الهيئة الاتحادية للضرائب
FEDERAL TAX AUTHORITY

Taxation of Foreign Source Income

Corporate Tax Guide | CTGFSI1

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1. Glossary

Accounting Income: The accounting net profit or loss for the relevant Tax Period as per the Financial Statements prepared in accordance with the provisions of Article 20 of the Corporate Tax Law.

Accounting Standards: The accounting standards specified in Ministerial Decision No. 114 of 2023.

Accrual Basis of Accounting: An accounting method under which the Taxable Person recognises income when earned and expenditure when incurred.

AED: The United Arab Emirates dirham.

Authority: Federal Tax Authority.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or activities, conducted by a Person in the course of its Business.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Connected Person: Any Person affiliated with a Taxable Person as determined in Article 36(2) of the Corporate Tax Law.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

Corporate Tax Law: Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Corporate Tax Payable: Corporate Tax that has or will become due for payment to the FTA in respect of one or more Tax Periods.

Dividend: Any payments or distributions that are declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which do not constitute a return on capital or a return on debt claims. These payments or distributions are considered dividends whether based in cash, securities, or other

properties, and whether payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue. This will include any payment or benefit which in substance or effect constitutes a distribution of profits made in connection with the acquisition or redemption or cancellation of shares or termination of other ownership interests or rights. It also comprises any transaction or arrangement with a Related Party or Connected Person which does not comply with Article 34 of the Corporate Tax Law.

Domestic Permanent Establishment: A place of Business or other form of presence of a Qualifying Free Zone Person outside the Free Zone in the UAE.

Double Taxation Agreement: An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Exempt Income: Any income exempt from Corporate Tax under the Corporate Tax Law.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Financial Year: The Gregorian calendar year, or the twelve-month period for which the Taxable Person prepares Financial Statements.

Foreign Permanent Establishment: A place of Business or other form of presence outside the UAE of a Resident Person that is determined in accordance with the criteria prescribed in Article 14 of the Corporate Tax Law.

Foreign Tax Credit: Tax paid under the laws of a foreign jurisdiction on income or profits that may be deducted from the Corporate Tax due, in accordance with the conditions of Article 47(2) of the Corporate Tax Law.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

Government Entity: The Federal Government, Local Governments, ministries, government departments, government agencies, authorities and public institutions of the Federal Government or Local Governments.

IFRS: International Financial Reporting Standards.

IFRS for SMEs: International Financial Reporting Standard for small and medium-sized entities.

Immovable Property: Means any of the following:
a. Any area of land over which rights or interests or services can be created.
b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.
c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic financial instrument and other payments economically equivalent to interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Market Value: The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Participating Interest: An ownership interest in the shares or capital of a juridical person that meets the conditions referred to in Article 23 of the Corporate Tax Law.

Participation: The juridical person in which the Participating Interest is held.

Participation Exemption: An exemption from Corporate Tax for income from a Participating Interest, available under Article 23 of the Corporate Tax Law and as specified under Ministerial Decision No. 116 of 2023.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural person or juridical person.

Personal Investment: Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 issuing the Commercial Transactions Law.

Qualifying Activities: Any activities determined in accordance with Article 2 of Ministerial Decision No. 265 of 2023 and conducted by a Qualifying Free Zone Person from which Qualifying Income is derived.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Income: Any income derived by a Qualifying Free Zone Person that is subject to Corporate Tax at the rate specified in Article 3(2)(a) of the Corporate Tax Law.

Real Estate Investment: Any investment activity conducted by a natural person related to, directly or indirectly, the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not conducted, or does not require to be conducted, through a Licence from a Licensing Authority.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

Revenue: The gross amount of income derived during a Tax Period.

Small Business Relief: A Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period in accordance with Article 21 of the Corporate Tax Law and Ministerial Decision No. 73 of 2023.

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Tax Loss: Any negative Taxable Income as calculated under the Corporate Tax Law for a given Tax Period.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

Voluntary Disclosure: A form prepared by the FTA pursuant to which a Taxpayer notifies the FTA of an error or omission in the Tax Return, Tax Assessment or Tax refund application, in accordance with the provisions of Article 10 of the Tax Procedures Law.

Wage: The wage that is given to the employee in consideration of their services under the employment contract, whether in cash or in kind, payable annually, monthly, weekly, daily, hourly, or by piece-meal, and includes all allowances, and bonuses in addition to any other benefits provided for, in the employment contract or in accordance with the applicable legislation in the UAE.

2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses ("Corporate Tax Law") was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates ("UAE") on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits ("Corporate Tax") in the UAE.

The provisions of the Corporate Tax Law apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance to taxpayers on the taxation of foreign source income under the Corporate Tax Law. The guide explains the following:

- Relevance of foreign source income under the Corporate Tax Law;
- What is considered foreign source income for Taxable Persons under the Corporate Tax Law?
- Which Taxable Persons are subject to tax on foreign source income?
- When is foreign source income taxable?
- Determining Taxable Income and Exempt Income in respect of foreign source income; and
- What is a Foreign Tax Credit, and how is it computed?

2.3. Who should read this guide?

The guide should be read by a Taxable Person who receives or derives income from sources outside the UAE, including a Qualifying Free Zone Person. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further

guidance on some of the areas covered in this guide can be found in topic specific guides.

In some instances, simple examples are used to illustrate how the key Corporate Tax rules apply to foreign source income. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural person.

The numerical examples in the guide are provided in the context of Taxable Persons, other than a Qualifying Free Zone Person. While the principles discussed in the examples equally apply in the context of a Qualifying Free Zone Person, the tax calculations may differ on the basis of the Corporate Tax rate applicable under Article 3(2) of the Corporate Tax Law.

Further, where relevant, the analysis in the examples in the guide are subject to the impact of the relevant Double Taxation Agreement, if any. To the extent the terms of a Double Taxation Agreement are inconsistent with the provisions of the Corporate Tax Law, the terms of the Double Taxation Agreement shall prevail.[1]

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as “Tax Procedures Law”;
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Corporate Tax Law”;
- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax is referred to as “Cabinet Decision No. 49 of 2023”;
- Cabinet Decision No. 56 of 2023 on Determination of a Non-Resident Person’s Nexus in the UAE for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 56 of 2023”;

[1] Article 66 of the Corporate Tax Law.

- Cabinet Decision No. 74 of 2023 on the Executive Regulation of Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as “Cabinet Decision No. 74”;
- Cabinet Decision No. 100 of 2023 on Determining Qualifying Income for the Qualifying Free Zone Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 100 of 2023”;
- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 114 of 2023”;
- Ministerial Decision No. 116 of 2023 on the Participation Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 116 of 2023”;
- Ministerial Decision No. 134 of 2023 on the General Rules for Determining Taxable Income for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 134 of 2023”;
- Ministerial Decision No. 265 of 2023 regarding Qualifying Activities and Excluded Activities for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 265 of 2023”;
- Federal Tax Authority Decision No. 5 of 2023 on Conditions for Change in Tax Period for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “FTA Decision No. 5 of 2023”; and
- Federal Tax Authority Decision No. 13 of 2023 on Determination of Conditions for Conversion of Amounts Quantified in a Currency other than the United Arab Emirates Dirham for the Purposes of the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “FTA Decision No. 13 of 2023”.

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the provisions of the Corporate Tax Law. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it reads when the guide is published. Each Person’s own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the

application of the Corporate Tax Law. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.

3. Relevance of foreign source income under the Corporate Tax Law

A Resident Person in the UAE, or a Non-Resident Person with a Permanent Establishment in the UAE, may earn income from a foreign jurisdiction i.e. "foreign source income" due to activities, operations or assets in another jurisdiction. The UAE Corporate Tax treatment of foreign source income depends on the type of Person receiving the income, the nature of the income and the availability of exemptions and reliefs.

In the case of a Taxable Person, foreign source income may be subject to Corporate Tax as follows:

- A juridical Resident Person, for example a company incorporated in the UAE, is subject to tax on its worldwide income. Hence, any foreign source income may be subject to Corporate Tax in the UAE.[2]
- A natural Resident Person is subject to tax on any income derived from a Business or Business Activity they conduct in the UAE if the total Turnover from such a Business or Business Activities is above AED 1 million within a Gregorian calendar year.[3] Thus, any foreign source income which is linked to the Business or Business Activity they conduct in the UAE may be subject to Corporate Tax in the UAE.[4]

A Non-Resident Person having a Permanent Establishment in the UAE is typically taxed on the income generated from activities conducted in the UAE. Thus, if it receives any foreign source income attributable to its Permanent Establishment in the UAE, that income may be subject to Corporate Tax.[5]

The next step is to consider if any exemptions are available with respect to the foreign source income, typically to reduce or eliminate potential double taxation.[6] For example:

- the Participation Exemption with respect to Dividends, profit distributions and capital gains derived from juridical Non-Resident Persons (see Section 7.2.1)[7]

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[2] Article 12(1) of the Corporate Tax Law.
[3] Article 2(1) of Cabinet Decision No. 49 of 2023.
[4] Article 12(2) read with Article 11(6) of the Corporate Tax Law.
[5] Article 12(3)(a) of the Corporate Tax Law.
[6] Article 20(2)(b) of the Corporate Tax Law.
[7] Article 23 of the Corporate Tax Law.

- the Foreign Permanent Establishment exemption whereby the income and associated expenditure of certain foreign business operations is disregarded when determining Taxable Income (see Section 7.2.2)[8]

Where no exclusion or exemption applies, the foreign source income is taxable in the UAE. However, if taxes are paid in the foreign jurisdiction on the foreign source income, this may give rise to a Foreign Tax Credit, potentially reducing the Corporate Tax Payable in the UAE (see Section 8).[9]

[8] Article 24 of the Corporate Tax Law.
[9] Article 44(2) read with Article 47 of the Corporate Tax Law.

