GULF NEWS

CORPORATE TAX IN THE UAE

GN FOCUS

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SHUTTERSTOCK

Ask all the right questions

As we inch closer to June 1 and the implementation of corporate tax in the UAE, **GN Focus** doffs its cap to the old ways of doing business while exploring the road ahead for UAE sectors

By Pankaj S. Jain and Deepak Bansal

Hypothetically, let us imagine Barack Obama coming to the UAE to make a speech at a private event. Now, imagine Novak Djokovic coming to the UAE to play a tennis match, or Tom Cruise coming to shoot a movie. Could you believe that the tax implications on Novak and Tom will be different from that of Barack.

As per its tax treaties with other countries, the UAE is entitled to impose tax on the income derived by such overseas citizens by exercising the activities of an entertainer in the UAE. Even though there is no personal taxation in the UAE, corporate tax could still apply on specified business activities conducted by an individual, resident or expatriate, in the UAE if the yearly earning exceeds Dh1 million.

Considering the organic growth of businesses in the UAE,

Is this only about **BIG 4** QUESTIONS?

A	L	S	O	M	V	O	Q	A	L	S	B
R	Y	Z	J	U	N	E	F	M	O	C	L
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Z	O	C	W	I	Z	C	D	M	P	Z	L
O	M	C	W	T	A	K	T	J	M	D	O

Find the correct answer for the below:

1. *Which country has the lowest Corporate Tax in the Gulf ?*
2. *The rate of UAE Corporate Tax is __%*
3. *What compliances do businesses with greater than Dh 50 Million revenue need ?*
4. *From which month in 2023 will the UAE CT law come into effect ?*

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right answers,
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certain legacy practices suddenly appear as tax-inefficient and could pose significant costs in the future. Businesses need to pay special attention to the tax efficiency of their operations.

Salaries paid to owners taxable?

UAE VAT is not applicable on wages of an individual. As per the cabinet decision, wage is what is given to the employee in consideration of their services under the employment contract (including allowances and bonuses).

As per MoF's frequently asked questions (FAQs), employment may include a continuing service relationship where all or most of the income of the individual is derived from one customer, and the service income is essentially remuneration for the natural person's labour. The employment/salary income should be derived from one customer (aka employer).

Many business owners have already started drawing out salaries from the multiple companies owned by them. It needs to be asked whether such transactions would be considered as wage or as business income, if drawn from multiple companies. Can the owner wear a hat of an employee? The anti-abuse rules will also have an impact on such transactions.

Disqualifying Income – the free zones' vulnerability

The Public Consultation Document (PCD) contained an important policy objective i.e. prevent free zone businesses from gaining an unfair competitive advantage compared to businesses established in mainland UAE. PCD stated that if a free zone entity earns any mainland sourced income (other than qualifying and non-qualifying incomes mentioned above), the entity will be disqualified from 0 per cent tax rate in respect of all its income.

For example, if a free zone entity provides installation services in the mainland, or if a free zone business provides services both to overseas clients and also to mainland/FZ clients, would they forfeit their entire tax exemption?

The CT decree law does provide that free zone entities will have to meet conditions prescribed by the Minister of Finance to qualify for the tax exemption (0 per cent tax rate). Considering the policy objective to prevent unfair tax advantage, it should not be ruled out that free zone entities could be disqualified if their business operations include certain mainland activities or other prescribed activities.

Personal assets in company's name

Business owners often consider only the principle activities of the company such as manufacturing/trading/services for reviewing the CT impact. All activities conducted and assets used/held by a company will be considered as activities conducted, and assets used/held, for the purposes of business.

There is no apparent exemption proposed under the CT laws for the companies earning income from the real estate properties. Accordingly, the income/gains from the real estate held by companies could be taxed in the future.

Clear expectations and delivery

For the action plan/assessment studies, it is important for businesses to evaluate if they are getting clarity on the following – what needs to be done, how it needs to be done, why it needs to be done, when it needs to be done, and who will do it. The 4Ws and 1H approach does not require a prior tax experience among the businesses. For stakeholders assisting the business in tax implementation, following the above approach is equally important along with an indemnity to stand by the recommendations.

