

Corporate Tax in UAE

■ HANDBOOK

CONTENT

Why in UAE?

Effective Date

Scope

Sector Including Corporate Income Tax

Sector Excluding Corporate Income Tax

Corporate Tax Rate

On Individuals

On Foreign Person

In Free Zone

Carry Forward and setoff of losses

Tax Group

Withholding Tax

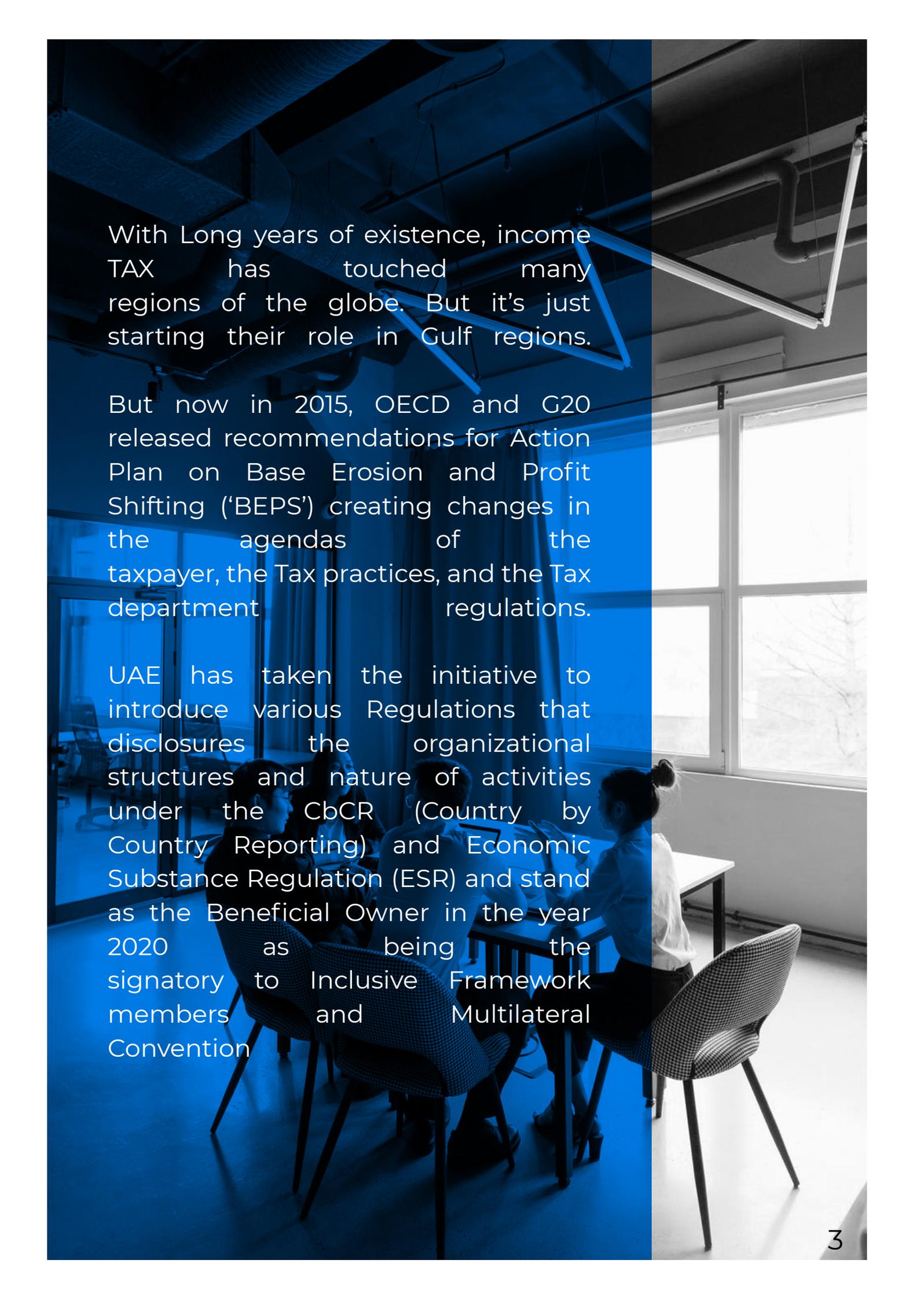
Tax Credit

Transfer Pricing

Exempt Income

Administration and Compliance

FAQs



With Long years of existence, income TAX has touched many regions of the globe. But it's just starting their role in Gulf regions.

