Public Consultation Document

UAE Corporate Tax

Important notice

This document contains information on the proposed United Arab Emirates (UAE) Corporate Tax regime and is released for the purposes of obtaining input from interested parties. It does not reflect the final view of the UAE Government, and is not intended to comprehensively address all possible aspects of the proposed UAE Corporate Tax regime.

The public consultation document is released in advance of relevant legislation being finalised and promulgated, and is released on the basis that it is without prejudice to the final UAE Corporate Tax regime. As such, the consultation document should not be used or relied upon to make individual or business decisions as it does not represent the final legislation.

Further information on the technical details and other specifics of the UAE Corporate Tax regime will be made available in due course.

Foreword

As announced on 31 January 2022, the United Arab Emirates (UAE) will introduce a federal Corporate Tax (CT) on business profits that will be effective for financial years starting on or after 1 June 2023. The UAE CT regime has been designed to incorporate best practices globally and minimise the compliance burden for UAE businesses.

The introduction of a federal CT regime is intended to help the UAE achieve its strategic ambitions and incentivise businesses to establish and expand their activities in the UAE. The certainty of a competitive regime, together with the UAE's extensive network of double tax treaties, will cement the UAE's position as a world leading destination for investment.

By consulting with the business community and other interest parties as part of the implementation process, the UAE Government is demonstrating its commitment to implementing a CT regime that is compatible with the UAE's business environment.

On behalf of the UAE Government, the Ministry of Finance welcomes comments on this consultation document by 19th May 2022. Responses should be submitted through FORM LINK

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1. Introduction

1.1. On 31 January 2022, the Ministry of Finance announced that the United Arab Emirates (UAE) will introduce a federal Corporate Tax (CT) on business profits effective for financial years starting on or after 1 June 2023. Since the announcement, work has continued on the finalisation of the UAE CT regime to ensure that it incorporates best practices globally and minimises the compliance burden for businesses.

1.2. Recognising the importance of consultation with the business community and other interested stakeholders, the Ministry of Finance is launching this initiative ahead of the official release of the UAE CT legislation.

1.1 Purpose of this document

1.3. This document contains information on the proposed UAE CT regime and seeks views from interested parties on its main features and implementation.

1.4. Effective consultation allows the Ministry of Finance to receive input and make informed decisions on the final design and implementation of the UAE CT system, and to ensure its likely impacts are well understood

1.2 Making a submission

1.5. The Ministry of Finance welcomes comments on this consultation document by 19th May 2022, using the online submission form FORM LINK.

1.6. The Ministry of Finance would appreciate clear and concise comments with, where possible, examples, data or other information to support views on the main features and implementation of the UAE CT regime.

1.7. Interested parties are encouraged to focus their comments on aspects of the proposed CT regime that may help to reduce compliance cost and complexity, and improve certainty for both businesses and the tax administration. Interested parties can also provide comments on other areas, including areas that are otherwise not covered in this document.

1.8. Any comments received after 19th May 2022 or that are submitted in any manner other than by using the prescribed online submission form will not be considered.

1.9. Submissions will remain confidential and will not be published or shared with any other Government department.

2. Policy drivers and principles

2.1. This section sets out the policy background and key principles applied in developing the proposed UAE CT regime.

2.1 Rationale for introducing a federal CT regime

2.2. The introduction of a federal CT regime is intended to help the UAE achieve its strategic objectives and accelerate its development and transformation. The certainty of a competitive CT regime that adheres to international standards, together with the UAE's extensive network of double tax treaties, will cement the UAE's position as a leading jurisdiction for business and investment.

2.3. Given the position of the UAE as an international business hub and global financial centre, the proposed UAE CT regime will build from best practices globally, and incorporate principles that are internationally known and accepted. This ensures that the UAE CT regime will be readily understood rather than introducing new concepts that would need to be evaluated by investors.

2.4. The introduction of a federal CT regime will also provide a basis for the UAE to execute its support of the global minimum effective tax rate as proposed under "Pillar Two" of the OECD Base Erosion and Profit Shifting project.

2.5. With the above in mind, the UAE CT regime has been designed to enable the UAE to:

- Remain a competitive and productive economy;
- Continue to support and encourage growth;
- Continue to attract foreign investment;
- Be sufficiently flexible to respond to changing international and domestic environments and tax developments;
- Provide certainty for both businesses and the tax administration; and
- Minimise the compliance burden for businesses.

2.2 Key principles

2.6. In the development of the UAE CT regime, the Ministry of Finance has been guided by a set of internationally accepted principles to ensure efficiency, fairness, transparency and predictability in the design and execution of the proposed UAE CT regime.

2.7. These principles are:

- **Flexibility and alignment with modern business practice**. Tax systems need to be dynamic to keep pace with changing economic and social circumstances. The proposed UAE CT regime will enable the UAE to adapt and respond to domestic and international technological, commercial and other developments.

- **Certainty and simplicity**. Tax rules should be clear and simple, so that businesses understand their obligations and make the right decisions, and compliance costs are minimised. Whilst a certain level of complexity is unavoidable in a tax system for a diversified and innovative economy such as the UAE, the Ministry of Finance intends to keep the UAE CT regime as simple as possible.

- **Neutrality and equity**. Tax rules should be neutral and equitable between different types and forms of businesses. For this and other reasons, the proposed UAE CT regime will apply to all forms of businesses and commercial activities alike and cover all types of income and profits, with specific rules to address possible inequalities and arbitrage opportunities. The moderate tax rate obviates the need for any sector-specific incentives.

- **Transparency**. Clear guidance and public communication is important to ensure businesses understand their obligations and entitlements, and to ensure the fair and effective enforcement of the UAE CT rules.

3. Taxable persons

3.1. This section sets out the proposed treatment for different types of persons under the UAE CT regime (see Flowchart 1).

3.1 Natural persons

3.2. The UAE CT regime will be implemented without a parallel tax on the income of natural persons, namely individuals.

3.3. In order to level the playing field between incorporated businesses and unincorporated businesses owned by individuals, UAE CT will also apply to natural persons engaged in a business or commercial activity in the UAE. This will include sole establishments or proprietorships and individual partners in an unincorporated partnership that conducts business in the UAE. Similar approaches are taken in other jurisdictions without parallel taxes on personal income from a business.