4. What is foreign source income?

Foreign source income, for the purposes of the Corporate Tax Law, is any income which has originated in a foreign jurisdiction and is earned or received by a Person in the UAE.

While such income may be subject to tax in the hands of certain Taxable Persons in the UAE (see Section 5), the Corporate Tax Law itself does not expressly define "foreign source income". It does, however, define State Sourced Income in Article 13, which is broadly, income considered to have been originated in or that is derived from the UAE. Conversely, foreign source income would typically be income derived from outside the UAE. Further, foreign source income could be accrued in or derived from activities performed, assets located, capital invested, rights used, or services performed or benefitted from outside the UAE.

4.1. Examples of foreign source income

A non-exhaustive list of income coming from a foreign source which may be considered for the purposes of the Corporate Tax Law includes:

- dividends and other profit distributions from juridical Non-Resident Persons,
- income from the disposal of shares or capital of a juridical Non-Resident Persons,
- interest income from a loan or deposit outside the UAE,
- income from the sale of goods or provision of services outside the UAE,
- income from movable or immovable property located outside the UAE,
- royalties for use of intellectual or intangible property outside the UAE, and
- profits, or losses, of a Foreign Permanent Establishment of a Resident Person.

In all cases, income would not be considered as foreign source income if it is State Sourced Income.

4.2. Is income derived from a Free Zone Person foreign source income?

A Free Zone is a designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.[10] Further, a Free Zone Person is defined as a juridical person incorporated, established or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.[11]

Since a Free Zone is an area within the UAE territory, income derived from a Free Zone Person will either be:

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[10] Article 1 of the Corporate Tax Law.

[11] Article 1 of the Corporate Tax Law.

- income derived from a Resident Person, or
- income derived from a Non-Resident Person that is attributable to a Permanent Establishment of that Non-Resident Person in the UAE.

Hence, income derived from a Free Zone Person does not qualify as foreign source income.

4.3. Is income derived by a Qualifying Free Zone Person from a Permanent Establishment foreign source income?

A Qualifying Free Zone Person may derive income or profits from a Domestic or Foreign Permanent Establishment.

Income or profits from a Domestic Permanent Establishment, which is a Permanent Establishment located in the mainland in the UAE, is not considered foreign source income.

Income or profits derived by a Qualifying Free Zone Person from its Foreign Permanent Establishment, which is a Permanent Establishment located outside the UAE, is foreign source income.

5. Who is subject to tax on foreign source income?

A Taxable Person may be either a Resident Person or a Non-Resident Person. A Resident Person or a Non-Resident Person can be either a juridical person or a natural person.

The income subject to Corporate Tax in the hands of a Taxable Person depends on that Person's legal status (i.e. juridical person or natural person), and their residence status (i.e. Resident Person or Non-Resident Person).[12]

The residence status together with the legal status determine (a) whether foreign source income is subject to Corporate Tax in the hands of a Taxable Person, and (b) the extent to which such income is subject to Corporate Tax.

[12] Article 12 of the Corporate Tax Law.

Figure 1: Taxation of foreign source income for a Taxable Person under the Corporate Tax Law

Taxable Person

- Resident Person
  - Juridical person → Subject to Corporate Tax on foreign source income
  - Natural person → Conducts a Business or Business Activity in the UAE?
    - No → Not subject to Corporate Tax
    - Yes → Does Turnover from a Business or Business Activity exceed AED 1 million in a Gregorian calendar year?*
      - No → Not subject to Corporate Tax
      - Yes → Subject to Corporate Tax on foreign source income that relates to a Business or Business Activities conducted in the UAE
- Non- Resident Person
  - Juridical person → Has a Permanent Establishment in the UAE?
    - Yes → Subject to Corporate Tax on foreign source income that is attributable to a Permanent Establishment in the UAE
    - No → Foreign source income is not subject to Corporate Tax (subject to Corporate Tax only on State Sourced Income*** or income from UAE nexus)
  - Natural person → Has Permanent Establishment in the UAE?**
    - No → Not subject to Corporate Tax
    - Yes → Does Turnover attributable to Permanent Establishment exceed AED 1 million in a Gregorian calendar year?
      - No → Not subject to Corporate Tax
      - Yes → Subject to Corporate Tax on foreign source income that is attributable to a Permanent Establishment in the UAE

* Wages, Personal Investment income, and Real Estate Investment income do not count as Turnover from a Business or Business Activity.
** If a natural person conducts a Business or Business Activity in the UAE, they are a Resident Person under the Corporate Tax Law, subject to an applicable Double Taxation Agreement.
*** Subject to withholding tax, currently at a rate of 0%.

5.1. Resident Person under the Corporate Tax Law

As noted above, a Resident Person is either a juridical person or a natural person. Whether they are subject to Corporate Tax on their foreign source income and the extent to which the UAE has taxing rights in relation to this income is discussed below.

5.1.1. Juridical person

A juridical person is considered as a Resident Person if it is incorporated in the UAE, or incorporated outside of the UAE but effectively managed and controlled in the UAE.[13] It is subject to Corporate Tax on its worldwide income under the Corporate Tax Law, i.e. on:[14]

- income derived from the UAE, and
- income derived from outside the UAE.

Accordingly, a Resident Person which is a juridical person is subject to Corporate Tax on both its domestic and foreign source income. To mitigate or prevent potential double taxation of foreign source income, the Corporate Tax Law exempts certain types of foreign source income via the Participation Exemption (see Section 7.2.1) and the Foreign Permanent Establishment exemption (see Section 7.2.2). To the extent foreign source income is included in the Taxable Income of a Taxable Person, potential double taxation can be reduced or eliminated by way of a Foreign Tax Credit (see Section 8).

Further, the taxation of foreign source income in the hands of a Resident Person can be impacted by a Double Taxation Agreement under certain scenarios (see Section 5.3).

5.1.2. Natural person

A natural person is a Resident Person if they conduct a Business or Business Activity(ies) in the UAE[15] that are not considered an excluded income for Corporate Tax purposes.[16] Hence, such person is taxable on:[17]

- income derived from the UAE, and
- income derived from outside the UAE, insofar as it relates to the Business or Business Activity conducted by the natural person in the UAE.

[13] Article 11(3)(a) and 11(3)(b) of the Corporate Tax Law.
[14] Article 12(1) of the Corporate Tax Law.
[15] Article 11(3)(c) of the Corporate Tax Law.
[16] Wages, Personal Investment income and Real Estate Investment income, irrespective of their source, are excluded.
[17] Article 12(2) of the Corporate Tax Law.

In other words, a natural person is subject to Corporate Tax on foreign source income if it is related to their Business or Business Activity(ies) in the UAE.

Accordingly, if a natural person, whether they are a Resident Person or a Non-Resident Person, carries on a wholly separate Business in a foreign jurisdiction, which does not relate to their Business or Business Activity conducted in the UAE, the income from the Business in the foreign jurisdiction will not be taxable in the UAE.

Wages, Personal Investment income and Real Estate Investment income are not subject to Corporate Tax, irrespective of their source.[18] Furthermore, natural persons are only subject to Corporate Tax if the total Turnover derived from their Business or Business Activity(ies) exceeds AED 1 million within a Gregorian calendar year.[19]

Example 1: Calculating the AED 1 million Turnover threshold for natural persons

Mr A, a natural person, who lives in and is a citizen of Country U, is engaged in the following Businesses:

Business	Nature of Business Activity	Turnover from Business (Amount in AED)
Brokerage services for commercial properties	Mr A sets up a sole proprietor Business in the UAE rendering brokerage services for commercial properties to various clients in the UAE as well as outside the UAE.	800,000
Interior design services	Business carried out by Mr A entirely in Country U and the services are rendered to various clients in Country U. The employees, assets, bank accounts, and offices for this Business are separate from the brokerage Business and are based in Country U.	2,000,000

[18] Article 2(2) of Cabinet Decision No. 49 of 2023.
[19] Article 2(1) of Cabinet Decision No. 49 of 2023.

Businesses or Business Activities conducted by a natural person, whether resident or non-resident, are subject to Corporate Tax only where the total Turnover derived from such Businesses or Business Activities exceeds AED 1 million within a Gregorian calendar year.[20]

In this example, Mr A conducts two Businesses. The brokerage Business is conducted by Mr A in the UAE. The interior design Business is a wholly separate Business, unconnected to the brokerage Business, conducted outside of the UAE using separate employees, assets, bank accounts, and offices.

Mr. A, being a Resident Person under Article 11(3)(c) of the Corporate Tax Law, will be subject to Corporate Tax on both UAE and foreign source income derived from the brokerage Business, if Turnover from this Business exceeds AED 1 million. The income derived from interior design services will not be subject to Corporate Tax since it is a separate Business conducted wholly outside the UAE.[21]

Accordingly, only the domestic and foreign Turnover from the Business conducted in the UAE that is not Wage, Personal Investment income or Real Estate Investment income, is considered for calculating the Turnover threshold of AED 1 million. In this case, the Turnover from the brokerage Business conducted in the UAE is AED 800,000, which is below AED 1 million. Hence, Mr A is not subject to Corporate Tax and is not required to register for Corporate Tax.

Example 2: Separate Businesses

Mr B, a natural person who lives in and is a citizen of Country B, is engaged in the following Businesses:

Business	Nature of Business Activity
Manufacture and sale of paper	• Mr B has a factory in Country B which manufactures paper. The labour, raw materials and assets required for this activity are entirely in Country B. • The product is sold to third party customers and is also used by Mr B in his paper craft Business.
Manufacture and sale of paper craft items	• Mr B has a Licence from a Licensing Authority in the UAE under which various paper craft items (typically decorative items) are prepared in the UAE and sold both in and outside the UAE.

