

New UAE tax residency criteria

November 2022



In brief

On 9 September 2022, the UAE Cabinet of Ministers issued Decision No. 85 of for 2022, which provides a new domestic definition and criteria for when an individual or a legal entity shall be considered a Tax Resident of the UAE for the purposes of any UAE tax law or Double Tax Treaty. The effective date of the new rules is 1 March 2023.

The domestic Tax Resident definition is aligned to internationally recognised standards and gives additional clarity to individuals and legal entities in respect of their UAE tax residency position.

Many of the bilateral tax agreements the UAE has entered into with other territories make reference to the domestic laws of the UAE for determining whether a person is a resident of the UAE for purposes of the respective treaty. This new domestic law gives additional clarity, which will facilitate the application of these treaties and the issuance of tax residence certificates under such treaties.

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This welcome introduction of new UAE tax residency criteria brings additional clarity to both individuals and legal entities in relation to their tax position.

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UAE tax residency criteria for individuals

A natural person will be considered a UAE Tax Resident if the individual:

- has their usual or primary place of residence and their centre of financial and personal interests in the UAE;
- was physically present in the UAE for a period of 183 days or more during a consecutive 12-month period;
- was physically present in the UAE for a period of 90 days or more in a consecutive 12-month period and the individual is a UAE national, holds a valid residence permit in the UAE or holds the nationality of any GCC Member State, where:
 - (i) he or she has a permanent place of residence in the UAE; or
 - (ii) he or she carries on an employment or a business in the UAE.

What does the new UAE Tax Resident definition mean for individuals?

- The introduction of the new UAE tax residency criteria for individuals does not mean individuals will be subject to personal income tax in the UAE.
- The UAE does not levy any personal income tax on the employment or other personal income of individuals. As such, where individual meet the above criteria to be considered a UAE Tax Resident, they would generally not be subject to taxation in the UAE on their personal income.
- The new Tax Resident definition gives additional clarity to individuals in respect of their UAE tax residency position under bilateral tax agreements the UAE has entered into with other territories, many of which make reference to the domestic laws of the UAE for determining whether a person is a resident of the UAE for purposes of the treaty.



The introduction of the new UAE tax residency criteria for individuals does not mean they will need to pay personal income tax in the UAE.

The UAE continues to be free of personal income tax on individuals' employment or other personal income.





UAE tax residency criteria for juridical persons

The new definition of juridical person generally refers to an entity established or otherwise recognised under the laws and regulations of the UAE, or under the laws of a foreign jurisdiction, that has a legal personality separate from its founders, owners and directors. Examples of UAE juridical persons include a limited liability company, a foundation, a public or private joint stock company, and other entity forms that have separate legal personality under the applicable UAE mainland legislation or the regulations of a free zone.

A juridical person is considered to be a Tax Resident of the UAE if:

- a. it is incorporated or otherwise formed or recognised in the UAE; or**
- b. it is otherwise considered a Tax Resident of the UAE under the applicable legislation in the UAE.**

UAE branches of a domestic or a foreign juridical person are an extension of their “parent” or “head office” and are not considered separate juridical persons. A branch of a foreign juridical person registered in the UAE would therefore generally not be considered a Tax Resident of the UAE.

What does the new UAE Tax Resident definition mean for juridical persons?

- Juridical persons which are considered to be UAE Tax Resident may be liable to Corporate Tax in the UAE under the Corporate Tax Law.
- The Cabinet Decision refers to the “applicable Tax Law” (the Corporate Tax Law) to determine whether a foreign juridical person is Tax Resident. For any other person, the UAE tax residency requirements are set out in Cabinet of Ministers Decision No. 85 for 2022.

The takeaway

New UAE tax residency criteria

The UAE Cabinet of Ministers issued Decision No. 85 of for 2022, which provides a new domestic definition and criteria for when an individual or a legal entity are considered a Tax Resident of the UAE for the purposes of any UAE tax law or Double Tax Treaty. The effective date of the new rules is 1 March 2023.

The domestic Tax Resident definition is aligned to internationally recognised standards and gives additional clarity to individuals and legal entities in respect of their UAE tax residency position.

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Let's talk

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