TAXES IN AFRICA & MIDDLE EAST

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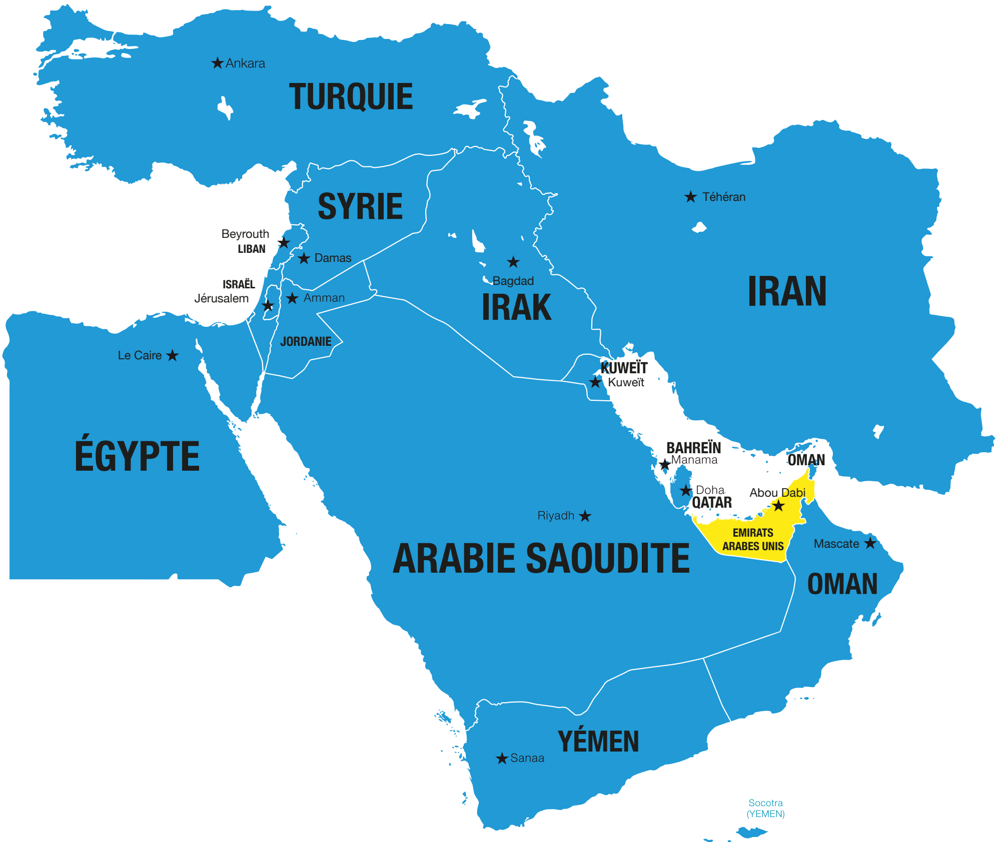
United Arab Emirates



Capital city : Abu Dhabi

Area : 82,880 km^2

Population : 9,554,746

Languages : Arabian

Political system : Constitutional Monarchy

GDP/capita 2023 : USD 42,536

Currency : Dirham Emirati (AED)

ISO Code : ARE

Telephone code : +971

National days : 2 december

United Arab Emirates

1. Corporate Taxation

Taxes on Entities (Corporate Tax)UAE have introduced Corporate Tax (income tax on Entities) as per Federal Decree-Law No. 47 of 2022 which is effective from 01 June 2023. Previously, there was Emirates level tax on income on enterprises engaged in ex- ploration and production of oil and gas at progressive rates of up to 55% and on branches of foreign banks operating in UAE at flat rate of 20% under the applicableEmirates-level income tax decree and banking tax decree respectively. There is no income tax on Natural Person in UAE, on salary income, investment income or income from real estate. But if the natural person is doing any other business activity that require a license in UAE, is taxable on net income, subject to certain exceptions.

Taxable Person

Taxable person under the Corporate Tax Law are :

a. UAE Juridical person (including Free Zone Persons) such as privat or public joint stock companies or limited liability companies that are incorporated or otherwise established or recognized under UAE legislation.

b. Non-UAE juridical persons that are incorporated outside UAE but are effectively managed and controlled in UAE

c. Natural persons (individuals) who conduct a business or business activity in UAE through a license issued or required to be issued.

d. Non-resident Persons that have a permanent Establishment in UAE or that earn a UAE sourced income that is within the scope of Corporate Tax.

1.1 Corporate residence

The UAE follows the definition of a Permanent Establishment (PE) in Article 5 of the 2014 Organization for Economic Co-operation and Development (OECD) Model Tax Convention.

