

# Impact of the newly enacted UAE corporate tax law on the Japan-UAE Tax Treaty

July 2023

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## In brief

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On 9 December 2022, the United Arab Emirates ('UAE') released the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ('Corporate Tax Law'). Under the Corporate Tax Law, the UAE enacted a federal corporate income tax effective for fiscal years starting on or after 1 June 2023.

As a result of the introduction of the Corporate Tax Law, the scope of taxpayers able to access benefits under the Japan-UAE double tax convention ('the Treaty') has been significantly widened.

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## In detail

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The Treaty entered into force on 24 December 2014. At that time however, there was no income tax law in the UAE. As a result, there were no persons in the UAE who were 'liable to tax' under Article 4, paragraph 1<sup>1</sup> of the Treaty.

This position was clarified in a pamphlet issued by Japan's National Tax Agency ('NTA') in December 2014 ('2014 Pamphlet'), which described the impact of the Treaty on withholding tax rates under Japan's Income Tax Law. In a note at the end of the 2014 Pamphlet, the NTA confirmed that only the UAE government institutions and related organizations listed below were eligible to enjoy the benefits of the Treaty:

- a) Central Bank of the United Arab Emirates
- b) Abu Dhabi Investment Authority
- c) Global Oil Investment Company
- d) Abu Dhabi Investment Council
- e) Investment Corporation of Dubai
- f) Mubadala Development Company

With the enactment of the Corporate Tax Law on 9 December 2022, effective for fiscal years starting on or after 1 June 2023, federal corporate tax will generally apply to 'taxable persons' in the UAE. Under Chapter 4 of the Corporate Tax Law, this will include both residents and non-residents, and

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<sup>1</sup> Article 4(1) For the purposes of this Convention, the term 'resident of a Contracting State' means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of management or any other criterion of a similar nature, and also includes that Contracting State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting State.

both natural and juridical persons. As a result, the requirements of Article 4(1) of the Treaty will be satisfied, in that such entities will be 'liable to tax'.

In recognition of this change in position, the NTA released an updated version of the 2014 Pamphlet in June 2023 ('2023 Pamphlet'). The 2023 Pamphlet is identical to the 2014 Pamphlet in its description of the impact of the Treaty on Japanese domestic withholding tax. On the other hand, the 2023 Pamphlet no longer contains the footnote restricting access to the Treaty to the above six entities. Consequently, access to benefits under the Treaty is now available for all corporations and a natural person who conducts a Business or Business Activity in the State that can prove their residency in the UAE.

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## The takeaway

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With the introduction of the UAE's Corporate Tax Law, many taxpayers previously unable to enjoy benefits under the Treaty will now be able to do so. Taxpayers should consult with their tax advisors in order to confirm their status under the Treaty (including any implications for taxpayers operating in a UAE Free Zone), and the steps required to be taken in order to access those benefits.

More details on the UAE's Corporate Tax Law can be found [here](#).  
The NTA's 2023 Pamphlet can be found [here](#).

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## Let's talk

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For a deeper discussion of how this issue might affect your business, please contact:

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Please click here for details and to apply (charges apply):

[www.pwc.com/jp/e/tax-academy](http://www.pwc.com/jp/e/tax-academy)

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