But now in 2015, OECD and G20 released recommendations for Action Plan on Base Erosion and Profit Shifting ('BEPS') creating changes in the agendas of the taxpayer, the Tax practices, and the Tax department regulations.

UAE has taken the initiative to introduce various Regulations that disclosures the organizational structures and nature of activities under the CbCR (Country by Country Reporting) and Economic Substance Regulation (ESR) and stand as the Beneficial Owner in the year 2020 as being the signatory to Inclusive Framework members and Multilateral Convention

BEPS 2.0 GOT INTRODUCED

A global minimum corporate tax rate (set at 15%) to reduce tax competition amongst different jurisdictions.

Address the Tax Challenges Arising from the Digitalization of the Economy



CORPORATE TAX

A form of direct tax levied on net income/profit of corporations and other businesses is also called "Corporate Income Tax" or "Business Profits Tax".

Why in UAE?

Acceptance of Corporate TAX assures UAE's position as the leading global hub for business and investment which drives UAE's development and transformation to attain its strategic objectives as it reveals UAE's acceptance of global standards for tax transparency and preventing harmful tax practices.

Effective Date

Effective for financial years starting on or after 1 June 2023

Examples:

- A business that has a financial year starting on 1 July 2023 and ending on 30 June 2024 will become subject to UAE CT from 1 July 2023 (which is the beginning of the first financial year that starts on or after 1 June 2023)
- A business that has a calendar year as a financial year (starting from 1 January and ending on 31 December), the UAE CT will be effective from 1 January 2024 (which is the beginning of the first financial year that starts on or after 1 June 2023).

Scope

All activities controlled by a legal entity are specified as a “business activity” and Corporate Tax will be imposed.

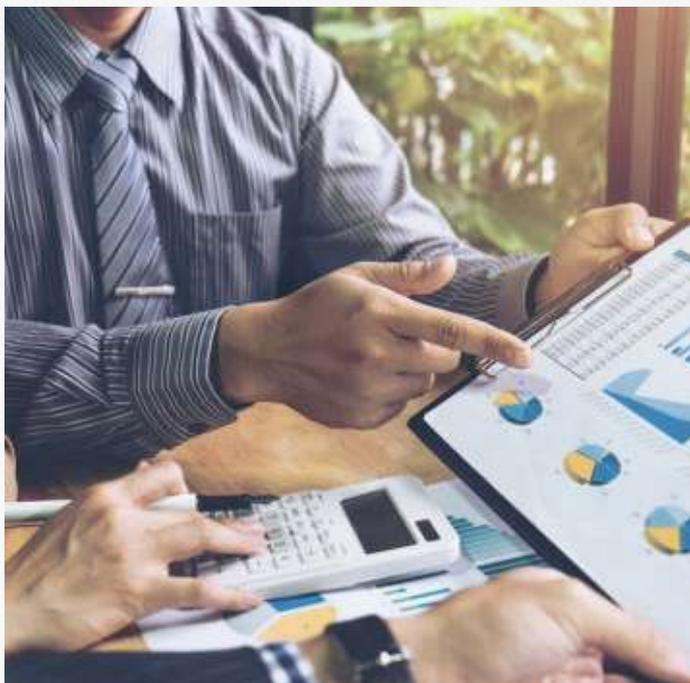
Individuals having a business license or permit to carry out relevant commercial, industrial, and/or professional activity in the UAE shall also be imposed by Corporate Tax.

Businesses engaged in the extraction of natural resources (already subject to Emirate level corporate taxation) are excluded.



Sector Including Corporate Income Tax

- » Banking operations
- » Businesses engaged in real estate management, construction, development, agency and brokerage activities



Sector Excluding Corporate Income Tax

Businesses engaged in the extraction of natural resources (subject to Emirate level corporate taxation).

