

Introduction of UAE Corporate Income Tax

March 2023

Summary

On 9 December 2022, the UAE's Ministry of Finance released Federal Decree-Law No. (47) of 2022 on the Taxation of Corporations and Businesses (the "Law"). The Law will apply to all taxable persons for financial years starting on or after 1 June 2023. A copy of the law can be found [here](#) and FAQs can be found [here](#).

The introduction of the tax regime is a significant milestone in the UAE's evolution as a global business and financial hub, and will go a long way towards reinforcing the UAE's membership of OECD and its commitment towards the implementation of BEPS minimum standards.

With a minimum tax rate of 9%, the UAE is set to retain its competitive position in the global tax environment. Key aspects of the new Law are:

- The Law will apply to juridical persons incorporated in the UAE, natural persons who conduct business within the UAE, as well as foreign entities that have a permanent establishment in the UAE or are effectively managed and controlled from within the UAE.

- The Law will result in taxable income above AED375,000 being subject to tax. Taxable income below this threshold will be subject to a corporate tax rate of 0%.

- Entities that are managed and controlled from within a qualifying free zone in the UAE* will be subject to 0% tax on qualifying income. However, they will be subject to an audit requirement and will still have to register and file tax returns.

- The definitions of "Qualifying Free Zone" and "Qualifying Income" are to be released as part of expected cabinet or ministerial decisions.

- The Law also contains certain articles which deal with transfer pricing that require transactions between related parties to be at arms length. In particular, interest will only be allowable up to 30% of EBITDA with any unrelieved interest being carried forward subject to the 30% cap.

- The corporate tax regime will be effective for financial years starting on or after 1 June 2023. This will mean that any company that currently has a financial year ending 31 December will be subject to the regime with effect from 1 January 2024

* The juridical person should be incorporated/established in the free zone as well as managed and controlled from within it (Art. 18 of the Law).

and their first return filing date will be no later than 30 September 2025. There are anti-avoidance rules to prevent deferral.

Exemptions from Corporate Tax

The following exemptions are available under the new Law:

- Businesses engaged in the extraction of UAE natural resources and related non-extractive activities that are subject to emirate-level taxation will be exempt.
- Dividends and capital gains earned by a UAE business from its qualifying shareholdings will be exempt.
- Qualifying intra-group transactions and reorganizations will not be subject to corporate tax provided certain conditions are met.

Dual Tax Residence and Economic Substance Matters

Many companies may be tax resident in both the UAE and another jurisdiction. This could be the case if a company is managed and controlled in one jurisdiction and incorporated in another.

All companies that find themselves in this position should consider the impact that dual residency status may have and restructure accordingly. It is highly likely that a foreign company with a majority of UAE directors will be treated as UAE tax resident (subject to any relevant double tax treaties) in circumstances where the directors conduct company business from within the UAE.

Registration

Registration on UAE's EmaratTax portal is already available to legal entities. If you require our assistance in registering, please contact dubai@tridenttrust.com.

How We Can Assist

For more information about the introduction of the Law and its potential implications, please contact your usual Trident Trust representative or our Dubai office at dubai@tridenttrust.com.

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