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Austria

Withholding tax refund for intermediary holding in Cyprus denied

In its decision of 23 March 2023, (Ra 2022/15/0050 in German only) the Austrian Supreme Administrative Court declined the qualification of a Cyprus-based intermediary holding company for a refund of Austrian withholding taxes on dividend payments under the EU Parent Subsidiary Directive. In this decision, the court confirmed its legal opinion expressed in previous decisions.

The appellant was a Cyprus-based company limited by shares (Ltd. 1), which had held shares in an Austrian company (AT SE) since 2007. The sole shareholder of Ltd. 1 was a (group-affiliated) Ltd. 2, also domiciled in Cyprus, whose shares were in turn held by two companies domiciled in the Channel Islands and the British Virgin Islands respectively, three other Cypriot companies and major Russian investors. Austrian withholding tax (WHT) was withheld from the profit distributions of AT SE in the years 2012 to 2017, the refund of which to Ltd. 1 was refused by the competent tax office with the argument that Ltd. 1 was an abusive intermediary.

Lack of economic activities

The competent tax office denied the refund request based on the lack of economic activity of Ltd. 1 and in the absence of economic or other relevant non-tax reasons for the chosen shareholder structure. The appellant argued that the function of Ltd. 1 was to hold and manage investments and to expand the Russian market and necessary tasks to be performed by Ltd. 1 had been outsourced to Ltd. 2 affiliated companies. However, the Fiscal Court qualified this argumentation as pure assertion due to a lack of arm's-length agreements and the lack of respective expenses in the accounts of Ltd. 1.

Lack of non-tax reasons for the chosen structure

According to the appellant, the economic reason for the chosen structure was the use of Ltd. 1 as a special purpose vehicle (SPV) that bundled shareholdings in the group division 'construction & development'. Additionally, it was argued that a European holding is essential and market standard for professional investing within the EU. While the Fiscal Court assumed that the Parent Subsidiary Directive was generally applicable, the control through persons who would not be entitled to a withholding tax exemption when holding the shares directly is indicative of abuse, if there is no economic activity and no economic reasons for the chosen structure.

However, there were no own economic activities and the outsourcing of functions to affiliated companies was not proven. Additionally, there was only one further shareholding in Ltd. 1. The argumentation for the need of an EU divisional holding was not comprehensible, as the economic activities of all subsidiaries, except for AT SE, were focused on Russia and Southern Europe. Other reasons, such as the use of English and having a Cyprus holding company as a standard, etc. were not seen as suitable economic or otherwise significant non-tax reasons.

Abusive structures cannot claim WHT relief

The Supreme Administrative Court followed the argumentation of the tax office and the Fiscal Court and found the interposition of the Cypriot companies to be abusive. In connection with the EU Parent-Subsidiary Directive, a prerequisite for the assumption of an abusive arrangement is that the rerouting of dividends via intermediary

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companies results in unjustified tax savings that could not have been claimed if the shareholder behind it had held the distributing entity directly. In cases where the shareholder behind the foreign intermediary holding would not be entitled to a relief, if he received the dividends directly, the foreign intermediary holding company can therefore only claim the benefits of the EU Parent-Subsidiary Directive if it carries out its own economic activity and if there are relevant non-tax reasons for the interposition.

Nevertheless, it can be concluded from the decision that the substance necessary for the recognition of a foreign company can be created not only by its own economic activity, but also by outsourcing the necessary functions to third parties. The prerequisite, however, is that arm's-length contractual agreements are in place and implemented and that the relevant activities are actually carried out in accordance with the contract.

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India

Doubling of withholding tax on royalty & FTS

Background

The receipt of royalty and fees for technical services ('FTS') for non-residents is deemed to accrue or arise in India. Therefore, the same is construed as taxable in India. Section 115A of the Income Tax Act, 1961 ('the Act') was introduced by the Finance Act 1976 which deals with taxation of specified income streams for non-residents, including royalty and fees for technical services ('FTS') whose tax rate has been 10 per cent (plus surcharge and cess). The Finance Act 2013 provided an amendment to increase the said rate of taxation of royalty and FTS from 10 per cent to 25 per cent (plus surcharge and cess tax). However, through the Finance Bill, 2015, the Hon'ble Finance Minister again restored the earlier rate of 10 per cent taxation for royalty and FTS.

Amendments made by Finance Act, 2023

The Finance Act 2023 was recently introduced. One of the amendments is to increase the tax rate on royalty and FTS from 10 per cent to 20 per cent (plus surcharge and cess tax) with effect from 1 April 2023.

