in Country X as follows:

Item	Taxable Income (AED equivalent)	Tax paid (AED equivalent)
Profits of Permanent Establishment (other than unrealised gain)	1,500,000	300,000
Unrealised gain	500,000	100,000
Total	2,000,000	400,000

In the UAE, Company A only has income from a Foreign Permanent Establishment. Company A has not elected for the Foreign Permanent Establishment exemption under Article 24 of the Corporate Tax Law. It has elected to take into account gains and losses on a realisation basis under Article 20(3) of the Corporate Tax Law. Hence, the unrealised gain is taxable in the UAE only in Year 3 when the gain is realised on sale of asset.

In this case, Foreign Tax Credit will be available to Company A as follows:

In Year 1:

Item	Amount (AED)
Accounting Income	2,000,000
Less: Adjustment under Article 20(2)(a) read with Article 20(3) [gains to be taxed only when realised]	500,000
Taxable Income	1,500,000
Corporate Tax due on Taxable Income [(1,500,000-375,000)*9%]	101,250
Less: Foreign Tax Credit for tax paid in Country X [lower of the following:	(101,250)

• AED 300,000 (being the actual amount of foreign tax paid in the foreign jurisdiction less the tax on unrealised gain) • AED 101,250 (being the amount of the Corporate Tax due on the foreign source income)]	
Corporate Tax Payable	0
Unutilised Foreign Tax Credit: i.e. 300,000 - 101,250 (which is forfeited)	198,750

In Year 3

Item	Amount (AED)
Taxable Income (realised gains)	500,000
Corporate Tax due on Taxable Income [(500,000-375,000) *9%]	11,250
Less: Foreign Tax Credit for tax paid in Country X [lower of the following: • AED 100,000 (foreign tax paid in Year 1 is considered in Year 1's Foreign Tax Credit calculation) • AED 11,250 (being the amount of the Corporate Tax due on the foreign source income)]	(11,250)
Corporate Tax Payable	0

As seen from the calculation above, in Year 1, the unrealised gains will be reduced while determining Taxable Income and the corresponding tax paid in Country X in Year 1 on such income should also be reduced while calculating Foreign Tax Credit in Year 1. Hence, the amount of unutilised Foreign Tax Credit in relation to foreign tax paid in Country X, which is forfeited in Year 1, will be AED 198,750 (i.e. 300,000-101,250).

The foreign tax of AED 100,000 on the unrealised gain is creditable only in the year in which the unrealised gain is subject to tax in the UAE i.e. in Year 3 when the gain is realised. Hence, in Year 3, Company A can claim a Foreign Tax Credit in respect of AED 100,000 and accordingly, does not have to pay any Corporate Tax in Year 3.

Example 18: Income accrued and paid in different Tax Periods

Company C, a company incorporated and resident in the UAE, holds 2% of the shares of Company D, a company incorporated and managed outside the UAE, which were acquired for AED 1 million.

Company D is tax resident of Country Z which follows a Gregorian calendar year for tax purposes. Company C also follows the Gregorian calendar year as its Tax Period in the UAE and follows the Accrual Basis of Accounting for the purposes of the Corporate Tax Law.

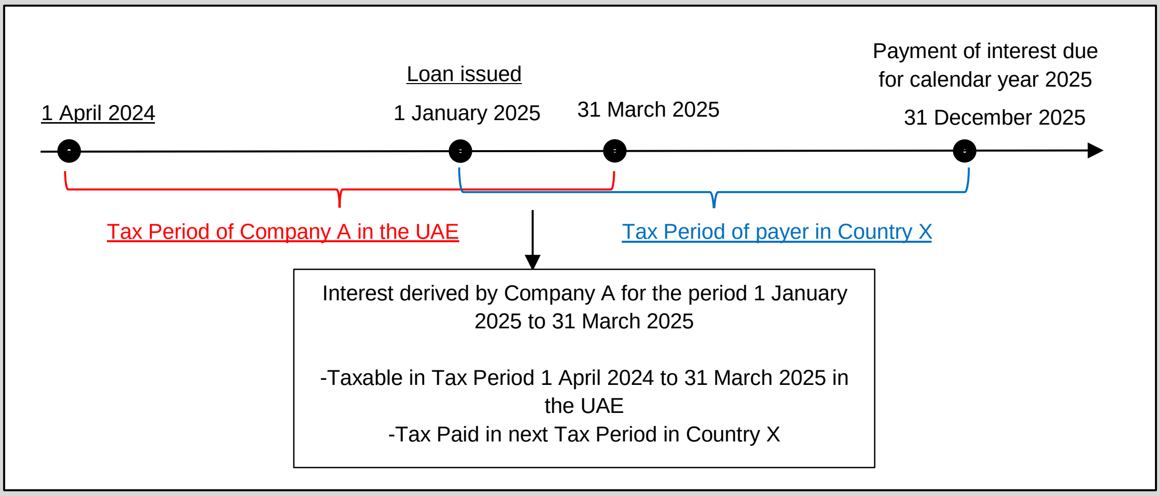
On 1 June 2024 Company D declares a Dividend and at that time, Company C records a Dividend receivable of AED 50,000 in its Financial Statements. However, this Dividend is paid by Company D on 1 March 2025 and at the time when the payment is made, tax is withheld and paid to the tax authorities of Country D.

The ownership interest held by Company C in Company D does not qualify as a Participating Interest and hence, income received from Company D is not exempt under the Participation Exemption. Company C includes the foreign Dividend income in its Taxable Income for the Tax Period ending 31 December 2024.

For the purposes of a Foreign Tax Credit under the Corporate Tax Law, the withholding tax on the Dividend income will be considered to be "paid" in the Tax Period when the Dividend income is accrued in the Financial Statements and accordingly, included in the Taxable Income. It is not relevant that the Tax Period when the income is actually paid out and tax is remitted to the foreign tax authority is different. Accordingly, even though the withholding tax is actually levied and remitted to the tax authority of Country Z in the Gregorian calendar year 2025, Company C can claim a Foreign Tax Credit in respect of that withholding tax in the Tax Period ending 31 December 2024 when the Dividend income is included in Taxable Income.

Company C is required to maintain appropriate documentation in respect of the Foreign Tax Credit claimed. If the FTA conducts a tax audit of Company C for the Tax Period ending 31 December 2024, Company C should be able to provide proof of the withholding tax which has been paid to the tax authority of Country Z.

Example 19: Different Financial Years in UAE and foreign jurisdiction



Company A, a company incorporated and resident in the UAE, issued a loan on 1 January 2025 to Company B, a company incorporated and managed in Country X and tax resident of Country X. Under the terms of the loan, Interest is payable at the end of each Gregorian calendar year in respect of that year. Thus, for the Gregorian calendar year 2025, the Company B will pay Interest on 31 December 2025.

Company A follows 1 April to 31 March as its Tax Period in the UAE and uses the Accrual Basis of Accounting. Accordingly, Interest income on the loan is first taxable in the Tax Period beginning 1 April 2024 and ending on 31 March 2025. Company A's Corporate Tax for that period is to be paid by 31 December 2025 under Article 48 of the Corporate Tax Law.

Country X follows a Gregorian calendar year for tax purposes. Under the tax laws of Country X, tax is to be withheld on Interest at the time of payment of Interest and upon deduction, the tax is to be immediately remitted to the foreign tax authority. Thus, when Company B pays Interest due for the Gregorian calendar year 2025 on 31 December 2025, it withholds taxes on such Interest payment and remits the same with tax authority of Country X on 31 December 2025.

For Company A, the foreign Interest accrued during the period 1 January 2025 to 31 March 2025 is one quarter (i.e. 3 out of 12 months) of the 2025 period and will be included in Company A's Taxable Income for the Tax Period 1 April 2024 to 31 March 2025. However, this Interest will be paid by Company B only on 31 December 2025 and the withholding tax will be remitted only at the time of payment. Thus, while the Interest income will form part of Company A's Taxable Income for the Tax Period 1 April 2024 to 31 March 2025, withholding tax on such income will be actually remitted to tax authority of Country X only in the next Tax Period.

However, for the purposes of a Foreign Tax Credit under Article 47 of the Corporate Tax Law, the foreign tax (i.e. withholding tax in Country X) will be considered to be "paid" when the Interest income is accrued in the Financial Statements of Company A and not when the income is actually paid out and withholding tax is remitted in Country X. Accordingly, Company A can claim a Foreign Tax Credit in respect of the proportionate withholding tax in the Tax Period ending 31 March 2025 when the Interest income is included in Taxable Income.

Company A is required to maintain appropriate documentation in respect of Foreign Tax Credit claimed. If the FTA conducts a tax audit of Company A for the Tax Period ending 31 March 2025, Company C should be able to provide proof of the withholding tax paid to the tax authority of Country Z.

8.5. Impact of Double Taxation Agreements

A Foreign Tax Credit under Article 47 of the Corporate Tax Law is allowed even if foreign tax is paid in a jurisdiction with which the UAE does not have a Double Taxation Agreement.

Sometimes a Double Taxation Agreement to which the UAE is a party may specify a method of providing relief from double taxation which is different to the Foreign Tax Credit rules set out in Article 47 of the Corporate Tax Law. Article 66 of the Corporate Tax Law provides that to the extent the terms of a Double Taxation Agreement are inconsistent with provisions of the Corporate Tax Law, the terms of the Double Taxation Agreement shall prevail.

Example 20: Examples of other relief under Double Taxation Agreements

- Exemption (instead of a tax credit) for relieving double taxation: In this case the foreign source income would be treated as exempt from Corporate Tax and would not form part of a Taxable Person's Taxable Income.
- Tax sparing relief: This allows a notional foreign tax credit for the taxes that have been "spared" in the source country under a tax incentive scheme or programme.
- Relief in respect of taxes which are not imposed on net income or profits, but on some other criteria such as net worth (for example, Zakat).

Where a Double Taxation Agreement provides for the source country to tax the foreign source income at a specified rate, for instance to tax Dividends at the rate of 5%, the UAE Foreign Tax Credit would be limited to 5% (assuming that the foreign Dividend is not exempt under the Participation Exemption).

8.6. Documentation

A Taxable Person is required to maintain all necessary records for the purposes of claiming a Foreign Tax Credit.[84] The records maintained by the Taxable Person should include all of the following details:

- the amount of foreign source income subject to tax in the foreign jurisdiction in the currency adopted in the foreign jurisdiction
- the exchange rate used to convert the foreign income to AED
- the financial year in which the foreign source income was derived
- the nature and amount of foreign tax levied on the foreign source income
- the date on which the foreign tax was paid

[84] Article 47(4) of the Corporate Tax Law.

- whether the tax paid in the foreign jurisdiction represents an advance instalment of tax or withholding tax or final tax payment

The following documents are acceptable evidence of the payment of tax in a foreign jurisdiction:

- Official receipt issued by the relevant foreign tax authority evidencing payment of tax
- In case of withholding tax, a certificate of deduction of withholding tax issued by the relevant foreign tax authority
- A copy of a tax return filed in the foreign jurisdiction, accompanied by calculations of taxable income and corporate tax on such income when relevant
- A letter from the relevant foreign tax authority stating all taxes for that income year have been paid

If the above documents are not available in Arabic or English, a certified translation must be provided.

9. Updates and Amendments

Date of amendment	Amendments made
November 2023	• First version

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Taxation of Natural Persons under the Corporate Tax Law

Corporate Tax Guide | CTGTNP1

November 2023

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Contents

1. Glossary

Accounting Income: The accounting net profit or loss for the relevant Tax Period as per the Financial Statements prepared in accordance with the provisions of Article 20 of the Corporate Tax Law.

Accounting Standards: The accounting standards specified in Ministerial Decision No. 114 of 2023.

Administrative Penalties: Amounts imposed and collected under the Corporate Tax Law or the Tax Procedures Law.

AED: The United Arab Emirates dirham.

Authority: Federal Tax Authority.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or series of activities conducted by a Person in the course of its Business.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Connected Person: Any Person affiliated with a Taxable Person as determined in Article 36(2) of the Corporate Tax Law.

Control: The direction and influence over one Person by another Person in accordance with the conditions of Article 35(2) of the Corporate Tax Law.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Corporate Tax Payable: Corporate Tax that has or will become due for payment to the FTA in respect of one or more Tax Periods.

Dividend: Any payments or distributions that are declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which do not constitute a return on capital or a return on debt claims, whether such payments or distributions are in cash, securities, or other properties, and whether payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue. This will include any payment or benefit which in substance or effect constitutes a distribution of profits made in connection with the acquisition or redemption or cancellation of shares or termination of other ownership interests or rights or any transaction or arrangement with a Related Party or Connected Person which does not comply with Article 34 of the Corporate Tax Law.

Double Taxation Agreement: An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Exempt Income: Any income exempt from Corporate Tax under the Corporate Tax Law.

Family Foundation: Any foundation, trust or similar entity that meets the conditions of Article 17 of the Corporate Tax Law.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

General Interest Deduction Limitation Rule: The limitation provided under Article 30 of the Corporate Tax Law.

Government Entity: The federal government, local governments, ministries, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.

IFRS: International Financial Reporting Standards.

IFRS for SMEs: International Financial Reporting Standard for small and medium-sized entities.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic financial instrument and other payments economically equivalent to Interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Legal Representative: The guardian or custodian of an incapacitated person or minor, or the bankruptcy trustee appointed by the court for a company that is in bankruptcy, or any other Person legally appointed to represent another Person.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Local Government: Any of the governments of the Member Emirates of the Federation.

Market Value: The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural person or juridical person.

Personal Investment: Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 issuing the Commercial Transactions Law.

Preferred Shares: The category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

Real Estate Investment: Any investment activity conducted by a natural person related to, directly or indirectly, the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not conducted, or does not require to be conducted through a Licence from a Licensing Authority.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

Small Business Relief: A Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period in accordance with Article 21 of the Corporate Tax Law and Ministerial Decision No. 73 of 2023.

State: United Arab Emirates.

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Tax Deregistration: A procedure under which a Person is deregistered for Corporate Tax purposes with the FTA.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Registration: A procedure under which a Person registers for Corporate Tax purposes with the FTA.

Tax Registration Number: A unique number issued by the FTA to each Person who is registered for Corporate Tax purposes in the UAE.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

Unincorporated Partnership: A relationship established by contract between two Persons or more, such as a partnership or trust or any other similar association of Persons, in accordance with the applicable legislation of the UAE.

Wage: The wage that is given to the employee in consideration of their services under the employment contract, whether in cash or in kind, payable annually, monthly, weekly, daily, hourly, or by piece-meal, and includes all allowances, and bonuses in addition to any other benefits provided for, in the employment contract or in accordance with the applicable legislation in the UAE.

Withholding Tax: Corporate Tax to be withheld from State Sourced Income in accordance with Article 45 of the Corporate Tax Law.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance on the taxation of natural persons under the Corporate Tax Law. It provides readers with an overview of:

- When does the Corporate Tax Law apply to natural persons?
- Calculation of Corporate Tax for natural persons.
- Interactions with other Businesses.
- Corporate Tax compliance for natural persons.

2.3. Who should read this guide?

The guide should be read by any natural person, to help them understand how the provisions of the Corporate Tax Law apply to a natural person. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic specific guides.

In some instances, simple examples are used to illustrate how key elements of the Corporate Tax Law apply to natural persons. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural persons.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Law No. 5 of 1985 on the Issuance of Civil Transactions Law, and its amendments is referred to as "Civil Transactions Law";
- Federal Decree-Law No. 19 of 2020 on Trust is referred to as "Trust Law";
- Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as "Tax Procedures Law";
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Corporate Tax Law";
- Federal Decree-Law No. 50 of 2022 issuing the Commercial Transactions Law is referred to as "Commercial Transactions Law";
- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax is referred to as "Cabinet Decision No. 49 of 2023";
- Cabinet Decision No. 74 of 2023 on the Executive Regulation of Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as "Cabinet Decision No. 74 of 2023";
- Cabinet Decision No. 85 of 2022 on Determination of Tax Residency is referred to as "Cabinet Decision No. 85 of 2022";
- Cabinet Decision No. 116 of 2022 on Determination of the Amount of Annual Income Subject to Corporate Tax is referred to as "Cabinet Decision No. 116 of 2022";
- Ministerial Decision No. 27 of 2023 on Implementation of Certain Provisions of Cabinet Decision No. 85 of 2022 on Determination of Tax Residency is referred to as "Ministerial Decision No. 27 of 2023";
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 73 of 2023";
- Ministerial Decision No. 82 of 2023 on the Determination of Categories of Taxable Persons Required to Prepare and Maintain Audited Financial Statements for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 82 of 2023";

- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 114 of 2023";
- Ministerial Decision No.134 of 2023 on the General Rules for Determining Taxable Income for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 134 of 2023"; and
- Federal Tax Authority Decision No. 6 of 2023 on Tax Deregistration Timeline for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "FTA Decision No. 6 of 2023".

2.6. Status of this guide

This guidance is not a legally binding statement, but is intended to provide assistance in understanding the implications for a natural person of the Corporate Tax regime in the UAE. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each Person's own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. When does the Corporate Tax Law apply to natural persons?

3.1. Who is a natural person?

The term natural person takes its ordinary meaning, and refers to a living human person of any age, whether resident in the UAE or elsewhere. For minors or incapacitated individuals, the Corporate Tax obligations shall be fulfilled by their Legal Representative.[1]

3.2. Corporate Tax Law and natural persons

In order to level the playing field between incorporated businesses and unincorporated businesses conducted by individuals, the Corporate Tax Law applies to natural persons to the extent they are conducting a Business or Business Activity in the UAE, have a Permanent Establishment in the UAE, or derive State Sourced Income (i.e. income that is accrued in, or derived from, the UAE).

However, certain types of income are always exempt from Corporate Tax for natural persons. For a natural person, the Corporate Tax Law does not apply to their employment income, Personal Investment income, or Real Estate Investment income. These types of income are discussed in more detail below in the relevant sections.

Furthermore, international agreements, including Double Taxation Agreements, prevail where there is inconsistency between the provisions of the Corporate Tax Law and the agreement.[2] Therefore, the position under applicable Double Taxation Agreements between the UAE and other jurisdictions should be considered in determining the residence and extent of UAE Corporate Tax for a natural person.

3.3. Key considerations

The following considerations are key when determining whether a natural person will be subject to Corporate Tax:

1. A natural person who conducts a Business or Business Activity in the UAE is considered to be a Taxable Person, and a Resident Person as defined in the Corporate Tax Law.[3]

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[1] Article 7 of the Tax Procedures Law and Cabinet Decision No. 74 of 2023.
[2] Article 66 of the Corporate Tax Law.
[3] Article 11(3) of the Corporate Tax Law.

2. A natural person is subject to Corporate Tax on their Business or Business Activity only where the total Turnover derived from Business or Business Activities conducted in the UAE exceeds AED 1 million within a Gregorian calendar year.[4]
3. For a natural person, income from the following categories is not considered as arising from a Business or Business Activity, and is disregarded when determining Turnover and not subject to Corporate Tax, regardless of the amount:[5]
   - Wage,
   - Personal Investment income, and
   - Real Estate Investment income.

Where the Turnover from Business or Business Activities conducted in the UAE exceeds AED 1 million within a Gregorian calendar year, the natural person (whether resident or non-resident) is required to comply with the obligations of the Corporate Tax Law, including registration for Corporate Tax purposes with the FTA, submitting Corporate Tax Returns and paying Corporate Tax (see Section 6).

