

Exception from Registration for Corporate Tax Purposes as per the UAE Corporate Tax Law

Introduction

Article 51(1) which deals with Tax Registration in the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses (referred to in this article as “**Corporate Tax Law**”) clearly states that Any Taxable Person shall register for Corporate Tax with the Authority in the form and manner and within the timeline prescribed by the Authority and obtain a Tax Registration Number, except in circumstances prescribed by the Minister.

Therefore, the Ministry of Finance in accordance with Article 51 of the Corporate Tax Law has issued Ministerial Decision No. 43 of 2023 on 10th April 2023 (referred to in this article as “**Ministerial Decision**”) on Exception from Tax Registration for the purposes of the Corporate Tax Law.

The Ministerial Decision on the Exception from Tax Registration sets out who would be excluded from registering for Corporate Tax.

Exception from Registration for Corporate Tax for Exempt Person

1. As per Article 2 of the Ministerial Decision read with Article 4 of the Corporate Tax Law, certain exempt persons such as government entities, government-controlled entities, as well as extractive businesses and non-extractive natural resource businesses that meet the necessary conditions under the Corporate Tax Law are not required to register for Corporate Tax purposes which is enumerated below:
 - (a) A Government Entity satisfying the conditions under Article 5 of the Corporate Tax Law. [Article 4(1)(a)]
 - (b) A Government Controlled Entity satisfying the conditions under Article 6 of the Corporate Tax Law. [Article 4(1)(b)]
 - (c) A Person engaged in an Extractive Business that meets the conditions of Article 7 of the Corporate Tax Law. [Article 4(1)(c)]
 - (d) A Person engaged in a Non-Extractive Natural Resource Business, which meets the conditions of Article 8 of the Corporate Tax Law. [Article 4(1)(d)]

The above exception does not affect or negate the obligation of the above-mentioned Person to register for Corporate Tax in cases where the Person becomes a Taxable Person under the provisions of the Corporate Tax Law.

2. Further, as per Article 2(1)(e) of the Ministerial Decision, a Non-Resident Person [Article 11(4)] shall not be required to be registered with the Authority, if:
 - a. It derives only State Sourced Income under Article 13 of Corporate Tax Law, and
 - b. Does not have a Permanent Establishment in the State according to Article 14 of the Corporate Tax Law.

It is implied that, for the Non-Resident Person, it is required that both the conditions need to be satisfied simultaneously, in order to claim the exception from Registration for Corporate Tax Purposes.

In other words, a Non-Resident Person shall be required to be registered with the Authority where it is required to pay the Corporate Tax on the income which is stipulated in the Article 12(3) of the Corporate Tax Law. Article 12(3) is provided below:

“A Non-Resident Person is subject to Corporate Tax on the following:

- a) The Taxable Income that is attributable to the Permanent Establishment of the Non-Resident Person in the State.*
- b) State Sourced Income that is not attributable to a Permanent Establishment of the Non-Resident Person in the State.*
- c) The Taxable Income that is attributable to the nexus of the Non-Resident Person in the State as determined in a decision issued by the Cabinet pursuant to paragraph (c) of Clause 4 of Article 11 of this Decree-Law.”*

Mandatory Requirement for Exempt Person for Registration for Corporate Tax

Article 51(2) read with Article 4 of the Corporate Tax Law states that the following exempt Person shall be required to be registered mandatorily with the Authority and obtain a Tax Registration Number:

1. For the purposes of an exemption from Corporate Tax under the Corporate Tax Law, the FTA may require the relevant Person under paragraphs (e), (f), (g), (h) and (i) of Clause 1 of Article 4 of the corporate tax law to register for Corporate Tax and obtain a Tax Registration Number.
 - i. A Qualifying Public Benefit Entity under Article 9 of the Corporate Tax Law. [Article 4(1)(e)]

- ii. A Qualifying Investment Fund under Article 10 of the Corporate Tax Law. [Article 4(1)(f)]
 - iii. A public pension or social security fund, or a private pension or social security fund that is subject to regulatory oversight of the competent authority in the State and that meets any other conditions that may be prescribed by the Minister. [Article 4(1)(g)]
 - iv. A juridical person incorporated in the State that is wholly owned and controlled by an Exempt Person specified in paragraphs (a), (b), (f) and (g) of Clause 1 of Article 4 and conducts any of the following:
 - 1. Undertakes part or whole of the activity of the Exempt Person.
 - 2. Is engaged exclusively in holding assets or investing funds for the benefit of the Exempt Person.
 - 3. Only carries out activities that are ancillary to those carried out by the Exempt Person. [Article 4(1)(h)]
 - v. Any other Person as may be determined in a decision issued by the Cabinet at the suggestion of the Minister. [Article 4(1)(i)]
2. An Unincorporated Partnership under Article 16 for the purpose of Article 53(6) of the Corporate Tax Law.

Key takeaways

The exception stipulated in the decision is in line with international best practices, whereby persons exempted from Corporate Tax such as the federal government, UAE government departments and authorities, other public institutions and other categories referred to above are excluded from tax registration because they are not subject to tax. Therefore, there is no need for these entities to register with the Federal Tax Authority as long as they continue to meet the exemption conditions noted in the relevant articles of the Decree-Law. However, a general principle that all exempt persons are not liable for corporate tax registration shall not be drawn from the ministerial decision.