

UAE Corporate Tax and Its Interplay with International Taxation: Where Does the Taxing Right Begin and End?

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The UAE's 9% Corporate Tax rate may attract the most attention. However, for businesses operating across borders, it represents only one part of the tax equation. Since the introduction of Corporate Tax for financial years beginning on or after 1 June 2023, businesses in the UAE have had to look at taxation from a broader international perspective. The UAE now has a federal Corporate Tax regime alongside an increasingly integrated international tax framework. The standard Corporate Tax rate is 9% on taxable income exceeding AED 375,000.

However, for cross-border businesses, the more relevant question is not simply:

"How much tax will I pay in the UAE?"

It is: **"Which jurisdiction has the right to tax my income, and to what extent?"**

That is where UAE Corporate Tax intersects with international taxation, introducing questions of tax residence, source of income, permanent establishment and the allocation of taxing rights between jurisdictions.

Residence Versus Source: Which Country Can Tax the Income?

International taxation is fundamentally shaped by two principles: residence-based taxation and source-based taxation. The country of residence may seek to tax a company's worldwide income, while the source country may assert taxing rights over income arising within its territory.

A single cross-border transaction may therefore create tax implications in more than one jurisdiction. Consider a UAE-incorporated company earning income from overseas operations. While the UAE may exercise taxing rights over the company's worldwide taxable income, another jurisdiction may also seek to tax income connected with activities carried out within its territory.

The country where employees, dependent agents or business operations are located may also assert taxing rights over part of that income, depending on the nature and extent of the activities performed. Whether such taxation is permissible depends on the underlying facts, domestic laws and, where applicable, the relevant tax treaty.

Similar considerations arise when a UAE company receives interest, royalties, dividends or other income from foreign sources. The source jurisdiction may impose withholding taxes on such payments, subject to its domestic legislation and any applicable treaty relief.

Consequently, the UAE's 9% Corporate Tax rate may not fully reflect the tax exposure associated with a cross-border transaction.

The question now becomes: **"When more than one jurisdiction has a potential taxing right, how are those rights allocated?"**

Double Taxation Agreements: How Are Competing Taxing Rights Addressed?

This is where Double Taxation Agreements (DTAs) become particularly relevant. The UAE has established an extensive network of over 140 bilateral Double Taxation Agreements with countries worldwide, aimed at mitigating double taxation, allocating taxing rights and facilitating cross-border trade and investment.

However, the existence of a DTA does not automatically exempt income from taxation or guarantee access to treaty benefits. Treaties generally allocate or limit taxing rights based on the nature of income, tax residence, source of income, permanent establishment provisions and other conditions specified in the relevant agreement.

Where income is taxable in both jurisdictions, relief may be available through foreign tax credits, exemptions or other mechanisms prescribed under domestic law and the applicable treaty, subject to relevant conditions and limitations.

Treaty benefits must also be evaluated in light of beneficial ownership requirements, treaty-specific eligibility conditions and applicable anti-abuse provisions.

In other words, a tax treaty is more than just a mechanism for obtaining tax relief; it is a framework for determining which jurisdiction may tax particular categories of income and the extent of those taxing rights.

A UAE Address Does Not Tell the Whole Tax Story

The allocation of taxing rights becomes more complex when tax residence is considered.

A company incorporated in the UAE is generally regarded as a UAE tax resident under domestic Corporate Tax law. However, incorporation in the UAE does not necessarily prevent another jurisdiction from asserting tax residence under its own domestic legislation. For internationally operating businesses, the location of effective management, strategic decision-making and actual business operations may therefore become particularly relevant.

- Where are key strategic and commercial decisions made?
 - Where is the company's effective management exercised?
 - Could another jurisdiction also regard the company as a tax resident under its domestic legislation?
- A UAE Tax Residency Certificate can be an important document when claiming treaty benefits. However, possessing such a certificate does not automatically establish entitlement to treaty relief. Eligibility must be assessed in light of the underlying facts, the relevant treaty provisions and applicable anti-abuse rules.

Where two jurisdictions claim tax residence over the same company, the applicable DTA may provide mechanisms for resolving competing residence claims. The outcome can depend on the specific treaty wording and, in some cases, agreement between the competent authorities.

Permanent Establishment (PE) provisions also play an important role. A UAE company may maintain its headquarters in Dubai while carrying out activities overseas through employees, dependent agents or a fixed place of business. Depending on the nature of those activities and the applicable domestic law and DTA, such arrangements may constitute a PE, allowing the foreign jurisdiction to tax profits attributable to that establishment.

