

Corporate Tax
in the UAE

Corporate Tax in the UAE

Key features of the newly issued
Corporate Tax law

Overview

On 9 December 2022, the United Arab Emirates (UAE) issued Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses (hereinafter referred to as the CT Law). The MoF has also updated the Frequently Asked Questions (FAQs) which can be found [here](#).

The CT Law is the legislative basis for the introduction and implementation of a federal corporate tax (CT) regime which is applicable on business profits from financial years starting on or after 1 June 2023. The release follows the announcement made by the MoF in January 2022 around implementing a CT regime.

The key features of the UAE CT Law have been summarised by the order of the Chapters in the below table:

No.	Chapter	Summary
	Imposition of CT and Applicable Rates	<p>CT rates:</p> <p>CT shall be imposed on the taxable income of businesses at the following rates:</p> <ul style="list-style-type: none">• 0% on the portion of the taxable income not exceeding AED 375,000 (amount to be specified in a Cabinet Decision)• 9% on the taxable income that exceeds AED 375,000. <p>CT shall be imposed on a Qualified Free Zone Person (as defined in Chapter 5) at the following rates:</p> <ul style="list-style-type: none">• 0% on Qualifying Income (as defined in Chapter 5);• 9% on taxable income that is not Qualifying Income.
	Exempt Person	<p>Exempt persons:</p> <p>The following persons shall be exempt from CT:</p> <ol style="list-style-type: none">a) A Government entity;b) A Government controlled entity;c) A person engaged in an extractive business;d) A person engaged in a non-extractive natural resource business;e) A qualifying public benefit entity;f) A qualifying investment fund;g) A public / private pension or social security fund;h) A juridical person incorporated in the UAE that is wholly owned and controlled by an exempt person specified in (a), (b), (f) and (g) under certain conditions.

Taxable Person
and CT Base

Resident person:

A resident person is any of the following persons:

- A juridical person incorporated in the UAE, including a Free Zone person;
- A juridical person incorporated in a foreign jurisdiction that is effectively managed and controlled in the UAE;
- A natural person who conducts a business (Business) or business activity (Business Activity) in the UAE (to be specified in a Cabinet Decision).

Non-resident person:

A non-resident person is a person who is not considered a resident person and that either:

- Has a permanent establishment (PE) in the UAE;
- Derives UAE sourced income;
- Has a nexus in the UAE (to be specified in a Cabinet Decision).

CT base:

Resident

- A resident juridical person is subject to CT on their taxable income derived from the UAE and from outside the UAE.
- A resident natural person is subject to CT on the income derived from the UAE and outside the UAE as it relates to the Business or Business Activity that is conducted by the natural person in the UAE.

Non-resident:

A non-resident person is subject to CT on the following:

- The taxable income that is attributable to the PE of the non-resident person in the UAE;
- UAE sourced income that is not attributable to a PE of the non-resident in the UAE;
- The taxable income that is attributable to the nexus of the non-resident person in the UAE.

PE:

A non-resident person has a PE in the UAE in any of the following instances:

- Where it has a fixed or permanent place in the UAE through which the business of the non-resident person, or any part thereof, is conducted;
- Where a person has and habitually exercises an authority to conduct a Business or Business Activity the UAE on behalf of the non-resident person.

Free Zone
Person

Qualifying Free Zone person:

A Qualifying Free Zone Person is a Free Zone person that i.a. meets the following conditions:

- Maintains adequate substance in the UAE;
- Derives Qualifying Income (as specified in a Cabinet Decision to be issued);
- Has not elected to be subject to CT;
- Complies with the arm's length principle and Transfer Pricing (TP) documentation.

The application of the 0% CT rate to a Qualifying Free Zone Person shall apply for the remainder of the tax

incentive period stipulated in the applicable legislation of the Free Zone in which the Qualifying Free Zone Person

is registered. This period may be extended but shall not exceed 50 years.

Election to be subject to CT:

A Qualifying Free Zone Person can make an election to be subject to CT at the normal rate.

