

Taxation of Extractive Business and Non-Extractive Natural Resource Business

December 12, 2023

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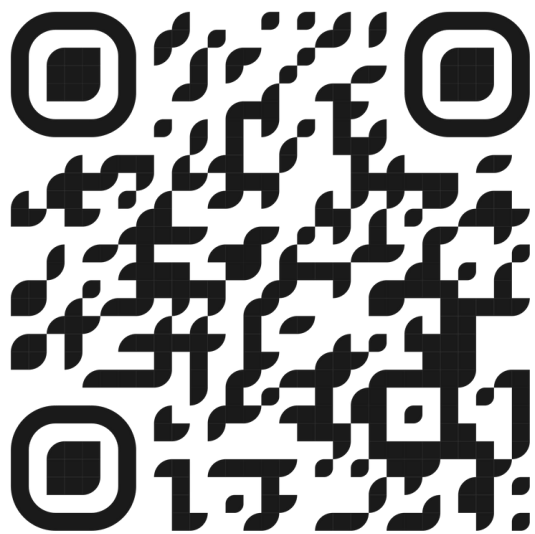


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Taxation of Extractive Business and Non-Extractive Natural Resource Business — This article provides an overview of the Corporate Tax exemption for Extractive Businesses and Non-Extractive Natural Resource Businesses in the UAE. It covers the scope of the exemption, how the rules apply to these types of businesses, and how their taxable income is determined. Additionally, it outlines compliance requirements under the Corporate Tax Law. This article is intended for anyone carrying on such businesses in the UAE and should be read alongside the Corporate Tax Law, implementing decisions, and relevant FTA guidance.

What are Natural Resources?

The UAE's Corporate Tax Law defines Natural Resources as non-renewable, non-living resources extractable from the country's territory, including land, territorial waters, and airspace. This includes water, oil, gas, coal, and naturally formed minerals, excluding renewable resources like solar energy, wind, animals, and plant materials.

Furthermore, the UAE law establishes that Natural Resources exploited within individual Emirates are considered the public property of that Emirate. This distinction has implications for resource management and taxation within the UAE's federal structure.

What is an Extractive Resources?

These businesses engage in the exploration,

extraction, removal, or production of Natural Resources. Examples include oil and gas extraction, mining, dredging, and quarrying. Operating under rights, concessions, or licenses granted by the local government, they are typically conducted by:

- Private or government-owned legal entities
- Contractual joint ventures between local government and private enterprises

What is a Non-Extractive Natural Resource Business?

Unlike extractive businesses, non-extractive ones focus on the post-extraction stages of natural resource utilization. They handle activities such as processing, storing, transporting, marketing, and distributing these resources. These activities typically fall within the midstream and downstream sectors of the oil and gas industry.

Similar to extractive businesses, non-extractive companies operate under licenses issued by the local government. Ownership structures often involve private or government entities, either wholly or partially. In some cases, specific concessions or commercial agreements subject these businesses to Emirate-level taxation.

Other Business Activities

Companies operating in the Extractive or Non-Extractive Natural Resource sectors may engage in additional business activities unrelated to their

core operations. Under the UAE Corporate Tax Law, these activities are considered separate businesses and require independent reporting.

activities, such as refining crude oil into gasoline, processing minerals into usable metals, and manufacturing raw lumber into furniture.

Process for Exploiting Natural Resources

Exploiting natural resources for economic benefit entails a complex and multifaceted process. Understanding the distinct phases involved is crucial for companies operating within this sector to optimize their operations and ensure compliance with regulations.