[20] Article 11(6) read with Article 2(1) of Cabinet Decision No. 49 of 2023.
[21] Article 11(3)(c) read with Article 11(6), Article 12(2) and Cabinet Decision No. 49 of 2023.

	• The paper used as raw material for the manufacture of craft items is manufactured by Mr B in Country B. However, the labour, assets and factory required for the craft Business are entirely in the UAE and are separate from the paper Business.

Mr B conducts a Business or Business Activity in the UAE. Hence, he qualifies as a Resident Person under Article 11(3)(c) of the Corporate Tax Law. Accordingly, he is subject to tax on income derived from a UAE source and also foreign source income to the extent it relates to his Business in the UAE.[22]

- Since the manufacturing and sale of paper crafts items is conducted in the UAE, income from items sold in the UAE as well as outside the UAE will be subject to Corporate Tax.
- The Business of manufacturing and selling paper is conducted using independent resources in Country B. The labour, raw materials and assets required for this activity are entirely in Country B and hence is a separate Business conducted outside the UAE. Merely because the product from this Business is used as a raw material in the Business of craft items does not imply that it is the same Business.

Based on the available information, the income from the craft paper Business would be subject to Corporate Tax in the UAE and income from the Business of manufacturing and selling paper would not be subject to Corporate Tax.

Note:

- For the purposes of this example, it is assumed that the total Turnover of Mr B from his Business or Business Activity conducted in the UAE (i.e. paper crafts business) exceeds AED 1 million within a Gregorian calendar year.
- The analysis above may differ under a Double Taxation Agreement as the application of the Agreement might impact the residence status. Refer to Section 5.3.

Example 3: Foreign income related to a Business in the UAE

Mr C is a natural person who is a tax resident of Country C. Mr C provides fashion design services to various clients around the world, including in the UAE.

Mr C earns the following income from the UAE:

[22] Article 11(3)(c), Article 11(6) and Article 12(2) of the Corporate Tax Law read with Cabinet Decision No. 49 of 2023.

Income derived from the UAE	Corporate Tax implications
• Income from Business Activity: Mr C has an office in the UAE to meet and conduct meetings with his UAE clients of his fashion design Business.	Mr C is conducting a Business in the UAE. Hence, he will be treated as a Resident Person for Corporate Tax purposes and income generated from consulting clients in the UAE will be subject to Corporate Tax, provided the total Turnover from Mr C's Business or Business Activities conducted in the UAE exceeds AED 1 million within a Gregorian calendar year.[23]
• Rental income: Mr C has an apartment in the UAE that he has rented out to earn rental income for which he does not require a Licence from a Licensing Authority. The apartment is not used to conduct his Business.	The rental income from the apartment will be treated as Real Estate Investment income and, hence, is not be subject to Corporate Tax.[24]

Mr C earns the following income from Country C:

Income derived from Country C	Corporate Tax implications
• Wages from working part time for an employer based in Country C.	Although Mr C is a Resident Person under the Corporate Tax Law, Mr C's wages will not be subject to Corporate Tax, as Corporate Tax does not apply to a natural person's salary, wages and other employment income.[25]
• Rental income from an apartment in Country C not used for Business purposes.	Although Mr C is a Resident Person under the Corporate Tax Law, the rental income from the apartment, which does not require a Licence from a Licensing Authority in the UAE, will be treated as Real Estate Investment income and, therefore, will not be subject to Corporate Tax.[26]

[23] Article 11(6) of the Corporate Tax Law read with Cabinet Decision No. 49 of 2023.
[24] Article 11(6) of the Corporate Tax Law read with Cabinet Decision No. 49 of 2023.
[25] Article 11(6) of the Corporate Tax Law read with Cabinet Decision No. 49 of 2023.
[26] Article 11(6) of the Corporate Tax Law read with Cabinet Decision No. 49 of 2023.

Note: The analysis above may differ under a Double Taxation Agreement as the application of the Agreement might impact the residence status. Refer to Section 5.3.

5.2. Non-Resident Person under the Corporate Tax Law

As noted above, a Non-Resident Person can be a juridical person or a natural person. Whether such Persons are subject to Corporate Tax on their foreign source income and the extent to which the UAE has taxing rights on such foreign source income is discussed below.

5.2.1. Juridical person

A juridical person is a Non-Resident Person if it is incorporated or formed outside the UAE and not effectively managed and controlled in the UAE. Such person is a Taxable Person to the extent it:[27]

- has a Permanent Establishment in the UAE;
- derives UAE sourced income; or
- has a nexus in the UAE.[28]

A juridical person that is a Non-Resident Person is subject to Corporate Tax on the following:[29]

- Taxable Income attributable to its UAE Permanent Establishment.
- State Sourced Income that is not attributable to its UAE Permanent Establishment.
- Taxable Income that is attributable to its UAE nexus.

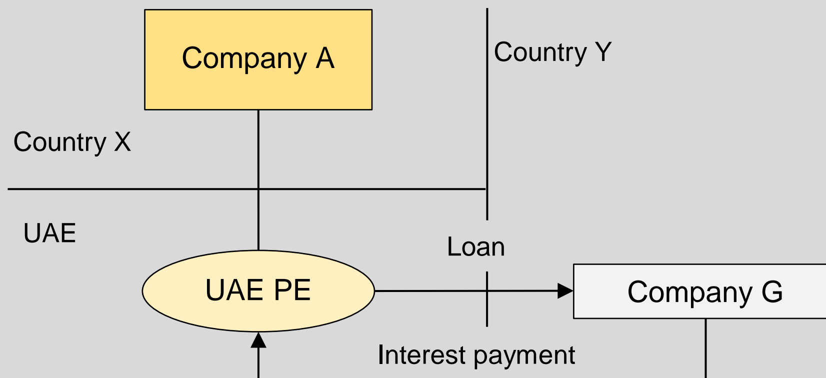
State Sourced Income and UAE nexus income are, by their nature, not foreign source income as there is a link present with the UAE. Therefore, a Non-Resident Person, which is a juridical person, can only have foreign source income if it has a Permanent Establishment in the UAE.

Where a Non-Resident Person, which is a juridical person, has a Permanent Establishment in the UAE, it will be subject to Corporate Tax on Taxable Income attributable to that Permanent Establishment.[30] Taxable Income, irrespective of its source (i.e. whether derived from the UAE or a foreign jurisdiction) will be subject to Corporate Tax if it is attributable to its Permanent Establishment in the UAE. In other words, a Non-Resident Person can be subject to Corporate Tax on foreign source

[27] Article 11(4) of the Corporate Tax Law.
[28] Article 11(4)(c) of the Corporate Tax Law read with Cabinet Decision No. 56 of 2023.
[29] Article 12(3) of the Corporate Tax Law.
[30] Article 12(3)(a) of the Corporate Tax Law.

income provided the foreign source income is attributable to its Permanent Establishment in the UAE.

Example 4: Foreign source income attributable to UAE Permanent Establishment



Company A is incorporated in and tax resident of Country X. It is managed outside the UAE but has a Permanent Establishment in the UAE ("UAE PE"). Therefore, Company A is a Non-Resident Person under the UAE Corporate Tax Law.

UAE PE has made a loan to Company G (a company incorporated in and tax resident of Country Y). The security/collateral on the loan is an immovable property situated outside the UAE.

The Interest received by the UAE PE on the loan does not have a UAE source since:[31]

- the loan is not secured by Immovable Property located in the UAE,
- the borrower (i.e. Company G) is not a Resident Person, and
- the borrower (i.e. Company G) is not a Government Entity.

However, since the foreign source Interest income is attributable to Company A's Permanent Establishment in the UAE, the Interest will be subject to Corporate Tax in the hands of Company A's Permanent Establishment in the UAE.

[31] As per Article 13(2)(g) of the Corporate Tax Law, Interest income is UAE sourced if the loan is secured by movable or immovable property located in the UAE; or the is secured by movable or immovable property located in the State; or the borrower is a Government Entity.

5.2.2. Natural person

As noted above, a natural person who conducts a Business or Business Activity in the UAE is a Resident Person and will be subject to Corporate Tax (see Section 5.1.2).[32]

A natural person, who is not a Resident Person, is a Non-Resident Person if they:[33]

- have a Permanent Establishment in the UAE and a Turnover attributable to their Permanent Establishment that exceeds AED 1 million within a Gregorian calendar year; or
- derive State Sourced Income.

State Sourced Income is not considered foreign source income as there is a link present with the UAE. Therefore, a Non-Resident Person, which is a natural person, can only have foreign source income if they have a Permanent Establishment in the UAE (with a Turnover exceeding AED 1 million within a Gregorian calendar year) and the foreign source income is attributable to its Permanent Establishment in the UAE.

5.3. Impact of Double Taxation Agreements on foreign source income

A Double Taxation Agreement takes precedence over the provisions of the Corporate Tax Law to the extent there is any inconsistency between the agreement and the provisions of the Corporate Tax Law.[34] Therefore, meeting the definition of a Resident Person under the Corporate Tax Law, i.e. referred to in the agreement as UAE domestic law, does not automatically mean that a Resident Person will be tax resident in the UAE where a Double Taxation Agreement applies. Residence may be assigned to the UAE or another jurisdiction under an applicable Double Taxation Agreement. This impacts the taxation of foreign source income.

For instance, where an applicable Double Taxation Agreement assigns residence to another jurisdiction, that foreign jurisdiction will have the taxing right as a residence country over the income of that Person. In this situation, the UAE would not have a taxing right over any income of that Person unless that income is sourced from the UAE under the Corporate Tax Law and to the extent the taxing right is allocated to the UAE under the applicable Double Taxation Agreement.

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[32] Article 11(3)(c) of the Corporate Tax Law.

[33] Article 11(4) of the Corporate Tax Law.

