

Treatment of all businesses and business activities of the Government Entity as a 'Single Taxable Person' under UAE Corporate Tax Law

Background

The United Arab Emirates' ("UAE") Ministry of Finance ("MoF") issued the Federal Decree-Law No. 47 of 2022 ("Corporate-tax Law") on 3 October 2022 (published in public domain in December 2022).

Article 5 of the Corporate-tax Law exempts the Government entity from Corporate-tax. However, the law treats the Government entity as taxable entity, in relation to and to the extent of, business or business activity undertaken by it under a valid business license issued by the licensing authority.

Further, Article 5 mandates the Government entity to treat each business or business activity as independent business and prepare and maintain separate financial statements for such business or business activity.

However, in order to ease the burden of keeping separate financial statements and related records for all the individual business or business activities, clause 6 of Article 5 allows (by way of application to Federal Tax Authority ("FTA")) for consolidation of all the individual business or business activities and to be treated as 'single taxable person', subject to conditions prescribed by the Minister of Finance by way of Ministerial Decision.

Recently, the MOF has issued Ministerial Decision No. 68 of 2023 ("the Decision") concerning treatment of all businesses and business activities of the government entity as a 'single taxable person' thereby providing the circumstances under which treatment of 'single taxable person' can be permitted for particular government entity.

Key highlights of the Decision are as under:

Conditions

- Treatment of the Single Taxable Person shall be upon application to be made to FTA
- The application can be made for treatment of Single Taxable Person **only** by Representative Entity
- **All** the businesses and business activities shall be considered for the treatment of Single Taxable Person
- The businesses and business activities shall be conducted under a license issued by a Licensing Authority.
- The businesses and business activities should be conducted within the same Emirate (applicable in case of Emirate level Government Entity).
- The Representative Entity shall be mandated to comply with all obligations set out in the Corporate Tax Law and this Decision.

Determination of taxable income:

- Taxable income shall be determined by consolidating financial results, assets and liabilities of all businesses and business activities attributable to the Single Taxable Person and eliminating transactions between businesses within the same Single Taxable Person group, for the relevant Tax Period.
- The onus of consolidation would be on respective Representative Entity.

Other Procedural and administrative conditions

- Other procedural and administrative aspects include, application / notification / intimation to FTA in relation to:
 - ✓ Appointment and replacement of Representative Entity
 - ✓ Addition of new business or business activity
 - ✓ Cessation of any business or business activity under the license or otherwise
- The Decision also provides for dissolution of the Single Taxable Person upon Violation of any conditions under this Decision or voluntary dissolution upon application to FTA.

PB Comments

- While the concept of Single Taxable Person (being akin to Tax Group) is a welcome step for the Government Entity to reduce the administrative and compliance burden, a firm decision should be undertaken before opting for the Single Taxable Person benefit considering cost benefit analysis.

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