- 1. The Upstream Phase: A Focus on Acquisition:** This initial phase focuses on identifying, extracting, or producing the raw materials. This includes activities such as oil drilling, mineral mining, and timber harvesting. It represents the foundation upon which the entire exploitation process rests.
- 2. The Midstream Phase: Bridging the Gap:** Acting as the critical bridge between upstream and downstream, the midstream phase focuses on the efficient transport and storage of raw materials for further processing. Pipelines, storage facilities, and robust transportation networks play crucial roles in ensuring the seamless flow of resources throughout the chain.
- 3. Downstream Phase: Delivering Value to the End User:** Representing the culmination of the exploitation process, the downstream phase involves transforming raw materials into finished products and delivering them to the end user. This stage encompasses diverse

Introduction: Tax Exemption for Natural Resource Businesses

The UAE's Corporate Tax Law generally exempts businesses involved in Extractive or Non-Extractive Natural Resource activities from paying corporate tax. This exemption, aimed at respecting the sovereignty of Emirates over their resources and avoiding double taxation, applies to businesses that meet specific criteria and are deemed "Exempt Persons."

While the exemption extends to the core Extractive or Non-Extractive Natural Resource Business, it's important to note that income derived from any additional business activities conducted by the Exempt Person will typically be subject to corporate tax unless specifically exempt under separate provisions.

Qualifying as an Exempt Person: Meeting the Criteria

To qualify as an Exempt Person and enjoy the exemption from corporate tax on their Extractive or Non-Extractive Natural Resource Business, a business must satisfy the following conditions:

- 1. Possession of a valid right, concession, or license:** The Person must hold, directly or

or indirectly, an official document granted by a Local Government authorizing them to undertake the specific Extractive or Non-Extractive Natural Resource Business within the UAE.

2. **Local Government Taxation:** The Person must be demonstrably subject to tax under the applicable legislation of the Local Government where their business operates.

3. **Notification to The Ministry of Finance:** The Person must submit a notification to the Ministry of Finance in the specified format and manner, agreed upon with the Local Government.

4. **Non-Extractive Business Specific Condition:** In the case of a Non-Extractive Natural Resource Business, an additional condition applies. The business' income must solely be derived from other businesses or business activities, excluding income from individuals.

Implications for Business

Understanding the conditions for exemption and the distinction between exempt and taxable business activities is crucial for businesses operating in the Extractive and Non-Extractive Natural Resource sectors within the UAE. This knowledge empowers them to:

- **Optimize their tax strategies:** By clearly separating exempt and taxable business activities, companies can ensure accurate tax calculations and minimize their overall tax burden.
- **Maintain compliance with regulations:** Adhering to the specified criteria and notification procedures is essential to avoid potential penalties and ensure smooth

operation within the legal framework.

- **Effectively manage financial obligations:** Understanding the tax implications of different business activities allows companies to make informed decisions regarding resource allocation and financial planning.

Specific Conditions for Exemptions

Extractive & Non-Extractive Natural Resource Business: Right, Concession & License Requirements

For businesses to qualify as Exempt Persons under the UAE Corporate Tax Law and enjoy exemption for their Extractive or Non-Extractive Natural Resource Business activities, they must meet specific criteria. One crucial condition is directly or indirectly holding an interest in a relevant right, concession, or license issued by a Local Government.

Local Governments regulate the exploration, production, and related activities within their jurisdictions, typically through dedicated licenses or concession agreements. While some aspects are federally regulated, the specific procedures for obtaining rights can vary across Emirates.

The "directly or indirectly" clause recognizes this diversity and acknowledges that ownership or beneficiary status under a Natural Resources agreement can be established through various means, including assignments, participation, or sub-participation.

It's important to note that the exemption only applies to the Exempt Person holding the relevant

interest in the Natural Resources agreement. Contractors, subcontractors, or suppliers providing goods or services to such an entity do not qualify for the exemption unless they independently meet the conditions.

Emirate-Level Taxation: A Crucial Condition for Exemption

To qualify for the Extractive and Non-Extractive Natural Resource Business exemption, companies must be "effectively subject to tax" under the relevant Emirate's legislation. This means they must be demonstrably paying taxes to the Local Government, regardless of the specific form that taxation takes.