	Calculating Taxable Income	<p>General rules for determining taxable income:</p> <ul style="list-style-type: none"> • A taxable income shall be determined based on standalone financial statements prepared in accordance with the accounting standards accepted in the UAE. • A taxable income is an accounting income i.a. adjusted for: <ul style="list-style-type: none"> a) unrealized gain or loss, b) exempt income, c) reliefs, d) deductions, e) related party transactions, f) tax loss relief, g) incentives or special reliefs specified by the Ministry of Finance (MoF). • A taxable person that prepares financial statements on an accrual basis may elect to take into account gains and losses on a realisation basis in relation to: a) assets and liabilities subject to fair value or impairment accounting or, b) assets and liabilities held on capital account at the end of the tax period. <p>Small business relief:</p> <ul style="list-style-type: none"> • A taxable person that is a resident person may elect to be treated as not having derived any taxable income for a tax period where revenue in that tax period and previous tax periods does not exceed a threshold to be set by the MoF (expected AED 375,000). Further conditions to be prescribed by the MoF may apply
	Exempt Income	<p>Dividend and other profit distribution from a resident juridical person:</p> <p>Dividend and other profit distributions from a resident juridical person shall be exempt from CT</p> <p>Participation exemption:</p> <p>Dividend, other profit distribution, capital gains and any other income (including foreign exchange gains and impairment gains in relation to the participating interest) from a participating interest should be exempt from CT provided that the following required conditions are met:</p> <ul style="list-style-type: none"> • At least 5% interest in the shares or capital of the participation; • At least 12 uninterrupted months of ownership (or the intention to hold for the same); • The participation is subject to CT in its jurisdiction at a rate of not less than 9%; • Not more than 50% of the direct and indirect assets of the participation consist of b ownership interests that would not qualify for the participation exemption if not held directly by the taxable person. <p>Foreign PE exemption:</p> <p>A resident person can make an election to not take into account the income, and associated expenditure of its foreign PE. The exemption shall apply to all foreign PE that are subject to tax at a rate not less than 9%.</p>
	Reliefs	<p>Transfers within a qualifying group:</p> <ul style="list-style-type: none"> • Subject to meeting the relevant conditions, no gain or loss shall arise for the transfer of one or more assets or liabilities between two taxable persons that are members of the same qualifying group. Note that a holding period of a minimum two years post date of transfer is applicable. • Otherwise, the event of transfer shall be calculated at market value instead of net book value. <p>Business restructuring relief:</p> <ul style="list-style-type: none"> • Subject to meeting the relevant conditions, no gain or loss shall arise in a qualifying business restructuring

		<p>exercise between two taxable persons. Note that a holding period (whether in part or whole – shares or business) of a minimum two years post date of restructuring is applicable.</p> <ul style="list-style-type: none"> • Otherwise, the event of restructuring shall be calculated at market value instead of net book value.
	Deductions	<p>Deductible Expenditure:</p> <p>Expenditure incurred wholly and exclusively for the purposes of the taxable person's Business that is not capital in nature shall be deductible in the tax period in which it is incurred, unless indicated elsewhere in the CT Law as disallowed or partially disallowed for tax deduction (such as donations, fines or penalties, bribes or related payments, dividends or profit distribution, taxes including VAT, etc):</p> <ul style="list-style-type: none"> • Interest expense: The net interest expenditure shall be deductible up to 30% of the taxable person's Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITA) (excluding exempt income) for the relevant tax period, subject to exemptions and exclusions (including potential exclusions of a certain quantum (to be) announced by the MoF or already specifically disallowed elsewhere in the CT Law). • Entertainment expenditure: Up to 50% deduction on any entertainment, amusement, or recreation expenditure incurred during a tax period, subject to exclusions.
	Transactions with Related Parties and Connected Persons	<ul style="list-style-type: none"> • In line with the Organisation for Economic Co-operation and Development (OECD) Guidelines, transactions and arrangements between related parties must meet the arm's length standard, including any conditions that may be the FTA, subject to exceptions and exclusions. The TP methods and applicability based on the comparability factors have also been mentioned in the CT Law. • The application of the arm's length range to meet the arm's length standard is described, and where the results of the transactions or arrangements do not fall within the arm's length range, the FTA is empowered to make TP adjustments accordingly.
	Tax Loss Provisions	<p>Tax loss relief:</p> <ul style="list-style-type: none"> • Tax loss can be carried forward indefinitely. • The amount of tax loss used to reduce the taxable income for any subsequent tax period cannot exceed 75% of the taxable income for that tax period before any tax loss relief. • A tax loss relief cannot be claimed for losses incurred before the date of commencement of CT, before a person becomes a taxable person, from an asset or activity the income of which is exempt. <p>Transfer of tax loss:</p> <ul style="list-style-type: none"> • A tax loss or a portion thereof may be offset against the taxable income of another person where the following conditions are met: <ul style="list-style-type: none"> o Both taxable persons are resident juridical persons; o Either taxable person has a direct or indirect ownership of at least 75% in the other, or a third person has a direct or indirect ownership interest of at least 75% in each of the taxable person;