3.4. Whether an individual is engaged in a business that is subject to UAE CT would generally depend on whether the activity requires the individual to obtain a commercial licence or equivalent permit from the relevant competent authority (e.g., the relevant Department of Economic Development or registration authority of a Free Zone) in the UAE.

3.5. Employment income and other personal income earned by UAE and foreign individuals such as dividends, rental receipts from UAE real estate investments, and other investment income will not be within the scope of the proposed UAE CT regime. The same treatment is intended to apply where UAE real estate and other investments are held through a private or family trust on behalf of beneficiaries that are natural persons.

3.2 Legal persons

3.6. UAE CT will apply to UAE companies and other legal persons incorporated in the UAE, as well as to foreign legal entities that have a permanent establishment (see paragraph [4.8]) in the UAE or that earn UAE sourced income (see paragraph [4.22]).

3.7. Legal persons include Limited Liability Companies, Private Shareholding Companies, Public Joint Stock Companies, and other entities established under the laws of the UAE that have separate legal personality. For the application of UAE CT, legal persons incorporated in a foreign jurisdiction that are effectively managed and controlled in the UAE will be treated as if they were UAE incorporated entities.

3.8. Limited and general partnerships and other unincorporated joint ventures and associations of persons will be treated as ‘transparent’ for UAE CT purposes. This means that they will not be taxpayers in their own right, but their income will instead ‘flow through’ and be taxed in the hands of the partners or members only. This flow-through treatment is widely

recognised and accepted internationally, and also ensures tax neutrality for investors in collective investment funds that are often structured as limited partnerships.

3.9. Investing in and through unincorporated partnerships in a cross-border context can create difficulties and unintended tax consequences where one country treats the partnership as a transparent entity, and the other country taxes the partnership as if it were a company. To align the tax treatment of partnerships in a cross-border context, the UAE CT treatment of foreign unincorporated partnerships would generally follow the tax treatment of the partnership in the respective foreign jurisdiction.

3.10. Limited liability partnerships, partnerships limited by shares and other types of partnerships where none of the partners have unlimited liability for the partnership's obligations or other partners' actions will be subject to UAE CT in the same manner as a UAE company.

3.3 Exempt persons

3.11. The following persons will be exempt from UAE CT, either automatically or by way of application:

1. The Federal and Emirate Governments and their departments, authorities and other public institutions (see section 3.4);
2. Wholly Government-owned UAE companies that carry out a sovereign or mandated activity, and that are listed in a Cabinet Decision (see section 3.4);
3. Businesses engaged in the extraction and exploitation of UAE natural resources that are subject to Emirate-level taxation (see section 3.5);
4. Charities and other public benefit organisations that are listed in a Cabinet Decision (see section 3.6);
5. Public and regulated private social security and retirement pension funds;
6. Investment funds, subject to meeting the conditions referred to in section 3.7.

3.4 Government and Government owned entities

3.12. While the activities of the Government would typically be non-commercial in nature, the Government may conduct commercial activities either by themselves or in association with third parties. Any business activity carried out directly by the Government under a trade licence will be within the scope of the UAE CT regime.

3.13. Wholly Government-owned UAE companies that carry out a sovereign or mandated activity are essentially an extension of the Government, with the relevant activity segregated from those of the Government for management and accountability purposes. Accordingly, these companies will be outside the scope of UAE CT insofar of their sovereign or mandated

activity. The UAE CT regime will allow UAE subsidiaries of these Government-owned companies that undertake part or whole of the sovereign or mandated activity or ancillary activities to apply for an exemption from UAE CT.

3.5 Natural resources

3.14. Oil, natural gas, water and deposits of sand and rocks are the primary natural resources in the UAE. The production and exploitation of these natural resources make up an important part of the UAE economy.

3.15. Under the Constitution of the UAE, the natural resources belong to the Emirate where the resources are found. Accordingly, any (share of) income from the extraction and exploitation of natural resources directly earned by the Government, or royalties and other fiscal levies raised by the Government from the extraction or production of natural resources by private sector companies will be outside the scope of the UAE CT regime.

3.16. The extraction and exploitation of natural resources is often done by companies that are wholly or partially privately owned under long-term concession agreements entered into with the respective Emirate Government. These contracts generally provide that the profits earned by such companies are subject to Emirate-level taxation.

3.17. Acknowledging the long-term nature of natural resource contracts and the often significant capital commitments made by the concession holders, the UAE CT regime intends to exempt the income earned by companies engaged in the extraction and exploitation of natural resources that are subject to Emirate-level taxation. This exemption from UAE CT will not extend to any suppliers, contractors or subcontractors used by the concession holder.

3.6 Charities and Public Benefit Organisations

3.18. The UAE actively promotes corporate social responsibility, volunteering activities and community service, and is the home of many philanthropic and public benefit organisations. These organisations play an important role by taking a shared responsibility with the Government for the promotion of social or public welfare, or communal or group interests.

3.19. To support organisations formed for carrying out social, cultural, religious, charitable or other public benefit activities, they can apply to the Ministry of Finance to be exempt from UAE CT. If the application is approved, the organisation will be listed in a Cabinet Decision to be issued at the request of the Minister of Finance.

3.20. Whether an organisation qualifies for a CT exemption is at the discretion of the Ministry of Finance. However, no exemption from UAE CT will be available to organisations that undertake commercial activities that are not directly related to their stated purpose, or whose income and donations are or may be used for the personal gain of persons associated with the organisation (e.g., the founders and fiduciaries).

3.21. Approved charities and public benefit organisations will need to comply with periodic information reporting obligations throughout their existence.

3.7 Investment funds

3.22. The UAE has continued to achieve success and strengthen its position as a leading asset and wealth management hub, and the destination of choice in the region for the financial services sector. The sector is an important pillar of the UAE economy.