3.4. Natural persons: resident and non-resident

For natural persons, physical residence in the UAE, whether by virtue of citizenship or a residency visa, is not the criterion that determines whether they are Resident Persons for Corporate Tax purposes, or whether their income is taxable. Instead, the approach is as follows:

1. When a natural person resides in the UAE and they conduct Business or Business Activities in the UAE, they are considered to be a Resident Person and, therefore, a Taxable Person for Corporate Tax purposes, subject to the key considerations covered above (in Section 3.3).
2. When a natural person resides outside the UAE – for instance, having their home in another country – they become a Resident Person for Corporate Tax purposes if they conduct Business or Business Activity in the UAE, subject to the key considerations covered above (in Section 3.3). Accordingly, under the UAE Corporate Tax Law, and if the natural person has not invoked the application of an applicable Double Taxation Agreement, any natural person conducting Business or Business Activity in the UAE will be a Resident Person for purposes of the Corporate Tax Law.

Note that, where a natural person resides in a country that has an applicable Double Taxation Agreement with the UAE, and as a result of the application of that Double Taxation Agreement the natural person is not resident in the UAE but has a Permanent Establishment in the UAE (and the Turnover attributable to the Permanent Establishment exceeds AED 1 million within a Gregorian calendar year), they would

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[4] Article 2(1) of Cabinet Decision No. 49 of 2023.
[5] Article 2(2) of Cabinet Decision No. 49 of 2023.

be a Non-Resident Person and Taxable in the UAE as defined in Article 11(4) of the Corporate Tax Law.

This guide only addresses the tax implications for natural persons under the UAE Corporate Tax Law, i.e. without consideration of the potential implications of a Double Taxation Agreement.

A natural person residing outside the UAE may also become a Non-Resident Taxable Person if they derive State Sourced Income, which is income that accrues in, or is derived from, the UAE, but is not derived through a Business or Business Activity conducted by the natural person in the UAE (see Section 3.9).

Natural persons who are Non-Resident Persons should assess the potential implications of a Double Taxation Agreement, taking into account relevant facts and circumstances and read with Cabinet Decision No. 85 of 2022 and Ministerial Decision No. 27 of 2023, where relevant.

Example 1: A natural person present in the UAE for client meeting

A natural person, Mrs. Z, employed by a foreign company based outside the UAE, visits the UAE for 5 days to meet with clients, present new products, and visit production facilities.

Mrs. Z is present in the UAE in their capacity as an employee. She is not conducting a Business or Business Activity in the UAE on her own account, and, therefore, Mrs. Z is not considered a Resident Person under the Corporate Tax Law.

Example 2: A natural person working from the UAE

A natural person, Mr. X on a visit visa to the UAE, sets up a small workshop to restore antique jewellery. Working for himself, he generates a Turnover of AED 1,700,000 through selling items over several months in a Gregorian calendar year.

Mr. X is considered to be a Resident Person, as he is conducting a Business or Business Activity in the UAE on his own account. His Turnover for the year is in excess of AED 1 million, so the Business or Business Activity would be subject to Corporate Tax.

Mr. X will be a Resident Person for Corporate Tax purposes.

Note that whether a natural person is resident for Corporate Tax purposes is not affected by whether immigration, work permit and Business licensing requirements have been correctly dealt with or not.

3.5. What income is considered taxable for natural persons?

Only income derived from a Business or Business Activity conducted in the UAE by a natural person is subject to Corporate Tax.

However, if a natural person's total Turnover from Business or Business Activities conducted in the UAE does not exceed AED 1 million within a Gregorian calendar year, they do not have to register for or pay Corporate Tax on their income from the Business or Business Activities. The Turnover may include "in-kind" payments which are valued at Market Value.

For Corporate Tax purposes, Wage (employment income), Personal Investment income, and Real Estate Investment income derived by a natural person are out of scope of Corporate Tax and not taken into account for the purpose of determining the AED 1 million threshold.

Example 3: A natural person providing consultancy services (self-employed)

A natural person, Mrs. A, based in the UAE, provides consultancy services to a third-party company based outside the UAE and gets paid AED 1,200,000 for these services within a Gregorian calendar year. After setting off their deductible costs, her net profit is AED 900,000.

Mrs. A works for herself, and is not employed by the foreign company, so the income derived is not in the nature of a Wage. The income also does not have the nature of Personal Investment income or Real Estate Investment income.

In this case, the income from the consultancy services is that of a Business or Business Activity. As the Turnover exceeds AED 1 million, Mrs. A's income from the consultancy services is subject to Corporate Tax.

Assuming that all costs are deductible for Corporate Tax purposes, Mrs. A's Taxable Income is AED 900,000. Note there is no exemption for the profit relating to the first AED 1 million of Turnover. However, the Mrs. A will be able to benefit from the 0% rate on the first AED 375,000 of Taxable Income.

In addition, as the Revenue (AED 1,200,000) of the Mrs. A does not exceed AED 3 million and assuming that the Revenue for previous Tax Periods also does not exceed AED 3 million, she can elect for Small Business Relief. This would mean she is treated as not having derived any Taxable Income for the relevant Tax Period (see Section 3.12).

Example 4: A natural person earning money as an influencer

A natural person, Mr. B, based in the UAE, creates content on various social media platforms. They earn money from and through these platforms. One source of income comes from collaboration with brand owners to create sponsored content and from participating in brand campaigns. In such collaborations, they negotiate payment terms with the brand, which involve a commission and "in-kind" consideration, such as receiving products from the brand owners.

During the 2024 Gregorian calendar year, Mr. B derives Turnover of AED 3,400,000 including the Market Value of "in-kind" payments.

Mr. B is considered to be a Resident Person, as he is conducting a Business or Business Activity in the UAE on their own account. His Turnover for the year is in excess of AED 1 million, so the Business or Business Activity would be subject to Corporate Tax.

Example 5: A natural person providing consultancy services (employed)

A natural person, Miss C, is employed by Company A, a company incorporated and effectively managed and controlled outside the UAE. Miss C provides consultancy services to an unrelated company also based outside the UAE. Miss C does this while being physically present in offices rented by Company A in the UAE. Company A gets paid AED 2 million for the consultancy services rendered by the natural person.

In this case, Miss C is not considered to be a Taxable Person as they are an employee of Company A and not conducting Business Activity on their own account. However, Company A may be subject to Corporate Tax as a Non-Resident Person, if it is considered to have a Permanent Establishment in the UAE.

Example 6: A natural person receiving investment income

A retired natural person, Mr. D, in the UAE earns portfolio income from money invested through a UAE based asset management company. This is Mr. D's only source of income. Mr. D does not require a Licence from a Licensing Authority to make their investments.

Mr. D's income is exempt as it is Personal Investment income. Mr. D is not a Taxable Person and the portfolio income is not subject to Corporate Tax.

3.6. What is a Business and a Business Activity

The Corporate Tax Law provides the definitions of Business and Business Activity (see Glossary above) that fall under the scope of Corporate Tax in the UAE.[6]

Business Activity has a very comprehensive definition and includes any transaction or activity, or series of transactions or activities, conducted by a Person in the course of its Business.

Business is defined as any activity conducted regularly, on an ongoing and independent basis. The definition provides the following examples for activities constituting a Business: *"industrial, commercial, agricultural, vocational, professional, service or excavation activities"*. The definition also mentions that any other activity related to the use of tangible or intangible properties constitutes a Business.

Nevertheless, "ongoing" should not be interpreted in such a way so as to exclude short-term activities. As such, short-term activities can be within the scope of Corporate Tax on the basis that they constitute a *"transaction or activity, or series of transactions or series of activities"* as prescribed in the definition. The definition allows for a short-term commercial activity to be considered a Business for Corporate Tax purposes. This is why the Corporate Tax Law refers to the "conduct" of a Business rather than the "carrying on" of a Business.

Examples of activities conducted by a natural person that are not typically considered a Business or a Business Activity would include lottery winnings or game show prizes.

However, whether or not a Business is conducted on an ongoing basis will be evaluated on a case-by-case basis.

3.7. Business or Business Activities that are subject to Corporate Tax

Business or Business Activities conducted by a natural person in the UAE are subject to Corporate Tax if the total Turnover exceeds AED 1 million within a Gregorian calendar year.[7] Turnover does not include gross income derived from the sources previously noted and further described in Section 3.8 below.

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[6] Article 1 of the Corporate Tax Law.

[7] Article 2(1) of Cabinet Decision No. 49 of 2023.

The term Turnover is defined as the gross amount of income derived during a Gregorian calendar year.[8] This means that the Turnover is the sum of all the income before any costs are deducted. [9]

Where a natural person is considered a Resident Person and the total Turnover derived from Business or Business Activities conducted in the UAE exceeds AED 1 million, their Taxable Income will include income derived from the UAE and from outside the UAE but only insofar as it relates to the Business or Business Activities conducted by the natural person in the UAE.[10]

In other words, if a natural person conducts a Business or Business Activity while being present in the UAE, their Taxable Income (if any) will include income derived from sources (for example, clients) located in the UAE and outside of the UAE, as long as the income relates to the Business or Business Activities they are conducting in the UAE.

For the purpose of determining whether the income is related to the Business or Business Activity conducted in the UAE, it would be relevant to consider (among others), the following elements:

- whether persons who contributed to producing or selling the goods or services are managed, working from or residents of the UAE,
- whether contracting or Business development related to selling the goods or providing the services was conducted from the UAE, or
- whether the assets that contributed to the production of the goods or rendering of the services are located in the UAE.

On the other hand, in general terms, where a natural person is considered a Non-Resident Person and the total Turnover derived from Business or Business Activities conducted in the UAE exceeds AED 1 million, such natural person's Taxable Income would be limited to income derived from the UAE.

Example 7: A natural person conducting Business overseas with Business Activity in the UAE

A natural person, Mr. E, conducts a Business in Country A as an architect and generates the equivalent of AED 950,000 in providing architectural services. Mr. E travels to the UAE on a regular basis with a view to establishing himself as an architect in the UAE, and whilst in the UAE, he provides architectural services to the value of AED 100,000.

[8] Article 1 of Cabinet Decision No. 49 of 2023.
[9] Further guidance on Turnover is provided later in this Section.
[10] Article 12(2) of the Corporate Tax Law.

Mr. E is considered to be a Resident Person in the UAE, as he is conducting a Business or Business Activity in the UAE. His worldwide Turnover for the year is in excess of AED 1 million, however, he is not subject to Corporate Tax as the Turnover derived from Business or Business Activity in the UAE does not exceed AED 1 million. The income derived from activities conducted in Country A does not result from the use of assets or other resources located in the UAE. Accordingly, that income is not related to the Business or Business Activity conducted in the UAE.

When calculating the Turnover, Mr. E should only include income derived from the UAE or related to the Business or Business Activity in the UAE.

Accordingly, wholly separate Business and Business Activity which are not related or connected to the Business conducted in the UAE will not be taxable in the UAE and, therefore, will not be considered for the AED 1 million threshold. Thus, Mr. E will not have to register for Corporate Tax purposes.

If the income of AED 950,000 was related to the Business or Business Activity conducted in the UAE, then Mr. E would be required to register for Corporate Tax purposes as the AED 1 million threshold would be exceeded.

Example 8: Natural person deriving income from consultancy services

A natural person, Mrs. F, provides consultancy services in the UAE, and is, therefore, considered a Resident Person for Corporate Tax purposes.

While based in the UAE, Mrs. F visits another jurisdiction to provide consultancy services for a foreign company based in that other jurisdiction. The consultancy services do not form part of a separate Business.

The income earned from the foreign company shall be included in Mrs. F’s Taxable Income as it is not derived from a separate Business that she conducts outside the UAE.

Example 9: A natural person practising as a physiotherapist in the UAE

A natural person, Mr. G, works as a physiotherapist in Country A, where he has established his own clinic and has employed a secretary and a clinic assistant.

Mr. G comes to the UAE and establishes a physiotherapy clinic after receiving the necessary Licence from the relevant UAE Licensing Authority. Mr. G also continues to provide therapy sessions to his regular patients in his clinic in Country A while he is back home.

Mr. G is considered to be a Resident Person in the UAE, as he is conducting Business or Business Activity in the UAE.

Due to his work in the UAE and reputation for providing high-quality services, Mr. G receives requests to provide treatment sessions from therapy centres in various Gulf countries.

In this scenario, when calculating the Mr. G's Turnover, both the income derived from the UAE and from other Gulf countries (not being considered as Wage) should be included as they relate to Business or Business Activities conducted in the UAE.

The income derived from the Gulf countries relates to the Business or Business Activity in the UAE because those services are attributable to the UAE practice.

As for the income derived in Country A, it is not related to Mr. G's Business in the UAE since it was solely earned from regular patients of the separate Business in that Country.

3.8. Exclusions from Corporate Tax

For a natural person, the income from specific activities (Wage, Personal Investment income and Real Estate Investment income) is not subject to Corporate Tax as these sources are not considered as Business or Business Activities under the Corporate Tax Law. This income is also not taken into account in determining if a natural person has derived Turnover in excess of AED 1 million in a Gregorian calendar year from Business or Business Activities conducted in the UAE.

3.8.1. Wage

Wage, including any compensation or benefit received, whether in cash or in-kind, by any employee from their employer is not subject to Corporate Tax. Thus, a salary or other form of remuneration received by a natural person as an employee from their employer would not fall within the scope of Corporate Tax. The question of whether a natural person is an employee and earns a salary or other form of remuneration as such, is a question of fact to be determined on a case-by-case basis.

A natural person appointed as a director, for example as a member of the board of directors of a Public Joint Stock Company, may receive fees and other similar payments for carrying out this role, either in the course of their employment or as an independent party appointed to a board of directors. Generally, director fees will not be considered as a Business or Business Activity, and therefore would not be subject to Corporate Tax.

Example 10: A natural person who is an employee and member of a board of directors

A natural person, Mr. H, works for a company based in the UAE.

Mr. H holds a senior management position in the company and plays a crucial role in its day-to-day operations. In addition to his employment responsibilities, he is a member of the board of directors.

As an employee, Mr. H receives a market rate salary for his executive role, which is determined by his employment contract and is subject to applicable employment laws.

As a board member of the company, Mr. H also receives fees from the company for attending board meetings.

The salary received by Mr. H is in the nature of a Wage and accordingly is not subject to Corporate Tax.

In addition, the remuneration received by Mr. H in their capacity as a member of the board of directors in the circumstances as set out above, would typically be considered a Wage in the same way as an employee's salary and accordingly is not subject to Corporate Tax.

3.8.2. Personal Investment income

Personal Investment income is not subject to Corporate Tax when derived by natural persons from investment activity conducted in their personal capacity that is neither conducted through a Licence or requiring a Licence from a Licensing Authority, nor considered as a commercial business in accordance with the Commercial Transactions Law.

To conduct Business in the UAE, a Licence may be required. The nature of the economic activity defines the type of Licence required. In general, there are different types of Licences, including industrial, commercial, crafts, tourism, agricultural, and professional. However, in addition to these Licences, other types of Licences may be issued by Local Governments, for example, a freelance Licence.

As mentioned above, Personal Investment is an investment activity that a natural person conducts for their personal account and should not be an activity that is “considered as a commercial business” in accordance with the Commercial Transactions Law. [11] This law establishes various criteria for identifying a commercial business.[12] Broadly, a commercial business is defined as work practiced by a trader in relation to their trade, or speculation works practiced by a person, whether or not a trader, for the purpose of realising a profit, work considered by the Commercial Transactions Law as commercial business (by virtue of its nature, if carried out as an occupation, or equivalent), or work associated with or facilitating a commercial business.[13]

However, where an activity is not considered a commercial business as per the Commercial Transactions Law, it will not automatically be considered a Personal Investment activity, unless it is conducted on the person's personal account and is neither conducted through a Licence or required to be conducted through a Licence.

For details of the list of the categories mentioned above, please refer to Annexure 1 and to the Commercial Transactions Law.

Example 11: A natural person investing in listed securities

A natural person, Mrs. J, based in the UAE, invests (using personal savings) in listed securities on a stock exchange where she earns income from her investment. She does not require a Licence to make such an investment.

The income derived by Mrs. J is Personal Investment income and accordingly is not subject to Corporate Tax.

Example 12: A natural person selling his personal car

A natural person, Miss K, based in the UAE, sells her personal luxury car for AED 1,500,000. The car is rare, and she makes a profit of AED 200,000.

The income derived by Miss K due to the sale of the car is not subject to Corporate Tax as the sale of the car is on the personal account of the natural person and does not require a Licence.

[11] Article 1 of Cabinet Decision No. 49 of 2023.
[12] Article 4 of the Commercial Transactions Law.
[13] Articles 5, 6 and 7 of the Commercial Transactions Law.

Example 13: A natural person selling artwork

A natural person, Mr. L, based in the UAE, observes that the prices of the artwork of a specific UAE artist have been increasing for more than a decade. Mr. L sets up a small office at home and starts buying the artworks from the UAE in order to sell them to clients located outside of the UAE through a network of partners located in different countries. The total Turnover from this activity amounts to AED 5 million within a Gregorian calendar year.

The income derived by Mr. L due to the sale of the artwork will be subject to Corporate Tax as it is considered to be the conduct of a Business or Business Activity.

3.8.3. Real Estate Investment income

Real Estate Investment income is not subject to Corporate Tax when derived by natural persons if it is related, directly or indirectly, to the selling, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not through a Licence nor requiring a Licence from a Licensing Authority.

Example 14: A natural person selling a residential apartment

A natural person, Mr. M, based in the UAE, sells his residential apartment for AED 2,500,000. As the value of the apartment had increased since he bought it, Mr. M makes a profit of AED 500,000.

The income derived by the Mr. M due to the sale of their apartment is not subject to Corporate Tax as he was not required to obtain a Licence to execute the sale.

Example 15: A natural person earning rental income

A natural person, Mrs. N, based in the UAE, owns several properties located in the UAE and rents them out for AED 1,200,000 per calendar year.

As long as such activity is not required to be conducted through a Licence from a Licensing Authority, the income derived by Mrs. N is not subject to Corporate Tax as the activity is Real Estate Investment.

3.9. Natural persons deriving State Sourced Income

State Sourced Income is defined as income which is:[14]

- derived from a UAE Resident Person,
- derived from a UAE Permanent Establishment of a Non-Resident Person, or
- accrued in or derived from activities performed, assets located, capital invested, rights used, or services performed or benefitted from in the UAE.

State Sourced Income includes, but is not limited to, Dividends from UAE companies, payments from UAE Businesses, royalties paid from the UAE and Interest from a UAE bank account. The following are all examples of State Sourced Income:[15]

- Income from the sale of goods in the UAE,
- Income from the provision of services that are rendered or utilised or benefitted from in the UAE,
- Income from a contract insofar as it has been wholly or partly performed or benefitted from in the UAE,
- Income from movable or immovable property in the UAE,
- Income from the disposal of shares or capital of a Resident Person,
- Income from the use or right to use in the UAE, or the grant of permission to use in the UAE, any intellectual or intangible property,
- Interest that meets any of the following conditions:
    - The loan is secured by movable or immovable property located in the UAE,
    - The borrower is a Resident Person, or
    - The borrower is a Government Entity.
- Insurance or reinsurance premiums in any of the following instances:
    - The insured asset is located in the UAE,
    - The insured Person is a Resident Person, or
    - The insured activity is conducted in the UAE.

Certain State Sourced Income, derived by a Non-Resident Person including a natural person, that is not attributable to a Permanent Establishment, may be subject to Withholding Tax. The current Withholding Tax rate is 0%.[16]

The Withholding Tax rate on State Source Income is currently 0%.