[34] Article 66 of the Corporate Tax Law.

6. When does foreign source income become taxable in the UAE?

As noted above in Section 5, whether a Person is taxable on their foreign source income depends on their legal status (juridical person or natural person) and tax residence status (Resident Person or Non-Resident Person).

Once it is determined that the UAE has the taxing rights with respect to the foreign source income received by a Taxable Person and that income is subject to Corporate Tax, it is pertinent to determine the Tax Period in which such foreign source income would be subject to Corporate Tax.

For a juridical person, the Tax Period is the 12-month period for which the person prepares its Financial Statements.[35] A juridical person can make an application to the FTA to change its Tax Period or use a different Tax Period.[36] However, for a natural person, the Tax Period is always the Gregorian calendar year, or a part thereof if the Business is conducted only for part of the Gregorian calendar year.

The timing of taxation of foreign source income follows the general income attribution rules of the Corporate Tax Law. Accordingly, the timing of taxation of foreign source income depends on whether the Taxable Person has adopted the Cash Basis or Accrual Basis of Accounting (see Sections 7.1.1 and 7.1.2).

- Cash Basis of Accounting is a method under which the Taxable Person recognises income and expenditure as and when cash payments are received and paid;[37]
- Accrual Basis of Accounting is a method under which the Taxable Person recognises income when earned and expenditure when incurred,[38] i.e. revenue and costs may be recorded in the Financial Statements before or after the cash payments are received or paid. Financial Statements must be prepared based on IFRS or IFRS for SMEs (see Section 7.1.1 below).[39]

[35] Article 57(2) of the Corporate Tax Law.
[36] Article 58 of the Corporate Tax Law read with FTA Decision No. 5 of 2023.
[37] Article 1 of Ministerial Decision No. 114 of 2023.
[38] Article 1 of Ministerial Decision No. 134 of 2023.
[39] Article 4 of Ministerial Decision No. 114 of 2023.

7. How is foreign source income taxed?

7.1. Determining Taxable Income

Article 20 of the Corporate Tax Law provides general rules for determining the Taxable Income of a Taxable Person.

The accounting net profit, or loss, as per the Financial Statements is the starting point for determining Taxable Income for a particular Tax Period, which is then adjusted as required, for example for all exemptions, reliefs, other deductions, non-deductible expenditure, tax loss relief, etc.[40]

The general rules for determining Taxable Income apply equally to foreign source income earned by a Taxable Person.

7.1.1. Applicable Accounting Standards

For the purposes of the UAE Corporate Tax Law, a Taxable Person is required to prepare Financial Statements based on IFRS. Where the Revenue of the Taxable Person does not exceed AED 50 million, they may choose to apply IFRS for SMEs instead.[41] Revenue is defined as the gross amount of income derived by a Taxable Person during a Tax Period.[42]

Accordingly, where a Taxable Person earns or receives foreign source income, they are required to apply the same Accounting Standards as required for domestic (i.e. UAE) income.

7.1.2. Cash Basis of Accounting

While Taxable Persons are generally required to use the Accrual Basis of Accounting, they may use the Cash Basis of Accounting where their Revenue does not exceed AED 3 million, or in exceptional circumstances pursuant to an application submitted to the FTA.[43]

Accordingly, a Taxable Person can apply the Cash Basis of Accounting where total Revenue (i.e. Revenue from UAE and foreign sources) generated for a Tax Period does not exceed AED 3 million.

[40] Article 20(2) of the Corporate Tax Law.
[41] Article 4 of the Ministerial Decision No. 114 of 2023.
[42] Definition in Article 1 of the Corporate Tax Law.
[43] Article 2 of the Ministerial Decision No. 114 of 2023.

Example 5: Revenue derived from UAE and foreign sources

Company A (a company incorporated and resident in the UAE) is in the business of distributing consumer products worldwide. During the Tax Period from 1 January 2024 to 31 December 2024, it received the following:

- AED 1,500,000 – sales revenue from customers in the UAE.
- AED 900,000 – sales revenue from customers in Country S.
- AED 500,000 – Dividend from Company B, a wholly owned subsidiary in the UAE.
- AED 110,000 – Dividend from Company F, a wholly owned subsidiary incorporated and resident in Country S.

It is assumed that the ownership interest held by Company A in Company F qualifies as a Participating Interest under Article 23 of the Corporate Tax Law.

Since the Revenue accrued by Company A from all the above sources exceeds AED 3,000,000 (i.e. AED 3,010,000 in total), it cannot adopt the Cash Basis of Accounting. It is irrelevant that its total Revenue from foreign sources (AED 900,000 plus AED 110,000) does not exceed the prescribed threshold of AED 3,000,000, as Revenue is calculated on a worldwide basis.

Additionally, whilst the Dividends received from its subsidiaries (Company B and Company F) are not taxable as they are Exempt Income,[44] such receipts still count towards the Revenue threshold of AED 3,000,000 for the purposes of determining whether it can adopt Cash Basis of Accounting.

7.1.3. Expenditure and losses relating to foreign source income

The general rules for determining Taxable Income apply in relation to foreign source income. Namely, any expenditure incurred wholly and exclusively for Business purposes is normally allowable as a deduction. There are exceptions such as costs relating to Exempt Income, for example, costs incurred to acquire a Participating Interest in a foreign Participation. Any loss incurred would be offset in accordance with the normal rules.[45] Note that expenditure associated with a Foreign Permanent Establishment is not deductible where a Foreign Permanent Establishment exemption election has been made under Article 24 of the Corporate Tax Law (see Section 7.2.2).

[44] Exempt under Article 22(1) in respect of Dividend income from a juridical Resident Person and Article 22(2) in respect of Dividend from a foreign Participation.

[45] As per Article 20(2)(d) and 20(2)(f) of the Corporate Tax Law.

Example 6: Expenses and losses relating to foreign source income

Company G (a company incorporated and resident in the UAE) is engaged in the export of electronic items and has earned foreign source income and incurred expenses during the relevant Tax Period as follows:

Item	Amount (in AED)
Income from the export of goods	20 million
Dividends received from foreign Participation	5 million
Less: Cost of goods sold	(10 million)
Less: Marketing and distribution cost	(15 million)
Less: Expense incurred in managing investments in foreign Participations	(0.5 million)
Accounting net profit/(loss)	(0.5 million)

To determine the Taxable Income of Company G:

- Dividends received from a foreign Participation are exempt under the Participation Exemption.[46] Hence, the Dividend income (i.e. AED 5 million) and expense incurred to earn the Dividend, which is an Exempt Income, (i.e. AED 0.5 million) will not be considered in determining Taxable Income.
- As a consequence, the income less expenses results in a loss of AED 5 million. This loss can be carried forward and set off in subsequent years.[47]

7.1.4. Aggregation of foreign income and expenditure

Taxable Income and deductible expenditure from all sources, whether domestic or foreign, are aggregated for the purposes of calculating Taxable Income. Thus, Tax Losses from a foreign source can be offset against income from UAE sources when determining Taxable Income. This excludes expenses relating to Exempt Income (for instance foreign Dividends which qualify for the Participation Exemption) and losses or expenses relating to a Foreign Permanent Establishment where an election has been made under Article 24 of the Corporate Tax Law (see Section 7.2.2).

[46] Article 22(2) read with Article 23 of the Corporate Tax Law.
[47] As per Article 37 and Article 39 of the Corporate Tax Law.

Example 7: Net loss in relation to foreign source income

Company A (a company incorporated and resident in the UAE) distributes consumer products in the UAE and also exports to Country S. Its sales to Country S do not constitute a Permanent Establishment in Country S. During the Tax Period from 1 January 2024 to 31 December 2024, it received/incurred the following:

UAE-related:

- AED 5,000,000 – sales revenue from customers in the UAE.
- AED 2,000,000 – costs in relation to domestic sales.

Country S-related:

- AED 2,000,000 – sales revenue from customers in Country S.
- AED 3,500,000 – costs in relation to Country S sales, including loss due to fire which destroyed stock destined for Country S customers.

Company A makes a net profit of AED 3,000,000 with respect to its UAE operations, whereas it made a net loss of AED 1,500,000 with respect to its foreign source income from Country S.

Company A is required to aggregate all its domestic and foreign income and costs to calculate its Taxable Income. Thus, in this case, the overall Taxable Income of Company A would be AED 1,500,000.

Note that Company A does not qualify for Small Business Relief in the Tax Period ending 31 December 2024 because its Revenue exceeds AED 3 million.

7.1.5. Income in foreign currency to be converted to AED

It is likely that most foreign source income will be in a currency other than AED. It is also possible that financial records relating to foreign business operations are in the local currency of the foreign jurisdiction.

For the purposes of determining Taxable Income and Corporate Tax, amounts quantified in foreign currency have to be converted into AED based on the applicable exchange rate published by the Central Bank of the UAE, as follows:[48]

- spot rates, based on currency exchange markets, where it is reasonable to do so;
- monthly average rates where it is not reasonable to use spot rates and using a monthly average provides a reasonable approximation of Corporate Tax Payable; or

[48] Article 43 of the Corporate Tax Law read with Article 13(1) of FTA Decision No. 13 of 2023.

- yearly average exchange rates where it is not reasonable to use spot rates or monthly average rates.