3.23. The UAE offers comprehensive investment fund regimes and fund vehicles that cater to a wide variety of fund manager and investor requirements. The introduction of CT presents an opportunity to further increase confidence from international investors and bolster the UAE's position as the location of choice for investment funds, investment fund managers, and entities used by investment funds to hold their assets or invest their funds.

3.24. Investment funds are commonly organised as limited partnerships (as opposed to corporate entities) to ensure tax neutrality for their investors. This tax neutrality follows from the fact that most countries treat limited partnerships as transparent ('flow through') for domestic and international tax purposes, which puts investors in the fund in a similar tax position as if they had invested directly in the underlying assets of the fund. As discussed in paragraphs 3.8 and 3.9, the UAE CT regime intends to treat UAE and foreign investment funds that are structured as unincorporated partnerships as fiscally transparent.

3.25. Further, regulated investment funds and Real Estate Investment Trusts can apply to the Federal Tax Authority (FTA) to be exempt from UAE CT subject to meeting certain requirements.

Table [1]: Main requirements for an Investment Fund to be exempt from UAE CT
The investment fund is regulated by a regulatory authority in the UAE that is recognised by the Ministry of Finance (e.g., the Securities and Commodities Authority, the Financial Services Regulatory Authority, the Dubai Financial Services Authority)
No group of five (5) or fewer investors (and their Related Parties[1]) has a 50% or greater economic interest in the investment fund
No single investor (and their Related Parties[1]) has a 20% or greater economic interest in the investment fund
Interests in the investment fund can be freely traded on a stock exchange in the UAE (or a recognised foreign stock exchange), or are widely marketed and made available to the intended categories of investors

[1] For a further discussion on the meaning of "Related Parties", please refer to section 7.1.

3.8 Free Zones

3.26. Free Zones are an important part of the UAE economy and have been central to achieving the country's aim of encouraging foreign direct investment and enhancing the ease of doing business.

3.27. Whilst companies and branches that are registered in a Free Zone (hereafter referred to as "Free Zone Persons") will be within the scope of the UAE CT and subject to tax return filing requirements, the UAE CT regime will honour the tax incentives currently being offered to Free Zone Persons that maintain adequate substance and comply with all regulatory requirements.

3.28. In line with the original intention and purpose of Free Zones, a Free Zone Person can benefit from a 0% CT rate on income earned from transactions with businesses located outside of the UAE, or from trading with businesses located in the same of any other Free Zone. The 0% CT rate may also apply to income from certain regulated financial services directed at foreign markets.

3.29. A Free Zone Person that has a branch in mainland UAE will be taxed at the regular CT rate on its mainland sourced income, whilst continuing to benefit from the 0% CT rate on its other income.

3.30. Where a Free Zone Person transacts with mainland UAE but does not have a mainland branch, the Free Zone Person can continue to benefit from the 0% CT rate if its income from mainland UAE is limited to 'passive' income. This would include interest and royalties, and dividends and capital gains from owning shares in mainland UAE companies.

3.31. The UAE wishes to maintain its status as the leading regional hub and headquarter location and, therefore, the 0% CT regime will also apply to transactions between Free Zone Persons and their group companies located in mainland UAE. However, to ensure the CT neutrality of such transactions, payments made to the Free Zone Person by a mainland group company will not be a deductible expense.

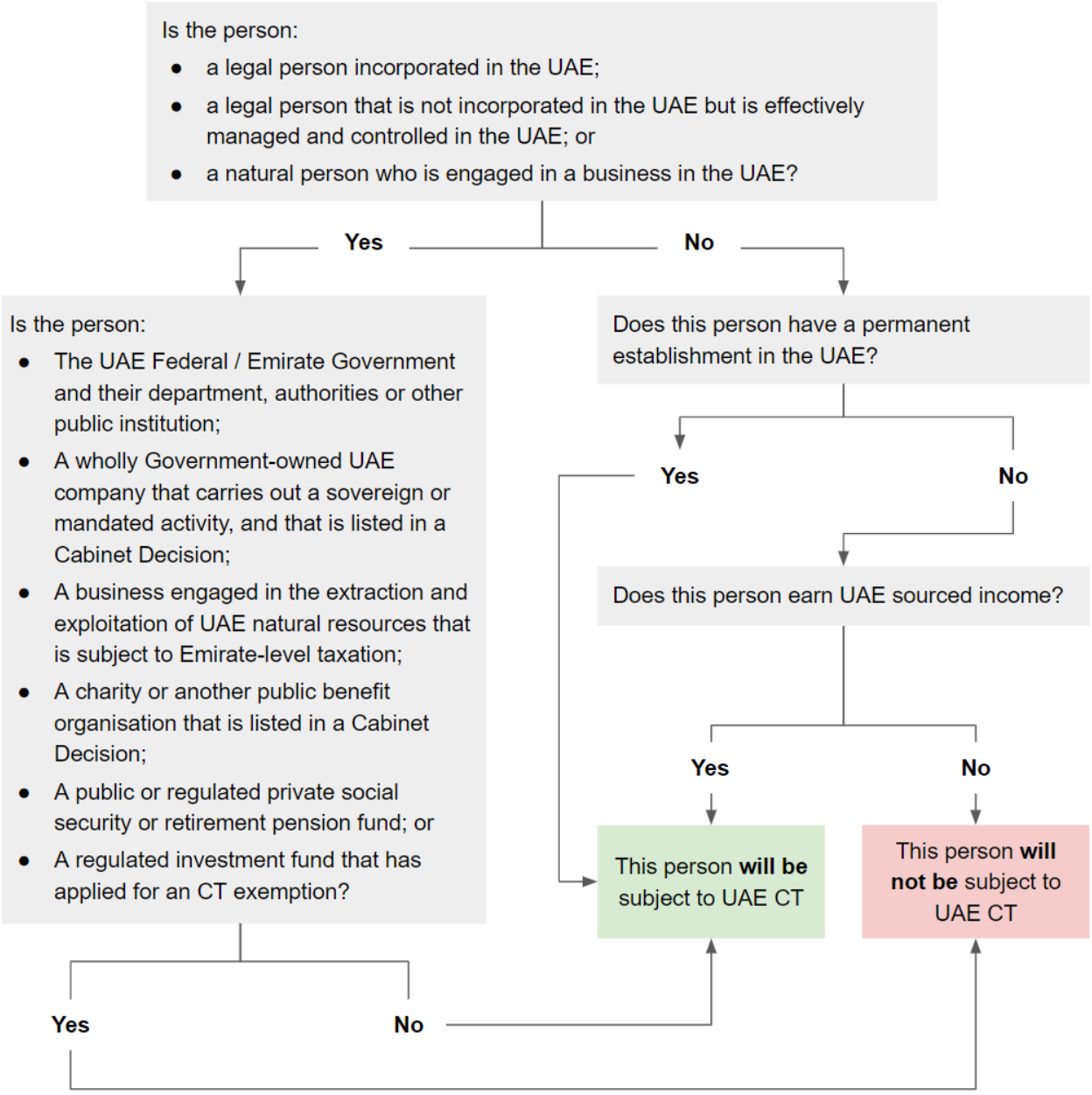
3.32. Finally, a Free Zone Person located in a Designated Zone for Value Added Tax (VAT) purposes can benefit from the 0% CT rate on income from the sale of goods to UAE mainland businesses that are the importer of record of those goods.