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[14] Article 13(1) of the Corporate Tax Law.
[15] Article 13(2) of the Corporate Tax Law.
[16] Article 45 of the Corporate Tax Law.

However, if the natural person is a Resident Person (or is a Non-Resident Person having a Permanent Establishment in the UAE), their related income would be subject to Corporate Tax at the applicable rate (rather than Withholding Tax). This would require them to register with the FTA for Corporate Tax purposes, subject to the key considerations covered in Section 3.3.

3.10. Computation of Turnover

For the purposes of calculating the Turnover of natural persons, gross income derived during a Gregorian calendar year from all the categories of Businesses or Business Activities that they conduct should be taken into consideration. For example, income derived from a sole proprietorship or their share of income from a fiscally transparent Unincorporated Partnership would need to be combined.

Income derived from Wage, Personal Investments, or Real Estate Investments is excluded when determining the Turnover.

For the purpose of determining whether the natural person's Turnover exceeds the threshold of AED 1 million, the Turnover is that of the Gregorian calendar year in question.[17] Turnover should be measured on an accrual basis of accounting except where the natural person applies the Cash Basis of Accounting.[18]

Example 16: Natural person deriving income from sales of goods and receiving a Wage

A natural person, Mr. O, based in the UAE, earns the following income during a Gregorian calendar year:

- Annual salary from an employment contract: AED 300,000
- Bonuses in accordance with the employment contract: AED 150,000
- Turnover from baking and selling cupcakes: AED 900,000

Only the income derived from the sale of the cupcakes should be taken into consideration when calculating the total Turnover as the rest of the income is Wage and should not be taken into account.

The Turnover is AED 900,000 and does not exceed the threshold of AED 1 million. Therefore, Mr. O is not subject to Corporate Tax in the calendar year.

[17] Article 2(1) of Cabinet Decision No. 49 of 2023.
[18] Article 2 of Ministerial Decision No. 114 of 2023.

3.11. Corporate Tax rate for natural persons

The below rates apply to the total Taxable Income of a natural person, i.e. the Taxable Income derived from all Businesses or Business Activities conducted in the UAE by such natural person and not the Taxable Income of each Business or Business Activity separately.

When the Turnover derived by the natural person in a Gregorian calendar year exceeds the AED 1 million, the Taxable Income of a natural person will be subject to Corporate Tax at the following rates:[19]

- 0% on the portion of the Taxable Income not exceeding AED 375,000.
- 9% on the portion of the Taxable Income that exceeds AED 375,000.

Example 17: Natural person receives a Wage and conducts Business in the UAE

A natural person, Miss P, based in the UAE, conducted the following activities during a Gregorian calendar year:

- Worked for 3 months under an employment contract and earned AED 200,000.
- Worked as a freelance graphic designer in the UAE generating AED 1,600,000 Turnover (assume AED 400,000 of deductible expenses).
- Ran a sole proprietorship that sold mobile phones and accessories in the UAE and overseas. The gross income from domestic sales amounted to AED 1,200,000, and AED 800,000 from overseas sales (assuming AED 1,400,000 of deductible expenses).

Step 1 – Calculation of the Turnover

The income derived from freelance activity, and from the sole proprietorship (both domestic and overseas sales, as the latter is related to the activity conducted in the UAE) are taken into consideration in computing the Turnover. Wage income is not considered. Therefore:

Turnover = 1,600,000 + 1,200,000 + 800,000 = AED 3,600,000. As such, the natural person is considered to conduct Business or Business Activities that are subject to Corporate Tax, and the Corporate Tax is computed on the Taxable Income, which is the Accounting Income after the relevant required adjustments as per the Corporate Tax Law.

[19] Article 3 of the Corporate Tax Law and Articles 2(1) and 3 of Cabinet Decision No. 116 of 2022.

Step 2 – Calculation of Taxable Income

Accounting Income = Turnover – expenses = 3,600,000 – (400,000 + 1,400,000) = AED 1,800,000.

Adjustments = 0. In this case it is assumed no adjustments are required.

Taxable Income = Accounting Income +\- adjustments = 1,800,000 +\- 0 = AED 1,800,000.

Step 3 – Calculation of the Corporate Tax

AED 375,000 x 0% = 0.
(Taxable Income over AED 375,000): 1,425,000 x 9% = AED 128,250.

Corporate Tax Payable = AED 128,250.

3.12. Interaction with Small Business Relief

It is possible for a natural person to elect for Small Business Relief under Article 21 of the Corporate Tax Law. The relevant conditions need to be satisfied, including the fact that the Revenue from the taxable Business or Business Activity of the natural person in the relevant Tax Period and previous Tax Periods does not exceed AED 3 million for each Tax Period.[20]

Note that the Small Business Relief is based on Revenue, where Revenue is defined as the gross amount of income derived during a Tax period. A natural person's Tax Period is the Gregorian calendar year (see Section 6.3). Thus, a natural person's Revenue will be the same as Turnover, being the gross amount of income derived during a Gregorian calendar year.

Example 18: Natural person electing for Small Business Relief

A natural person, Mr. Q, based in the UAE, is self-employed and earns the following income during a calendar year:

- Real Estate Investment income: AED 2,300,000
- Income derived from providing consulting services: AED 1,900,000

Only the income derived from providing consulting services should be taken into consideration when calculating Turnover. The Real Estate Investment income is

[20] Article 2(1) of Ministerial Decision No. 73 of 2023.

not derived through a Licence and, thus, is not considered to be a Business or Business Activity for Mr. Q and, therefore, is not included in the Turnover.

The Turnover is AED 1,900,000. This exceeds the AED 1 million threshold but is below the AED 3 million threshold for Small Business Relief.

In this case, Mr. Q will have to register with the FTA for Corporate Tax purposes; and he may elect for Small Business Relief as his Turnover does not exceed AED 3 million assuming that the Turnover from previous Tax Periods does not exceed AED 3 million and all other requirements for this relief are met.

4. Corporate Tax calculations for natural persons

4.1. Interest deduction

Where a natural person is subject to Corporate Tax, the General Interest Deduction Limitation Rule does not apply.[21] This rule would otherwise cap Interest deductions at the higher of AED 12,000,000 or 30% of their taxable earnings before the deduction of Interest, tax, depreciation and amortisation (EBITDA).[22]

Instead, for a natural person, provided that the Interest expenditure is incurred wholly and exclusively for the purposes of the natural person's Business, and meets the arm's length principle, the Interest expenditure will be fully deductible.[23]

Example 19: A natural person taking a loan not wholly and exclusively for business purposes

A natural person, Mrs. R, based in the UAE, provides advisory services to various UAE based companies and earns AED 4 million for these services in a Gregorian calendar year.

Mrs. R takes a loan to purchase the apartment she lives in, as well as to purchase a new office premises to work from.

In this case, Mrs. R will not be entitled to deduct the Interest expense relating to the portion of the loan applied to fund the purchase of the apartment. However, she should apportion the Interest expense as she would be entitled to deduct the Interest expense relating to the portion of the loan applied to the purchase of the office.

This is on the basis that the latter cost is incurred wholly and exclusively for the purposes of Mrs. R's Business, but the former is not.

Example 20: General Interest Deduction Limitation Rule not applicable to natural persons

A natural person, Mr. S, based in the UAE, conducts a licensed real estate activity, buying and selling UAE real estate properties, and earns gross income of AED 104 million from sales in the calendar year.

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[21] Article 30(6)(c) of the Corporate Tax Law.
[22] Article 30(1) and 30(3) of the Corporate Tax Law and Article 8 of Ministerial Decision no. 126 of 2023.
[23] Article 28(1) of the Corporate Tax Law.

Assuming the EBITDA (earnings before the deduction of Interest, tax, depreciation and amortisation) of Mr. S is AED 30 million and the incurred Interest expenses related to this activity for the same calendar year amount to AED 15 million.

The Interest expense is more than 30% of EBITDA (AED 30 million x 30% = AED 9 million) as well as the de minimis of AED 12 million. However, the Interest expense is fully deductible as the General Interest Deduction Limitation Rule does not apply to natural persons.

4.2. General deduction rules relating to Business expenditure

Expenditure incurred by a natural person wholly and exclusively for the purposes of his or her Business that is not capital in nature shall be deductible in the Tax Period in which it is incurred. This general rule is subject to certain limitations. Accordingly, no deduction is allowed in relation to the following:[24]

a. Expenditure not incurred for the purposes of the natural person's Business.
b. Expenditure incurred in deriving Exempt Income (other than Interest expenditure).
c. Losses not connected with or arising out of the natural person's Business.

If expenditure is incurred for more than one purpose, a deduction would be allowed for any identifiable part or proportion of the expenditure incurred wholly and exclusively for the purposes of deriving Taxable Income, or if not incurred wholly and exclusively for the purposes of Business, an appropriate proportion of any unidentifiable part or proportion of the expenditure incurred for the purposes of deriving Taxable Income that has been determined on a fair and reasonable basis, having regard to the relevant facts and circumstances of the natural person's Business.

4.3. Non-deductible expenditure rules and natural persons

Article 33 of the Corporate Tax Law disallows deductions for certain types of expenditure. This includes a specific disallowance for amounts withdrawn from a Business by a natural person.[25] For example, amounts withdrawn by a natural person from their sole proprietorship Business – even if described as Wage or salary – cannot be deducted in calculating the Taxable Income arising from that Business.

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[24] Article 28 of the Corporate Tax Law.
[25] Article 33(5) of the Corporate Tax Law.

Example 21: Taxable Income of a sole proprietorship

A natural person, Mr. T conducts a Business through a sole proprietorship in the UAE. Mr. T has registered for Corporate Tax with the FTA after meeting the required conditions.

For the Tax Period ended 31 December 2025, Mr. T withdrew AED 200,000 from the business and recorded this in his Business accounts as an annual salary cost on the basis that Mr. T is operating the Business.

Since Mr. T is running a sole proprietorship Business, no deduction is allowed for the AED 200,000, as Mr. T and the Business are one and the same Taxable Person even if the salary would have been an arm's length salary.

4.4. Related Parties for natural persons

The transactions of a natural person with Related Parties are required to follow the arm's length principle for the purposes of Corporate Tax.[26] The arm's length principle requires the results of transactions or arrangements between Related Parties to be consistent with the results that would have been realised if Persons who were not Related Parties had engaged in a similar transaction or arrangement under similar circumstances.

A natural person can be a Related Party of one or more natural or juridical persons. This is discussed below.

4.4.1. Other natural persons

Two or more natural persons are considered to be Related Parties if their relationship is within the fourth degree of kinship or affiliation, including by way of adoption or guardianship.[27]

In calculating the degree of kinship:

a. A relative of one of the spouses is considered of the same degree of kinship in relation to the other spouse.[28]

[26] Article 34 of the Corporate Tax Law.
[27] Article 35(1)(a) of the Corporate Tax Law.
[28] Article 79 of the Civil Transactions Law.

b. In the case of direct kinship, the degree is calculated by considering each descendant (a son or daughter) a degree upward to the ascendant (the father or mother).[29]
c. In the case of indirect kinship, degrees are counted upwards from the descendant to the common ancestor and then downwards from the latter to the other descendant. Each descendant, excluding the common ancestor, is counted as a degree.[30]

A husband and wife are considered to be in a relationship of the first degree of affiliation.

Example 22: Examples of kinship and affiliation

First-degree: husband and wife, parents and children as well as parents and children of the spouse.

Second-degree: Grandparents, grandchildren and siblings as well as grandparents, grandchildren and siblings of the spouse.

Third-degree: Great-grandparents, great grandchildren, uncles, aunts, nieces and nephews as well as great-grandparents, great grandchildren, uncles, aunts, nieces and nephews of the spouse.

Fourth-degree: Great-great-grandparents, great-great-grandchildren, grand uncle, grand aunt, grandniece, grandnephew and first cousins as well as great-great-grandparents, great-great-grandchildren, grand uncle, grand aunt, grandniece, grandnephew and first cousins of the spouse.

4.4.2. Juridical persons

A natural person's Related Party relationships with juridical persons are identified based on ownership and Control.[31]

4.4.2.1. Relationship based on ownership

A juridical person is considered to be a Related Party of a natural person if the natural person or one or more Related Parties of the natural person are shareholders in the

[29] Article 78 of the Civil Transactions Law.
[30] Article 78 of the Civil Transactions Law.
[31] Article 35(1)(b) of the Corporate Tax Law.

juridical person, and the natural person, alone or together with its Related Parties, directly or indirectly owns a 50% or more interest in the juridical person.[32]

Example 23: Related Parties based on ownership

Case 1: A natural person owns 50% of a UAE limited liability company, Company A: The natural person and Company A are Related Parties.

Case 2: A natural person's spouse owns 50% of Company A: The natural person, the spouse and Company A are considered Related Parties.

Case 3: A natural person owns 40% of Company A and the uncle of the individual's spouse owns 15% of the same company: The natural person, the spouse, the spouse's uncle and Company A are considered Related Parties.

Case 4: A natural person owns 80% of Company A, and Company A owns 70% of another UAE limited liability company, Company B:

- The natural person owns indirectly 56% (80% x 70% = 56%) of Company B.
- The natural person and Company A are Related Parties – direct ownership.
- The natural person and Company B are Related Parties – indirect ownership.

4.4.2.2. Relationship based on Control

A juridical person is considered to be a Related Party for a natural person if the natural person, alone or together with its Related Parties, directly or indirectly Controls the juridical person.[33]

For a natural person, Control means the ability of the natural person to influence another Person. Control may be exerted in different ways:[34]

- the ability to exercise 50% or more of the voting rights; or
- the ability to determine the composition of 50% or more of the board of directors; or
- the ability to receive 50% or more of the profits; or
- the ability to determine, or exercise significant influence over, the conduct of the Business and affairs.

[32] Article 35(1)(b)(1) of the Corporate Tax Law.
[33] Article 35(1)(b)(2) of the Corporate Tax Law.
[34] Article 35(2) of the Corporate Tax Law.

4.4.3. Partners in the same Unincorporated Partnership

Partners in an Unincorporated Partnership, whether the Unincorporated Partnership has applied to be treated as a Taxable Person or not, are Related Parties.[35] This is because of the partners' shared Control over the Business of the partnership.

4.4.4. Trusts and foundations

A Person who is the trustee, founder, settlor or beneficiary of a trust or foundation will be considered Related Parties of the trust or foundation and its Related Parties.[36]

4.5. Connected Persons

Similar to the requirement that transactions conducted between Related Parties should meet the arm's length principle for Corporate Tax purposes, a payment or benefit provided by a Taxable Person to its Connected Person in exchange for services (or whatever is otherwise provided), is deductible for Corporate Tax purposes only to the extent that it follows the arm's length principle.

A payment or benefit made by a Taxable Person to a Connected Person in excess of the Market Value in relation to such transactions is not deductible for such Taxable Person. This is also subject to the expenditure meeting the general requirements to be deductible under Article 28 of the Corporate Tax Law.

Unlike the Related Party rules, the Connected Persons provisions only apply to the Taxable Person making the payment, not the recipient. Article 36 defines a Connected Person as an owner, director or officer of the Taxable Person, or a Related Party of any owner, director or officer.

A Taxable Person that is a natural person will not have an owner, director or officer, as these concepts relate to juridical persons. The only aspect of the definition of Connected Person which may apply to a natural person is that partners in an Unincorporated Partnership are Connected Persons with each other (and also the other partners' Related Parties, such as relevant family members).

Example 24: Related Parties, Control and Connected Persons

Mr. B is a first cousin of Ms. C. Mr. B owns 75% of Company X (a UAE company). Ms. C owns 20% of Company Y (a UAE company). She owns Preferred Shares

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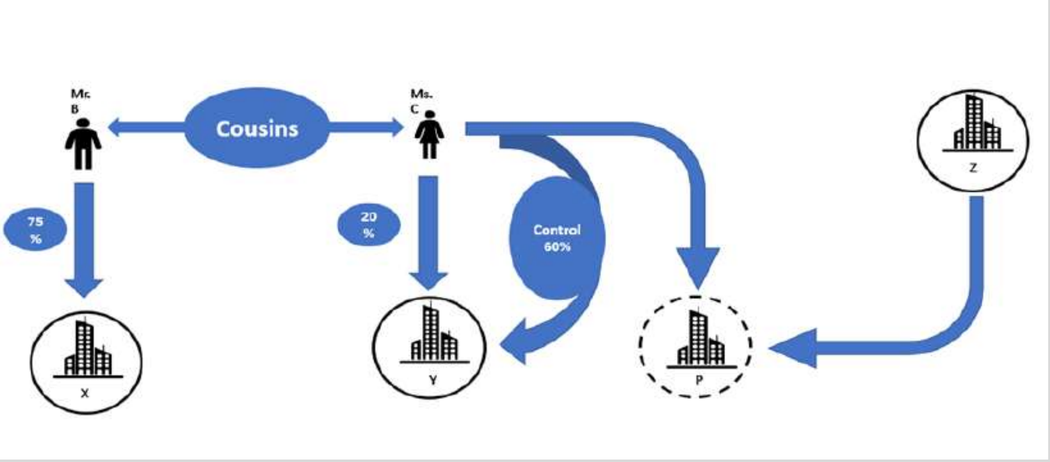
[35] Article 35(1)(e) of the Corporate Tax Law.
[36] Article 35(1)(f) of the Corporate Tax Law.

which entitle her to 60% of the voting rights in Company Y. She is also a partner in a UAE Unincorporated Partnership, P Partners. The other partner in the partnership is a UAE company, Company Z.



- Mr. B and Ms. C are Related Parties as they are first cousins, and related to the fourth degree of kinship.
- Mr. B and Company X are Related Parties - Mr B is a natural person who directly owns more than 50% of the juridical person Company X. Mr. B is a Connected Person of Company X because he is an owner of Company X.
- Mr B and Company Y are Related Parties - Mr B is an individual who, together with his Related Party, Ms C, Controls Company Y. Both Mr B and Ms C are Connected Persons of Company Y because Ms. C is an owner of Company Y and Mr. B is a Related Party of Ms C.
- Mr. B is a Connected Person of Company Z – Mr. B is a Related Party of Ms C, who is a partner in the same Unincorporated Partnership as Company Z.
- Ms. C and Company X are Related Parties - Ms C is an individual who, together with her Related Party, Mr. B, Controls Company X. Ms. C is a Connected Person of Company X because she is a Related Party of Mr. B who owns Company X.
- Ms. C and Company Y are Related Parties – Ms. C is an individual who directly Controls a juridical person, Company Y, as, albeit she owns 20% of Company Y, she holds more than 50% of the voting rights. Ms. C is a Connected Person of Company Y.
- Ms. C and Company Z are Related Parties - they are partners in the same Unincorporated Partnership P. Ms. C is a Connected Person of Company Z. because she is a partner with Company Z in the same Unincorporated Partnership P.

5. Interaction with other Business forms and entities

5.1. Juridical person

A juridical person is a legal entity with a separate personality. Ownership of a juridical person by a natural person does not in itself make the natural person a Taxable Person.

Subject to the conditions explained above, natural persons and juridical persons can be considered Related Parties or Connected Persons. If a natural person conducts Businesses or Business Activities in their own right, any transaction or arrangement they conduct with a juridical person that is a Related Party should meet the arm's length principle for the purposes of Corporate Tax.

5.2. Sole proprietorship

A sole proprietorship is a type of Businesses owned and conducted by a natural person on his/her own account and in their own name, as the case may be.

