

TAX UPDATES



# HIGHLIGHTS OF UAE CORPORATE TAX LAW

**Federal Decree-Law No. 47 of  
2022**





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## Article 1 - Definitions

Some of the key definitions are as follows:

<b>Corporate Tax</b>	The tax imposed by this Decree-Law on juridical persons and Business income.
<b>Business</b>	Any activity conducted regularly, on an ongoing and independent basis by a person and in 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
<b>Qualifying Income</b>	Any income derived by a Qualifying Free Zone Person that is subject to Corporate Tax at the rate specified in the article 3(2) (a).
<b>Exempt Person</b>	A Person exempt from Corporate Tax.
<b>Taxable Person</b>	A Person subject to Corporate Tax.
<b>Related Party</b>	Any Person associated with a Taxable Person that is specified in the law as per Article 35(1).
<b>Free Zone</b>	A designated and defined geographic area within UAE that is specified in a decision issued by the Cabinet
<b>Qualifying Free Zone Person</b>	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.
<b>Corporate Tax Payable</b>	Corporate Tax that has or will become due for payment to the Authority in respect of one or more Tax Periods.
<b>Foreign Tax Credit</b>	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.
<b>Qualifying Business Activity</b>	Any activity that is specified in a decision issued by the Cabinet at the suggestion of the Minister.
<b>Withholding Tax Credit</b>	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.



<b>Withholding Tax</b>	Corporate Tax to be withheld from State Sourced Income in accordance with Article 45 of this Decree-Law.
<b>Interest</b>	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.
<b>Market Value</b>	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.

### Article 3 - Corporate Tax Rate

Corporate Tax shall be levied on the Taxable Income, at the rates determined under the Law, and payable to the authority as under:

<b><i>Taxable Persons</i></b>	
Taxable Income which <b>does not exceed</b> the amount (AED 375,000, <i>this amount will be confirmed in cabinet decision</i> )	<b>0% (zero per cent)</b>
Taxable Income <b>that exceeds</b> the amount (AED 375,000, <i>this amount will be confirmed in cabinet decision</i> )	<b>9% (nine per cent)</b>
<b><i>Qualifying Free Zone Persons</i></b>	
<b>Qualifying income</b>	<b>0% (zero per cent)</b>
<b>Taxable Income that is not Qualifying Income</b> ( <i>to be defined in a Cabinet decision</i> )	<b>9% (nine per cent)</b>

### Article 4 - Exempt Person





The following persons shall be exempt from the purview of Corporate Tax:

- o A Government Entity
- o A Government Controlled Entity
- o A Person engaged in an Extractive Business, subject to conditions
- o A Person engaged in a Non-Extractive Natural Resource Business, that meets certain conditions
- o Qualifying Public Benefit Entity and Qualifying Investment Fund
- o A public pension or social security fund, or a private pen-



## Article 11 - Taxable Person

Corporate Tax shall be imposed on a Taxable Person at the rates determined and a Taxable Person shall be either a Resident Person or a Non-Resident:

<i>Resident Person</i>
a. A <b>juridical person that is incorporated</b> or otherwise established or recognized under the applicable legislation of uae, including a Free Zone Person.
b. A juridical person that is incorporated or otherwise established or recognized under the applicable legislation of a foreign jurisdiction that is <b>effectively managed and controlled in the UAE</b> .
c. A <b>natural person who conducts a Business</b> or Business Activity in UAE.
d. Any other Person as may be determined in a decision issued by the Cabinet at the suggestion of the Minister.

<i>Non - Resident Person</i>
a. Has a <b>Permanent Establishment in the State</b> as under Article 14 of this Decree-Law.
b. Derives <b>State Sourced Income</b> .
c. Has a <b>nexus in the State</b> as specified in a decision issued by the Cabinet.

## Article 12 - Corporate tax base

<i>Resident Person</i>
o Juridical person - Subject to Corporate tax on its taxable income derived from UAE or outside UAE
o Natural person - Subject to Corporate tax on his/her income from business activity conducted in UAE or outside UAE
<i>Non - Resident Person</i>
Subject to Corporate tax on:
o Taxable income attributable to permanent establishment in UAE.



