

This paper includes information on the UAE federal Corporate Tax (“CT”) legislation to ensure that DMCC members are undertaking the necessary actions in order to comply with the UAE CT law.

UAE Corporate Tax is effective for financial years starting on or after 1 June 2023. It now forms an important part of the UAE’s position as a leading global business hub, with a highly competitive fiscal framework, and regulations which leverage the best of international norms. However, as with any new legislation, businesses in the DMCC may be asking what UAE CT means for them?

How does UAE CT apply to DMCC entities?

- All DMCC registered or incorporated entities will need to register and comply with CT obligations.
- Many DMCC entities may benefit from 0% CT on Qualifying Income if they meet certain to be a Qualifying Free Zone Person. Other income may be subject to 9% CT.
- Qualifying Income includes:

- 1 Income from transactions with other Free Zone Persons except from *Excluded Activities*.
- 2 Income from transactions with non-Free Zone Persons only in respect of *Qualifying Activities that are not Excluded Activities*.
- 3 Income derived from the ownership or exploitation of Qualifying Intellectual Property
- 4 Any other income that falls within the de minimis threshold (i.e lower of 5% of Revenue or AED 5m).

Ministerial Decision No. 265 of 2023 Regarding Qualifying Activities and Excluded Activities

Cabinet Decision No. 100 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person

Other key considerations

- Adequate substance, compliance with transfer pricing regulations and maintenance of audited financial statements are required in order to be eligible for 0% CT on Qualifying Income (as a Qualifying Free Zone Person).
- Separate taxing rights are provided to income attributable to Domestic or Foreign Permanent Establishment and income from exploitation of immovable property in certain instances.

We encourage DMCC members to analyse the impact of the UAE CT regime and the applicable tax rate as soon as possible.

Please refer to the below legislation on one of the main conditions to be eligible for a 0% CT rate which is deriving Qualifying Income. This should be analysed in conjunction with other conditions such as maintaining adequate substance in the Free Zone.

How to determine applicable tax rate as a DMCC company?

Required Steps

Step 1: Check whether you are in a position to meet the definition of a Qualifying Free Zone Person as detailed above (Maintaining adequate substance, compliance with Transfer Pricing and maintenance of audited financial statements).

If not, you will be a Taxable Person subject to 9% on your taxable income (net profit before tax + accounting to tax adjustments).

Step 2: Analyse whether you are deriving Qualifying Income.

1. Determine the legal profile of your clients (natural v legal persons) and their location (Free Zone v non-Free Zone).
2. Determine if your income is Qualifying or non-Qualifying (including reference to the Qualifying and Excluded Activities listed in Ministerial Decision 265 of 2023).

If all income is non-Qualifying, you will be a taxable person subject to 9% CT.
If all income is Qualifying, you will be a QFZP subject to 0% CT.

3. In case of a mixed income, apply calculation in line with the de minimis requirement. If threshold is not met, you will be a taxable person subject to 9% CT. If met, you will be able to benefit from 0% on Qualifying Income and non-Qualifying Income that is not attributable to immovable property or domestic / foreign PE.

Notable Activities that allow you to derive Qualifying Income:

One of the main conditions to be eligible for a 0% CT rate, is assessing whether the activities undertaken in DMCC results in Qualifying Income being derived.

We have included below the major activities that could be relevant for DMCC members. For the full list of Qualifying and Excluded Activities, please refer to Cabinet Decision No. 100 of 2023 and Ministerial Decision No. 265 of 2023 tagged in the previous slide.

