



Non-Resident Persons

Corporate Tax Guide | CTGNRP1

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1. Glossary

Authority: Federal Tax Authority.

Business: Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

Business Activity: Any transaction or activity, or series of transactions or activities, conducted by a Person in the course of its Business.

Cash Basis of Accounting: An accounting method under which the Taxable Person recognises income and expenditure when cash payments are received and paid.

Corporate Tax: The tax imposed by the Corporate Tax Law on juridical persons and Business income.

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

Double Taxation Agreement: An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

Financial Statements: A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

Free Zone: A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

Free Zone Person: A juridical person incorporated, established, or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

FTA: Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

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.

Interest: Any amount accrued or paid for the use of money or credit, including discounts, premiums and profit paid in respect of an Islamic financial instrument and other payments economically equivalent to interest, and any other amounts incurred in connection with the raising of finance, excluding payments of the principal amount.

Licence: A document issued by a Licensing Authority under which a Business or Business Activity is conducted in the UAE.

Licensing Authority: The competent authority concerned with licensing or authorising a Business or Business Activity in the UAE.

Minister: Minister of Finance.

Non-Resident Person: The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

Permanent Establishment: A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

Person: Any natural person or juridical person.

Personal Investment: Investment activity that a natural person conducts for their personal account that is neither conducted through a Licence or requiring a Licence from a Licensing Authority in the UAE, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law.

Qualifying Free Zone Person: A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

Qualifying Income: Any income derived by a Qualifying Free Zone Person that is subject to Corporate Tax at the rate specified in Article 3(2)(a) of the Corporate Tax Law.



Real Estate Investment: Any investment activity conducted by a natural person related to, directly or indirectly, the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE that is not conducted, or does not require to be conducted through a Licence from a Licensing Authority.

Related Party: Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

Resident Person: The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

State Sourced Income: Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

Tax Period: The period for which a Tax Return is required to be filed.

Tax Registration: A procedure under which a Person registers for Corporate Tax purposes with the FTA.

Tax Registration Number: A unique number issued by the FTA to each Person who is registered for Corporate Tax purposes in the UAE.

Tax Return: Information filed with the FTA for Corporate Tax purposes in the form and manner as prescribed by the FTA, including any schedule or attachment thereto, and any amendment thereof.

Taxable Income: The income that is subject to Corporate Tax under the Corporate Tax Law.

Taxable Person: A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

Turnover: The gross amount of income derived during a Gregorian calendar year.

UAE: United Arab Emirates.

Withholding Tax: Corporate Tax to be withheld from State Sourced Income in accordance with Article 45 of the Corporate Tax Law.



2. Introduction

2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses (“Corporate Tax Law”) was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates (“UAE”) on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits (“Corporate Tax”) in the UAE.

The provisions of the Corporate Tax Law shall apply to Tax Periods commencing on or after 1 June 2023.

2.2. Purpose of this guide

This guide is designed to provide general guidance to natural persons or juridical persons who are not considered Resident Persons for Corporate Tax purposes and who derive income from the UAE, to help them understand whether they are subject to tax in the UAE as a Non-Resident Person. It provides readers with an overview of:

- Who is a Non-Resident Person for the purposes of Corporate Tax in the UAE;
- What are the Corporate Tax obligations on a Non-Resident Person; and
- What income of a Non-Resident Person is subject to Corporate Tax in the UAE.

2.3. Who should read this guide?

The guide should be read by any natural person or juridical person who is not considered to be a Resident Person as per the provisions of the Corporate Tax Law and is deriving any income from the UAE. It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.

2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.



In some instances, simple examples are used to illustrate how key elements of the Corporate Tax Law apply to Non-Resident Persons. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes; and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural persons.

2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 28 of 2022 on Tax Procedures is referred to as “Tax Procedures Law”;
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Corporate Tax Law”;
- Cabinet Decision No. 85 of 2022 on Determination of Tax Residency is referred to as “Cabinet Decision No. 85 of 2022”;
- Cabinet Decision No. 49 of 2023 on Specifying the Categories of Businesses or Business Activities Conducted by a Resident or Non-Resident Natural Person that are Subject to Corporate Tax is referred to as “Cabinet Decision No. 49 of 2023”;
- Cabinet Decision No. 56 of 2023 on 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 is referred to as “Cabinet Decision No. 56 of 2023”;
- Ministerial Decision No. 27 of 2023 on Implementation of Certain Provisions of Cabinet Decision No. 85 of 2022 on Determination of Tax Residency is referred to as “Ministerial Decision No. 27 of 2023”;
- Ministerial Decision No. 43 of 2023 Concerning Exception from Tax Registration for the Purpose of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 43 of 2023”;
- Ministerial Decision No. 73 of 2023 on Small Business Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses as “Ministerial Decision No. 73 of 2023”;
- Ministerial Decision No. 83 of 2023 on the Determination of the Conditions under which the Presence of a Natural Person in the State would not Create a Permanent Establishment for a Non-Resident Person for the Purposes of Federal



Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 83 of 2023”;

- Ministerial Decision No. 114 of 2023 on the Accounting Standards and Methods for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 114 of 2023”; and
- Ministerial Decision No. 127 of 2023 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 is referred to as “Ministerial Decision No. 127 of 2023”.

2.6. Status of this guide

This guidance is not a legally binding document, but is intended to provide assistance in understanding the tax implications for a Non-Resident Person as per the provisions of the Corporate Tax Law. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each person’s own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax for Non-Resident Persons. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.



3. Definition of a Non-Resident Person

Under the Corporate Tax Law, a Non-Resident Person is defined as a Person who is not a Resident Person. It is therefore necessary to first consider whether a Person is a Resident Person (in which case this guide will not be applicable).

A Person is a Resident Person in the following cases:

- A natural person if they conduct a Business or Business Activity in the UAE.
- A juridical person if it is incorporated or otherwise established or recognised in the UAE or is incorporated or otherwise established or recognised outside the UAE but effectively managed and controlled in the UAE.

Therefore, a Non-Resident Person is:

- A natural person who is not a Resident Person but:
 - has a Permanent Establishment in the UAE and has a Turnover attributable to their Permanent Establishment that exceeds AED 1,000,000 within a Gregorian calendar year; or
 - derives State Sourced Income, (i.e. income accruing in, or derived from, the UAE) (see Section 8).
- A juridical person that is incorporated or formed outside the UAE and not effectively managed and controlled in the UAE to the extent they:¹
 - have a Permanent Establishment in the UAE (i.e. a fixed place of Business or other form of presence in the UAE) (see Section 7);
 - derive State Sourced Income, (i.e. income accruing in, or derived from, the UAE) (see Section 8); or
 - have a nexus in the UAE (see Section 9).

Note that the concept of nexus is applicable only to a Non-Resident Person that is a juridical person (and not a natural person). A Non-Resident Person that is a juridical person can have a nexus in the UAE if they earn income from Immovable Property in the UAE.²

It is important to note that not all non-resident persons are subject to Corporate Tax in the UAE. However, the Corporate Tax Law defines the term “Non-Resident Person” to mean a taxable non-resident person. Therefore, the term “Non-Resident Person” is

¹ Article 11(4) of the Corporate Tax Law.

² Article 2 of Cabinet Decision No. 56 of 2023.



used throughout this Guide to mean a non-resident person subject to Corporate Tax in the UAE unless specifically stated otherwise.



4. When is a Non-Resident Person required to register for Corporate Tax purposes?

4.1. Juridical persons

A Non-Resident Person that is a juridical person is required to register for Corporate Tax purposes and obtain a Tax Registration Number when the Non-Resident Person is subject to Corporate Tax due to having:³

1. a Permanent Establishment in the UAE (see Section 7);⁴ or
2. a nexus in the UAE (see Section 9).⁵

As soon as the Person determines that their activities will trigger a Permanent Establishment in the UAE or that they have a nexus in the UAE, they are considered a Non-Resident Person under the Corporate Tax Law and should register with the FTA for Corporate Tax purposes to avoid any compliance delays that may result in administrative penalties.

A Non-Resident Person that is a juridical person, derives only State Sourced Income (see Section 8) and does neither have a Permanent Establishment in the UAE nor a nexus in the UAE, shall not register for Corporate Tax purposes.⁶

Example 1: Marketing company deriving State Sourced Income

Company M is a marketing company (a juridical person incorporated in and a tax resident of Country M) that operates abroad and derives income from its UAE based client. Company M posts marketing material on social media for its UAE client. Company M does not have any formal representation or employees or office space in the UAE.

Accordingly, it is likely that Company M would neither have a Permanent Establishment nor a nexus in the UAE. Instead, it only derives State Sourced Income (fees from the UAE client) and, therefore, is not required to register for Corporate Tax purposes.⁷

³ Article 51(1) of the Corporate Tax Law.

⁴ Article 11(4)(a) of the Corporate Tax Law.

⁵ Article 11(4)(c) of the Corporate Tax Law.

⁶ Article 2(1)(e) of Ministerial Decision No. 43 of 2023 and Article 4 of Cabinet Decision 56 of 2023.

⁷ Article 2(1)(e) of Ministerial Decision No. 43 of 2023.



Note: Certain categories of State Sourced Income that are not attributable to a Permanent Establishment, may be subject to Withholding Tax (currently at the rate of 0%) (see Section [5.4](#)).⁸

Example 2: Marketing company with a nexus in the UAE

The same marketing company, Company M from Example 1 (a juridical person incorporated in and a tax resident of Country M), receives rental income in respect of a building it owns in the UAE, in addition to earning fees from its marketing activities from the UAE client. In this case Company M would have a nexus in the UAE (due to the rental income earned),⁹ and would be required to register for Corporate Tax purposes (see Section [9](#)).¹⁰

Example 3: A consultant working in the UAE for a client of their foreign employer

An employee of Company C (a juridical person incorporated in and a tax resident of Country C) is providing services to a UAE client of Company C from their home in the UAE (without officially residing in the UAE). This may constitute a Permanent Establishment in the UAE, if specific conditions are met (see Section [7](#)).

In this situation, Company C would be required to register for Corporate Tax purposes due to the existence of a Permanent Establishment in the UAE.

4.2. Natural persons

A Non-Resident Person that is natural person is required to register for Corporate Tax purposes and obtain a Tax Registration Number when the Non-Resident Person has a Turnover attributable to their Permanent Establishment in the UAE that exceeds AED 1,000,000 within a Gregorian calendar year.

⁸ Article 45(1) of the Corporate Tax Law.

⁹ Article 2 of Cabinet Decision No. 56 of 2023.

¹⁰ Article 4 of Cabinet Decision No. 56 of 2023.