The method adopted to convert amounts from foreign currency to AED should be used consistently throughout a Tax Period.[49] A Taxable Person is required to keep records of the reason for the currency translation method selected and the rates used.[50]

If a change to the currency conversion method is made in a subsequent Tax Period, a Taxable Person is required to keep records of the reason(s) for the change.[51]

7.2. Exemptions of particular relevance for foreign source income

7.2.1. Participation Exemption

Certain income in relation to a Participating Interest is exempt from Corporate Tax if it meets the conditions set out in Article 23 of the Corporate Tax Law. A Participating Interest is a significant ownership interest in a juridical person. Various conditions including minimum 5% ownership or minimum acquisition cost of AED 4 million and a 12-month holding period are required to be satisfied. The exemption covers, amongst other income, Dividends and other profit distributions, as well as capital gains or losses from the transfer, sale or other disposal of a Participating Interest.[52]

If a Resident Person has a Foreign Permanent Establishment (see Section 7.2.2), and has utilised a Tax Loss incurred in that Foreign Permanent Establishment, that Tax Loss must be fully offset by the Taxable Income from the Foreign Permanent Establishment in a subsequent Tax Period or Tax Periods before the Taxable Person can elect to apply the Foreign Permanent Establishment exemption.[53] Where a Foreign Permanent Establishment is incorporated before the previously utilised Tax Loss is fully offset, any Dividends or other income arising upon or following incorporation of the Foreign Permanent Establishment cannot benefit from the Participation Exemption until such income offsets the entirety of the previously utilised Tax Loss.[54]

[49] Article 2(2) of FTA Decision No. 13 of 2023.
[50] Article 2(3) of FTA Decision No. 13 of 2023.
[51] Article 2(4) of FTA Decision No. 13 of 2023.
[52] Articles 22(2) and Article 22(3) read with Article 23 of the Corporate Tax Law.
[53] Article 13(1) of Ministerial Decision No. 116 of 2023.
[54] Article 13(2) of Ministerial Decision No. 116 of 2023.

7.2.2. Foreign Permanent Establishment exemption

7.2.2.1. Overview

A Resident Person can make an election to disregard the income and associated expenditure of its Foreign Permanent Establishment while determining the Resident Person's Taxable Income.[55] This is subject to satisfaction of certain conditions, as discussed below.

7.2.2.2. Conditions for claiming Foreign Permanent Establishment exemption

For the purpose of this exemption, the Foreign Permanent Establishment must meet the conditions of Article 14 of the Corporate Tax Law if the foreign activities were carried on in the UAE.[56]

A Resident Person can elect to disregard the income and associated expenditure of its Foreign Permanent Establishments while determining its Taxable Income if those Permanent Establishments are subject to Corporate Tax, or a tax of a similar character, at a rate not less than 9% under the applicable tax legislation of the foreign jurisdiction in which it is located.[57] If this condition is not satisfied, the net income derived from the Foreign Permanent Establishment would not be eligible for the Foreign Permanent Establishment exemption.

An election for the exemption applies to all Foreign Permanent Establishments of the Resident Person that meet the required conditions.[58] A Resident Person having multiple Foreign Permanent Establishments cannot choose different treatments for different Foreign Permanent Establishments. In other words, if a Resident Person wishes to claim exemption from Corporate Tax for one of its Foreign Permanent Establishments, all of its other Foreign Permanent Establishments will be exempt as well, provided they meet the condition above, prescribed under Article 24(7) of the Corporate Tax Law.

However, if Tax Losses incurred in a Foreign Permanent Establishment have been previously offset against other profits (for example, from the head office), an election

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[55] Article 24(1) of the Corporate Tax Law.

[56] Conditions of Article 14 have to be applied in the relevant context when reading Article 24 of the Corporate Tax Law i.e. the expression “Resident Person” shall be used instead of the expression “Non-Resident Person” and the expression “outside the State” shall be used instead of the expression “in the State”.

[57] Article 24(7) of the Corporate Tax Law.

[58] Article 24(6) of the Corporate Tax Law.

under Article 24 of the Corporate Tax Law is not permitted until that Tax Loss is fully offset by the Taxable Income from that Foreign Permanent Establishment in a subsequent Tax Period or Tax Periods.[59]

7.2.2.3. Implications of electing for Foreign Permanent Establishment exemption

Where a Resident Person makes an election for the Foreign Permanent Establishment exemption, it applies to all Foreign Permanent Establishments.[60] Thus, it is not possible to choose to include some, but not all, Foreign Permanent Establishments. An exception would be any Permanent Establishments which do not qualify for the exemption due to failing the requirement to be subject to a sufficient level of tax.

Where the Foreign Permanent Establishment exemption applies, the following are not taken into account in determining Taxable Income:[61]

- losses of the Foreign Permanent Establishment,
- income and the associated expenditure of the Foreign Permanent Establishment, and
- Foreign Tax Credits in relation to the Foreign Permanent Establishment.

Each Foreign Permanent Establishment is treated as an independent Person, separate from the UAE head office, meaning Taxable Income for the purposes of the Corporate Tax Law is calculated as if each Foreign Permanent Establishment is a separate Person.[62] The net income of all Foreign Permanent Establishments is exempted when determining the Taxable Income of the Resident Person i.e. the UAE head office.

Regarding the allocation of profit, a Foreign Permanent Establishment is deemed to be a Related Party of the UAE head office.[63] Therefore, any transactions between a Foreign Permanent Establishment and its UAE head office, or other Related Parties of the UAE head office, must be in line with the arm's length principle (transfer pricing provisions) under Article 34 of the Corporate Tax Law (i.e. pricing at arm's length).

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[59] Article 13(1) of Ministerial Decision No. 116 of 2023.
[60] Article 24(6) of the Corporate Tax Law.
[61] Article 24(2) of the Corporate Tax Law.
[62] Article 24(4) of the Corporate Tax Law.
[63] Article 35(1)(d) of the Corporate Tax Law.

Example 8: Related Party transactions (transfer of assets and repatriation of funds)

Company A (a company incorporated and resident in the UAE) has set up a clothes-manufacturing unit (branch office) in Country B which constitutes a Foreign Permanent Establishment. It also has a subsidiary, Company U, which is a company incorporated and resident in Country U.

To enhance clothes manufacturing, machinery is transferred from Company U to Company A's Foreign Permanent Establishment in Country B.

At the end of the Tax Period the Foreign Permanent Establishment repatriates its profit to its head office i.e. Company A.

Whilst legally the Foreign Permanent Establishment is part of Company A, for Corporate Tax purposes it is treated as a separate and independent Person which is related to the head office and any other Related Party of the head office. Thus, when determining the profit which could benefit from the Foreign Permanent Establishment exemption, the transfer of the asset from Company U to the Foreign Permanent Establishment of Company A must be in line with the arm's length principle.

The repatriation of surplus funds from the branch in Country B to its head office in in the UAE is receipt of own funds by Company A since branch and head office are the same legal person. Hence, the repatriation transaction is not a taxable event from the perspective of Company A and is ignored for Corporate Tax purposes. This is the case whether or not an election has been made for the Foreign Permanent Establishment exemption.

7.3. Determining Corporate Tax Payable

The Corporate Tax Law does not prescribe any separate Corporate Tax rates for foreign source income. Thus, foreign source income is aggregated with all other income when determining Taxable Income. For a Taxable Person, other than a Qualifying Free Zone Person, the applicable rates currently are:[64]

- 0% for Taxable Income up to and including AED 375,000; and
- 9% for Taxable Income exceeding AED 375,000.

Where a Taxable Person has paid foreign tax in another jurisdiction, a tax credit may be available.[65] Refer to Section 8 for details.

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[64] Article 3(1) of the Corporate Tax Law.

[65] Article 47 of the Corporate Tax Law.

8. Foreign Tax Credit

8.1. What is Foreign Tax Credit?

As discussed in Section 5, Resident Persons or Non-Resident Persons with a Permanent Establishment in the UAE are subject to tax on foreign source income. To mitigate or prevent potential double taxation of foreign source income, the Corporate Tax Law exempts certain types of foreign source income through the Participation Exemption (see Section 7.2.1) and the Foreign Permanent Establishment exemption (see Section 7.2.2). However, to the extent foreign source income is nevertheless included in the Taxable Income of a Taxable Person, potential double taxation can be reduced or eliminated by way of a Foreign Tax Credit.

A Foreign Tax Credit allows a Taxable Person to deduct taxes paid under the tax laws of a foreign jurisdiction from the UAE Corporate Tax due on the same income.[66]

8.1.1. Foreign taxes for which Foreign Tax Credit is available

A Foreign Tax Credit is available for any foreign tax that is of a similar character to Corporate Tax. The following conditions should be all satisfied for a foreign tax to be considered of similar character to Corporate Tax:

- The foreign tax is imposed by and payable to the government (federal or state government) of a foreign jurisdiction.
- Payment of the foreign tax is compulsory and enforceable by tax laws in that foreign jurisdiction.
- The foreign tax is imposed on profit or net income (i.e. income less deductions). Foreign withholding tax is deemed to meet this requirement.

The provisions of any applicable Double Taxation Agreement shall be taken into consideration when determining which foreign taxes are eligible for a Foreign Tax Credit (see Section 8.5).

The following factors are not relevant in determining if a foreign tax is of similar character to Corporate Tax:

- whether the amount is imposed under a separate legislation from the primary taxing legislation of the foreign jurisdiction;
- the name given to the tax paid in the foreign jurisdiction; and
- the method by which an amount is collected: even if a foreign jurisdiction collects an amount by way of a withholding tax mechanism, such tax remains creditable if it is a tax levied by the foreign jurisdiction on business income.

[66] Article 47(1) of the Corporate Tax Law.

The following is a non-exhaustive list of taxes that are not considered to be of a similar character to Corporate Tax:

- consumption taxes such as value added tax, goods and services tax, or sales tax,
- customs duty or excise tax or other forms of import duties,
- transaction taxes such as stamp tax and capital duty,
- property taxes and wealth taxes calculated based on ownership of specified items or value of assets without regard to income, and
- estate tax or other forms of inheritance taxes and duties.