3.33. To prevent Free Zone businesses from gaining an unfair competitive advantage compared to businesses established in mainland UAE, any other mainland sourced income will disqualify a Free Zone Person from the 0% CT regime in respect of all their income.

3.34. A Free Zone Person will at any point in time be able to make an irrevocable election to be subject to the regular CT rate.

3.35. Where a Free Zone Person benefits from the 0% CT regime in respect of mainland sourced income, such income will be within the scope of withholding tax (to be applied at 0%).

Flowchart [1]: Who will be subject to UAE CT?



4. Basis of taxation

4.1. This section sets out the proposed basis of taxation under the UAE CT regime.

4.1 Residents

4.2. Residency is a key determinant of whether business profits will be subject to CT in the UAE.

4.3. A legal person that is incorporated in the UAE will automatically be considered a 'resident' person for UAE CT purposes. Equally, any natural person who is engaged in a business or commercial activity in the UAE, either in their own name or through an unincorporated partnership, will also be considered a resident person for purposes of the UAE CT regime.

4.4. A foreign company may be treated as a resident person if it is effectively managed and controlled in the UAE. Determining whether an entity is effectively managed and controlled in the UAE is a question of fact, but would typically look at where the directors or other decision makers of the company make the key management and commercial decisions.

4.5. UAE resident persons will be taxable in the UAE on their worldwide income, which for a natural person will be limited to the income earned from their business activity carried out in the UAE. However, certain income earned from overseas will be exempt from CT, including income from foreign branches and qualifying foreign shareholdings. Further details of these exemptions are set out in section 5 of this document.

4.6. Where income earned from abroad is not exempt, income taxes paid in the foreign jurisdiction can be taken as a credit against the CT payable in the UAE on the relevant income to prevent double taxation.

4.2 Non-residents

4.7. Non-residents will be subject to UAE CT on:

- Taxable income from their Permanent Establishment in the UAE; and
- Income which is sourced in the UAE.

Permanent Establishment (PE)

4.8. The concept of PE is an important principle of international tax law used in CT regimes across the world.

4.9. The main purpose of the PE concept is to determine if and when a company has established sufficient presence in a foreign country to warrant the direct taxation of the business profits of the company in that country. Generally, a country only has the right to tax the business profits of a foreign company if that company has a PE in that country.

4.10. The PE concept under the proposed UAE CT regime has been designed on the basis of the OECD Model Tax Convention. Article 5 of the OECD Model Tax Convention sets out internationally recognised principles for determining what constitutes a PE, which will form the basis for determining a PE under the UAE CT regime.

4.11. This approach allows foreign companies to use the extensive OECD Commentary on Article 5 when assessing whether they have a PE in the UAE, and the outcome of this assessment should typically be aligned with the position where there is a double tax treaty in place between the country of the foreign company and the UAE (as the UAE's double tax treaties are generally based on the OECD Model Tax Convention).

4.12. The activity threshold that will trigger a PE for a foreign company in the UAE will be determined by the following two main tests:

- Fixed place of business test
- Dependent agent test

Fixed place of business test

4.13. A foreign company will have a PE in the UAE if it has a "fixed place" in the UAE through which the business of the foreign company is wholly or partly carried on.

4.14. A fixed place of business will include a place of management, a branch, an office (including a temporary field office or an employee's home office), a factory, a workshop, real property, and a building site where activities are carried on for over 6 (six) months. Installations and structures used in the exploration of natural resources, as well as mines, oil or gas wells, quarries and other places of extraction of natural resources will also be considered PEs.

4.15. No PE may arise if the activities carried out through the "fixed place" in the UAE are preparatory or auxiliary in nature. Generally, preparatory or auxiliary activities are those performed in preparation or in support of more substantive business activities of the foreign company. Examples of preparatory and auxiliary activities include limited marketing and promotional activities, performing market research and attending seminars or conventions.

4.16. A fixed or permanent place in the UAE may also not be considered a PE if it is used only to store, display or deliver the foreign company's goods or keeping a stock of goods with the sole purpose of making them available to another person for processing.

Dependent agent test

4.17. In the absence of a "fixed place of business" in the UAE, the activities of a so-called "dependent agent" in the UAE could still create a PE for a foreign company in the UAE.

4.18. The "dependent agent test" may be met where business travellers or UAE based persons act on behalf of the foreign company in the UAE and have, and habitually exercise, the authority to conclude contracts in the name of foreign company. This includes situations

where the person negotiates or concludes contracts in the UAE on behalf of the foreign company without material intervention from the non-resident company.

4.19. A PE would not arise where a person carries on the foreign company's business in the UAE in the ordinary course of their own business. This so-called independent agent exclusion would only apply where the person does not work exclusively for the foreign company and is truly legally and economically independent from the foreign company.