Non-resident companies carrying out a trade or business in UAE through a PE are prima facie taxable under theCorporate Tax Law. The definition of PE generally includes a branch, place of management or other fixed place of business, and an agent that has and habitually exercises authority to conclude contracts on behalf of the non-resident company.

1.3 Tax year and filing

Corporate Tax Law allows UAE entities to choose their financial year and tax year is considered as the financial year followed by that entity except for taxable natural person who has to follow the calendar year January to December.

Corporatet tax return and payment of tax are to be done within 9 months of the end of a financial year.

Emirate level tax on upstream oil and gas companies and branches of foreign banks, dates for filing and payments are on a case by case basis depending on the company's fiscal year. The financial year of the companies/branches are recognized as the tax year.

1.4 Taxable Income

Taxable income under Corporate tax is the accounting net profit (or loss) as stated in the financial statements of a taxable person, subject to adjustments for non-deductible expenses, exempted gains like capital gains, dividend, carried forward loss etc.

1.5 Tax rates

The corporate tax rate is set at 9% on taxable profit above the threshold of AED 375,000/-. As such, the rates of Corporate Tax is:

- 0% on taxable income upto and including AED 375,000/- (US$ 100,000).
- 9% on taxable income above AED 375,000.

Oil and gas exploration and production companies are taxed at progressive rates of up to 55% under the applicable Emirate-level income tax decree, although in practice different rates may be agreed with relevant authority under specific government concession agreements.

Branches of foreign banks are taxed at rates according to the banking decree of the Emirate in which they operate, generally at a flat rate of 20%.

1.6 Capital gains

Under the Participation Exemption regime, capital gains earned from a Participating Interest in either foreign and domestic juridical persons are exempt from UAE Corporate Tax. Also, there is relief from Corporate Tax for capital gains that may arise on intra-group transfers and reorganisation and restructuring transactions. Other capital gains would be treated as ordinary income and subject to Corporate Tax.

1.7 Losses

Tax Losses can, subject to certain conditions, be offset against the Taxable Income of future periods, up to a maximum of 75% of the Taxable Income in each of those future periods. Any excess (unused) Tax Losses can be carried forward and used against Taxable Income of future Tax Periods indefinitely.

1.8 Tax compliance for corporations

Under the Corporate Tax law, compliance requirements are:

1.8.1 Maintain books of accounts complying with IFRS

1.8.2 Accounting records are to be kept for a minimum period of 8 years, including the current year.

1.8.3 Taxable persons are required to file corporate tax return within 9 months of the end of financial year of the taxable persons

1.8.4 Tax due, calculated on taxable income are to be paid along with Corporate Tax Return.

1.8.5 Transfer pricing rules are required to be followed for transactions between Related Parties and connected persons. They are to be carried out on an arm's length basis, as if the transaction was carried out between independent parties. To prevent the manipulation of Taxable Income, various articles in the Corporate Tax Law require that the consideration of transactions with Related Parties and Connected Persons needs to be determined by reference to their "Market Value".

1.9 Tax credit and incentives

The UAE has numerous FTZs that offer tax holidays or a 0% corporate and personal income tax rate for companies and individuals, subject to certain conditions. Some FTZs also offer an exemption from customs duties and VAT (for movement/supply of goods mee ting certain conditions).

Currently, there are over 45 FTZs (and business parks) in the UAE, each having its own regulations. Businesses (and their employees) established in FTZs are generally eligible for 15 to 50 years (generally renewable) tax holidays. Certain FTZs also offer an exemption from customs duties, Value Added Tax (VAT), no restriction on foreign ownership, no restriction on capital and profit repatriation etc. The laws and regulations granting these tax holidays and exemptions are not consistent across the various FTZs. Each FTZ therefore needs to be considered separately.

In order to avoid double taxation of income earned in another jurisdiction, tax paid in other jurisdiction are allowed as a credit, subject to the limit of tax rate in UAE.

1.10 Small Business Relief (SBR)

SBR is intended to support start-ups and other small or micro business by reducing their corporate tax burden and compliance cost.
Taxable person that are resident persons can claim small Business relief where their revenue is below AED 3.000.000 till period ending on or before 31 December 2026. If business revenue exceeds AED 3.000.000 in any tax period, the relief will no longer be available.
SBR will not be available to qualifying Free zone persons or member of MNE Group that with consolidated group revenue of more than AED 3.150.000.000.
If tax relief is opted, business shall not be eligible to carry forward tax losses and interest expenditure will be disallowed for adjustment against future tax periods.

2. Personal income taxation

Tax on IndividualNatural Persons (Individual), resident or non-resident are required to pay tax on business or business activity conducted in UAE if their annual turnover exceed AED1 million. But there is no tax on salary income, investment income or income from real estate property. The rate of tax and threshold are same that of Juridical Persons.

