

# UAE Corporate Tax

## Recent Notifications & Updates

September 2023



### Introduction

The United Arab Emirates (“UAE”) Federal Tax Authority and Ministry of Finance (MoF) has recently published;-

1. A Comprehensive Corporate Tax Guide on the Small Business Relief (CTGSBR1)
2. Corporate Tax Guide on Registration of Juridical Person (CTGRJP1)
3. Corporate Tax – General Guide (CTGGCT1)
4. Cabinet Decision No. (75) of 2023 (“CD 75”)—outlining the administrative penalties for violations of the UAE corporate tax law

This alert is intended to serve as a synopsis of the aforesaid notifications.



### 1. Small Business Relief

#### Overview

Article 21 of the Federal Decree-Law No.47 of 2022 read with Ministerial Decision No.73 of 2023, allows Small Business Relief (SBR) to eligible businesses to treat their taxable income as “zero” for a specific tax period subject to meeting certain prescribed conditions i.e. qualifying small businesses will be completely exempt from payment of corporate taxes during the eligible tax period.

The Federal Tax Authority recently published a Corporate Tax Guide (CTG) on Small Business Relief with an intent to provide more clarity on application of Corporate Tax laws to small businesses, with a disclaimer that the CTG should not be construed as a legal or tax advice.

A summary of the CTG is provided here below.

### Applicability

- **Revenue<sup>1</sup> Threshold** - To qualify as a small business, a resident<sup>2</sup> taxable person’s revenue must be below or equal to AED 3,000,000 for the relevant tax year and all previous tax periods<sup>3</sup>. The Taxpayer will not be eligible for SBR if in any tax period the revenue exceeds AED 3,000,000<sup>4</sup>.
- Even if the revenue threshold is met, SBR is **not available to**-
  - Constituent entity of a Multinational Group<sup>5</sup>
  - Qualifying Free Zone entity
  - Artificial Separation<sup>6</sup>
  - Permanent Establishment of non-resident persons. However, if the non-resident is based in a Country with which UAE has a Tax Treaty which provides for non-discrimination in respect of its PE, then such PE would be eligible to opt for SBR subject to prescribed conditions.

### What is SBR?

Eligible Taxpayers who elect for SBR will enjoy the following benefits:

Administrative Benefits	Tax Benefits
Can file simplified tax return	Zero Corporate Tax
Relief from certain record keeping requirements	No obligation to compute taxable income
No need to comply with transfer pricing documentation requirements <sup>7</sup>	No burden to identify expenses which are allowable for corporate tax purposes or other applicable reliefs
Can prepare financials using cash basis of accounting	Can carry forward tax losses and excess interest expenditure from previous tax periods during which SBR was not availed to be set off against taxable profits in the year in which SBR is not availed.

1 Revenue refers to all of the income that a business earns even if it’s from one-off transaction and includes exempt income and non cash receipts valued at market price.  
 2 Resident means a Taxable Person specified in Article 11(3) of the Corporate Tax Law  
 3 The first Tax Period in relation to Corporate Tax commences on or after 1 June 2023. SBR will be available for tax period on or after 1 June 2023 to tax period on or before 31 December 2026.  
 4 Article 2(3) of Ministerial Decision No. 73 of 2023.  
 5 MNEs are groups of companies that operate in more than one country and that have a total consolidated group revenue of more than AED 3.15 billion and are required to prepare a Country-by-Country Report under the UAE’s Country-by-Country Reporting legislation.  
 6 SBR will also not be available where a Person separates the business into more than one entity in order to ensure that the revenue of each entity meets the revenue threshold for Small Business Relief. Factors to determine artificial separation is provided in CTG.  
 7 Businesses are required to however comply with arm’s length principle

Eligible Taxable Persons can elect for Small Business Relief in their Tax Return<sup>8</sup>. Once the election has been made, they will be able to complete a simplified Tax Return and benefit from the relief.

