

# United Arab Emirates

## Taxation – In brief

### CORPORATE INCOME TAX

#### Current Situation in the UAE

The UAE currently does not have a system for Federal income taxation. For the time being, there have not been any public announcements from the UAE government regarding any introduction of a Federal corporate income tax regime, despite references to economic impact studies carried out by the UAE government and general media statements from the Government. Hence, there is no visibility on whether (i) a Federal corporate income tax regime shall be introduced, (ii) the scope of application of any such federal tax regime, or (iii) on the interaction between a Federal income tax and the existing Emirates tax decrees and free zone tax holidays (see hereinafter).

Most of the Emirates have their own corporate income tax decrees. These regulations theoretically allow for a corporate tax to be imposed on the income from business activities carried out in the respective Emirate, at rates of up to 55%. These decrees continue to apply, in practice tax however is currently only enforced on foreign oil companies engaged in upstream petroleum activities and certain companies engaged in petroleum related activities. On top, branches of foreign banks are subject to a 20% corporate tax under the specific banking tax decrees issued by some Emirates.

Most of the UAE free zones provide holidays from the respective Emirate level corporate taxation for entities licensed in the relevant free zone – depending on the free zone for renewable periods of between 15 and 50 years. Consequently, corporate income tax is generally not actually payable by most businesses operating in the UAE.

#### International Commitments

The UAE became a member of the Organization for Economic Co-operation and Development's ("OECD") Inclusive Framework on Base Erosion and Profit Shifting ("BEPS") in May 2019. Already in June 2018, the UAE signed the multilateral instrument ("MLI") committing to amend certain concluded double tax treaties (currently more than a 110 in force). The MLI was ratified in May 2019, which resulted in the UAE's position under the MLI becoming effective from 1 September 2019 (subject to satisfying certain conditions).

As a matter of form, the UAE does not levy any capital gains tax or any form of non-resident corporate income tax.

## OBTAINING A CORPORATE TAX RESIDENCY CERTIFICATE

### Background

A Tax Residence Certificate is a document issued by the UAE Federal Tax Authority evidencing the company's formal status as a UAE resident in respect to a particular Double Taxation avoidance agreements between the UAE and the specific foreign jurisdiction (to be selected in the application). Such Tax Residence Certificate is the main supportive document seeking for the benefits of a DTT.

### Requirements

In order to obtain a TRC for a UAE company, the applicant needs to fulfill the following requirements:

#### Documents to be uploaded:

- Valid trade license copy
- Certified tenancy contract copy or title deed; valid for at least three months prior to application; a physical office space is mandatory (not flexi or smart desk options)
- Passport, valid visa copy and Emirates ID of the company Director/Manager
- Latest certified audited financial statement or last 6 months company UAE bank statements, stamped by the bank

#### Fee applicable:

- Application Fees: AED 10,000 + AED 10, paid through e-Dirham Card

### Important Notes

- The Ministry of Finance does not issue Tax Residence Certificates for offshore companies (JAFZA and RAK ICC) as they are considered as non-resident corporate entities for tax purpose. The same applies in general also to ADGM SPVs which, as passive entities, cannot lease physical office space.
- The Federal Tax Authority will not accept foreign bank statements. The competent authority requires the latest 6 months statements, covering 6 months of the period TRC to be stamped by the UAE bank. Hence, online generate bank statements are not accepted.

### Individual Income Taxes for UAE Residents (Nationals and Expatriates)

There is no personal income tax law enacted in the UAE neither on federal nor on Emirate level. As such, there is no domestic legislative definition of personal tax residence in the UAE. Hence, individuals are not subject to any personal taxes in the UAE by reason of their income or capital gains arising from the UAE or anywhere else in the world.

As such, there is no requirement to submit UAE personal tax returns and individuals are not issued with a UAE Tax Identification Number ("TIN").

## OBTAINING AN INDIVIDUAL TAX RESIDENCY CERTIFICATE

### Background

Although there is no legal definition of tax residency in the UAE's domestic law, definitions do exist indeed in the various Double Tax Treaties (DTTs) the UAE has signed with more than 110 jurisdictions.

An individual Tax Residency Certificate (TRC) can be issued by the Federal Tax Authority for any 12-month period to confirm an individual's UAE tax residence by reference to the provisions of a specific Double Tax Treaty between the UAE and the other country. Hence, if the applicant needs to have the UAE tax residency certified for various jurisdictions, a TRC needs to be obtained separately for every jurisdiction under the relevant DTT.

### Requirements

In order to obtain a TRC, the applicant needs to fulfill the following requirements:

#### Documents to be uploaded:

- Passport copy and valid visa copy issued at least 180 days earlier
- Emirates ID copy
- 6 months personal UAE bank statements, stamped by the bank
- Proof of income in UAE, e.g. employment agreement, share certificate, salary certificate
- Immigration (GDRF) Report (report evidencing all entries into and exits out of the UAE)
- Certified tenancy contract copy valid for at least three months prior to application or title deed in the name of the applicant

#### Fee applicable:

- Application Fees: AED 2,000 + AED 3, paid through e-Dirham Card

### Important Notes

- In accordance with the relevant Double Tax Treaty, the Federal Tax Authority has set a requirement for an individual applicant to have spent at least 180 days in the UAE within the year proceeding applications. This is an objective criterion (day-counting), which up to date has not been strictly enforced, it is however possible to (re-)apply even if this objective criteria is not met, by evidencing "strong ties" with the jurisdiction (subjective criteria) upon the authorities request.
- A residential address in the UAE and tenancy contract or a title deed in the applicant's name are mandatory conditions to apply for a TRC.
- The Federal Tax Authority will not accept foreign bank statements. The applicant must have a personal bank account with a UAE bank (licensed by the UAE central bank) in the UAE and have held such account for a minimum of 6 months. The competent authority also requires the latest 6 months statements, covering 6 months of the TRC period to be stamped by the UAE bank. Hence, online generated bank statements are not accepted.



## SWISS GROUP

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We cleave to high ethical and professional standards in all our activities. We therefore enjoy the confidence of numerous private clients as well as local and international authorities and governmental agencies.

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Through our sister company in Abu Dhabi, **Swiss International Legal Consultants Ltd**, we provide fiduciary and tax planning services (amongst others, regarding the double tax treaties between various countries and the UAE) and estate planning including the registration of non-Muslim Wills (DIFC Wills, Dubai Court Will and Abu Dhabi Wills). In addition, we give legal advice on corporate and general contracts, as well as real estate matters.

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