

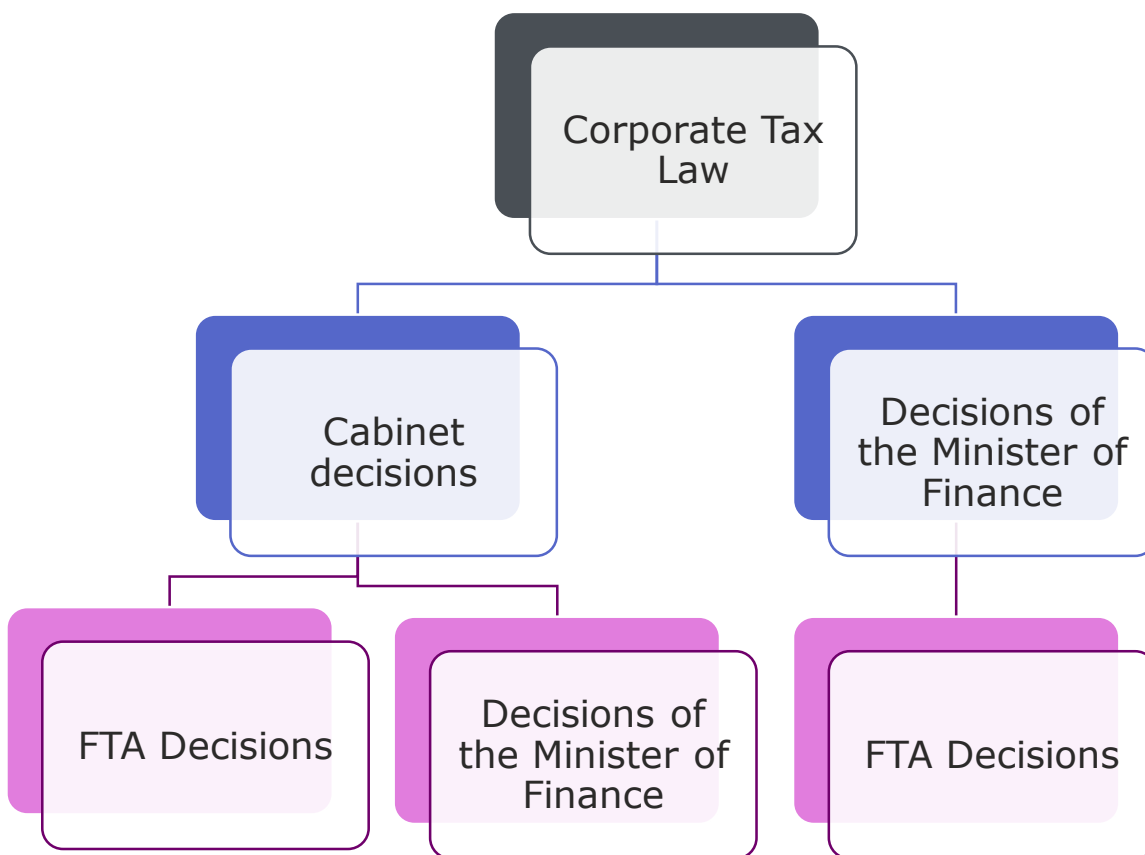
Overview of the recent updates on Corporate Tax and Tax Procedures

2024

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The Corporate Tax Legislation system



Not regulatory acts



01

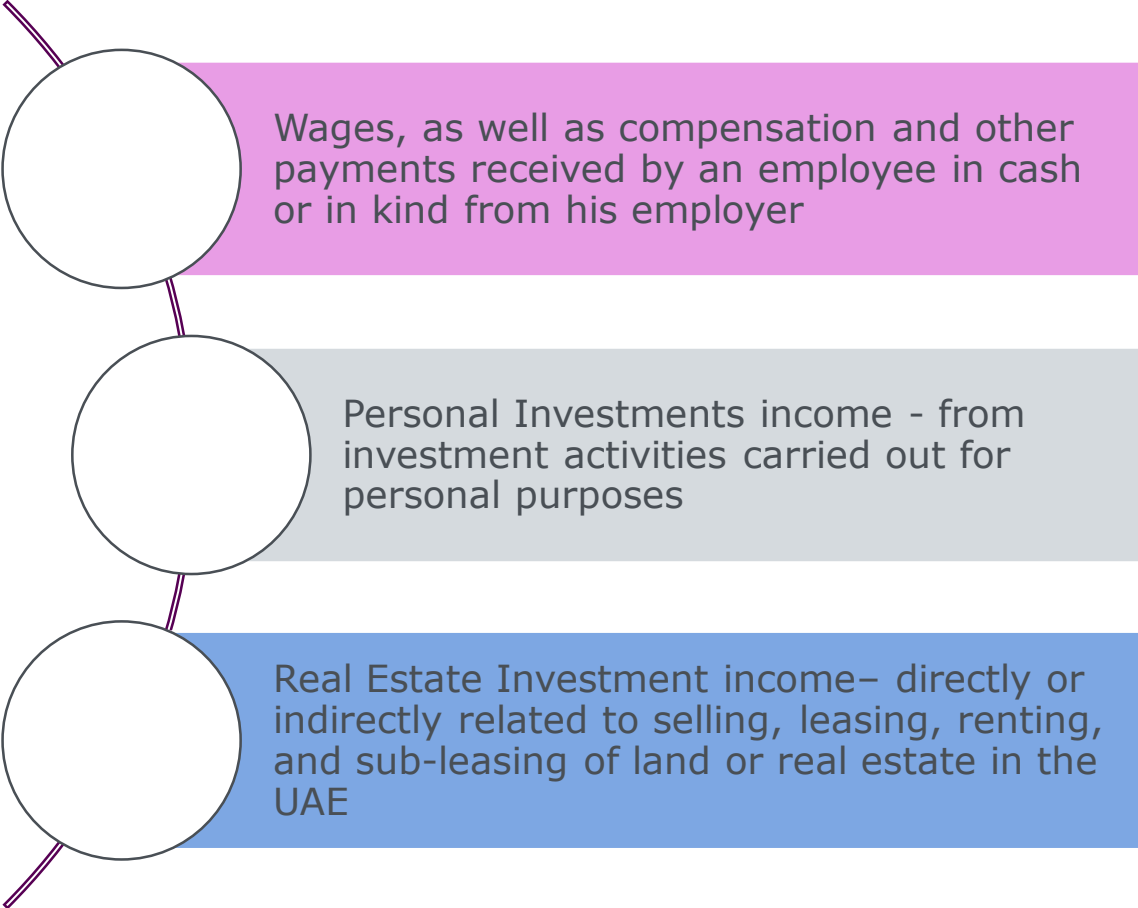
Guide on Real Estate Investment for Natural Persons