		<ul style="list-style-type: none"> o The financial year of each of the taxable person ends on the same date; o Both taxable persons prepare their financial statement using the same accounting standard. <p>Limitation on tax losses carried forward:</p> <ul style="list-style-type: none"> • Tax losses can be carried forward and utilised provided that the same person continuously owned at least 50% ownership interest in the taxable person and the taxable person continued to conduct the same of a similar business following a change in ownership of more than 50%. • This limitation does not apply to a taxable person whose shares are listed on a recognized Stock Exchange.
	Tax Group Provisions	<p>Tax group:</p> <ul style="list-style-type: none"> • A resident person (i.e., a parent company) can make an application to the FTA to form a tax group with one or more other resident persons, where all the following conditions are met: <ul style="list-style-type: none"> a) The resident persons are juridical persons; b) The parent company owns at least 95% of the share capital, voting rights and entitlement to the profits and net assets of the subsidiary, either directly or indirectly through one or more subsidiaries; c) Neither the parent company nor the subsidiary is an exempt person or a Qualifying Free Zone Person; d) The parent company and the subsidiary have the same financial year and prepare their financial statements using the same accounting standards. • A tax group is treated as a single taxable person. • The CT Law provides the conditions under which a subsidiary can join an existing tax group or leave the tax group and when the tax group shall be ceased to exist. <p>Taxable income of a tax group:</p> <ul style="list-style-type: none"> • The parent company shall consolidate the financial results, assets and liabilities of each subsidiary, eliminating transactions between the parent company and each subsidiary that is a member of the tax group. • Specific rules shall apply to the use of unutilised tax losses of a subsidiary joining the tax group, for the access to the tax group losses when a new subsidiary joins the tax group, when a subsidiary leaves the tax group or upon cessation of the tax group.
	Calculation of CT Payable	<p>Currency:</p> <ul style="list-style-type: none"> • All amounts must be in AED. Any non-AED amounts must be converted to AED following exchange rates set by the UAE Central Bank and subject to any decisions issued by the FTA.
	Payment and Refund of CT	<p>Payment and refund of CT:</p> <ul style="list-style-type: none"> • CT payable should be settled within 9 months from the end of the relevant tax period, or by the date stipulated by the FTA. • A refund for CT can be claimed in certain circumstances.
	Anti-Abuse Rules	<p>General anti-abuse rule:</p> <ul style="list-style-type: none"> • The CT introduces a general anti-abuse rule where the FTA may counteract or adjust the taxable basis in cases where tax advantages are obtained as result of any transaction or arrangement where its main purpose or one of its main purposes is to obtain a tax advantage.

	Tax Returns and Clarifications	<p>Tax Returns:</p> <ul style="list-style-type: none"> • Tax returns should be submitted no later than 9 months from the end of the relevant tax period. • The parent company must file a tax return with the FTA on behalf of the tax group. <p>Financial Statements:</p> <ul style="list-style-type: none"> • The FTA may request taxable persons to provide the financial statements that were used to determine their taxable income. • The MoF may issue a decision requiring certain categories of taxable persons to maintain audited or certified financial statements. <p>Transfer Pricing Documentation:</p> <ul style="list-style-type: none"> • The FTA may require a taxable person to file together with their tax return a disclosure Form containing information regarding the taxable Person's transactions and agreements with its Related Parties and Connected Persons. • The master file and local file (MF and LF) must be maintained if a taxable person's transactions with its related parties and connected persons for a tax period meet certain conditions prescribed by the MoF. The MF and LF must be submitted within 30 days of a request by the FTA, or other later date stated by the FTA. <p>Tax Period:</p> <ul style="list-style-type: none"> • The tax period is the financial year or part thereof for which a tax return is required to be filed. Subject to certain conditions, taxable persons can request to change their tax period <p>Clarifications:</p> <ul style="list-style-type: none"> • Taxable persons may make an application for: <ul style="list-style-type: none"> i) concluding an advance pricing agreement; ii) clarifying the application of the CT Law
	Transitional Rules	<ul style="list-style-type: none"> • The opening balance shall be the closing balance sheet prepared for financial reporting purposes under accounting standards applied in the UAE on the last day of the financial year that ends immediately before the first tax period commences. • It should be prepared taking into consideration the arm's length principle. • The general-anti abuse rule shall apply to transactions or arrangement entered into on or after the date of the CT Law is published in the Official Gazette.
	Closing provisions	<p>International Agreements:</p> <ul style="list-style-type: none"> • The CT Law will not override the terms of international agreements in force in the UAE.