As per provisions of the Act, a non-resident can opt to be taxed as per the domestic tax provisions or tax treaty entered between India and the country of residence of the taxpayer or the Act, whichever is more beneficial.

Implications of amendments

Considering tax treaties with major countries (e.g. United Kingdom, Canada and the United States of America) provide for a tax rate of 15 per cent, many non-residents receiving royalty and FTS were opting for the tax rate under section 115A of the Act. Furthermore, even in the case of the majority of the tax treaties (e.g. Belgium, Netherlands, Singapore) signed by India which provide for the tax rate of 10 per cent, the recipient non-residents were opting for section 115A due to specific exclusion of filing of tax return which is available to non-resident recipients if (i) such non-resident only had income from royalty/FTS from India and (ii) tax has been withheld from such income at a rate which is not lower than the rate provided under section 115A, which was formerly 10%.

However, pursuant to the amendment, the tax rate for royalty and FTS is doubled, and for the taxpayer a way forward to avoid the increased tax rate is to make use of the treaty benefit which would result in certain compliances which may include obtaining tax registrations, filing return of income in India, providing tax residency certificates, etc. detailed below:

Increased compliances by virtue of amendments

1. **Obtaining tax registrations and the filing of a tax return in India:**
   - As detailed above, the Act exempted a non-resident earning royalty and FTS income from the tax return filing requirement if the taxes were withheld as per the rate provided under Section 115A.
   - Pursuant to the amendment, the non-resident who will be claiming the treaty benefit on taxation of royalty and FTS would now be required to file the tax return in India.
   - To file a tax return in India, it will be imperative for the non-resident to obtain the tax registrations in India as without the same, one cannot file the tax return.

2. **Electronic filing of Form 10F:**
   - Form 10F is an essential document used by non-resident taxpayers to claim tax benefits under an applicable Tax Treaty with India.
   - The Central Board of Direct Tax ('CBDT') recently mandated the electronic filing of Form 10F by non-residents.
   - However, considering the practical challenges faced by the non-residents in filing Form 10F electronically, the CBDT had provided relief to provide Form 10F manually until 31 March 2023, but now extended this to 30 September 2023 for non-residents who do not have a tax registration number.
   - Given the recent amendment in tax rates on royalty and FTS, non-residents making use of treaty benefits would now have to mandatorily obtain a tax registration to file Form 10F electronically for the period post 30 September 2023 (unless there is a further extension).

3. **Documentation for claiming treaty benefits to be obtained by Indian payers from non-residents:**
   - The increased rate on royalty and FTS to 20 per cent under the domestic provisions considering the highest rate as compared to tax treaties would insist that non-residents make use of the treaty rate benefit.
   - To claim benefit under the tax treaty, the non-resident needs to maintain specific documents and the resident payers are required to obtain the following documents:
     a. Tax residency certificate
     b. No permanent establishment declaration
     c. Electronically filed Form 10F
   - Failure to furnish the above documents by the non-resident to resident payers will result in withholding as per the Act and there will be penal consequences for the resident payers such as interest on short deduction, penalties and prosecution.

Enhanced cash outflow for resident payers in the case of grossed-up payments

Separately, this amendment may adversely impact Indian payers in cases where royalty/FTS payments were being grossed-up for tax. If non-resident recipients are not

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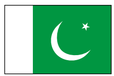
going to be out of pocket for withholding taxes, obtaining the above documents could be more cumbersome, resulting in additional cash outflow for resident payers.

Conclusion
In conclusion, the decision to increase the tax rates for royalty and FTS will increase the compliance for non-residents. However, whether or not the amendment will result in more revenue for the government is yet to be seen.

Pakistan



Pakistan Supreme Court rules on the controversy involving service PE

The Supreme Court of Pakistan has recently ruled on the Snamprogetti Engineering[1] case, adjudicating the controversy involving the existence of a permanent establishment (PE) and chargeability to tax of Pakistan-source income under the Pakistan-Netherlands Double Taxation Treaty (DTT).

The petitioner was a Dutch-resident company, contracted with a Pakistani firm to provide engineering services for the plants and for procurement of spare parts for two years for a fertiliser complex project in Pakistan. The petitioner was not responsible for construction or management. The tax return was filed by declaring income from engineering services as exempt income under Article 7 of the DTT.