Corporate Tax Rate

Taxable Income	Rate of Tax
Taxable income up to AED 375,000	0%
Taxable income above AED 375,000	9% (on portion of taxable income exceeding AED 375,000)
For large Multinationals (having consolidated business revenues in excess of EUR 750 Million/ AED 3.15 Billion)	A different Tax Rate. (As per the Guideline from OECD- Pillar 2 minimum 15% Effective Tax Rate is suggested)

On Individuals

Salary and other employment income (whether received from the public or private sector)	CT Not Applicable
Individual's Business income earned under a commercial license	CT Applicable
The investment in real estate by individuals in their personal capacity	CT Not Applicable provided the individual is not required to obtain a commercial license or permit to do the activity
Dividends, capital gains and other income earned from owning shares or other securities in their personal capacity	CT Not Applicable
Interest and other income earned by an individual from bank deposits or saving schemes	CT Not Applicable
Income earned by Individual from activities carried out under a freelance license/permit	CT Applicable



On Foreign Person

Foreign entities or non-resident individuals will be subject to UAE CT only if they conduct a trade or business in the UAE in an ongoing or regular manner.

UAE corporate Tax is imposed for a foreign investor's income on:

- » Dividends,
- » Capital gains,
- » Interest,
- » Royalties and
- » other investment returns

In Free Zone

- Free zones are TAX impossible & businesses are required to register & file Corporate Tax Return.
- Financial Free zones are treated as same as the other free zones.

- Current CT incentives/tax holiday will continue as same if :
 - › comply with all regulatory requirements AND
 - › do not conduct business with mainland UAE

Carry Forward and setoff of losses

If your losses have occurred from the effective date of UAE CT then it can be utilized as an offset against future taxable income.

Losses that occurred in a financial year can be carried forward by the business to redeem against taxable income in subsequent financial periods, subject to fulfilling certain conditions.

Following the conditions Tax losses of a group company can be used to set off the taxable income of another group company.

Tax Group

To file a single Corporate TAX return, group companies can form a Corporate Tax Group known as 'Fiscal Unity' where all entities shall be treated as a single taxable person subject to fulfilment of certain conditions.



Withholding Tax

A tax collected by the payer at source on behalf of the income recipient (which is not applicable on domestic and cross-border payments of any nature) is called Withholding Tax.

Tax Credit

On the UAE taxable income if any Corporate Tax is paid outside the UAE then it can be considered for a tax credit against the UAE CT liability.

Transfer Pricing

UAE insists their businesses follow the transfer pricing rules and documentation requirements prepared by the OECD Transfer Pricing Guidelines which assure that the transactions between related parties are carried out at arm's length terms (follow separate entity concept).

Exempt Income

The incomes exempted are:

Dividends and capital gains earned from qualifying shareholdings (ownership interest that meets certain criteria).

Qualifying intra-group transactions and reorganizations provided the necessary conditions are met.

Administration and Compliance

Federal Tax Authority ('FTA') is the authorized entity to administrate, collect and enforce

Ministry of Finance is the authorized entity for bilateral/ multilateral Agreements and International exchange of information for tax purposes.

Registration: Businesses must register for CT.

