

UAE Corporate Tax Law Release

Initial reactions and key takeaways



December 2022



UAE releases corporate tax legislation

On 9 December 2022, the UAE issued the Federal Decree-Law No. (47) of 2022 on the taxation of corporations and businesses (hereinafter referred to as the “CT law”). The unofficial translation can be found on the [MoF website](#). [FAQs](#) were also published on the MoF website, and these provide a number of useful clarifications to the law.

The CT law provides the legislative basis for the introduction and implementation of a Federal CT in the UAE and is effective for financial years starting on or after 1 June 2023. The CT law will be effective 15 days after publishing in the official gazette.

Following from the Consultation Document that was issued in April 2022, the CT law clarifies and expands on many key provisions. However, it also leaves a number of areas that remain to be fully clarified in subsequent Cabinet and ministerial decisions and tax authority guidance. Nonetheless, the CT law is an important development for all businesses in the UAE and must be carefully evaluated.

This alert highlights some of our initial reactions and key takeaways from the CT law, with a more detailed summary to be published soon.

Key highlights

Free Zone entities

A hotly anticipated area of the CT law was the treatment of Free Zone Persons. The law suggests that a Qualifying Free Zone Person can have both Qualifying Income (taxed at the rate of 0%) and non-qualifying Taxable Income (taxed at 9%), a significant open question from the Consultation Document. However, some questions remain to be answered on this.

The conditions to be considered a Qualifying Free Zone Person include among others maintaining adequate substance, complying with transfer pricing provisions and not electing to be subject to CT. All Free Zone entities will be required to register and file a CT return, irrespective of whether they are a Qualifying Free Zone Person or not.

A number of points remain unanswered such as what constitutes Qualifying Income (subject to Cabinet decision), the treatment of transactions between Free Zone entities and group entities located in mainland UAE, and whether the election to become subject to regular CT in the UAE is irrevocable.

Exempt persons

The CT law establishes which persons will be exempt from UAE CT, and this definition is somewhat expanded from the Consultation Document as it now includes certain non-extractive natural resources businesses.

In addition the CT law has provided additional clarity with reference to Government entities and Government Controlled entities. Specifically the CT law has defined that Government entities, would be considered as exempt persons unless conducting any business or business activity under a License issued by a Licensing Authority. Government controlled entities would be considered as exempt persons unless conducting a non mandated activity.

For businesses in extractive industries, the CT law has specified that if the entity is earning income from both extractive and non-extractive business, then the extractive income is to be taxed under the relevant Emirate Legislation and the other business income shall be taxed as per the CT law.



UAE releases corporate tax legislation

Calculation of taxable income

The CT law reinforced that taxable income will be determined on the basis of the net profit (or loss) in financial statements prepared for financial reporting purposes in accordance with acceptable accounting standards.

The provisions provide insights in terms of the tax adjustments that will apply to the reported accounting income. These include insights into the treatment of unrealised gains and losses and interest expenses.

Tax grouping

Tax grouping is an important way taxpayers may reduce the administrative burden of tax, and share losses to reduce tax. Additional clarity was provided in relation to rules governing the utilisation of tax losses where a subsidiary joins a Tax group and when a Tax group ceases to exist.

Transfer Pricing (TP)

The UAE CT law contains several articles relating to Transfer Pricing. The key points covered under the CT law are summarised below:

- Transactions with related parties and connected persons must meet the arm's length principle.
- TP methods, broadly in line with the OECD TP Guidelines, are introduced.
- Definitions of 'Related Parties', 'Control' and 'Connected Persons' are covered.
- Concept of transfer pricing adjustments, including corresponding adjustments and potential mechanisms, is provided.
- Taxpayers to prepare TP documentation (disclosure form, master file, local file). Conditions and format to be provided under separate ministerial decisions and tax authority guidance.
- FAQ's provide commentary on additional TP considerations including, but not limited to, (i) domestic transactions - covered; (ii) transactions within a tax group - excluded; and (iii) Free Zone entities - covered.
- Further details expected via separate ministerial decisions and tax authority guidance.

Transitional provisions

The CT law restates the principle established in the Consultation Document that the opening balance sheet for tax purposes will be the prior period closing accounting balance sheet. This should simplify calculation of deferred tax, which needs to be evaluated by taxpayers going forwards. However, it also potentially establishes some additional uncertainty as this principle is "subject to any conditions or adjustments that may be prescribed by the Minister". Taxpayers must therefore carefully consider their approach to tax accounting and provisions.

Participation exemptions

The participation exemption exempts certain income (dividends, capital gains) from UAE CT. In addition to the previously mentioned criteria (5% ownership, and investee company to be subject to a 9% tax rate), a 12 month continuous holding period requirement has been added. The CT law also clarifies how the participation exemption may apply in cases where the immediate participation may not meet the conditions of the exemption.

Global minimum tax

No further guidance was provided in the CT law in relation to Pillar Two. Based on the FAQs, multinationals will be subject to CT under the regular UAE CT regime, until such time as the Pillar Two rules are adopted by the UAE. Further information will be released in due course on the implementation of the Pillar Two rules in the UAE.



UAE releases corporate tax legislation

Other areas to note

Taxable person

Non-residents having “nexus” (business activities) with the State shall be considered as taxable persons. Further details related to be issued by the Cabinet.

Foreign permanent establishment (PE) exemption

Elections to exempt foreign PEs no longer seem to be irrevocable, but the PEs should be subject to foreign tax of at least 9%.

Group transfers and restructuring

Certain conditions were added to be able to qualify for tax neutral intra group transactions and business restructurings, and the claw-back period is established as to two years.

Anti-abuse rules

The CT law established general anti-abuse rules which apply to transactions giving rise to a tax advantage where no valid commercial reason exists and where the tax advantage was the main or one of the main purposes of the transaction.

Administration

As expected, the CT law lists the information that needs to be included in the tax return, when it should be filed, when tax should be paid and how long records should be kept.

Takeaway and next steps

The provisions put forward in the UAE CT law build from best practices globally and incorporate principles that are internationally known and accepted. However, there are still some questions that remain to be answered.

In the meantime, it is essential for companies to plan ahead and get ready for the upcoming regime as it will have profound implications on the flow of business. Our team is already working on tax impact assessments, transfer pricing reviews, and planning operational implementation, such as systems and process updates for a variety of businesses in the UAE.

For further assistance, you can reach us by emailing CT.UAE@pwc.com. **Stay tuned for our detailed newsalert in the coming days.**

UAE releases corporate tax legislation

The PwC UAE team



Camiel Van der Meij
Senior Executive Advisor
UAE CT Leader



Driaan Ruppig
Partner
UAE CT



Charles Collett
Partner
UAE CT

**Scan the code to
know more**





Thank you



www.pwc.com/me

©2022 PwC. All rights reserved. PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details. This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers, its members, employees and agents do not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.