- 1 **'Income derived from the ownership or exploitation of Qualifying Intellectual Property'**. The inclusion of this definition seems to be targeted for companies who generate income from intellectual property but not trademark royalty, and actually carry out research and development themselves or via 3rd parties.
- 2 **'Trading of Qualifying Commodities'**
Qualifying Commodities: Metals, minerals, energy and agriculture commodities that are traded on a Recognised Commodities Exchange Market in raw form.
Recognised Commodities Exchange Market: Any commodities exchange market established in the State that is licensed and regulated by the relevant Competent Authority, or any commodities exchange market established and recognised outside the State of equal standing (such as Dubai Gold & Commodities Exchange in the UAE).
- 3 **'Holding of shares and other securities for investment purposes'**. Investment purposes means holding or the intention to hold an investment for an uninterrupted period of at least 12 months (Cryptocurrency is also considered an investment instrument).
- 4 **'Headquarter Services to Related Parties'** which includes the administering, overseeing and managing of Business Activities of Related Parties, including the provision of senior and general management, captive insurance services, administrative services, procurement services, business planning and development, risk management, coordination of group activities, and in general incurring expenditures on behalf of Related Parties and providing other support services to Related Parties.
- 5 **'Ownership, management and operation of Ships'** including towing activities and the provision of general assistance to Ships at sea, dredging activities at sea.
- 6 **Treasury and financing services** to Related Parties includes the provision of cash and liquidity management, financing, debt management, and financial risk management and related advisory services to Related Parties. Self-investment of funds (for instance bank deposits) would also fall within this Qualifying Activity.
- 7 Other major activities include manufacturing / processing of goods or materials, logistics and reinsurance services.
- 8 Ancillary activities to the above list defined as an activity necessary for the performance of the main activity or where it makes a minor contribution to it and is so closely related to the main activity that it should not be regarded as a separate activity.

For more information and examples on Qualifying Activities, please check the Corporate Tax Guide on Free Zone Persons attached with this paper.

UAE CT Registration

When is the registration deadline for UAE CT?

On 22 February 2024, the Federal Tax Authority (“FTA”) issued Decision No. 3 of 2024 with regards to the Timeline for Registration of Taxable Persons for Corporate Tax.

For incorporated entities established or recognised prior to the effective date of this Decision (i.e. 1 March 2024), the Tax Registration application according to the following timeline:

Date of Licence issuance (any earliest issued)	Deadline for submitting Tax Registration
1-31 January and 1-28/29 February	31 May 2024
1-31 March and 1-30 April	30 June 2024
1-31 May	31 July 2024
1-30 June	31 August 2024
1-31 July	30 September 2024
1-31 August and 1-30 September	31 October 2024
1-31 October and 1-30 November	30 November 2024
1-31 December	31 December 2024
Where a person does not have a Licence at the effective date of this Decision	3 months from the effective date of this Decision (i.e. 1 March 2024)

For resident juridical persons that are incorporated, established or recognised on or after 1 March 2024, the registration application should be filed within 3 months from the date of incorporation, establishment or recognition.

For branches of foreign companies that existed prior to 1 March 2024, the Corporate Tax Public Clarification issued by the FTA explains that this would be treated as a Non-Resident Person with a Permanent Establishment and the Tax Registration application should be submitted by 1 September 2024. For branches of foreign companies establish post 1 March 2024, the deadline would be six months from the date of existence of the Permanent Establishment.

Failure to submit a Tax Registration application within the timeframes mentioned above will lead to a penalty of AED 10,000 for each Taxable Person.

For more information, please check Federal Tax Authority Decision No. 3 of 2024 and CTP001 clarification attached with this paper.

Next Steps

01

- Assess the implication of the UAE CT on your business.
- Determine as a DMCC member whether you will fall within the definition of a Qualifying Free Zone Person and what is the applicable CT rate on your revenue streams.

02

- Consider restructuring opportunities (if available) in order to mitigate future UAE CT costs and/or to simplify ongoing UAE CT compliance.
- Assess the conditions to form a Tax Group keeping in mind that a Qualifying Free Zone Person cannot be part of the Tax Group.

03

- Review the accounting policies and readiness of systems to generate the needed data.
- Monitor guidelines from the FTA and assess the treatment of certain items such as unrealised gains, provisions, and other adjustments for CT purposes.

04

- Register for UAE CT and plan for annual CT compliance.
- Identify related party transactions and plan for annual Transfer Pricing compliance.

05

- Check resources for further guidance:
- Ministry of Finance, UAE portal
 - Federal Tax Authority portal
 - Your advisors