For Corporate Tax purposes, the sole proprietorship and the natural person are one and the same because of their direct relationship and Control over the Business and their unlimited liability for the debts and other obligations of the Business. The natural person conducting the Business will be the Taxable Person, not the sole proprietorship itself.

5.3. Unincorporated Partnerships

An Unincorporated Partnership is a relationship established by contract between two Persons or more. Generally, each partner in an Unincorporated Partnership is treated as an individual Taxable Person for the purposes of the Corporate Tax Law.[37] Subject to the Turnover threshold conditions (see Section 3.7), a natural person partner is subject to Corporate Tax directly on their distributive share and their Taxable Income is determined according to the standard rules.

The partners in the Unincorporated Partnership may apply to the FTA for the Unincorporated Partnership to be treated as a Taxable Person.[38] Where such an application is approved, the income of the Unincorporated Partnership is taxed at the level of the Unincorporated Partnership instead of at the level of the partners.

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[37] Article 16(1) of the Corporate Tax Law.

[38] Article 16(8) of the Corporate Tax Law.

In this situation, the partner would need to assess if they had any other Business (other than the partnership) which may be subject to Corporate Tax based on the principles explained in the previous sections. If not, such partner would not be subject to Corporate Tax (other than through the partnership).

5.4. Family Foundation

Natural persons can set up a Family Foundation using different structures such as a contractual trust, a private trust company, a foundation or any other similar entity to hold and manage personal assets and investments for asset protection, succession, etc.

Some of these structures (such as a trust or foundation) may be considered to have a separate legal personality i.e. a juridical person as per the applicable legislation in the UAE, for example the Federal Trust Law.[39] A juridical person is treated as a Taxable Person and not a fiscally transparent entity for Corporate Tax purposes.

Where a Family Foundation is a juridical person, it would be subject to Corporate Tax. In particular, any investment income of its founder, settlor or any of its beneficiaries would be subject to Corporate Tax at the Family Foundation level. Any income received by natural persons, as beneficiaries, from a Family Foundation that is a Taxable Person would not be Taxable Income in the hands of the beneficiary as it would be investment income already subject to Corporate Tax at the Family Foundation level.

However, a Family Foundation can make an application to the FTA to be treated as an Unincorporated Partnership (and, therefore, transparent from a Corporate Tax perspective) where certain conditions are met.[40] One of these conditions is that the Family Foundation does not conduct any activity that would have constituted a Business or Business Activity as per Article 11(6) of the Corporate Tax Law had the activity been undertaken, or its assets been held, directly by its founder, settlor, or any of its beneficiaries. Therefore, if the Family Foundation is eligible to be treated as an Unincorporated Partnership and is treated as such where an application is submitted and approved by the FTA, the share of income of the natural persons as beneficiaries would not constitute Taxable Income for the natural persons. This reflects the requirement that the Family Foundation does not conduct any activity that would have constituted a Business or Business Activity had the activity been undertaken, or its assets been held, directly by the natural persons.

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[39] Article 3 of the Trust Law.

[40] Article 17(1) of the Corporate Tax Law.

6. Corporate Tax compliance for natural persons

6.1. Tax Registration

Natural persons conducting Businesses or Business Activities in the UAE that are subject to Corporate Tax are only required to register for Corporate Tax purposes once the total Turnover derived from such Businesses or Business Activities exceeds AED 1 million within a Gregorian calendar year.[41]

In case a natural person is a partner in an Unincorporated Partnership that is not treated as a Taxable Person in its own right, they are treated as conducting the Business of the Unincorporated Partnership. Therefore, they would need to assess whether they are Taxable Persons in their individual capacity and whether they need to register for Corporate Tax purposes by allocating the income of the partnership based on their distributive share in the partnership during the Gregorian calendar year and adding this to their Turnover from any other Business which they carry on (if any).

If following their initial Tax Registration, a natural person conducts new Business or Business Activities, the same Tax Registration Number will be utilised for such Business or Business Activities, and the natural person is not required to register again with the FTA for Corporate Tax purposes. In this case, the natural person is required to include the Taxable Income and the relevant information of the new Business or Business Activities in their Tax Return under the same Tax Registration Number (see Section 6.5 below).

When a natural person who has registered for Corporate Tax with the FTA finds their Turnover not exceeding the AED 1 million threshold during any subsequent Gregorian calendar year, they will retain their Tax Registration status. They are not permitted to deregister for Corporate Tax unless they have ceased conducting Business or Business Activities as explained in Section 6.2 below.

Example 25: Corporate Tax Registration for natural persons

Case 1: A natural person is a shareholder in a joint stock company and does not conduct Business independently from the company. In such case, the natural person is not required to register.

Case 2: A natural person develops accounting software in the UAE and starts selling licenses to companies and the total sales in a Gregorian calendar year are AED 1,200,000. In such case, the natural person is required to register.

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41 Article 2(1) of Cabinet Decision No. 49 of 2023

Case 3: A natural person is a shareholder of a joint stock company and opens an independent car rental agency operated from his home in the UAE that generates a monthly income of AED 500,000. In such case, the natural person is required to register as his total income in the Gregorian calendar year in the UAE exceeds AED 1 million.

Case 4: A natural person employed by a UAE limited liability company sells his 2 personal cars for more than AED 550,000 each. In such case, the natural person is not required to register on the basis that this is not a Business Activity.

Case 5: A natural person derives rental income from 3 apartments they own in the UAE that they bought as a Real Estate Investment. They do not hold a Licence or require a Licence to rent the apartments. In such case, the natural person is not required to register.

6.2. Tax Deregistration

6.2.1. Cessation of Business or Business Activity

A natural person registered for Corporate Tax purposes, or in certain cases, their Legal Representative, shall file a Tax Deregistration application with the FTA in case of cessation of Business or Business Activity whether by dissolution, liquidation, or otherwise.[42] The application shall be filed within 3 months of the date of cessation of the Business or Business Activity.[43]

The application shall not be filed if any of the natural person's Businesses or Business Activities are still active or being conducted, even if the natural person's Turnover falls under the AED 1 million threshold within a Gregorian calendar year.

Since the Tax Period of a natural person is the Gregorian calendar year (see Section 6.3) and their Taxable Income includes all Businesses or Business Activities conducted during that year (see Section 3.10), a natural person has only one Tax Registration Number for all their Businesses or Business Activities (see Section 6.1). If the natural person has more than one Business or Business Activity, then the natural person should deregister only when all Business or Business Activity has ceased.

Where a natural person has ceased Business or Business Activities part-way through a Tax Period, the Tax Period will come to an end (see Section 6.3). The Tax Deregistration application must be submitted within 3 months of the cessation and the

[42] Article 52(1) of the Corporate Tax Law, and Article 42(2) of the Tax Procedures Law.
[43] Article 2(1) of FTA Decision No. 6 of 2023.

Tax Return will be due in line with ordinary time limits (9 months from the end of the Tax Period) (see Section 6.5). The Tax Deregistration will not be approved where the natural person has not filed all the required Tax Returns, including the Tax Return for the Tax Period up to and including the date of cessation, and paid all due Corporate Tax and Administrative Penalties.[44]

In the event that a natural person submits an application for deregistration and then in the same year commenced a new Business or Business Activity following deregistration, the suspended Tax Registration Number is reactivated.[45]

6.2.2. Death of the Taxable Person

In instances where a natural person conducting Business or Business Activities dies, the natural person ceases to be a Taxable Person. The settlement of any outstanding Corporate Tax liabilities due from the natural person prior to the date of death, shall be made in accordance with the provisions of Article 42(1) of the Tax Procedures Law. These apply as follows:

- For Corporate Tax Payable due prior to the date of death, settlement shall be made from the value of the elements of the estate or income arising thereof prior to distribution among the heirs or legatees.
- If it transpires after the distribution of the estate that there is Corporate Tax Payable still outstanding, recourse shall be had against the heirs and legatees for settlement of such outstanding tax each to the extent of their share in the estate, unless a clearance certificate has been obtained from the FTA for the estate representative or any of the heirs.

6.3. Tax Period

The Tax Period for a natural person who conducts Business or Business Activity that is subject to Corporate Tax, shall be the Gregorian calendar year. The Gregorian calendar year runs from 1 January until 31 December. The first potential Tax Period for a natural person is the 2024 Gregorian calendar year. A natural person starting their Business or Business Activity on 1 October 2024 would need to assess whether they exceed the AED 1 million threshold on 31 December 2024. If this is the case, they would need to register for Corporate Tax purposes and their first Tax Period would be the Gregorian calendar year commencing on 1 January 2024 and ending on 31 December 2024. They would need to file their Corporate Tax return before the end of September 2025.

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44 Article 52(2) of the Corporate Tax Law.

45 Article 6(3) of Cabinet Decision No. 74 of 2023.

6.4. Accounting Standards and Financial Statements

A natural person that is a Taxable Person shall prepare standalone Financial Statements in accordance with International Financial Reporting Standards ("IFRS"). However, where their Turnover does not exceed AED 50 million, they may apply the International Financial Reporting Standard for small and medium-sized entities ("IFRS for SMEs").[46]

When it comes to the method of accounting, they may prepare Financial Statements using the Cash Basis of Accounting if their Turnover does not exceed AED 3 million, or in exceptional circumstances pursuant to an application submitted to and approved by the FTA.[47]

The Financial Statements should be prepared based on the aggregation of all the Business and Business Activities subject to Corporate Tax that are conducted by the natural person.

Where natural persons derive Turnover exceeding AED 50 million, they must prepare and maintain audited Financial Statements for the relevant Tax Period.[48]

6.5. Tax Return

A natural person that is a Taxable Person must file a Corporate Tax Return to the FTA no later than 9 months from the end of the relevant Tax Period.[49]

Natural persons should submit a single Tax Return for all their Businesses and Business Activities subject to Corporate Tax.

Natural persons who have registered with the FTA for Corporate Tax after meeting the relevant conditions, will be required to file a 'nil' Tax Return within 9 months following the end of subsequent Tax Period in which their total Turnover derived from the Business or Business Activities conducted in the UAE does not exceed AED 1 million. As for the Tax Periods where their Turnover exceeds AED 1 million, they should file the Tax Return as indicated above.

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[46] Article 4 of Ministerial Decision No. 114 of 2023.
[47] Article 2 of Ministerial Decision No. 114 of 2023.
[48] Article 2 of Ministerial Decision No. 82 of 2023.
[49] Article 53 of the Corporate Tax Law.

7. Annexures

7.1. Annexure 1: Commercial business

A commercial business, as per the Commercial Transaction Law, includes:[50]

1. the work practiced by the trader in relation to his trade, and each work practiced by the trader considered related to his trade, unless otherwise is evident;
2. speculation works practiced by a person, whether or not a trader, for purpose of realising profit;
3. the works considered by the Law as commercial business; and
4. the works associated with or facilitating a commercial business.

The following works shall be considered commercial business, by virtue of their nature:[51]

1. Purchase of tangible and intangible chattel for purpose of sale with profit whether sold as is, or after transformation or manufacture.
2. Purchase or hire of tangible and intangible chattel for purpose of lease.
3. Sale or hire of purchased or hired chattel as aforementioned.
4. Operations of banks, exchanges, stock market, operations of mutual funds, trust funds and financial institutions and all other operations of financial brokerage.
5. All commercial papers' operations, whatever the capacity of the interested parties therein, and whatever the nature of the operations for which the same is created.
6. All works of marine and air navigation, including:
   a. Building, selling, purchasing, leasing, chartering, repairing or maintaining ships and aircrafts, and marine and air consignments, including the marine and air transport.
   b. Selling or purchasing equipment, tools or materials of ships or aircrafts or their catering.
   c. Loading and discharge works.
   d. Marine and aircraft loans.
7. Works of incorporation of commercial companies.
8. Current account.
9. Different kinds of insurance.
10. Sale at public auction except those conducted by the judiciary.
11. Works of hotels, restaurants, cinemas, theatres, playgrounds and theme parks.
12. Works of production, sale, transport and distribution of water, electricity and gas.
13. Issue of newspapers and magazines, if the purpose of the issue is realizing profit through publication of advertisements, news and articles.
14. Post and communications' works.
15. Works of radio and TV broadcast and studios of recording and photography.

[50] Article 4 of the Commercial Transactions Law.

[51] Article 5 of the Commercial Transactions Law.

16. Works of public warehouses and mortgages created on the properties lodged therein.
17. Virtual asset works.

The following works shall be considered commercial business, if carried out as occupation:[52]

1. Brokerage.
2. Commercial agency.
3. Commission agency.
4. Commercial representation.
5. Supply contracts.
6. Purchase and sale of plots or real estates for purpose of realizing profit from their sale, in their original condition, or after transformation or division.
7. Land transport.
8. Real estate works, whenever the contractor undertakes to provide materials or workers.
9. Extractive industries of natural resources.
10. Works of tourism, travel, export, import, customs clearance, and service and recruitment bureaus.
11. Works of printing, publication, photography, recording and advertisement.
12. Industry.
13. Works of animal and fishery resources.
14. Hire and lease of others' labour for purpose of hire.
15. Lease or hire of homes or flats and rooms, whether or not furnished, for purpose of re-lease.
16. Creation, sale, lease and management of electronic platforms, websites, smart applications, data, artificial intelligence and other digital transformation works.

The works that can be considered equivalent to the considered commercial business described above for the similarity of their characters and purposes shall be considered commercial business.[53]

The Commercial Transaction Law indicates the following to not be considered commercial business:[54]

1. Sale of farms and produce cultivated in the owned or cultivated land, even after the transformation by the means normally used, unless this is practiced as an occupation. If the farmer permanently establishes a store or a factory to sell the produce as is, or after processing, the sale in such case shall be deemed commercial business.

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[52] Article 6 of the Commercial Transactions Law.
[53] Article 7 of the Commercial Transactions Law.
[54] Article 8 of the Commercial Transactions Law.

2. Practice of any agritourism activity, with or without consideration, including allowing third party's access to the farm, purchase and hire from the farm, or visit or stay for a short period for purpose of access or enjoyment of farming activities, watching or buying animals or their products, learning, training or other activities practiced in the farm.
3. The work in which the individuals rely on their physical or mental effort to realize profit or a sum of money rather than relying on monetary capital.
4. Making and selling a work of art made by the artist himself or by using workers, and printing and selling by the author of his work.

8. Updates and Amendments

Date of amendment	Amendments made
November 2023	• First version

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Exempt Persons: Public Benefit Entities, Pension Funds and Social Security Funds

Corporate Tax Guide | CTGEPF1

December 2023

Contents

1. Glossary

Auditor: An independent Person licensed and registered by the competent authorities of the UAE, that is appointed and remunerated by a private pension fund or a private social security fund to audit its Financial Statements.

Beneficiary: Any Person entitled to a share in a Pension Plan due to the death of the Pension Plan Member.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or series of activities conducted by a Person in the course of its Business.

Business Restructuring Relief: A relief from Corporate Tax for business restructuring transactions, available under Article 27 of the Corporate Tax Law and as specified under Ministerial Decision No. 133 of 2023.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Connected Person: Any Person affiliated with a Taxable Person as determined in Article 36(2) of the Corporate Tax Law.

Control: The direction and influence over one Person by another Person in accordance with the conditions of Article 35(2) of the Corporate Tax Law.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Disability: Covers full disability and partial disability as defined in Federal Law No. 7 of 1999.

End of Service Benefit: Benefits of an employee upon end of service as per the provisions of Federal Decree-Law No. 33 of 2021 and Federal Law No. 7 of 1999.

Exempt Person: A Person exempt from Corporate Tax under Article 4 of the Corporate Tax Law.

Financial Statements: A complete set of statements as specified under the accounting standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

Government Controlled Entity: Any juridical person, directly or indirectly wholly owned and controlled by a Government Entity, as specified in a decision issued by the Cabinet at the suggestion of the Minister.

Government Entity: The Federal Government, Local Governments, ministries, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.

Minister: Minister of Finance.

Pension Plan: A contract having an explicit objective of providing benefits upon a defined retirement age in the UAE, prior to which the benefits cannot be paid without incurring a significant contractual penalty. It may also provide benefits in cases of disability and death.

Pension Plan Member: A natural person who is making contributions, or on behalf of whom contributions are being made, to a private pension fund and is accumulating assets or entitlements in the private pension fund.

Person: Any natural person or juridical person.

Qualifying Group: Two or more Taxable Persons that meet the conditions of Article 26(2) of the Corporate Tax Law.

Qualifying Group Relief: A relief from Corporate Tax for transfers within a Qualifying Group, available under Article 26 of the Corporate Tax Law and as specified under Ministerial Decision No. 132 of 2023.

Qualifying Investment Fund: Any entity whose principal activity is the issuing of investment interests to raise funds or pool investor funds or establish a joint investment fund with the aim of enabling the holder of such an investment interest to benefit from the profits or gains from the entity’s acquisition, holding, management or disposal of investments, in accordance with the applicable legislation and when it meets the conditions set out in Article 10 of the Corporate Tax Law.

Qualifying Public Benefit Entity: Any entity that meets the conditions set out in Article 9 of the Corporate Tax Law and that is listed in a decision issued by the Cabinet at the suggestion of the Minister.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Small Business Relief: A Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period in accordance with Article 21 of the Corporate Tax Law and Ministerial Decision No. 73 of 2023.

Tax Group: Two or more Taxable Persons treated as a single Taxable Person according to the conditions of Article 40 of the Corporate Tax Law.

Tax Loss: Any negative Taxable Income as calculated under the Corporate Tax Law for a given Tax Period.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Registration: A procedure under which a Person registers for Corporate Tax purposes with the FTA.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was signed on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance on Exempt Persons status for Corporate Tax purposes. It provides readers with an overview of conditions for Exempt Persons status for:

- Qualifying Public Benefit Entities,
- public pension or social security funds,
- private pension or social security funds, and
- wholly owned and controlled subsidiaries of pension and social security funds.

2.3. Who should read this guide?

Any Person interested in or affected by the Corporate Tax rules applying to Qualifying Public Benefit Entities, public and private pension or social security funds, as well as their wholly owned and controlled subsidiaries in the UAE should read this guide.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how key elements of the Corporate Tax Law apply to these Exempt Persons. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural persons.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Law No. 7 of 1999 on the Issuance of the Law of Pensions and Social Security, and its amendments, is referred to as "Federal Law No. 7 of 1999";
- Federal Decree-Law No. 33 of 2021 regulating Labour Relations, and its amendments, is referred to as "Federal Decree-Law No. 33 of 2021";
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses, and its amendments, is referred to as "Corporate Tax Law";
- Cabinet Decision No. 37 of 2023 Regarding the Qualifying Public Benefit Entities for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Cabinet Decision No. 37 of 2023";
- Ministerial Decision No. 105 of 2023 on the Determination of the Conditions under which a Person may Continue to be Deemed as an Exempt Person, or Cease to be Deemed as an Exempt Person from a Different Date for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 105 of 2023";
- Ministerial Decision No. 115 of 2023 on Private Pension Funds and Private Social Security Funds for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "Ministerial Decision No. 115 of 2023";
- Federal Tax Authority Decision No. 7 of 2023 on Provisions of Exemption from Corporate Tax for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "FTA Decision No. 7 of 2023"; and
- Federal Tax Authority Decision No. 11 of 2023 on Requirements of Submitting a Declaration for Exempt Persons for purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as "FTA Decision No. 11 of 2023".

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the tax implications of having an Exempt Person status under the Corporate Tax regime in the UAE for certain types of entities. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each Person's own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. What is an Exempt Person?