The 'what needs to be done' holds significant importance. The businesses cannot be left to fend for themselves, or know what to do by giving a generic statement such as 'the company should ensure the compliance with transfer pricing documentation (or any other xyz provisions)'. It will take only a minute to recommend a person to cook to satisfy his/her hunger, what the person really needs is to know what ingredients to mix, their proportions, and how to cook (and perhaps how not to burn food).

> **Businesses need to pay special attention to the tax efficiency of their operations.**

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Ask the right questions

The answers already exist out there, are you asking the right questions? Businesses should take note of their tax positions and ask questions regarding the impact of forthcoming corporate tax on their tax policies.

– The authors work with AskPankaj Tax Advisors, which provides bespoke tax advisory services to the UAE and to multinational businesses

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CORPORATE TAX EVENTS IN THE UAE

With the objective to share tax insights and raise awareness on corporate tax across various sectors, Gulf News in association with AskPankaj is organising three seminars on corporate tax in the UAE.

- **Tuesday, May 23**
  Hotel Holiday International, Sharjah
- **Thursday, May 25**
  DoubleTree by Hilton Dubai M square Hotel & Residences, Dubai
- **Monday, May 29**
  The Westin Abu Dhabi Golf Resort & Spa

Scan the QR code to register and get discounted tickets for Dh799. Tickets for group bookings are available for Dh749

The Imtithal sessions are being held at the Dubai Chambers headquarters

GN ARCHIVES

Dubai's Department of Finance starts training programme

Initiative, called Imtithal to help raise awareness of corporate tax in the UAE

The Department of Finance for the Government of Dubai (DoF) commenced with the integrated training programme, Imtithal (Competence), aiming to raise awareness of corporate tax in the UAE, which will be implemented on the first of June 2023 in the UAE.

The first of its kind in the country, the Imtithal programme is based on interactive participation and will be presenting many realistic examples related to the corporate environment in various economic sectors. The programme workshops started in cooperation with the strategic partner, Dubai Chambers, and the knowledge partner, KPMG.

Abdulrahman Saleh Al Saleh, DoF Director General, says it is important that companies in various business sectors are given the appropriate opportunity that empower them to engage properly in the national tax system. "We hope that the Imtithal programme will help Dubai registered companies benefit from the expertise that the programme has to offer. This will ensure the highest levels of compliance with the corporate tax regulations."

"In light of the wise leadership's vision, and in cooperation with the Dubai Chambers, DoF is keen to educate private sector companies in Dubai about the elements of the new tax system, in addition to the incentives and how to benefit from them, considering that the requirements for compliance with the corporate tax differ from those of VAT," says Al Saleh.

Mohammad Ali Rashed Lootah, President and CEO, Dubai Chambers, adds, "We commend DoF on the launch of the programme. We are delighted to work together on this programme to raise awareness of the UAE's corporate tax regime, its key features, legal provisions as well as compliance obligations. This reflects our ongoing commitment to supporting Dubai's business community and educating them about new legislations impacting their businesses. In addition, we are always keen to provide an enabling and competitive environment that stimulates business growth, and cements Dubai's position as a global trade and an investment hub while supporting the country's economic diversification."

Abdulrahman Saleh Al Saleh, Director General, Department of Finance, Government of Dubai

Mohammad Ali Rashed Lootah, President and CEO, Dubai Chambers

Imtithal educates companies and businesses in Dubai about all the elements of the new tax system, whether accounting or tax-related, as well as the incentives and how to benefit from them, since the compliance requirements with this tax differ from those related to VAT."

Imtithal's sessions are held at Dubai Chambers headquarters and the workshops are provided by highly reputable specialists from KPMG. It consists of face-to-face one-day training workshops that will be offered to a limited number of beneficiaries, in both Arabic and English.

Upon the completion of the sessions, participants will receive a participation certificate issued by DoF.

This tax awareness training programme comes to enhance concerted federal and local efforts and ensure the achievement of the highest levels of compliance with the corporate tax.