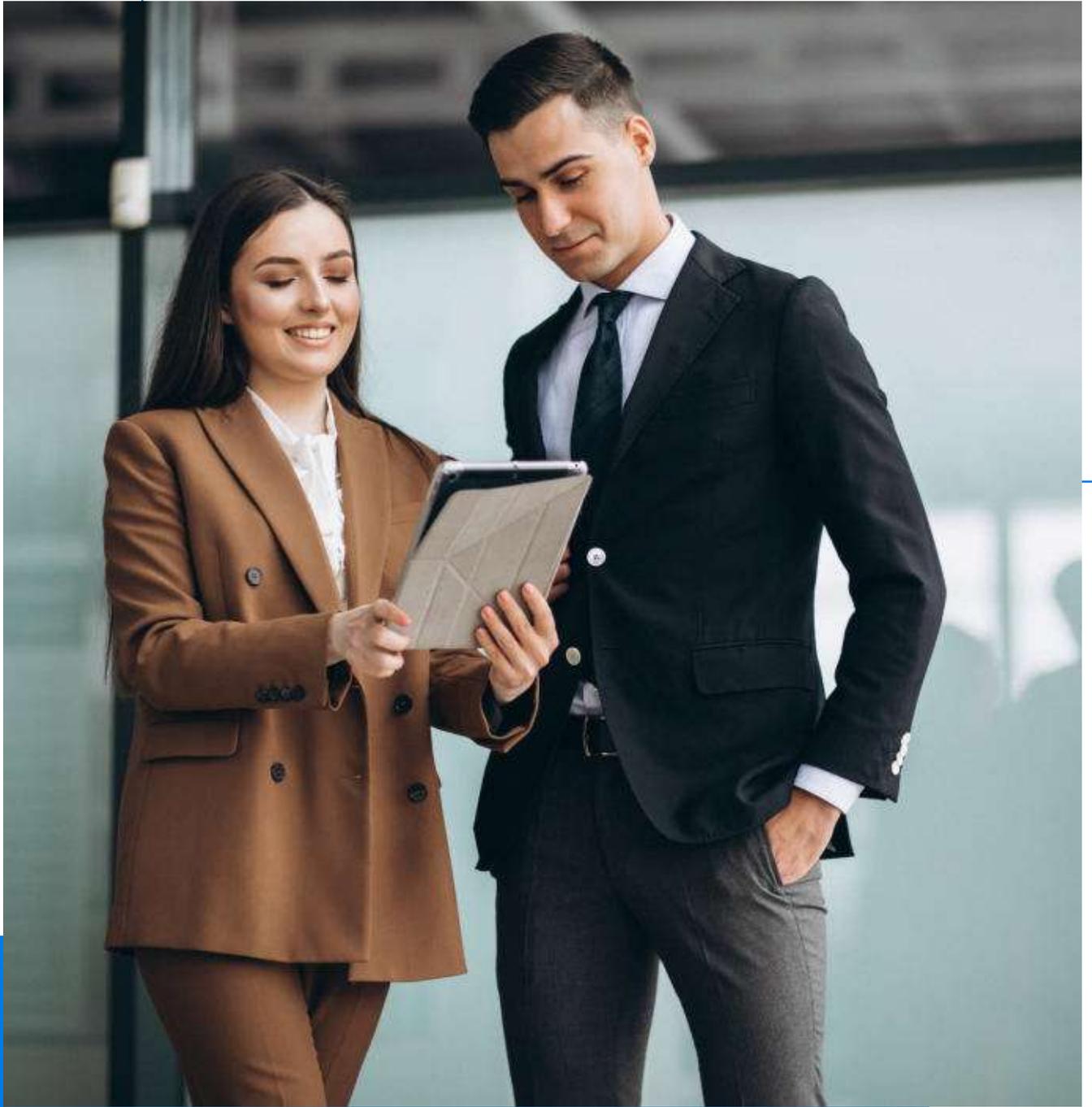
Return Filing:

- » CT returns are to be filed one time in every financial period (year).
- » No advance or provisional CT filing is required.
- » CT returns to be filed electronically.

Advance Tax: not applicable.

Penal Consequences: Non-Compliance would be subject to penalties as is the case with other taxes.





FAQs

Corporate Tax General



Why it is introduced in the UAE?

Finance Ministry in UAE released Corporate Income Tax on 31 January 2022 to honor the commitment to adopt the Global standards for Tax transparency & preventing harmful tax practices OECD Inclusive Framework on Base Erosion and Profit Shifting (“BEPS”).



In UAE Corporate TAX applies to which business sectors?

Applies to the UAE businesses and commercial activities, except for the activities of natural resources, which are subject to Emirate level corporate taxation.



How Corporate Tax affects a business?

Businesses in the UAE will be required to pay Corporate Tax (taxes on their income) at 9% on their taxable income above AED 375000.



After the introduction of Corporate TAX is it viable to operate the business in the UAE?

As a leading jurisdiction for innovation and investment, the UAE plays a pivotal role in helping businesses grow, locally and globally.

The certainty of competitive tax rate and best class Corporate Tax regime, together with the UAE's extensive double tax treaty network, is a driving force to conduct business in the UAE.



What is the end-user implication of Corporate? Any price hike can be expected?

The end users do not have to bear any burden of taxes as the Corporate Tax is a tax on the income of the business, which is the liability of the business that will be paid directly by the business on the profits made by them.