*Real Estate Investment for Natural Persons Corporate
Tax Guide | CTGREI1*



What issues does the Guide cover?

as a general rule, income from the following categories is not considered as arising from a Business or Business Activity:



Wages, as well as compensation and other payments received by an employee in cash or in kind from his employer

Personal Investments income - from investment activities carried out for personal purposes

Real Estate Investment income— directly or indirectly related to selling, leasing, renting, and sub-leasing of land or real estate in the UAE

however...



if the investment activity is conducted (or is required to be conducted) through a License it will not be considered as an investment and so would be within the scope of Corporate Tax



the guide addresses the tax implications for natural persons under Article 2(2)(c) of Cabinet Decision No. 49 of 2023 in relation to Real Estate Investment and the income derived from it.



Investment activities include:

- selling,
- leasing/renting, or
- sub-leasing.

The list of activities stated above is exhaustive. An investment activity will involve earning income from utilising the land or real estate property itself, rather than from services rendered in relation to the land or real estate property



Example:

house flipping
- income, including from works and services



Real estate means any of the following:

- any area of land over which rights or interests or services can be created.
- any building, structure or engineering work attached to the land permanently or attached to the seabed.
- 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.



Not important:

- purpose and use of the object - for commercial / non-commercial purposes
- size, cost of the object, income amount



In the UAE and/or outside the UAE:

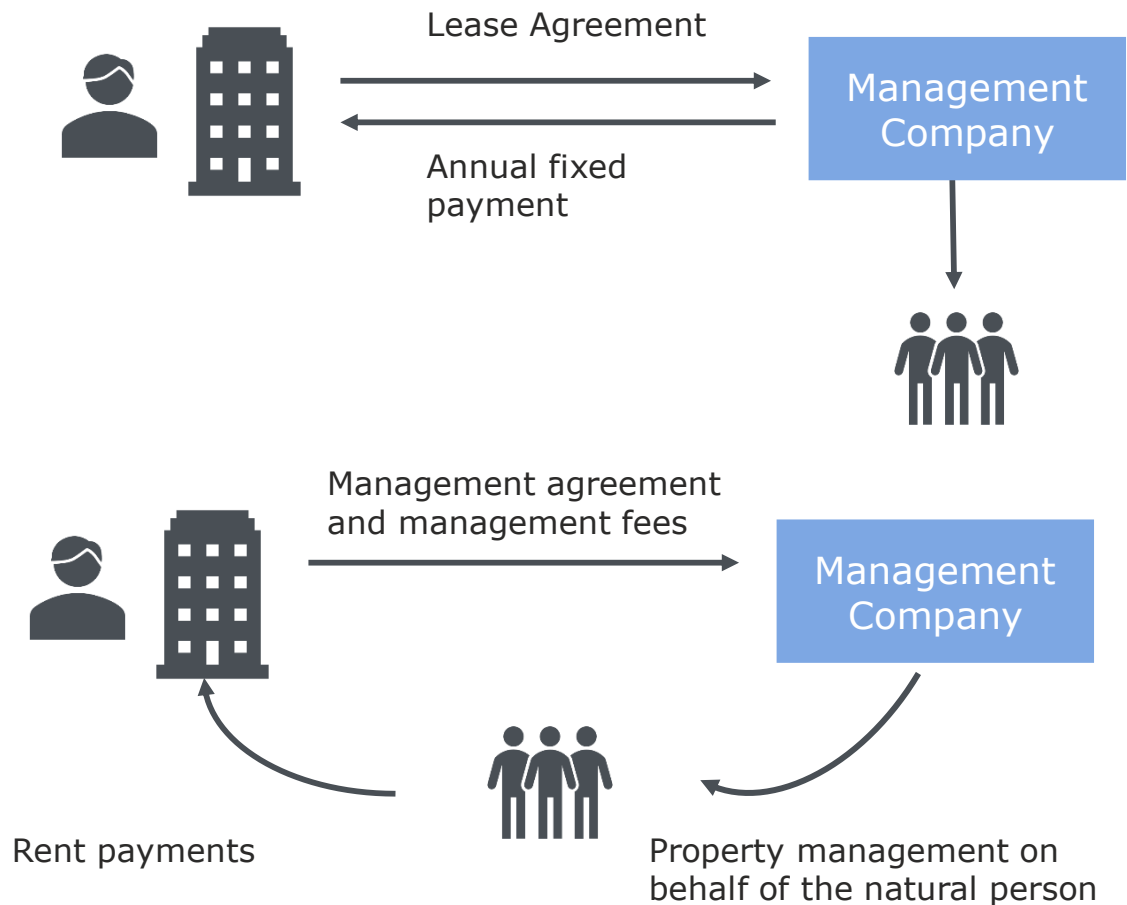
the exclusion from Corporate Tax applies to investment activities conducted in the UAE, which is in relation to land or real estate property located in the UAE and/or outside of the UAE.



