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CORPORATE TAX IN THE UAE

INTRODUCTION

The Ministry of Finance has introduced the law of Federal Corporate Tax on business profits in the United Arab Emirates (UAE) by Law No. 47 of 2022 which will be effective for financial years starting from 1st June, 2023.

In the last few years, the Emirates has taken many bold and progressive steps to comply with OECD regulations and transparency. The introduction of Corporate Tax will usher in a very simple and beneficial tax regime. The new tax regime is intended to meet international standards while ensuring that the complexity

and compliance burden for businesses in the UAE is minimal. It is contemplated that the new tax law will stimulate development and contribute to making the UAE a prominent hub for business and investment by virtue of a friendly business environment and low taxes.

The new tax regime will improve the image of the region as a tax-compliant jurisdiction and will encourage more business groups to set up a base or even headquarters.

Corporate tax is in nature of a direct tax imposed on the income earned by entities from the business.



SECTION I

OVERVIEW OF THE CORPORATE TAX

Basis of Taxation

A. **Resident persons** will be liable to corporate tax only in respect of the income which is earned from a business activity carried out in the UAE. It will apply equally to all categories of profits and other income computed on a net basis, as reported in the financial statements prepared in accordance with internationally accepted accounting standards.

Determination of residential status for the purpose of Corporate Tax:

1. Legal persons incorporated in the UAE will automatically be considered residents of the UAE.
2. Natural Person carrying on any business or commercial activity in the UAE will be considered a resident person.

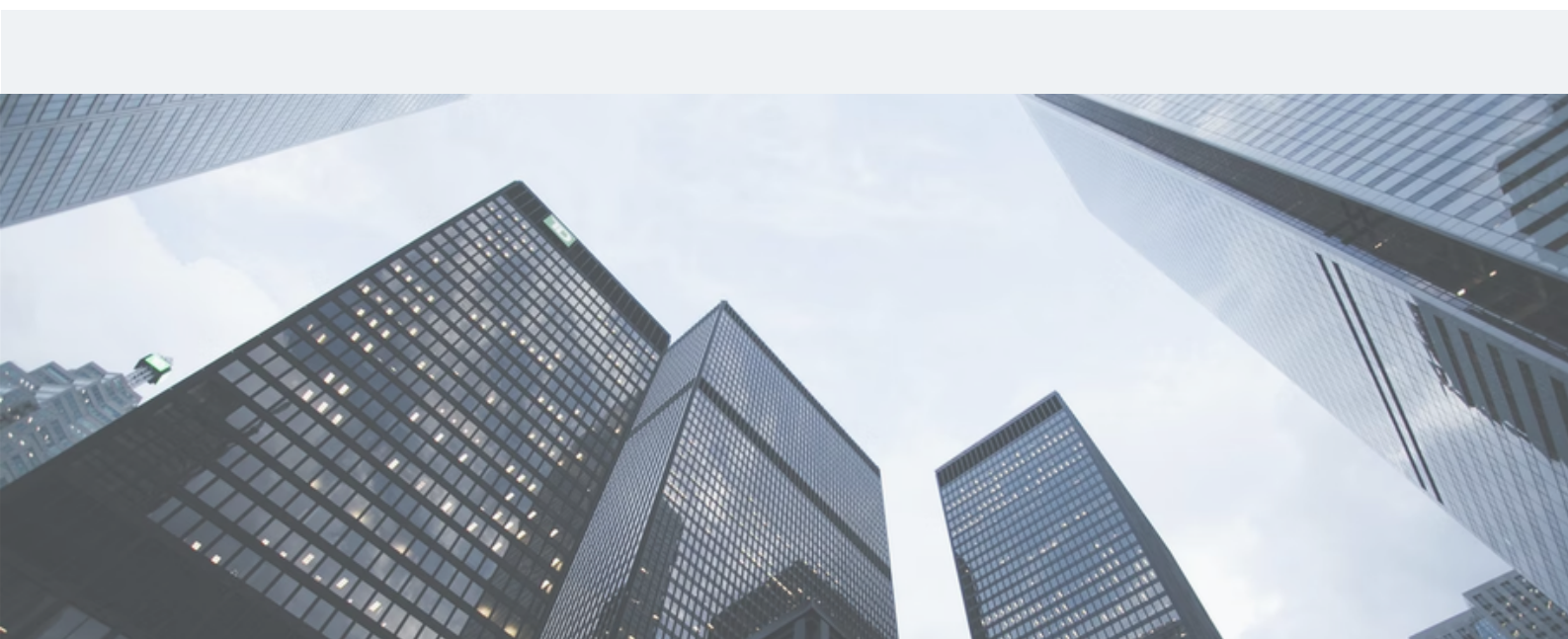
3. If the Foreign Company is effectively managed and controlled in the UAE, then it will be considered a resident of the corporate tax regime.

B. **Non-Resident** will be liable to pay corporate Tax in UAE on:

1. Income earned from Permanent establishments in the UAE.
2. Income sourced in the UAE.

Basis of calculating taxable income

Corporate tax will be levied on the accounting net profit (or loss) stated in the financial statements of a business. Accounting Standards and principles accepted in the UAE would be used in the preparation of financial statements. The financial accounting period will be used as the annual tax period by the business. In case a business does not have a financial accounting period, then the Gregorian calendar year (Jan-Dec) would be used by default.



Corporate Tax Rate and Threshold Limit

Corporate tax will be charged upon the taxable income consisting of business profits arrived at after making adjustments in accordance with the UAE tax laws.

Corporate tax will not be charged on the business profits up to the threshold limit of AED 375,000 (USD 100,000).