4.20. The same PE rules and principles will apply to determine whether a Free Zone Person has a PE in mainland UAE.

Investment manager exemption

4.21. Considering the UAE's position as a leading investment and wealth management centre, the UAE CT regime will allow regulated UAE investment managers to provide discretionary investment management services to foreign customers without triggering a UAE PE for the foreign investor or the foreign investment fund. This exemption will be subject to conditions that are comparable to similar regimes in leading financial centres.

UAE sourced income

4.22. UAE sourced income earned by a foreign person that does not have a PE in the UAE will be subject to withholding tax at a rate of 0% (zero percent).

4.23. The UAE CT regime will have specific rules and guidance to determine whether income has a source in the UAE . However, income will generally be considered UAE sourced if the income is earned from a UAE resident person, if the payment is attributed to a PE in the UAE of a foreign company, or if the income is derived from activities or contracts performed in the UAE, assets located in the UAE, or rights used for economic purposes in the UAE.

4.24. The same principles will be applied to determine if a Free Zone Person earns income from a source in mainland UAE.

5. Calculation of taxable income

5.1. This section sets out the proposed approach to determining the amount of income that will be subject to tax under the UAE CT regime.

5.1 Basis of calculating taxable income

5.2. To reduce complexity and compliance costs, the UAE CT regime proposes to use the accounting net profit (or loss) as stated in the financial statements of a business as the starting point for determining their taxable income.

5.3. Using accounting standards provides for a common definition of income, which reduces compliance costs and provides a base which follows international standards. Aligning the calculation of taxable income to accounting profits (where possible and appropriate) limits book-tax differences and prevents businesses from having to maintain two sets of records: one for financial reporting purposes and the other for CT purposes.

5.4. The financial statements should be prepared using accounting standards and principles that are acceptable in the UAE, and businesses will use their financial accounting period as their (annual) tax period. Where a business does not have a financial accounting period, their default tax period will be the Gregorian calendar year.

5.5. Although International Financial Reporting Standards are commonly used in the UAE, consideration is being given to allowing alternative financial reporting standards and mechanisms for determining taxable income to accommodate and reduce the compliance costs for certain taxpayers (e.g., startups and small businesses).

5.2 Treatment of unrealised gains and losses

5.6. Unrealised gains or losses arise in instances where an asset or liability held by a business has changed in value but no transaction to generate a gain or loss has yet taken place. For example, when a business property increases in value, but the property is not sold, the gain would be unrealised. These gains or losses may be recorded for accounting purposes even though they are not yet realised.

5.7. The UAE CT will have specific rules to determine whether an unrealised gain or loss should be taken into account when calculating taxable income. These relate to whether the gain or loss is related to capital items or revenue items.

5.8. Capital items are items that have a long term impact on a business. They include assets, such as machinery, and long term liabilities, such as loans to buy property. Unrealised gains or losses on capital items are not taken into account when calculating taxable income.

5.9. Revenue items are items that have a short term impact on a business. Revenue assets are items other than capital items, and can include items such as the goods a business sells. Unrealised gains or losses on revenue items will need to be taken into account when calculating taxable income.

5.3 Exempt income

5.10. As discussed in section 4.1, UAE resident companies will be subject to UAE CT on their worldwide income, including capital gains.

5.11. However, to avoid instances of double taxation, and recognising the UAE's position as an international business hub and leading holding company location, the UAE CT regime will exempt certain forms of income from taxation.

5.12. The main exemptions from UAE CT relate to income earned by UAE companies from investments in other companies, and from operations conducted outside the UAE through foreign subsidiaries or foreign branches.

Exemption for dividends and capital gains

5.13. In line with many other countries and leading international financial centres, a UAE corporate shareholder will generally be exempt from CT on dividends received, and capital gains earned from the sale of shares of a subsidiary company. The purpose of this so-called participation exemption is to avoid double taxation of corporate profits, first when they are earned by the subsidiary company and second when the profits are distributed to, or the shares in the subsidiary company are sold by, the UAE shareholder company.

5.14. The proposed UAE CT regime will exempt all domestic dividends earned from UAE companies, including dividends paid by a Free Zone Person that benefits from the 0% CT regime.

5.15. Dividends paid by foreign companies, and capital gains from the sale of shares in both UAE and foreign companies will also be exempt from CT, provided certain conditions are met.

5.16. The main condition to benefit from the participation exemption is that the UAE shareholder company must own at least 5% of the shares of the subsidiary company. Further, to prevent income from being shifted to a subsidiary in a no- or low-tax country, the participation exemption will only be available if the foreign subsidiary is subject to CT (or an equivalent tax) at a rate of at least 9%.

5.17. Despite benefitting from a 0% CT rate, capital gains on the disposal of shares in a Free Zone Person will be exempt from CT where the Free Zone Person is a holding company and substantially all of its income is derived from shareholdings in subsidiary companies that meet the participation exemption conditions discussed above.

Foreign branch profit exemption

5.18. UAE businesses may structure their foreign operations either through a foreign subsidiary or through a foreign branch. A foreign branch would typically constitute a PE in the foreign country and be subject to CT (or an equivalent tax) on its profits in that foreign country.

5.19. The main difference between operating abroad through a foreign subsidiary or a foreign branch is that a subsidiary is a separate legal entity, with its own books and records, and transactions between the UAE parent company and its foreign subsidiary would generally be clearly documented and recorded.

5.20. A branch, on the other hand, is not a separate legal entity but an extension of its parent company. No separate financial statements may need to be prepared and many of the transactions of the branch would be transactions of the parent company with itself, which complicates determining the 'stand-alone' financial results of the foreign branch.

5.21. Recognising the potential complexities associated with attributing income and expenses to foreign branches, UAE companies can either (i) claim a foreign tax credit for taxes paid in the foreign branch country, or (ii) elect to claim an exemption for their foreign branch profits.

5.22. The election to claim a branch profit exemption is proposed to apply to all foreign branches of the UAE company, and will be irrevocable. An exemption for foreign branch profits may not be available where the foreign branch is not subject to a sufficient level of tax in the foreign jurisdiction in which it is located.