— *WAM*

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PARTNER CONTENT

Staying prepared

Maintaining accurate financial records can be critical to UAE businesses looking to prep in order to comply with UAE corporate tax laws

By Tyne Hugo

Corporate tax will be implemented in the UAE from June 1, 2023 at a rate of 9 per cent on all annual taxable income above Dh375,000 and is governed by Federal Decree-Law No.47 of 2022 on Taxations of Corporations and Businesses supplemented by Cabinet decisions (CT Law). It is important to note that corporate tax will apply to both legal persons (companies) and Natural persons (individuals) who carry on a business. Most businesses will be subject to Corporate tax in some shape or form, save for the exceptions provided for in Articles 4-10 of the CT Law. Mostly, the exempt entities are government related businesses, extractive businesses, charities, and certain investment funds.

Corporate tax is no doubt going to require familiarisation for a substantial amount of businesses within the UAE who are not used to it, just as VAT did when it was implemented. The best course of action is for businesses to start planning now for it. As with VAT, registration is required for corporate tax and a guide on how to complete registration is available on the FTA portal here: https://tax.gov.ae/DataFolder/Files/eservices/2023/CT_Registration_Taxpayer_User_Manual_EN.pdf. This registration is separate from any VAT registration.

Businesses can further prepare and comply by keeping accurate financial records. Only businesses with an annual turnover exceeding Dh50,000,000 are required to keep audited statements, however, this should not dissuade smaller businesses from keeping diligent and accurate records. Accurate records will ensure businesses can be confident their returns are accurate. The last thing they will want is for the FTA to audit them, deem that the return was inaccurate and apply penalties and back dated interest. Accurate records and timely returns will be some of the most important compliance and preparation requirements for businesses.