This issue has become increasingly relevant as businesses operate internationally without necessarily maintaining traditional offices in every jurisdiction.

A company's legal headquarters may be located in the UAE, but its employees, operational functions and economic activities may be spread across multiple countries. Such arrangements require careful examination of PE exposure and the attribution of profits to the activities performed in each jurisdiction.

Where a foreign PE exists, businesses must also consider the interaction between overseas taxation and the relief mechanisms available under UAE Corporate Tax law, including the foreign PE exemption where its conditions are satisfied.

Transfer Pricing: Where Should Cross-Border Profits Be Taxed?

When related entities undertake cross-border transactions, the interaction between UAE Corporate Tax and international taxation becomes more apparent.

Consider a UAE parent company providing management services to a foreign subsidiary, extending financing to an overseas group entity, licensing intellectual property or procuring services from a related party in another jurisdiction. In each case, the tax implications extend beyond merely documenting the transaction.

The fundamental question is whether the pricing reflects the arm's-length principle and appropriately compensates each entity for the functions performed, assets employed and risks assumed.

The UAE Corporate Tax regime incorporates the arm's-length principle for transactions and arrangements involving related parties and connected persons. It also prescribes transfer pricing disclosure and documentation requirements, including Master File and Local File obligations for taxpayers meeting the relevant conditions.

Why is this important internationally?

Because the pricing of related-party transactions influences how profits are allocated among group entities operating in different jurisdictions and, consequently, where tax is ultimately paid.

A management fee, intercompany financing arrangement or intellectual property payment can therefore have implications beyond its accounting treatment. Where tax authorities in different jurisdictions adopt conflicting positions on the arm's-length pricing of a transaction, businesses may face transfer pricing adjustments, double taxation and the need to seek relief through applicable treaty mechanisms.

Accordingly, maintaining consistency between intercompany agreements, actual business conduct, functional analysis and the allocation of profits is essential to managing cross-border transfer pricing risks.

Beyond 9%: The Impact of the 15% Global Minimum Tax

The OECD's Pillar Two framework establishes a 15% global minimum effective tax standard for in-scope multinational enterprise (MNE) groups, generally subject to a consolidated annual revenue threshold of €750 million in at least two of the four preceding financial years.

In alignment with this framework, the UAE introduced a Domestic Minimum Top-up Tax (DMTT), effective for financial years beginning on or after 1 January 2025.

The UAE DMTT applies to UAE constituent entities of MNE groups with consolidated annual revenue of at least €750 million in at least two of the four financial years immediately preceding the relevant financial year.

Consequently, the UAE's headline 9% Corporate Tax rate may no longer represent the full domestic tax position for large multinational groups. In-scope businesses must also evaluate their effective tax rate under the Pillar Two rules and any resulting top-up tax liability.

Importantly, the 15% minimum effective tax rate is determined using the specific income and tax calculation mechanisms prescribed under the GloBE framework, rather than by simply applying an additional 6% tax to profits subject to the UAE's standard 9% Corporate Tax rate.

The Real Question Is About Taxing Rights

The allocation of taxing rights across jurisdictions is ultimately what makes the interaction between UAE Corporate Tax and international taxation so significant.

For businesses operating internationally, several fundamental questions are increasingly interconnected:

- In which jurisdiction does the income arise?
- Where is the business effectively managed and controlled?
- Where are the people, functions, assets and risks located?
- Could another jurisdiction assert taxing rights over the same income?
- How does the applicable DTA allocate or restrict those taxing rights?
- Are cross-border related-party transactions consistent with the arm's-length principle?
- How does the company's UAE tax position interact with its overall international tax obligations?

These considerations are no longer confined to large multinational groups. As UAE-based businesses expand internationally, establish foreign subsidiaries, invest overseas and undertake cross-border transactions, the interaction between domestic Corporate Tax legislation and international tax principles becomes increasingly relevant.

Before expanding internationally, businesses must therefore examine not only the tax rate applicable in the UAE but also the potential exposure to foreign withholding taxes, permanent establishment risks, competing tax residence claims, transfer pricing adjustments and the availability of treaty relief.

The UAE's 9% Corporate Tax rate is thus only one aspect of a much broader international tax analysis.

The greater challenge lies in understanding how taxing rights are allocated across jurisdictions and ensuring that a company's legal structure, commercial substance and global tax position are appropriately aligned.

Because in a world where businesses, capital and people increasingly operate across borders, understanding where taxing rights arise, how they overlap and how they are resolved can be just as important as understanding the tax rate that ultimately applies.