Income in excess of AED 375,000 (USD 100,000) will be taxed at the rate of 9%.

Income from Qualifying Free Zones

Tax rate on Qualifying income - 0%

Tax rate on Non-qualifying income - 9%

No advance payments of corporate tax will be required to be made by businesses.

Expense Deduction Limitations

Expenses incurred wholly and exclusively for business are deductible in the Tax Period, in which these are incurred.

Certain expenses are disallowed or are restricted while computing income for the purpose of corporate tax in order to make sure that only those expenses which are incurred for the purpose of earning taxable income are deductible. This has also been done to prevent abuse of excessive deductions.

Non-Deductible Expenses

Payments made to related parties located in free zones which avail the benefit of 0% corporate tax would not be deductible for the purposes of corporate tax. However, if such payment is attributed to a mainland branch of the free zone person, then the related party would be entitled to claim a deduction.

Further, the following expenses would not be allowed as deductions:

- Administrative Penalties
- Bribes or other illicit payments.
- Recoverable VAT
- Donations, grants or gifts paid to an entity that is not an approved public benefit entity.

50% of the expenditure incurred in relation to entertaining customers, shareholders, suppliers, and other business partners would be allowed as a deduction.

Interest Expenditure

Interest expenditure shall be deductible in the Tax Period in which it is incurred. However, interest deduction limitation rule has been put in place as under:

1. Net interest expenditure shall be deductible up to 30% of the taxable Person's accounting earnings before the deduction of interest, tax, depreciation and amortization (EBITDA) for the relevant Tax Period, after excluding any Exempt Income.

2. The disallowed interest expenditure will be allowed to be carried forward for next 10 taxable years and will be included in the current period's interest to calculate the Net Interest Expenditure.

3. 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 brought forward, exceeding the taxable interest income derived during that same period.

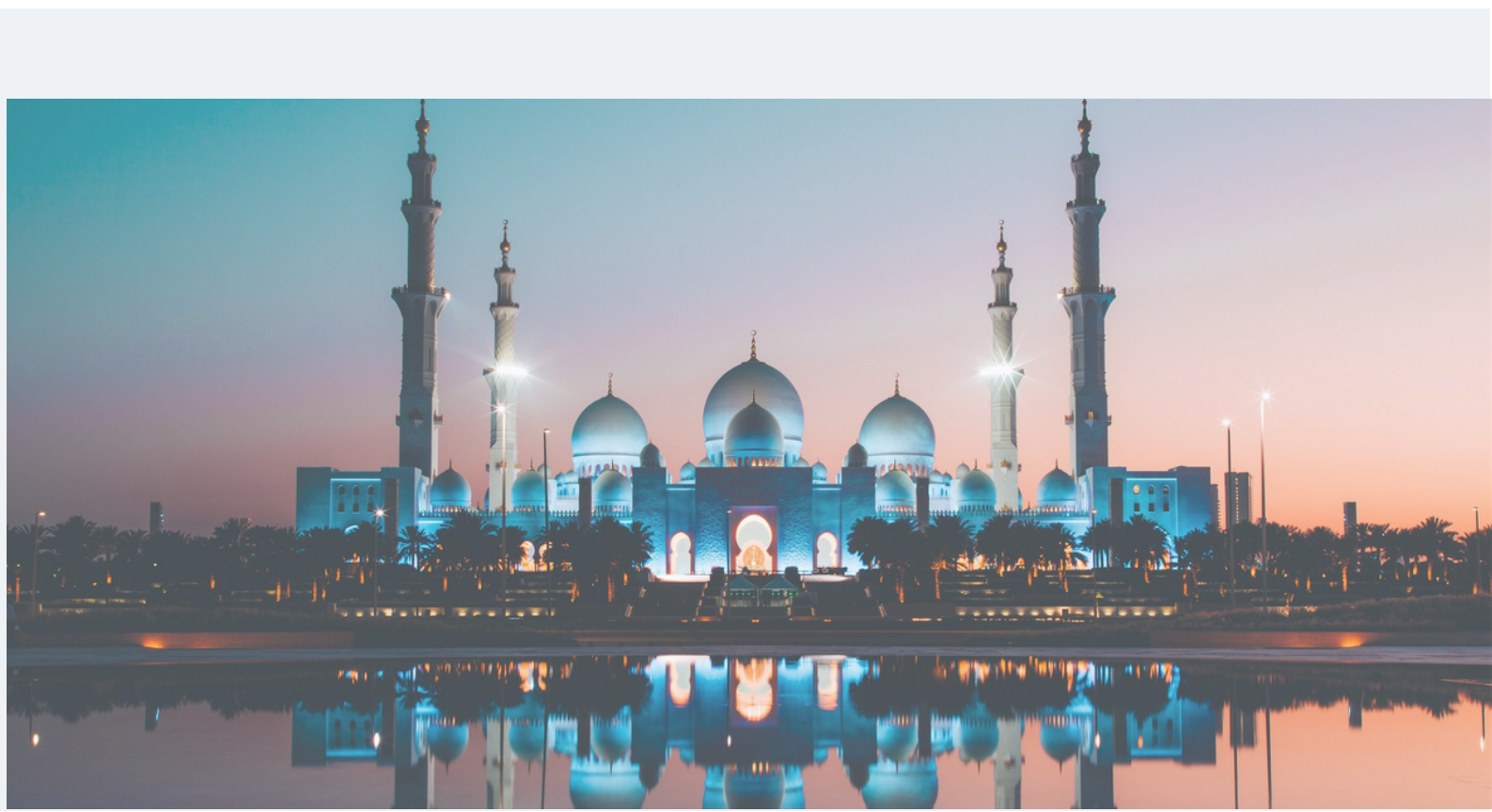
The limitation rule is not applicable upon banks, insurers and a natural person engaged in business etc.