Other exempt income

5.23. As a major logistics centre and international travel hub, the UAE CT regime will exempt income earned by a non-resident from operating or leasing aircraft or ships (and associated equipment) used in international transportation, provided the same tax treatment is granted to a UAE business in the relevant foreign jurisdiction under the reciprocity principle.

5.4 Expense deduction limitations

5.24. The calculation of taxable income will largely follow accounting rules, but the UAE CT regime will disallow or restrict the deduction of certain specific expenses. This is to ensure that relief can only be obtained for expenses incurred for the purpose of generating taxable income, and to address possible situations of abuse or excessive deductions.

Interest capping rules

5.25. While some minimum level of share capital or equity reserves may be required under UAE company regulations, business owners will generally have flexibility as to how they finance their business.

5.26. Interest and other similar financing costs are considered a cost of doing business and will accordingly be deductible for UAE CT purposes. However, the deductibility of interest and other similar financing costs could give rise to opportunities to erode the UAE CT base and arbitrage the UAE CT regime unless appropriate measures are in place (see below). An obvious example of tax arbitrage would include the reduction of taxable profits through the use of deductible interest payments, where the recipient of the interest income is not taxed (e.g., an individual shareholder or a Free Zone Person).

5.27. To prevent the different tax treatment of equity and debt being exploited through the use of excessive levels of debt, the proposed UAE CT regime will cap the amount of net interest expense that can be deducted to 30% of a business' earnings before interest, tax, depreciation, and amortisation (EBITDA), as adjusted for CT purposes. This is in line with the interest limitation rules proposed by Action 4 of the OECD's Base Erosion and Profit Shifting project which have been implemented by countries around the world.

5.28. To reduce the administrative burden, businesses may be allowed to deduct up to a certain amount of net interest expenditure (safe harbour or de minimis amount) irrespective of the interest deductibility limit based on the EBITDA rule.

5.29. Recognising that different industries have different capital needs and risk profiles, the interest capping rules will not apply to banks, insurance businesses, and certain other regulated financial services entities. Additionally, the interest capping rules will also not apply to businesses carried on by natural persons.

5.30. Consideration is being given to allowing businesses that are a part of a consolidated group to apply a different interest capping threshold by reference to the group's overall position.

5.31. In addition to requiring interest paid on related party borrowings to be at arm's length, where such borrowings are used for certain specific intra-group transactions (e.g., to pay a dividend or capitalise a group company), related party interest will only be deductible if there is a valid commercial reason for obtaining the loan. A valid commercial reason will be considered to exist if the related party lender is subject to CT (or an equivalent tax) of at least 9% on the interest income earned.

Non-deductible expenses

5.32. As discussed in section 3.8, related party payments made to a Free Zone Person that is taxed at 0% on receipt of the income will not be deductible for CT purposes. However, the related party will be allowed to claim a deduction if the payment is attributed to a mainland branch of the Free Zone Person.

5.33. Businesses will be allowed to deduct up to 50% of expenditure incurred to entertain customers, shareholders, suppliers and other business partners, to acknowledge that these types of expenses often also have non-business or personal element.

5.34. No deduction will be allowed for certain specific other expenses such as administrative penalties, recoverable VAT, and donations paid to an organisation that is not an approved charity or public benefit organisation.

5.5 Losses

5.35. Businesses typically have variations in profit levels over time, and it is not uncommon for a business to incur losses during the start-up phase or because of market circumstances.

5.36. A fundamental principle behind the UAE CT regime is that CT is meant to be paid on the total profit of a business over its entire life cycle, as opposed to a single financial period.

5.37. Accordingly, and in line with international best practices, a business will be able to offset a loss incurred in one period against the taxable income of future periods, up to a maximum of 75% of the taxable income in each of those future periods.

5.38. Tax losses can be carried forward indefinitely provided the same shareholder(s) hold at least 50% of the share capital from the start of the period a loss is incurred to the end of the period in which a loss is offset against taxable income. If there is a change in ownership of more than 50%, tax losses may still be carried forward provided the same or similar business is carried on by the new owners.

5.39. The continuity of shareholder or business requirements do not apply to businesses that are listed on a recognised stock exchange.

5.40. No tax loss relief will be available for the following losses:

- Losses incurred before the effective date of CT;
- Losses incurred before a person becomes a taxpayer for UAE CT purposes;
- Losses incurred from activities or assets which generate income that is exempt from UAE CT; or
- Losses incurred by a Free Zone Person that are not attributable to a PE in the mainland.

6. Groups

6.1. This section sets out the proposed UAE CT treatment applying to groups of companies.

6.2. Large businesses often conduct their operations through a group of companies, which has a parent company and a number of subsidiaries. These group structures are generally formed to limit or ring fence liabilities associated with certain activities, and facilitate the reporting and management of different business lines.

6.3. Operating through a group of companies can increase the overall tax compliance cost where each entity needs to report their taxable income on a stand-alone basis, and can result in a higher effective tax rate for the group where some companies are profit making and others make losses.

6.4. To address the above concerns, the UAE CT regime will allow full consolidation for tax purposes (tax grouping) for essentially wholly-owned groups of companies, and the transfer of losses between group companies that are 75% or more commonly owned.

6.1 Tax groups

6.5. A UAE resident group of companies can elect to form a tax group and be treated as a single taxable person if the parent company holds at least 95% of the share capital and voting rights of its subsidiaries. To form a tax group, neither the parent company nor any of the subsidiaries can be an exempt person or a Free Zone Person that benefits from the 0% CT rate, and all group members must use the same financial year.

6.6. A subsidiary can also be part of the tax group if it is owned indirectly by the parent company and other subsidiaries own at least 95% of its shares, or if it is a UAE branch of the parent company or one of its subsidiaries.

6.7. To form a tax group, a notice signed by the parent company and all subsidiaries will need to be submitted to the FTA. Additional subsidiaries can join an existing tax group by following the same process.