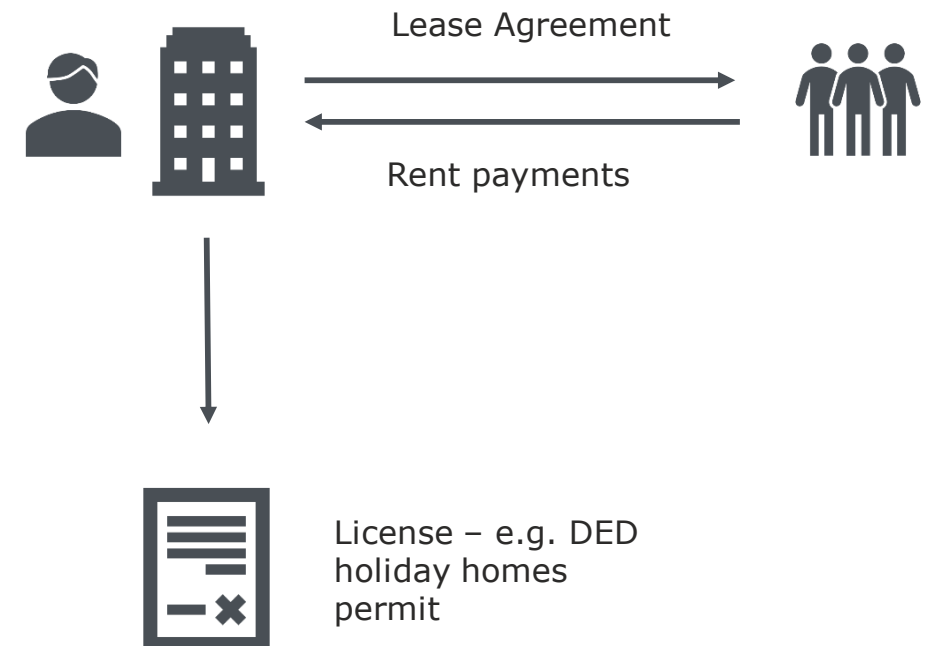
Important:

in case of business - do we count income from all over the world?

Investment activities are not subject to corporate tax



Business activity are subject to corporate tax



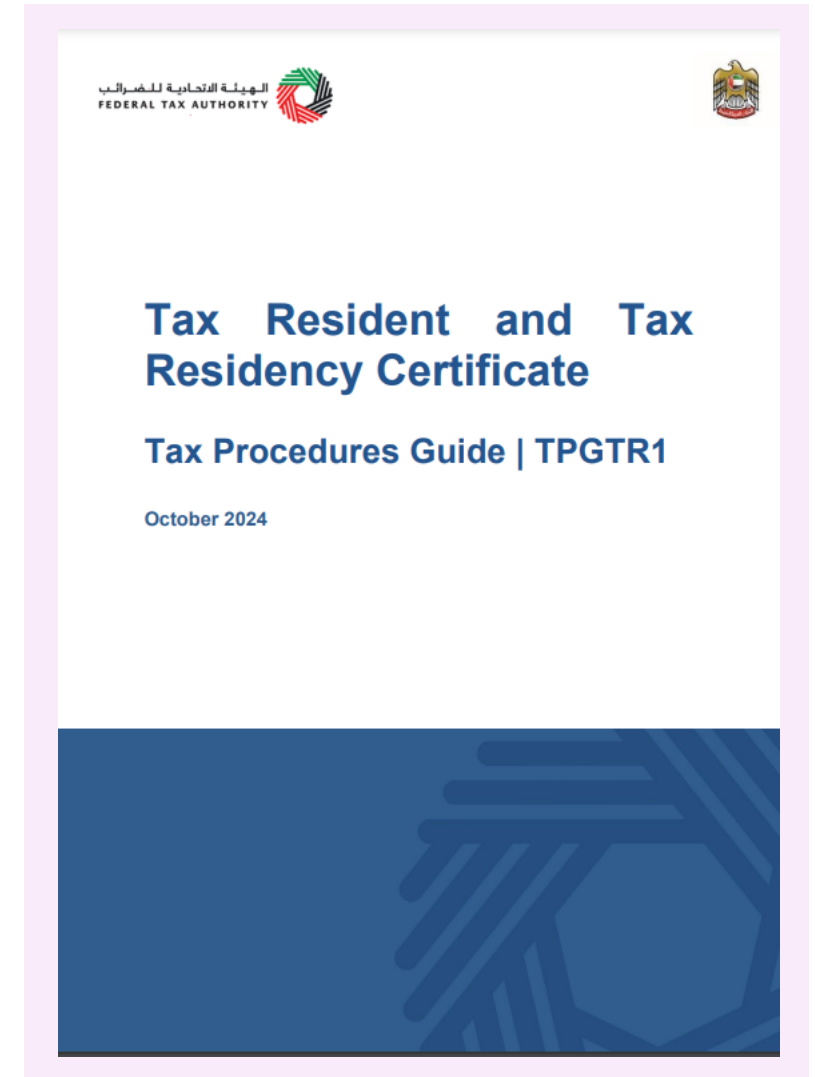
02

Guide on Tax Resident and Tax Residency Certificate

*Tax Resident and Tax Residency Certificate Tax
Procedures Guide | TPGTR1*

The Tax Resident and Tax Residency Certificates Guide explains in detail (with examples):

- who is a UAE Tax Resident for Corporate Tax purposes;
- the concept of “Effective Management and Control” for legal entities;
- how a Person can determine whether they are a UAE Tax Resident under domestic law;
- interaction of UAE rules with the provisions of the DTA;
- the procedure for obtaining a Tax Residency Certificate for natural persons and legal entities.





The place of effective management and control is understood as the place where “key management and commercial decisions” that are necessary for the conduct of the juridical person’s Business as a whole are, in substance, made.



- setting the general policies, for example, investment policies and operational policies,
- determining the strategic direction of the company’s operations,
- deciding the type of transactions that the company can enter into, for example, mergers, acquisitions and purchase or sale of significant assets,
- appointing c-suite and other senior executives and granting them authority to manage or carry out the day-to-day operations of the company,
- directly or indirectly overseeing the persons appointed to manage or carry out the day-to-day business of the company, or
- handling key finance matters such as the determination of how profits are used and declaration of dividends.



