

SATURDAY INTERNATIONAL TAX GYAN !!!

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Corporate Tax Regime Announced in UAE - Part II (Public Consultation Document)



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TOPICS COVERED (PART-I)

Overview

Taxable
Person

Basis of
Taxation

Calculation of
CT Liability

TOPICS COVERED (PART-II)

Calculation of
taxable income

Administration

TOPICS THAT WILL BE COVERED (UPCOMING PARTS)

Groups

Transfer
pricing

International
Tax
Developments

BASIS OF CALCULATING TAXABLE INCOME

1

Accounting net profit will be used for determining taxable income hence two sets of books of accounts need not be maintained.

Businesses will use their financial period but in the absence of same, tax period will be Gregorian calendar year

2

3

Although IFRS are commonly used in UAE, but alternative financial reporting standards is allowed for certain taxpayers (eg. Startups and small businesses).

TRAETMENT OF UNREALISED GAINS AND LOSSES

While calculating taxable income, unrealised gains or losses on



Unrealised gains or losses arise in instances where an **asset or liability** held by a business has changed in value but no transaction to generate a gain or loss has yet taken place.

NOTE:

1. **Capital items** are items that have a **long term impact** on business (Eg: Machinery, long term liability etc).
2. **Revenue items** are items that have a **short term impact** on business.

EXEMPTION FOR DIVIDENDS AND CAPITAL GAINS



DOMESTIC COMPANY



Exempt

FOREIGN COMPANY



Exempt provided certain conditions are met

CONDITIONS TO BENEFIT FROM PARTICIPATION EXEMPTION

UAE shareholder Co. must own at least 5% of the shares of subsidiary company

Only available if foreign subsidiary is subject to CT @ at least 9%

FREE ZONES



Capital Gain on disposal of shares in a Free zone person will be exempt where Free Zone Person is a Holding Co. and its substantial income is derived from its subsidiary

FOREIGN BRANCH PROFIT EXEMPTION

UAE Companies
can either



claim a **foreign tax credit**
for taxes paid in the foreign
branch country

OR

elect to claim an exemption
for their **foreign branch**
profits

NOTE:

1. The UAE company can elect to claim exemption of foreign branch but same shall be applicable on all branch and such election will be irrevocable.
2. This **exemption may not be available where** the foreign a **branch is not subject to sufficient level of tax** in foreign jurisdiction in which it is located and the election to claim a branch profit exemption will be irrevocable.
3. **Other exempt income:** Also, the UAE CT regime will exempt income earned by a non resident from **operating or leasing of aircraft or ships** used in international transportation.

EXPENSE DEDUCTION LIMITATIONS

Interest Capping Rules

Interest and other similar financing cost are considered as a deductible expense under UAE CT regime.

Interest deduction is restricted to 30% of Earning before interest, tax, depreciation and amortization (EBITDA)

Interest capping rules will not apply to banks, insurance businesses, other regulated financial service entities and businesses carried on by natural persons.

Related party interest will only be deductible if there is a valid commercial reason exist. A valid commercial reason will considered exist if the related party lender is subject to CT of atleast 9% of interest income earned.

NON-DEDUCTIBLE EXPENSE

Related party payment to a Free zone person which is taxed at 0% will not be deductible for CT purposes. However, it will be deductible if the payment is attributable to the MAINLAND branch.

Expenses to entertain stakeholders of businesses are restricted to 50% of such expenditure.

Administrative penalties, recoverable VAT are not tax deductible.

Donations to unapproved charitable or public benefit organizations are not tax deductible.

LOSSES

set off permissible upto 75% from profits of future periods

can be carried forward indefinitely if atleast 50% of stakeholders are same at time of incurring and setting off losses

If there is change in ownership of more than 50%, tax losses can still be carried forward provided same business is being carried forward

No tax relief will be available if losses:

- Incurred before the effective date of CT
- Before person become a taxpayer
- Incurred from exempt sources
- Incurred by a free zone person that are not attributable to PE in mainland.

ADMINISTRATION

Registration

- **Tax registration** no. to be obtained by taxpayer from Federal tax authority (FTA).
- If not obtained by taxpayer **voluntarily**, FTA can automatically register a business.

De-registration

- When business ceases to be subject to CT, business need to apply for deregistration **within 3 months** from date of cessation, subject to the satisfaction of FTA.
- If not, **FTA** may deregister the person based on available information

Filing

- A business will file **one tax return** for each tax period.
- Business is not required to file provisional CT return and no advance payments of CT is required.

Tax Return and Payment

- Annual tax return filing needs to be submitted and tax has to be paid **within 9 month** of end of relevant tax period.

Refund

- A taxpayer **can apply** to the FTA to request a refund.

Assessment

- CT return can be **subject to assessment** and amended assessment may be challenged by the taxpayer.

Documentation Required

- A business will **required to maintain** financial and other records that explain information in CT Return.
- Requirement of audit by an accredited audit firm is and will continue to be determined by applicable company laws and regulations.
- The UAE CT regime will require a **Free Zone Person** to have **audited** financial statements if it wants to benefit from 0% CT regime.

Source and previous articles UAE CT

Link for source document by UAE government:

https://www.mof.gov.ae/en/resourcesAndBudget/Documents/UAE_CT-Public_Consultation_Document_English.pdf

Link for first post on introduction of UAE CT: <https://jainshrimal.com/uae-introduces-corporate-tax/>

Link for Part I on UAE CT: [Corporate Tax in UAE Part-I](#)



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