

inBrief



UAE Federal Decree Law 47 of 2022 on Taxation of Corporations and Businesses

By Shahram Safai, Mevan Bandara and Alex Vromans | 16 December 2022

January 2022 began with the announcement that businesses and corporations will be subject to Corporate Tax (CT) from 1 June 2023. While the UAE Ministry of Finance helpfully provided information on the basic tenets of CT, including a comprehensive white paper, the CT Law governing CT was published on 9 December 2022 providing clarity. However, there are still a number of areas that will be further clarified through the implementing regulations. An [unofficial translation of the Law](#) together with [FAQs](#) have been provided by the MoF.

Who will be liable to pay CT?

Both corporate entities and individuals who conduct Business/Business Activity in the UAE are considered a Taxable Person and will be liable to pay CT. A Taxable Person can either be a Resident Person or a Non-Resident Person (including Branches, Partnerships and Foundations).

A Resident Person includes:

- a company/establishment that is established in the UAE;
- a foreign company/establishment that is effectively managed and controlled in the UAE; or
- an individual who conducts business activities in the UAE.

A Non-Resident Person is a person who is not considered a Resident Person that:

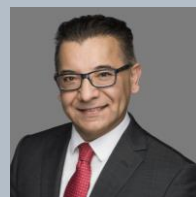
- has a permanent establishment in the UAE;
- derives state sourced income; or
- has a nexus to the UAE, as to be specified by the Cabinet of Ministers.

Who is exempt from CT?

The following persons are exempt from CT:

1. Government entities;
2. a Government Controlled Entity;

The Author



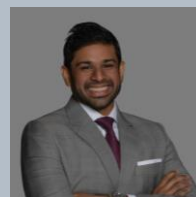
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Mevan practices in the firm's dispute resolution group. He advises and represents clients in arbitration, DIFC Court litigation and on-shore litigation. Mevan has represented clients in DIFC-LCIA, DIAC, ICC and ad hoc arbitrations seated in London, Dubai, Singapore and Sri Lanka. He specialises in cross-border disputes, tax, construction, banking, real estate, maritime and employment disputes.

3. a Person engaged in an Extractive Business, that meets the conditions of Article 7 of the Law;
4. a Person engaged in a Non-Extractive Natural Resource Business, that meets the conditions of Article 8 of the Law;
5. a qualifying Public Benefit Entity (Charities) under Article 9 of the Law;
6. a qualifying Investment Fund under Article 10 of the Law;
7. a public pension or social security fund, or a private pension or social security fund that is subject to regulatory oversight of the competent authority in the UAE;
8. an entity incorporated in the UAE that is wholly owned and controlled by an Exempt Person that meets the required conditions specified under paragraphs (a), (b), (f) and (g) of Clause 1 of Article 4 of the Law; or
9. any other Person as may be determined by the Cabinet of Ministers.

What about Free Zones?

The Law provides that CT shall be imposed on a “Qualifying Free Zone Person” at the following rates:

- 0 percent on Qualifying Income; and
- 9 percent on Taxable Income that is not Qualifying Income.

A Qualifying Free Zone Person is defined as a person that meets the condition set out in Article 18 of Law, which includes maintaining adequate substance in the UAE, derives Qualifying Income and has not elected to be subjected to CT.

“Qualifying Income” is to be specified further by the Cabinet of Ministers.

Importantly, 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.

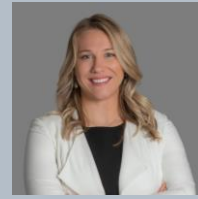
What will be taxed (Taxable Income)?

A Taxable Person will be taxed on its worldwide taxable income, regardless of whether the income is derived within or outside the UAE, which 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.

Also, international agreements (including those for the avoidance of double taxation) should be considered with respect to the CT regime.

What is the CT Rate?

CT will be levied at a rate of 9 percent on Taxable Income that exceeds AED 375,000. Taxable Income below AED 375,000 will be subject to a 0 percent rate.



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What about Tax Losses?

Tax Losses can be offset against Taxable Income of future periods up to a maximum of 75 percent of Taxable Income for each of such future periods. Any excess, unused Tax Losses can be carried forward and used later.

What about Transfer Pricing?

The UAE will implement Transfer Pricing rules broadly in line with the OECD Transfer Pricing Guidelines and require periodic Transfer Pricing reporting obligations.

Are there Anti-Abuse Rules?

The CT contains anti-abuse rules to prevent abuse or avoidance of the CT Law. The Federal Tax Authority (FTA) may make a determination, in a 'just and reasonable' manner, that one or more specified CT advantages obtained as a result of a transaction or arrangement are to be counteracted or adjusted if, having regard to all relevant circumstances, it can be reasonably concluded that:

- a. the entering into or carrying out of the transaction or arrangement, or any part of it, is not for valid commercial or other non-fiscal reason which reflects economic reality; and
- b. the main purpose or one of the main purposes of the transaction or arrangement, or any part of it, is to obtain a CT advantage that is not consistent with the intention or purpose of the CT Law.

A CT advantage includes but is not limited to:

- a refund or increased refund;
- avoidance or reduction of CT payable;
- deferral of a payment of CT or advancement of a refund of CT; and
- avoidance of an obligation to deduct or account for CT.

When do you have to file a tax return and pay CT?

A Taxable Person must file a tax return and pay the CT no later than nine months from the end of the relevant Tax Period. The FTA will be responsible for the administration, collection and enforcement of CT and other federal taxes.

Please contact us if you have any comments or queries with respect to this law. ■

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