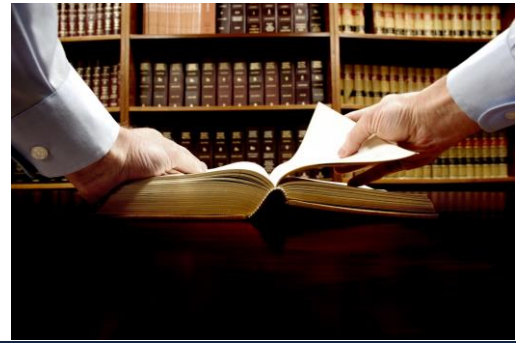


inBrief



Tax Residency in the UAE: who qualifies as a UAE Tax Resident?

By Stuart Walker and Alex Vromans | 16 December 2022

Recently approved Cabinet Decision 85 of 2022 (the **Decision**) outlines the requirements and conditions for classification of persons as a “Tax Resident” of the UAE. We briefly outline below who qualifies as a UAE tax resident.

Afridi & Angell have assisted a variety of clients in procuring tax domicile certificates and are well versed in the procedures and requirements. If you are interested in learning more about whether you may qualify as a Tax Resident, or the procedures for obtaining a tax domicile certificate, please reach out to one of our team members. Tax domicile certificates are an important and valuable component in the tax-planning structures that we implement for many of our clients.

Companies as UAE Tax Residents

Article 3 of the Decision provides that a company shall be deemed as a Tax Resident where it meets one of the following criteria:

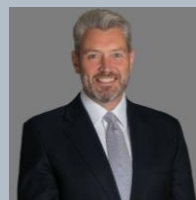
- (1) it is established, formed or recognised according to the legislation in force in the UAE. The Decision expressly excludes branches of foreign companies registered in the UAE from the definition of a Tax Resident; or
- (2) it is otherwise deemed as a Tax Resident by virtue of a different federal law imposing tax (**Tax Law**).

Natural Persons as UAE Tax Residents

Article 4 outlines the requirements for a natural person and provides that such a person shall be deemed as a Tax Resident where they meet one of the following conditions:

- (1) the habitual or primary place of residence of the individual is located in the UAE, so long as it is considered to be the place of fiscal and personal interests of the individual and where it meets the conditions and standards as applicable and determined from time to time;

The Authors



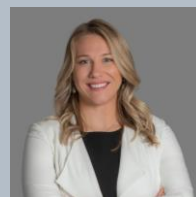
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Stuart's primary practice includes employment, financial services regulation, corporate finance and mergers and acquisitions. He leads the field in advising parties during Dubai Financial Services Authority (DFSA) investigations and was instructed by the first authorised firm to be fined by the DFSA. He assists a variety of international clients with their tax planning. Stuart was admitted as a solicitor in England & Wales in 2001 and moved to Dubai in 2003.



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- (2) the individual is physically present in the UAE for a minimum of 183 days, within the duration of 12 consecutive months; or
- (3) the individual may qualify as a Tax Resident where they have been physically present in the UAE for a minimum of 90 days within the relevant duration of 12 consecutive months, if the individual holds UAE nationality or a valid UAE Residence Permit or the nationality of any of the GCC Countries, and meet either of the following conditions:
 - a. the individual holds a “Place of Permanent Residence” in the UAE; or
 - b. the individual holds a position or is exercising “Activities” in the UAE.

A “Place of Permanent Residence” means a place located in the UAE which is deemed available to the individual at all times and “Activities” includes any activity practiced on a regular, ongoing and independent basis by a natural person.

The Decision provides that any person deemed as a Tax Resident in the UAE may submit an application to the Federal Tax Authority for issuance of a tax domicile certificate. ■

Afridi & Angell

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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.

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