Emirates regulate Natural Resource taxation individually, often establishing the specific tax obligations through case-by-case agreements with businesses. These agreements can include income taxes, royalties on production or sales, or other forms of fiscal measures.

The broad interpretation of "effectively subject to tax" encompasses any form of tax, charge, or levy levied on income, profits, or revenues by the Local Government. This ensures fairness and prevents businesses from escaping their tax obligations through loopholes.

Notifying the Ministry of Finance: Validating Exempt Status for Extractive and Non-Extractive Businesses

The third condition for exemption requires businesses to notify the Ministry of Finance. This notification, done in a format agreed upon with the Local Government, serves as a crucial step in

validating their exempt status under the Corporate Tax Law. By fulfilling this requirement, businesses demonstrate that they have met the necessary criteria and can legally operate as Exempt Persons within the UAE's tax framework.

Exclusive Business Transactions: A Condition for Tax Exemption in Non-Extractive Natural Resources

For Non-Extractive Natural Resource businesses to qualify for tax exemption, they must exclusively generate income from other businesses, meaning they cannot earn revenue from individual customers or consumers. This requirement applies to all transactions, with even a single violation disqualifying them from the exemption.

This condition emphasizes the distinction between exempt Non-Extractive businesses and any separate business activities the company might be involved in. The sole income requirement applies solely to transactions related to the Non-Extractive business and only considers activities authorized by their right, concession, or license.

Essentially, Non-Extractive businesses must focus solely on serving other businesses to maintain their tax-exempt status. This ensures a clear separation between their core activity and any potential taxable business ventures.

Taxing Other Businesses: Separate Entities

Separate Rules Companies operating in Extractive or Non-Extractive Natural Resource sectors may also engage in other business activities.

This specific rules determine the Taxable Income of these "other businesses" under the UAE Corporate Tax Law.

Treating Other Businesses as Independent Entities:

The Corporate Tax Law requires that the Taxable Income of an Exempt Person's other business be calculated independently, treating it as a distinct entity. This means maintaining separate financial statements for the other business, separate from those of the Extractive or Non-Extractive Natural Resource Business.

Taxable Income Calculation:

The Taxable Income of the other business is determined according to the provisions of the Corporate Tax Law, just like any other taxable entity. This involves maintaining separate books of accounts, income, expenditure, and financial statements for accurate calculation.

Transactions with Extractive/Non-Extractive Business:

Transactions between the other business and the Extractive or Non-Extractive Natural Resource Business are considered "Related Party Transactions" for Corporate Tax purposes. This means these transactions will be subject to additional scrutiny and adherence to specific rules to ensure fair market value and prevent potential tax manipulation.

of Extractive Business and Non-Extractive Natural Resource Business, please refer to the accompanying Guides, References, and Public Clarifications. Alternatively, you may engage with our professionals for further assistance.

- [Federal Tax Authority Website](#)
- [Taxation of Extractive Business and Non-Extractive Natural Resource Business](#)

Additional Resources

For comprehensive details regarding *'Taxation*

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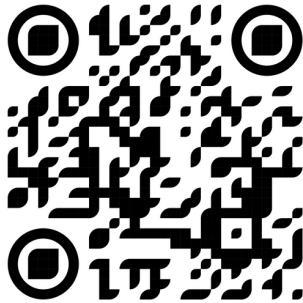
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Through our professional and best practices we have extended our services into more areas. In UAE, we have offices in Dubai, Abu Dhabi and Al Ain. Our staff strength is around 50+, which include Accountants, Auditors, Tax Consultants, Management Consultants, and ERP Consultants. Our present client strength is around 550 of varying discipline and sizes.

It is operating and is placed in one of the leading audit firms in Dubai with its branches in Dubai and Abu Dhabi. Parker Russell is incorporated in the year 1998, with the ideology of highly qualified, experienced, and capable chartered accountants and accounting executives, with much dedication and passion in providing high-quality financial services to any corporation or individual that is in need and imparting professional financial insights without compromising excellence.

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