5. What income of a Non-Resident Person is subject to Corporate Tax in the UAE?

5.1. Income attributable to a Permanent Establishment or nexus

Taxable Income that is attributable to a Non-Resident Person's Permanent Establishment or nexus in the UAE is subject to Corporate Tax.¹¹

Corporate Tax is imposed on the Taxable Income of a Non-Resident Person at the same rate as for a Resident Person, as follows:¹²

- 0% (zero percent) on the first AED 375,000 of Taxable Income.
- 9% (nine percent) on the amount that exceeds AED 375,000 of Taxable Income.

In the event that the Non-Resident Person is a Qualifying Free Zone Person (for example, a branch operating in a Free Zone), then Corporate Tax shall be imposed at the following rates:¹³

- 0% (zero percent) on Qualifying Income.
- 9% (nine percent) on Taxable Income that is not Qualifying Income.

Taxable Income attributable to a Non-Resident Person's Permanent Establishment can be derived from both inside and outside the UAE (see Section [7.1](#) for more details on the attribution of profits to a Permanent Establishment).

Income attributable to a Person's nexus is any income derived by a Non-Resident Person that is a juridical person from Immovable Property in the UAE.¹⁴ (see Section [9](#)).

Taxable Income is calculated for a Tax Period on the basis of adequate, standalone Financial Statements prepared in accordance with accounting standards accepted in the UAE, adjusted as per the provisions of Article 20 of the Corporate Tax Law.

¹¹ Articles 12(3)(a) and 12(3)(c) of the Corporate Tax Law.

¹² Article 3(1) of the Corporate Tax Law.

¹³ Article 3(2) of the Corporate Tax Law.

¹⁴ Article (2)(1) of Cabinet Decision No. 56 of 2023.



5.2. Business or Business Activities of a non-resident natural person that are subject to Corporate Tax

Businesses or Business Activities of a non-resident natural person would be subject to Corporate Tax only if the gross amount of Turnover derived through conducting the Businesses or Business Activities (for example, through a Permanent Establishment) in the UAE, exceeds AED 1,000,000 during a Gregorian calendar year.¹⁵

Furthermore, the following are not considered as Businesses or Business Activities for a natural person, and, therefore, are not subject to Corporate Tax for a non-resident natural person and are not taken into account in the determination of a natural person's Turnover:¹⁶

- wages, salary or any other amounts received by a natural person from their employer by virtue of their employment contract, whether in cash or in kind;
- any return on Personal Investments, made in the relevant person's personal capacity, not through a Licence from a Licensing Authority, nor considered as a commercial business in accordance with the Federal Decree-Law No. 50 of 2022 Issuing the Commercial Transactions Law; and
- any income from a Real Estate Investment not conducted through a Licence from a Licensing Authority.

5.3. State Sourced Income

Income is considered State Sourced Income in any of the following instances:¹⁷

- Where it is derived from a Resident Person.
- Where it is derived from a Non-Resident Person and the income is paid or accrued in connection with, and attributable to, a Permanent Establishment of that Non-Resident Person in the UAE.
- Where it is otherwise accrued in or derived from activities performed, assets located, capital invested, rights used, services performed or benefitted from in the UAE.

Each of the above situations is considered in further detail in Section [8](#).

¹⁵ Cabinet Decision No. 49 of 2023.

¹⁶ Article 2(2) of Cabinet Decision No. 49 of 2023.

¹⁷ Article 13(1) of the Corporate Tax Law.



5.4. State Sourced Income and Withholding Tax

Certain State Sourced Income, derived by a Non-Resident Person, that is not attributable to a Permanent Establishment, may be subject to Withholding Tax. The current Withholding Tax rate is 0%.¹⁸

5.5. State Sourced Income and Permanent Establishment

State Sourced Income and income attributable to a Permanent Establishment in the UAE are not mutually exclusive. State Sourced Income can be attributable to a Permanent Establishment and, therefore, Corporate Tax is imposed on State Sourced Income that is attributable to a Permanent Establishment in the UAE.

5.6. State Sourced Income and nexus

State Sourced Income and income from a nexus in the UAE are not mutually exclusive. State Sourced Income includes income from a nexus and, therefore, Corporate Tax is imposed on State Sourced Income that is related to a nexus in the UAE.

5.7. Small business relief: unavailable to a Non-Resident Person

As per the Corporate Tax Law, only a Resident Person can elect for small business relief.¹⁹ Therefore, Non-Resident Persons are not eligible for the small business relief. However, this may be affected by applicable Double Taxation Agreements.

5.8. Exempt income from operating aircraft or ships in international transportation

Income derived by a Non-Resident Person from operating aircraft or ships in international transportation is exempt (i.e. not subject to Corporate Tax) as long as the Non-Resident Person is in the Business of undertaking any of the following activities:²⁰

- International transport of passengers, livestock, mail, parcels, merchandise or goods by air or by sea.
- Leasing or chartering aircrafts or ships used in international transportation.
- Leasing of equipment which are integral to the seaworthiness of ships or the airworthiness of aircrafts used in international transportation.

¹⁸ Article 45(1) of the Corporate Tax Law.

¹⁹ Article 21(1) of the Corporate Tax Law.

²⁰ Article 25(1) of the Corporate Tax Law.



This exemption only applies if similar provisions are applied to a UAE Resident Person conducting the same activities in the country or territory in which the Non-Resident Person is resident.²¹

Example 4: International transport company

Company B is an international transport company (a juridical person incorporated in and a tax resident of Country B) that operates a ship that transports merchandise to and from the UAE.

Country B exempts income derived by a UAE Resident Person from operating ships in international transportation within the jurisdiction of Country B.

Since a similar reciprocal exemption is available to a UAE Resident Person conducting international transportation in Country B, income derived by Company B from operating ships in international transportation within the jurisdiction of the UAE will be exempt from Corporate Tax in the UAE.

5.9. Interaction of the Corporate Tax Law with Double Taxation Agreements

A Non-Resident Person (juridical or natural person) who is subject to tax under the provisions of the Corporate Tax Law may be entitled to seek relief under a relevant Double Taxation Agreement. This guide only addresses the tax implications for Non-Residents under UAE Corporate Tax Law, i.e. without consideration of the potential implications of a Double Taxation Agreement.

Non-Resident Persons should assess the potential implications of a Double Taxation Agreement, taking into account the relevant facts and circumstances, read with Cabinet Decision No. 85 of 2022 and Ministerial Decision No. 27 of 2023, where relevant.

A Double Taxation Agreement that is in force in the UAE, takes precedence over the provisions of the Corporate Tax Law to the extent there is any inconsistency.²² Therefore, meeting the definition of a Resident Person under the UAE Corporate Tax Law, does not automatically mean that a Resident Person will be a tax resident in the UAE where a Double Taxation Agreement applies. Tax residence may be assigned to the UAE or to another jurisdiction under a Double Taxation Agreement depending on the facts and circumstances and the content of the relevant agreement.

²¹ Article 25(2) of the Corporate Tax Law.

²² Article 66 of the Corporate Tax Law.



Example 5: Natural person conducting Business in the UAE (an applicable Double Taxation Agreement does not exist)

Mr C (a national of Country C) comes to the UAE to conduct Business for 4 months. The Turnover of Mr C from the UAE Business is AED 2,000,000 within the 2024 Gregorian calendar year. The UAE and Country C do not have an applicable Double Taxation Agreement.

In the absence of any existing Double Taxation Agreement, Mr C will be treated as a Resident Person for Corporate Tax purposes in the UAE, as he is conducting a Business in the UAE.²³ Since his Turnover from the Business has exceeded AED 1,000,000 in a Gregorian calendar year,²⁴ Mr C will be required to register for Corporate Tax purposes,²⁵ and the income derived from conducting a Business in the UAE will be subject to Corporate Tax.²⁶

Example 6: Natural person conducting a Business in the UAE (an applicable Double Taxation Agreement exists)

Ms D (a national of Country D) comes to the UAE to conduct a Business. She rents an office space for 4 months within the 2024 Gregorian calendar year and remains in the UAE for these 4 months only. The Turnover of Ms D from the Business in the UAE is AED 2,000,000 within the 2024 Gregorian calendar year. The UAE and Country D have an applicable Double Taxation Agreement.

Implication under Corporate Tax Law:

Ms D may be treated as a Resident Person for Corporate Tax purposes as she is conducting a Business in the UAE.²⁷

Implication under Double Taxation Agreement:

As per the Double Taxation Agreement between the UAE and Country D, an individual is treated as a resident of the UAE if they are a national of the UAE or spend, at least, 183 days in the relevant calendar year in the UAE.

²³ Article 11(3)(c) of the Corporate Tax Law.

²⁴ Article 2(1) of Cabinet Decision No. 49 of 2023.

²⁵ Article 2(3) of Cabinet Decision No. 49 of 2023.

²⁶ Article 12(2) of the Corporate Tax Law.

²⁷ Article 11(3)(c) of the Corporate Tax Law.



On the basis that Ms D is not a national of the UAE and has spent less than 183 days in the UAE in the 2024 calendar year, she will not be a resident of the UAE as per the Double Taxation Agreement between the UAE and Country D and will be considered as a Non-Resident in the UAE for Corporate Tax purposes.

On the basis that the presence of Ms D in the UAE does not constitute a Permanent Establishment in the UAE since the presence does not exceed 6 months (see Section [7](#)), Ms D will not have to register for Corporate Tax purposes.

Note: Double Taxation Agreements may rely on different criteria to determine the residence of natural persons.



6. Other UAE Corporate Tax requirements for a Non-Resident Person

6.1. Standalone Financial Statements and attribution

A Non-Resident Person that is required to register for Corporate Tax purposes is subject to the same rules as a Resident Person with regards to their reporting requirements. The Taxable Income for a Non-Resident Person is to be determined on the basis of adequate and standalone Financial Statements prepared for financial reporting purposes in accordance with accounting standards accepted in the UAE (which are International Financial Reporting Standards “IFRS”).²⁸ Notwithstanding this, a Taxable Person may calculate its Taxable Income on the basis of Financial Statements prepared using the Cash Basis of Accounting, if specific conditions are met.²⁹

A Non-Resident Person must determine its Taxable Income which is attributable to a Permanent Establishment or nexus in the UAE. Attribution of income and expenditure to a Permanent Establishment should be based on the arm’s length principle and internationally accepted attribution methodologies as a Non-Resident Person and its Permanent Establishment are considered to be Related Parties.³⁰

6.2. Tax Return submission

On the same basis as a Resident Person, a Non-Resident Person must file a Tax Return with the FTA and settle the Corporate Tax payable, no later than (9) nine months from the end of the relevant Tax Period.³¹

A Tax Period, the period for which a Tax Return is required to be filed for the purposes of Corporate Tax, is normally the Gregorian calendar year, or the (12) twelve-month period for which the Taxable Person prepares Financial Statements.³² However, in specific cases, a Taxable Person can make an application to the FTA to extend a current period to a maximum of 18 months or to shorten the subsequent period to between 6 and 12 months.³³

²⁸ Article 20(1) of the Corporate Tax Law and Article 4(1) of Ministerial Decision No. 114 of 2023.

