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# Determination of a Non-Resident Person's Nexus in the State for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Cabinet Decision No. 56 of 2023

Issued 30 May 2023 – (Effective from 1 June 2023)

## The Cabinet has decided:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses, and
- Pursuant to what was presented by the Minister of Finance and approved by the Cabinet.

## Article 1 – Definitions

Definitions in Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses shall be applied to this Decision, with exception to that, the following expressions shall have the meaning assigned against each, unless the context requires otherwise:

- 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.

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

## Article 2 – Nexus in the State

1. For the purposes of paragraph (c) of Clause (4) of Article (11) of the Corporate Tax Law, any juridical person that is a Non-Resident Person shall have a nexus in the State if it earns income from any Immovable Property in the State.
2. For the purposes of paragraph (c) of Clause (3) of Article (12) of the Corporate Tax Law, the Taxable Income that is attributable to the Immovable Property in the State shall include income derived from the right in rem, sale, disposal, assignment, direct use, letting, including subletting and any other form of exploitation of Immovable Property.

## Article 3 – Artificial Transfer of Rights in Immovable Property

If a Non-Resident Person artificially transfers or otherwise disposes of its right in rem in any Immovable Property in the State to another person and that transfer or disposal is not for a valid commercial or other non-fiscal reason which reflects economic reality, this would be considered an arrangement to obtain a Corporate Tax advantage under Clause (1) of Article (50) of the Corporate Tax Law.

## Article 4 – Requirement to Register for Corporate Tax

A Non-Resident Person that has a nexus in the State in accordance with Article (2) of this Decision shall be required to register with the Authority in accordance with Article (51) of the Corporate Tax Law.



## Article 5 – Implementing Decisions

The Minister shall issue the necessary decisions to implement any of the provisions of this Decision.

## Article 6 – Publication and Application of this Decisions

This Decision shall be published in the Official Gazette and shall come into effect on 1 June 2023.