Does a branch of a foreign company established in a Dubai free zone having head office in Europe subject to Corporate Tax or does the Head office have to pay the taxes?

All foreign entities available in the public domain will be subject to UAE Corporate Tax when they conduct a trade or business in the UAE in an ongoing or regular manner. So the branch of a foreign company established in a free zone would be subject to Corporate Tax.

The MNC may avail credit for taxes paid in the UAE, if any, subject to the local laws of that jurisdiction where it is headquartered.

However, it has been indicated that the tax holiday commitment of free zones will be honored if certain conditions are met.



Whether local FZE that earns income ONLY from 'export' of services to Intra Company, be liable to Corporate tax?

Except the free zones committed to tax holidays shall honor their commitment by satisfying the specified condition, all business in UAE, having license/permit to carry out the relevant commercial, industrial, and/or professional activity, including the ones set up in free zone are subject to Corporate Tax in the UAE.



Whether non-resident entities are liable to Corporate Tax?

Foreign companies or individuals that invest in or make loans to the UAE businesses and who otherwise earn income that is not related to a “trade or business conducted in the UAE in an ongoing or regular manner” is not liable to Corporate Tax or withholding tax.



Corporate Tax Timeline and Rate



Whether the profit for the respective financial year or the previous year's profit applies to Corporate Tax?

Per financial period (generally one year) only one Corporate Tax return needs to be filed. No provisional or advance Corporate Tax filings will be required.



Does Corporate Tax Law make changes in the financial year?

No, to suit the Corporate Tax Businesses need not change their financial year. Businesses are not mandated to change their financial year to suit the Corporate Tax start date. Their date starts from their first financial year that begins on or after 1 June 2023.



Which is the first tax year of an existing company whose financial year ends in December?

A business that has a financial year as a calendar year (starting on 1 January 2023 and ending on 31 December 2023) will become subject to UAE CT from 1 January 2024 (which is the beginning of the first financial year that starts on or after 1 June 2023)



Which is the first tax year of an existing company whose financial year starts in October?

A business that has a financial year starting October will become subject to UAE CT from 1 October 2023 (which is the beginning of the first financial year that starts on or after 1 June 2023).



Whether the MOA or the management convenience specify the financial year of a company?

MOA regulations are preferable to be practised even though presently there is no mandatory' mentioning the choice of the financial year.



Does Corporate Tax be registered in advance?

All businesses whether in the Free zone or mainland must register for Corporate Tax. Further information on the registration process and ongoing compliance obligations for businesses are awaited.



How Corporate Tax is being computed for a company having different branches with different financial years?

The case depends on whether the Company and its branches are in “Fiscal Unity” or each branch can file its return. Generally, the branches are not considered as separate legal persons and hence we expect the company together with branches will be considered as a single taxable person.



Are there any slab rates for taxes based on earnings?

UAE has announced a flat rate of 9% on taxable income above AED 375,000 in a financial year which sometimes may vary for large multinational companies.

Corporate Tax Accounts and Audit



Whether financials audited before reporting Corporate Tax to be audited compulsorily?

Even though it is not compulsory to have a reliable, accurate, and correct disclosure of taxable income financials before filing the Corporate Tax Return may be audited. Some licensing authorities, Banks, or other institutions need audited accounts, thus it is preferable to be audited.



How taxable income will be calculated, is there any particular format for the preparation of the financial reports to disclose profits for Corporate Tax?

Taxable income will be the accounting net profit/income of a business, after making adjustments for certain items to be specified under the Corporate Tax Regulation.

The accounting net profit/income of a business is the amount reported in the financial statements prepared under internationally accepted accounting standards.



Whether free zone entity and mainland entity be maintained separately?

Maintaining separate accounts, which will help to substantiate the taxable income of the free zone entity and claim tax holidays is beneficial as Freezone Entities can avail the benefits of Tax holidays committed by the Free Zone Authorities if the specified conditions are fulfilled.

Corporate Tax Taxations



Whether business income earned by a Corporate in the UAE from outside the UAE taxable?

International standards specify it to be taxable based on the business residential status.