9%
Percentage of annual income to be taxed as per CT Law

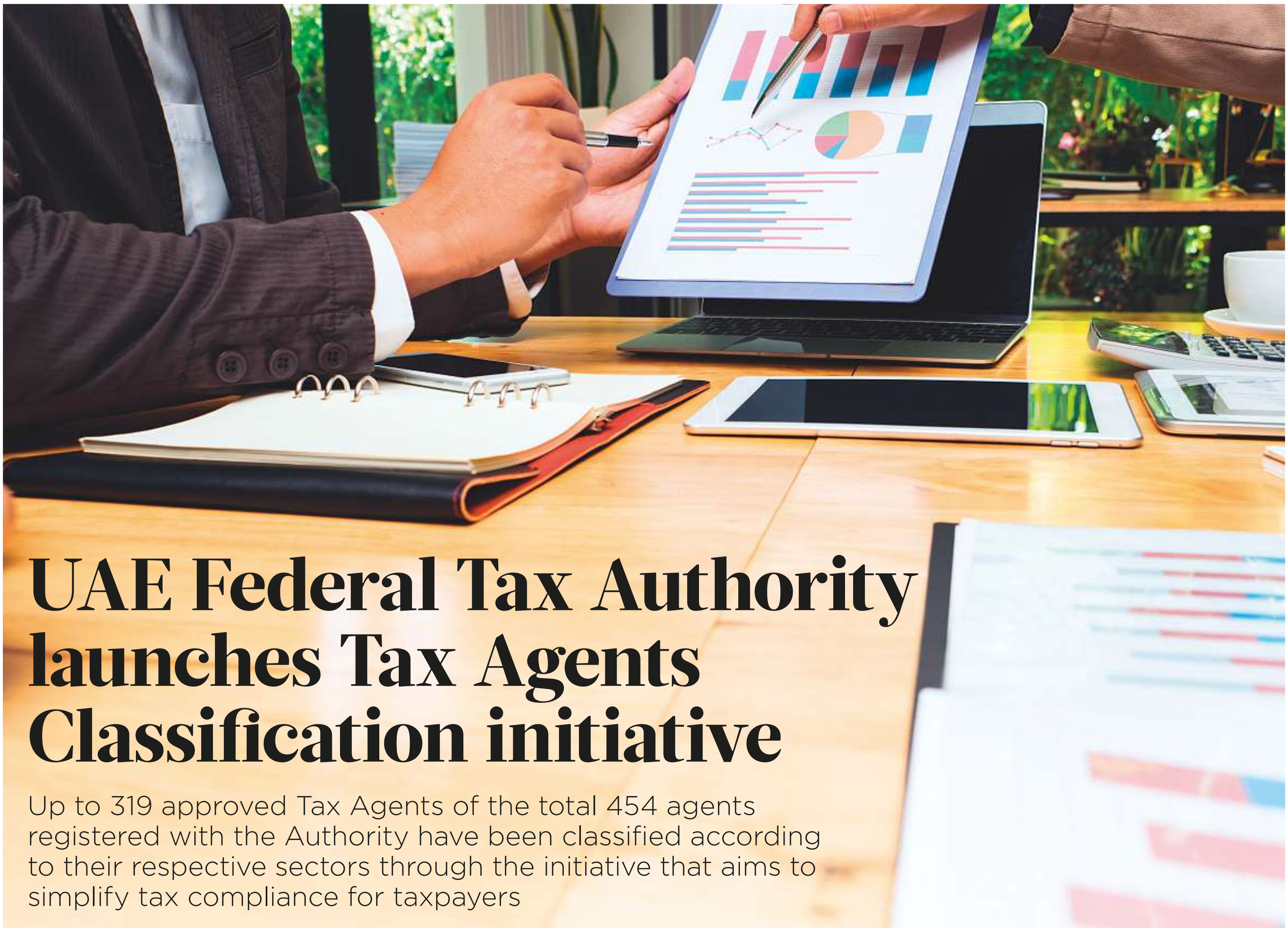
Corporate tax is not all scary though. To continue to promote business within the UAE, the CT Law grants relief to small and medium enterprises (SME Relief) as well as relief to Qualifying Free Zone entities. The SME Relief will be applicable from June 1, 2023 to December 31, 2026 and is specifically designed to help start-ups and small businesses. It effectively gives an exemption on otherwise taxable income for businesses with revenues below Dh3,000,000 per annum. Furthermore, free zone entities can also benefit from relief under Article 18 of the CT Law should they meet the requirements to be considered a Qualifying Free Zone Person. Some requirements, such as Qualifying Income still need to be defined by the Ministry. However, the intention to give relief to qualifying free zone businesses is clear. All businesses that meet the requirements will be subject to 0 per cent tax on Qualifying Income, and 9 per cent tax on all other income.

As is natural, businesses may be looking at how to avoid corporate tax. However, this is dangerous as businesses who attempt to restructure themselves or transactions with the sole purpose of having a to pay lower tax or gain a higher tax refund, or in anyway negate a tax obligation could be considered an abuse under Article 50 of the CT Law. In such cases, the FTA will be entitled to examine the nature of the restructuring or transaction and decide that it was to avoid corporate tax. This can result in penalties and further tax being paid. Accordingly, this further demonstrates why businesses must keep accurate records.

Corporate tax is not some distant obligation that may or may not arise. It is coming, and it is coming soon, and businesses need to be fully prepared and compliant to ensure that they are ready.

— The writer is Senior Associate - Corporate Department, at UAE-based legal firm, BSA Ahmad Bin Hezeem & Associates

BSA



UAE Federal Tax Authority launches Tax Agents Classification initiative

Up to 319 approved Tax Agents of the total 454 agents registered with the Authority have been classified according to their respective sectors through the initiative that aims to simplify tax compliance for taxpayers

PICTURES: SHUTTERSTOCK/GN ARCHIVES

The UAE Federal Tax Authority (FTA) introduced the Tax Agents Classification initiative earlier this week, aiming to simplify tax compliance for taxpayers. The initiative provides an online procedure for taxpayers to select a specialised Tax Agent based on the sector their taxable economic activity belongs to, choosing from a list of 10 diverse sectors that reflect the real-life experiences of accredited Tax Agents registered with the Authority.

The FTA in a press release said that it has launched this initiative to enhance customer satisfaction regarding the services provided by Tax Agents. Taxpayers can access the Authorised Tax Agents Register on the FTA website, use the "Filter Agents" option to classify them based on specialisation or sector, and select an agent from the relevant sector.