Interest Deduction Limitation Rule on Loans from Related Party

1. No deduction shall be allowed for interest expenditure incurred on a loan from a related party, if taken with an intent to gain corporate tax advantage, in respect of any of the following transactions:

- A dividend or profit distribution to a related party.
- A redemption, repurchase, reduction or return of share capital to a Related Party.
- A capital contribution to a Related Party.
- The acquisition of an ownership interest in a Person who is or becomes a Related Party following the acquisition.

2. If the income arising out of interest to the recipient related party is taxable in the UAE or foreign jurisdiction at the same or higher rate, then the interest deduction limitation rule will not apply.



FIRST TAXABLE FINANCIAL YEAR

In the UAE, the entities are free to select any particular period comprising 12 months as an accounting year. Therefore, while the corporate tax in the UAE will be applicable from the financial year starting on June 1, 2023. The applicability of tax will be determined on the basis of the conclusion of the financial year for each of the entities.

We provide an example of the taxable year of an entity in the table below:

Financial Year end	First Taxable Period
30 June	1 July 2023 - 30 June 2024
31 December	1 January 2024 - 31 December 2024
31 March	1 April 2024 - 31 March 2025
31 May	1 June 2024 - 31 May, 2025

If an entity does not have any taxable year, then the English calendar year (Gregorian year) will be the tax year.

Currency

All the amounts are required to be converted into UAE dirham using the applicable currency exchange rate which is set by the Central Bank of the United Arab Emirates.



APPLICABILITY OF CORPORATE TAX

Federal corporate tax on business profits in the United Arab Emirates (UAE) will be applicable to:

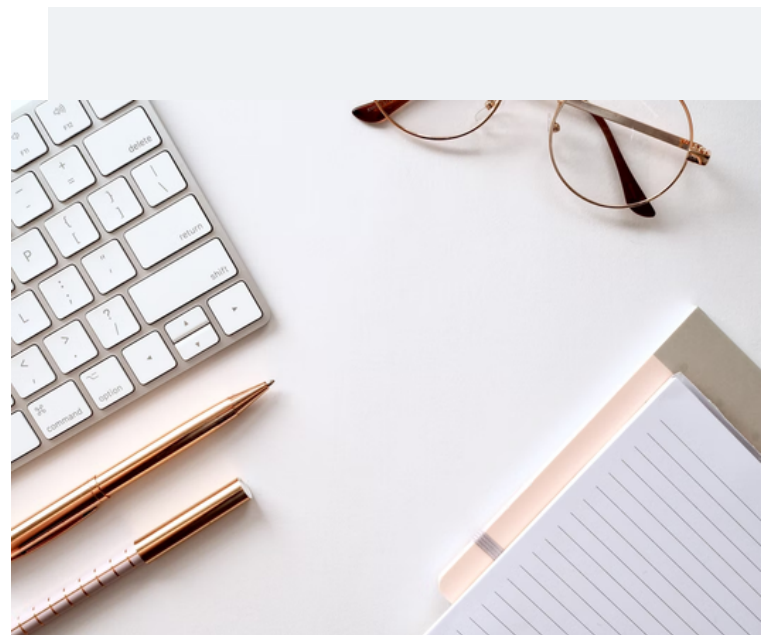
- 1.UAE companies and other legal persons incorporated in UAE.
- 2.Legal persons incorporated in foreign jurisdictions but effectively managed and controlled in the UAE.
- 3.Natural persons engaged in a business or commercial activity in the UAE under a commercial license including a freelance license or permit would also be subject to corporate tax.
- 4.Foreign legal entity
 - a.Which has a permanent establishment in the UAE, and
 - b. Earns UAE-sourced income.
- 5.Limited liability partnerships, partnerships limited by shares, and other types of partnerships, where no partners have unlimited liability for the obligations of the partnership.
- 6.Any business activity directly carried out by the Government under a trade license will be covered within the scope of the UAE CT regime.

Exempt Incomes

As per the law, all incomes generated by individuals except income from commercial activities will be outside the ambit of corporate tax. Therefore, income earned by individuals from a business under a commercial license including a freelance permit or license will be subject to corporate tax.

Exempted Incomes from Corporate Tax:

- 1.Income earned from employment and other personal income earned by individuals such as dividends, rental receipts, royalties, and other investment returns.
- 2.Interest income earned by individuals from bank deposits or any other saving schemes.
- 3.Income from dividends and capital gains earned by companies in UAE from the sale of shares of a subsidiary company.
- 4.Income from dividends and capital gains earned from the sale of shares of both UAE companies and foreign companies.
- 5.Income earned by UAE companies from operations conducted through foreign subsidiaries or foreign branches outside the UAE.
- 6.Income of a non-resident earned from operating or leasing aircraft or ships (and associated equipment) used in international transportation under the reciprocity arrangement with other countries.



STATE SOURCED INCOME

A Non-Resident Person shall be subject to corporate tax on State Sourced income which is not attributable to permanent establishment of the Non-Resident in the state.

Following incomes shall be considered as State Sourced Income:

- a. Income derived from a Resident Person.
- b. Income derived from a Non-Resident Person and not attributable to a Permanent Establishment of that Non-Resident Person in the State.
- c. Income accrued from activities performed, assets located, capital invested, rights used, or services performed or benefitted from in the State.

State Sourced Income shall also include:

- a. Income from the sale of goods and provision of services in the State.
- b. Income from provision of service that are rendered or utilized 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.