Some jurisdictions may impose taxes calculated on multiple components to the tax base: some taxes on income and others on non-income elements. The other taxes levied in a foreign jurisdiction may be in respect of a taxpayer's activities in that jurisdiction and be administratively and conceptually part of the system of corporate taxation in that foreign jurisdiction. Where such taxes are predominately a tax on a taxpayer's income, and it would be administratively burdensome to split its income and non-income components, provided the amount can meet the other conditions outlined above and none of the exclusions apply, then such taxes should be treated as being of similar character to UAE Corporate Tax. An example of a tax with multiple components is the corporate Zakat levied by the Kingdom of Saudi Arabia. The Zakat operates as a tax on income or equity or both and will, therefore, be considered as similar to Corporate Tax.

Amounts paid to a foreign government as interest, fines, penalties, or any similar obligation are not taxes imposed on income, but instead are levied due to defaults such as late payment of tax. Hence, such amounts paid in a foreign jurisdiction are not similar in essence to Corporate Tax and do not qualify for Foreign Tax Credit.

8.1.2. When will foreign tax be considered as "paid"?

A Foreign Tax Credit is potentially available with respect to tax "paid" under the tax law of a foreign jurisdiction. In this regard, "paid" means the following:

- The amount that has been remitted to the tax authorities in the foreign jurisdiction; or
- The amount that has accrued to the tax authorities in the foreign jurisdiction and as such represents a committed amount to the foreign tax authority but it is not yet paid.

A Taxable Person is required to maintain all necessary records for the purposes of claiming a Foreign Tax Credit (see Section 8.6).[67] If a Taxable Person has claimed Foreign Tax Credit for a Tax Period, they should be able to provide proof of the tax paid to the foreign tax authority, if requested by the FTA.

[67] Article 47(4) of the Corporate Tax Law.

The amount would not be considered as "paid" to the foreign tax authority under the following scenarios:

- where the tax liability in the foreign jurisdiction is contingent or not yet formally accrued (for example a foreign tax authority has assessed higher taxable income but the Person has challenged the assessment before court or judicial authorities and a final decision has not been issued yet); or
- where the amount of tax paid in a foreign jurisdiction has been refunded or has been confirmed as being refundable.

It is possible that a Taxable Person has claimed a Foreign Tax Credit with respect to tax paid in a foreign jurisdiction but that tax is subsequently refunded in the foreign jurisdiction. This will result in a reduction of the Foreign Tax Credit available to the Taxable Person under the Corporate Tax Law. Where this results in an increase in Corporate Tax Payable in excess of AED 10,000, the Taxable Person must submit a Voluntary Disclosure to the FTA within 20 Business Days from the date when the Taxable Person became aware of the repayment of foreign tax in the foreign jurisdiction.[68]

If the increase in Corporate Tax Payable is AED 10,000 or less, the Taxable Person must correct the Foreign Tax Credit claim in the earlier of the following:

- the Tax Return that has become due for submission for a previous Tax Period; or
- the Tax Return for the Tax Period in which foreign tax is refunded.[69]

If, conversely, the foreign tax paid increases with the result that a higher Foreign Tax Credit could be claimed, a Taxable Person may submit a Voluntary Disclosure,[70] along with an application for a Corporate Tax refund. The FTA will then assess the impact of the higher Foreign Tax Credit on the Taxable Person's Corporate Tax position.[71]

8.2. Who can claim Foreign Tax Credit?

Where foreign source income is taxable under the Corporate Tax Law, a Taxable Person can claim a Foreign Tax Credit for tax paid on this income in a foreign jurisdiction. As discussed in Section 5, foreign source income is taxable for the following Taxable Persons:

- Resident juridical person;

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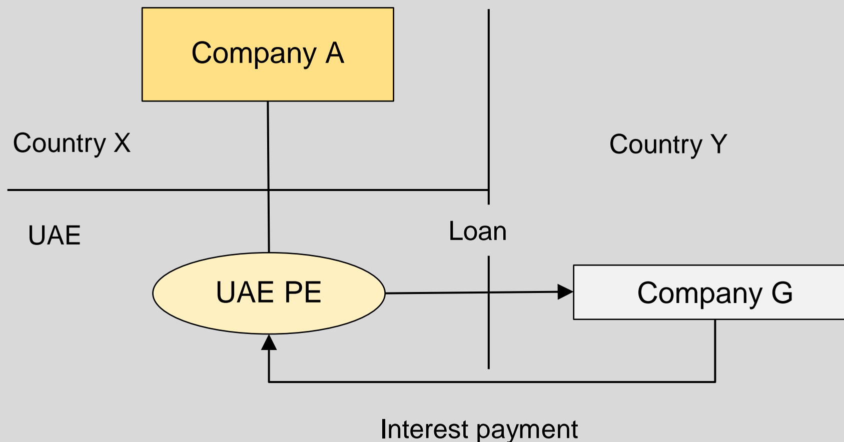
[68] Article 10(1)(a) of Cabinet Decision No. 74 of 2023.
[69] Article 10(1)(b) of Cabinet Decision No. 74 of 2023.
[70] Article 10(1) or Article 10(2) of the Tax Procedures Law.
[71] Article 23 of the Tax Procedures Law.

- Resident natural person to the extent such foreign source income relates to a Business or Business Activities conducted by the natural person in the UAE if the total Turnover exceeds AED 1 million in the Gregorian calendar year; and
- Non-Resident Person having a Permanent Establishment in the UAE and the foreign source income is attributable to the Permanent Establishment.

Example 9: Foreign Tax Credit in hands of a Non-Resident Person



Company A is incorporated in and tax resident in Country X. It is managed outside the UAE but has a Permanent Establishment in the UAE (UAE PE). Therefore, Company A is a Non-Resident Person under UAE Corporate Tax Law.

The UAE PE of Company A has granted a loan to Company G, resident in Country Y. The Interest on the loan is foreign source income attributable to Company A's Permanent Establishment in the UAE. The Interest income is subject to withholding tax in Country Y at the time of payment to Company A's Permanent Establishment in UAE.

The Corporate Tax Payable by Company A's UAE Permanent Establishment on the foreign source income can be reduced by a Foreign Tax Credit in respect of taxes paid in Country Y, subject to conditions on calculation set out in Section 8.3.

8.3. How to calculate the Foreign Tax Credit

8.3.1. General

The Foreign Tax Credit cannot exceed the amount of UAE Corporate Tax due on the relevant foreign income.[72] Thus, the amount of Foreign Tax Credit is the lower of the following:

[72] Article 47(2) of the Corporate Tax Law.

- The actual amount of tax paid on foreign source income in the foreign jurisdiction.
  - Foreign tax paid is likely to be in a currency other than AED. For the purposes of the Corporate Tax Law, any amount quantified in another currency must be converted to AED (see Section 7.1.5).[73]

And

- The amount of the Corporate Tax due on the foreign source income.
  - Since Corporate Tax applies to income on a net basis, the net foreign source income is to be determined by deducting economically linked expenditure from the relevant income. The deductibility of expenditure will be in accordance with the provisions of the Corporate Tax Law.[74] It is possible that the foreign country has taxed the foreign source income on a gross basis, particularly in the case of withholding tax. However, since the Corporate Tax Law taxes income net of expenses, a Foreign Tax Credit is to be determined on net foreign source income.
  - Foreign Tax Credit is not available in respect of Exempt Income such as foreign Dividends exempt in the UAE under the Participation Exemption, even if taxes on such income have been withheld in the foreign jurisdiction. Similarly, Foreign Tax Credit will not be available if the Taxable Person has a loss position under the Corporate Tax Law (see Section 8.3.4).
  - As there are two rates of Corporate Tax in the UAE (i.e. 0% and 9%),[75] the Corporate Tax due on foreign source income is to be determined on a weighted average basis using the following formula:

    Corporate Tax due on relevant foreign source income = $\frac{X*Y}{Z}$

    X= Corporate Tax due on total Taxable Income of the Taxable Person before any Foreign Tax Credit

    Y= Relevant foreign source income

    Z= Total Taxable Income of the Taxable Person

Example 10: Calculating Foreign Tax Credit

Company A (a company incorporated and resident in the UAE) has total net Taxable Income of AED 10 million during the relevant Tax Period out of which AED 1 million is net Interest income earned from Country X, i.e. foreign source income. In Country X, Company A has paid withholding tax equivalent to AED 50,000.

The Corporate Tax Payable of Company A will be as follows:

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[73] Article 43 of the Corporate Tax Law.

[74] Deductions as specified under Chapter 9 of the Corporate Tax Law.

[75] Article 3 of the Corporate Tax Law.

Item	Amount (AED)
Taxable Income (including foreign source income of AED 1 million)	10,000,000
Corporate Tax due on Taxable Income [(10,000,000 - 375,000) * 9%]	866,250
Less: Foreign Tax Credit: [lower of the following: • AED 50,000 (being the actual amount of foreign tax paid in the foreign jurisdiction) • AED 86,625 [866,250 * 1 million / 10 million] (being the amount of the UAE Corporate Tax due on the foreign source income)]	(50,000)
Corporate Tax Payable	816,250

8.3.2. Unutilised Foreign Tax Credit

Any unutilised Foreign Tax Credit cannot be carried forward to future Tax Periods or carried back to earlier Tax Periods.[76] Thus, unutilised Foreign Tax Credit will be forfeited. Further, a deduction from taxable profits for the unutilised Foreign Tax Credit is not possible.[77]

Example 11: Excess Foreign Tax Credit

Company A (a company incorporated and resident in the UAE) derived AED 1 million as foreign source royalty income from Company B, resident of Country X. At the time of payment, the equivalent of AED 100,000 was withheld in Country X as withholding tax. To earn this income, Company A has incurred expenditure of AED 200,000.