The FTA disclosed that 319 approved Tax Agents, accounting for over 70 per cent of the total 454 agents registered with the Authority, have been classified according to their sectors as part of this initiative.

Competitive future

The FTA emphasised that these performance agreements represent transformative projects that propel the UAE towards a more competitive future. These projects have a significant impact across various sectors within short time frames, paving the way for implementing new work processes within the UAE Government.

Khalid Ali Al Bustani, Director-General of the FTA, says, "The Federal Tax Authority has launched the Tax Agents Classification initiative as part of its strategy to contribute to the government efforts being made to advance the UAE's position as a centre for the new economy, by creating the world's most dynamic economy, in line with the We the UAE 2031 vision, which requires multiplying efforts to fulfil government aspirations, and that will reflect positively on society and various sectors in the UAE."

"The Authority is committed to continuously developing its services to meet customers' aspirations, improving their experience, and expanding the range of innovative solutions to facilitate tax compliance," Al Bustani adds.

"These solutions are designed based on the results of an opinion poll and proposals fielded by the Authority through its direct communication with customers. The FTA aims to engage taxpayers in the continuous development and modernisation plans, designed to align the services provided by the Authority with the actual needs of customers, facilitate access to services that meet the highest quality standards, and reduce the time and effort needed to complete transactions."

The FTA Director-General has highlighted the user-friendly nature of the Tax Agents Classification initiative, which simplifies the selection process for taxpayers by providing an updated list of specialised agents in each sector. These lists are easily accessible on the Authority's website, streamlining processes, improving efficiency, and enhancing the effectiveness of the tax system.

The Authority conducted a comprehensive study to understand the needs of taxpayers seeking to engage with the FTA through Tax Agents. The study revealed that many customers face challenges in choosing the right Tax Agent due to the increasing number of authorised agents registered with the Authority. Based on this research, the Authority implemented the innovative initiative, leveraging the latest technologies.

These solutions are designed based on the results of an opinion poll and proposals fielded by the Authority through its direct communication with customers."

Khalid Ali Al Bustani, Director General, UAE Federal Tax Authority

New classification sectors

The classification process involves adding the Tax Agent's specialisation based on their prior experience in specific tax sectors or services. Agents can select the sectors or services they wish to be classified in by providing supporting documents such as recommendation letters from taxpayers and certificates of prior experience.

The FTA has outlined the new classification sectors for Tax Agents registered with the Authority. This now encompasses everything from VAT-registered businesses, corporate tax, small and medium-sized enterprises (Muwafaq package), and excise tax registration, to registration of warehouse keepers and designated areas, and excise goods registration, as well as tax refunds for citizens building new homes and for mosques, government, and charitable entities, foreign businesses (non-residents), and real estate owners.

By implementing the Tax Agents Classification initiative, the FTA anticipates improved compliance with tax returns submission, tax payment, and tax registration deadlines. It also enables easy access to accurate information related to tax procedures for all concerned parties.

— WAM

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Prepping UAE businesses to be corporate-tax ready

The corporate tax regime in the UAE is coming into force from June 1, 2023. The UAE CT law is a Federal Law aimed to tax profits of corporations and businesses. The rate has been set up at 9 per cent and is applicable to annual taxable income above Dh375,000. It applies to domestic corporations and in certain situations even to foreign companies. The law aims to strengthen the UAE's position globally for businesses and investment, and adopts internationally acceptable practices. Several decisions for implementation of CT law have been issued and few more are expected soon.

The law comprises of 20 Chapters and 70 Articles. The Ministry of Finance has been organising awareness sessions and has recently issued an Explanatory Guide aiming to provide comprehensive commentary on the meaning and intended effect of each Article of the law. The Guide has to be read in conjunction with the law, decisions and the procedures and it may be updated and changed periodically. The guide will provide certainty over the provisions of the law and help businesses bridging their seamless and successful transition into Corporate Tax regime.

