



Key UAE CT considerations for financial institutions

April 2023



Federal Corporate Tax in the UAE

On 9 December 2022, the UAE issued the Federal Decree-Law No. (47) of 2022 on the taxation of corporations and businesses (the “CT law”), which will be effective for financial years starting on or after 1 June 2023.

This will have a substantial impact on banks, insurance companies, investment companies, brokerage firms, etc operating in the UAE.

A number of complexities can arise in relation to mainland UAE entities, freezone entities operating in the UAE and UAE branches of foreign banks, in relation to their tax position once the CT law becomes effective. We have summarized a number of key UAE CT considerations below.



General UAE CT considerations

Principles of UAE CT

- UAE CT will be applicable across all Emirates and will apply to all business and commercial activities alike including financial services, except for the extraction of natural resources, which will continue to be subject to Emirate level taxation only.
- A 9% tax rate will apply on income exceeding 375,000 AED.

Multinational Enterprises (MNE) / Pillar Two

- The CT Law, has no reference or details in respect of Pillar Two or a potential higher tax rate for MNEs (however, this was referred to in the initial announcement).
- The CT FAQs published indicate that the regular UAE CT regime will apply to large multinational enterprises (MNEs) that meet the criteria under “Pillar Two” of the OECD Base Erosion and profit Shifting project until the UAE adopts the Pillar Two rules. Further detail is expected on this during the course of 2023.
- To be categorised as an MNE the annual global consolidated revenues of the MNE should be above €750m and the group should operate in more than one jurisdiction (including through branches).
- Financial institutions operating in the UAE (whether in mainland or in free zones) that are part of a large multinational group, need to assess first whether they are categorised as an MNE and accordingly assess the tax position for the UAE subsidiaries, branches, etc.

Transfer Pricing

- The UAE CT regime introduces Transfer Pricing rules and compliance requirements with reference to the OECD Transfer Pricing Guidelines for financial years starting June 2023 onwards.

Free zone businesses

- Companies and branches registered in a Free Zone are considered Taxable Persons under the CT Law and are required to meet normal compliance obligations, including transfer pricing requirements. However, provided a Free Zone entity meets the conditions to be considered a Qualifying Free Zone Person (QFZP), it should be eligible for a 0% UAE CT rate on its Qualifying Income. The income of a QFZP which is not Qualifying Income will be taxed at the standard 9% CT rate. We are however still expecting further detailed information through the issuance of a Cabinet Decision for Free Zones.

Key UAE CT considerations for financial institutions

- **Applicability of UAE CT on financial institutions:** all UAE financial institutions will be subject to UAE CT going forward.
- **Branches of foreign banks:** will be within the scope of UAE CT and required to register and file a CT return. In addition to this, the FAQs released by the Ministry of Finance suggest that the Emirate level tax regime may remain in place for branches of foreign banks, such that going forward they will be within both the Emirate level and CT regime. The FAQs also suggests that a credit will not be available for Emirate level tax against CT. So this is a significant point for branches of foreign banks and the implications require careful consideration.
- **Deferred tax assets (DTAs) and liabilities recognised by the branches of foreign banks:** further clarity on the intention to retain the Emirate level tax regime is helpful with regards to the recognition of tax attributes (which was previously an area of uncertainty). Based on the information currently available, we would not expect there to be any change required to the approach to recognising tax attributes under the Emirate level tax regime.
- **Interest deductibility:** the UAE CT regime introduces a rule which broadly limits net interest deductions to 30% of EBITDA, however banks and insurance providers are not subject to this rule.
- **Public pension funds and private regulated pension funds:** will be exempt from the CT regime (subject to any other conditions that may be prescribed by the Minister in the future).
- **Qualifying Investment Funds:** may apply to be exempt from the CT regime, provided they meet certain conditions. These conditions include a requirement to be regulated and that interests in the fund are available to a sufficiently wide group of investors.
- **Investment Manager Exemption:** investment managers should be considered independent agents when acting on behalf of non-residents, in the context of considering whether the non-resident's activity in the UAE constitutes a taxable permanent establishment. Certain conditions need to be met.
- **Deductions for bad debt provisions** are expected to align with IFRS 9, on the basis that there is nothing included in the CT law to the contrary. However, this is not explicitly confirmed or covered in the law.
- **Transfer Pricing rules:**
 - For UAE branches of foreign banks, there were historically certain guidelines and restrictions in relation to related party charges. In light of this, UAE branches of foreign banks will need to consider any transitional assessments to assess the arm's length nature of such transactions from an OECD perspective.
 - For UAE headquartered banks, all related party transactions will need to be assessed to ensure compliance with the arm's length principle with reference to the OECD Transfer Pricing Guidelines and the necessary compliance documentation will need to be prepared and maintained.
 - For financial institutions with operations in Free Zones (e.g. asset managers), transfer pricing rules will also be applicable.



Data, systems, processes and people considerations.

Financial institutions tend to have a large number of IT systems and complex reporting structures, which has led to challenges when compiling VAT returns. Questions to consider the readiness from a CT perspective are:

- Do you have entity trial balance data available with sufficient **granularity** for tax purposes in your Chart of Accounts?
- Can you track asset **depreciation for tax** values?
- Can you **extract data** from ERP directly or can your **consolidation system** cater to tax accounting requirements?
- Could you consider **third party technology** to combine functionalities in one platform such as data collection, processing, reporting and filing?
- Who will be **responsible** for Tax matters within the organisation and **sign off the returns**?
- Are there **documented policies** and **procedures** in place?
- To what extent could you be able to **outsource** certain compliance tasks?

How can we help?

Our financial services team works with local and global financial institutions and has a deep understanding of the UAE CT issues typically faced by the sector. We would be delighted to arrange an introductory call to discuss these issues in more detail and how we may be able to support you.



Contact us



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