PERMANENT ESTABLISHMENT

Taxability of income of non resident has a direct interface with the permanent establishment as the income of non resident would get taxed if it is earned from permanent establishment.

Concept of permanent establishment is of great significance to the entities which are conducting business internationally. It implies that a business may be exposed to tax in foreign jurisdiction even though such business has not set up any subsidiary or legal entity there.

The Concept of permanent establishment in corporate tax law of the UAE is outlined on the basis of Article 5 of the OECD Model Tax Convention which enumerates the guiding principles for determining what constitutes permanent establishment.

According to the Decree-Law, permanent establishment means “a fixed place of business through which the business of an enterprise is wholly or partly carried on.” It especially includes:

1. A place of management where management and commercial decisions that are necessary for the conduct of the Business are, in substance, made
2. A branch
3. An office
4. A factory
5. A workshop
6. Land, buildings and other real property

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

8. 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

9. A building site, a construction project, or place of assembly or installation, or supervisory activities in connection therewith,

However, permanent establishment shall not include the following:

1. The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the person
2. The maintenance of a stock of goods or merchandise solely for the sole purpose of processing by another person
3. Purchase of stock of goods or merchandise or collecting information solely for the non-resident person
4. The maintenance of a fixed place of business solely for the purpose of carrying on any activities of preparatory or auxiliary character
5. The maintenance of a fixed place of business solely for any combination of activities as specified, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

SECTION II

OVERVIEW OF SOME TOPICS

Exempt Entities

The corporate tax regime has provided exemption to the following entities from the applicability of the Corporate Tax:

- 1.The Federal and Emirate Governments and their departments, authorities, and other public institutions.
- 2.Wholly Government-owned UAE companies that carry out a sovereign or mandated activity and that are listed in a Cabinet Decision.
- 3.Persons engaged in the extractive business.
- 4.Persons engaged in Non-Extractive Natural Resource business.
- 5.Qualifying public benefit entity.
- 6.Public and regulated private social security and retirement pension funds
- 7.Qualifying Investment funds
- 8.Foreign entities and individuals who do not conduct business activity in the UAE on a regular basis.



EXEMPTED ENTITIES

Natural Resources

The Corporate tax law provides an exemption to the businesses engaged in the extraction and exploitation of natural resources. Further, any income or share thereof earned by the government from extraction and exploitation of natural resources and income from royalties and fees levied by the government upon private companies would not fall under the corporate tax ambit. Oil, natural gas, water, and deposits of sand and rocks constitute the primary natural resources in the UAE. Extraction and exploitation of these natural resources are usually done by the wholly or partially owned companies under long-term concession agreements entered into with the respective Emirate government. It has to be noted that the exemption from corporate tax will not be available to suppliers, contractors, and subcontractors engaged by such companies. Income earned by them would be liable to corporate tax.

Qualifying public benefit entity

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

(a) 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.

- 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.

(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.

If any organization engages in any such charitable activity, then it will be required to submit an application to the Ministry of Finance for exemption from corporate tax. If such an application is accepted, the income of such an organization would not be subject to corporate tax. However, if such an organization conducts any commercial activity not pertaining to the advancement of objects of the Charitable Organization, then the corporate tax would be levied upon the income earned from commercial activity.

INVESTMENT FUNDS UNDER CORPORATE TAX IN UAE

The Quantum and magnitude of investment in a country, directly or indirectly contribute to the economic growth of a country. The amount of investment is directly proportional to the growth of economic activity in a country.

UAE is the most preferred choice to set up an Investment Fund due to its tax-free status. Recognizing that, the Corporate Tax regime has provided tax exemptions to the investment fund on fulfillment of certain conditions. This would continue to make UAE a most preferred attractive choice to set up various investment funds.

Exemption from Corporate Tax

In order to claim exemption from corporate tax, the following conditions are required to be met by an Investment Fund:

1. Regulated funds

Firstly, the Investment Fund must be regulated by one or more regulatory authorities in the UAE. Thus, an unregulated fund will not be eligible for exemption under the corporate tax law.

2. Maximum holding for 5 or fewer investors

A group of five (5) or fewer investors (and their Related Parties) should not hold 50% or greater economic interest in the investment fund.

3. Maximum holding for an individual.

A single investor (and their Related Parties) should not hold 20% or greater economic interest in the investment fund.

4. Freely traded funds

Interest in the investment fund (i.e. interest held by investors in the investment fund) should be freely traded on a stock exchange, whether on UAE stock exchange or a foreign stock exchange. Sufficient liquidity must be available for the fund in the market.

Tax Benefits

These are the tax benefits given to investment funds:

1. Investment funds to be treated as Fiscally Transparent

Under the corporate tax regime, investment funds in UAE would be considered as fiscally transparent. This would imply that the investment fund will not be liable to be taxed in the individual capacity. The tax liability would arise in the hands of investors on their share of distributed income.

Investment Funds enjoy the status of a pass-through business structure. Hence, the obligation to pay tax on income is transferred to the investors, if they are liable to tax, and the fund itself has no tax liability in respect of its income.

2. Regulated investment funds and Real Estate Investment Trusts

Regulated investment funds and real estate investment trusts funds where, on fulfilling certain prescribed conditions, they can make an application to the Federal Tax Authority (FTA) to avail of the exemption from the corporate tax.

3. Investment fund manager based in UAE

It has been provided in the corporate tax law that even if investment fund managers are based in the UAE and are providing services to a foreign investment fund, it will not be treated as the permanent establishment of such a fund in the UAE.

This provision is intended to promote and encourage investment fund managers to set base in the UAE.