The Corporate Tax Law exempts particular Persons where there are strong public interest and policy justifications for not subjecting them to tax. These Persons are considered “Exempt Persons”.[1]

The Exempt Persons covered in this guide are:

1. Qualifying Public Benefit Entities that are listed in a Cabinet Decision and meet relevant conditions.[2] The relevant conditions are discussed in Section 4.1.
2. Public and private pension or social security funds, which may become Exempt Persons upon application and subject to approval by the FTA.[3] The conditions vary depending on whether the fund in question is public or private. For private funds, the conditions also differ between pension funds and social security funds. The conditions for public funds are discussed in Section 5.1, and for private funds in Section 5.2.

If a pension or social security fund is an Exempt Person, its wholly owned subsidiary may also apply to the FTA to be categorised as an Exempt Person, provided it meets certain conditions.[4] The relevant conditions are discussed in Section 5.3.

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[1] Article 4(1) of the Corporate Tax Law.
[2] Article 4(1)(e) of the Corporate Tax Law.
[3] Article 4(1)(g) of the Corporate Tax Law.
[4] Article 4(1)(h) of the Corporate Tax Law.

4. Qualifying Public Benefit Entities

4.1. Conditions for meeting Qualifying Public Benefit Entity status

The term "public benefit entity" refers to an organisation formed by private individuals or government or non-governmental bodies for the purpose of carrying out charitable, social, cultural, religious, or other public benefit activities without the motive of making a profit for distribution to private Persons. Recognising the important role these entities play in society, by taking a shared responsibility with the Government for the promotion of social or public welfare, or communal or group interests, the Corporate Tax Law provides an exemption from Corporate Tax for Qualifying Public Benefit Entities.

The Corporate Tax Law defines a Qualifying Public Benefit Entity as any entity that (1) meets the conditions set out in Article 9 of the Corporate Tax Law, and (2) is listed in a decision issued by the Cabinet at the suggestion of the Minister.[5]

The conditions set out in Article 9 of the Corporate Tax Law are as follows:

a. The entity is established and operated for any of the following purposes:
   - exclusively for religious, charitable, scientific, artistic, cultural, athletic, educational, healthcare, environmental, humanitarian, animal protection or other similar purposes, or
   - as a professional entity, chamber of commerce, or a similar entity operated exclusively for the promotion of social welfare or public benefit.

b. The entity does not conduct a Business or Business Activity, except for such activities that directly relate to or are aimed at fulfilling the purpose for which the entity was established.

c. The entity's income or assets are used exclusively in the furtherance of the purpose for which it was established, or for the payment of any associated necessary and reasonable expenditure incurred.

d. No part of the entity's income or assets is payable to, or otherwise available, for the personal benefit of any shareholder, member, trustee, founder, or settlor that is not itself a Qualifying Public Benefit Entity, Government Entity or Government Controlled Entity.

e. Any other conditions as may be prescribed in a decision issued by the Cabinet at the suggestion of the Minister.

In order for a public benefit entity which meets the above conditions to become a Qualifying Public Benefit Entity it should also be is listed in a decision issued by the Cabinet at the suggestion of the Minister. In order to achieve this, a public benefit entity needs to apply to the relevant local or federal government entity with which it is registered. For instance, in the case of a UAE national who has set up a charitable

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[5] Article 1 of the Corporate Tax Law.

organisation in the UAE, this may be the Ministry of Community Development. The relevant government entity will consider the application, and may request evidence that the conditions within the Corporate Tax Law are met. If satisfied it will refer the case to the Ministry of Finance for inclusion in a memo from the Minister to the Cabinet. Following the issuing of such a decision the entity will qualify to be exempt from Corporate Tax.

Conditions (a), (b), (c) and (d) are discussed below. Condition (e) is not currently applicable, as no other conditions have been prescribed by the Cabinet to-date.

A foreign organisation that has a presence in the UAE and meets the relevant conditions may also be a Qualifying Public Benefit Entity, if listed in the relevant Cabinet Decision.

4.1.1. Establishment and operation purpose

This condition requires that the entity is established and operated for any of the following:

- exclusively for religious, charitable, scientific, artistic, cultural, athletic, educational, healthcare, environmental, humanitarian, animal protection or other similar purposes, or
- as a professional entity, chamber of commerce, or a similar entity operated exclusively for the promotion of social welfare or public benefit.[6]

These requirements are referred to below as the first and second "purpose requirements", respectively. If the entity satisfies one of the above purpose requirements, this condition is met.

The first purpose requirement is a non-exhaustive list of worthy purpose categories that may entitle a public benefit entity to an exemption from Corporate Tax. The categories listed are umbrella terms that would cover any related public benefit activities. Humanitarian, for example, may include distributing food to those in need or providing shelter or natural disaster relief, and culture may include museums, heritage organisations or entities supporting the advancement of arts and history.

This first purpose requirement does not require that an entity is established and operated for a single purpose. The Corporate Tax Law provides an inclusive list of purposes, all of which are permitted. An entity may have multiple purposes although they all need to be permitted. There must be an exclusivity of purpose, i.e. the entity is established and operated exclusively for permitted purposes. It cannot be partially for permitted purposes, and partially for a separate purpose.

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[6] Article 9(1)(a) of the Corporate Tax Law.

The second purpose requirement refers to an exclusivity of purpose, in that the entity must operate exclusively for the promotion of social welfare or public benefit. This second requirement also specifies that the entity operates as a professional entity, chamber of commerce, or a similar entity. The emphasis is not on the legal form of the entity, but on the nature of how it operates. What is important is that it operates in a way that is consistent with its purpose.

Example 1: First purpose requirement

The shopkeepers of a neighbourhood in the UAE form an association to organise and provide free meals for members of the public on certain religious occasions each year. The association places an emphasis on providing free meals to the poor and less fortunate.

The association has been established exclusively for purposes that are religious, charitable, and humanitarian in nature. Therefore, it satisfies the first purpose requirement and meets the establishment and operation condition.

As the association satisfies the first purpose requirement, the establishment and operation condition is met. The second requirement does not need to be considered. The association does not need to be set up exclusively for a single purpose. It may have multiple purposes, as long as they are all permitted.

Provided the association meets the other relevant conditions, it can be considered a Qualifying Public Benefit Entity subject to being listed under the relevant Cabinet Decision.

4.1.2. Business or Business Activity condition

This condition requires that the entity does not conduct a Business or Business Activity, except for such activities that directly relate to or are aimed at fulfilling the purpose for which the entity was established.[7] This is to prevent a Qualifying Public Benefit Entity from competing with other non-exempt entities that engage in a similar commercial activity.

If an entity does not conduct a Business or Business Activity, this condition is automatically met. If the entity conducts a Business or Business Activity, it has to be assessed whether the Business or Business Activity directly relates to, or is aimed at fulfilling, the purpose for which the entity was established. Examples of commercial activities that would not constitute an unrelated Business may include organising gala

[7] Article 9(1)(b) of the Corporate Tax Law.

dinners to raise funds, a museum selling admission tickets, or a sports club selling refreshments in its canteen.

Example 2: Activity mainly for Business and commercial purposes

The shopkeepers in a neighbourhood in the UAE form an association to organise a shopping festival on regular occasions during the year. During the festival, food stalls provide subsidised food and drink to members of the public. However, the main reason for holding the festival is to promote their Businesses and increase sales.

In this case, the association is established and operated mainly for Business and commercial purposes. It does not satisfy the requirement, i.e. to be exclusively for purposes permitted by either the first or second purpose requirement.

Example 3: Business or Business Activity condition

A charity in the UAE is established to promote mental well-being. It organises an annual marathon to spread awareness of the benefits of sport and physical activity for mental health.

The charity also uses the marathon for fund-raising for its charitable work. It charges registration fees, secures commercial sponsorships, and sells running accessories and souvenirs both before and during the event. The funds raised by the charity are used exclusively to organise the marathon, and to fund other charitable activities during the rest of the year.

Some of the fund-raising activities are in the nature of Business Activity. However, because they are directly related to, and aimed at, fulfilling the purpose for which the entity was established, the Business or Business Activity condition is met.

4.1.3. Income and assets condition

This condition requires that the entity's income or assets are used exclusively (1) in the furtherance of the purpose for which it was established, or (2) for the payment of any associated necessary and reasonable expenditure incurred.[8]

For the purposes of (2), where income or assets are used exclusively for the payment of expenditure, such expenditure must be both necessary and reasonable, i.e. both conditions must be satisfied.

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[8] Article 9(1)(c) of the Corporate Tax Law.

Necessary and reasonable expenditure may include rent, utilities, insurance premiums and remuneration paid to employees and officers for services actually rendered. Remuneration should not be excessive taking into account the particular service rendered and the amount generally charged for such a service. Whether an expenditure is reasonable and necessary is a matter of fact, and should be determined with regards to the specific circumstances of the entity, and its purpose and operating model.

Example 4: Income and assets condition

A group of individuals establish an association to promote traditional music in the UAE. They organise a series of concerts in the UAE, inviting local and overseas musicians. The concerts are very successful and raise a considerable amount of income for the association.

Most of the income is used to pay for the cost of organising the concerts. This is an example of associated necessary and reasonable expenditure.

The remaining income is set aside to fund future music concerts in the UAE. This is an example of income being used exclusively for the furtherance of the purpose for which it was established.

Subsequently, the association decides to use some of that income to organise an art exhibition overseas. The event has no visible connection to the purpose of promoting or benefitting traditional music in the UAE. In this instance, the income has not been used exclusively to further the purpose of the association, nor has the income been used for the payment of necessary and reasonable expenditure of the association, with regards to its purpose. As a result, the income and assets condition is not met. Accordingly, the association would fail to be a Qualifying Public Benefit Entity.

4.1.4. No personal benefit conditions

This condition requires that no part of the entity's income or assets is payable to, or otherwise available, for the personal benefit of any shareholder, member, trustee, founder, or settlor, unless it is payable to a Qualifying Public Benefit Entity, Government Entity or Government Controlled Entity.[9]

This condition is there to ensure that its income and assets are not used to directly or indirectly promote the economic self-interest of any fiduciary or employee or for any

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[9] Article 9(1)(d) of the Corporate Tax Law.

other personal pecuniary gains. It does not preclude the payment of salaries or reimbursement of expenditure to Persons and their Connected Persons involved in the establishment or operation of the entity, provided that such expenditure is necessary and priced at arm's length.

Example 5: No personal benefit condition

A social charity owns a hostel for the purpose of providing free or subsidised accommodation to people in need and with limited means. The charity's officers regularly arrange for the hostel to be used to provide free accommodation for their own friends and relatives, without consideration to whether they satisfy the charity's criteria.

As an asset of the charity, the hostel accommodation should not be available for the personal benefit of its officers. In this example, even though the officers do not directly use the accommodation, they receive an indirect personal benefit by having the charity's assets at their disposal to do as they wish, providing benefits to individuals they choose, without regard for the stated purpose of the charity. As such, the charity is in breach of the no personal benefit condition. Accordingly, the charity would fail to be a Qualifying Public Benefit Entity.

4.1.5. Listed in a Cabinet decision

The definition of Qualifying Public Benefit Entity in the Corporate Tax Law requires that in addition to meeting the conditions in Article 9 of the Corporate Tax Law, the entity must be listed in a decision issued by the Cabinet at the suggestion of the Minister.

Cabinet Decision No. 37 of 2023, issued on 7 April 2023, sets out a list of entities that are to be considered as Qualifying Public Benefit Entities for the purposes of the Corporate Tax Law.[10] The Cabinet has the power to amend the list in the future at the suggestion of the Minister, making either additions or deletions to it.[11]

4.1.6. Monitoring compliance

For the purposes of monitoring compliance with the exemption requirements, the FTA may request any relevant information or records from a Qualifying Public Benefit Entity to verify that the entity continues to meet the relevant conditions to be exempt from

[10] Article 2(1) of Cabinet Decision No. 37 of 2023. The entities are listed in a schedule annexed to this Decision.
[11] Article 3 of Cabinet Decision No. 37 of 2023.

Corporate Tax.[12] The information requested must be provided within the timeline specified by the FTA and may include,[13] for example, books and records to demonstrate that the resources of the Qualifying Public Benefit Entity were used only for its stated public benefit purpose, copies of agreements entered into by the Qualifying Public Benefit Entity, and details of its beneficiaries, employees, officers and fiduciaries.

4.1.7. Effective date of exemption

In principle, the approval of an organisation as a Qualifying Public Benefit Entity would generally be effective from the beginning of the Tax Period in which the Qualifying Public Benefit Entity is included in the relevant Cabinet Decision. However, the Cabinet may allow, for example, an earlier start date where the entity complied with the requirements of this Article in prior Tax Periods.[14]

4.2. Payments to a Qualifying Public Benefit Entity

A Taxable Person who makes donations, grants or gifts to a Qualifying Public Benefit Entity which is listed in a Cabinet Decision can claim a deduction for Corporate Tax purposes. No deduction is allowed for donations, gifts or grants made to an entity that is not a Qualifying Public Benefit Entity.[15]

[12] Article 9(3) of the Corporate Tax Law.
[13] Article 9(3) of the Corporate Tax Law.
[14] Article 9(2) of the Corporate Tax Law.
[15] Article 33(1) of the Corporate Tax Law.

5. Public and private pension funds and social security funds

5.1. Public pension funds and social security funds

Public pension funds and social security funds are typically initiated, sponsored and governed by a Federal or Local Government Entity. However, as the entitlement to receive the benefits from these funds and any surplus assets of the fund normally rests with the beneficiaries, they are not typically considered to be wholly owned and controlled by the Government Entity which oversees them.

Recognising their importance to the society, public pension funds and social security funds can make an application to the FTA to be exempt from Corporate Tax.[16]

Once approved, the exemption from Corporate Tax shall be effective from the beginning of the Tax Period specified in the application, or any other date determined by the FTA.

5.2. Private pension funds and social security funds

5.2.1. Purpose

A private pension fund is a fund created to manage pension contributions and provide payments to retired natural persons above a defined retirement age.

A private social security fund is a fund created by a private employer for the purposes of providing statutory end of service gratuity payments to employees.

5.2.2. Application requirements and process to be an Exempt Person

The same Exempt Person status may be available to certain private pension funds or social security funds that meet the relevant conditions following an application to, and approval by, the FTA.[17]

To be eligible for exemption from Corporate Tax, private pension funds and social security funds need to be subject to regulatory oversight of a competent authority in the UAE, and must have a pool of assets that have been designated as "pension plan assets" or "fund assets" by law or a contract governing the establishment and

[16] Article 4(1)(g) and Article 4(3) of the Corporate Tax Law.
[17] Article 4(1)(g) and Article 4(3) of the Corporate Tax Law.

operation of the funds.[18] These assets must be solely used to finance the pension plan benefits or end of service benefit.[19]

Additionally, the plan members/beneficiaries must have a right or a contractual claim or entitlement to the assets or earnings of the pension fund. However, this does not apply to a social security fund.[20]

The fund must also have an Auditor,[21] which is required to confirm annually that the requirements for the fund to be exempt have been complied with and report to the FTA any breach of the conditions.[22]

Income received by the fund can only come from one of the following:[23]

- investments or deposits held for fulfilling the obligations of the fund and the investments do not constitute a Business operated by the fund,
- underwriting commissions charged for the purposes of the fund,
- rebates given by fund managers that are not considered compensation for services provided by the fund, or
- any other income earned through investments for the benefit of plan members or beneficiaries of the End of Service Benefit in accordance with a defined investment policy.

The FTA, however, can withdraw this exemption in any of the following circumstances:[24]

- the FTA finds the fund no longer meets any of the conditions to be exempt,
- the Auditor has confirmed that the fund no longer meets any of the conditions to be exempt,
- the Auditor does not confirm the compliance of the fund annually, or
- the Auditor does not report to the FTA any actual breach of the conditions.

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[18] Article 4(1)(g) of the Corporate Tax Law and Articles 2(1) and 3(1) of Ministerial Decision No. 115 of 2023.

[19] Articles 2(1) and 3(1) of Ministerial Decision No. 115 of 2023.

[20] Article 2(2) of Ministerial Decision No. 115 of 2023.

[21] Articles 2(4) and 3(3) of Ministerial Decision No. 115 of 2023.

[22] Articles 6(1) and 6(2) of Ministerial Decision No. 115 of 2023.

[23] Article 4 of Ministerial Decision No. 115 of 2023.

[24] Article 6(3) of Ministerial Decision No. 115 of 2023.

5.3. Subsidiary of a public or private fund or social security fund

A subsidiary of a public or private pension fund or social security fund that is an Exempt Person can apply to the FTA to be exempt from Corporate Tax provided it meets certain conditions.[25]

The subsidiary entity must meet the following conditions:[26]

- it is a juridical person incorporated in the UAE,
- it is wholly owned and controlled by the Exempt Person, and
- it conducts any of the following activities:
  a. undertaking part or whole of the activity of the Exempt Person,
  b. engaging exclusively in holding assets or investing funds for the benefit of the Exempt Person, or
  c. only carrying out activities that are ancillary to those carried out by the Exempt Person.

As noted above, the subsidiary must be incorporated in the UAE. A subsidiary incorporated in a foreign jurisdiction cannot apply to be an Exempt Person under Article 4(1)(h) even if it is effectively managed and controlled in the UAE. A subsidiary is said to be wholly controlled by an Exempt Person if the entity has the direct ability, whether in its own right or by agreement or otherwise, to influence the subsidiary.

5.4. Contributions to a pension or social security fund

A contribution to a pension or social security fund by a Taxable Person who is an employer is tax deductible under general principles (i.e. Chapter Nine of the Corporate Tax Law on Deductions). There is no requirement for the fund to be an Exempt Person in order to benefit from a deduction under general principles. A Taxable Person, who is an employer, may deduct the total value of contributions made to a private pension fund in respect of its employees who are Pension Plan Members in the Tax Period in which such contributions are paid.[27] The value of contributions which may be deducted for each Pension Plan Member shall not exceed 15% of the total Pension Plan Member's remuneration that is deductible for Corporate Tax purposes in the relevant Tax Period.[28] The maximum deduction is applicable whether the pension or social security fund is an Exempt Person or not.

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[25] Article 4(3) of the Corporate Tax Law.
[26] Article 4(1)(h) of the Corporate Tax Law.
[27] Article 5(1) of Ministerial Decision No. 115 of 2023.
[28] Article 5(2) of Ministerial Decision No. 115 of 2023.

6. Failure to meet the conditions of an Exempt Person

In the event where an Exempt Person fails to meet the relevant conditions at any time during a Tax Period, this Person shall cease to be considered an Exempt Person from the beginning of that Tax Period.[29]

The exceptions to the rule above where an Exempt Person may continue to be an Exempt Person or cease to be an Exempt Person from a different date, are outlined below.

6.1. Liquidation or termination[30]

If an Exempt Person is liquidated or terminated, they may continue to be deemed as an Exempt Person from the date its liquidation or termination procedure starts until the date it is completed. This is provided that a notification has been submitted to the FTA within 20 business days from the date of the beginning of the procedures.[31] The Exempt Person shall cease to be treated as an Exempt Person on the day following the date of the completion of the liquidation or termination procedure.[32]

6.2. Failure is of temporary nature which is promptly rectified[33]

If an Exempt Person breaches the conditions to be treated as such, they may continue to be deemed as an Exempt Person where all of the following conditions are met:

- The failure to meet the conditions is due to a situation or an event beyond the Exempt Person's control which they could not reasonably have predicted or prevented.[34]
- The Exempt Person has made an application to the FTA to continue to be treated as an Exempt Person within 20 business days from the date they fail to meet the conditions for being an Exempt Person.[35] The FTA shall review the application and notify the Exempt Person of its decision within 20 business days of the submission of the application, or following such other time required to review the application, provided that the Exempt Person has been notified.[36]

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[29] Article 4(5) of the Corporate Tax Law.
[30] Article 4(6)(a) of the Corporate Tax Law.
[31] Article 2(1) of Ministerial Decision No. 105 of 2023.
[32] Article 2(2) of Ministerial Decision No. 105 of 2023.
[33] Article 4(6)(b) of the Corporate Tax Law.
[34] Article 3(1)(a) of Ministerial Decision No. 105 of 2023.
[35] Article 3(1)(b) of Ministerial Decision No. 105 of 2023.
[36] Article 3(3) of Ministerial Decision No. 105 of 2023.