The Federal Tax Authority (FTA) being the implementing agency aims to launch few transformative projects for easier transition into the CT regime.

While the law provides for quite a competitive tax rate of 0 per cent and 9 per cent, along with simplified compliances, businesses need to perform a thorough assessment including review of their existing business models, contracts, cross-border transactions, inter-group transactions, etc. before transitioning to their first tax period. Any arbitrary arrangements with no commercial or economic substance aimed at obtaining a corporate tax advantage can be counteracted by FTA.

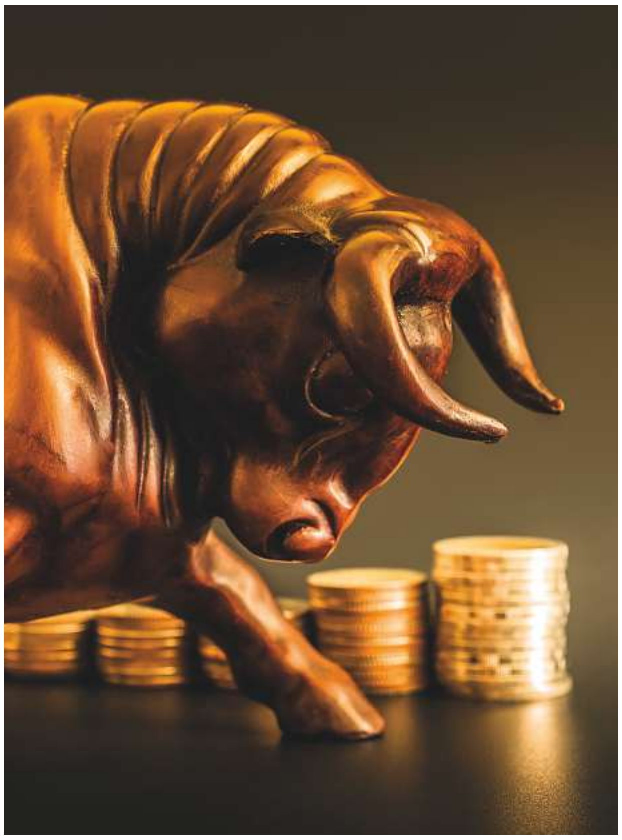
At MBG Corporate Services, our experts are working on tax impact, transfer pricing assessments, review of cross-border transactions, planning operational implementation for several businesses and can assist businesses in their preparedness assessment.

Please get in touch by writing to uae@mbgcorp.com

Several decisions for implementation of CT law have been issued and a few more expected soon."

Amit Sachdev
CEO, Corporate Tax and Legal,
MBG Corporate Services

UAE committed to competitive tax framework with new decision by Cabinet



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Ministry of Finance announces UAE Cabinet decision on treatment of natural persons in business activities

The Ministry of Finance announced the issuance of UAE Cabinet Decision No. (49) of 2023 on the treatment of resident and non-resident individuals undertaking a business or business activity, for the Corporate Tax Law purposes.

In this regard, Younis Haji Al Khouri, Undersecretary of the Ministry of Finance, said, "The new Cabinet decision demonstrates the UAE's commitment to maintaining a clear and competitive tax framework for both local and foreign individual investors.

"By simplifying the corporate tax system, the UAE continues to foster an attractive business environment that supports the growth of small businesses, startups, and the overall economy."

The decision aims to clarify the application of the corporate tax regime for natural persons ('individuals' in this context) and ensure that only business or business-related activity income is taxed, while clarifying that personal income notably from employment, investments and real-estate (without licensing requirements) is not subject to corporate tax. Individuals conducting business or business activities will be subject to corporate tax and registration requirements only if their combined turnover exceeds Dh1 million in a calendar year.

For example, if an individual who is a UAE Resident operates an online business and the combined annual turnover from this business exceeds Dh1 million, under the new decision, the UAE Resident business income from the online business would be subject to corporate tax. However, if the UAE Resident also earns income from a rental property and personal investments, these sources of income would not be subject to corporate tax as they fall under the out-of-scope categories.

