



## SUMMARY OF **CORPORATE TAX** RECENT UPDATES

APRIL 2023

### **Who can claim Small Business Relief and what factors needs to be considered before opting the relief?**

As per Ministerial Decision No. 73 of 2023, the Taxable Person with a business revenue of up to AED 3,000,000 (three million dirhams) in the relevant Tax Period and previous Tax Periods may avail the relief after considering the following aspects:

- ▶ Resident person must not be Constituent Company of a MNE Group (where the total consolidated group revenue is equal to or more than AED 3.15 billion)
- ▶ Resident person must not be Qualified Free zone Entity (not all the freezone entities)
- ▶ Tax Losses incurred in a respective Tax Period cannot be carried forward to any subsequent Tax Periods
- ▶ Net Interest expenditure more than 30% of EBITDA shall not be carried forward to any subsequent Tax Periods
- ▶ Taxable Net Profit (TNP) Ratio should be evaluated and would be beneficial to opt for this relief, when TNP ratio is more than 12.5% (i:e Taxable profit of more than AED 375,000)

### **For how many years, Small Business Relief is available?**

Tax relief availability tenor shall start from the tax period commencing on or after 1 June 2023 and shall continue to apply to subsequent Tax Periods that end before or on 31 December 2026 subject to other conditions

Entities with the tax period starting from Jan, would get this relief for 3 years (i:e year 2024, 2025 and 2026) and,

Entities with the tax period starting from any month between June to December (let say for July), would get this relief for 3 years also (i:e July 23 to June 24, July 24 to June 2025 and from July 2025 to June 2026)

### **Is there any exception to corporate tax registration available?**

As per Article 51 of Decree Law, any Taxable Person (Resident and Non-Resident Person) shall register for Corporate Tax with the Authority in the form and manner. However, Ministerial Decision No. (43) of 2023, provides the exceptions from Registration and allows following person not to register for corporate tax,

- ▶ A Government Entity
- ▶ A Government Controlled Entity
- ▶ A Person engaged in an Extractive Business (subject to certain conditions)
- ▶ A Person engaged in a Non-Extractive Natural Resource Business (subject to certain conditions)
- ▶ A Non-Resident Person that derives only State Sourced Income and does not have a Permanent Establishment in UAE

## Under what circumstances, taxable person may change its tax period or use a different tax period?

As per Federal Tax Authority's Decision No. 5 of 2023, under the following situation, taxable person may make an application to the Authority seeking change of tax period,

- ▶ The Taxable Person's liquidation
- ▶ To align with the requirement to form a Tax Group under UAE CT or align the financial year to meet their group policies for the purpose of financial reporting or to avail a tax relief under the provisions of UAE Corporate tax legislation of a foreign jurisdiction. Or
- ▶ If there is valid commercial, economic, or legal reason to change the tax period/financial year

## When is Taxable person required to prepare and maintain Audited Financial Statements?

As per Ministerial Decision No. 82 of 2023, following categories of Taxable Persons shall prepare and maintain audited financial statements for the corporate tax purpose:

Category of the Taxable Person	Revenue Exceeding (AED)
Any Taxable Person (Other than Qualifying Free Zone Person)	50,000,000/-
Qualifying Free Zone Person	With out any Revenue Limit

Further, as per Commercial company law, all Limited Liability company(s) are required to get their accounts audited without any revenue limit and likewise, Freezone entities are also required to get their accounts audited on annual basis considering the respective freezone(s) laws and regulations.

## Is there is any timeline for applying Tax Deregistration?

As per Federal Tax Authority Decision No. 6 of 2023, the Tax Deregistration application should be submitted by a taxable person within 3 months of,

- ▶ Date of cessation of the Business or Business Activity, in case of Natural Person and,
- ▶ Date the entity ceases to exist, cessation of the Business, dissolution, liquidation or otherwise, in case of Juridical person

## How many Qualified Public Benefit Entities have been considered for corporate tax and what are their compliance requirements?

As per Cabinet Decision No. 37 of 2023 and Federal Tax Authority Decision No. 7 of 2023, there are total of 521 Qualifying Public Benefit Entities (QPBE) in different emirates and at federal level, which are required to apply for Tax Registration and obtain a Tax Registration Number as of 1st October 2023 and the authority may request the QPBE (as an Exempt Person) to file an annual declaration confirming that it fulfils the exemption conditions along with their compliance responsibility with respect to amendment & information to be furnished.

## When shall the Presence of a Natural Person in UAE not be treated as Permanent Establishment for a Non-Resident Person?

As per Ministerial Decision No. 83 of 2023, when the presence of a natural person in UAE is a consequence of a temporary and exceptional situation (an event beyond the natural person's control) and all the following conditions are met, it shall not be considered as Permanent Establishment of Non-Resident,

- ▶ The presence of the natural person in UAE is a consequence of exceptional circumstances of a public nature (i:e public health measures, Imposition of travel restrictions, Imposition of legal sanctions, Acts of war, Occurrence of natural disasters) or private nature (i:e Occurrence of an emergency health condition, Any other circumstances)
- ▶ The exceptional circumstances cannot reasonably be predicted by the natural person or the Non-Resident Person
- ▶ The natural person did not express any intention to remain in UAE when the exceptional circumstances end
- ▶ The Non-Resident Person does not have a Permanent Establishment in UAE before the occurrence of the exceptional circumstances
- ▶ The Non-Resident Person did not consider that the natural person is creating a Permanent Establishment or deriving income in UAE as per the tax legislation applicable in other jurisdictions



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+971 4 2770606



Level 6, Clover Bay Tower  
Business Bay, Dubai, UAE



info@uhy-ae.com



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