6.8. Once formed, the tax group is treated as a single taxable person, with the parent company responsible for the administration and payment of CT on behalf of the tax group. To determine the taxable income of the tax group, the parent company will have to consolidate the financial accounts of each subsidiary for the relevant tax period, and eliminate transactions between the parent company and each subsidiary group member (and amongst the subsidiary group members).

6.9. For the period during which the entities are members of the tax group, the parent company and each subsidiary will be jointly and severally liable for the group's CT. This joint and several liability can be limited to one or more named members of the tax group, with approval from the FTA.

6.2 Transfer of losses

6.10. For groups of companies that do not meet the minimum 95% common ownership requirement or that do not want to form a tax group, the UAE CT regime can allow a transfer of tax losses from one group company to another group company with profits, provided certain conditions are met.

6.11. As the transfer of losses would result in a transfer of value from the loss company to the profitable company, one of the main conditions for availing group loss relief will be that the UAE group companies are at least 75% commonly owned, and no loss transfers will be allowed from companies that are exempt or that benefit from the 0% Free Zone CT regime.

6.12. The total tax loss offset will not be able to exceed 75% of the taxable income of the company receiving the transferred losses in the relevant period.

6.3 Group relief

6.13. Businesses organise and reorganise their affairs to improve operational efficiencies, adapt to economic changes or achieve other business objectives.

6.14. In the absence of targeted tax rules, undertaking restructuring or reorganisation within a group could result in a tax liability arising on the realisation of gains on assets or liabilities being transferred.. This is considered undesirable given there is no change in the ultimate ownership of the business or assets being transferred.

6.15. Recognising the importance of allowing businesses to reorganise themselves without triggering an unnecessary tax charge, the proposed UAE CT regime will allow for an exemption or deferral of CT in respect of the transfer of assets or liabilities between members of a group. In addition, the CT regime will allow certain corporate reorganisation transactions (e.g., mergers) to be undertaken on a tax neutral basis, such that no taxable gain or loss arises.

Intra-group transfer of assets and liabilities

6.16. Intra-group transfer relief will be available for transfers of assets and liabilities between UAE resident companies that are at least 75% commonly owned, provided the assets and/or liabilities being transferred remain within the same group for a minimum of three years.

6.17. Where intra-group relief is claimed, the relevant assets and liabilities will be treated as being transferred at their tax net book value, so that neither a gain nor a loss needs to be taken into account when calculating the taxable income of the transferor and the transferee company.

6.18. Where the relevant conditions for intra-group relief do not continue to be met, any gain or loss that would have arisen upon the initial transfer will need to be calculated and included in the transferor’s tax return in the tax period in which the conditions ceased to be met.

Restructuring relief

6.19. To facilitate mergers, spin-offs and other corporate restructuring transactions, the UAE CT regime will exempt or allow for a deferral of taxation where a whole business, or independent parts of a business, are transferred in exchange for shares or other ownership interests.

6.20. An example of a qualifying restructuring transaction is where a natural person who undertakes a business contributes his business to a newly established company in exchange for shares in the company. The natural person will get an exemption from CT in respect of any gain on the transfer, and the acquiring company will continue with the transferor's existing tax basis in the transferred assets and liabilities.

6.21. Similar to intra-group relief, assets and liabilities being transferred as part of a qualifying restructuring will be treated as being transferred at their tax net book value, so that neither a gain nor a loss needs to be taken into account when calculating taxable income.

6.22. Any restructuring relief will be 'clawed back' if within three years of the restructuring, there is a subsequent transfer of the business to a third party . In this situation, any gain or loss that would have arisen upon the initial transfer would need to be calculated and included in the tax return for the tax period of the third-party disposal..

7. Transfer pricing

7.1. This section sets out the proposed treatment under the UAE CT regime of transactions between related parties.

7.2. The UAE CT regime will have transfer pricing rules to ensure that the price of a transaction is not influenced by the relationship between the parties involved. In order to achieve this outcome, the UAE will apply the internationally recognised "arm's length" principle to transactions and arrangements between related parties and with connected persons.

7.1 Related Parties

7.3. A related party is an individual or entity who has a pre-existing relationship with a business that is within the scope of the UAE CT regime through ownership, control or kinship (in the case of natural persons).

7.4. There are different rules for determining whether parties involved in a transaction are considered "Related Parties" for UAE CT purposes. These are summarised below.

Table [2]: Related parties for UAE CT purposes
Two or more individuals related to the fourth degree of kinship or affiliation, including by birth, marriage, adoption or guardianship
An individual and a legal entity where alone, or together with a related party, the individual directly or indirectly owns a 50% or greater share in, or controls, the legal entity
Two or more legal entities where one legal entity alone, or together with a related party, directly or indirectly owns a 50% or greater share in, or controls, the other legal entity
Two or more legal entities if a taxpayer alone, or with a related party, directly or indirectly owns a 50% share of each or controls them
A taxpayer and its branch or permanent establishment
Partners in the same unincorporated partnership
Exempt and non-exempt business activities of the same person

7.2 Connected Persons

7.5. The absence of a personal income taxation in the UAE can generate incentives for individual owners of taxable businesses to erode the UAE CT base by making excessive payments to themselves or persons connected with them.

7.6. Accordingly, payments or benefits provided by a business to its "Connected Persons" will be deductible only if the business can demonstrate that the payment or benefit:

- corresponds with the market value of the service provided; and
- is incurred wholly and exclusively for the purposes of the taxpayer's business.

7.7. Connected Persons are different from Related Parties. A person will be considered as 'connected' to a business that is within the scope of the UAE CT regime if he or she is:

Table [3]: Connected Persons
An individual who directly or indirectly has an ownership interest in, or controls, the taxable person
A director or officer of the taxable person
An individual related to the owner, director or officer of the taxable person to the fourth degree of kinship or affiliation, including by birth, marriage, adoption or guardianship
Where the taxable person is a partner in an unincorporated partnership, any other partner in the same partnership
A Related Party of any of the above (see Table 2)

7.3 Arm's length principle

7.8. All Related Party transactions and transactions with Connected Persons will need to comply with transfer pricing rules and the arm's length principle as set out in the OECD Transfer Pricing Guidelines.

