

inBrief



Introduction of Federal Corporate Tax in the UAE

By Charles Laubach | 1 February 2022

The UAE Ministry of Finance announced on 31 January 2022 the introduction of Corporate Tax (CT) commencing from June 2023. In the latest UAE initiative to diversify government income, UAE CT will build upon the tax infrastructure established following the introduction of a Value Added Tax regime in 2018.

UAE CT is a Federal tax and will therefore apply across all Emirates, with the Federal Tax Authority responsible for administration and compliance of the UAE CT regime.

One CT return will need to be filed per financial period (generally 1 year) electronically. There will be no provisional or advance CT filings, nor any requirement to make advance UAE CT payments (*i.e.*, no tax installment regime).

Many details pertaining to the UAE CT regime remain unknown at this time, and once promulgated, the UAE CT Law will provide the operational detail and guidance required.

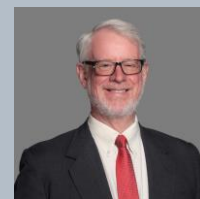
How much?

Taxable income will be the accounting net profit of a business, after making adjustments for certain items to be specified under the UAE CT Law. The accounting net profit of a business will be the amount reported in the financial statements in accordance with internationally acceptable accounting standards.

The CT rates to be levied are:

- Zero per cent for taxable income up to AED 375,000;
- Nine per cent for taxable income above AED 375,000; and
- A different tax rate for large multinationals that meet specific criteria set with reference to “Pillar Two” of the OECD Base Erosion and Profit Shifting project.

The Author



Charles Laubach

Partner

claubach@afриди-انجبل.com

Tel: +971 4 330 3900

Charles is a partner at Afridi & Angell's Dubai office. He has practiced as a legal consultant in the UAE since 1986. He advises on general corporate matters, military procurement and offsets, project finance, employment, and international trade controls. Charles is a member of the Pennsylvania and DC Bars. He holds a JD and an MA from the University of Pennsylvania, an MA from the University of London, School of Oriental and African Studies, and a BA from Dartmouth College.

A multinational is defined as a corporation that operates in its home country, as well in other countries through a foreign subsidiary, branch or other form of presence or registration.

The UAE CT regime will allow a business to use losses incurred (as from the UAE CT effective date) to offset taxable income in subsequent financial periods, provided certain conditions are met.

When?

The UAE CT will commence for financial years starting on or after 1 June 2023.

For example:

- If your business has a financial year starting on 1 July 2023 and ending on 30 June 2024, your business will become subject to UAE CT from 1 July 2023.
- If your business has a financial year starting on 1 January 2023 and ending on 31 December 2023, your business will become subject to UAE CT from 1 January 2024 (which is the beginning of the first financial year that starts on or after 1 June 2023).

More information on the registration process and ongoing compliance obligations for businesses will be provided in the future.

Who?

UAE CT will apply to businesses that operate as corporate entities or as sole proprietorships. It will apply to UAE and non-UAE businesses.

All activities undertaken by a legal entity will be deemed “business activities” and hence be within the scope of UAE CT.

Dividends and capital gains earned by a UAE business from its qualifying shareholdings will be exempt from UAE CT. A qualifying shareholding refers to an ownership interest in a UAE or foreign company that meets certain conditions to be specified in the UAE CT law.

Certain qualifying intra-group transactions and corporate reorganisations will not be subject to UAE CT provided the necessary conditions are met.

As provided for by the UAE VAT regime, a UAE group of companies can elect to form a tax group and be treated as a single taxable person, provided certain conditions are met. Tax losses from one intra-group company may be used to offset taxable income of another intra-group company provided certain conditions are met.

A UAE tax group will be required to file only a single tax return for the entire group.

Businesses engaged in the extraction of natural resources will remain subject to Emirates level corporate taxation and be outside the scope of UAE CT.

Individuals deriving business income under (or being required to obtain) commercial licenses (*e.g.*, sole proprietors and freelancers) will be within the scope of UAE CT.

An individual's personal exertion income (*i.e.*, salary) along with dividends, capital gains, investments in real estate and bank interest derived in a personal capacity should not be subject to UAE CT.

Free Zones

Free zone businesses will be subject to UAE CT, but the UAE CT regime will continue to honor the CT incentives currently being offered to free zone businesses that comply with all regulatory requirements and that do not conduct business with mainland UAE.

A business established in a free zone will be required to register and file a CT return. The UAE CT treatment that will apply to businesses in free zones will be the same across all free zones (*i.e.*, no difference between financial and non-financial free zones).

Further details on the compliance obligations of free zone businesses will be provided in the future.

International Aspects

Foreign entities and individuals will be subject to UAE CT only if they conduct a trade or business in the UAE in an ongoing or regular manner. UAE CT will generally not be levied on a foreign investor's income from dividends, capital gains, interest, royalties and other investment returns.

Foreign CT paid on UAE taxable income will be allowed as a tax credit against the UAE CT liability. The Ministry of Finance will remain the "competent authority" for purposes of bilateral/multinational agreements and the international exchange of information for tax purposes.

Finally, UAE businesses will need to comply with transfer pricing rules and documentation requirements set with reference to the OECD Transfer Pricing Guidelines. ■

Afridi & Angell

Founded in 1975, Afridi & Angell is a full-service UAE law firm in its fifth decade at the forefront of the legal community. From the beginning, our hallmarks have been a commitment to quality, unsurpassed knowledge of the law and the legal environment, and crafting of innovative business solutions. Licensed in the three largest Emirates of Abu Dhabi, Dubai and Sharjah as well as the Dubai International Financial Centre, our practice areas include banking and finance; corporate and commercial law; arbitration and litigation; construction; real estate; infrastructure projects; energy; project finance; maritime (wet and dry); and employment. We advise local, regional and global clients ranging in size and sophistication from start-ups, sole proprietorships, family-owned businesses, entrepreneurs and investors to some of the world's largest public and private companies, governments and quasi-government institutions. We attract and retain clients with our dedication to practical guidance focused on their business needs supported by decades of experience here in our home jurisdiction, the UAE.

Afridi & Angell is the exclusive member firm in the UAE of top legal networks and associations, most notably Lex Mundi, the world's leading network of independent law firms, and World Services Group.

www.afridi-angell.com