At the assessment stage, the Assessing Officer (AO) determined that the petitioner had a PE in Pakistan in terms of paragraphs 3 and 4 of Article 5 of the DTT, arguing that the petitioner was involved in construction, as well as design and engineering, and their physical presence in Pakistan was necessary for contract implementation. Paragraph 4 of Article 5 of the DTT determines that a service PE is constituted, where the furnishing of services in Pakistan lasts for a period or periods aggregating more than four months within any 12-month period.

In a first appeal, the Commissioner Appeals (CIRA) overturned the assessment order, stating that the petitioner's employees' stay in Pakistan (97 days) was less than the four-month threshold for a PE under paragraph 4 of Article 5 of DTT.

Upon the AO's appeal, the Appellate Tribunal Inland Revenue (ATIR) ruled that the petitioner had a PE in Pakistan. ATIR argued that the project was indivisible, its taxability should be considered in its entirety and the project's implementation period exceeded the four-month threshold.

In response to the tax reference, the High Court noted that the services provided weren't dependent on the number of employee visits or their physical presence. It emphasised that the continuous provision of services in Pakistan for more than four months within any 12-month period constituted a PE. Thus, the petitioner was deemed to have a PE in Pakistan.

The Supreme Court examined the OECD's Model Tax Conventions, the Vienna Convention on the Law of Treaties and Article 5 of the DTT to reach its decision. The summary of the Supreme Court's verdict is below:

1 Snamprogetti Engineering B.V. Vs Commissioner Inland Revenue Zone II, L.T.U, Islamabad (Civil Petitions No.3286 to 3289 of 2017) dated 2 August 2022.

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- The view of the AO regarding the involvement of the Petitioner in the construction activities is not supported by the records. Therefore, paragraph 3 of Article 5 has no relevance to the case and only paragraph 4 of Article 5 was relevant for the purpose of determining the existence of a PE.

- The Supreme Court endorsed the approach taken by the CIRA for calculating the period of four months necessary for the activity of furnishing services to constitute a PE. It was observed that wording used in paragraph 4 ibid with respect to the period shows that there may be several periods, interspersed with breaks, during which services are provided. If the aggregate of these periods crosses the threshold of four months within any period of 12 months, a PE will be considered as constituted.

- The Supreme Court disapproved the view of ATIR that the whole project was indivisible, and taxability of project execution must be in its entirety; the entire period of project being far more than four months.

- The Supreme Court also did not concur with the findings of the High Court that the obligation of the Petitioner relating to the provision of services was in respect of the construction of plants at the site and continued for the entire period of the validity of the contract. The basis used by the Supreme Court was that the Petitioner's contract was only confined to engineering services.

- The Supreme Court went on to conclude that since the Petitioner's personnel only stayed in Pakistan for 97 days in total, which falls short of the threshold of four months, the Petitioner could not be placed in the category of a PE set out in paragraph 4 of Article 5 of the DTT. Accordingly, the income derived by the Petitioner from the provision of engineering services to the local company, being not attributable to a PE located in Pakistan, is not taxable in Pakistan. The judgement of the High Court and Order of ATIR were disregarded, while the order of CIR(A) was restored.

This decision of the Supreme Court addressed the issue pertaining to a PE as a result of providing services with specific consideration to Article 5 of the Pakistan-Netherlands DTT. The judgement will only apply to cases where the facts and provisions of applicable DTT correspond with the case before the Supreme Court. A notable feature of this case is that the Petitioner had not registered a branch office in Pakistan; and moreover, the Pakistan-Netherlands DTT does not contain a specific article to tax 'Fees for Technical services'.

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Poland

Post-pandemic approach to 'home office' – PE or not?

As remote work becomes more prevalent, companies need to be aware of the tax issues associated with their employees' presence in foreign jurisdictions. Such a presence can lead to the creation of a permanent establishment (PE) and trigger certain tax obligations.

Remote working is a topical issue in Poland also due to changes to the Labour Code introduced in April 2023, where for the first time the remote work performed by employment contract holders has been precisely regulated.

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There are no specific regulations or binding guidelines of the Ministry of Finance regarding the impact of remote work on PE issues in the post-pandemic environment.
In accordance with the standard wording of Double Taxation Treaties, profits of an enterprise of a contracting state are taxable only in that state if the enterprise continues with business in the other contracting state through a PE situated therein. If the enterprise conducts business in this way, the profits of the company may be taxed in the other state to the extent that they are attributable to a PE.