Notes:

- The above seeks to provide a summary based on a review of the CT Law and available FAQs.
- Various Articles are subject to further refinement in subsequent Cabinet Decisions at the suggestion of the MoF at a later stage.
- Alongside the CT Law, the MoF and FTA have each published an updated FAQs on their respective websites.

Public Consultation Document (PCD):

When compared to the Public Consultation Document (PCD) published by the MoF in April 2022, the content of the CT Law seems to have predominantly mirrored the content of the PCD, but the relevant conditions and defining critical terms have been expanded.

While businesses should welcome the clarity that the CT Law and the FAQs have provided, they should be mindful that these provisions are likely to be subject to varying interpretations. Refinements should be expected (such as the rules, practice or guidance notes, inclusion of new definitions, etc) in subsequent Cabinet Decisions at the suggestion of the MoF and/or the FTA, as well as relevant authorities and bodies, in the coming weeks/months.

Public Consultation Document (PCD):

The MoF has indicated in the updated FAQs that large multinationals (MNCs) that are subject to Pillar Two rules will be subject to CT under the regular UAE CT regime, until Pillar Two rules are adopted in the country. The highly anticipated Qualified Domestic Minimum Top-up Tax, which will be implemented in multiple jurisdictions like the Netherlands, United Kingdom, Singapore, etc, has not been explicitly mentioned in the CT Law and or by the MoF and FTA. It remains unclear as to how MNCs that are subject to Pillar Two rules (headquartered in the UAE, or have subsidiaries/ associates/ joint ventures, etc in the UAE) will eventually be taxed in the UAE.

We have a dedicated corporate tax team based in the UAE who have in-depth experience and can support you throughout your readiness journey.

If you require assistance at any stage during the CT implementation, please get in touch with one of our tax experts listed on the following page.

You can also contact us and submit all your queries on info@bmsauditing.com



DUBAI

Mail : info@bmsauditing.com
Ph : +971 4 551 6399
Mob : +971 52 997 4124
Whatsapp : +971 58 169 4027

DAMAC Smart Heights - Office No. 1501
Barsha Heights - Dubai, UAE (Head Office)

ABU DHABI

Mail : info@bmsauditing.com
Mob : +971 52 997 4124
Whatsapp : +971 58 169 4027

Office No. 89
Near Three Star Building
Mussaffah - 45, Abu Dhabi - UAE

SAUDI ARABIA

Mail : ksa@bmsauditing.com
Mob : +966 57 037 6076
Whatsapp : +966 57 037 6076

Khobar Gate Tower, King Fahd Rd.
Al Bandariyah, Level 21
Al Khobar 31952, Saudi Arabia

QATAR

Mail : qatar@bmsauditing.com
Mob : +974 4 452 8139
Whatsapp : +974 7446 2840

Level 14 & 15
Commercial Bank Plaza
Doha - Qatar

BAHRAIN

Mail : bahrain@bmsauditing.com
Mob : +973 1704 4431
Whatsapp : +973 3598 2893

Unit 46, Building 104
4th floor, Manama Centre
The Kingdom of Bahrain

OMAN

Mail : oman@bmsauditing.com
Mob : +968 9656 9829
Whatsapp : +968 9656 9829

Floor No. 2, Building No. 441
Wadi Al Ushaiba Street
Muscat, Oman

INDIA

Mail : India@bmsauditing.com
Mob : +91 807 898 5958
Whatsapp : +91 807 898 5958

1st floor, MSR Complex, 5th main
Maleshpalya main Road, Maleshpalya
Bengaluru, Karnataka - India

UK

Mail : uk@bmsauditing.com
Mob : +44 7452 213297
Whatsapp : +44 7452 213297

132 Woodland Road, ig1 1JPLLFORD
London - United Kingdom

USA

Mail : usa@bmsauditing.com
Mob : +1 929 461 3948
Whatsapp : +1 929 461 3948

651 N Broad ST, STE 205 # 6935
Delaware, Middle Town, DE 19709





Ping us on
Whatsapp




Scan me for
website

 info@bmsauditing.com

 +971 52 997 4124

 +971 4 551 6399

 +971 58 169 4027

 DAMAC Smart Heights - Office No. 1501
Barsha Heights - Dubai, UAE (Head Office)