



UAE Corporate Tax FAQ

AURIFER

1. What is the main law covering Corporation tax in this jurisdiction?

Corporation tax is a form of direct tax levied on the profits of corporations and other businesses.

2. Which body or regulator is responsible for the levying and collection of Corporation Tax?

The Federal Tax Authority will be responsible for the administration, collection, and enforcement of corporation tax in the UAE.

3. Who is liable to pay corporation tax?

UAE corporation tax will apply to all UAE businesses and commercial activities alike, except for businesses engaged in the extraction of natural resources, which will remain subject to Emirate level corporation taxation. Individuals who have a license or permit, or are required to obtain one to conduct an economic activity, are also subject to corporation tax.

4. How does corporation tax liability work for the subsidiaries or branches of international companies based in this jurisdiction?

Subsidiaries or branches of foreign entities are generally considered taxpayers for corporation tax purposes and will therefore be subject to corporation tax, unless they can benefit from the free zone tax incentives or if other exemptions apply.

The tax treatment of income of UAE branches of foreign entities needs to be determined based on the tax laws applicable in the head office jurisdiction. To prevent double taxation, foreign branch profits are either exempt (exemption method) or foreign taxes paid on branch profits may be credited against the head office tax liability (credit method).

5. Are companies which are based or have branches in the freezones face the same corporation tax liabilities as other companies in this jurisdiction?

As the UAE intends to honour tax incentives provided in free zones, it is possible free zone entities will only be taxed on income from business conducted with the mainland UAE.

If free zone entities are only taxed on their income from mainland UAE, it is expected the UAE corporation tax law will only allow corporation tax deductions for expenses which were incurred in connection with this income. If this was the case, businesses should expect to apportion or allocate their expenses accordingly.

More details will be released in the law and regulations, but it is also possible free zone entities will be completely disqualified from applying the tax exemption, if they conduct business with the mainland UAE.

6. What is considered when deciding if a non-resident company has to pay corporation tax in this jurisdiction?

Foreign entities will only be subject to UAE corporation tax if they conduct a trade or business in the UAE in an ongoing or regular way. All activities undertaken by a legal entity will be considered business activities and will fall within the scope of UAE corporation tax. It is expected specific attention will be given to the licensing of entities.

The UAE will not impose corporation tax or withholding tax on foreign companies and individuals who invest in or make loans to UAE businesses, or who otherwise earn income which is not related to a trade or business conducted in the UAE in an ongoing or regular manner.

The UAE corporation tax regime will only tax foreign companies and individuals who have a 'permanent establishment' in the UAE. We would expect the UAE to design its domestic 'taxable presence' rules in line with international practice and the definition of 'permanent establishments' in the latest OECD Model Tax Convention.

7. What is the main rate of corporation tax? Do other rates or exemptions apply to particular types of company?

The corporation tax rates are:

- 0% for taxable income up to AED 375,000;
- 9% for taxable income above AED 375,000; and
- A different tax rate for large multinationals who meet specific criteria set with reference to 'Pillar Two' of the OECD Base Erosion and Profit Shifting project. Pillar Two prescribes a 15% minimum effective tax rate per jurisdiction.

These rates correlate with the free zone tax exemptions. For example, the top up tax payable under Pillar Two, will apply regardless of the application of a Free Zone tax exemption.

8. How does the basic calculation for Corporation tax work?

If a business has earned taxable income of AED 400,000 in a given financial year, the corporation tax liability will be calculated as follows:

- Taxable income of AED 0 – AED 375,000 at 0% = AED 0
- Portion of taxable income exceeding AED 375,000 (i.e. AED 400,000 – AED 375,000 = AED 25,000) at 9% = AED 2,250

The UAE corporation tax liability for the year will be AED 0 + AED 2,250 = AED 2,250.

The final amount of UAE corporation tax payable will be reduced by any foreign taxes incurred on the relevant income. This could be for example, within certain limitations, foreign withholding taxes created.

9. Is revenue generated by a company treated differently depending on how it is created? If so what are the main differences and what impact can they have on liabilities?