- o Any other state sourced income
- o Taxable income attributable to the nexus of non-resident person in UAE



### **Article 13 - State Sourced Income**

An Income shall be considered as State Sourced Income in instance where it is:

- o Derived from a Resident Person,
- o 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 UAE
- o It is otherwise accrued in or derived from activities performed, assets located, capital invested, rights used, or services performed or benefitted from in UAE.

### **Article 14 - Permanent Establishment**

Non-resident person has PE in UAE in any of these instances:

- o Fixed or permanent place in UAE (such as branch, office, workshop, place of management, factory etc.)
- o Person has and habitually exercised authority to conduct business in UAE on behalf of non-resident person
- o Where it has any other form of nexus in UAE

PE shall not be considered if:

- o Place is only for storing, displaying goods
- o Keeping stock for processing by another person
- o Purchasing goods for non-resident person
- o Conducting preparatory or auxiliary activity

### **Article 18 - Qualifying Free Zone Person**

A Qualifying Free Zone Person is a Free Zone Person that meets the conditions stated below:

- a. Maintains adequate substance in UAE.
- b. Derives Qualifying Income as described in a Cabinet decision.
- c. Has not elected to be subject to Corporate Tax under Article 19 of the law.
- d. Complies with arm's length principle and transfer pricing documentation provisions
- e. Meets any other conditions prescribed by the Minister.

The Minister shall set out some conditions where a person may continue as a Qualifying Free Zone Person and in cases where those conditions are not met, he shall be ceased to be a Qualifying Free Zone Person from the beginning of that Tax Period.

Corporate Tax on 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, same may be extended in accordance with any conditions as may be determined in a decision issued by the Cabinet, but such shall not exceed (50) fifty years.





## **Article 20-Rules for Determining Taxable Income**

The taxable Income shall be determined separately on the basis of adequate, standalone financial statements prepared for financial reporting purposes in accordance with accounting standards.

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

- o Any unrealized gain or loss mentioned under law.
- o Exempt Income as specified in law
- o Reliefs, Deductions, tax loss relief as specified in the law
- o Transactions with Related Parties and Connected Persons as specified in the Law.
- o 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.
- o Any income or expenditure that has not otherwise been taken into account in determining the Taxable Income under the provisions of the law as may be specified in a decision issued by the Cabinet.
- o Any other adjustments as may be specified by the Minister

## **Article 21- Relief to Small Business**

A taxable person being a resident with revenues below the threshold defined by the Minister and that meets the following conditions can claim small business relief:

- 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.
- The Taxable Person meets all other conditions prescribed by the Minister.

The Authority will take certain measures to verify the compliances and may request the Taxable Person for relevant information within the time-line prescribed.

## **Article 22 - Exempt Income**

The following income shall be exempt while determining Taxable Income:

- Dividends and other profit distributions received from a resident juridical person
- Dividends and other profit distributions received from a Participating Interest in a foreign juridical person subject to conditions.
- Any other income received from participating interest
- Income of a Foreign Permanent Establishment that meets certain conditions.



- Income derived by a Non-Resident Person from operating aircraft or ships in international transportation subject to certain conditions Domestic dividends and other profit distributions earned from UAE juridical persons are exempt from Corporate tax, irrespective of the level of ownership in the UAE juridical person paying the dividend or profit share. This exemption also applies to dividends received from a UAE juridical person that benefits from exemption or whose profits are subject to the 0% Free Zone tax rate. Under the participation exemption regime, capital gains earned from a Participating Interest are exempt from corporate tax. Also, there is relief from corporate tax for capital gains that may arise on intra-group transfers and reorganisation and restructuring transactions.



### **Article 23 - Participation exemption**

Income from the participating interest is exempt, contingent upon certain conditions stated in the article.

- o A 5% (five percent) or greater ownership interest in the shares
- o Intention of the taxable person to hold the participating interest for an uninterrupted period of at least (12) twelve months.
- o 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 at a rate not less than 9%.