²⁹ Article 2 of Ministerial Decision No. 114 of 2023.

³⁰ Article 35(1)(d) of the Corporate Tax Law.

³¹ Article 48 and Article 53(1) of the Corporate Tax Law.

³² Article 57 of the Corporate Tax Law.

³³ Article 58 of the Corporate Tax Law.



6.3. Record keeping

Notwithstanding the provisions of the Tax Procedures Law, a Non-Resident Person must maintain all records and documents for a period of 7 years following the end of the Tax Period to which they relate.³⁴

³⁴ Article 56 of the Corporate Tax Law.



7. Permanent Establishment

7.1. Overview

Broadly, a Permanent Establishment of a Non-Resident Person can arise in the UAE where:³⁵

- there is a fixed or permanent place in the UAE through which the Non-Resident Person wholly or partly conducts its Business (see Section [7.2](#));
- a Person habitually exercises an authority to conduct a Business or Business Activity in the UAE on behalf of the Non-Resident Person (see Section [7.3](#)); or
- a Non-Resident Person has any other form of nexus in the UAE as may be specified in a decision issued by the Cabinet.

It is important to note that the relevant provisions of any Double Taxation Agreement between the country of tax residence of the Non-Resident Person and the UAE must be considered in the assessment of whether a specific case constitutes a Permanent Establishment in the UAE.

Different forms of Permanent Establishments are discussed in the following Sections.

7.2. Fixed place Permanent Establishment

7.2.1. Essential factors determining the existence of a fixed place Permanent Establishment

A Non-Resident Person is considered to have a Permanent Establishment in the UAE where it has a fixed or permanent place in the UAE through which the Business of the Non-Resident Person, or any part thereof, is conducted.³⁶

There are certain essential factors and guiding principles that must be tested to determine whether a Non-Resident Person has a fixed place Permanent Establishment in the UAE:

- The Non-Resident Person must have a “place of Business” in the UAE which could include a facility, such as an office, a work location, premises or, in certain instances, machinery or equipment, which is used by the Non-Resident Person to carry on its Business in the UAE on a regular/recurrent basis (hereinafter referred to as “place of Business test”).

³⁵ Article 14(1) of the Corporate Tax Law.

³⁶ Article 14(1)(a) of the Corporate Tax Law.



- The place of Business must be “fixed” i.e. it must be established at a distinct place with a certain degree of “permanence” (hereinafter referred to as “permanence test”). A case-by-case evaluation needs to be made considering all relevant factors but an aggregate period of more than 6 months (even if not continuous), in the relevant 12 consecutive months, will typically indicate permanence.
- The place of Business must be at the disposal of the Non-Resident Person. The mere presence at a particular location does not necessarily mean that the location is at its “disposal”. The Non-Resident Person must have the right or effective power to use such place of Business (hereinafter referred to as the “disposal test”).
- The activities performed by the Non-Resident Person at such place of Business must be core income-generating activities and not of a preparatory or auxiliary nature (hereinafter referred to as the “Business Activity test”).

Typically, a Non-Resident Person will have a fixed place Permanent Establishment in the UAE only if its operations satisfy all the above factors and having regard to all relevant facts and circumstances.

7.2.2. Immaterial factors for determining the existence of a fixed place Permanent Establishment

Determining whether a Non-Resident Person has a Permanent Establishment in the UAE is a fact and context specific exercise that needs to be evaluated on a case-by-case basis. However, the following (illustrative) factors would typically be immaterial, i.e. should not influence the evaluation:

- Ownership of the Non-Resident’s place of Business is immaterial. Even rented premises can constitute a Permanent Establishment.
- The formal legal right to use a particular place is not required if the Non-Resident Person has effective control over such location i.e. it is at its disposal to conduct its Business Activities. For example, a Permanent Establishment can exist where a Non-Resident Person illegally occupies a certain location to conduct its Business Activities.
- An exclusive right over a place is immaterial. A Non-Resident Person can have a Permanent Establishment even in cases where it conducts its Business through a specific location that belongs to another Person or that is used by several other Persons to perform their own Business Activities at the common location.

By way of illustrative examples, the table below addresses some of the issues and questions that may arise regarding whether a Non-Resident has a fixed place Permanent Establishment in the UAE:



Issue	Examples
Should the place of Business be physically “fixed”?	<ul style="list-style-type: none"> • Company F (a juridical person incorporated in and a tax resident of Country F) provides a floating restaurant experience to its customers in the UAE which is attached to a hot air balloon and supported by a crane which makes the restaurant mobile. • In this case, such place would constitute a fixed place Permanent Establishment for Company F even if it is not actually “fixed” to the soil as there is a clear link between the place of Business and a specific geographical location in the UAE.
What is the impact of multiple work locations?	<ul style="list-style-type: none"> • A Non-Resident Person has been awarded a contract whereby parts of a substantial offshore platform/structure are assembled at various locations within the UAE and then moved to another location within the UAE for final assembly. This is considered part of a single project and the fact that the work was not undertaken in “one particular location” is immaterial. Activities performed at each location would be part of a cohesive project, and hence the project could be regarded as a fixed place Permanent Establishment for the Non-Resident Person. • The very nature of certain construction/installation projects is such that a Non-Resident Person may have to perform different segments of the project in different locations, or the Business Activity may have to be relocated continuously or from time to time as the project progresses.
Whether client’s premises can be at the disposal of a Non-Resident Person?	<ul style="list-style-type: none"> • Company B (a juridical person that is incorporated in and a tax resident of Country B) has been awarded a 2-year contract by a government owned company (client) in the UAE for rendering business consulting services to enhance the production of goods. The project requires employees of Company B to perform its activities from the client’s office. • Employees of Company B would have to seek specific permission to enter the client’s premises on each occasion. They may be given temporary access cards, desks, access to training or meeting rooms for performance of contracted services only. • In the event where, in substance, these restrictions do not establish, for Company B, any effective control or free



Issue	Examples
	<p>right to use the client's premises, they are unlikely to be at Company B's disposal such that no Permanent Establishment in the UAE arises (even if other tests i.e. place of Business, permanence and Business Activity are satisfied, due to the presence of the employees in the UAE).</p> <ul style="list-style-type: none"> • However, where Company B's employees had relatively free access such as long-term access cards, desk assignment, etc. over such an extended period, it is likely that in substance the disposal test would be satisfied and as such Company B would have a fixed place Permanent Establishment in the UAE (since the other tests i.e. place of Business, permanence and Business Activity are also satisfied, due to the presence of the employees). • Note: if Company B's activities do not constitute a Permanent Establishment, it would still have State Sourced Income (see Section 8).
<p>Whether hotel rooms can be considered as being at the disposal of Non-Resident Person?</p>	<ul style="list-style-type: none"> • Company G (a juridical person that is incorporated and a tax resident in Country G) has been awarded a 2-year contract by a UAE company for rendering business consulting services to enhance production capacity. • Company G sent a few employees to the UAE to execute the project but did not set up/acquire any office space in the UAE. • During their 2-year stay in the UAE, Company G decided its employees would stay in a hotel and the employees conducted their project related activities from the hotel premises. • In this case, Company G would have a fixed place Permanent Establishment in the UAE even if it does not have formal office space. The hotel would be treated as its place of Business since the employees worked from there and the hotel premises were in essence at their disposal.
<p>Whether an employee's home office can be at the disposal of a Non-Resident Person?</p>	<ul style="list-style-type: none"> • Company C (a juridical person that is incorporated in and a tax resident of Country C), is engaged in rendering software development services. Considering the industry practice, nature of work and time zone difference with customers, Company C allows its employees to work from home.



Issue	Examples
	<ul style="list-style-type: none"> • Accordingly, some employees of Company C decided to work from their home in the UAE, occasionally. • While Company C has provided its employees with a laptop and connectivity instrument such as a data card, remote connectivity etc, in this case, Company C would not have a fixed place Permanent Establishment in the UAE, as it has no access rights and the homes of the employees are not at its disposal, and due to the following factors: <ul style="list-style-type: none"> - Company C does not bear the costs/expenses related to the home office. - Company C does not have either a formal or a legal right of access to the home office. - Intermittent or incidental use of the home does not satisfy disposal condition. - even if the home office is used on a regular/continuous basis by some employees, Company C never “required” the employees to work from their home, it is merely an “option” given to the employees.

Note that all relevant facts and circumstances must be examined on a case-by-case basis to determine whether a Permanent Establishment exists, and that conclusions drawn in this guide including the table above are purely for illustrative purposes.

Furthermore, even if a fixed place Permanent Establishment is not created for a Non-Resident Person, it would need to be assessed whether an agency Permanent Establishment exists (see Section [7.3](#)). Additionally, provisions of the Corporate Tax Law will have to be read with the relevant Double Taxation Agreement (where available and effective) to determine the existence of a Permanent Establishment in the UAE. To the extent the provisions of a Double Taxation Agreement are inconsistent with the Corporate Tax Law, the Double Taxation Agreement provisions will prevail (see Section [5.9](#)).

7.2.3. Specific inclusions to a fixed place Permanent Establishment

The Corporate Tax Law provides a list of illustrative and non-exhaustive examples of a fixed or permanent place of Business in the UAE as follows:³⁷

³⁷ Article 14(2) of the Corporate Tax Law.



- a. A place of management where management and commercial decisions that are necessary for the conduct of the Business are, in substance, made.
- b. A branch.
- c. An office.
- d. A factory.
- e. A workshop.
- f. Land, buildings and other real property.
- g. An installation or structure for the exploration of renewable or non-renewable natural resources.
- h. A mine, an oil or gas well, a quarry or any other place of extraction of natural resources, including vessels and structures used for the extraction of such resources.
- i. A building site, a construction project, or place of assembly or installation, or supervisory activities in connection therewith, but only if such site, project or activities, whether separately or together with other sites, projects or activities, last more than 6 months, including connected activities that are conducted at the site or project by one or more Related Parties of the Non-Resident Person.