Businesses engaged in the extraction of natural resources remain outside the scope of UAE corporation tax. Banking businesses subject to the Emirate banking decrees may be subject to corporation tax and the Emirate based banking decree.

Further details on this will be published by the UAE MoF and FTA.

A different tax rate for large multinationals who meet specific criteria set with reference to 'Pillar Two' of the OECD Base Erosion and Profit Shifting project.

10. Since when has corporation tax been in operation in this jurisdiction? If it is a recent development when was corporation tax first assessed and when was it first payable?

The UAE corporation tax regime will become effective for financial years starting on or after 1 June 2023. Examples:

- A business which has a financial year starting on 1 July 2023 and ending on 30 June 2024 will become subject to UAE corporation tax from 1 July 2023 (which is the beginning of the first financial year which starts on or after 1 June 2023).
- A business which has a (calendar year) financial year starting on 1 January 2023 and ending on 31 December 2023 will become subject to UAE corporation tax from 1 January 2024 (which is the beginning of the first financial year which starts on or after 1 June 2023).

11. Over what period is corporation tax assessed, when do any returns need to be made and when are resulting payments due?

Corporation tax will apply to financial years starting on or after 1 June 2023. The UAE corporation tax period for an entity is determined based on its financial year-end. Entities with a:

- 31 May financial year-end should file their first UAE corporation tax return for the financial year-ending 31 May 2024.
- 30 September financial year-end should file their first UAE corporation tax return for the financial year-ending 30 September 2024.
- 31 December financial year-end should file their first UAE corporation tax return for the financial year-ending 31 December 2024.

Only one corporation tax return will need to be filed per financial period. No provisional or advance corporation tax filings will be required. The due date for filing corporation tax returns has not been specified yet. We expect it to be between four and six months after the financial period.

12. What form do any corporation tax returns take, including what forms (if any must be submitted) or what apps or websites must be used?

The corporation tax return will need to be filed electronically. The format of the return has not been published yet. Further guidance will be issued in this regard in due course. We do not expect separate reporting per Emirate.

We expect businesses will also need to keep or file a master file and local file, as well as a country-by-country report (if applicable).

13. If a company is in its first year of business, is there a difference in the length of the first assessment period and when corporation tax payments are first due?

This situation will need to be analysed based on the publication of the provisions of the law.

14. When a new company is established or first operates in the jurisdiction do they need to register with the body or regulator responsible for the levying and collection of Corporation Tax?

Yes. Businesses will need to register with the FTA. More information on the registration process and ongoing compliance obligations for businesses will be provided in due course.

15. Once a company becomes liable for corporation tax could this have an impact on any other current disclosure requirements they may have?

There are many disclosures which will be impacted in other jurisdictions because the UAE would no longer be a tax haven. It impacts CFC rules, deductibility of expenses abroad charged from the UAE, potential branch exemptions, dividend exemptions not granted for dividends distributed from the UAE, etc.

It remains to be seen as well whether businesses in scope of the in 2019 introduced Economic Substance Regulations will continue to need to file a notification, and possible report, or whether the scope of this regime will be scaled down, e.g. to only free zone companies who do not pay corporate income tax.

16. What are the penalties for late or non-payment of corporation tax, or for late provision of annual return information?

Similar to other taxes in the UAE (e.g., VAT), businesses will be subject to penalties for non-compliance with the corporation tax regime. Further information on the UAE corporation tax compliance obligations and applicable penalties will be released in due course.

17. If a company fails to pay corporation tax due, are there any other individuals who can be liable to pay it?

Similar to other taxes in the UAE (e.g., VAT), businesses will be subject to penalties for non-compliance with the corporation tax regime. Further information on the UAE corporation tax compliance obligations and applicable penalties will be released in due course.

The UAE has not introduced joint liability for company directors for other taxes, but may consider doing so now.

18. How can intangible fixed assets impact the calculation of corporation tax?

In the same way as for tangible fixed assets, these may be depreciated over time. This creates a timing difference between the moment where these assets are bought or created, and when they are deducted for tax purposes.

It is expected the law will determine the depreciation rates.