## SBR and Corporate Tax reliefs

Business that elect for SBR are excluded from applying certain tax reliefs and rules including:-

- To accrue and utilise tax losses for the relevant tax period (unutilised tax losses incurred during prior tax periods before availing SBR is allowed to be carried forward to subsequent years in which SBR is not availed);
- To accrue and utilise excess interest expenditure for the relevant tax period;
- To apply reliefs for transfers within a Qualifying Group or for Business restructuring transactions.
- The rules relating to exempt income does not apply to businesses that have elected for SBR, implying that all income, even if not taxable, must be included in calculating revenue for SBR purposes.
- Under SBR, since taxable income is considered as zero, the deductible expenditure rules does not apply to businesses electing for SBR.



## 2. Registration of Juridical Person

### Overview

The Federal Decree-Law No.47 of 2022 on the Taxation of Corporations and Businesses (Corporate Tax Law) is the legislative basis for imposing federal tax on corporations and business profits in UAE. The provisions relating to Corporate Tax Laws are applicable from tax period commencing on or after 1 June 2023.

To assist and guide the Taxable persons with the corporate tax registration requirements, the Federal Tax Authority has recently issued a corporate tax guide on registration of juridical person elaborating on the corporate tax registration process, determining whether there is a need for registration for corporate tax and corporate tax deregistration process.

The key aspects of the guide are brought out below.

---

<sup>8</sup> SBR is available to the taxpayer only if elected in the tax return at the time of filing the same.

## Registration for Corporate Tax

The Corporate tax regime in UAE is a self-assessment regime, meaning the responsibility to assess and determine if corporate tax is applicable and whether any corporate tax obligations are required to be met lies in the hands of the taxable person. Persons who determine that they fall within the purview of corporate tax are required to register for corporate tax to fulfill their obligations of filing tax return and payment of tax due. The table below lists the taxable persons and those exempt from corporate tax registration.

### Overview of Corporate Tax Registration requirements

<b>Taxable Person</b>	<ul style="list-style-type: none"> <li>• Resident juridical person</li> <li>• Non-resident juridical person with a Permanent Establishment in the UAE</li> <li>• Non-resident juridical person with a nexus in the UAE</li> <li>• Natural person subject to certain conditions</li> </ul>
<b>Exempt Person</b>	<ul style="list-style-type: none"> <li>• Government Entity (provided they do not conduct a business or business activity under a license issued by licensing authority)</li> <li>• Government Controlled Entity (provided they do not conduct business or business activity that is not mandated)</li> <li>• Extractive Business unless they conduct business which is subject to corporate tax</li> <li>• Non-Extractive Natural Resource Business unless they conduct business which is subject to corporate tax</li> <li>• Qualifying Public Benefit Entity</li> <li>• Qualifying Investment Fund</li> <li>• Pension and Social Security Fund</li> <li>• Juridical Persons wholly Owned and Controlled by certain other Exempt Persons</li> </ul>

A person who is registered for VAT and Excise Tax will still be required to register for corporate tax if they fall within the scope of the corporate tax regime. Similarly Tax agents assisting tax payers in meeting their corporate tax obligations must get themselves listed with FTA as Tax agents for corporate tax purposes.

## Registration Process

- An application to register for Corporate Tax can be made on the EmaraTax portal. A Person who is already registered for VAT or Excise Tax can use their existing login details.
- A Person who wishes to register for Corporate Tax must submit a registration application along with the relevant supporting documentation to the FTA. The FTA will review each application and approve or reject it. Once an application is approved, the FTA will issue the Person with a TRN.

- FTA shall respond within 20 days from the date of receipt of completed registration form. Where additional information is called for, FTA shall respond within 20 days from the date of receipt of such additional information. Where the additional information is not submitted within the specified timeframe, FTA shall reject the application and a fresh application has to be made in such cases.

### Documents required for registration

The FTA lists down key documents that a taxable persons should submit while applying for corporate tax registration being copy of Trade License/ Business License, passport of the shareholder (owns  $\geq 25\%$  shares), passport, Emirates ID, proof of authorization of authorized signatory.

In addition to the above documentation, FTA can request other information to approve or reject the application.