- The Exempt Person rectifies the failure to meet the conditions within 20 business days from the submission of the application.[37] The deadline may be extended by an additional 20 business days in the event that the failure to rectify is beyond the Exempt Person's reasonable control.[38]
- Upon request by the FTA, the Exempt Person provides evidence to support that there are appropriate procedures to monitor compliance with the relevant conditions of the Corporate Tax Law. The documentation should be provided to the FTA within 20 business days from the date of the request by the FTA, or any other period as may be determined by the FTA.[39]

6.3. Failure is to obtain Corporate Tax advantage[40]

The Exempt Person shall cease to be an Exempt Person starting from the day they fail to meet the conditions in case it can be reasonably concluded that the main purpose or one of the main purposes of this failure is to obtain a Corporate Tax advantage specified under the General Anti-abuse Rule that is not consistent with the intention or purpose of the Corporate Tax Law.[41]

[37] Article 3(1)(c) of Ministerial Decision No. 105 of 2023.
[38] Article 3(2) of Ministerial Decision No. 105 of 2023.
[39] Article 3(1)(d) of Ministerial Decision No. 105 of 2023.
[40] Article 4(6)(c) of the Corporate Tax Law read with Article 4 of Ministerial Decision No. 105 of 2023
[41] Article 50(2) of the Corporate Tax Law read with Article 4 of Ministerial Decision No. 105 of 2023.

7. Corporate Tax consequences of benefitting from Exempt Person status

A Person who qualifies as an Exempt Person under one of the categories covered in this guide, following its application being approved by the FTA, is not subject to Corporate Tax on any of its income, i.e. is completely exempt from Corporate Tax, provided they continue to meet all the requirements for exemption throughout the Tax Period.

7.1. No availability of Small Business Relief

Small Business Relief is a Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period. Small Business Relief does not apply to the Exempt Persons covered in this guide.

7.2. No availability of Qualifying Group Relief or Business Restructuring Relief

An Exempt Person cannot be a member of a Qualifying Group.[42] One of the conditions for Business Restructuring Relief is that the transferor or transferee is not an Exempt Person.[43] As a result, Qualifying Group Relief and Business Restructuring Relief are not available to the Exempt Persons covered in this guide.

7.3. No transfer of Tax Loss

Under the Corporate Tax Law, Tax Losses or a portion thereof may be offset against the Taxable Income of another Taxable Person upon satisfaction of certain conditions.[44] One of the conditions is that the transferor or transferee is not an Exempt Person.[45] Therefore, Exempt Persons covered in this guide cannot transfer any Tax Losses from their activities or Business operations to a Taxable Person.[46]

7.4. Exempt Person cannot be a member of a Tax Group

The Tax Group provision is intended to allow for the grouping of entities which are subject to Corporate Tax in the same manner. In line with this principle, an Exempt Person under Article 4 of the Corporate Tax Law cannot form or join a Tax Group.[47]

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[42] Article 26(2)(c) of the Corporate Tax Law.
[43] Article 27(2)(c) of the Corporate Tax Law.
[44] Article 38(1) of the Corporate Tax Law.
[45] Article 38(1)(e) of the Corporate Tax Law.
[46] Article 4(2) of the Corporate Tax Law.
[47] Article 40(1)(e) of the Corporate Tax Law.

8. Compliance Requirements

8.1. Tax Registration

Qualifying Public Benefit Entities listed in Cabinet Decision No. 37 of 2023 must still register with the FTA for Corporate Tax purposes and obtain a Corporate Tax Registration Number ("TRN").[48] The application to register for Corporate Tax purposes for Qualifying Public Benefit Entities has been made available from 1 October 2023.[49]

A public benefit entity that is not listed in a Cabinet Decision as a Qualifying Public Benefit Entity will not be considered as an Exempt Person and will be a Taxable Person. As a result, it should register for Corporate Tax according to its relevant entity type, for example as a juridical person that is a Resident Person.

Public and private pension and social security funds will be required to register for Corporate Tax and obtain a TRN as they will be considered a Taxable Person.[50] Once registered, a fund can make an application to the FTA to be treated as an Exempt Person from 1 June 2024.[51] Private pension and social security funds are required to meet all the relevant conditions.[52] These conditions do not apply to public pensions and social security funds.

The position for wholly owned subsidiaries of the funds, which are UAE incorporated juridical persons, is the same as for the funds above. The subsidiary must register for Corporate Tax, and then make an application to the FTA to be treated as an Exempt Person, provided all the relevant conditions are met. The application to register for Corporate Tax will be available from 1 June 2024.[53]

8.2. Application for exemption and applicable timelines

The Person should apply for exemption within 60 business days from the end of the Tax Period in which the Person met the conditions for exemption.[54]

If the FTA approves the application for exemption, the exemption shall be effective from the start of the Tax Period specified in the application.[55]

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[48] Article 51(2) of the Corporate Tax Law.
[49] Article 2(1) of FTA Decision No. 7 of 2023.
[50] Article 51(2) of the Corporate Tax Law.
[51] Article 2(2) of FTA Decision No. 7 of 2023 read with Article 4(3) of the Corporate Tax Law.
[52] Articles 2 and 3 of Ministerial Decision No. 115 of 2023.
[53] Article 2(2) of FTA Decision No. 7 of 2023 read with Article 4(3) of the Corporate Tax Law.
[54] Article 3(1) of FTA Decision No. 7 of 2023.
[55] Article 3(2) of FTA Decision No. 7 of 2023.

The FTA may determine an alternative effective date for the exemption other than the date specified in the application where any of the following scenarios, or similar, takes place:[56]

a. If the Tax Period specified in the registration form is incorrect, the exemption shall be effective from the correct date.
b. If the applicant is acquired during a Tax Period by one or more Persons including a Government Entity, a Government Controlled Entity, a Qualifying Investment Fund or a public or private pension fund/social security fund, the exemption shall not be granted from the start of the Tax Period if the conditions for exemption were not met at that time. The FTA shall determine another date from which the exemption shall be granted to ensure that the date of exemption starts after the fulfilment of all remaining tax obligations.
c. If the Tax Period included in the application for exemption is incorrect and the FTA receives sufficient supporting information to evidence that the conditions have been met within the later Tax Period, the exemption shall be effective after the date of fulfilment of the conditions.
d. Any other instances that may be further specified by a decision issued by the Cabinet.

8.3. Administration

Exempt Persons are not required to file a Tax Return. Instead, the Exempt Persons covered by this guide are required to submit an annual declaration to the FTA, no later than 9 months from the end of the relevant Tax Period. This declaration must confirm that the Exempt Person continues to fulfil the relevant exemption conditions, and that their records with the FTA are still valid.[57]

Where an entity no longer meets the conditions to be an Exempt Person, they must file a Tax Return with the FTA within 9 months from the end of the relevant Tax Period.[58]

8.4. Confirmation by the Auditor

The Auditor of a private pension fund or social security fund is required to confirm annually that the requirements for the fund to be exempt have been complied with. The auditor's annual confirmation of the compliance of the fund, will need to be provided to the fund. The fund will then provide this to the FTA.

[56] Article 3(3) of FTA Decision No. 7 of 2023
[57] Article 2 of FTA Decision No. 11 of 2023.
[58] Article 53(1) of the Corporate Tax Law.

8.5. Record keeping required to maintain Exempt Person status

Exempt Persons are required to maintain records which evidence their exempt status for 7 years from the end of the Tax Period to which they relate.[59] This includes any information, accounts, documents and records to enable the Exempt Person's status to be readily ascertained by the FTA.

Each Exempt Person should consider the conditions attached to their Exempt Person status and maintain any records relevant to ascertaining continued compliance with those conditions. For example, for a Qualifying Public Benefit Entity, this could include books and records to demonstrate that its resources were used only for its stated public benefit purpose, copies of agreements entered into, and details of its employees, officers and fiduciaries.

[59] Article 56(2) of the Corporate Tax Law.

9. Updates and Amendments

Date of amendment	Amendments made
December 2023	• First version

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Taxation of Extractive Business and Non-Extractive Natural Resource Business

Corporate Tax Guide | CTGEPX1

December 2023

الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Contents

1. Glossary

Accounting Income: The accounting net profit or loss for the relevant Tax Period as per the Financial Statements prepared in accordance with the provisions of Article 20 of the Corporate Tax Law.

AED: The United Arab Emirates dirham.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or series of activities conducted by a Person in the course of its Business.

Business Restructuring Relief: A relief from Corporate Tax for business restructuring transactions, available under Article 27 of the Corporate Tax Law and as specified under Ministerial Decision No. 133 of 2023.

Connected Person: Any Person affiliated with a Taxable Person as determined in Article 36(2) of the Corporate Tax Law.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Exempt Income: Any income exempt from Corporate Tax under the Corporate Tax Law.

Exempt Person: A Person exempt from Corporate Tax under Article 4 of the Corporate Tax Law.

Extractive Business: The Business or Business Activity of exploring, extracting, removing, or otherwise producing and exploiting the Natural Resources of the UAE, or any interest therein as determined by the Minister**.**

Financial Statements: A complete set of statements as specified under the accounting standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Foreign Permanent Establishment: A place of Business or other form of presence outside the UAE of a Resident Person that is determined in accordance with the criteria prescribed in Article 14 of the Corporate Tax Law.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established or otherwise registered in a Free Zone, including a branch of a non-resident person registered in a Free Zone.

FTA: Federal Tax Authority, being the authority in charge of administration, collection and enforcement of federal taxes in the UAE.

IFRS: International Financial Reporting Standards.

IFRS for SMEs: International Financial Reporting Standard for small and medium-sized entities.

Licence: A document issued by a licensing authority under which a Business or Business Activity is conducted in the UAE.

Local Government: Any of the governments of the Member Emirates of the Federation.

Market Value: The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

Minister: Minister of Finance.

Natural Resources: Water, oil, gas, coal, naturally formed minerals, and other non-renewable, non-living natural resources that may be extracted from the UAE's Territory.

Non-Extractive Natural Resource Business: The Business or Business Activity of separating, treating, refining, processing, storing, transporting, marketing or distributing the Natural Resources of the UAE.

Person: Any natural person or juridical person.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Group: Two or more Taxable Persons that meet the conditions of Article 26(2) of the Corporate Tax Law.

Qualifying Group Relief: A relief from Corporate Tax for transfers within a Qualifying Group, available under Article 26 of the Corporate Tax Law and as specified under Ministerial Decision No. 132 of 2023.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

Small Business Relief: A Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period in accordance with Article 21 of the Corporate Tax Law and Ministerial Decision No. 73 of 2023.

Tax Group: Two or more Taxable Persons treated as a single Taxable Person according to the conditions of Article 40 of the Corporate Tax Law.

Tax Loss: Any negative Taxable Income as calculated under the Corporate Tax Law for a given Tax Period.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Registration: A procedure under which a Person registers for Corporate Tax purposes with the FTA.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

UAE: United Arab Emirates.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance on Extractive Businesses and Non-Extractive Natural Resource Businesses for Corporate Tax purposes. It provides readers with an overview of:

- Scope of the Corporate Tax exemption for Extractive Businesses and Non-Extractive Natural Resource Businesses
- How the Corporate Tax rules apply to Extractive Businesses and Non-Extractive Natural Resource Businesses.
- How the Taxable Income of any other Business of an Extractive Business or Non-Extractive Natural Resource Business is determined.
- Compliance requirements for Extractive Businesses and Non-Extractive Natural Resource Businesses under the Corporate Tax Law.

2.3. Who should read this guide?

This guide should be read by any Person that is carrying on an Extractive Business and/or a Non-Extractive Natural Resource Business in the UAE. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how key elements of the Corporate Tax Law apply to Extractive Businesses and Non-Extractive Natural Resource Businesses. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural persons.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses, and its amendments, is referred to as “Corporate Tax Law”;
- Cabinet Decision No. 100 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 100 of 2023”;
- Ministerial Decision No. 43 of 2023 Concerning Exception from Tax Registration for the Purpose of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 43 of 2023”;
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 73 of 2023”;
- Ministerial Decision No. 82 of 2023 on the Determination of Categories of Taxable Persons Required to Prepare and Maintain Audited Financial Statements for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 82 of 2023”;
- Ministerial Decision No. 105 of 2023 on the Determination of the Conditions under which a Person may Continue to be Deemed as an Exempt Person, or Cease to be Deemed as an Exempt Person from a Different Date for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 105 of 2023”;

- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 114 of 2023”; and
- Ministerial Decision No. 265 of 2023 Regarding Qualifying Activities and Excluded Activities for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 265 of 2023”.

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the tax implications for Extractive Businesses and Non-Extractive Natural Resource Businesses relating to the Corporate Tax regime in the UAE. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each Person’s own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Scope of Extractive Business and Non-Extractive Natural Resource Business

3.1. What are Natural Resources?

For Corporate Tax purposes, Natural Resources are defined as water, oil, gas, coal, naturally formed minerals and other non-renewable, non-living natural resources that may be extracted from the UAE's Territory (being the UAE's lands, territorial sea and airspace above it).[1]

Natural Resources do not include renewable resources such as solar energy, wind, animals, and plant materials.

The UAE Constitution considers the Natural Resources exploited in each Emirate to be the public property of that Emirate.[2]

3.2. What is an Extractive Business?

An Extractive Business is defined in the Corporate Tax Law as the Business or Business Activity of exploring, extracting, removing, or otherwise producing and exploiting the Natural Resources of the UAE or any interest therein as determined by the Minister.[3] The sector engaging in Extractive Business is commonly referred to as the exploration and production sector, and in general terms includes upstream activities such as oil and gas extraction, mining, dredging, and quarrying.[4]

An Extractive Business is conducted through a right, concession or Licence issued by a Local Government.

Persons engaged in an Extractive Business are typically:
- Juridical persons that are privately or government owned; or
- Contractual joint ventures between a Local Government and private sector enterprises by way of a Licence or concession agreement with the relevant Government Entity to undertake Extractive Business.

[1] Article 1 of the Corporate Tax Law.
[2] Article 23 of the UAE Constitution.
[3] Article 1 of the Corporate Tax Law.
[4] Upstream refers to points in extractive production that originate early on in the process. Also called exploration and production.

3.3. What is a Non-Extractive Natural Resource Business?

Non-Extractive Natural Resource Business is defined in the Corporate Tax Law as the Business or Business Activity of separating, treating, refining, processing, storing, transporting, marketing or distributing the Natural Resources of the UAE.[5]

In general terms, in the context of the oil and gas sector, it covers activities that form part of the midstream and downstream subsectors but only to the point where the product is transferred to the Person who engages in Business with the end-user or customer.[6]

A Non-Extractive Natural Resource Business is conducted through a right, concession or Licence issued by a Local Government.

Persons engaged in a Non-Extractive Natural Resource Business are typically companies that are wholly or partially privately or government owned pursuant to concessions or commercial agreements. These agreements may provide that the income from the Non-Extractive Natural Resource Business is subject to taxation at the Emirate level.

3.4. Other Business

A Person engaged in an Extractive Business/Non-Extractive Natural Resource Business may also engage in Business Activities that are not part of its main Extractive Business/Non-Extractive Natural Resource Business. For the purposes of the Corporate Tax Law, those other Business Activities collectively are considered to constitute a separate Business and should be subject to separate and independent reporting.

3.5. Process for exploiting Natural Resources

The process for exploiting Natural Resources for economic purposes is typically divided into three phases:

- The upstream process includes identifying, extracting, or producing materials.
- The midstream process links the upstream and downstream processes and includes such activities such as transportation and storage services.
- The downstream process is close to the end-user or consumer and involves post-production activities. In the oil industry, for example, companies engaged in the

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[5] Article 1 of the Corporate Tax Law.

[6] Midstream refers to activities taking place between the upstream and downstream operations. Downstream refers to activities that are close to the end-user or consumer in the production supply chain.

downstream process include oil refineries, petroleum product distributors, petrochemical plants, natural gas distributors, and retail outlets.

4. Taxation of Extractive Business and Non-Extractive Natural Resource Business

4.1. Introduction

The Corporate Tax Law provides that in general a Person engaged in an Extractive Business/Non-Extractive Natural Resource Business is exempt from Corporate Tax and referred to as an Exempt Person.[7] This exemption respects the sovereignty of the Emirates over their Natural Resources and prevents taxation being imposed at both the Emirate and Federal level on the same type of income. However, the relevant Person needs to meet the criteria in the Corporate Tax Law to qualify for the Extractive Business/Non-Extractive Natural Resource Business exemption, respectively, in order to be considered an Exempt Person.

The Corporate Tax Law accepts that an Exempt Person engaged in an Extractive Business/Non-Extractive Natural Resource Business, may also be engaged in other Business. The existence of the other Business will not affect the exemption for the Extractive Business/Non-Extractive Natural Resource Business. However, the income from the other Business will generally be subject to Corporate Tax, unless that other Business itself specifically qualifies for a distinct Corporate Tax exemption.

4.2. Conditions to qualify as an Exempt Person

A Person engaged in an Extractive Business/Non-Extractive Natural Resource Business, will be exempt from Corporate Tax on that Business if it meets the following conditions:[8]

1. The Person directly or indirectly holds an interest in a right, concession or Licence issued by a Local Government to undertake the Extractive Business/Non-Extractive Natural Resource Business, in the UAE.
2. The Person is effectively subject to tax under the applicable legislation of the Local Government.
3. The Person has made a notification to the Ministry of Finance in the form and manner agreed with the Local Government.

For a Non-Extractive Natural Resource Business, there is an additional condition to be met:

4. The Person's income from its Non-Extractive Natural Resource Business is derived solely from Persons that undertake a Business or Business Activity.

These conditions are discussed below.

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[7] Article 4(1)(c) and (d) of the Corporate Tax Law.
[8] Articles 7(1) and 8(1) of the Corporate Tax Law.

4.2.1. Directly or indirectly holding or having an interest in a right, concession or Licence

The first condition requires that the Person directly or indirectly holds or has an interest in a right, concession or Licence issued by a Local Government for its Extractive Business and/or Non-Extractive Natural Resource Business.[9]

Each Local Government is responsible for regulating the activities of exploration and production of its Natural Resources, as well as related activities beyond the exploration and production of the Natural Resources.

Rights to the activities falling under an Extractive Business/Non-Extractive Natural Resource Business are typically awarded by way of a Licence or concession agreement that is concluded with the relevant Local Government. However, certain aspects of the Natural Resources sector are federally regulated.

The reference to "directly or indirectly" in Articles 7 and 8 of the Corporate Tax Law recognises that the procedures for obtaining relevant rights to Natural Resources vary between the Emirates and are established on a case-by-case basis. A Person may be or become a holder or beneficiary under a Natural Resources Licence or concession agreement by virtue of assignment, participation or sub-participation.