The above specific inclusions are to be read in the context of the general definition of a fixed place Permanent Establishment. Hence, the essential factors discussed in Section [7.2.1](#) equally apply to the specific inclusions and should be satisfied in order for a Non-Resident Person to create a Permanent Establishment in the UAE. Accordingly, the terms listed, “a place of management”, “a branch”, “an office”, etc. must be interpreted in such a way that such places of Business constitute Permanent Establishments only if they meet the requirements of fixed place Permanent Establishment and are not used solely for “preparatory” and “auxiliary” activities.

The following sections discuss each of the above listed illustrative examples.

7.2.3.1. Place of management

“Place of management” represents a place where decisions related to day-to-day management of the Business (or part of the Business) are taken, or functions which relate to the management, supervision or direction are carried out.

“Management” in this case is the internal management of the company and does not include providing management services to other companies.

Examples related to place of management are discussed below:



Example 7: Company with a place of management in the UAE

A foreign company has multiple divisions which make sales internationally. The company establishes a “management office” in the UAE for supervisory and coordination functions for one division. That office would be regarded as a “place of management” and, therefore, the division (rather than the company as a whole) would constitute a fixed place Permanent Establishment in the UAE.

Example 8: Manager travelling to the UAE for meetings

A manager of a foreign company, who is authorised to take management decisions, makes a business trip to the UAE to meet some clients and discuss potential business opportunities. The manager carrying out their duties, which in this case are not related to the day-to-day management of the foreign company, while being in the UAE, would not necessarily fulfil the criteria for creating a fixed place Permanent Establishment.

7.2.3.2. Branch

A UAE branch of a Non-Resident Person is deemed to be an extension of the Non-Resident Person. For example, where a Non-Resident Person that carries on a retail Business, opens a branch or outlet in the UAE.

7.2.3.3. Office

An office includes any place where a Person works or conducts its Business Activities and may include a representative office, hotel room, hotel business centre, home office, etc. However, it is important to note that there would need to be a fact-specific determination in each case.

Example 9: Employee creating a Permanent Establishment for Non-Resident Person

Company I (a juridical person incorporated in and a tax resident of Country I) is awarded a contract for rendering consultancy services for a UAE client. To execute this project, Company I sends its employees to the UAE where they work from a dedicated hotel apartment rented by Company I from 1 January 2024 to 31 August 2024 (i.e. for a period of 8 months).



Implications under the Corporate Tax Law:

As working from the hotel for a period of 8 months constitutes a “fixed place of Business”, Company I shall have a fixed place Permanent Establishment in the UAE under the Corporate Tax Law.

Implications under the Double Taxation Agreement:

However, as per the Double Taxation Agreement between UAE and Country I, a company incorporated in Country I and executing a project in the UAE through its employees, is considered to create a Permanent Establishment only if the presence of its employees in the UAE exceeds 9 months.³⁸

Since Company I is a company incorporated and tax resident of Country I, it would be entitled to benefit from the Double Taxation Agreement between the UAE and Country I while determining whether it creates a Permanent Establishment in the UAE.

Considering the above facts, while the presence of Company I’s employees in the UAE would create a “fixed place” Permanent Establishment for Company I in the UAE, as per the Corporate Tax Law (as its employees are present in the UAE, conducting core Business Activities and working from a fixed place of Business that is at the disposal of Company I), Company I would not have a Permanent Establishment under the Double Taxation Agreement between the UAE and Country I which provides a threshold of 9 months for creating a Permanent Establishment if services are rendered through the presence of employees in the UAE.

In the absence of a Permanent Establishment in the UAE (and assuming it does not have any other operations in/revenues from the UAE), Company I will not be required to register for Corporate Tax or undertake any Corporate Tax filing obligations.

7.2.3.4. Factory or workshop

A factory or workshop includes any location where goods are manufactured or assembled.

³⁸ Refer to Section 10.1 - Annexure 1 for the extract of Article 5 on Permanent Establishment as per Double Taxation Agreement between the UAE and Country I.



7.2.3.5. Land, buildings, and other real property

Land, buildings and other real property means immovable property. The mere ownership of land, building, and immovable property by a Non-Resident Person in the UAE would not trigger a Permanent Establishment unless the requirements for a fixed place Permanent Establishment are met. However, a Non-Resident juridical person earning income from an Immovable Property located in the UAE would have a nexus in the UAE (see Section 9).³⁹

Example 10: A company acquires land in the UAE

Company A, a company incorporated and effectively managed in Country A, and not a registered Business in the UAE, provides engineering/consulting services. It has acquired land in the UAE as an investment opportunity, considering the growing real estate industry in the UAE. The land is then leased to an unrelated event management company to organise various conferences.

In this case, the land will not constitute a Permanent Establishment for Company A as it is neither used by Company A to undertake its core Business Activities (which are engineering services) nor is the land at its disposal once it has been leased to the event management company. Hence, any rental income generated from such land would not be treated as income that is attributable to a Permanent Establishment of Company A in the UAE. However, Company A would be considered to have a nexus in the UAE and hence would be subject to UAE Corporate Tax on the Taxable Income attributable to the Immovable Property.⁴⁰

Example 11: Office space used to collect information

Company A, not a registered Business in the UAE, manufactures fast moving consumer goods (“FMCG”). It has acquired a residential property in the UAE as an investment opportunity. The property is also used by Company A as an office space for a few of its employees when visiting the UAE to collect information and market insights regarding the products manufactured by Company A. The employees of Company A attend seminars and conferences related to Company A’s Business, undertake discussions with wholesale/retail chains to understand consumer preferences, make calls to various customers for feedback regarding Company A’s products, etc.

³⁹ Article 14(1)(c) of the Corporate Tax Law and Cabinet Decision No. 56 of 2023.

⁴⁰ Article 2 of Cabinet Decision No. 56 of 2023.



In this case, while the property is at the disposal of Company A, its core Business Activity of manufacturing products is not conducted through such location. The activity pertains to collecting information which would qualify as preparatory or auxiliary in nature (see Section [7.2.4](#)) and hence it will not constitute a Permanent Establishment for Company A. Furthermore, Company A would not be considered to have nexus in the UAE as it is not deriving any income from the property.

7.2.3.6. Exploration activities and extraction activities

The list of activities that would constitute a fixed place Permanent Establishment under the Corporate Tax Law encompasses exploration and extraction activities.⁴¹ Exploration activities cover the exploration of renewable or non-renewable resources through an installation or structure in the UAE. This may include, for example, vessels used for the prospection of natural resources off-shore, or the extraction of natural resources through a mine, oil or gas well, quarry or any other place of extraction. The wording “any other place of extraction of natural resources” should be interpreted broadly. It includes, for example, all places of extraction of oil and gas whether onshore or offshore.

7.2.3.7. Building site, construction project, assembly or installation project

A building site, construction project, assembly or installation project or related supervisory activities, including connected activities that are conducted by one or more Related Parties of the Non-Resident Person, can create a Permanent Establishment in the UAE if such site or project exists for more than 6 months in any 12-month period.⁴² In case a Non-Resident Person conducts Business Activities in multiple sites/projects in the UAE, in order to determine the 6-month duration, time spent at all sites/projects/activities should be aggregated.

This includes not only construction of buildings but also construction of roads, bridges or canals, the renovation (involving more than mere maintenance or redecoration) of buildings, roads, bridges or canals, laying of pipelines and excavating and dredging.

The term “assembly or installation project” is not restricted to an installation related to a construction project. It also includes installation of equipment, such as a complex machine, in an existing building or outdoors.

⁴¹ Article 14(2)(g) and (h) of the Corporate Tax Law.

⁴² Article 14(2)(i) of the Corporate Tax Law.



Example 12: Building site or construction project

Company I (a juridical person that is incorporated in and a tax resident of Country I), starts a construction project in the UAE on 1 April 2024 and completes the work on 30 November 2024 (i.e. within 8 months).

Implications under the Corporate Tax Law:

Since Company I's project duration in the UAE has exceeded 6 months, it will constitute a Permanent Establishment in the UAE as per the Corporate Tax Law.

Implications under the Double Taxation Agreement:

Country I has an effective Double Taxation Agreement with the UAE which specifies that a company that is tax resident in Country I only creates a Permanent Establishment if the construction project "continues" for more than 9 months in the UAE.⁴³ Company I would be eligible to benefit from such an agreement while determining if it has a Permanent Establishment in the UAE.

Considering the above, the construction project will not create a Permanent Establishment for Company I in the UAE as the applicable Double Taxation Agreement specifies a 9-month threshold (versus a 6-month threshold for construction projects under the Corporate Tax Law). In the absence of a Permanent Establishment in the UAE (and assuming it does not have any other operations in/revenues from the UAE), Company I is not considered a Taxable Person for Corporate Tax purposes (unless it has a nexus) and will not be subject to Corporate Tax Registration and filing obligations.

Transitional considerations

Where a project started before the Corporate Tax Law became applicable, only the length of time from the beginning of the first Tax Period (i.e. Tax Periods commencing on or after 1 June 2023) of the Non-Resident Person is taken into account. Any time before the start date of the Non-Resident Person's first Tax Period does not count towards the permanence test (6 months).

⁴³ Refer to Section 10.1 - Annexure 1 for extract of Article 5 on Permanent Establishment as per Double Taxation Agreement between the UAE and Country I.



Example 13: Project starting before 1 June 2023

Company F (a juridical person that is incorporated in and a tax resident of Country F), which has a Financial Year from 1 June to 31 May, starts an installation project in the UAE on 1 March 2023 and completes work on 30 September 2023.

Although the project duration was 7 months, only the 4-month period between 1 June to 30 September 2023 would be counted, and as this is less than 6 months, no fixed place Permanent Establishment would arise.

Subcontracting

If a Non-Resident Person (general contractor) which has undertaken the performance of a comprehensive project subcontracts all or multiple parts of such a project to other enterprises (subcontractors, whether or not they are Related Parties), the period spent by a subcontractor working on the building site must be considered as being time spent by the general contractor on the building project for the purposes of determining whether a Permanent Establishment exists for the general contractor. In that case, the site should be considered to be at the disposal of the general contractor during the time spent on that site by any subcontractor (whether or not they are Related Parties) where circumstances indicate that, during that time, the general contractor clearly has the construction site at its disposal by reason of factors such as the fact that they have legal possession of the site, control access to and use of the site and have overall responsibility for what happens at that location during that period. The subcontractor may also have a Permanent Establishment at the site if their activities there last more than 6 months.