### Obligation on registration

Once a Person has registered for Corporate Tax, they will be subject to a number of administrative Corporate Tax obligations which include:-

- Filing a Corporate Tax Return and paying any Corporate Tax due within 9 months of the end of their Tax Period;
- Retaining all records and documents which support their tax position for a period of 7 years following the end of the Tax Period to which they relate; and
- Ensuring that all of their registration details are up to date and FTA is informed of any changes within 20 business days, in order for administrative penalties not to be imposed.

### Exempt income & Registration

A taxable person who receives only exempt income, which is not subject to any corporate tax liability would however be required to get registered for corporate tax and meet its corporate tax obligation.

The types of income, and related expenditure, which are exempt from Corporate Tax include<sup>9</sup>:

- Dividends and other profit distributions received from UAE resident juridical persons, participating interest in a foreign juridical person;
- Other income from a Participating Interest as specified in Article 23 of the Corporate Tax Law;
- Income received from a Foreign Permanent Establishment where the election has been made to not take into account its income from Corporate Tax; and
- Income earned by a Non-Resident Person from operating aircrafts or ships used in international transportation, on meeting certain conditions.

---

<sup>9</sup> Article 22, Article 22(1), Article 22(2), Article 22(3), Article 22(4) and Article 22(5)

## Resident Juridical Person

A juridical person is an entity established/ recognised under the laws and regulations of the UAE, or under the laws of a foreign jurisdiction, that has a legal personality separate from its founders, owners and directors. A resident juridical persons include:-

- LLCs, public / private joint stock companies incorporated in the UAE
- Foreign entities that are effectively managed<sup>10</sup> and controlled in the UAE
- Branches of UAE companies- a branch of resident person is regarded as the same taxable person and hence will not be able to register for corporate tax individually. Head office must register for corporate tax on behalf of all UAE branches. This is also applicable for Free Zone branches of mainland UAE juridical persons and also for mainland branches of Free Zones Persons.
- Resident juridical persons eligible for small business relief are still required to get themselves registered for corporate tax. However they are subject to Zero tax and can file a simplified tax return.

## Powers of FTA

FTA is bestowed with discretionary powers to register a person for corporate tax, if based on information available to it, it believes such person is a taxable person who ought to have registered for corporate tax purposes. Such person has the right to appeal against the decision of the FTA at the time of tax assessments.

## Corporate Tax Deregistration

Where Juridical Person ceases to carry on business or business activity due dissolution, liquidation or other circumstances, such person should apply for deregistration to the FTA.

Tax deregistration application must be filed within 3 months from the date on which the business ceases/liquidation/dissolved

The date of cessation of business will be date on which such deregistration application is approved by the FTA. Approval is subject to meeting all obligations relating to filing of all tax returns, payment of tax due and administrative penalties.



## 3. Corporate Tax- General Guide

The Federal Tax Authority has very recently published a comprehensive “ Corporate Tax- General guide” with an aim to making the provisions of the CTL more understandable to the taxpayers.

The guide provides :-

---

<sup>10</sup> Place of effective management is where the key management or commercial decisions are regularly and predominantly made throughout the relevant tax period.

- An overview of the corporate tax rules and procedures, including corporate tax compliance requirements with respect to determination of tax base, computation of tax, filing of tax returns etc.; and
- a comprehensive FAQ

The said guide is divided into chapters with initial few chapters addressing questions as to where to seek further assistance in case of matters that are not dealt with in the guide. The subsequent chapters cover the provision of the CTL including the administrative process.



#### 4. Administrative Penalty- CD 75

Cabinet Decision No. 75 of 2023 was issued on administrative penalties for violation of provision of the Corporate Tax laws. The CD 75 quantifies the penalties for various violations/ non-compliances for person carrying on business/ business activity or having a tax obligation under the corporate tax law. CD 75 will come into effect from August 1, 2023. The list of violations and the penalty as per CD 75 is provided in the below table.