- formal finalization or approval of decisions made by others,
- mere implementation of decisions made by others,
- day-to-day conduct and management of a company’s activities and operations, or
- legal and administration matters such as keeping a share register or undertaking minimum acts necessary to maintain a company's registration.

Algorithm for determination POEM

Step 1.

WHO makes key management and commercial decisions



Step 2.

WHERE key management and commercial decisions are made



Questions:

- Who has the legal power or authority to make key management and commercial decisions?
- Do the persons exercise in fact these powers?
- If not, who does it?



Test 1. **The board of directors' test** - whether the board is able to come to a different conclusion to that reached by another person or whether the board merely "rubber stamps" the decisions made by another person?

Test 2. **The delegation of authority Test** – whether the Board of Directors appointed other persons to conduct business and make key decisions, and is the Board of Directors' role limited to simply approving or implementing these decisions?

Test 3. **The shareholders activity test** - whether the board of directors independently makes its own decisions or merely implements the decisions or recommendations given by the shareholder without giving them any independent consideration?



Important:

- Board meeting place: where key decisions are made.
- Virtual meetings: the location where directors with decisive powers join from.
- Written decisions: the location of the persons making the decisions.
- Delegation: the location where those with delegated authority make the key management and commercial decisions.

Doesn't matter:

- the place of incorporation, the location of the registered office, the location where the shareholder register is kept, the place where accounting records are kept and the place where the day-to-day operations of the Business are carried out.
- place of key decision-making (UAE), if such decisions are made on occasional or one-off basis, or are the result of the temporary and exceptional circumstance.

Company is likely to be effectively managed and controlled in the UAE, as the board in Country D appears to be merely “rubber stamping” decisions made in the UAE by the owner

The key management and commercial decisions of Company are made at the board meetings that are held in Dubai, Company is effectively managed and controlled in the UAE.

Owner is physically based in the UAE



The Board of Directors meets annually in Country D to make decisions



The founder gives instructions to the board of directors, who merely follow the directions of the owner without question.

Company is located in Country F

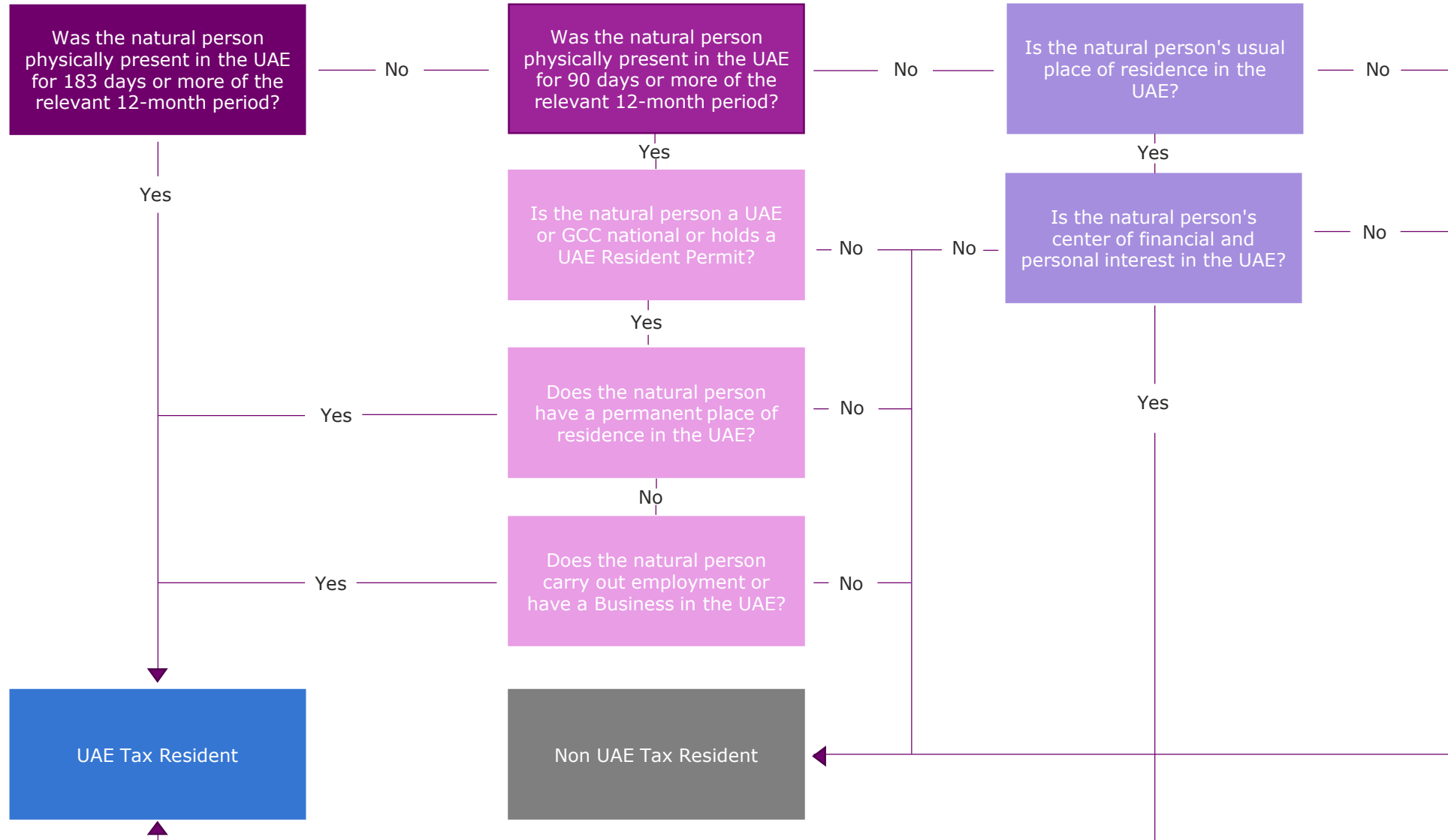


The board of directors meets in Dubai to make decisions



Management and commercial decisions are made at the meetings, and most directors come and are physically present.