3. Double Taxation Treaty

UAE national or resident individuals and UAE resident companies have access to an extensive and growing double tax treaty (DTT) network, presently with 94 countries. These DTTs may not be immediately relevant for obtaining relief from

UAE taxation (as the UAE does not levy WHT or other forms of non-resident taxation); however, they may continue to allow for relief from taxation in DTT partner countries. A number of other DTTs are at various stages of negotiation and ratification.

4. Transfer pricing rules

UAE has a transfer pricing regulations which apply to UAE businesses that have transactions with Related Parties and Connected Persons, irrespective of whether the Related Parties or Connected Persons are located in the UAE mainland, a Free Zone or in a foreign jurisdiction..
Transfer pricing rules seek to ensure that transactions between Related Parties are carried out on an arm's length basis, as if the transaction was carried out between independent parties. To prevent the manipulation of Taxable Income, various articles in the Corporate Tax Law require that the consideration of transactions with Related Parties and Connected Persons needs to be determined by reference to their "Market Value".

Taxable persons, whose annual turnover in UAE is AED 200.000.000 milion or more and for multi-national companies; the consolidated income is AED 3.150.000.000 or more are required to maintain "local file" and "Master file" as additional documentation for related party transactions.

5. Economic Substance Regulations

UAE have introduced a regulation that require companies operating in UAE and having certain relevant activities (9 relevant activities-banking, insurance, fund management, financing and leasing, shipping, headquarters, holding company, Intellectual property and distribution and service center activities)) to show Economic Substance in UAE.

The companies generating income for the relevant activity need to demonstrate that:

- They are directed and managed in UAE;
- Core income generating activities with respect to the relevant activity are performed in UAE;
- The companies have adequate staff, expenditure and assets in UAE.

Failure to these requirements could trigger penalties.

6. Other taxes on corporate and individual

6.1 Value Added Tax (VAT)

VAT was introduced in the UAE on 1 January 2018. This is a Consumption Tax and the ultimate consumer is the tax payer. But the corporates are required to meet the compliance cost. The standard VAT rate is 5% and applies to most goods and services, with some goods and services subject to a 0% rate or an exemption from VAT (subject to specific conditions being met). Businesses collect the tax (output tax) on behalf of Government and pay to Government after deducting the tax they pay (Input tax) on their purchases.

The 0% VAT rate applies to goods and services exported outside the VAT-implementing Gulf Cooperation Council (GCC) member states, international transportation, the supply of crude oil/natural gas, the first supply of residential real estate, and some specific areas, such as healthcare and education.

A VAT exemption applies to certain financial services, as well as to the subsequent supply of residential real estate after the initial period of three years after construction. Further, transactions in bare land and domestic passenger transport are also exempt from VAT.

Certain transactions in goods between companies established in UAE Designated (Free) Zones (DZs) may not be subject to VAT. The supply of services within DZs is, however, subject to VAT in accordance with the general application of the UAE VAT legislation.

For UAE resident businesses, the mandatory VAT registration threshold is 375,000 UAE, and the voluntary registration threshold is AED 187,500. No registration threshold applies to non-resident businesses making supplies to UAE on which no person is responsible for the liability to pay tax.

Businesses that do not comply with their VAT obligations can be subject to fines and penalties. There are both fixed and tax-geared penalties.

6.2 Customs duty

Generally, a customs duty of 5% is imposed on the cost, insurance, and freight (CIF) value of imports. Other rates may apply to certain goods, such as alcohol and tobacco, and certain exemptions and reliefs may also be available.

The UAE is part of the GCC Customs Union, which was established in 2003 to remove customs and trade barriers among the GCC member states. No customs duties are levied on trade between the GCC member states. Additionally, the UAE grants duty free imports to most national goods originating in member countries of the Greater Arab Free Trade Agreement, Singapore, and the European Free Trade Association countries (i.e. Norway, Switzerland, Iceland, and Liechtenstein).

While the UAE FTZs are areas within the territory of the UAE, these are, however, considered outside the scope of the customs territory. Therefore, goods imported into the UAE FTZs are not subject to customs duty. Customs duty is suspended until the goods are imported into the GCC local market.

6.3 Excise taxes

This is a form of indirect tax levied on goods which are typically harmful to human health or environment.

On 1 October 2017, the UAE introduced an excise tax on tobacco and tobacco products, carbonated drinks, and energy drinks.

On 1 December 2019, the UAE expanded the scope of excise tax to include sweetened drinks, electronic smoking devices and tools, as well as liquids used in electronic smoking devices and tools.

The applicable tax rates are as follows:

- 100% on tobacco and tobacco products, electronic smoking devices and tools, liquids used in electronic smoking devices and tools, and energy drinks.
- 50% on carbonated drinks and sweetened drinks.