Other Investment & Business SPVs

Family Offices

Family office structures are growing at a high pace, especially in Middle Eastern families. Legal and regulatory frameworks with respect to setting up family offices in the UAE have already been laid down. Family Foundations are prima facie subject to Corporate Tax since they are separate legal entities.

- If the family offices are engaged in carrying out any activity under a business license or permit, then their income from such business activity would be subject to corporate tax.
- If the incomes of family offices comprise any income other than from business activity under a commercial license, viz. dividend, capital gains, rent from properties, etc., then such incomes would not be taxable.

They have an option to apply to the Authority for being treated as an Unincorporated Partnership. Resultantly, the founder and the beneficiary of the trust shall continue to be seen as owners of the assets held by the trust and no corporate tax would be levied on the income of the foundation or trust.

REIT and Investment in Property

The introduction of federal corporate tax will have a direct impact on real estate activities in the UAE. Taxability under corporate tax law will be determined based on the nature and purpose of investment.

Income earned by individuals from investment in real estate held in their own name for personal use may be exempted.

Whereas, income earned from real estate investment through corporate structures may be subjected to corporate tax. Further, any business activity connected with real estate management and brokerage activity will be covered under the tax ambit.

As far as REITs are concerned, it is provided in the corporate tax law that these may apply for exemption from applicability of corporate tax on satisfying certain conditions.



FREE ZONES

Though the companies registered in Free Zone will be subject to UAE Corporate Tax, the UAE CT regime will continue to honor the incentives offered to businesses set up in free zones provided it is a qualifying free zone.

Therefore, businesses set up in free zones which are qualified will be benefited from 0% corporate tax on the following qualifying incomes:

1. Income earned from activities of businesses set up outside of the UAE.
 2. Income earned from trading with businesses located in the same or other free zones.
 3. Income earned from certain regulated financial services directed at foreign markets.
- However, if a business set up in a free zone has a branch on the mainland,

then income earned by such a branch would be taxable to corporate tax at the regular rates. If it does not have any branch in the mainland but it transacts with mainland UAE and if the income derived is in the nature of passive income, then such income would not be subject to corporate tax. Such passive income would include interest, royalties, dividends, and capital gains from owning shares in mainland UAE companies.

Further, the transactions between the free zone entities and their group companies located in mainland UAE would be exempt from corporate tax. And, to nullify the effect of these transactions, payments made to the Free Zone Person by a mainland group company will not be deductible, from the taxable income computed for the mainland company.



Measures for preventing unfair advantage to Free zones entities

To prevent Free Zone businesses from gaining an unfair competitive advantage compared to businesses established in mainland UAE, any other mainland sourced income will disqualify a Free Zone Person from the 0% CT regime in respect of all their income. Such incomes will be treated as non-qualifying income and subject to the corporate tax at the prescribed rates.

A free zone person may elect to be subjected to the regular corporate tax at any time and such election would be irrevocable. Where a Free Zone Person benefits from the 0% CT regime in respect of mainland sourced income, such income will be within the scope of withholding tax (presently at 0%).

Offshore Companies

Offshore companies can be set up in the UAE in some of the special zones. Though the Corporate tax regime does not specifically mention the levy of corporate tax in respect of offshore companies, due to their foreign entity status, their incomes earned from exports or foreign sources, will be exempt and treated at par with free zone entities.

Taxability of Branches of Foreign Entities

Foreign entity branches in the UAE will be subject to corporate tax if they are not exempted or set up in the free zones.

The tax of branches of foreign entities would be computed in accordance with the tax laws applicable in the head office jurisdiction. In order to prevent double taxation of the income of the foreign branches, either the foreign profits may be exempted by Exempted Method or the credit of taxes paid in the UAE may be availed.



TAX GROUPS

Many large business groups in the UAE operate through a group of companies in order to ring-fence the liabilities or initial losses allied with certain activities, start-ups or new ventures, and to enable independent business verticals management and reporting. The government recognizes that corporate tax imposition upon each group company will increase the overall compliance costs. The new corporate tax regime addresses these concerns.

When some of the group companies are incurring losses and profitable entities attract CT, then the effective tax rate on the group becomes higher, therefore, to facilitate and ease the compliance burden, it is permitted to form a tax group and to allow full consolidation as tax grouping for essentially wholly owned companies, and permit the transfer of losses between group companies that are 75% or more commonly owned. The companies incorporated in the UAE can form a tax group for corporate tax purposes provided the parent company holds at least 95% of the share capital and voting rights of its subsidiaries.

Subsidiary companies can also be a part of the tax group if:

- It is indirectly owned by the parent company and its other subsidiaries, holding at least 95% combined shares in each company of the tax group;
- It is a UAE branch of the parent company or one of its subsidiaries.

In order to form a tax group, neither the parent company nor any of the subsidiaries can be an exempt person or a Free Zone Person that benefits from the 0% CT Rate.

All the companies in a group will be required to follow the same financial year.

Upon formation of a group structure, it will be treated as a single taxable person. Hence, a tax group will be required to file only one CT return for the entire group. The parent company will be responsible for the administration and payment of corporate tax on behalf of the tax group.

In respect of the corporate tax liability of the group, the parent company, as well as each subsidiary, will be liable jointly and severally for payment thereof. It is permitted to apply for approval from FTA to limit this joint and several liabilities to one or more named members of the group.

Transfer & offsetting of Losses

In respect of those companies in a group, which do not meet the requirement of 95% common ownership or the companies do not wish to form a tax group, the UAE CT regime allows the transfer of tax losses from one company to another group's profitable company on meeting certain conditions.