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

Income earned by foreign operators of aircrafts and ships will be exempt from Corporate tax in respect of:

- o Providing international transportation of passengers, livestock, mail, parcels, merchandise or goods by air or by sea;
- o Leasing or chartering aircrafts or ships used in international transportation; or
- o Leasing or chartering equipment, which are integral to the seaworthiness of ships or the airworthiness of aircrafts used in international transportation.

This exemption would only apply where the country of the foreign airline or shipping company would grant a similar exemption to UAE operators of aircrafts and ships.

### **Article 28 - Deductible Expenditure**

Business Expenses incurred for the purposes of the Taxable Person's Business that is not capital in nature will be deductible in the Tax Period in which it is incurred, subject to the various provisions in the law.

For the computation of the Taxable Income for a Tax Period, certain deductions are not allowed:

- a. Expenses not incurred for the purposes of the Taxable Person's Business.
- b. Expenses incurred in deriving Exempt Income.
- c. Losses not connected with or arising out of the Taxable Person's Business.
- d. other expenses specified in Cabinet decision.

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.



## **Article 30, 31, 32 and 33 - Deduction Limitations and Non-deductible expenditure**

Corporate tax law disallows certain expenditure and puts a cap on certain expenditure:

- A taxable person shall be allowed to deduct only 50% of any entertainment, amusement or recreation expenditure incurred during a tax period.
- General interest deduction limitation rule
  - Businesses with net interest expenditure above a threshold to be set by the Minister will be allowed to deduct net interest expenditure up to 30% of their earnings before interest, tax, depreciation and amortisation (EBITDA), excluding any exempt income. Any net interest expenditure, which exceeds this limit, may be carried forward and utilised in the subsequent 10 tax periods.
  - Businesses with net interest expenditure below the threshold to be set by the Minister will not be subject to the general interest deduction limitation rule.
  - The general interest deduction limitation rule will not apply to banks and other finance institutions, insurance providers or individuals.
- Specific interest deduction limitation rule
  - Where a loan is obtained from a Related Party and is used to finance income that is exempt from Corporate Tax, the interest on the Related Party loan will not be deductible unless the taxpayer can demonstrate that the main purpose of obtaining the loan and carrying out the transaction is not to gain a CT advantage.
- Donations, illicit payments, bribes, administrative penalties, dividend paid to an owner of taxable person, recoverable input vat, corporate tax imposed, other tax imposed outside the UAE.
- Such other Expenditure as specified in Cabinet decision.

## **Article 34-Arm's Length Principle**

The arm's length price (ALP) of a transaction between two associated enterprises is the price that would be paid if the transactions had taken place between two comparable independent and unrelated parties, where the consideration is only commercial. The Arm's length transaction between related parties will be determined by applying one or more combination of the five transfer pricing methods:

- The comparable uncontrolled price method
- The resale price method
- The cost-plus method
- The transactional net margin method
- The transactional profit split method.





### **Article 35-Related Parties**

There are different rules for determining whether parties involved in a transaction are considered "Related Parties" for UAE CT purposes. These are summarized below:

- o Two or more natural persons related to the fourth degree of kinship or affiliation, including by birth, marriage, adoption or guardianship;
- o A natural person and a juridical person where alone, or together with a related party, the individual directly or indirectly owns a 50% or greater share in, or controls, the juridical person;
- o Two or more juridical persons where one juridical person alone, or together with a related party, directly or indirectly owns a 50% or greater share in, or controls, the other juridical person;
- o A Person and its permanent establishment or foreign Permanent Establishment;
- o Partners in the same unincorporated partnership;
- o A Person who is the trustee, founder, settlor or beneficiary of a trust or foundation, and its Related Parties.

### **Article 36- Payments to Connected Persons:**

Corporate Tax Law require that the consideration of transactions with Connected Persons needs to be determined by reference to their "Market Value".

A person will be considered as 'connected' to a business if he or she is:

- o An owner of the Taxable Person,
- o A director or officer of the Taxable Person.
- o A Related Party of any of the above.