Automatic equipment

A Permanent Establishment may exist if the Business of the Non-Resident Person is carried on mainly through automatic equipment where the activities of the personnel are restricted to setting up, operating, controlling and maintaining such equipment. Determining whether or not automatic machines (i.e. gaming and vending equipment) set up by a Non-Resident Person in the UAE constitute a Permanent Establishment depends on whether or not the Non-Resident Person carries on a Business Activity besides the initial setting up of the machines. A Permanent Establishment does not exist if the Non-Resident Person merely sets up the machines and then leases the machines to other enterprises. A Permanent Establishment may exist, however, if the Non-Resident Person which sets up the machines also operates and maintains them for its own account. This would also apply if the machines are operated and maintained by an agent dependent on the Non-Resident Person.



Example 14: Vending machines

Company B, a company that is incorporated in and tax resident in Country B and not established in the UAE, is in the Business of providing vending machines (manufacture and set-up), and is contracted by Company U (a UAE company) to set up vending machines in all the malls owned by Company U in the UAE. After the initial set-up, the vending machines are leased to Company U, who then operates and maintains the machines.

In this case, the vending machines do not constitute a Permanent Establishment for Company B as it does not undertake any Business operations in the UAE beyond the initial set-up of the vending machine. Also, once the machine is under lease, it will no longer be at the disposal of Company B.

Splitting of contracts

To curb potential abuse in the form of artificially splitting-up contracts regarding a building site or a construction project, some or all of which are less than 6 months at different locations; or splitting contracts between Related Parties of a Non-Resident Person such as other group companies;⁴⁴ the Corporate Tax Law provides that the duration threshold of 6 months will be tested by consolidating all such activities.⁴⁵ Such abuse may also fall under the application of the General Anti-abuse Rule.⁴⁶

Example 15: Artificial splitting-up of contract

Company N (a juridical person that is incorporated in and a tax resident of Country N) is awarded a 9-month contract by a UAE company for developing a modular building. At the request of Company N, the contract was split into:

- a. fabrication of the modules (Contract 1)
- b. assembly/installation of the modules (Contract 2).

Company N executed Contract 1 pertaining to fabrication at Site A in the UAE, which lasted for 5 months. Contract 2 pertaining to assembly/installation was executed at Site B in the UAE, which lasted for 4 months.

⁴⁴ Article 35 of the Corporate Tax Law.

⁴⁵ Article 14(2)(i) of the Corporate Tax Law includes the wording “including connected activities that are conducted at the site or project by one or more Related Parties of the Non-Resident Person.”

⁴⁶ Article 50 of the Corporate Tax Law.



If Company N relies on the above to support an assertion that it has not created a Permanent Establishment in the UAE, then, in this case, there has been artificial splitting of contracts as the two contracts relate to the same project. Hence, Company N may not claim that it does not have a Permanent Establishment in the UAE based on the fact that each contract lasted less than 6 months. In order to determine the duration of time spent by Company N in the UAE, time spent on both contracts will be considered. Since such time exceeds 6 months, Company N will have a Permanent Establishment in the UAE.

Example 16: Contract split between Related Parties

The conclusion in Example 15 above will not change even if Contract 1 is executed by Company N and Contract 2 is executed by a sister company, Company M (which has the same parent company as Company N), based on the fact that the contract has been split artificially between two Related Parties for the same project.⁴⁷

In this case, both Company N and Company M will have a Permanent Establishment in the UAE, even if their individual contracts did not exceed the 6-month threshold.

Example 17: Non-Resident executes multiple and simultaneous contracts in the UAE

Company A, a company incorporated in and tax resident of Country A, has been awarded three construction contracts by three different (and unrelated) UAE companies as follows:

- Company B requires Company A to construct a building in the UAE
- Company C requires Company A to construct a mall in the UAE
- Company D requires Company A to construct a highway in the UAE

All the three contracts were to be executed by Company A at different sites in the UAE. Company A commenced work on all the three contracts simultaneously in 1 January 2024 and completed all the contracts by 30 April 2024 (i.e. within four months).

In this case, Company A did not artificially split the contracts as they were awarded by three different UAE companies for three completely unrelated projects. Since Company A's presence in the UAE was only for 4 months (i.e. did not exceed 6

⁴⁷ Article 35 of the Corporate Tax Law.



months), Company A's construction projects will not constitute a fixed place Permanent Establishment in the UAE even if it executed multiple contracts during its presence in the UAE (i.e. from 1 January to 30 April 2024).

Duration/period of existence of a site/project

A building site, a construction project, or place of assembly or installation exists from the date on which the contractor begins their work, including any preparatory work, in the country where the construction is to be established, for example, if they install a planning office for the construction or temporary housing for the employees assigned to work on the building site or construction project.

A period during which a site/project is being tested by the Non-Resident Person should also generally be counted.

In practice, the delivery ("handing-over") of the site/project to the client will usually represent the end of the period of work, provided the Non-Resident Person no longer works on the site after its delivery for the purposes of completing its construction.

A site/project would not be regarded as ceasing to exist when work is temporarily discontinued due to seasonal (for example, extreme weather) or other temporary interruptions (for example, shortage of labour/material). Such time periods shall be included in determining the life of a site/project.

Example 18: Work temporarily discontinued

1 June – Non-Resident Person started work to build a dam in the UAE
31 July – stopped work due to extreme weather (i.e. after 2 months of work)
31 August – resumed work (i.e. after a 1-month break)
31 October – stopped work due to shortage of material (i.e. after 2 months of work)
30 November – resumed work (i.e. after a 1-month break)
31 January – completed the construction and handed over the site to client (i.e. after 2 months of work)

In this case the project will be regarded as a Permanent Establishment because more than 6 months elapsed between the date the project was first commenced (1 June) and completed (31 January).

7.2.4. Preparatory or auxiliary activities

A Non-Resident Person conducting Business Activities in the UAE will not constitute a Permanent Establishment if such activities are not core Business or income



generating activities (as the Business Activity test will not be satisfied).⁴⁸ Such activities may be categorised as preparatory or auxiliary activities, that are specifically carved out from the meaning of a fixed place Permanent Establishment.

“Preparatory” activities are those activities which precede commencement of core Business Activities and support the core Business Activities.

"Auxiliary" activities are those which aid or support the core Business function, without being part of the essential and significant part of the activity of the enterprise. They are secondary to the main or general functions of the enterprise which realise profits. It is unlikely that an activity that requires a significant proportion of the assets or employees of the enterprise could be considered as having an auxiliary character.

Preparatory or auxiliary activities cease to be economically viable when separated from the rest of the enterprise. Although such activities are only an insignificant portion of the enterprise's overall income generating activities, such activities are still considered economically viable because they are supplemented by work performed by other parts of the enterprise.

In this regard, the Corporate Tax Law specifies that a fixed or permanent place in the UAE shall not be considered a Permanent Establishment of a Non-Resident Person if it is only used for:⁴⁹

1. Storing, displaying or delivering of goods or merchandise belonging to that Person.
2. Keeping a stock of goods or merchandise belonging to that Person for the sole purpose of processing by another Person.
3. Purchasing goods or merchandise or collecting information for the Non-Resident Person.
4. Conducting any other activity of a preparatory or auxiliary nature for the Non-Resident Person.
5. Conducting any combination of the above listed activities, provided that the overall activity is of a preparatory or auxiliary nature.

7.2.4.1. Storing, displaying or delivering of goods or merchandise

A place that is used for storing, displaying or delivering goods or merchandise belonging to the Non-Resident Person will not create a Permanent Establishment in the UAE if the place is used solely to perform the said activities for the customers of the Non-Resident Person.⁵⁰

⁴⁸ Article 14(3) of the Corporate Tax Law.

⁴⁹ Article 14(3) of the Corporate Tax Law.

⁵⁰ Article 14(3)(a) of the Corporate Tax Law.



A Non-Resident Person owning and operating warehousing facilities in the UAE for the purpose of providing delivery and warehousing services to other businesses or not to its own customers would not be covered by the exclusion. In that case, the warehouse would constitute a Permanent Establishment as per the Corporate Tax Law.

Example 19: Storage and delivery of spare parts

Company B sells electronic household appliances to customers in the UAE. It maintains a place of Business in the UAE solely for storage and delivery of spare parts to those customers. Such place will not constitute a Permanent Establishment for Company B based on the exclusion of storage and delivery activities listed in the Corporate Tax Law.⁵¹

Example 20: Storage and delivery of spare parts (continued)

If Company B maintains the place of Business for storage and delivery of spare parts to its customers and, in addition, maintenance and repair of appliances is offered, then this would constitute a fixed place of Business for Company B as this goes beyond solely being a storage and delivery activity. It will not be considered as preparatory or auxiliary in nature since after-sale services constitute a part of the services that Company B offers to its customers.

Example 21: Activity representing an important part of the Business

Company A (incorporated in and tax resident of Country A) has a core Business Activity of selling/distributing goods. It maintains in the UAE a very large warehouse in which employees work for the main purpose of storing and delivering goods owned by Company A which Company A sells online to its customers in the UAE.

In this case, the activities of Company A in the UAE will not be preparatory or auxiliary in nature since the storage and delivery activities, which are performed through the warehouse, represent an important part of Company A's sale/distribution Business and clearly constitute a significant income generating Business Activity for Company A.

⁵¹ Article 14(3)(a) of the Corporate Tax Law.



Hence, whether the activities of a Non-Resident Person in the UAE have a preparatory or auxiliary character will be fact and context-specific, taking account of the impact such activities have on the overall Business of the Non-Resident Person.

7.2.4.2. Keeping a stock of goods for processing purposes

The exclusion of keeping a stock of goods or merchandise is applicable only where a stock of goods or merchandise belonging to the Non-Resident Person is maintained by another Person for the sole purpose of processing by that other Person in facilities operated by the same other Person and the Non-Resident Person does not have the facilities at its disposal.⁵² Such place cannot, therefore, be a Permanent Establishment of that Non-Resident Person. Where, for example, a logistics company operates a warehouse in the UAE and continuously stores in that warehouse goods or merchandise belonging to a Non-Resident Person to which the logistics company is not related, the warehouse does not constitute a fixed place of Business at the disposal of the Non-Resident Person and the exception is, therefore, irrelevant. Where, however, that Non-Resident Person is allowed and actually exercises unlimited access to a separate part of the warehouse for the purpose of inspecting and maintaining the goods or merchandise stored therein, the exception would be applicable and the question of whether a Permanent Establishment exists will then depend on whether these activities constitute a preparatory or auxiliary activity.