All Cabinet and Ministerial decisions, as well as explanatory guides relating to the corporate tax law are available on the Ministry of Finance website, www.mof.gov.ae

— *WAM*

By simplifying the corporate tax system, the UAE continues to foster an attractive business environment."

Younis Haji Al Khouri,
Undersecretary, the UAE Ministry of Finance

PARTNER CONTENT

SHUTTERSTOCK

Helping clear the air on 0% UAE corporate tax rate

Corporate tax 101 for free zone companies and small businesses

By Lokesh Gupta

FOCUS ON FREE ZONE COMPANIES

1. What are the key conditions for UAE free zone companies to qualify for 0 per cent corporate tax rate?

Businesses located in UAE free zones can enjoy 0 per cent corporate tax rate on their Qualifying Income, provided it satisfies the conditions specified under the law to become a Qualifying Free Zone Person (QFZP). These conditions are that the company:

o Maintains adequate substance

o Has not elected to be subject to corporate tax

o Transactions with related parties and connected persons adhere to the Arm's Length Principle

On the other hand, QFZPs would pay the normal 9 per cent corporate tax on the income, which is not Qualifying Income.

What will constitute as Qualifying Income has not yet been clarified/defined. However, if we go by the language of the original public consultation document, all offshore income of the QFZPs would be Qualifying Income.

2. Are free zone persons that are eligible for 0 per cent corporate tax rate required to obtain a Corporate Tax Registration Number (CTRN)?

Yes, free zone companies that are eligible for 0 per cent corporate tax rate on all their income would still be required to obtain a CTRN and furnish the corporate tax return (nil return).

3. Is audit of accounts mandatory for QFZPs?

Yes. The Ministry of Finance, through a separate ministerial decision, has clarified that a QFZP is required to get its account audited. It is imperative to note that the monetary threshold of Dh50 million is not applicable to QFZPs. This implies that all QFZPs would be required to get their accounts audited, regardless of their revenue.

RELIEF FOR SMALL BUSINESSES

4. Are there any relief measures provided to start-ups and small and micro businesses (SMEs) in the UAE CT Law?

Small businesses and SMEs may opt to avail the Small Business Relief (SBR) provided under the UAE CT Law. The SBR provisions of the UAE CT Law seek to provide relief to small businesses from corporate tax liability, subject to revenue not crossing the threshold limit of Dh3 million in the tax period and in any of the previous years. It is further clarified that the revenue should be computed having regard to the applicable accounting standards (IFRS).

5. Is there a time period within which the said relief is available to UAE businesses?

SBR shall be available to taxable resident persons for the financial year commencing from June 1, 2023 and continue for subsequent tax periods ending up to December 31, 2026. It is imperative to note that non-resident taxable persons are not eligible for SBR-related provisions.

6. Can a taxable person carry forward the business losses incurred during the period it was enjoying the Small Business Relief?

The taxable person can not carry forward the losses incurred during the period when it was availing the SBR. This means that it would be prudent to opt for SBR having regard to the business plan and the profit estimates. For example, if the business is likely to suffer losses during the period when the taxable person is eligible for SBR, it may choose not to apply for SBR.

7. Are QFZPs eligible for SBR?

A qualifying free zone person would not be eligible for claiming SBR.

8. Can a taxable person, who is part of a multinational enterprise (MNE) group, claim SBR?

The ministerial decision providing the guidelines on implementing SBR provisions has clarified that a taxable person, which is a 'constituent entity' of the MNE group, would not be eligible for the relief. Furthermore, an MNE group has been defined as a group with a total consolidated revenue of more than Dh3.15 billion.

In other words, a UAE company with a turnover of less than Dh3 million will not be eligible for SBR if the UAE company is a constituent entity of the MNE group with a turnover of more than Dh3.15 billion (approximately EUR 750 million).

9. Does a taxable person availing SBR need to obtain a CTRN and file corporate tax returns?

A taxable person would have to make an application initially to avail SBR. The said taxable person is also required to file a corporate tax return, even if it is paying 0 per cent corporate tax, upon enjoying SBR.

– The writer is Associate Director, Tax & Transfer Pricing, Nexdigm UAE