Tax Residency of the Natural Person



New rules for obtaining TRC

Requirement	Previously (*) and (**) and (***)	Now (****)
How much time must pass from the date of incorporation of the company?	"at least one year" (*)	Newly incorporated companies <i>who have yet to file a Corporate Tax Return</i> must be established for 12 months before being eligible to apply for a Tax Residency Certificate.
Audit	"Financial accounts must be audited or prepared by an accredited audit firm and attached with other required documents to the application. The report must be certified and stamped by the audit firm."	There is no such requirement
Bank statement from UAE bank	A bank statement issued by a local bank covering 6 months within the financial year related to the request (**)	There is no such requirement

* The FTA's TRC User Guide Registration and Certificates Request (June 2022)

** The FTA's TRC Taxpayer User Manual (May 2024 Version 1.0.0.5)

*** Current requirement in Emaratax (***)

**** Tax Procedures Tax Resident and Tax Residency Certificate Guide TPGTR1 (18 October 2024)

What are the required documents at the moment?



2. Applicant is a legal person:

- Trade License
- Memorandum of Association.
- Proof of Authorization (from Memorandum of Association or Power of Attorney)

• Copy of the audited financial report certified by an independent auditor, stamped and signed by the auditing company (The financial audit report must cover the same requested start date of the financial year in the application or the year before).

- Certified Lease agreement / tenancy contract for the office.

- A bank statement issued by a local bank covering 6 months within the financial year related to the request

3. Applicant is a legal person – Government entity:

- A copy of the Decree or Government Decision or Trade license.
- Request letter issued by the person (the Government entity)

Applicant is a Legal person / or Government entity applying for Commercial activity certificate:

- Trade license
- Requesting letter issued by the applicant for Commercial Activities Certificates

Previously	Now (***)
TRC could only be obtained for the current financial period on the previous day	TRC cannot be obtained for a future period (which has not yet begun). Will the practice change?
... the Start Date of Required Financial Year can't be a future date and user will not be able to choose it from the date picker. (*)	A Tax Residency Certificate cannot be obtained for a future period (i. e. for a Tax Period or a 12-month period that has not commenced) , as <u>the FTA cannot certify that a Person will continue to be UAE Tax Resident for a future period.</u>
The TRC certificate does not cover a future period from the selected start date of the financial year. This applies to both treaty purposes and domestic purposes. <ul style="list-style-type: none">• Only government entities are entitled to do so. (**)	

* The FTA's TRC Taxpayer User Manual (May 2024 Version 1.0.0.5)

** Current requirement in Emaratax (***)

**** Tax Procedures Tax Resident and Tax Residency Certificate Guide TPGTR1 (18 October 2024)

03

Updated Guide on Private Clarifications and Clarification on the Grace period to update information

Private Clarifications Tax Procedures Guide | TPGPC1

*Tax Procedures Clarification Public, Grace period to
update information in tax records | TAXP007*



Obtaining a private interpretation is a useful tool to assist taxpayers. The FTA is required to follow the position set forth in the private interpretation.

The FTA may withdraw a Clarification. In such instance, the Applicant may rely on the issued Clarification until the effective date of the withdrawal.

What to look for?

Request eligibility criteria :

An Applicant will be refused if he/she requests an related to corporation tax but is not registered for corporation tax. The exception is if the request concerns registration.

The FTA may refuse to issue an clarification if (for ex.):

- sufficient tax technical analysis is not provided, including tax advice obtained from tax agents/advisors/consultants.
- an alternative tax technical analysis is not provided – may indicate that there is no genuine point of uncertainty
- an FTA guide or public clarification already addresses the specific tax matter the Applicant is requesting a Clarification on
- the Clarification request is based on a hypothetical scenario
- the Clarification request addresses issues that the FTA suspects may constitute tax planning, tax avoidance or tax evasion

What else to look for in the Guide?

Clarification request fee:

The fee for applying for a Clarification in respect of a single tax is AED 1,500 per application, if more than one tax, the fee is AED 2,250 per application.

Review periods:

- within **50 business days** for issues related to Indirect Taxes (i. e. VAT and Excise Tax);
- within **60 business days** for Corporate Tax requests;

the FTA may request an extension for issuing the relevant clarification.

Payment is refunded in the following cases :

- The Applicant withdraws the Clarification request within two business days from the date the request was submitted.
- The Applicant is not registered for Corporate Tax.
- The Applicant is subject to a tax audit at the time of submitting the request.
- The Clarification request is a duplicate of another request submitted by the same Applicant on the same subject.
- The Clarification request is related to a matter the FTA is coordinating with the Ministry of Finance on to amend tax legislation regulating it.



Private Clarifications

Tax Procedures | TPGPC1

November 2024



Decision on the grace period for notification of data changes



The registrant is required to inform the FTA of any change in information within 20 business days

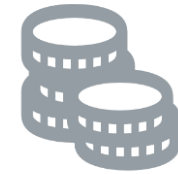
Name, address, email address

Trade licence activities

Legal entity type, partnership agreement for unincorporated partnerships and articles of association or its equivalent

Nature of the business of the registrant

The address from which any business is conducted by the registrant



Penalty for failure to file a notification:
AED 1,000 per violation
AED 5,000 for repeat violation within 24 months

What does the grace period of notice mean?



TAXP007



Tax Procedures Public Clarification

Grace period to update information in tax records

توضيح عام بشأن الإجراءات الضريبية

فترة سماح لتحديث المعلومات الخاصة بالسجلات الضريبية

Issue

Registrants are required to inform the FTA within 20 business days of the occurrence of any event that might require the amendment of information related to their tax records kept by the FTA.

Failing to inform the FTA within the prescribed period of such changes constitutes a tax violation and results in the imposition of administrative penalties.

To encourage registrants to update their records with the FTA, a Cabinet Decision was issued to implement a grace period in which registrants may rectify their tax records without incurring administrative penalties.

This Public Clarification provides more information regarding the special dispensation for updating records with the FTA.