7.2.4.3. Purchasing goods or merchandise or collecting information

A place that is used for purchasing goods or merchandise or collecting information for the Non-Resident Person will not create Permanent Establishment for the Non-Resident Person if the aforementioned activities do not constitute or are not part of the main service that the company renders and generates income from. This is because the activities of purchasing goods or merchandise or collecting information would not be economically viable when separated from the rest of the enterprise.⁵³

Example 22: A buyer purchasing goods for a client

Company A, incorporated in and tax resident of Country A, is a car dealer. It sources vehicles from the UAE and sets up a purchasing office in the UAE. The employees of Company A who are based in the UAE identify and acquire vehicles which are sold to Company A's customers in multiple countries. Because the

⁵² Article 14(3)(b) of the Corporate Tax Law.

⁵³ Article 14(3)(c) of the Corporate Tax Law.



purchasing office represents an essential and significant part of Company A's Business (without being able to source cars on favourable terms, it would not be able to sustain its Business), and so the activities are not preparatory or auxiliary. Therefore, it constitutes a Permanent Establishment in the UAE.

7.2.4.4. Combination of activities

If a Non-Resident Person conducts, in the same fixed place of Business, multiple activities which are preparatory or auxiliary in nature, it does not imply that the Non-Resident Person has a Permanent Establishment in the UAE, provided the overall activities resulting from such a combination are preparatory or auxiliary in nature.⁵⁴

In some cases, it may be difficult to distinguish between activities (or combination of activities) which have a preparatory or auxiliary character and those which do not. The decisive criterion is whether the activities form an essential/significant part of the overall activities of an enterprise. Each individual case will have to be examined on its own merits.

Consider the example discussed under Section [7.2.3.5](#) (Example 11), wherein Company A, which manufactures FMCG products, did not create a Permanent Establishment in the UAE because its employees in the UAE performed non-core Business Activities in the UAE (i.e. collecting information).

However, now assume that Company A decides to expand its Business Activities at the same place of Business in the UAE and now undertakes research and development on various nutrients, preservatives, chemicals, etc. to be directly used in the manufacturing/production of various FMCG goods. In this case, the activities performed in the UAE are no longer preparatory or auxiliary in nature as they are an essential part of the overall Business of Company A. Hence under these circumstances, Company A would have a Permanent Establishment in the UAE.

7.2.4.5. Duration for which preparatory activities are conducted at the place of Business can be indicative but not decisive

Preparatory activities are performed in contemplation of conducting activities which constitute an essential/significant part of the activities of the enterprise. The duration for which preparatory activities are conducted at a particular place would be considered in light of the nature of the core activities of the enterprise. The fact that the preparatory activities are conducted for an extended period of time would not trigger on its own a Permanent Establishment.⁵⁵

⁵⁴ Article 14(3)(e) of the Corporate Tax Law.

⁵⁵ Article 14(4)(b) of the Corporate Tax Law.



Example 23: Training employees to prepare them for work

Company C (incorporated and tax resident of Country C) which is in the Business of software development services, may train its employees in the UAE for a substantial period, before such employees are sent to various parts of the world to work at client sites. Training that takes place in the UAE constitutes preparatory activity for Company C since conducting training is not its core Business Activity.

7.2.4.6. Implications where preparatory or auxiliary activities are performed for a third party

Preparatory or auxiliary activities refers to activities that are carried on by an enterprise solely for itself. Hence, if a Non-Resident Person performs activities which are traditionally of a preparatory or auxiliary nature for another Person, the same would constitute a Permanent Establishment for the Non-Resident as it is not "solely" conducting such activities for itself.⁵⁶

Example 24: Advertising for other Persons

If a Non-Resident Person maintains an office in the UAE for advertising its own products or services, and is also engaged in advertising on behalf of other companies at that location, then such office/location would be regarded as a Permanent Establishment for the Non-Resident Person.

7.2.4.7. Anti-fragmentation

The Corporate Tax Law Permanent Establishment provisions include an anti-fragmentation rule.⁵⁷ Anti-fragmentation takes a substance approach to guard against potentially abusive practices whereby a cohesive Business Activity is fragmented into a number of small operations in order to argue that each has a preparatory or auxiliary character.

Geographical coherence, nature of the activity and the commercial rationale of outsourcing or fragmenting several business processes from the main activity, may be relevant in testing whether the combination of activities continues to be of preparatory or auxiliary nature.

⁵⁶ Article 14(3) of the Corporate Tax Law.

⁵⁷ Article 14(4) of the Corporate Tax Law.



If all the operations conducted by a Non-Resident and its Related Parties, either in the same location or different locations, form a cohesive Business operation (had they not been artificially fragmented), there would be a Permanent Establishment.

Example 25: Company using a Related Party to deliver services

Company C (a juridical person that is incorporated in and a tax resident of Country C) supplies spare parts. It registers a number of branches in the UAE. One branch source goods and manages logistics. A second deals with all administrative aspects including invoicing. A third branch manages sales. Company C considers the third branch as a Permanent Establishment but treats the first and second as auxiliary activities which do not constitute a Permanent Establishment.

In this case, all the branches of Company C are a single Permanent Establishment in the UAE and the artificial fragmentation of activities does not prevent them being regarded as such.

7.2.4.8. Can a subsidiary company, incorporated in the UAE, of a non-resident parent company be regarded as a fixed place Permanent Establishment?

The existence of a subsidiary company in the UAE does not, by itself, create a Permanent Establishment of its non-resident parent company. This follows from the principle that, for the purpose of taxation, a subsidiary company is an independent legal entity. Even though the trade/Business carried on by the subsidiary company is managed/overseen by the parent company, that does not automatically imply that the subsidiary company is a Permanent Establishment of the parent company as all the factors needed to give rise to a fixed place Permanent Establishment may not be present. However, this has to be tested against whether the subsidiary is in essence acting as an agent or has been incorporated to artificially split/dissect cohesive Business Activities of the non-resident parent.

7.2.4.9. Additional exclusions from fixed place Permanent Establishment

A natural person will not create a Permanent Establishment for a Non-Resident Person even if the natural person is present in the UAE, provided that:⁵⁸

1. The natural person is in the UAE due to an unpredictable temporary and exceptional situation which is beyond their control, which occurred while the natural person was already in the UAE (see Section [7.2.4.10](#)); or

⁵⁸ Article 14(7) of the Corporate Tax Law.



2. The natural person who is employed by the Non-Resident Person does not conduct core income-generating activities of the Non-Resident Person or its Related Parties, and the Non-Resident Person does not derive any State Sourced Income, for instance sales to UAE customers (see Section [8](#) for details).

Example 26: Internal accountant of a Non-Resident

A natural person employed as an accountant of a Non-Resident Person in the healthcare industry is working remotely from the UAE, for example, a “digital nomad”.

Based on the Non-Resident Person’s Business Activity, the accounting department is considered as administrative support (“back office”) and does not have a core role in the income generating activities of the Business. As such there would be no fixed place Permanent Establishment for the Non-Resident Person due to the presence of the accountant in the UAE (considering the exclusion discussed in point (2) in Section [7.2.4.9](#)).

Variation to Example 26: On the other hand, if the accountant who is an employee of a Non-Resident Person engaged in the healthcare industry, rendered healthcare services to clients in the UAE, then based on the Business Activity of this particular Non-Resident Person, the activities may have central importance in generating income and, therefore, the exclusion from creating a fixed place Permanent Establishment would not apply.

Note that these additional exclusions augment the preparatory and auxiliary exclusions. As such, the additional exclusions set out above would only need to be considered if the presence of a natural person in the UAE was sufficient to otherwise create a fixed place Permanent Establishment.

7.2.4.10. Exceptional situations

For the purposes of point (1) of Section [7.2.4.9](#), the presence of a natural person in the UAE can only qualify as due to an exceptional situation in case it is temporary and all of the following conditions are satisfied:⁵⁹

1. The presence of the natural person in the UAE is a consequence of exceptional circumstances of a public or private nature.
2. The exceptional circumstances cannot reasonably be predicted by the natural person or the Non-Resident Person.

⁵⁹ Article 2(1) of Ministerial Decision No. 83 of 2023.



3. The natural person did not express any intention to remain in the UAE when the exceptional circumstances end.
4. The Non-Resident Person did not have a Permanent Establishment in the UAE before the occurrence of the exceptional circumstances.
5. The Non-Resident Person did not consider that the natural person is creating a Permanent Establishment or deriving income in the UAE as per the tax legislation applicable in other jurisdictions.

Exceptional circumstances

In the above context, an exceptional circumstance is a situation or an event beyond the natural person's control, which takes place while the natural person is already in the UAE, and which could not have been reasonably predicted or prevented and which did not allow them to leave the UAE as originally planned.

- The following circumstances may qualify as exceptional circumstances of a public nature:⁶⁰
 1. Adoption of public health measures by the competent authorities in the UAE or in the jurisdiction of the original workplace or by the World Health Organization.
 2. Imposition of travel restrictions by the competent authorities in the UAE or in the jurisdiction of the original workplace.
 3. Imposition of legal sanctions on the natural person preventing them from leaving the UAE.
 4. Acts of war or occurrence of terrorist attacks.
 5. Occurrence of natural disasters or force majeure beyond reasonable control.
 6. Any other circumstances similar to those provided for above as prescribed by the FTA.
- The following circumstances may qualify as exceptional circumstances of a private nature:⁶¹
 1. Occurrence of an emergency health condition affecting the natural person or their relatives up to the fourth degree, including by way of adoption or guardianship.
 2. Any other circumstances similar to those provided for above as prescribed by the FTA.

⁶⁰ Article 2(2)(a) of Ministerial Decision No. 83 of 2023.

⁶¹ Article 2(2)(b) of Ministerial Decision No. 83 of 2023.



Example 27: A pandemic

An individual working for Company A (incorporated and tax resident of Country A) travels to the UAE for vacation and cannot leave the UAE due to a global health pandemic. Where an individual is unable to leave the UAE, due to travel restrictions or health reasons, it would not result in a Permanent Establishment as their presence in the UAE was due to an unpredictable temporary and exceptional situation which is beyond the individual's control, which occurred while the individual was already in the UAE. However, the exception would not apply if a natural person travelled to the UAE knowing it was likely they would not be able to leave due to imminent travel restrictions.

Example 28: Act of war

A war breaks out in Country B where an individual works for Company B (incorporated and tax resident of Country B). The individual decides to travel to the UAE and conduct the Business Activities of Company B from a rented office after the start of the war which ends up lasting for 8 months.

In this case, the provisions related to exceptional circumstances will not apply as the war started before the individual decided to travel to the UAE, and, therefore, the above situation would create a Permanent Establishment for Company B.