One of the important conditions to transfer the losses among the group companies is that the companies in a group must be at least 75% commonly owned. Further, the corporate tax law imposes restrictions on the transfer of loss from companies that are either exempt or the companies in free zones which benefit from 0% corporate tax. The transfer of current losses from one company to another group company, will be restricted to 75% of the taxable income of the loss-offset recipient company.

Intra-group relief on transfer of assets and liabilities

The resident UAE companies which are at least 75% owned, may transfer assets and liabilities among themselves without attracting tax on profit on such sale or transfer. Nonetheless, the assets and liabilities being transferred must remain within the same group for a minimum period of three years.

In the event of non-compliance with the condition for availing intra-group relief, gain or loss which would have arisen upon the initial transfer of asset or liability would be required to be calculated and would be included in the tax return of the transferor in the period in which such condition ceases to be met.

Assets and liabilities are deemed to be transferred at their net book value as a result of which, neither a gain nor a loss arises on such transfer.

Restructuring Relief

The UAE tax regime has provided for exemption or allowance of deferment of tax where whole or independent parts of a business are transferred in exchange for shares or other ownership interests. This has been done to simplify mergers, spin-offs, and other corporate restructuring.

Similar to the intra-group relief, assets and liabilities are deemed to be transferred at their tax net book value as a result of which, neither a gain nor a loss arises on such transfer. Restructuring relief will be revoked if the business is subsequently transferred to a third party within three years of the restructuring.

Consequently, gain or loss which would have arisen upon the initial transfer would be required to be calculated and will be included in the tax return of the year when the transfer to the Third Party takes place.

Impact on Corporate Deals

The introduction of corporate tax in the UAE will favorably impact the merger and amalgamation market because of the fact that dividends and capital gains of a qualifying shareholding will be exempt from corporate tax.



Withholding Tax

It is presently provided that a 0% withholding tax will be applicable in respect of domestic and cross-border payments.

Withholding tax would be imposed on the following incomes:

1. Income earned by foreign companies in the UAE that is not attributed to their PE in UAE.
2. Income sourced from the mainland UAE by a Free Zone Person benefiting from the 0% CT regime, except when derived from a mainland branch of that Free Zone Person.
3. Distribution of dividends and other profits by a Free Zone Person who benefits from the 0% CT regime to mainland UAE shareholders.

Since there is a 0% rate of withholding tax, no deductions would be required to be made from payments made by businesses in the UAE at present. Also, there is no obligation to file withholding returns as well. In future, withholding tax rates may be introduced.

Foreign Tax Credit

The global income of companies resident in the UAE would be subject to corporate tax. Such income might include any incomes which may have been subjected to tax in another country. Thus, in order to solve the problem of double taxation, the taxes paid in foreign countries would be allowed as a credit against the corporate tax liability payable on the foreign income. The amount to be allowed as credit would be lower of the “the actual amount of foreign tax or corporate tax applicable on the foreign-sourced income”.

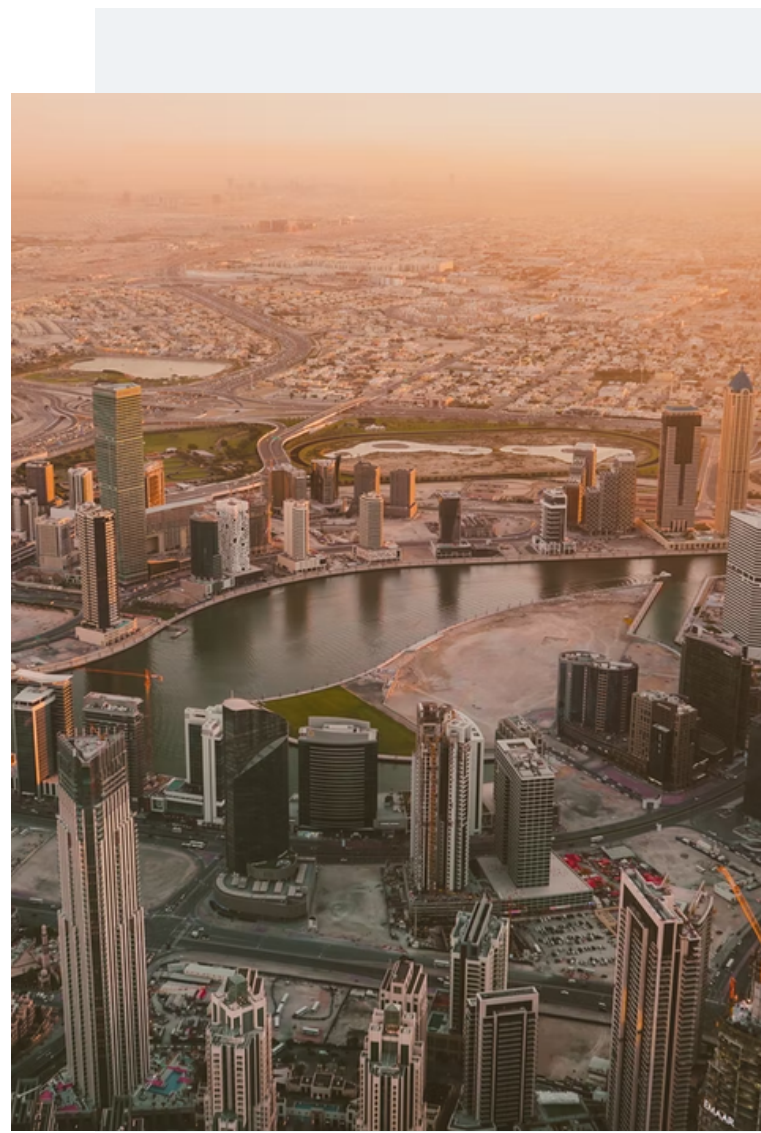
Foreign Branch Office Exemption

Businesses in the UAE may carry out their operations in foreign countries either through a

subsidiary or through a foreign branch. The foreign subsidiary is considered a separate legal entity, whereas the foreign branch office is not a separate legal entity; instead, it is considered an extension of its parent company. Therefore, no separate financial statements are also not required to be prepared by a foreign branch.