Businesses are required to register for Excise tax. Returns and tax payment are required monthly. Businesses that do not comply with their Excise tax obligations can be subject to fines and penalties

6.4 Municipal or property tax

Most Emirates impose a municipality tax on properties, mostly by reference to the annual rental value. It is generally the tenants' obligation to pay the tax. In some cases, separate fees are payable by both tenants and property owners. For example, in the Emirate of Dubai, the municipality tax on property is currently imposed at 2.5% on annual rental value for commercial properties (paid by property owners) and 5% for residential properties (paid by tenants).

A registration fee may be levied on transfer of ownership of land or real property. For example, a land registration fee is levied in the Emirate of Dubai at a rate of 4% of the fair market value of the property (a cost generally shared between the buyer and seller), payable to the Dubai Land Department. In Dubai, the registration fee may also apply on the direct or indirect transfer of shares in an entity that owns real property.

These levies are imposed and administered differently by each Emirate.

6.5 Social Security Contribution

There is a social security regime in the UAE that applies to qualifying UAE and other GCC national employees only. Non-GCC nationals are not subject to social security in the UAE.

For UAE national employees, social security contributions are calculated at a rate of 17.5% of the employee's gross remuneration as stated in the local employment contract. Social security obligations also apply to employees of companies and branches registered in an FTZ. Out of the 17.5%, 5% is payable by the employee and the remaining 12.5% is payable by the employer. A higher rate of 20% is applied in the Emirate of Abu Dhabi (where the contribution of the employer is 15%). For other GCC nationals working in the UAE, employee social security contributions are determined in accordance with social security regulations of their home country.

The employer is responsible for withholding and remitting the employee social security contributions.

In the Dubai International Financial Centre (DIFC), the DIFC Employee Workplace Savings Scheme (DEWS) has been introduced, replacing the End of Service Gratuity Benefit (EOSG), with the aim of protecting long-term employee savings. The new scheme was rolled out on 1 February 2020, and employers now are required to make monthly contributions to DEWS or an alternative regulated Qualifying Scheme, as opposed to paying a lump sum 'gratuity payment' to an employee at the end of their employment. Employers are required to contribute monthly contributions of 5.83% or 8.33% of the employee's basic salary (the actual percentage is contingent upon the employee's length of service) in to the scheme.

There is an end of service benefits payable to employees at the time of termination from employment to be paid by the companies as per UAE labour law. The amount is calculated on the basis of 21 days' basic salary (for service up to 5 years) or 30 days' basic salary (for service exceeding 5 years).

6.6 Hotel tax and tourism levies

Most Emirates impose hotel levies, which apply on the value of hotel room rental, services and entertainment. These levies are imposed and administered differently by each Emirate.

A Tourism Dirham fee is levied in the Emirate of Dubai. This is a charge on hotel guests and tenants of hotel apartments ranging from AED 7 to AED 20 per room per night depending on the star classification of the hotel, for example a five-star hotel will levy a Tourism Dirham fee equal to AED 20 per room per night whereas a two-star hotel will levy a Tourism Dirham fee equal to AED 10 per room per night. In the Emirate of Abu Dhabi, hotels will levy a tourism fee equal to 6% of the hotel room rental and a destination fee of AED 15 per night.

In addition to the above tourism fees and destination fee, the Emirate of Dubai also requires hotels to levy a 7% municipality fee on each hotel sale. Likewise, in the Emirate of Abu Dhabi, hotels are required to levy a 4% municipality fee. A hotel sale is revenue generated by a hotel for services provided to their guests or visitors which includes rent for the hotel room, food, beverages and other services.

6.7 License fee

This is applicable to all companies, the fee charged by the municipality in each Emirate at the time of issuance or renewal of a trade license. It is calculated as 10% of the annual amount of the rent of offices and warehouses and 5% of the annual amount paid by a company to accommodate its employees.

6.8 Property tax

The case of residential property rental, some Emirates charge a municipality charge which varies according to the Emirates in which the property is situated. For the Emirate of Dubai, it is 5% on the annual rental

6.9 Transfer tax

A transfer charge is levied on direct transfer of real property. Tax rate varies according to the Emirates where the property is situated. For Dubai, it is 4% of the value of the property, borne equally by buyer and seller.

7. Accounting rules

Companies are required to comply with the Commercial Companies Law No. 2 of 2015 of UAE where it is required to follow IAS/IFRS standards. SMEs have the option to choose between IFRS for SMEs and full IFRS Standards. IFRS financial statements are required for all companies listed on the UAE stock exchanges and for Banks and Emirates Securities and Commodities Market Authority. Companies are also required to submit yearly audited financial report to Ministry of Finance (for trading companies) or to the Ministry of Industry (for Industrial Companies). This obligation serves for the renewal of license.

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