One of the ways in which the PE can be created is by the existence of a so-called 'fixed place of business'. In this case, a PE arises if the following conditions are cumulatively met:

1) there is a place used to conduct business, and
2) the place is fixed and
3) the place is used to conduct business activity that is not of a preparatory or auxiliary character.

There are several private rulings, which present the following interpretation of PE conditions in connection with remote working:

› Regarding condition (1), the prevailing view in current tax office rulings and decisions of Administrative Courts in Poland is that **any place where remote/home-office work is performed can be considered a 'place of business'. In this respect, it is sufficient for work to be carried out by an employee using equipment provided (or which is remunerated/compensated) by the employer.**

› Regarding condition (2), for the recognition that a 'place of business' is fixed, the intention of use is decisive (whether the employer envisages or agrees that the 'place of business' is to be used on a permanent basis). In practice, it is also taken into account whether the form of employment (legal form, duration of contract) indicates the permanent nature of the work performed.

› Regarding condition (3), it is verified whether the work performed in Poland is part of the company's core business or if it coincides with the objective of the company as a whole.

In practice, every case must be analysed individually to assess the possible tax consequences of having employees in a home office in Poland.
If a PE in Poland arises, it particularly involves the following consequences:

1) the requirement to allocate income (revenues and expenses) to the activity of the PE,
2) registration for tax purposes in Poland,
3) obligation to file CIT returns, calculate and pay CIT advances and/or annual tax in Poland,
4) verification of Transfer Pricing obligations,
5) PIT and social security consequences regarding employees residing in Poland,
6) other potential legal obligations.

The existence of a PE is important as its creation may have legal and tax consequences from the first day of activity in Poland. Thus, the optimal approach is to assess the tax aspects of hiring employees in their home offices before they commence employment.

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Portugal

Remote working is here to stay

Remote working has increased significantly since the beginning of COVID-19. The conducting of professional activities in a location other than the worker's official workplace raised several challenges, namely a risk of a foreign permanent establishment (**PE**). OECD recognised the potential impacts on cross-border situations and issued specific guidance suggesting harmonised solutions (link). At the time, OECD assumed remote working would create issues *'during this exceptional period'*. Reality showed that remote working lasted longer than the pandemic and is now a key aspect of companies' *work-life balance* policies.

According to the OECD commentaries to the Model Tax Convention, where *'a home office is used on a continuous basis for conducting business activities for an enterprise and it is clear [...] that the enterprise has required the individual to use that location to conduct the enterprise's business [...], the home office may be considered to be at the disposal of the enterprise'*, i.e. a PE.

Remote working for the benefit of the employer?
VdA has been facing several requests for tax analysis/PE risk assessments regarding companies that hire workers who are physically present in Portugal, not necessarily upon instructions or for the benefit of the employer, but as a result of their own personal interest. Companies would nonetheless be confronted with the question to confirm whether the employee's choice (to work from Portugal) creates any tax liability for the employer.

In our view, the PE risk should be primarily linked with an interest of the company, and not a discretionary decision of the worker. Thus, although a case-by-case analysis is recommendable, we take the view that it is possible to mitigate a PE risk in Portugal considering the following:

i. **Workplace:** the worker's (primary) workplace should be at the company's premises; if the worker performs professional activities from abroad (e.g. Portugal) not upon request or instruction by the employer, but remote working is a prerogative of the worker, this should mitigate a PE risk;

ii. **Regularity:** if the employee performs its activity from home on a case-by-case basis (rather than on a regular basis), this may also mitigate the PE risk;

iii. **Remuneration:** the PE risk is also mitigated if the employer does not bear any costs to cover the worker's remote working. The PE risk increases if the employer bears costs associated with the remote working, hence we suggest reviewing employment contracts and/or internal policies on fringe benefits regarding cross-border activities. In cases where, under a standard relationship, a worker becomes 'mobile', the PE risk may be mitigated if the remuneration remains unchanged, as it is an indication that remote working is, in principle, not part of the employer's business purpose;

iv. **Quality standards**: in order to work remotely, the worker may need to bear costs strictly related to their professional functions (e.g. dedicated internet connection, hardware, etc.). The intervention of the employer should remain in standard terms

(e.g. providing a laptop, mobile phone, etc.). If working remotely is at the worker's discretion, it should be their responsibility to ensure the conditions to act in a professional manner;

v. **Payroll services:** except where legally required, the employer should not offer payroll services and other personal assistance outside its country of residence; paying income taxes, social security charged and/or undertaking tax compliance activities may require the employer to register in the other country and to interact with public authorities, indicating an intentional and permanent presence therein.

