

UAE Corporate Tax: Dubai Emirate Law No. 1 of 2024 - Taxation of foreign banks

Key Takeaways



March 2024



Dubai Emirate Law No. 1 of 2024



On March 7, Law No. (1) of 2024 (“Law”) on taxation of foreign banks operating in Dubai was issued by the Ruler of Dubai, His Highness Sheikh Mohammed bin Rashid Al Maktoum. This decision is effective from the date of its publication in the official gazette which is March 8 and shall apply to tax periods beginning after 8 March 2024. This new law annuls Regulation No.(2) of 1996 or any other legislation that may contradict it.

This Law specifies the principles governing the calculation of taxable income, tax filing and payments, procedures for the audit of tax filing, voluntary disclosure, and responsibilities and procedures related to tax auditing.

Key highlights

Applicability of the Law and tax rate

The Law applies to all foreign banks operating in Dubai, including special development zones and free zones, with the exception of foreign banks licensed to operate in the Dubai International Financial Centre (“DIFC”).

Foreign banks will be subject to 20% tax on their annual taxable income. A credit will be available for corporate tax (“CT”) paid in accordance with Federal Law No. (47) of 2022 (“CT law”) on the Taxation of Corporations and Businesses and its amendments where applicable.

Calculation of taxable income

Calculation of the taxable income takes into account (1) the rules and regulations approved by Dubai Department of Finance (“DOF”) in relation to exempt income, unrealised gains or losses, headquarter expenses and regional expenses, etc. and (2) the provisions of the CT law and the related decisions, for matters not covered by the rules and regulations of DOF for calculating taxable income.

Tax filings and payments

Timeline to file the tax declaration will be specified by the DOF. The following documents should be submitted to the DOF:

- Tax return as specified by the DOF;
- Financial statements and associated disclosures;
- Amount of tax due with related documentation; and
- Any tax paid in accordance with the CT law.

Financial statements should be audited. Any submission that does not include all the above information will be rejected.

Taxpayers have a period of 30 days to voluntarily declare any over or underpaid tax from the day they become aware of this. The forms and mechanisms will be specified by the DOF.

Tax audit

The Law specifies the duties and procedures associated with the tax audits. Mainly, taxpayers should be notified at least 5 days before the date of the tax audit. The tax audit results should be submitted within 10 days to the DOF from when the tax audit ends. The DOF has a period of 10 days to issue the final assessment and notify the taxpayers of the difference of tax due if any.

Taxpayers have the right to file an objection within 20 days from when the tax audit results have been shared subject to certain documentation and conditions that need to be met.

The statute of limitations for tax audits is 5 years and can extend to 15 years in case of tax evasion. The period is calculated from the end of the tax year.





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Key highlights (cont'd)

Tax penalties

In case of tax evasion, taxpayers will be subject to a penalty of twice of the amount of the tax evaded. The following acts are considered as tax evasion:

- Submitting incorrect tax returns and failing to submit a voluntary declaration within the specified period;
- Refraining from paying the tax due from the Tax audits;
- Reducing the value of taxable income;
- Manipulating accounting records or providing incorrect or forged financial information;
- Misusing or causing the destruction of any documents or documents issued by the DOF;
- Destroying or concealing documents, data, or information that the department or agency is obligated to preserve and provide;
- Obstructing the auditor from carrying out his duties in relation to the tax audit;
- Any other act or omission that would lead to tax evasion.

If third parties are identified to take part in any of the above listed activities, the same fine shall be imposed on them independently.

Taxpayers will be subject to a 2% monthly penalty in case of late payment of tax due or payment of any penalty imposed.

Moreover, the Chairman of the Executive Council of Dubai will issue a decision on acts deemed as violations of this Law and penalties imposed for violations. The total penalties imposed should not exceed AED 0.5 million. The fine will be doubled in case of repeat violations within two years up to a maximum of AED 1 million.

Other

The General Director of the DOF will issue the necessary decisions to implement the provisions of this Law.

The provisions of the CT law and its related regulations, including rules, conditions, procedures, controls, and timelines concerning the tax period and other relevant matters not covered by this Law, shall apply.

Taxpayers should retain all records and documents for a period of 7 years.

The rules and procedures stipulated in Regulation No. (2) of 1996 shall be applied for tax periods that began before the provisions of this Law came into effect. Any other transitional rules may be determined by the General Director of DOF.



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Key takeaways and next steps

Foreign banks operating in Dubai need to assess how this Law will impact them going forward. The Law replaces a previous Emirate level tax on foreign banks. The ability to credit tax paid under the CT law against emirate liability will help foreign Dubai banks to avoid double taxation. The impact of the change on any deferred tax balances arising under the previous Emirate level tax will require consideration.

It should be noted that the literal reading of the Law suggests that tax periods commencing after 8 March 2024 will be affected by this Law i.e for banks with a December year end, the first tax period will be 1 Jan to 31 Dec 2025 and for 2024 no tax credit will be available for any CT paid. At this moment, it is not clear if this is the real intention, further clarity is needed on this point.

It is expected that further clarifications will be issued by the DOF in relation to certain aspects of this Law. Given Dubai have introduced this, this may increase likelihood of other Emirates doing the same. Sharjah has already announced a similar provision.

For further assistance, please reach us via CT.UAE@pwc.com or scan the QR code below.





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