

UAE: Introduction of Federal Corporate Tax

Legal Briefing (02 February 2022)

The UAE Ministry of Finance (“MoF”) announced the introduction of a federal corporate tax (“CT”) on 31 January 2022. In this legal briefing we will provide an overview of the known facts related to the CT and how CT may affect business models in the UAE.

I. General

The introduction of value added tax (“VAT”) in 2018 marked a new chapter in the UAE’s financial and legal framework. Since then, rumours spread that additional taxes may be introduced in order to further diversify the country’s income away from oil and gas. Although the MoF’s announcement about the introduction of CT on business profits may be surprising, it is nonetheless showing the UAE’s efforts to discard its image as a tax haven and to establish a healthy and competitive business environment in accordance with international best practices.

CT will be first introduced for financial years starting on or after 1 June 2023. Businesses for which the financial year is equal to the calendar year will be subject to CT starting on 1 January 2024.

II. Details

Until now no federal law or even a publication date for a federal law regulating the CT has been announced. However, MoF and the Federal Tax Authority (“FTA”) have published information on their respective websites

compiling the most important details on CT.

a) Tax rates

As per information published so far, taxable income up to AED 375,000 will be taxed at a rate of 0%. Any taxable income above AED 375,000 will be taxed at a rate of 9%.

A different – higher – tax rate will be applicable for large multinationals (that meet the criteria under ‘Pillar Two’ of the OECD Base Erosion and Profit Shifting Project, i.e. that have consolidated global revenues above EUR 750m/ AED 3.15 billion and that fall under Country-by-Country-Reporting requirements). The tax rate for large multinationals have not been officially announced yet. Considering that the OECD member states have agreed on a minimum tax rate of 15% for multinational entities in December 2021, it can be assumed that the UAE will apply the minimum tax rate of 15% of CT for large multinationals in order to stay competitive.

b) Applicability

All persons (individuals and legal entities) carrying out business activities under a licence in the UAE (including sole establishment, one-person LLC, holder of freelancer/ professional licenses, etc.) and showing a taxable income of more than AED 375,000, will be obliged to pay CT. This means that

CT will be applicable regardless of the taxable person's legal form.

In general, free zone companies (including those established in financial free zones) will be subject to CT. However, tax incentives existing in free zones and offered to the companies resident in free zones will continue to apply, provided that the free zone companies will comply with all regulatory requirements and will not conduct business with the UAE mainland.

c) Exemptions

Companies receiving dividends and capital gains from so called qualifying shareholdings as well as intra-group transactions will not be subject to CT. Details on the requirements to qualify for CT exemptions will be provided in the respective federal law.

d) Administration

The FTA will be responsible for the administration, collection and enforcement of CT. As with VAT, CT will be filed online through the FTA's portal.

As per the currently available information, only one electronical filing per financial year will be required

without the need of any advance filings and/or payments.

III. Summary

The introduction of CT will impact businesses in the UAE on a financial and strategical level. Considering that free zone companies will potentially and effectively be exempted from CT – subject to the fulfilment of conditions as stipulated by the CT federal law – companies may consider restructuring their business models in order to optimize taxes.

On the other hand, with the introduction of CT, the UAE are now on a path to establish itself as a competitive and attractive place of doing business and maybe even hosting headquarters of larger companies who wish to take advantage of the low CT rate. By introducing a relatively low CT rate the UAE avoid being considered as a country suitable for tax evasion purposes which will also have a positive effect on companies registered in the UAE.

However, as until today no official law has been announced or published it remains to be seen how the CT will be regulated and implemented in detail.

For more information, please contact your usual contact person at SCHLÜTER GRAF or send an email to dubai@schlueter-graf.com.

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