

Highlights from the seminars on key Corporate-tax Decisions and Free Zone Taxation recently held by UAE Ministry of Finance



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With the commitment to engage with the taxpayers and provide time to time guidance on the newly enacted UAE Corporate Tax Law, the Ministry of Finance (“MOF”) conducted its second series of awareness sessions in Emirate of Sharjah and Dubai on 21 June 2023 and 22 June 2023 respectively, giving the insights from recently issued key Decisions, and on Free Zone taxation.

Having an opportunity to be physically present in the seminars, we hereby provide the highlights emanating from the presentation and the discussions.

Transfer Pricing Documentation (“TPD”):

During the discussion of the Ministerial decision 97 of 2023 related to Transfer pricing documentation, it was mentioned that taxpayers not meeting the revenue threshold of AED 200 million would not be required to prepare and maintain the local file and master file.

However, at the same time, it has been clarified that taxpayers will be expected to maintain minimum documentation to justify the arm’s length pricing of transaction with related party.

Free Zones for Corporate-tax purposes:

It has been communicated that businesses should approach their relevant freezone authority to confirm their eligibility to be considered as freezones for corporate tax purposes.

Import and export of goods on high sea sales basis (i.e., goods not entering UAE borders)

It has been communicated that the key ingredient for the distribution activity to be a ‘qualifying activity’ is the activity of distribution per se, to be carried out in or from the Designated Free Zone.

High sea sales would be considered as activity of distribution and thus, when such high sea sale is carried out by an entity being registered in the Free Zone being the Designated Free Zone, would be eligible for the 0% Qualifying income benefit.

Without any doubt, other conditions, especially the 'adequate substance', etc. shall be adhered to.

Mixed income from immovable property which is partly commercial and partly non-commercial:

It has been communicated that in the case where a Free Zone entity is deriving mixed income from immovable property (situated in Free Zone) which is partly commercial and partly non-commercial, the identifiable or proportionate, as the case may be, income attributable to commercial property can enjoy 0% Qualifying income benefit, provided it is from other Free Zone Person and not attracting other excluded activities criteria.

Rate of tax in case Qualifying Free Zone Person attracts disqualification due to any reason.

It has been communicated that where Qualifying freezone person (QFZP) fails to meet any of the relevant conditions, QFZP will lose the benefit of freezone regime and would be subject to standard corporate tax (CT) regime for a period of 5 years, Standard CT regime, understandably would mean 0% on taxable income not exceeding AED 375,000 and 9% on taxable income exceeding AED 375,000.

Treatment of branch of the mainland or foreign company registered in the Free Zone

It has been clarified that branch of the mainland or foreign company registered in the Free Zone would be eligible for taxation regime available for the Qualifying Free Zone Persons.

Treatment of Sole establishments registered in the Free Zone

It has been clarified that sole establishments registered in the Free Zone would not be eligible for taxation regime available for the Qualifying Free Zone Persons.

Additional guidance from Ministry of Finance

It has been communicated that further guidance (in the form of additional decision and / or FAQs/explanatory guide) would be issued in near future clarifying pertinent aspects such as definition of various terms in the existing Decisions.

PB Comments

We appreciate the efforts taken by the Ministry of Finance in organizing these awareness sessions and engaging with the stakeholders and also providing clarifications to the extent possible.

We expect the clarifications discussed in the seminars will get updated and circulated through additional guides and / or FAQs, which could be robust reference point for the businesses.



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