Even though the above points are merely indicative, we think their observance and monitoring could help to mitigate a PE risk in Portugal.

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Saudi Arabia

New special economic zones to be established in Saudi Arabia

To accelerate the economic diversification and create a new route for investors to do business in the Kingdom, on 13 April 2023 the KSA government announced the launch of new Special Economic Zones (SEZ) in Saudi Arabia.

Following the announcement, the KSA Economic Cities and Special Zones Authority (ECZA) 'the regulator of KSA's Economic Cities (ECs) and SEZs (Special Economic Zones)' published a brochure including an overview for the offered tax incentives and reliefs as well as other non-tax incentives provided to the newly announced economic zones in KSA.

The brochure includes the following tax incentives for the SEZs:

- 5% corporate income tax for up to 20 years
- 0% unlimited withholding tax for the repatriation of profits from SEZ to foreign
- countries
- 0% customs duties deferral for goods inside the SEZ (for Jazan – only on capital
- equipment and inputs)
- 0% VAT for all intra-SEZ goods exchanged within and between zones

Value-added tax reliefs:
- Goods imported into SEZ from outside KSA are treated as outside the VAT scope
- Zero-rated VAT should be applicable on all intra-SEZ goods exchanged within the zone and between zones

The brochure outlined other non-tax incentives such as granting flexible and supportive regulations regarding expats' employment during the first five years.

The new Special Economic Zones launched today will significantly impact how business is carried out in the country as well as have a major impact on the KSA tax regime.

In this regard, we expect further guidance and regulations relating to the various SEZs to be announced in the coming months to formalise incentives and reliefs announced by ECZA.

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Switzerland

Pillar II – implementation in Switzerland

Introduction

The Pillar II initiative adapts the taxation of large groups to appropriately consider digitalisation and globalisation. With Pillar II (i.e. GloBE rules), a new global tax system is implemented, triggering a minimum corporate income tax rate of 15%. Given that in some cantons in Switzerland the corporate income tax on profits amounts to 12–15%, Swiss companies need to closely consider Pillar II. In a vote on 18 June 2023, the Swiss population passed the amendment of the Federal Constitution, which allows the introduction of the Pillar II system into federal law.

Fundamentals

The foundation for any top-up tax at country level is based on aggregated figures of all national business units. The calculation of the relevant profit must be carried out in accordance with an accepted accounting standard – i.e. in Switzerland IFRS, US GAAP or Swiss GAAP FER. On the other hand, the foundation for the Swiss corporate income tax is the statutory financial statements prepared based on the Swiss commercial law, which cannot serve as a basis for the GloBE calculation. In consequence, each business unit must prepare financial statements in accordance with an accepted accounting standard, even to be in the position to identify whether a tax-up tax may be the result. Transitioning from the Swiss statutory accounts to an accepted accounting standard is a cumbersome exercise.

In Switzerland, the implementation of Pillar II is currently ongoing. The minimum taxation ordinance will finally become effective as of 1 January 2024. Corresponding regulations have already been published as a draft and should be enacted in autumn 2023. In general, these regulations will refer to the GloBE rules. However, unlike other taxes in Switzerland, the top-up tax is not tax deductible.

Basic issue

Given that the GloBE rules are not based on the statutory financial statements applicable for Swiss tax purposes, certain divergences in the tax basis can occur. For instance, according to GloBE rules, income from non-controlling interests (e.g. participation of less than 10% with a holding period of less than one year) is part of the defined profit as per the default rule. On the other hand, for Swiss tax purposes, dividends from a participation with a minimum fair market value of CHF 1 mil. are subject to the participation exemption, regardless of the holding period. Moreover, for qualifying participations (i.e. participation more than 10%), any revaluation gains or losses are not part of the defined profit according to the GloBE rules, as opposed to the Swiss tax practice, where revaluation gains or losses are tax effective under certain conditions.

Procedural level

The cantonal tax authorities, where the top domestic business unit is located, is in charge of the assessment procedure. Any procedure will be carried out electronically. Regarding the procedural law as well as the criminal tax law, the corporate income tax rules apply mutatis mutandis also for the top-up tax. Any non-compliance can lead to a fine or, in the event of tax evasion, to a multiplication of the tax amount.