الموضوع

يتعين على المسجلين إخطار الهيئة الاتحادية للضرائب ("الهيئة") بوقوع أي حالة قد تتطلب تعديل المعلومات الخاصة بسجلاتهم الضريبية المحفوظة لدى الهيئة خلال (20) عشرين يوم عمل.

ويشكل عدم القيام بإخطار الهيئة بهذه التغييرات خلال المدة المحددة مخالفة ضريبية، وينتج عنها فرض غرامات إدارية.

لتشجيع المسجلين على تحديث سجلاتهم لدى الهيئة، فقد صدر قرار من مجلس الوزراء بتطبيق فترة سماح يجوز للمسجلين خلالها تصحيح معلومات سجلاتهم الضريبية دون تكبد غرامات إدارية.

يوفر هذا التوضيح العام مزيداً من المعلومات بشأن الاستثناء الخاص المُقدم لتحديث السجلات لدى الهيئة.

The clarification provides for a grace period (without imposing fines): from January 1, 2024 to March 31, 2025.

If penalty was imposed during the period from January 1, 2024 until the implementation date of the grace period, such penalty will be reversed.

Recommendation: Taxpayers are advised to take advantage of the provided period to update their data and avoid possible penalties in the future.

04

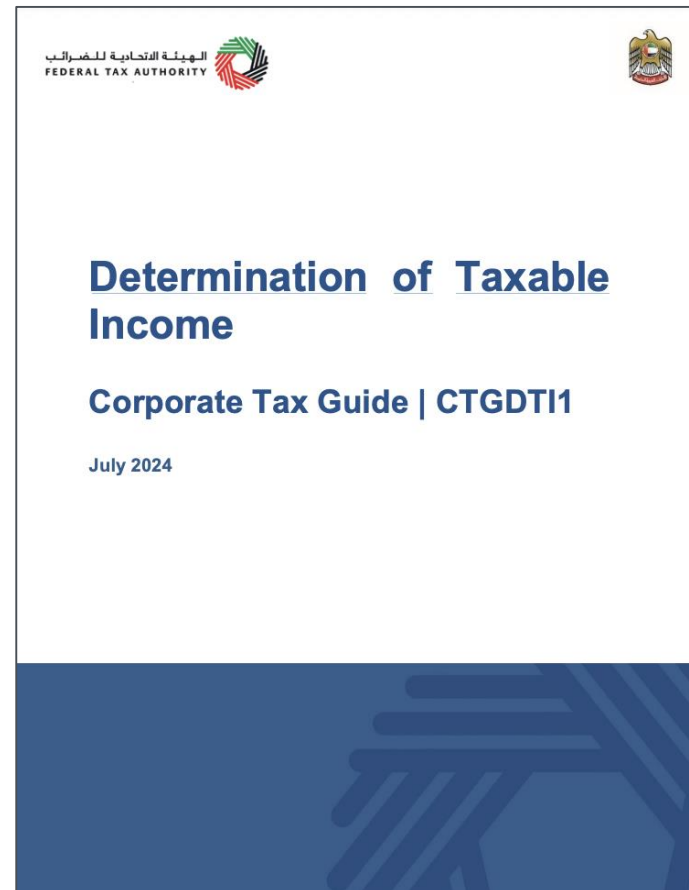
FTA Guide on Determination of Taxable Income

Determination of Taxable Income Corporate Tax Guide
| CTGDTI1

On 31 July 2024, the FTA issued a ***Determination of Taxable Income Corporate Tax Guide***. In addition to the main part, the Guidance provides 9 different ***case studies*** with examples of calculating the taxable base, concerning:



1. Deductible and non-deductible expense
2. Interest expenditure
3. Tax Loss relief
4. Interest expenditure and Tax Loss relief
5. Transfer of Tax Loss and limitation on Tax Loss carried forward
6. Cash Basis of Accounting
7. Unrealised gains and losses, Exempt Income
8. Foreign Permanent Establishment
9. Non-Resident Person conducting Business in the UAE through a Permanent Establishment





- For expenses to be deductible, they must:
- be incurred “wholly and exclusively” for Business purposes.
 - not be of a capital in nature



The following are not deductible:

- expenses/losses not related to the Taxable Person’s Business
- expenses incurred in deriving Exempt Income from taxation

If expenditure is incurred for more than one purpose, the proportion of the expenditure that is incurred for non-Business purposes is not deductible for Corporate Tax purposes and must be added back when determining Taxable Income

Other allocation methods:



In many cases, an allocation that prorates expenses based on Revenue will be considered as a reasonable allocation

Number of employees



Time spent



Area of the premises



Resource Usage



Other



If the expenditure incurred for more than one purpose cannot be apportioned on a fair and reasonable basis, it will not be allowed as a deduction for Corporate Tax purposes.

The Guide explains the accounting procedures for various expenses for income tax purposes

Capital expenditures

Non-deductible expenditure. But shall be deductible in the calculation of gains or losses upon the realisation of the asset or liability

paragraph 4.5.6 of the Guide, Case Study 1, 6, 7a

Pre-incorporation or pre-trade expenses (before registration or commencement of business)

are deductible to the extent to which they are recorded in the income statement once the company is incorporated

paragraph 4.5. 7 of the Guide



Employment related expenditure

Employees' payments in full cash and other benefits such as a car for personal use, insurance for the whole family, entertainment of employees, team building

paragraph 4.5.2 of the Guide

Entertainment expenditures

50% of the actual amount incurred. Exceptions include incidental expenses, commercial hospitality, marketing or advertising expenditures.

paragraph 4.5. 10 of the Guide

Employment related expenditure

... it is not relevant whether an employee is paid wholly in cash or also receives other benefits, such as a car for personal use. The same applies to other benefits, such as medical insurance or a flight allowance (for spouse and children). In other words, the cost is wholly and exclusively for Business purposes as rewarding employees is wholly a Business purpose.



Personal Car



Flight allowance



Entertainment of employees



Insurance



Other

In this situation, "the personal use should be viewed in the same way as the employee spending their cash salary on items for their personal benefit."