19. What happens if a company does not current prepare financial statements but is liable for corporation tax?

The UAE Commercial Companies Law (Federal Decree-Law No. 32/2021) requires all LLCs, private joint stock entities, private joint stock companies and foreign branches to issue audited financial statements. In addition to this, free zones like DMCC and JAFZA, require audited financial statements to be submitted to the free zone authority within a stipulated time after the year-end.

There is no requirement under the announced corporation tax regime for businesses to have audited FS. We presume in that case, corporation tax will be calculated on the basis of management accounts.

20. What are the main principles that cover how corporation tax operates where there is a group?

UAE group companies can form a tax group (fiscal unity) and file a single consolidated tax return for the entire group.

Generally, the ability to form a tax group (fiscal unity) for corporation tax purposes is subject to minimum or common ownership requirements which range between 95% and 100%. We expect the UAE corporation tax regime to impose similar common ownership requirements.

21. Are there rules governing capital allowances which can impact corporation tax is levied? If so what are the main principles?

We expect there to be depreciation and amortisation rules impacting the deductibility from a corporation tax point of view.

22. Is there a capital gains tax in place in this jurisdiction – and if so how does it basically operate? If not can capital gains have an impact on corporation tax?

Certain income streams of holding companies may be exempt. Dividends and capital gains derived from certain qualifying shareholdings are expected to be exempt from corporation tax.

We expect conditions to satisfy a qualifying shareholding to include a minimum level of shareholding (potentially at least 10% in line with Pillar Two) and a minimum holding period (e.g., one year).

23. Can payment of dividends impact corporation tax? If so how?

Certain income streams of holding companies may be exempt. Dividends and capital gains derived from certain qualifying shareholdings are expected to be exempt from corporation tax.

We expect conditions to satisfy a qualifying shareholding will include a minimum level of shareholding (potentially at least 10% in line with Pillar Two) and a minimum holding period.

24. What are the main types of loss reliefs (if any which can be used to impact) corporation tax due?

The UAE corporation tax regime will allow a business to use losses incurred (as from the UAE corporation tax effective date) to offset taxable income in subsequent financial periods.

A loss for corporation tax purposes (tax loss) would arise when the total deductions the businesses can claim are greater than the total income for the relevant financial period.

Excess tax losses may be carried forward and used against taxable income in future years, provide certain conditions are met.

Tax losses from one group company may be used to offset taxable income of another group company, provided certain conditions are met.

25. Does corporation tax operate differently for small companies? If so who is classed as a small company and what are the main differences?

The corporation tax rates are:

- 0% for taxable income up to AED 375,000;
- 9% for taxable income above AED 375,000; and
- A different tax rate for large multinationals which meet specific criteria set with reference to 'Pillar Two' of the OECD Base Erosion and Profit Shifting project.

These rates apply in conjunction with the free zone tax exemption for businesses complying with regulatory requirements and not conducting business in the mainland.

26. Is there a procedure for obtaining guidance from the regulator if a company is unsure of a particular corporation tax treatment?

The Federal Tax Authority will be responsible for the administration, collection, and enforcement of UAE corporation tax. In the same way as VAT and Excise Tax, we expect there will be a ruling mechanism available, which is referred to as a "clarification request".

27. How does corporation tax work if a company is dormant?

The corporation tax rate for a company with income up to AED 375,000 is 0%. A dormant company or a company with no income will therefore not be subject to corporation tax. It will nonetheless still need to file a tax return.

28. How does corporation tax operate when a company ceases to trade or becomes insolvent?

Although this point is not clear yet, we would expect a business to file a last corporate income tax return shortly after liquidation. In regard to insolvent businesses, insofar as they are not liquidated, they generally need to continue filing corporation tax returns.

29. Is there an appeal process if a company disputes corporation tax declared due or corporation tax fines/penalties levied against them? If so how are appeals lodged and how does the appeal process basically work?

Further information on the UAE corporation tax compliance obligations and applicable penalties will be released in due course. We expect corporation tax to be subject to the same dispute procedures, as VAT and Excise Tax.