



UAE introduces Corporate Tax

Overview

The UAE Ministry of Finance ('MoF') issued a press release confirming the introduction of the much anticipated Corporate Tax ('CT') in the UAE. The press release confirms taxability of business profits at a headline rate of 9% and 0% (for profits up to AED 375,000 to support small businesses and start-ups). The UAE CT regime will be effective for financial years ('FY') commencing on or after 1 June 2023 and will be a Federal tax, applying uniformly across the seven Emirates.

In detail

Applicability

The UAE CT regulations will apply to all entities in the UAE except those engaged in the extraction of natural resources, which are already subject to tax by the respective Emirate. The Emirate level taxation will continue for such entities.

The UAE CT regulations will also apply to the banking sector and no exemptions have been given to any specific industries.

Further, foreign entities and individuals will be subject to UAE CT if they conduct any trade or business in the UAE on a regular basis.

Tax rate

The MoF has proposed the following rates of taxation:

- Taxable income up to AED 375,000 – 0%
- Taxable income above AED 375,000 – 9%

Large multinational enterprises meeting the consolidated revenue thresholds specified in 'Pillar Two' (Eur 750 million / AED 3.15 billion) would be taxed at a different rate.

First tax period

The UAE CT regulations will become effective for FYs starting on or after 1 June 2023.

For example, a company that follows the calendar year and has a FY of 1 January 2023 to 31 December 2023 will be subject to CT in UAE from 1 January 2024.

Computation mechanism

The tax payable will be computed on accounting profits as per the financial statements adjusted for certain items to be specified under the UAE CT law.



For example, if a business has a taxable income of AED 450,000 (after all adjustments), the CT payable would be computed as follows:

- AED 0 to AED 375,000 at 0% - AED 0 (a)
- AED 375,000 to AED 450,000 at 9% - AED 6750 (b)

Thus, the CIT liability would be AED 6750 [(a) + (b)]. The UAE CIT law will also provide for reduction of any foreign taxes paid from the total tax payable.

Impact on free zones entities

CT incentives currently provided by the various free zones will continue even under the new CT regime provided that the entities comply with all regulatory requirements and that do not conduct business with mainland UAE.

Set-off and carry forward of losses

Entities will be allowed to utilise prior period losses (from the effective date onwards) to offset taxable income. Excess losses can also be carried forward to the subsequent year, if certain conditions are met. Further details on the set-off and carry forward of tax losses will be provided in the UAE CT law.

CT Group

The UAE CT regulations will allow group of companies to form a tax group and file a single tax return for the entire group, subject to certain conditions. Further guidance and details on the tax grouping will be provided in the UAE CT law.

Exemptions

Currently, dividends and capital gains earned from 'qualifying shareholdings' will be exempt from CT in the UAE. The exact definition of 'qualifying shareholdings' will be specified in the UAE CT law.

Further, UAE CT will not be levied on a foreign investor's income from dividends, capital gains, interest, royalties and other investment returns

Withholding taxes

Currently the UAE CT regime does not envisage withholding taxes on domestic as well as cross-border payments of dividend, interest, royalties or any other payments.

Transfer pricing

UAE companies undertaking transactions with related parties will be required to ensure arm's length pricing of transactions and comply with the rules and documentations set out under the Organisation for Economic Co-operation and Development ('OECD') Transfer Pricing Guidelines.

Individual taxation

Individuals will not be subject to CT in the UAE on salary and other employment income, dividends, capital gains and other income earned from owning shares or other securities in their personal capacity. Further, interest and other income earned by an individual from bank deposits or saving schemes will also not be subject to CT in the UAE.

Tax authority and administration

The Federal Tax Authority ('FTA') will be the authority responsible for administration, collection, and enforcement of CT in the UAE.

The MoF will be the 'Competent Authority' for international tax matters and international exchange of information for tax purposes.

UAE CT returns will be filed on an annual basis electronically. The CT regime does not require any provisional or advance CT filings.

Further details on the electronic filing, CT compliance requirements and penalties for non-compliance will be prescribed in the UAE CT law.

Dhruva Comments / Observations

The CT regime in the UAE aims to be a simple and straight forward law ensuring minimal compliance burden on UAE entities. The tax rates have also been liberalized at 0% and 9%.

The UAE has once again proven its commitment towards being a tax transparent regime and the introduction of CT is a big step in keeping up with the international standards of taxation.

With UAE being a signatory to the BEPS Inclusive Framework, a global minimum tax of 15% was anyway envisaged in 2023 for large multinationals in the UAE

crossing the consolidated revenue threshold of Eur 750 million / AED 3.15 billion.

While further clarity on various aspects is awaited in the formal UAE CT law, the press release and related FAQs issued by the UAE MoF addresses the key areas such as applicability of CT regime, tax rates, exemptions and exceptions, transfer pricing, applicability of withholding taxes and mode of filing.

An interesting aspect of the proposed CT regime is the provision to form a tax group and file a single tax return which is currently permitted only in a few countries across the globe.

Another point to note is that the UAE CT regime does not intend to impose withholding taxes on domestic or international payments even though the UAE has a very strong network of Double Tax Treaties.

While we await the formal CT law, UAE companies are advised take proactive measures in determining the impact of the proposed CT regime and prepare for what is only the beginning of corporate taxation in the UAE.



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