Arm Length

Example FTA: *"the salary or bonus paid to directors or officers of a company or an owner of the Taxable Person would be deductible when determining Taxable Income, but only insofar as this salary corresponds with the Market Value rates for such services rendered."*

- ✓ The costs incurred for employees' home working are deductible expenditures



Case Study 1

Home office set up expenditures and part of the utility bills are deductible, if they are incurred wholly and exclusively for the employer's business.



Any clarification on what goes into setting up a home office?

- New or previously incurred internet expenses
- Using the phone
- Online subscriptions (Zoom, Microsoft Office etc.)
- Printer and consumables
- Stationery
- Repair and maintenance
- Furniture (may be subject to depreciation?)

05

FTA Public Clarification on First Tax Period

*Corporate Tax Public Clarification First Tax Period of a
juridical person | CTP003*

Определение первого налогового периода

В разъяснении разбираются вопросы и приводятся примеры определения первого налогового периода **для:**

Налогоплательщиков-юридических лиц

Если фин. год начался до 01.06.2023 ➡ следующий 12-мес. период после его окончания

Если фин. год начался 01.06.2023 или после ➡ налоговый период (от 6 до 18 мес.) совпадает (без заявлений в FTA)

Юридических лиц-нерезидентов с ПП в ОАЭ

Образовано до 01.06.2023 ➡ налоговый период равен первому 12-мес фин. году после 01.06.2023

Образовано 01.06.2023 или после ➡ период (от 6 до 18 мес.) с момента начала деятельности до окончания первого года в соответствии с фин. отчетностью

Резидентов с эффективным управлением и контролем в ОАЭ

Налоговый период **равен** финансовому году или его части после 1.06.2023

А также **вопросы снятия с налогового учета** в случае прекращения деятельности в течение первого налогового периода по корпоративному налогу

Determination of the First Tax Period

The Clarification addresses the issues and provides examples of determining the first tax period **for:**

a juridical person that is a
Taxable Person

If the financial year began
before 01.06.2023 → the next
12-month period after its end

If the financial year started on
01.06.2023 or after → the tax
period (from 6 to 18 months)
coincides (without applications
to FTA)

a Non-Resident Person with
a PE in the UAE

before 01.06.2023 → the tax
period equals the first 12-month
financial year after 01.06.2023

on 01.06.2023 or after →
the tax period (from 6 to 18
months) from the start of
operations until the end of the
first year in accordance with
financial statements

a Resident Person with place
of effective management
and control in the UAE

the first Tax Period will be the
Financial Year or part thereof
commencing on or after 1 June
2023.

As well as **timeline for Tax Deregistration** in case of the cessation of Business or
Business Activities before or during the first Tax Period

Первый налоговый период от 6 до 18 месяцев

Timeline для бизнеса, зарегистрированного 16 августа 2023 г.

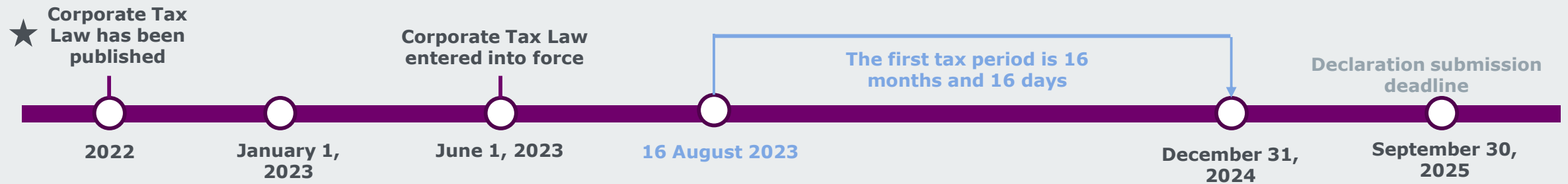


Timeline для бизнеса, зарегистрированного 5 июня 2023 г.

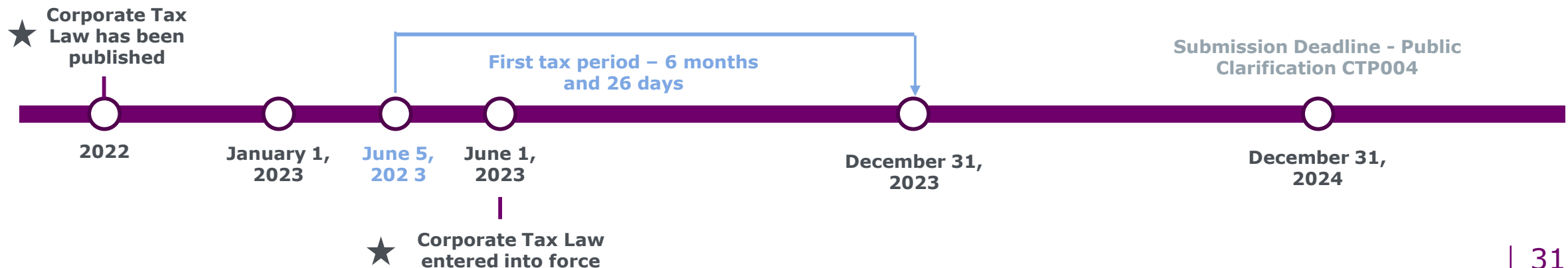


First tax period from 6 to 18 months

Timeline for business registered on August 16, 2023



Timeline for business registered on June 5, 2023.