7.3. Agency Permanent Establishment

Even if a Person, that is not a Resident Person, does not have a fixed place of Business in the UAE, it could nonetheless have an agency Permanent Establishment unless it is an agent that is legally or economically independent from the principal (see Section [7.3.2](#)).⁶²

Person A, that is not a Resident Person, will be deemed to have an agency Permanent Establishment in the UAE due to the activities of a Person B (who can be either a natural person or a juridical person), if these activities are conducted for and on behalf of Person A. Person B can either be a Resident Person or Non-Resident Person in the UAE.

⁶² Article 14(5) and Article 14(6) of the Corporate Tax Law.



7.3.1. When does a Person create an agency Permanent Establishment for a Non-Resident Person?

A Person would create an agency Permanent Establishment for a Non-Resident Person if such Person, on a regular basis:⁶³

- concludes contracts in the UAE on behalf of a Non-Resident Person; or
- negotiates contracts in the UAE on behalf of a Non-Resident Person and such contracts are concluded by the Non-Resident Person without any material modification to the terms of the contracts.

The conclusion/negotiation of contracts by such Person must take place repeatedly and not merely in isolated cases, for it to be habitual and thus, constitute a Permanent Establishment for the Non-Resident Person.

Furthermore, whether such Person constitutes a Permanent Establishment for the Non-Resident Person should be determined based on commercial realities of the situation. The mere fact that a Person has “attended” or “participated” in negotiations between the Non-Resident Person and its UAE customers will not be sufficient, by itself, to determine that such Person has concluded/negotiated contracts on behalf of the Non-Resident Person.

A Person’s actions should be binding on the Non-Resident Person vis-à-vis the end customer, and it cannot be said to be acting on behalf of a Non-Resident Person if the Non-Resident Person is not directly or indirectly affected by the actions performed by such Person.

It is immaterial whether the contracts are concluded in the name of the Non-Resident Person or such other Person who is acting on behalf of the Non-Resident Person.

This means that even commissionaire or undisclosed principal arrangements can trigger a Permanent Establishment in the UAE for a Non-Resident Person.

In general terms, a commissionaire arrangement refers to an arrangement whereby a Person sells products in its own name but on behalf of another (Non-Resident) Person (who is the owner of these products). In theory, the commissionaire does not usually bind the principal and the customer cannot sue the Non-Resident Person, as there is no contractual relationship between the Non-Resident Person and the customer.

⁶³ Article 14(5) of the Corporate Tax Law.



However, in substance, the obligation to perform is on the owner of the goods (i.e. Non-Resident Person) who sells directly to the customer.

To ensure commissionaire arrangements are not used to avoid the creation of a Permanent Establishment by the Non-Resident Person, emphasis is placed on substance over form. Therefore, where the activities of a Person/commissionaire bind the Non-Resident Person to perform activities, this would trigger a Permanent Establishment, even if the contracts are not in the name of the Non-Resident Person.

Example 29: An agent creating an agency Permanent Establishment for another company

A pharmaceutical company, Company P (a juridical person that is incorporated in and a tax resident of Country U) sells its medicines across the globe. For sales of its medicines in the Middle East region, including the UAE, it has appointed a distribution company, Company D (a juridical person that is incorporated in and a tax resident of Country B) that exclusively works for Company P.

Company D regularly meets potential customers of Company P in the UAE and convinces them to purchase medicines of Company P and negotiates all the essential terms of the contract (i.e. price, place of delivery, terms of payments, etc). Thereafter, Company D passes the sales leads to Company P and the contracts are concluded and executed directly by Company P. Company D does not have the authority to conclude the contract with UAE customers on behalf of Company P.

Implications under the Corporate Tax Law:

In this case, as per the Corporate Tax Law, the activities of Company D give rise to an agency Permanent Establishment in the UAE for Company P (due to its negotiation activities) even though Company D does not have the authority to conclude contracts on behalf of Company P with UAE customers.

Implications under the Double Taxation Agreement:

However, the UAE and Country U have an effective Double Taxation Agreement that specifies that a company that is tax resident in Country U (i.e. foreign company) creates an agency Permanent Establishment in the UAE only if a person (for example, agent, other than an independent agent) acts on behalf of the foreign company and habitually exercises in the UAE an authority to conclude contracts on behalf of the foreign company. Unlike the provisions of the Corporate Tax Law, under the Double Taxation Agreement between the UAE and Country U, a person



does not create an agency Permanent Establishment in the UAE for a foreign company merely by habitually negotiating contracts that are concluded by the foreign company without any material modification.⁶⁴

As Company P is incorporated and tax resident of Country U, it would be entitled to benefit from the Double Taxation Agreement while determining if it has an agency Permanent Establishment in the UAE.

Based on the Double Taxation Agreement between the UAE and Country U, as the Company D neither concludes nor has the authority to conclude contracts on behalf of Company P, Company D will not constitute a Permanent Establishment for Company P in the UAE. In absence of a Permanent Establishment in the UAE (and assuming Company P does not have any other operations in/revenues from the UAE), Company P will not be required to register for Corporate Tax or undertake any filing obligations as it only derives State Sourced Income not attributable to a Permanent Establishment.

Example 30: Commissionaire arrangement can constitute an agency Permanent Establishment for a Non-Resident Person

Company D (a juridical person incorporated in and a tax resident of Country D) manufactures and sells clothes internationally. It has entered into a commissionaire arrangement with Company E to sell its clothes to customers in the UAE, for which Company E receives a commission from Company D.

Company E acts as a representative of Company D in the UAE market and enters into a contract for sale with the customers in the UAE, in its own name (i.e. Company E's), issuing invoices to the customers in the UAE.

Legal title for the goods passes from Company D to the customers in the UAE (note, this is not the same as the physical delivery of the goods, which may well be from Company E to the customer). Legal title does not pass to Company E. The products remain the property of Company D until they pass to the customers in UAE.

In case any issue is identified in the purchased products, customers will have recourse to Company D (and not Company E).

Company E, which is acting in its own name, but on behalf of Company D, will

⁶⁴ Refer to Section 10.2 - Annexure 2 for the extract of Article 5 on Permanent Establishment Article as per the Double Taxation Agreement between the UAE and Country U.



constitute an agency Permanent Establishment for Company D in the UAE. A commission agent cannot be said to be conducting their own Business or Business Activity when they perform activities which, economically/usually, should be performed by another Person (i.e. the Non-Resident Person).

7.3.2. Independent agents: When does a Person not create an agency Permanent Establishment for a Non-Resident Person?

Even if the conditions specified in Section [7.3.1](#) are met, a Non-Resident Person will not have an agency Permanent Establishment in the UAE if:⁶⁵

- the Person who is acting on behalf of the Non-Resident Person is an “independent agent”; and
- the Person performs activities for the Non-Resident Person in its ordinary course of Business.

However, if such Person acts exclusively or almost exclusively on behalf of the Non-Resident Person or it is legally or economically dependent on the Non-Resident Person, then it will not be an “independent agent” and will still create an agency Permanent Establishment for the Non-Resident Person in the UAE.

A Non-Resident Person will not have a Permanent Establishment in the UAE if another Person merely promotes and/or markets goods or services of the Non-Resident Person in the UAE in a way that does not directly result in the conclusion of contracts.

For a Person to create an agency Permanent Establishment for a Non-Resident Person, it should be involved in concluding or negotiating contracts that constitute the “Business” of the Non-Resident Person. It would be irrelevant if a Person concludes contracts which relate to activities which would be considered preparatory or auxiliary (for example, contracts that are not income generating for the Non-Resident Person) in the UAE for a Non-Resident Person.

Some illustrative examples are discussed below:

⁶⁵ Article 14(6) of the Corporate Tax Law.



Example 31: Representatives of a pharmaceutical company

Representatives of a pharmaceutical company (incorporated in and tax resident of Country A) actively promote medicines produced by such Non-Resident Person by contacting doctors in the UAE who subsequently prescribe these medicines to their patients. Such marketing activity does not directly result in the conclusion of contracts between the doctors and the Non-Resident Person. Hence, such activities of the representatives do not create an agency Permanent Establishment for the Non-Resident Person in the UAE even though sales of the medicines may increase as a result of the marketing activity.

Example 32: Permanent Establishment triggered by a subsidiary

Company C (incorporated in and tax resident of Country A) distributes various goods/services worldwide through its websites. Company U (incorporated in and tax resident of the UAE) is a wholly owned subsidiary of Company C. Company U's employees send emails, make telephone calls to, or visit large organisations to convince them to buy Company C's products and services and are, therefore, responsible for large accounts in the UAE. When customers in the UAE are persuaded by employees of Company U to purchase a given quantity of goods/services, they indicate the price that will be payable for that quantity, that a contract must be concluded online with Company C before the goods/services can be provided by Company C and explain the standard terms of contract with Company C including the fixed price structure, which the employees are not authorised to modify. The customers subsequently conclude the contracts online for the quantities discussed with Company U's employees. In this case, Company U's employees negotiate the contract with the end customers which are accepted by Company C without any modifications. Company U and its employees are acting on behalf of Company C. The fact that Company U's employees cannot modify the terms of the contracts does not mean that the conclusion/negotiation of the contracts is not the direct result of the activities performed by Company U employees. Hence, the activities of Company U employees would create an agency Permanent Establishment for Company C in the UAE.

Example 33: Permanent Establishment triggered by a subsidiary (continued from Example 32)

Company U acts as a distributor of goods/services of Company C in the UAE and in doing so it sells to the UAE customers goods/services that it procures "on its own account" from Company C. It is neither acting on behalf of Company C nor selling property that is owned by Company C since the property that is sold to the end



customers is owned by the distributor i.e. Company U.

Even though the employees of Company U perform the same functions as discussed in Example 32, Company U and its employees are not acting "on behalf" of Company C and hence Company C does not have a Permanent Establishment in the UAE.

Important notes:

- An analysis of whether a Non-Resident Person has a Permanent Establishment in the UAE is a fact and context specific exercise.
- Additionally, even if a Non-Resident Person does not have a Permanent Establishment in the UAE, it should consider if it has nexus in the UAE, as this would make it subject to Corporate Tax in the UAE.
- As discussed in Section [5.9](#), Double Taxation Agreements should be considered when determining the existence of Permanent Establishments where these agreements are effective and signed between the UAE and jurisdiction of the relevant party(ies).



8. State Sourced Income

Corporate Tax shall be imposed on a Taxable Person, including a Non-Resident Person, if the Non-Resident Person derives State Sourced Income, i.e. income accruing in, or derived from, the UAE.⁶⁶ This condition (deriving State Sourced Income) is one of three independent conditions for identifying whether a Person is a Non-Resident Person.