All income (irrespective of where it is earned) attributable to that permanent establishment in the UAE shall be taxable in the UAE if the business is considered to have a 'permanent residence in the UAE. The credit for taxes paid in other jurisdictions shall be available.





In UAE are capital gains taxable?

UAE Corporate Tax does not apply to Capital gains, dividends, and other income earned from owning shares or other securities by Individuals in their capacity, i.e., any gains out of personal investments would not be subject to Corporate Tax. Capital gains other than that earned from owning shares or other securities are taxable (exemptions may apply according to regulations).

UAE Corporate Tax will be exempted for, dividends and capital gains earned by a UAE business from its qualifying shareholdings.



Whether Corporate TAX applies on interest on investments by a commercial business unit?

Only dividend and capital gains earned from qualifying investment would be TAX exempted. All other income of businesses in the UAE would be taxable.

Corporate Tax Individual Applicability



What are TAX regulations on an individual?

Exempting the business income earned by individuals who hold (or are required to have) a commercial license or permit, Corporate Tax does not apply to individuals and their income (e.g., salary, dividends, capital gains from securities, income from real estate holdings, etc.)

Corporate Tax does not apply to Interest and other income earned by an individual from bank deposits or saving schemes. Thus it is better to differentiate between personal and business assets for individuals who undertake commercial/business activity.





Does an artist have to pay Corporate Tax on their annual income earned?

An artist must pay Corporate Tax only if he undertakes commercial activity and is required to obtain a commercial license or permit to carry out such activity in the UAE.



Do foreign individuals having Dubai Freelance sole professional license, must register for Corporate Tax and file income returns for their incomes or only if their income exceeds AED 375,000?

Generally, Corporate Tax applies to income earned from activities carried out under a freelance license/permit and thus must be under Corporate Tax. But no tax will be payable unless the annual net income of the freelance professional exceeds AED 375,000.



Does UAE Corporate TAX business applies for a sole proprietor, or only for Companies?

Any Individual conducting a trade or business in the UAE in an ongoing or regular manner is TAX payable.

Thus even though the salary or other employment benefit received by an individual does not come under the ambit of Corporate Tax, the income of an individual who has a commercial license to carry out business in UAE shall be subject to UAE Corporate Tax.



An Individual has invested in some listed and unlisted securities in UAE and receives income. The plan is to sell them after two years. Will it be TAX liable in UAE?

UAE Corporate Tax will not apply to Individuals on their dividends, capital gains, and other income earned from owning shares or other personal securities.

Thus, if an entire investment is done in a personal capacity, an individual will not be liable to tax on gains from transfer and periodical income from such securities as well.

Corporate Tax Entities situated in Free Zone



Whether Corporate Tax applies to a company set up in a free zone?

UAE Corporate Tax applies to Free zone businesses and they must follow all compliances under the regulations. But the existing tax incentives will continue for free zone businesses that comply with all regulatory requirements and do not conduct business with mainland UAE.



What is the impact of Corporate Tax on the entities established in free zones? Does the tax implications change when the free zone entity conducts business with the mainland as well?

Free Zone businesses if they continue complying with all regulatory requirements and do not conduct business with UAE mainland will be able to avail the benefits from existing Free Zone Corporate Tax holidays / 0% taxation regimes, provided they comply with all regulatory requirements and do not conduct business with UAE mainland.



Can a group be formed with a company in the free zone and a company in the mainland?

A UAE group of companies if they file a single tax return for the entire group can elect to form a tax group and be treated as a single taxable person, provided certain conditions are met.

Corporate Tax Tax Base & Allowable Expenses



Is all expenses debited to the books of accounts be deductible?

For allowing the expenses incurred by a business UAE for global regulations, i.e., those expenses which are incurred for business the purpose is a deductible expense. Most jurisdictions also disallow expenses incurred to earn exempt income. UAE's decision is still awaited.



Is business income and taxable income the same and how to compute Taxable income?

The taxable profit/income will be the accounting net profit/income of a business computed as per the internationally accepted accounting standards after making adjustments for certain items to be later specified under the Corporate Tax Law with certain expenses like depreciation, amortization, allowances, etc. defined as a threshold.



How will the managerial remuneration, salary, other expenses incurred on behalf of or paid to the shareholders/partners be TAX treated?

