

# General Interest Deduction Limitation under UAE Corporate Tax (“CT”) Law



## General Interest Deduction Limitation under UAE Corporate Tax (“CT”) Law

The United Arab Emirates’ (“UAE”) Ministry of Finance (“MoF”) issued the Federal Decree-Law No. 47 of 2022 (“UAE CT Law”).

Recently, Cabinet Decision No. (126) of 2023 (“the Decision”) has been issued in connection with understanding the General Interest Deduction Limitation Rules for the purposes of UAE CT law.

### **Background - General interest deduction limitation rules (Article 30 of UAE CT law)**

- Net interest expenditure (NIE) deduction has been limited to 30% of EBIDTA (Earnings before interest, depreciation, tax and amortization)
- Balance disallowed NIE can be carried forwards and deducted in subsequent 10 tax periods
- NIE deduction limitation will not apply if its below a threshold amount (specified at AED 12 million in the decision)

### **Key highlights of the decision:**

- **Definition of Interest for the purposes of General interest deduction limitation rules**

Interest includes, but is not limited to, interest on debt instruments, collective investment schemes, collateralized asset-backed debt securities, future/forward contracts, securitization transactions, lease or hire purchase arrangements, interest on derivative instruments, interest equivalent component on Islamic Financial Instruments, finance element on finance and non-finance leases, and foreign exchange gains/losses from interest.

Further, interest shall include amounts incurred in connection with raising finance such as guarantee fee, arrangement fee, commitment fee etc.

This definition implies that most of the transactions, which have an element of interest component in the substance of the transaction, will get covered

- **Capitalized interest**

Where an amount that is deemed to be Interest as per this decision is capitalised in the accounts pursuant to the accounting standards, income and expenditure attributable to the capitalised Interest amount shall be subject to the limitation rule.



- **Threshold amount**

- The limitation rule does not apply if NIE is up to AED 12 million. If tax period is more or less than 12 months, this threshold amount shall be adjusted proportionately.
- If NIE exceeds AED 12 million, deduction can be higher of AED 12 million or 30% of EBITDA.

This looks like quite a high threshold and will be a relief for SMEs.

- **EBITDA Calculation**

EBITDA shall be the higher of AED 0 (zero) or the taxable income amount calculated as per CT Law, with the addition of Net Interest Expenses, Depreciation, Amortization, and any interest income or expense on historical financial assets/liabilities held prior to 9th December 2022.

Any amount of income and expenditures attributable to the Interest capitalised shall be included when the capitalised Interest is amortised over the useful life of the related asset, and not when the Interest is incurred

- **Qualifying Infrastructure Projects**

NIE incurred by qualifying infrastructure projects shall not be subject to general interest deduction limitation rules. The decision specifies the relevant conditions for a qualifying infrastructure project person and qualifying infrastructure project

- **Tax Group**

When a subsidiary joins a Tax Group, any carry forward NIE may only be utilized against the income of the tax group that is attributable to that Subsidiary.

When a subsidiary leaves a tax group, any carried forward NIE of the Tax Group shall remain with the Tax Group, with the exception of any unutilised carried forward NIE of the relevant Subsidiary prior to the grouping as mentioned above.

- **Cessation of a Tax Group**

- If the Parent Company continues to be a Taxable Person, the carried forward NIE remains with the Parent Company.
- If the Parent Company ceases to be a Taxable Person, the carried forward NIE is not available for offset against future Taxable Income of individual subsidiaries with the exception of any unutilised pre-grouping carried forward NIE of such subsidiaries.

**Address**

Office 805, 8<sup>th</sup> Floor,  
 Exchange Tower,  
 Business Bay,  
 Dubai, UAE

**Contact Info**

+971 4 354 2959  
 info@premier-brains.com  
 www.premier-brains.com

**Follow Us**