Consequently, businesses face many difficulties in attributing income and expenses to foreign branches. Thus, companies in the UAE may either:

1. Claim a foreign tax credit for taxes paid in the foreign country, or
2. Elect to claim an exemption for their profits in foreign branches, by maintaining separate books of account for the respective branches.



TRANSFER PRICING

With the introduction of the new Corporate tax law, the UAE proposes to comply with the OECD transfer pricing rules and the documentation requirements.

Any transactions with related parties or connected persons would be required to comply with transfer pricing rules and arm's length principle as set out in the OECD transfer pricing guidelines, which requires the transactions between related parties to be conducted at arms length price.

Various transfer pricing methods have been prescribed to calculate arm length price. It can also be computed using a different method where the management of the taxable entity opines that the specified methods cannot be applied.

The following methods are prescribed under OECD guidelines for transfer pricing regulations:

1. Comparable Uncontrolled Price Method (CUP)
2. Resale Price Method (RPM)
3. Cost plus Method (CPM)
4. Transactional Net Margin Method (TNMM)
5. Transactional Profit Split Method (PSM)

Related Parties

For the purposes of the UAE corporate tax law, the following shall be treated as related parties:

1. Two or more individuals are related to the fourth degree of kinship or affiliation, including by birth, marriage, adoption, or guardianship.

2. An individual and a legal entity where alone, or together with a related party, the individual directly or indirectly owns a 50% or greater share in, or controls, the legal entity,
3. Two or more legal entities where one legal entity alone, or together with a related party, directly or indirectly owns a 50% or greater share in, or controls, the other legal entity,
4. Two or more legal entities if a taxpayer alone, or with a related party, directly or indirectly owns a 50% share of each or controls them,
5. A taxpayer and its branch or permanent establishment,
6. Partners in the same unincorporated partnership, or
7. Exempt and non-exempt business activities of the same person.

Connected Persons

As there is no income tax in the UAE, the owners of taxable businesses may take undue advantage by making excessive payments to themselves or to connected persons, thereby eroding the corporate tax liability.

Therefore, any payments made to the connected persons would be deducted only if the business can exhibit that such payment:

1. corresponds with the market value of the service provided; and
2. is incurred wholly and exclusively for the purposes of the taxpayer's business.

In respect of a business that is under the scope of corporate tax, the following persons would be considered as connected with the business:

1. An individual who directly or indirectly has an ownership interest in, or controls, the taxable person.
2. A director or officer of the taxable person.
3. An individual is related to the owner, director, or officer of the taxable person to the fourth degree of kinship or affiliation, including by birth, marriage, adoption, or guardianship.
4. Where the taxable person is a partner in an unincorporated partnership, any other partner in the same partnership.
5. A Related Party of any of the above.

Transfer Pricing documentation requirements

The businesses would be required to submit a disclosure that shall contain information relating to the transactions with Related Parties and Connected Persons. Where the arm length's price exceeds the threshold value, a master file and local file would be required to be maintained by the business.



ADMINISTRATION

Registration

Every business on whom corporate tax will be applicable would be required to get itself registered with the Federal Tax Authority within prescribed period of time and shall obtain Tax Registration Number. If any business does not register itself voluntarily, FTA is empowered to automatically register it for the purpose of corporate tax.

Deregistration

If the businesses ceases to be subject to corporate tax by the reason of cessation or liquidation of the business or due to any other reason, then such business would be required to make an application to FTA for deregistering itself within three months from the date of cessation.

Upon receipt of an application for the purpose of deregistration, the FTA would examine the application and will deregister the business only after satisfying that the person has filed all the corporate tax returns, paid all the tax liabilities including penalties (if any), up to the date of cessation of the business.

Where the business does not make an application for deregistering itself within the prescribed time period, then FTA may deregister the business on the basis of information available with it.

Filing, Payment and Refund

Under the corporate tax law, businesses are required to file only a single tax return for each

tax period along with the relevant supporting schedules, thereby keeping the compliance and administration burden at the minimum.

Businesses are required to submit tax returns and supporting schedules within a period of nine months from the end of the tax period. Further, the corporate tax liability arising for any tax period would also be required to be discharged within nine months from the end of the relevant tax period.

In case of a refund, the taxpayer can apply to FTA for a refund.



SECTION III

GROUP TAX - A STUDY

Group Tax- Initial Rundown/ Putting in order

In any group, some of the companies are highly profitable and some of the companies may be in losses. As the corporate tax regime allows for offsetting of the losses and transfer of the assets or businesses of group companies without any tax, the structuring must be commenced now.

While each company in the group has special features, it would be advisable to immediately start reviewing the corporate ownership, present operational performance, and long-term business plans. The following measures are advised to be reviewed at this point in time:

- The management must consider the increase or decrease in level of the shareholding if they wish to retain or exclude a company from the group.

- To offset the losses, estimating present profitability level and expected operational performance in the coming years will be helpful in effective tax planning.
- If some assets or liabilities are proposed to be transferred within the group companies or some investments are to be included or segregated from a company to another company or a natural person, this is the right time to undertake that exercise.
- It would be a great idea to get all the accounts completed for the past years and audited, so that after the introduction of Corporate tax, transactions of past periods do not affect the computation of income of taxable years, giving rise to disputes.