Tax laws usually specify limits for all such expenses that are under the control of the shareholders/partners. So, it is expected to have certain limits for managerial remuneration/salary paid to shareholders/partners.



Should I change my depreciation policies/depreciation rates?

Generally, tax laws specify the depreciation method and rates on all types of assets. In the future guidelines will be issued by the UAE Ministry.

Corporate Tax Exemptions



Is specific Corporates income of Corporates exempted?

Dividends and capital gains earned by a UAE business from its 'qualifying' shareholdings (ownership interest that meets certain conditions) will be exempt from Corporate Tax exempted. Further, certain intra-group transactions and reorganizations will also be exempted if necessary conditions are met.



Corporate Tax Transfer Pricing and Tax / Intra Group



For multiple companies under common ownership, can one company's profit be set off with the net loss of the other one?

Yes, if certain specified conditions are met.



Do Transfer Pricing rule apply to UAE companies?

The UAE Corporate Tax regime has to follow transfer pricing (TP) rules and documentation requirements as per the OECD TP Guidelines.



Can companies have an option to form a Tax Group similar to VAT?

If certain conditions are met, a UAE group of companies can elect to form a tax group ('Fiscal Unity') and be treated as a single taxable person. That group can file a single tax return for all the entities of the group.



While doing group transactions should companies take any precautions?

Qualifying transactions between the entities within the group shall be exempted provided if the prescribed criteria (like the arm's length price) are met. If such entities are treated as a single taxable person (registered as Tax Group), then the applicability of the criteria, may not arise.

Criteria to form a Tax Group are not yet declared.



Once the entity is included in the Group is it compulsory to consolidate the account books of account?

All businesses are required to calculate taxable income based on the financials made as per internationally accepted accounting standards. The direction of consolidation has not been mandated.



Does UAE Corporate Tax-exempt intragroup transactions if it involves a margin?

No, if the necessary conditions are met.

Corporate Tax Carry Forward & set off of losses



Will the Corporate Tax be allowed to carry forward losses and for how many years?

Yes, a business can use losses incurred to offset taxable income in subsequent financial periods. If total deductions the businesses can claim are greater than the total taxable income for the relevant financial period, then a loss for Corporate Tax purposes (tax loss) would arise.

Excess tax losses may be carried forward and used against taxable income in future years, provided certain conditions are met.



Can losses in the current years be set off once Corporate Tax comes into effect?

Yes, if the losses incurred before the effective date of applicability of Corporate Tax law shall not be allowed to be set off.

Corporate Tax Compliance & Return Filing



What is the deadline for the corporate entity to file the returns & pay taxes?

The corporate Tax return must be filed annually. Mostly, we still await the details on deadlines to file returns and payment of taxes. There is no requirement for payment of advance tax.



If the business income does not exceed AED 375,000 should he/she file a tax return for the business?

Businesses whose taxable income does not exceed AED 375,000 is not Taxable but business in the Free Zone must file CT Return even if the taxable income is less than AED 375,000.

Clarification on return filing for a business situated in regions other than Freezone is still unresolved.

Corporate Tax Penal Provisions



What are the penalties for non-compliance with Corporate Tax laws?

Penalties will be imposed if proper filing is not done. Regulations are still awaited.

Corporate Tax Withholding Tax / Tax Credit



If a company is currently taxed outside the UAE, being a subsidiary of a foreign company will be taxable or not after once the Corporate Tax is implemented in the UAE.

Double taxation would be avoided when the company possesses adequate documentation as UAE Corporate Tax regime shall allow credit for foreign corporate tax paid on the UAE taxable income.

While making payments to any parties is there any Withholding tax?

No, there will be no withholding tax on either domestic or cross-border payments.

Can Corporate Tax payable in the UAE be claimed against by credit for taxes withheld in a foreign country on dividends & capital gains?

Businesses would be able to claim credit for taxes withheld in a foreign country only if such income is taxed in UAE as it is an international rule that credit for taxes would be given only when the income is taxed in two jurisdictions.





For More Updates Contact Us



info@gspuuae.com



+971 528532600
+971 589141671

For Free Online Consultation

www.gspuuae.com