Assuming that Company A does not have any other income and does not elect for Small Business Relief, the Corporate Tax Payable by Company A will be as follows:

Item	Amount (AED)
Foreign source income	1,000,000
Less: Expenditure	200,000
Taxable Income	800,000
Corporate Tax due on Taxable Income [(800,000 - 375,000) * 9%]	38,250

[76] Article 47(3) of the Corporate Tax Law.
[77] Article 33(8) of the Corporate Tax Law.

Less: Foreign Tax Credit: [lower of the following: • AED 100,000 (being the actual amount of foreign tax paid in the foreign jurisdiction) • AED 38,250 (being the amount of the Corporate Tax due on the foreign source income)]	(38,250)
Corporate Tax Payable	0
Balance unutilised Foreign Tax Credit (which will be forfeited)	61,750

8.3.3. Income-by-income approach: multiple sources of foreign income

The Foreign Tax Credit cannot exceed the amount of Corporate Tax due on the “relevant” foreign income.[78] The use of the term “relevant” indicates that a Foreign Tax Credit is to be calculated on an income-by-income basis. Thus, where a Taxable Person has multiple sources of foreign income, the excess Foreign Tax Credit of one foreign source income cannot be set off against the Corporate Tax due on another foreign source income.

Example 12: Multiple sources of foreign income

Company A, a company incorporated and resident in the UAE, has earned foreign source income as follows:

Item	Foreign source income (net of expense) (AED)	Foreign tax (AED)
Interest earned from Country X	100,000	1,000
Royalty earned from Country Y	500,000	50,000
Total	600,000	51,000

Assuming that Company A does not have any other income and does not elect for Small Business Relief, the Corporate Tax Payable by Company A will be as follows:

Item	Amount (AED)
Taxable Income	600,000
Corporate Tax due on Taxable Income [(600,000-375,000) * 9%]	20,250
Less: Foreign Tax Credit for tax paid in Country X	(1,000)

[78] Article 47(2) of the Corporate Tax Law.

[lower of the following: • AED 1,000 (being the actual amount of foreign tax paid in the foreign jurisdiction) • AED 3,375 [100,000/600,000 of 20,250] (being the amount of the Corporate Tax due on the foreign source income)]	
Less: Foreign Tax Credit for tax paid in Country Y [lower of the following: • AED 50,000 (being the actual amount of foreign tax paid in the foreign jurisdiction) • AED 16,875 [500,000/600,000 of 20,250] (being the amount of the Corporate Tax due on the foreign source income)]	(16,875)
Corporate Tax Payable	2,375
Unutilised Foreign Tax Credit in relation to foreign tax paid in Country Y (which is forfeited)	33,125

Note that the excess Foreign Tax Credit in relation to Country Y cannot be set off against the tax due on income from Country X.

8.3.4. Scenarios where no Foreign Tax Credit is allowed

A Foreign Tax Credit cannot exceed the amount of Corporate Tax due on the relevant foreign income.[79] Accordingly, where there is no Corporate Tax Payable on foreign source income, no Foreign Tax Credit is allowed against such income. Therefore, a Foreign Tax Credit is not available in respect of Exempt Income. Likewise, a Foreign Tax Credit is not available where no Corporate Tax is payable due to an election for Small Business Relief or a natural person's Turnover being below AED 1 million. This is also the case where foreign source income is Qualifying Income of a Qualifying Free Zone Person, i.e. subject to 0% Corporate Tax.

Also, where a Taxable Person's Taxable Income is negative, i.e. they make a loss, there is no Corporate Tax Payable. In such a case, if Taxable Income includes foreign source income on which tax has been paid in the foreign jurisdiction, no Foreign Tax Credit is available in the absence of any Corporate Tax Payable.

Example 13: Exempt Income

Company A, a company incorporated and resident in UAE, owns 100% of the shares in Company B, a company incorporated and managed in Country X and tax resident of Country X. Company B qualifies as a Participating Interest for the purpose of the

[79] Article 47(2) of the Corporate Tax Law.

Participation Exemption. Company A receives Dividend income from Company B. Country X has levied withholding tax on the Dividend.

In the UAE, the Dividend is exempt under the Participation Exemption and so there is no Corporate Tax Payable in respect of it. Accordingly, a Foreign Tax Credit is not available in respect of the withholding tax paid in Country X.

Example 14: Loss scenario

Company A, a company incorporated and resident in the UAE, has the following Taxable Income in the Tax Period ending 31 December 2024:

Item	Taxable Income (AED)
UAE source net income / (loss)	(1,000,000)
Net interest income from Country X	500,000
Net Taxable Income/(loss)	(500,000)

Foreign source Interest income has been subject to withholding tax in Country X of AED 5,000.

Since Company A has an overall tax loss in the Tax Period, there is no Corporate Tax Payable. Accordingly, a Foreign Tax Credit cannot be claimed in respect of the tax paid in Country X and as such the unutilised Foreign Tax Credit is forfeited.[80]

Example 15: Qualifying Free Zone Person's Qualifying Income derived from foreign source

Company A, a company incorporated and resident in the UAE, is a Qualifying Free Zone Person. Company A makes a loan to its wholly owned foreign subsidiary (Company F) in Country F and receives Interest income from Company F. Withholding tax is deducted from its Interest income in Country F.

In the UAE, the Interest income is income derived from a transaction with a Non-Free Zone Person in respect of a Qualifying Activity.[81] Hence it is Qualifying Income[82] which is subject to tax at the rate of 0% in the hands of Company A. Accordingly, a Foreign Tax Credit is not available in respect of the withholding tax

[80] Article 47(3) of the Corporate Tax Law.
[81] Under Article 2(1)(j) of Ministerial Decision No. 265 of 2023, treasury and financing services by a Qualifying Free Zone Person to its Related Parties is a Qualifying Activity.
[82] Article 3(1)(b) of Cabinet Decision No. 100 of 2023.

paid in Country F as the credit is limited to the amount of UAE Corporate Tax, which is nil.

8.4. Timing mismatches

Corporate Tax due can be reduced by the amount of a Foreign Tax Credit for the "relevant Tax Period".[83] However, there may be a mismatch of relevant Tax Periods between the UAE and the foreign jurisdiction. For instance, the foreign source income may be taxed at a different time or on a different basis in the UAE and the foreign jurisdiction (for example, cash basis vs accrual basis).

To address any timing mismatch issues, a symmetrical approach is applied, where foreign tax paid follows the corresponding foreign source income on which such tax is paid. Accordingly, credit for foreign tax paid will be allowed in the Tax Period in which the foreign source income forms part of Taxable Income under the Corporate Tax Law.

Example 16: Accrual basis vs realisation basis

Company A, a company incorporated and resident in the UAE, has a Permanent Establishment in a foreign country, Country X. In Year 1, the assets of the Permanent Establishment are revalued to fair market value in accordance with the applicable Accounting Standards, resulting in an unrealised gain. In Year 2, Company A sells the assets of the Permanent Establishment, thereby realising the gain.

In Year 1, the unrealised gain is taxed in Country X on an accrual basis and Company A pays tax on such income in Country X.

In the UAE, Company A has not elected for the Foreign Permanent Establishment exemption under Article 24 of the Corporate Tax Law. It has elected to take into account gains and losses on a realisation basis under Article 20(3) of the Corporate Tax Law. Hence, the unrealised gain is taxable in the UAE only in Year 2 when the gain is realised on sale of asset.

In Year 1, the unrealised gain is not part of the Taxable Income of Company A so credit for foreign tax paid in Country X cannot be claimed in Year 1. However, when the gain is taxable in the UAE in Year 2, a Foreign Tax Credit for the tax paid in Country X in Year 1 can be claimed.

[83] Article 47(1) of the Corporate Tax Law.

Example 17: Variation on accrual basis vs realisation basis

Company A, a company incorporated and resident in the UAE, has a Permanent Establishment in a foreign country, Country X. In Year 1, the assets of the Permanent Establishment are revalued to fair market value in accordance with the applicable Accounting Standards, resulting in an unrealised gain. In Year 3, Company A sells the assets of the Permanent Establishment, thereby realising the gain. Company A does not have any other income in Year 3.

In Year 1, the profits of the Permanent Establishment, including the unrealised gain, are equivalent to AED 2 million. The profits are taxed in Country X on an accrual basis. Company A pays tax at the rate of 20% on its income in Country X as follows:

Item	Taxable Income (AED equivalent)	Tax paid (AED equivalent)
Profits of Permanent Establishment (other than unrealised gain)	1,500,000	300,000
Unrealised gain	500,000	100,000
Total	2,000,000	400,000

In the UAE, Company A only has income from a Foreign Permanent Establishment. Company A has not elected for the Foreign Permanent Establishment exemption under Article 24 of the Corporate Tax Law. It has elected to take into account gains and losses on a realisation basis under Article 20(3) of the Corporate Tax Law. Hence, the unrealised gain is taxable in the UAE only in Year 3 when the gain is realised on sale of asset.

In this case, Foreign Tax Credit will be available to Company A as follows:

In Year 1:

Item	Amount (AED)
Accounting Income	2,000,000
Less: Adjustment under Article 20(2)(a) read with Article 20(3) [gains to be taxed only when realised]	500,000
Taxable Income	1,500,000
Corporate Tax due on Taxable Income [(1,500,000-375,000)*9%]	101,250
Less: Foreign Tax Credit for tax paid in Country X [lower of the following:	(101,250)

• AED 300,000 (being the actual amount of foreign tax paid in the foreign jurisdiction less the tax on unrealised gain) • AED 101,250 (being the amount of the Corporate Tax due on the foreign source income)]	
Corporate Tax Payable	0
Unutilised Foreign Tax Credit: i.e. 300,000 - 101,250 (which is forfeited)	198,750

In Year 3

Item	Amount (AED)
Taxable Income (realised gains)	500,000
Corporate Tax due on Taxable Income [(500,000-375,000) *9%]	11,250
Less: Foreign Tax Credit for tax paid in Country X [lower of the following: • AED 100,000 (foreign tax paid in Year 1 is considered in Year 1's Foreign Tax Credit calculation) • AED 11,250 (being the amount of the Corporate Tax due on the foreign source income)]	(11,250)
Corporate Tax Payable	0

As seen from the calculation above, in Year 1, the unrealised gains will be reduced while determining Taxable Income and the corresponding tax paid in Country X in Year 1 on such income should also be reduced while calculating Foreign Tax Credit in Year 1. Hence, the amount of unutilised Foreign Tax Credit in relation to foreign tax paid in Country X, which is forfeited in Year 1, will be AED 198,750 (i.e. 300,000-101,250).