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Summary

To summarise, the differences between the Swiss commercial law and the GloBE rules should not be underestimated. Multinational companies should therefore analyse at an early stage whether and to what extent they are affected by Pillar II. Currently, it cannot be said to what extent a top-up tax is levied for an average Swiss business unit. Even if the corporate income tax rate is below 15% in many cantons, business units are also faced with non-recoverable foreign withholding taxes, which also qualify as relevant tax expenses under the GloBE rules.

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United Arab Emirates

Corporate Tax in UAE: impact on non-residents

Introduction

UAE Corporate Tax law ('CT Law') has become effective from 1 June 2023 with the Corporate Tax rate of 9% within the GCC region. The UAE Corporate Tax regime incorporates global best practices and aims to minimise compliance burdens on businesses and follows the principles of residence taxation for UAE-incorporated entities and source-based taxation for non-residents ('NR').

As per CT Law, UAE-incorporated companies including branches, foreign enterprises effectively managed and controlled in the UAE and natural persons who conduct business or business activities in UAE are considered as tax residents of UAE. Furthermore, an NR is a person who is not considered a resident person and either has a permanent establishment (PE) in the UAE or derives UAE-sourced income or has a nexus in the UAE.

NR income streams and taxability

The NR shall be taxable in UAE if it earns income through PE in UAE or has earned UAE-sourced income or has earned income through nexus in the UAE. We have highlighted below the taxability of the NR in UAE:

PE income

UAE Corporate Tax law has PE-based taxation as understood globally. Article 14 – Permanent Establishment of CT Law provides what constitutes PE in UAE, which inter-alia includes fixed-base PE (i.e. in the form of a branch, factory, mine, etc.), construction PE (i.e. where activities last > 6 months) including installation PE and supervisory PE, dependent agent PE (i.e. person having and habitually exercising authority for concluding or negotiating contracts) and any other form of nexus as may be prescribed by a cabinet decision. Exclusion has been provided from the constitution of PE for auxiliary activities or place of storage/display, independent agent, etc. Furthermore, UAE CT Law specifically provides an exemption for investment managers, provided they satisfy prescribed conditions.

From the definitions mentioned in the above paragraph, it is important to note that the concept of service PE is missing in the UAE CT Law.

Where an NR constitutes a PE in UAE, profits attributable to PE functions are taxable in UAE. Transfer pricing principles are usually considered as a basis for computing profits attributable.

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UAE-soured income
Income will generally be considered UAE-sourced if earned from a UAE-resident person or derived from the NR in connection with a UAE PE or derived from activities performed, assets located, capital invested, rights used or services performed or benefited in the UAE. UAE CT Law also provides the illustrative list for the UAE-sourced income which includes income from the sale of goods, services rendered/utilised in UAE, income from property/insured asset/IP rights used in UAE, sale of UAE shares/capital, interest from UAE resident, etc.

UAE-sourced income shall be taxable in UAE. Furthermore, 0% withholding tax (WHT) shall also be prescribed on certain categories of state-sourced income. A non-resident will not be required to register for tax if they only earn UAE-sourced income and do not have a PE.

UAE nexus income
An NR juridical person is deemed to have nexus in the UAE if they earn income from any immovable property located in the UAE. However, real estate income earned by foreign individuals would generally not be subject to Corporate Tax provided it is not a licensed business activity. Such treatment is in line with international best practice, wherein such income is taxable in the country in which the property is located.

Exemption
Income earned by an NR from the operation of aircrafts or ships in international transportation shall not be subject to Corporate Tax in UAE provided conditions prescribed in Article 25 of CT Law are fulfilled. Furthermore, an NR person earning income from extractive and non-extractive business activities would not be subject to corporate tax in UAE provided they fulfil the conditions prescribed in Article 7 and Article 8 of CT Law, respectively.

Concluding remarks
- If an NR has a PE in the UAE or has nexus in the UAE, the NR is required to obtain tax registration in UAE except where it has earned only source income without PE in UAE.
- It is important to note that even where income is taxable for the NR, the same is taxable on a net basis (i.e. post deduction of eligible expenses) and must comply with all the provisions of CT Law.
- The tax rate of 9% is applicable on income exceeding AED 375,000.
- The final taxability may need to be determined after considering the applicable of the double taxation treaty between the UAE and the home country of the NR.
- Foreign tax credit can be claimed in UAE to the extent of UAE Corporate Tax, where income is subject to double taxation.

Taxation of non-residents under UAE CT Law aligns with international taxation principles. With evolving law, it is crucial for non-residents to remain updated and compliant.

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