Accordingly, a Person that is not a Resident Person in the UAE, and that derives income from the UAE should determine if the income qualifies as State Sourced Income. There will not be a need for the Non-Resident Person to register for Corporate Tax if the State Sourced Income they derive is not attributable to a UAE Permanent Establishment or a nexus in the UAE.

State Sourced Income, derived by a Non-Resident Person, that is not attributable to a Permanent Establishment, may be subject to Withholding Tax; however, as mentioned in Section [5.4](#), Withholding Tax is currently levied at the rate of 0%.⁶⁷

In the case of a Non-Resident Person, State Sourced Income includes:

1. Income derived from a Resident Person, i.e. income derived from a juridical person or natural person that is considered a Resident Person as per the Corporate Tax Law.⁶⁸

Example 34: Sale of goods in the UAE

Company A (incorporated in and tax resident of Country A) sells goods to Company B (a UAE Resident Person) in the State. The income for Company A received from these sales will be considered State Sourced Income because the income is derived from a Resident Person in the UAE.

2. Income derived by a Non-Resident Person from another Non-Resident Person to the extent it is attributable to a Business or Business Activity conducted by that other Non-Resident Person through a Permanent Establishment in the UAE.⁶⁹

⁶⁶ Article 11(4)(b) of the Corporate Tax Law.

⁶⁷ Article 45(1)(a) of the Corporate Tax Law.

⁶⁸ Article 13(1)(a) of the Corporate Tax Law.

⁶⁹ Article 13(1)(b) of the Corporate Tax Law.



Example 35: Income derived from a UAE Permanent Establishment of a Non-Resident Person

Income is derived by Company A (a company incorporated in and tax resident of Country C) by providing consulting services from Country C, to a UAE branch of Company B (a company also incorporated in and tax resident of Country C). The UAE branch of Company B is considered to be a Permanent Establishment of Company B in the UAE. The income that Company A derives is considered State Sourced Income as it derives the income from a Permanent Establishment of a Non-Resident Person, which is the branch of Company B.

3. Income otherwise accrued in or derived from activities performed, assets located, capital invested, rights used, or services performed or benefitted from in the UAE.⁷⁰ In other words, income may be considered to have a UAE source (State Sourced Income) for Corporate Tax purposes where the place of use, or performance of the activity, or the tangible or intangible assets generating the income, are located in the UAE.

Example 36: Investment in the UAE financial market

A Non-Resident Person invests in a security listed on a UAE financial market (for example, Dubai Financial Market, Abu Dhabi Securities Exchange) that pays dividends. The income accrued due to this investment is State Sourced Income because it is accrued or derived from assets located in the UAE.

4. Further examples of State Sourced Income (which are subject to any conditions and limitations that the Minister may determine) include:⁷¹
 - a. Income from the sale of goods: The general rule for the sale of goods is that the income is sourced to where the sale and resulting transfer of title takes place, i.e. State Sourced Income is derived where the buyer that will own the good is a Resident Person in the UAE.
 - b. Income from services: Income from services would generally be considered State Sourced Income where the service is rendered in the UAE or where the ultimate recipient or beneficiary of the service is located in the UAE. In other words, the service provider (or their employees/representatives) is (are) located in the UAE while providing the service, or the Person benefiting from the service is a Resident Person in the UAE.

⁷⁰ Article 13(1)(c) of the Corporate Tax Law.

⁷¹ Article 13(2) of the Corporate Tax Law.



- c. Income from a contract: Income from the performance of contracts would generally be sourced in the place where the contract is performed or to where the ultimate recipient or beneficiary of the performance under the contract is located. This is not intended to cover income earned under an employment contract or income from a contract involving movable or immovable property which will be sourced where the property is located. In that respect, income from the sale of a business opportunity would be considered as State Sourced Income.

Example 37: Income generated due to a contract

Company X (incorporated in and tax resident of Country A) wins a contract with a UAE government department to build a government facility. Due to business considerations (for example, lack of resources), Company X decided to transfer the work of executing the contract to another juridical person, Company Y (also incorporated in and tax resident of Country A), in exchange for a fee. The fee earned by Company X is considered as Stated Sourced Income.

- d. Income from movable or immovable property: Income arising from the use or sale of tangible property is sourced from the place where the property is located. For example, the sale of an apartment located in the UAE, or rental income earned from property located in the UAE (or from an interest in such property) would generally be considered State Sourced Income.
- e. Income from the disposal of shares or capital rights of a Resident Person: Capital gains and other income derived from the sale of shares or other rights in the capital of a juridical person is considered to be State Sourced Income where the juridical person is incorporated or resident in the UAE for Corporate Tax purposes.
- f. Income from intellectual or intangible property: Income received from the use, the right to use, or the granting of the permission to use in the UAE of patents, trademarks, trade brands, copyrights, artistic or scientific work, secret formula or process, goodwill and other such intangible or intellectual property in the UAE would generally be sourced from the UAE. This is irrespective of the location and residence for Corporate Tax purposes of the payor and recipient of the income.

Example 38: Sale of right of use of a patent

Company A (incorporated in and tax resident of Country A) innovates by creating new battery technology for electric vehicles and registers the patents for the new technology in Country A, then sells the rights of use of the patents to an electric vehicle maker Company T (also incorporated in and tax resident of Country A), and



Company T uses the patents in its manufacturing facility in the UAE to produce batteries used in Company T's electric vehicles. The income derived from the sale of the rights to use the patents in the UAE would be State Sourced Income for Company A.

- g. Interest income: Interest income is sourced from the UAE if it meets any of the following conditions:
 - 1. the loan is secured by movable or immovable property located in the UAE, i.e. Interest may be considered State Sourced Income where the collateral that secures the relevant loan or financing arrangement is located in the UAE; or
 - 2. the borrower is a Resident Person; or
 - 3. the borrower is a Government Entity.

- h. Insurance income: Insurance or reinsurance premiums are considered to be State Sourced income in any of the following instances:
 - 1. the insured asset is located in the UAE;
 - 2. the insured Person is a Resident Person; or
 - 3. the insured activity is conducted in the UAE.



9. Nexus in the UAE

Corporate Tax is imposed on juridical Non-Resident Persons who have a nexus in the UAE. Non-Resident Persons that have a nexus in the UAE are required to register for Corporate Tax purposes. The nexus concept does not apply to natural persons.

A juridical Non-Resident Person will be considered to have a nexus in the UAE if it derives income from any Immovable Property in the UAE, which means:⁷²

- a. any area or land over which rights or interest or services can be created; or
- b. any building, structure or engineering work attached to the land permanently or attached to the seabed; or
- 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.

Income from Immovable Property will include income derived by way of sale, disposal, assignment, direct use, leasing or sub-leasing or any other form of exploitation of Immovable Property.⁷³ Taxable Income from Immovable Property will be subject to Corporate Tax as follows:

- 0% (zero percent) on the first AED 375,000 of Taxable Income
- 9% (nine percent) on the amount above AED 375,000 of Taxable Income

If a Non-Resident Person is a Qualifying Free Zone Person, then the provisions related to the Free Zone Corporate Tax regime will apply on income from Immovable Property received by such Person.

Example 39: ATM machine in the UAE

Company B, a bank not established in the UAE, installs, operates and maintains ATM machines in various malls, hotels and movie theatres in the UAE from which it earns service fees.

In this case, Company B will be considered to have a nexus in the UAE because the ATM is “machinery or equipment which is permanently attached to a building”.

Note that a fixed place Permanent Establishment in the UAE is also created in this

⁷² Cabinet Decision No. 56 of 2023.

⁷³ Article 2(2) of Cabinet Decision No. 56 of 2023.



case because the ATM machines are used by the Non-Resident Person to carry on its Business in the UAE on a regular/recurrent basis (see Section [7.2](#)).

Example 40: Wind turbines

Company N (incorporated in and tax resident of Country N) installs a wind turbine which is fixed on the seabed in a location which falls within the territorial waters of the UAE and derives income from the power generated by the turbine. In this case, Company N will be considered to have both a nexus in the UAE and a Permanent Establishment in the UAE as the wind turbine would be considered as an installation to exploit renewable energy. Hence, income derived by Company N that is attributable to its nexus and Permanent Establishment in the UAE would be subject to Corporate Tax.

Example 41: Land rented out for events

Company A, a company not established in the UAE, owns land in the UAE and routinely rents out such land to various companies to hold events, conferences, etc. In this case, Company A will be considered to have a nexus in the UAE.



10. Annexures

10.1. Annexure 1 – Relevant extract of Double Taxation Agreement between the UAE and Country I

“Article 5

Permanent Establishment

1. *For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.*
2. *The term "permanent establishment" includes especially:*
 - a. *a place of management;*
 - b. *a branch;*
 - c. *an office;*
 - d. *a factory;*
 - e. *a workshop;*
 - f. *a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;*
 - g. *a farm or plantation;*
 - h. *a building site or construction or assembly project or supervisory activities in connection therewith, but only where such site, project or activity continues for a period of more than 9 months;*
 - i. *the furnishing of services including consultancy services by an enterprise of a Contracting State through employees or other personnel in the other Contracting State, provided that such activities continue for the same project or connected project for a period or periods aggregating more than 9 months within any twelve-month period.*
3. *Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:*
 - a. *the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;*
 - b. *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;*
 - c. *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;*
 - d. *the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;*
 - e. *the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.*



4. *Notwithstanding the provisions of paragraphs (1) and (3), where a person - other than an agent of independent status to whom paragraph (5) applies - is acting on behalf of an enterprise and has, and habitually exercises in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to the purchase of goods or merchandise for the enterprise.*
5. *An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of independent status within the meaning of this paragraph."*

10.2. Annexure 2 – Relevant extract of Double Taxation Agreement between the UAE and Country U

"Article 5

Permanent Establishment

1. *For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.*
2. *The term "permanent establishment" includes especially:*
 - a. *a place of management;*
 - b. *a branch;*
 - c. *an office;*
 - d. *a factory;*
 - e. *a workshop;*
 - f. *a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;*
3. *A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 months.*
4. *Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:*



- a. *the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;*
 - b. *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;*
 - c. *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;*
 - d. *the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;*
 - e. *the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.*
 - f. *the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.*
5. *Notwithstanding the provisions of paragraphs (1) and (2), where a person - other than an agent of independent status to whom paragraph (6) applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.*
6. *An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.*
7. *The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.”*



11. Updates and Amendments

Date of amendment	Amendments made
October 2023	<ul style="list-style-type: none">• First version