This is an important area to be continuously reviewed henceforth.



ABOUT US

Aspire Consulting has a presence across many countries. We offer following Corporate Services:

- Taxation & Assurance (Corporate & VAT)
- Company Formation & Management
- Corporate & Cross-border Advisory
- Risk Advisory and Internal Audit
- Corporate Compliance (AML/CFT, ESR)
- Accounting & Transaction Advisory
- Technology adoption & migration

We have clearly defined business processes in line with globally accepted standards. We ensure quality delivery of services and client satisfaction. Our services are tailor made to meet the needs of our clients in diverse industries, services and other sectors.

Collectively, we serve a credible base of clients in various countries including India, UAE, European and Far-east countries etc. The group is therefore able to offer good blend of knowledge and expertise based on its professional capabilities.

Our client centric approach with a focus on creating long term relationships has helped us in carving a niche in the accounting and financial services sector. We strive to provide comprehensive services ensuing legal and procedural compliances.

CONTACT US

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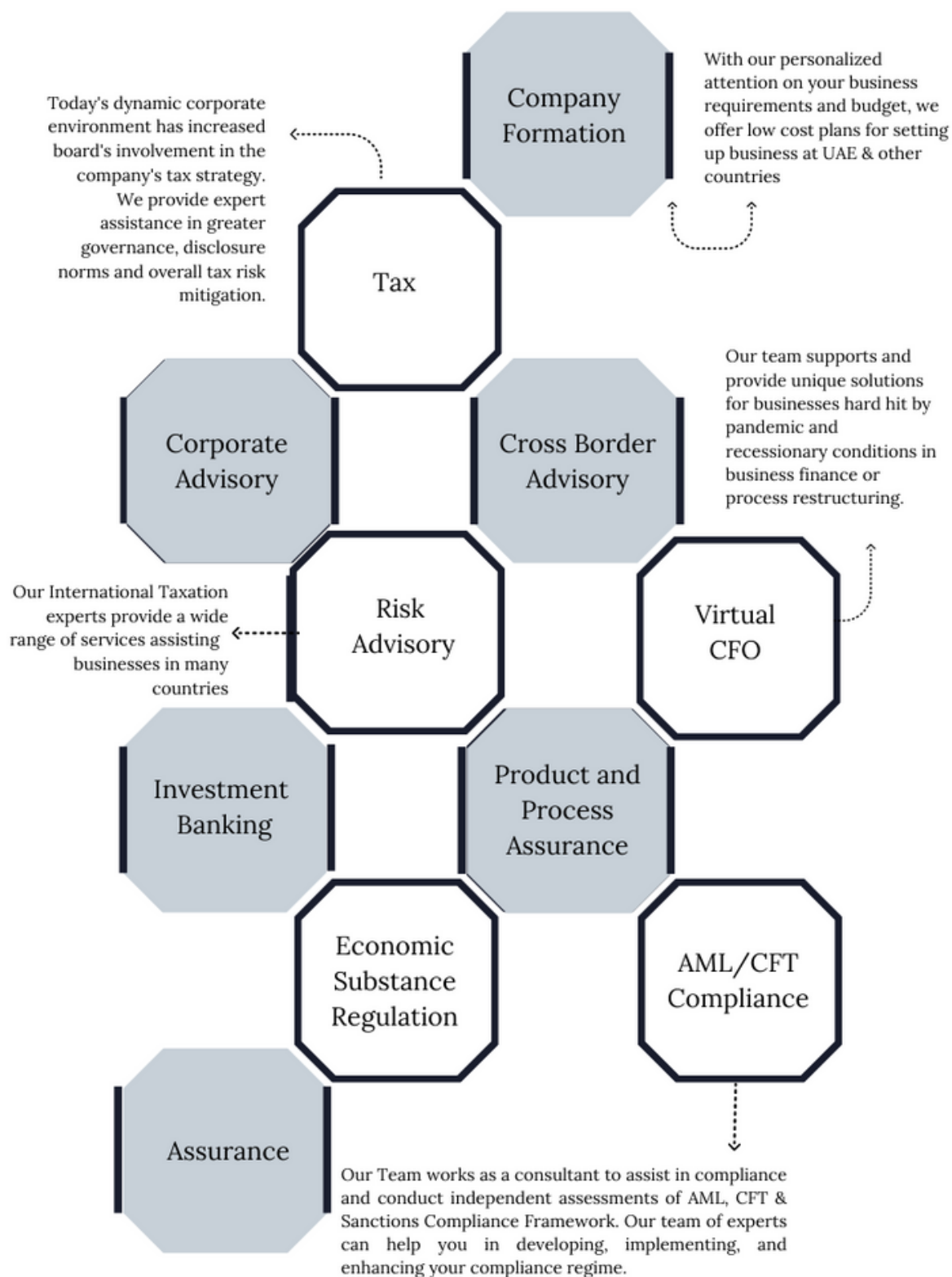
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OUR SERVICES



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 <i>Kanupriya Singhvi</i> Associate Chartered Accountant 3 years of Experience	 <i>Mohit Mehta</i> Fellow Chartered Accountant 7 years of Experience	 <i>Apoorva Agarwal</i> Fellow Chartered Accountant, 7 years of experience	

THE TAX TEAM

Aspire Consulting tax team has a rich litany of experience dealing in global personal and corporate taxes, transfer pricing, cross-border taxation and double tax avoidance treaties for Asia pacific, Africa, Australia and America.

You are welcome to seek our competent assistance for newly introduced Corporate tax or international taxes for various jurisdictions.

You may write to any of us at consult@theaspireconsulting.com or book a consultation.

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