S.No	Violation	Penalty (in AED)
1.	Failure to maintain required records and other information specified in the Tax Procedures Law and CT Law	<ul style="list-style-type: none"> <li>• 10,000 for each violation</li> <li>• 20,000 in each case of repeated violation within 24 months from the date of the last violation.</li> </ul>
2.	Failure to submit the data, records and documents related to Tax in Arabic to the Authority when requested.	5,000
3.	Failure of the Registrant to submit a deregistration application within the timeframe specified in the CT Law and its implementing decisions.	1,000 per month in case of late submission of the application, maximum up to 10,000.
4.	Failure of the Registrant to inform the Authority of any case that may require the amendment of the information pertaining to his Tax record kept by the Authority.	<ul style="list-style-type: none"> <li>• 1,000 for each violation, or</li> <li>• 5,000 in each case of repeated violation within 24 months from the date of the last violation</li> </ul>
5.	Failure of Legal Representative to provide notification of their appointment within the specified timeframes	1,000
6.	Failure of Legal Representative to file a Tax Return within the specified timeframes.	<ul style="list-style-type: none"> <li>• 500 for each month, or part thereof, for the first 12 months.</li> <li>• 1,000 for each month, or part thereof, from the 13th month onwards.</li> </ul> Penalty to apply from the day following the expiry of due date of filing return each month.
7.	Failure of the Registrant to submit a Tax Return within the timeframe specified in the CT Law.	<ul style="list-style-type: none"> <li>• 500 for each month, or part thereof, for the first 12 months.</li> </ul>

S.No	Violation	Penalty (in AED)
		<ul style="list-style-type: none"> <li>1,000 for each month, or part thereof, from the 13th month onwards.</li> <li>Penalty to apply from the day following the due date for filing the return of income.</li> </ul>
8.	Failure to pay the Tax Payable under CT Law	Penalty of 14% per annum of tax payable for month or part thereof from the expiry of the due date to pay taxes. Due date in case of Voluntary Disclosure (VD) and Tax Assessment (TA) shall be 20 Business days from the date of submission of VD or receipt of TA respectively
9.	Penalty for submission of incorrect Tax return	500. No penalty in case person corrects his Tax Return before the expiry of the deadline for the submission of the Tax Return according to the Corporate Tax Law
10.	Voluntary Disclosure for errors in Tax return, Tax Assessments or tax refunds application	A monthly penalty of 1% on the Tax Difference, for each month or part thereof, to be applied as of the date following the due date of the relevant Tax Return, the submission of the Tax refund application, or the Notification of the Tax Assessment and until the date the Voluntary Disclosure is submitted.
11.	Failure to submit Voluntary Disclosure as prescribed before Tax Audit	<ul style="list-style-type: none"> <li>Fixed penalty of 15% of the Tax Difference</li> <li>1% each month or part thereof on the Tax Difference for the prescribed period</li> </ul>
12.	Failure to facilitate Tax Audit by a person subject to tax audit, his Tax Agent or Legal Representative	20,000
13.	Failure to submit, or late submission of a Declaration to the Authority, as per CT Law.	<ul style="list-style-type: none"> <li>500 for each month, or part thereof, for the first 12 months.</li> <li>1,000 for each month, or part thereof, from the 13th month onwards Penalty to apply from the day following the expiry of due date of submission of Declaration.</li> </ul>



**About us**



VSTN Consultancy Private Ltd is a boutique Transfer pricing firm with extensive expertise in the field of international taxation and transfer pricing.

Our offering spans the end-to-end Transfer Pricing value chain, including design of intercompany policy and drafting of Interco agreement, ensuring effective implementation of the Transfer Pricing policy, year-end documentation and certification, BEPS related compliances (including advisory, Masterfile, Country by Country report), Global Documentation, safe harbour filing, audit defense before all forums and dispute prevention mechanisms such as Advance Pricing agreement.

We are structured as an inverse pyramid where leadership get involved in all client matters, enabling clients to receive the highest quality of service.

Being a specialized firm, we offer advice that is independent of an audit practice, and deliver it with an uncompromising integrity.

Our expert team bring in cumulative experience of over five decades in the transfer pricing space with Big4s spanning clients, industries and have cutting edge knowledge and capabilities in handling complex TP engagements.



VSTN Consultancy Pvt Ltd., © 2023. All Rights Reserved.