### **Article 37-Tax Loss relief**

Tax loss can be set off against the taxable Income of subsequent tax period to arrive at the taxable income of that subsequent tax periods provided:

- o The amount of Tax Loss used to reduce the Taxable Income cannot exceed 75% (seventy-five percent);
- o Losses incurred before the date of commencement of Corporate Tax cannot be claimed for tax loss relief;
- o Losses incurred before a Person becomes a Taxable Person under this DecreeLaw cannot be claimed for tax loss relief;
- o Losses incurred from an asset or activity the income of which is exempt cannot be considered for tax loss relief.



### **Article 39- Limitation on Tax Relief carry forward**

Tax losses can be carried forward without limitation provided the same person or persons continue to own at least 50% of the entity with the losses. Where there is a greater than 50% change in ownership, tax losses may still be carried forward provided there is no major change in the nature or conduct of the entity's business.



## **Article 40-Tax Group**

UAE companies can apply to form a Tax Group and be treated as a single taxable person if the UAE parent company (directly or indirectly) holds at least 95% of the share capital and voting rights of each of the companies.

To form a Tax Group, neither the parent company nor any of the subsidiaries can be an exempt person or a Free Zone entity benefitting from the 0% tax rate, and all companies must use the same financial year and prepare their financial statements using the same accounting standards.

## **Article 45 - Withholding Tax**

The following income shall be subject to Withholding Tax at the rate of 0% (zero percent) or other rate mentioned in the decision.

- a. State Sourced Income derived by a Non-Resident Person as prescribed in the decision and not attributable to a Permanent Establishment.
- b. Other incomes as mentioned in a decision issued by the Cabinet.

## **Article 47 - Foreign Tax credit**

Foreign tax paid on income that is also subject to UAE Corporate tax can be deducted as a foreign tax credit from the UAE Corporate tax payable. The maximum foreign tax credit is the lower of the foreign tax paid and the UAE Corporate tax payable on the relevant income. Any excess foreign tax credit cannot be carried forward or back to a different Tax Period.

## **Article 50 - Anti-abuse rules**

Corporate tax law includes general anti-abuse rules which apply to transactions giving rise to a tax advantage where no valid commercial reason exists and where the tax advantage was the main or one of the main purposes of the transaction.

## **Article 53- Tax returns**

Only one tax return will need to be filed per Tax Period. The tax return will generally be due within 9 months following the end of the Tax Period. No provisional or advance tax filings will be required.

Taxpayers are required to file a tax return, irrespective of whether they have made a profit or not. Taxpayers with tax losses should ensure



they file a tax return in order to ensure that these losses can be used to reduce taxable income of future years.

#### **Article 54- Financial Statements**

The Authority may request a Taxable Person to submit the financial statements used to determine the Taxable Income for a Tax Period as may be prescribed by the Authority within the prescribed timeframe. The Minister may also issue a decision requiring categories of taxable Persons to prepare and maintain audited or certified financial Statements.

#### **Article 55-Transfer Pricing Documentation:**

Disclosure form:

Businesses will be required to maintain information regarding their transactions with Related Parties and Connected Persons, and certain businesses will be required to submit this information along with their tax return.

Master file and local file:

A taxable person must maintain master file and local file; if the transactions related to related parties and connected parties for the tax period meet the conditions prescribed by the Authority. It must be submitted within (30) thirty days following a request by the Authority, or by any such other later date as directed by the Authority. Businesses that claim small business relief will not have to comply with the transfer pricing documentation rules

#### **Article 56- Record Keeping**

A taxable person shall maintain all records and documents for a period of (7) seven years following the end of the Tax Period where the documents can support the information to be provided in tax report or any other Document to be filed with the Authority and also enables the Authority to ascertain the Taxable Income of the Taxable Person.

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.

#### **Article 56- Tax period**

The Tax Period will normally be the Gregorian calendar year (i.e. from 1 January to 31 December), unless the business applies a different 12-month period for preparing its financial statements.



A taxable person can make changes to the start and end date of its Tax period by making an application to Authority provided the conditions set by the Authority should be met.

Corporate tax law shall apply to tax periods commencing on or after 1<sup>st</sup> June 2023



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