Example 1: Directly or indirectly holding a Licence

Company B is a mining company operating in the UAE. It operates in the Natural Resources sector, specifically in the mining of precious minerals.

The two scenarios below illustrate the distinction between how a company can either directly hold a Licence issued by a Local Government or indirectly operate and benefit from such a Licence through partnerships, collaborations, or joint ventures.

Directly holding a Licence:

Company B applies to the Local Government of Emirate A for a mining Licence. After due process and compliance with regulations, the Local Government of Emirate A grants Company B a Licence to operate a mining site for precious minerals within its territory. In addition, Company B has fulfilled all of the remaining conditions for an Extractive Business to be exempt from Corporate Tax under Article 7(1) of the Corporate Tax Law.

[9] Articles 7(1)(a) and 8(1)(a) of the Corporate Tax Law.

In this situation, Company B directly holds the Licence. Therefore, it is exempt from Corporate Tax in respect of its Extractive Business operations within Emirate A.

Indirectly holding a Licence:

Company B is interested in expanding its operations to Emirate B, another region with rich mineral deposits. It decides to collaborate with a local company, Company C, which already holds a valid mining Licence in Emirate B that allows Company C to assign or partner with other companies under the Licence granted to it, to exploit Natural Resources.

Company B enters into a partnership agreement with Company C. In this agreement, Company B provides significant financial investment and technical expertise, while Company C contributes its existing mining Licence and local operational knowledge. In return, Company B gains a share of the profits generated by mining activities in Emirate B and is effectively subject to tax under the applicable legislation of Emirate B.

In this situation, Company B indirectly benefits from the mining Licence held by Company C in Emirate B. In a situation where Company B would not have had its own Licence, Company B would still have indirectly benefited from the mining Licence held by Company C.

The exemption from Corporate Tax should also apply to Company B's Extractive Business operations in Emirate B as it indirectly holds a Licence issued by the respective Local Government.

4.2.1.1. Contractors, subcontractors or suppliers

An Exempt Person that meets the relevant conditions may engage another Person to undertake part of the Extractive Business/Non-Extractive Natural Resource Business.

The Corporate Tax exemption for an Extractive Business/Non-Extractive Natural Resource Business, does not extend to other Persons such as contractors, subcontractors or suppliers that do not in their own right meet the conditions to be exempt under Article 7 or 8 of the Corporate Tax Law.[10] To benefit from the exemption, a Person must hold a direct or indirect interest in the underlying Natural Resources Licence or concession agreement and not merely be engaged to provide goods or services to a Person holding such an interest.

[10] Articles 7(7) and 8(7) of the Corporate Tax Law.

Example 2: Contractors, subcontractors and suppliers

Company A is engaged in oil exploration activities and meets all the criteria for the Corporate Tax exemption for an Extractive Business in accordance with Article 7 of the Corporate Tax Law.

Company A, in its exploration operations, requires specialised equipment and services for drilling and geological surveying. Instead of investing in and managing these activities itself, Company A engages Company B, a specialised drilling and surveying firm, to undertake the drilling part of its exploration activities. Company B has the role of a service provider and is not considered a partner in the exploration activities of Company A.

The outcome would be as follows:

- Company A: The income generated by Company A from its exploration activities remains eligible for the Extractive Business Corporate Tax exemption, as long as it meets all of the qualifying conditions.
- Company B: The income generated by Company B from performing the drilling activities on behalf of Company A will not be eligible for the Extractive Business Corporate Tax exemption. Instead, Company B's income will be subject to Corporate Tax as per the provisions of the Corporate Tax Law.

In such a situation, even though Company A is engaging another entity (Company B) to perform a specific part of the drilling work, the Corporate Tax exemption does not extend to Company B as it does not hold an interest in the underlying Natural Resources exploration Licence or concession agreement.

4.2.2. Effectively subject to Emirate-level taxation

The second condition requires that the Person is effectively subject to tax under the applicable legislation of the relevant Emirate.[11]

The taxation of Natural Resource activities is regulated by the individual Emirates and is typically set on a case-by-case basis under the relevant concession agreement or similar arrangement with the Local Government.

"Effectively subject to tax" means that the Person is being taxed by the relevant Local Government. This could be an income tax levied under the relevant Emirate-level tax decree, a royalty on production or sales or other fiscal measure as per the agreement entered into with the relevant Local Government, or other form of tax, charge or levy issued by the same Local Government. The term "effectively subject to tax" under the

[11] Articles 7(1)(b) and 8(1)(c) of the Corporate Tax Law.

applicable legislation of an Emirate should be interpreted widely, and may include any form of tax, charge or levy payable on income, profits or revenues.[12]

Example 3: Subject to Emirate-level taxation

Company A is part of a multinational group specialising in crude oil exploration, operating in the UAE. In this scenario, Company A has obtained exploration and exploitation rights from Emirate A to search for and extract oil from a designated area within the Emirate's territory and has entered into an agreement with the respective Local Government for that purpose.

As part of the agreement, Company A is required to pay a royalty to the respective Local Government for each barrel of oil extracted from the designated area. The royalty rate is set at 10% of the Market Value of the oil extracted.

Example Calculation:

For the period 1 January to 31 December 2024, Company A successfully extracts 100,000 barrels of oil from its designated area. The Market Value of the oil is AED 32,000,000.

Company A pays a royalty of AED 3,200,000 to the Local Government of Emirate A for the oil extracted during that period. Company A is considered to be effectively subject to tax at the level of the relevant Local Government and the subject to tax requirement is met for the purpose of the exemption from Corporate Tax.

4.2.3. Notification to the Ministry of Finance

The third condition requires that the Person has notified the Ministry of Finance in the form and manner agreed with the Local Government.[13]

The purpose of this notification is to ensure that the Person has fulfilled the relevant requirements and validated its exempt status as per the Corporate Tax Law.

4.2.4. Solely deriving income from Persons undertaking Business or Business Activity

The fourth condition applies only to a Non-Extractive Natural Resource Business. The Person must derive income from that Business solely from Persons that undertake a

[12] Articles 7(6) and 8(6) of the Corporate Tax Law.
[13] Articles 7(1)(c) and 8(1)(d) of the Corporate Tax Law.

Business or Business Activity.[14] The exemption from Corporate Tax will not apply if the Person's Non-Extractive Natural Resource Business engages in transactions with Persons that do not undertake a Business or Business Activity (for example, end customers or consumers). The test does not have a minimum threshold, so a single transaction can result in the Person not meeting the exemption criteria.

In considering the condition, the Person's Non-Extractive Natural Resource Business must be distinguished from any other Business that the Person conducts. The requirement to derive income solely from Persons that undertake a Business or Business Activity applies only to transactions related to the Person's Non-Extractive Natural Resource Business.

A Non-Extractive Natural Resource Business needs to be conducted through a relevant right, concession or Licence issued by a Local Government. Transactions related to the activities permitted under that right, concession or Licence would generally be considered to form part of that Non-Extractive Natural Resource Business, unless those transactions relate to a Business that is conducted separately and independently (for example, subject to separate management and accounting records) of the Business that directly exploits that right, concession or Licence.

Example 4: Deriving income from Persons not undertaking Business or Business Activity

Company A operates through a Licence issued by a Local Government, as a company engaged in a seawater purification Business, specialising in advanced technologies for converting seawater into safe and potable drinking water. Their expertise lies in sustainable desalination methods and water treatment processes to address water scarcity challenges.

Company A fulfils the conditions under Article 8(1)(a), (c) and (d) of the Corporate Tax Law. However, Company A undertakes the following transactions under the scope of its Licence in Financial Year 2024 (period 1 January - 31 December):

- Transaction 1 (AED 120,000): partners with Business A, a coastal resort, to establish a self-sufficient source of fresh water by utilising seawater purification systems for their guests.
- Transaction 2 (AED 200,000): collaborates with Business B, an agricultural company, to develop irrigation solutions that utilise purified seawater, reducing the strain on freshwater resources.

[14] Article 8(1)(b) of the Corporate Tax Law.

- Transaction 3 (AED 30,000): sells a home seawater purification system to Consumer A, an individual, that ensures a clean and sustainable water supply for their residence.

Although most of Company A's income derives from transactions 1 and 2 with other Businesses, the fact of engaging on an end-customer transaction with Consumer A (transaction 3) results in Company A not meeting the requirement to derive income solely from other Persons undertaking Business or Business Activity. The income from transaction 3 is not considered other Business because it does fall within the scope of the Licence issued by the Local Government.

Company A does not meet the conditions to be exempt from Corporate Tax under Article 8 of the Corporate Tax Law. Consequently, the exemption from Corporate Tax under Article 4(1)(d) of the Corporate Tax Law will not be available and Company A will not be considered an Exempt Person.

4.3. Exceptional cases of failure to meet conditions of Exempt Person

To qualify as an Exempt Person, the Extractive Business/Non-Extractive Natural Resource Business, must fulfil the conditions discussed under Section 4.2. If these conditions are not satisfied at any time during a Tax Period, the Person will generally cease to be an Exempt Person from the beginning of that Tax Period.[15] However, an Exempt Person may continue to be an Exempt Person, or cease to be an Exempt Person from a different date, if the conditions discussed below apply.

4.3.1. Liquidation or termination

If an Exempt Person is in the process of being liquidated or terminated, it may continue to be deemed as an Exempt Person from the date its liquidation or termination procedure starts until the date it is completed if it submits a notification to the FTA within 20 business days from the date of the beginning of the procedures.[16] The Exempt Person shall cease to be treated as such on the day following the date of the completion of the liquidation or termination procedure.[17]

[15] Article 4(5) of the Corporate Tax Law.
[16] Articles 4(6)(a) of the Corporate Tax Law and Article 2(1) of Ministerial Decision No. 105 of 2023.
[17] Article 2(2) of Ministerial Decision No. 105 of 2023.

4.3.2. Failure to meet condition is of temporary nature which is promptly rectified

An Exempt Person who breaches the conditions to be an Exempt Person may continue to be deemed an Exempt Person if the failure to meet the conditions is of a temporary nature and will be promptly rectified.[18] In this case, the following conditions must be met:

- The failure to meet the conditions is due to a situation or an event beyond the Exempt Person's control which could not reasonably have been predicted or prevented.[19]
- The Exempt Person has made an application to the FTA to continue to be treated as an Exempt Person within 20 business days from the date it fails to meet the relevant conditions.[20] The FTA shall review the application and notify the Exempt Person of its decision within 20 business days of the submission of the application. If a longer time is necessary, the Exempt Person will be notified.[21]
- The Exempt Person is reasonably expected to rectify the failure to meet the conditions within 20 business days from the submission of the application.[22] The deadline may be extended by an additional 20 business days if such failure is beyond the Exempt Person's reasonable control.[23]
- Upon request by the FTA, the Exempt Person must provide evidence that it has taken measures to monitor compliance with the relevant conditions for being an Exempt Person, within 20 business days from the date of the request by the FTA, or any other period as may be determined.[24]

4.3.3. Failure to meet the conditions is to obtain a Corporate Tax advantage

Although an Exempt Person would generally be treated as ceasing to be exempt from the beginning of the relevant Tax Period, an Exempt Person will cease to be considered as such in specific instances as prescribed by the Minister.[25] Accordingly, the person shall cease to be deemed as an Exempt Person starting from the day it fails to meet the conditions where it can be reasonably concluded by the FTA that the main purpose (or one of the main purposes) for ceasing to meet the conditions, is to obtain a Corporate Tax advantage (as specified in Article 50(2) of the Corporate Tax Law) that is not consistent with the intention or purpose of the Corporate Tax Law.[26]

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[18] Article 4(6)(b) of the Corporate Tax Law.
[19] Article 3(1)(a) of Ministerial Decision No. 105 of 2023.
[20] Article 3(1)(b) of Ministerial Decision No. 105 of 2023.
[21] Article 3(3) of Ministerial Decision No. 105 of 2023.
[22] Article 3(1)(c) of Ministerial Decision No. 105 of 2023.
[23] Article 3(2) of Ministerial Decision No. 105 of 2023.
[24] Article 3(1)(d) of Ministerial Decision No. 105 of 2023.
[25] Article 4(6)(c) of the Corporate Tax Law.
[26] Article 4 of Ministerial Decision No. 105 of 2023.

4.4. Income derived from other Business

If a Person engaged in an Extractive Business/Non-Extractive Natural Resource Business is also engaged in another Business, the income from that other Business will be subject to Corporate Tax, unless that other Business qualifies for a Corporate Tax exemption under any other relevant provisions of the Corporate Tax Law.

To determine whether a transaction relates to a Person's Extractive Business/Non-Extractive Natural Resource Business, or to their other Business, the following conditions apply:

- A transaction that relates to a Business Activity that falls within the scope of the right, concession or Licence issued by the Local Government should be considered to relate to the Business performed under that right, concession or Licence, unless the Business Activity is conducted independently of the primary Business.
- A transaction that relates to a Business Activity that does not fall within the scope of the right, concession or Licence issued by the Local Government should be treated as a separate Business. This will also apply to transactions relating to activities conducted by an Extractive Business that are outside the UAE's Territory.

4.5. Exemption for other Business

If a Person has derived income from a Business that by nature is ancillary or incidental to the Person's Extractive Business/Non-Extractive Natural Resource Business and the Revenue of that Business does not exceed 5% of the total Revenue of that Person in the same Tax Period, then that income will be disregarded for Corporate Tax purposes.[27]

4.5.1. Ancillary or incidental Business

A Business may be considered ancillary if it is necessary for the performance of the main activities of the Extractive Business/Non-Extractive Natural Resource Business or where it makes a minor contribution and is so closely related to the Extractive Business/Non-Extractive Natural Resource Business that it should not be regarded as a separate Business. An example of this could be selling waste products generated by oil and gas production.

A Business may be considered incidental if it is infrequent and not part of the main activities of the Extractive Business/Non-Extractive Natural Resource Business, and generates a secondary source of income. An example of this could be occasional sales of surplus equipment or interest on excess funds invested.

[27] Articles 7(3) and 8(3) of the Corporate Tax Law.

All facts and circumstances must be considered in determining whether the Business is ancillary or incidental to the Person's Extractive Business/Non-Extractive Natural Resource Business and relevant factors may include its size, value, duration and frequency.

If it is determined that the Business is not ancillary or incidental to the Person's Extractive Business/Non-Extractive Natural Resource Business, then that Business will be treated as separate from the Extractive Business/Non-Extractive Natural Resource Business and will be subject to Corporate Tax.

4.5.2. Revenue not exceeding five percent of the total Revenue

An additional condition of the ancillary or incidental condition under Section 4.5.1 is for the aggregate income of such ancillary or incidental Business not to exceed 5% of the total Revenue of that Person in the same Tax Period.[28] In practice, the Person would determine whether it exceeded the 5% threshold at the end of its Financial Year.

Where the above threshold is exceeded, then the other Business is treated as separate from the Extractive Business/Non-Extractive Natural Resource Business and subject to Corporate Tax.

Both conditions under this Section and Section 4.5.1 need to be fulfilled in order for the other Business to be exempt for Corporate Tax as per Articles 7(3) and 8(3) of the Corporate Tax Law.

Example 5: Ancillary or incidental test

Company A is an Extractive Business that meets the requirements to be exempt from Corporate Tax.

Company A derives income from selling surplus equipment that represents 8% of its total Revenue. As this exceeds 5% of Company A's Revenues, the "ancillary or incidental" test is not met and all of the income from the other activity, i.e., the Business representing 8% of Revenues, will be subject to the provisions of the Corporate Tax Law.

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[28] Articles 7(3) and 8(3) of the Corporate Tax Law.

Example 6: Ancillary or incidental test – Extractive Business investing surplus cash

Company B is an Extractive Business that meets all the requirements to be exempt from Corporate Tax in accordance with Article 7 of the Corporate Tax Law.

Company B conducts gas extraction under a Licence issued by Emirate A.

Besides its Extractive Licence, Company B has not acquired any other Licence to conduct any other activity in the UAE.

Company B actively seeks to mitigate the risks to its cash flow. Accordingly, it has implemented a treasury strategy led by an experienced finance manager.

During its Financial Years ending 31 December 2024 and 2025, Company B generates Revenue as follows:

1. Income from gas extraction;
2. Interest earned from placing cash generated by its Extractive Business on deposit with UAE banks;
3. Dividends earned from regular investments of surplus cash in UAE listed companies that are Resident Persons;
4. Gain from the disposal of used equipment (used by Company A in its Extractive Business) to a third party.

No.	**Income type**	**Source of income**	**2024**		**2025**	
			Amount of income earned (AED '000)	**Percentage of total Revenue**	**Amount of income earned (AED '000)**	**Percentage of total Revenue**
1	Gas extraction income	Main Business Activity as per Licence	20,000	97.56%	20,790	94.5%
2	Interest income	Fixed term deposit in a local bank	100	0.49%	330	1.5%
3	Dividend income	Dividend from UAE quoted	300	1.46%	770	3.5%

		companies				
4	Capital gain	Sale of used equipment	100	0.49%	110	0.5%
		Total	20,500	100%	22,000	100%

Income stream 1 is generated from the Extractive Business Activity. As Company B has met all relevant criteria, this income is exempt from Corporate Tax.

Income streams 2, 3 and 4 are not directly generated from the main Business Activity that falls within the scope of the Licence issued to Company B by Emirate A (i.e., gas extraction) and are not subject to taxation at the Emirate level. As a result, the treatment of the Interest, Dividend and capital gain income for Corporate Income Tax purposes will be subject to the ancillary or incidental test.

Testing the first “ancillary or incidental” condition, the type of income test:
Interest, Dividend and capital gain income are not generated from separate Business Activities. They arise in the course of conducting the Extractive Business Activity, as a result of policies aimed at maintaining liquidity. Therefore, in this case, the income can be viewed as derived from Business that is ancillary or incidental to the Extractive Business. Hence, income streams 2, 3 and 4 meet the first condition of the “ancillary or incidental” test.

Testing the second “ancillary or incidental” condition, the 5% condition:
The table below shows the percentage of the ancillary or incidental Business to the total Revenue.

No.	Income type	2024	2025
2	Interest income	0.49%	1.5%
3	Dividend income	1.46%	3.5%
4	Capital gain	0.49%	0.5%
	Total	2.44%	5.5%

As all Non-Extractive Business income is treated as a single other Business, the 5% threshold is tested on an aggregate basis rather than for each income stream separately.

In 2024, as the sum of income streams 2, 3 and 4 has not exceeded 5% of Company B’s total Revenue, the second condition of the “ancillary or incidental” test is met. In this year, they will not be subject to the provisions of the Corporate Tax Law.

In 2025, as the sum of income streams 2, 3 and 4 has exceeded 5% of Company's B total Revenue, the second condition of "ancillary or incidental" test is not met. Income streams 2, 3 and 4 will be subject to the provisions of the Corporate Tax Law.

Note that where income is subject to the provisions of the Corporate Tax Law, i.e. not covered by the exemption in Article 7 in this example, it does not automatically mean that such income is taxable. For instance, in 2025 Income stream 3 would be Exempt Income, being Dividends received from a juridical person that is a Resident Person, as per Article 22(1) of the Corporate Tax Law.

If the Exempt Person is subject to Corporate Tax on their other Business, the Person will be required to register with the FTA for Corporate Tax with regards to that other Business as discussed in Section 6.2.