The foreign tax of AED 100,000 on the unrealised gain is creditable only in the year in which the unrealised gain is subject to tax in the UAE i.e. in Year 3 when the gain is realised. Hence, in Year 3, Company A can claim a Foreign Tax Credit in respect of AED 100,000 and accordingly, does not have to pay any Corporate Tax in Year 3.

Example 18: Income accrued and paid in different Tax Periods

Company C, a company incorporated and resident in the UAE, holds 2% of the shares of Company D, a company incorporated and managed outside the UAE, which were acquired for AED 1 million.

Company D is tax resident of Country Z which follows a Gregorian calendar year for tax purposes. Company C also follows the Gregorian calendar year as its Tax Period

in the UAE and follows the Accrual Basis of Accounting for the purposes of the Corporate Tax Law.

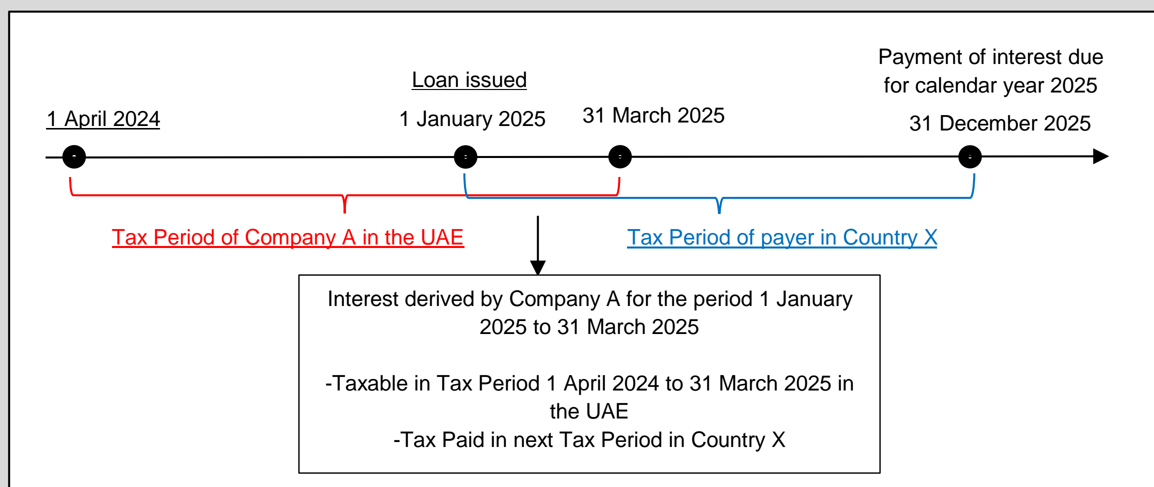
On 1 June 2024 Company D declares a Dividend and at that time, Company C records a Dividend receivable of AED 50,000 in its Financial Statements. However, this Dividend is paid by Company D on 1 March 2025 and at the time when the payment is made, tax is withheld and paid to the tax authorities of Country D.

The ownership interest held by Company C in Company D does not qualify as a Participating Interest and hence, income received from Company D is not exempt under the Participation Exemption. Company C includes the foreign Dividend income in its Taxable Income for the Tax Period ending 31 December 2024.

For the purposes of a Foreign Tax Credit under the Corporate Tax Law, the withholding tax on the Dividend income will be considered to be "paid" in the Tax Period when the Dividend income is accrued in the Financial Statements and accordingly, included in the Taxable Income. It is not relevant that the Tax Period when the income is actually paid out and tax is remitted to the foreign tax authority is different. Accordingly, even though the withholding tax is actually levied and remitted to the tax authority of Country Z in the Gregorian calendar year 2025, Company C can claim a Foreign Tax Credit in respect of that withholding tax in the Tax Period ending 31 December 2024 when the Dividend income is included in Taxable Income.

Company C is required to maintain appropriate documentation in respect of the Foreign Tax Credit claimed. If the FTA conducts a tax audit of Company C for the Tax Period ending 31 December 2024, Company C should be able to provide proof of the withholding tax which has been paid to the tax authority of Country Z.

Example 19: Different Financial Years in UAE and foreign jurisdiction



Company A, a company incorporated and resident in the UAE, issued a loan on 1 January 2025 to Company B, a company incorporated and managed in Country X and tax resident of Country X. Under the terms of the loan, Interest is payable at the end of each Gregorian calendar year in respect of that year. Thus, for the Gregorian calendar year 2025, the Company B will pay Interest on 31 December 2025.

Company A follows 1 April to 31 March as its Tax Period in the UAE and uses the Accrual Basis of Accounting. Accordingly, Interest income on the loan is first taxable in the Tax Period beginning 1 April 2024 and ending on 31 March 2025. Company A's Corporate Tax for that period is to be paid by 31 December 2025 under Article 48 of the Corporate Tax Law.

Country X follows a Gregorian calendar year for tax purposes. Under the tax laws of Country X, tax is to be withheld on Interest at the time of payment of Interest and upon deduction, the tax is to be immediately remitted to the foreign tax authority. Thus, when Company B pays Interest due for the Gregorian calendar year 2025 on 31 December 2025, it withholds taxes on such Interest payment and remits the same with tax authority of Country X on 31 December 2025.

For Company A, the foreign Interest accrued during the period 1 January 2025 to 31 March 2025 is one quarter (i.e. 3 out of 12 months) of the 2025 period and will be included in Company A's Taxable Income for the Tax Period 1 April 2024 to 31 March 2025. However, this Interest will be paid by Company B only on 31 December 2025 and the withholding tax will be remitted only at the time of payment. Thus, while the Interest income will form part of Company A's Taxable Income for the Tax Period 1 April 2024 to 31 March 2025, withholding tax on such income will be actually remitted to tax authority of Country X only in the next Tax Period.

However, for the purposes of a Foreign Tax Credit under Article 47 of the Corporate Tax Law, the foreign tax (i.e. withholding tax in Country X) will be considered to be "paid" when the Interest income is accrued in the Financial Statements of Company A and not when the income is actually paid out and withholding tax is remitted in Country X. Accordingly, Company A can claim a Foreign Tax Credit in respect of the proportionate withholding tax in the Tax Period ending 31 March 2025 when the Interest income is included in Taxable Income.

Company A is required to maintain appropriate documentation in respect of Foreign Tax Credit claimed. If the FTA conducts a tax audit of Company A for the Tax Period ending 31 March 2025, Company C should be able to provide proof of the withholding tax paid to the tax authority of Country Z.

8.5. Impact of Double Taxation Agreements

A Foreign Tax Credit under Article 47 of the Corporate Tax Law is allowed even if foreign tax is paid in a jurisdiction with which the UAE does not have a Double Taxation Agreement.

Sometimes a Double Taxation Agreement to which the UAE is a party may specify a method of providing relief from double taxation which is different to the Foreign Tax Credit rules set out in Article 47 of the Corporate Tax Law. Article 66 of the Corporate Tax Law provides that to the extent the terms of a Double Taxation Agreement are inconsistent with provisions of the Corporate Tax Law, the terms of the Double Taxation Agreement shall prevail.

Example 20: Examples of other relief under Double Taxation Agreements

- Exemption (instead of a tax credit) for relieving double taxation: In this case the foreign source income would be treated as exempt from Corporate Tax and would not form part of a Taxable Person's Taxable Income.
- Tax sparing relief: This allows a notional foreign tax credit for the taxes that have been "spared" in the source country under a tax incentive scheme or programme.
- Relief in respect of taxes which are not imposed on net income or profits, but on some other criteria such as net worth (for example, Zakat).

Where a Double Taxation Agreement provides for the source country to tax the foreign source income at a specified rate, for instance to tax Dividends at the rate of 5%, the UAE Foreign Tax Credit would be limited to 5% (assuming that the foreign Dividend is not exempt under the Participation Exemption).

8.6. Documentation

A Taxable Person is required to maintain all necessary records for the purposes of claiming a Foreign Tax Credit.[84] The records maintained by the Taxable Person should include all of the following details:

- the amount of foreign source income subject to tax in the foreign jurisdiction in the currency adopted in the foreign jurisdiction
- the exchange rate used to convert the foreign income to AED
- the financial year in which the foreign source income was derived
- the nature and amount of foreign tax levied on the foreign source income
- the date on which the foreign tax was paid

[84] Article 47(4) of the Corporate Tax Law.

- whether the tax paid in the foreign jurisdiction represents an advance instalment of tax or withholding tax or final tax payment

The following documents are acceptable evidence of the payment of tax in a foreign jurisdiction:

- Official receipt issued by the relevant foreign tax authority evidencing payment of tax
- In case of withholding tax, a certificate of deduction of withholding tax issued by the relevant foreign tax authority
- A copy of a tax return filed in the foreign jurisdiction, accompanied by calculations of taxable income and corporate tax on such income when relevant
- A letter from the relevant foreign tax authority stating all taxes for that income year have been paid

If the above documents are not available in Arabic or English, a certified translation must be provided.

9. Updates and Amendments

Date of amendment	Amendments made
November 2023	• First version