Прекращение деятельности до окончания налогового периода

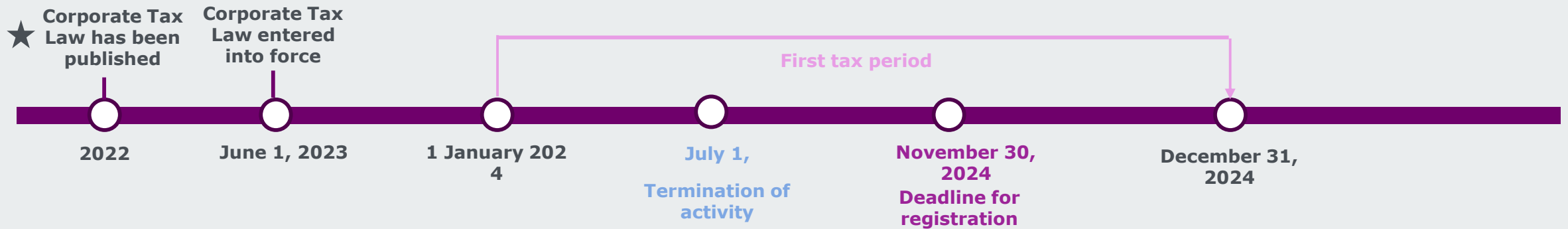
Timeline для бизнеса, прекращающего деятельность 2 июля 2024 г.



- Компания должна подать заявление на снятие с налогового учета до 2 октября 2024 года, то есть в течение 3 месяцев с даты прекращения деятельности.
- Несмотря на то, что срок для подачи заявления на регистрацию – 30 ноября 2024 г., поскольку крайний срок для снятия с учета — **2 октября 2024 года**, компании необходимо подать заявление на налоговую регистрацию заблаговременно, чтобы успеть подать заявление на снятие с учета до указанной даты.

Termination of activity before the end of the tax period

Timeline for Businesses Closing on July 2, 2024



- The company must submit an application for Tax Deregistration before October 2, 2024, i.e. within 3 months from the cessation date.
- The deadline for the company to register would be 30 November 2024. However, as the deadline for deregistration is 2 October 2024, the company must apply for Tax Registration in sufficient time, so that it is able to submit an application for Tax Deregistration by 2 October 2024.

04

Решение Минфина об особенностях налогообложения неинкорпорированных партнерств и семейных фондов

*Ministerial Decision No. (261) of 2024 on
Unincorporated Partnership, Foreign Partnership and
Family Foundation for the Purposes of Federal Decree-
Law No. 47 of 2022 on the Taxation of Corporations
and Businesses*

04

Ministerial Decision on Unincorporated Partnership, Foreign Partnership and Family Foundation

Ministerial Decision No. (261) of 2024 on Unincorporated Partnership, Foreign Partnership and Family Foundation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Минфин ОАЭ выпустил Решение об особенностях налогообложения неинкорпорированных партнерств

Решение № 261 от 2024 действует ретроспективно с 1 июня 2023 года и отменяет предыдущее решение Минфина (№ 127 от 2023 года).

Иностранные партнерства

Признаются неинкорпорированными партнерствами, если:

- в стране их регистрации для них **не существует эквивалента корпоративного налога**
- партнеры облагаются налогом индивидуально на свою долю дохода

Годовые декларации обязательны для подтверждения соответствия этим условиям

Семейные фонды (Family Foundations)

Могут быть признаны неинкорпорированными партнерствами, если:

- бенефициары, являющиеся общественно полезными организациями, **и не получают доход, который был бы налогооблагаемым при получении напрямую**
- налогооблагаемый доход распределяется в течение шести месяцев после окончания налогового периода



Юридические лица, полностью принадлежащие и контролируемые семейными фондами, могут претендовать на статус неинкорпорированного партнерства при выполнении определенных условий.

- Неинкорпорированные партнерства **не являются** налогооблагаемыми лицами
- Партнерство может сделать безотзывное заявление о квалификации себя как налогоплательщика
- В таком партнерстве ответственный партнер обязан предоставлять налоговому органу информацию о составе партнеров и изменениях в нем при подаче налоговой декларации

Решение доступно по [ссылке](#).

UAE Finance Ministry issues Decision on Taxation of Unincorporated Partnerships

Decision No. 261 of 2024 is effective retrospectively from 1 June 2023 and cancels the previous decision of the Ministry of Finance (No. 127 of 2023).

Foreign partnerships

Are considered unincorporated partnerships if:

- **there is no equivalent corporate tax**
- partners are taxed individually on their share of the income

Annual declarations are required to confirm compliance with these conditions.

Family funds (Family Foundations)

May be considered unincorporated partnerships if:

- beneficiaries that are public benefit organizations **and do not receive income that would be taxable if received directly**
- taxable income is distributed within six months after the end of the tax period

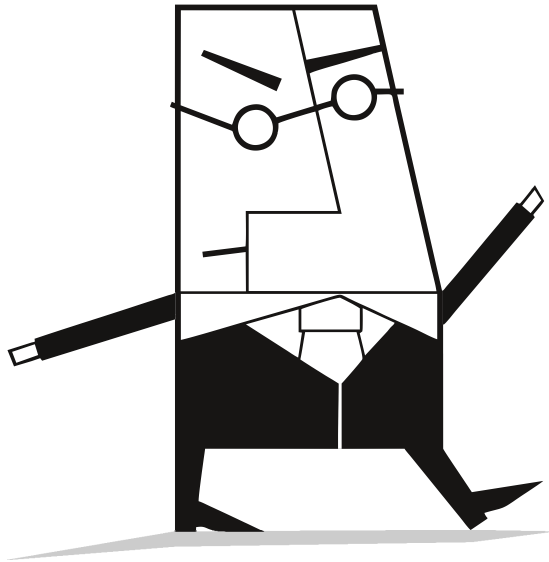


Legal entities wholly owned and controlled by family foundations may qualify for unincorporated partnership status if certain conditions are met.

- Unincorporated partnerships **are not** taxable entities.
- A partnership may make an irrevocable declaration that it qualifies as a taxpayer
- In such a partnership, the responsible partner is obliged to provide the tax authority with information on the composition of the partners and changes in it when filing a tax return.

The solution is available at [the link](#)

Contact Details



- **Russia**
Moscow, St. Petersburg,
Nizhnekamsk, Krasnoyarsk,
Vladivostok
- **China**
- **Korea**
- **UAE**
Dubai



www.pgplaw.com



mena@pgplaw.ru



+7 (495) 767-00-07