Where the Exempt Person is a Resident Person and has a Foreign Permanent Establishment, which comprises other Business and which falls outside the exemption in relation to other Business referred to above, then the income from such Foreign Permanent Establishment would be subject to Corporate Tax and the rules of the Corporate Tax Law in relation to a Foreign Permanent Establishment will apply.[29]

Where the income from the other Business is subject to Corporate Tax, the Taxable Income will be determined as discussed in Section 5.

[29] Article 24 of the Corporate Tax Law.

5. Determination of Taxable Income of other Business

If a Person engaged in an Extractive Business/Non-Extractive Natural Resource Business, is also engaged in other Business, various rules apply to determine the Taxable Income deriving from that other Business.

5.1. Treatment as separate entities

The Taxable Income of the Person's other Business is governed by the rules in Article 7(4) and Article 8(4) of the Corporate Tax Law. Those rules provide that for the purposes of calculating the Taxable Income of the Person's other Business, the other Business is treated as an independent Business, and the Person should maintain its Financial Statements separately from the Financial Statements for the Extractive Business/Non-Extractive Natural Resource Business.[30]

5.1.1. Other Business treated independently

If the Exempt Person has another Business that is subject to Corporate Tax, all Business Activities that the Person performs that are not part of its Extractive Business/Non-Extractive Natural Resource Business are collectively treated as part of that other Business for Corporate Tax purposes and treated as distinct and separate from the Extractive Business/Non-Extractive Natural Resource Business.

5.1.2. Taxable Income calculated independently

For the purpose of calculating the other Business's Taxable Income, this other Business should be treated as a distinct and separate entity operating in its own right. This means that the books of accounts, income, expenditure, payable and receivable balances, etc., should be determined separately, for which separate Financial Statements are prepared and Taxable Income is calculated according to the provisions of the Corporate Tax Law.[31]

Transactions between the other Business and the Extractive Business/Non-Extractive Natural Resource Business, are Related Party transactions for Corporate Tax purposes.[32]

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[30] Articles 7(4)(a) and 8(4)(a) of the Corporate Tax Law.
[31] Articles 7(4)(c) and 8(4)(c) of the Corporate Tax Law.
[32] Articles 7(5) and 8(5) of the Corporate Tax Law.

Example 7: Treatment as a separate entity

Company A operates both a Non-Extractive Natural Resource Business and a Business subject to Corporate Tax, as follows:

- Non-Extractive Natural Resource Business: Company A is engaged in the processing and refining of rare minerals that are extracted from mines within the UAE. They separate, refine, and process these minerals into valuable products that are used in various industrial Businesses, such as electronics and aerospace. Company A's Non-Extractive Natural Resource Business fulfils all of the conditions to be exempt from Corporate Tax under Article 8(1) of the Corporate Tax Law.
- Other Business: In addition to its Non-Extractive Natural Resource Business, Company A also conducts a Business that specialises in providing consulting services for sustainable mining practices. It offers expertise and guidance to other mining companies to help them minimise their environmental impact and promote responsible resource extraction. This other Business is not considered ancillary or incidental to its Non-Extractive Natural Resource Business.

In accordance with the "separate entity" approach,[33] the following applies:

- Financial Statements: Company A would need to maintain distinct Financial Statements for the other Business. The Financial Statements for the consulting Business would track the Revenue, expenses, etc. related to the consulting services provided.
- Calculation of Taxable Income: The Taxable Income for the other Business would be calculated separately. Thus, the Taxable Income for the consulting Business would be based on its own financial performance, without being influenced by the mineral processing activities that are exempt from Corporate Tax. Any transactions between the Non-Extractive Natural Resource Business and the other Business must be in accordance with the arm's length principle.

By treating the other Business as a distinct and separate entity, Company A ensures that the Corporate Tax liability, and the Corporate Tax reporting requirements of the consulting Business, are not impacted by the Exempt Business which deals with mineral processing and refining.

5.2. Apportionment of expenditure

Forms of expenditure that can be separately identified and assigned to the Business to which they relate i.e. Extractive Business/Non-Extractive Natural Resource Business and the taxable other Business, must be directly attributed accordingly. This

[33] Articles 7(4) and 8(4) of the Corporate Tax Law.

may be done, for example, based on the nature and type of expense incurred. This is direct attribution and should be the general rule to be applied in relation to direct expenditure.

The apportionment of indirect or common expenditure is discussed below.

5.2.1. Apportionment of common expenditure

When determining the Taxable Income for the other Business of the Person engaged in an Extractive/Non-Extractive Natural Resource Business, it may occur that certain expenditures relate to both the Extractive/Non-Extractive Natural Resource Business and the taxable other Business (i.e. common expenditure).

In such a situation, an appropriate apportionment method needs to be established.

The two options applicable in this case are outlined below.

5.2.1.1. Revenue-based apportionment method

Common expenditures can be apportioned according to the Revenue of each Business (Extractive Business/Non-Extractive Natural Resource Business and the taxable other Business, respectively) in a Tax Period.[34] Such apportionment should be done using the following formula:

$$\frac{\text{Revenue of other Business}}{\text{Total Revenue}} \text{x} 100$$

$$100\% - R1 = R2$$

R1: Percentage (%) of expenditure attributable to the other Business subject to Corporate Tax
R2: Percentage (%) of expenditure attributable to the Exempt Business

5.2.1.2. Relevant Emirate apportionment method

The above apportionment method of common expenditure will be overridden where a specific proportion is defined by the relevant local laws of the respective Emirate for the purpose of calculating the Emirate-level tax payable in respect of the Extractive/Non-Extractive Natural Resource Business.

[34] Articles 7(4)(b) and 8(4)(b) of the Corporate Tax Law.

In this scenario, the apportionment rules of the relevant Emirate would prevail and the allocation should follow such ratio.[35]

It is recognised that any apportionment of common expenditure should be done at the end of a Tax Period when the total Revenue is known.

Example 8: Apportionment of common expenditure

Company A conducts two Businesses: a mining Business (Extractive Business) and a technology consulting Business (considered other Business) in Emirate A. Company A fulfils all of the conditions to be considered an Exempt Person for its mining activities and has its first Tax Period from 1 January - 31 December 2024 (Tax Period 2024).[36] In the Tax Period 2024, Company A has total Revenue (for its Extractive Business and other Business) of AED 1,500,000, of which AED 400,000 is from the technology consulting Business.

In the Tax Period 2024, Company A incurs a common annual expenditure for office rent of AED 200,000, which cannot be directly attributed to either the mining Business or the technology consulting Business.

According to the Corporate Tax Law, normally in such case, common expenditures should be divided based on the Revenue generated by each Business during that Tax Period. In such a situation, Company A would perform the following calculation.

- AED 400,000 = Revenue of the other Business
- AED 1,500,000 = Total Revenue
- AED 200,000 = Common expenditure

$$\frac{400,000}{1,500,000} \times 100 = 26.67\% \text{ (R1)}$$

$$100 - 26.67\% = 73.33\% \text{ (R2)}$$

- AED 200,000 x 26.67% = AED 53,340 (common expenditure attributable to the other Business)
- AED 200,000 x 73.33% = AED 146,660 (common expenditure attributable to the Exempt Business)

However, in this case, the applicable legislation in Emirate A allows Company A to consider a different proportion for the purposes of calculating the tax payable in

[35] Articles 7(4)(b) and 8(4)(b) of the Corporate Tax Law.
[36] Article 7(1) of the Corporate Tax Law.

Emirate A in relation to the income of the mining Business (Extractive Business).

In this situation, assuming that Emirate A's legislation mandates that office rent expenses for mining Businesses be calculated as 80% attributable to the mining operations and 20% attributable to the other operations. As a result, despite the standard Revenue-based allocation suggesting a 26.67% - 73.33% split, Company A must adhere to the 80% - 20% ratio defined by Emirate A's legislation for calculating the Taxable Income related to the technology consulting Business for Corporate Tax purposes.

In this example, tax regulations specific to a particular Extractive Business within an Emirate override the standard Revenue-based apportionment method for common expenditure.[37]

5.3. Adjustments to determine Taxable Income

5.3.1. Provisions applicable to the Exempt Person's other Business

The Taxable Income of the other Business of the Exempt Person should be determined through a separate calculation for each Tax Period in accordance with the general provisions of the Corporate Tax Law, including the provisions governing the various reliefs granted by the Corporate Tax Law, if applicable.[38]

Generally, the Accounting Income is the starting point for determining Taxable Income for a particular Tax Period, which is then adjusted for the following:

- Unrealised gains or losses;[39]
- Exempt Income;[40]
- Qualifying Group Relief and/or Business Restructuring Relief;[41]
- Deductions;[42]
- Transfer pricing adjustments relating to transactions between Related Parties or Connected Persons;[43]
- Tax Losses; [44] and
- Other adjustments.[45]

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[37] Articles 7(4)(b) and 8(4)(b) of the Corporate Tax Law.
[38] Article 7(4)(c) of the Corporate Tax Law.
[39] Article 20(2)(a) of the Corporate Tax Law.
[40] Article 20(2)(b) of the Corporate Tax Law.
[41] Article 20(2)(c) of the Corporate Tax Law.
[42] Article 20(2)(d) of the Corporate Tax Law.
[43] Article 20(2)(e) of the Corporate Tax Law.
[44] Article 20(2)(f) of the Corporate Tax Law.
[45] Article 20(2)(i) of the Corporate Tax Law read with Ministerial Decision No. 134 of 2023.

In the case of the taxable other Business of the Exempt Person, the adjustments to be made to the Accounting Income are the same as for other Taxable Persons.

Adjustments to the Taxable Income that may be relevant to the other Business, as well as those that are not applicable to the other Business of the Exempt Person are described below.

5.3.1.1. Deductions

As the taxable other Business of the Exempt Person should be treated as a separate and distinct Business,[46] the rules for deductibility of expenditure should apply to the other Business of the Exempt Person.[47]

In the case of apportionment of common expenditure between the Exempt Person's other Business and its Extractive Business/Non-Extractive Natural Resource Business (see Section 5.2.1), deductions under Article 28(3) of the Corporate Tax Law may be allowed.

5.3.1.2. Transfer pricing adjustments relating to transactions between Related Parties or Connected Persons

As stated in the previous sections of this Guide, transactions between the taxable Business and other activities conducted by the Exempt Person in relation to its Extractive Business/Non-Extractive Natural Resource Business, are treated as Related Party transactions (unless the other Business is exempt from Corporate Tax under Article 7 or 8 from the Corporate Tax Law) and must meet the arm's length principle.[48] This requires the results of those transactions to be consistent with the results that would have been realised if Persons who were not Related Parties had engaged in similar transactions under similar circumstances.[49]

The Exempt Person is subject to the transfer pricing documentation requirements under Article 55 of the Corporate Tax Law in relation to arrangements between its taxable Business and the Exempt Business or its Related Party.

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[46] Articles 7(4)(a) and 8(4)(a) of the Corporate Tax Law.
[47] Chapter Nine of the Corporate Tax Law.
[48] Articles 7(5) and 8(5) of the Corporate Tax Law.
[49] Article 34(2) of the Corporate Tax Law.

5.3.2. Provisions not applicable to the Exempt Person's Business

The Taxable Income of the Exempt Person's other Business should be determined on an independent basis for each Tax Period in accordance with the provisions of the Corporate Tax Law.[50] However, certain reliefs and Tax Loss provisions will not apply to the other Business of the Exempt Person,[51] as described below.

5.3.2.1. No availability of Qualifying Group Relief or Business Restructuring Relief

One of the conditions for Qualifying Group Relief is that members of the group should not include an Exempt Person.[52] Similarly, one of the conditions for Business Restructuring Relief is that the transferor and transferee are not an Exempt Person.[53]

Extractive Businesses/Non-Extractive Natural Resource Businesses will be considered a Taxable Person insofar as they have taxable Business. However, they are treated as an Exempt Person for Qualifying Group Relief and Business Restructuring Relief and will not be able to benefit from these reliefs.[54]

5.3.2.2. No transfer of Tax Loss

Under the Corporate Tax Law, Tax Losses may be offset against the Taxable Income of another Taxable Person upon satisfaction of certain conditions.[55] One of the conditions is that both Persons (transferor and transferee) are not an Exempt Person.

Persons engaged in Extractive Businesses/Non-Extractive Natural Resource Businesses are Taxable Persons insofar they are conducting a taxable Business. However, they are treated as Exempt Persons for the purposes of transferring a Tax Loss or a portion thereof and thus Tax Losses arising from their taxable Business cannot be transferred to another Taxable Person.[56]

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[50] Articles 7(4)(c) and 8(4)(c) of the Corporate Tax Law.
[51] Article 4(2) of the Corporate Tax Law.
[52] Article 26(2)(c) of the Corporate Tax Law.
[53] Article 27(2)(c) of the Corporate Tax Law.
[54] Article 4(2) of the Corporate Tax Law.
[55] Article 38(1) of the Corporate Tax Law.
[56] Article 4(2) of the Corporate Tax Law.

5.3.2.3. No membership in Tax Group for Extractive Business and Non-Extractive Natural Resource Business

Two or more Taxable Persons can make an application to the FTA to be treated as a single Taxable Person (i.e. as a Tax Group), upon satisfaction of certain conditions. One of the conditions is that a member of a Tax Group is not an Exempt Person.[57]

Persons engaged in an Extractive Business/Non-Extractive Natural Resource Business may satisfy the conditions (see Section 4.2) to be treated as Exempt Persons,[58] but at the same time also be Taxable Persons in respect of other Business or Business Activity subject to Corporate Tax (see Section 5.1). However, for the purposes of the Tax Group provisions, such Persons are still treated as Exempt Persons and cannot be members of a Tax Group.[59]

5.4. Small Business Relief

A Resident Person may elect to be treated as not having derived any Taxable Income for a Tax Period if its Revenue for the relevant Tax Period and in any previous Tax Periods does not exceed AED 3 million.[60]

If the Revenue from the taxable Business of a Person engaged in Extractive Business/Non-Extractive Natural Resource Business does not exceed AED 3 million during the relevant Tax Period and previous Tax Periods, it can elect for the Small Business Relief, provided the other applicable conditions are also satisfied.[61]

5.5. Exempt Persons registered in Free Zones

If the Business Activities of a Free Zone Person consist solely of Extractive Business/Non-Extractive Natural Resource Business that fulfils the conditions to be exempt from Corporate Tax, that Free Zone Person will not be considered as a Qualifying Free Zone Person as per Article 18 of the Corporate Tax Law, as the provisions of the Corporate Tax Law as a whole will not apply to such Person.[62] This is because as per Article 7 or Article 8, respectively, of the Corporate Tax Law, the provisions of the Corporate Tax Law shall not apply to a Person whose Business Activities consist solely of an Extractive Business/Non-Extractive Natural Resource Business that fulfils the conditions to be exempt from Corporate Tax.

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[57] Article 40(1)(e) of the Corporate Tax Law.
[58] Articles 7(1) and 8(1) of the Corporate Tax Law.
[59] Article 4(2) of the Corporate Tax Law.
[60] Article 21(1) of the Corporate Tax Law read with Article 2(1) of Ministerial Decision No. 73 of 2023.
[61] Article 3 of Ministerial Decision No. 73 of 2023.
[62] Articles 7(1) and 8(1) of the Corporate Tax Law.

However, if the Free Zone Person engaged in an Extractive Business/Non-Extractive Natural Resource Business derives income that is not exempt from Corporate Tax as per Article 7 or Article 8 of the Corporate Tax Law or derives other Business which is subject to Corporate Tax, then, in relation to such Business the Free Zone Person may be a Qualifying Free Zone Person, provided all the conditions of Article 18(1) of the Corporate Tax Law are met.

In determining whether a Free Zone Person meets the de minimis requirements specified in Article 4 of Cabinet Decision No. 100 of 2023 and Article 3 of Ministerial Decision No. 265 of 2023, Revenue from an Extractive Business/Non-Extractive Natural Resource Business that is exempt from Corporate Tax is not taken into account.

6. Compliance Requirements

6.1. Record keeping

A Person engaged in an Extractive Business/Non-Extractive Natural Resource Business that meets the conditions in Section 4.2 above for an exemption from Corporate Tax is an Exempt Person.[63]

An Exempt Person is required to maintain all records and documents that enable the FTA to ascertain the exemption status for a period of 7 years following the end of the Tax Period to which the exemption is claimed.[64]

6.2. Tax Registration

A Person that is an Exempt Person, by virtue of Article 7 or Article 8 of the Corporate Tax Law, is not required to register for Corporate Tax purposes with the FTA, unless it conducts other Business subject to Corporate Tax.[65]

If the Exempt Person is subject to Corporate Tax on their other Business, the Person will be required to register with the FTA for Corporate Tax with regards to that Business, in the form and manner and within the timeline prescribed by the FTA.[66]

The Person may deregister for Corporate Tax purposes where there is a cessation of that other Business.[67]

A situation could arise where a Person conducting a Business that is ancillary or incidental to its Extractive Business/Non-Extractive Natural Resource Business has registered for Corporate Tax with the FTA because its Revenue exceeds 5% of the total Revenue of the Person and then finds that its Revenue during a subsequent Tax Period falls below the 5% threshold and so can benefit from the exemption for ancillary or incidental Business. In such a situation, the Person has not ceased its Business, so should remain registered for Corporate Tax but would file a nil Tax Return for any Tax Period in which the 5% threshold is not exceeded.

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[63] Article 4(1)(c) and 4(1)(d) of the Corporate Tax Law.
[64] Article 56(2) of the Corporate Tax Law.
[65] Article 2(1)(c), 2(1)(d) and 2(2) of Ministerial Decision No. 43 of 2023.
[66] Article 51(1) of the Corporate Tax Law.
[67] Article 52(1) of the Corporate Tax Law.

6.3. Applicable Accounting Standards

The Corporate Tax Law requires an Exempt Person conducting an Extractive Business/Non-Extractive Natural Resource Business which is also conducting taxable other Business to maintain separate Financial Statements for the taxable other Business.[68]

For the purposes of the UAE Corporate Tax Law, a Taxable Person is required to prepare Financial Statements based on IFRS, or IFRS for SMEs where the Revenue of the Taxable Person does not exceed AED 50 million.[69] Thus, such Exempt Person must, for Corporate Tax purposes, prepare Financial Statements based on IFRS/ IFRS for SMEs in respect of its taxable Business.

6.4. Preparing audited Financial Statements

A Person engaged in an Extractive Business/Non-Extractive Natural Resource Business that fulfils the conditions to be exempt from Corporate Tax, and also conducts taxable Business, will be required to prepare and maintain Financial Statements only with respect to the taxable Business.[70]

If the Taxable Person is a Qualifying Free Zone Person or derives Revenue exceeding AED 50 million during the relevant Tax Period, the Financial Statements are required to be audited for Corporate Tax purposes.[71] To determine whether the AED 50 million threshold is met, only the Revenue of the taxable other Business should be considered.

6.5. Tax Return

Where a Person who conducts a Business that is exempt under Article 7 or Article 8 of the Corporate Tax Law also conducts taxable other Business, the Person must file a Tax Return with the FTA for its separate taxable Business in the form and manner prescribed by the FTA, within 9 months from the end of the relevant Tax Period.[72]

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[68] Articles 7(4)(a) and 8(4)(a) of the Corporate Tax Law.
[69] Article 4 of Ministerial Decision No. 114 of 2023.
[70] Articles 7(4)(a) and 8(4)(a) of the Corporate Tax Law.
[71] Article 54(2) of the Corporate Tax Law along with Article 2(1) of Ministerial Decision No. 82 of 2023.
[72] Article 53(1) of the Corporate Tax Law.

7. Updates and Amendments

Date of amendment	Amendments made
December 2023	• First version