7.9. In order for a transaction or arrangement between Related Parties or with a Connected Person to meet the arm's length standard, the results of the transaction or arrangement must be consistent with what the results would have been if they had been between parties that are not related to each other.

7.10. The arm's length price will need to be determined using one of a set number of internationally recognised transfer pricing methods, or a different method where the business can demonstrate that the specified methods cannot be reasonably applied to determine an arm's length result.

7.4 Transfer pricing documentation requirements

7.11. Where relevant, the business will be required to submit a disclosure containing information regarding their transactions with Related Parties and Connected Persons.

7.12. A business will also need to maintain a master and local file (with format and content consistent with the requirements prescribed under OECD BEPS Action 13) where the arm's length value of their Related Party transactions exceeds a certain threshold in the relevant tax period.

8. Calculation of CT liability

8.1. This section sets out the proposed approach to calculating the CT payable by a business, and how such CT liability may be satisfied.

8.1 Applicable CT rates

8.2. CT will be charged on the annual taxable income of a business as follows:

- 0%, for taxable income not exceeding AED 375,000; and
- 9%, for taxable income exceeding AED 375,000; or

Small business relief

8.3. A certain level of complexity is unavoidable in a CT regime for a diversified and innovative economy such as the UAE, but the Ministry of Finance intends to keep the UAE CT regime as simple as possible to minimise the compliance cost for business.

8.4. While larger businesses would generally incur a higher absolute cost in complying with their UAE CT obligations, in many tax systems around the world, the relative burden of tax compliance is disproportionately higher for small and medium-sized businesses. In fact, in many countries, the majority of the overall tax compliance cost is incurred by small (including micro) businesses.

8.5. In order to support start-ups and small businesses in the UAE, and to manage the compliance burden on these taxpayers, the UAE CT regime intends to provide relief for small businesses in the form of simplified financial and tax reporting obligations.

8.2 Withholding tax

8.6. Given the position of the UAE as a global financial centre and an international business hub, a 0% (zero percent) withholding tax will apply on domestic and cross-border payments made by UAE businesses.

8.7. The following income shall be subject to 0% withholding tax:

- UAE sourced income earned by a foreign company that is not attributable to a PE in the UAE of that foreign company;
- Mainland UAE sourced income earned by a Free Zone Person that benefits from the 0% CT regime, unless the income is attributable to a mainland branch of that Free Zone Person; and
- Dividends and other profit distributions made by a Free Zone Person that benefits from the 0% CT regime to a mainland UAE shareholder in the Free Zone Person.

8.8. Given the rate of withholding tax is proposed to be at 0%, UAE businesses will not be required to make any deductions from payments made, nor will there be an obligation to file withholding tax returns.

8.3 Calculation of CT payable

8.9. The amount of CT payable will be based on the taxable income for the relevant financial period (tax period).

8.10. The table below highlights the key components of how the UAE CT payable will be determined.

Table [4]: Determination of CT payable	
Final taxable income (see section [5])	
Final taxable income amount between AED 0 - AED 375,000	CT @ 0% (A)
When the final taxable income is above AED375,000, the difference between the final taxable income and AED 375,000	CT @ 9% (B)
CT liability	A + B
Less Foreign Tax Credit (see section [8.4])	
Final CT Payable	

8.4 Tax Credits

8.11. As discussed in section 4.1, UAE resident companies will be subject to UAE CT on their worldwide income, which includes foreign sourced income that may have been subject to tax of a similar nature to CT by another country.

8.12. To avoid double taxation, the UAE CT regime will allow a credit for the tax paid in a foreign jurisdiction against the UAE CT liability on the foreign sourced income that has not been otherwise exempted. This is known as “Foreign Tax Credit”.

8.13. The maximum Foreign Tax Credit available will be the lower of:

- The amount of tax that paid in the foreign jurisdiction; or
- The UAE CT payable on the foreign sourced income.

8.14. Any unutilised Foreign Tax Credit will not be able to be carried forward or back to other tax periods, nor will the FTA refund any unutilised Foreign Tax Credit.

9. International tax developments

9.1. This section sets out the proposed approach by the UAE to respond to international tax developments.

9.1 Background

9.2. After announcing the 15 actions that came out of the original Base Erosion and Profits Shifting (BEPS) project in 2015 to address instances of profit shifting and tax avoidance, the OECD and the G20 Inclusive Framework (Inclusive Framework) have continued their efforts to address the remaining BEPS issues and the tax challenges arising from the digitalisation of the economy. This initiative is commonly referred to as BEPS 2.0.

9.3. BEPS 2.0 has two parts or pillars, namely, Pillar One and Pillar Two. Pillar One is focused on the reallocation of (a portion of) the consolidated profit of a multinational enterprise to jurisdictions where sales arise as well as the standardisation of the remuneration of routine marketing and distribution activities. Pillar Two, on the other hand, introduces a global minimum effective tax rate of 15%.

9.4. In October 2021, the UAE and over 130 other countries reached an agreement on BEPS 2.0.

9.5. The introduction of a CT regime in the UAE will provide a basis for the UAE to execute its support of the global minimum effective tax rate as proposed under Pillar Two, and more broadly its commitment to enhancing tax transparency and preventing harmful tax practices.

9.2 How the UAE would reflect its commitment to Pillar Two in its domestic CT regime

9.6. The UAE is working with other members of the Inclusive Framework to implement the Pillar Two proposals.

9.7. As the work is ongoing at the Inclusive Framework level, further announcements on how the Pillar Two rules will be embedded into the UAE CT regime will be made in due course.

9.3 Other international reporting obligations

9.8. One of the actions coming out of the original BEPS project requires all large multinational enterprises to prepare a country-by-country (CbC) report with data on the global allocation of income, profit, taxes paid and economic activity among tax jurisdictions in which it operates.

9.9. In the UAE, CbC reporting requirements were introduced effective from the financial year starting on or after 1 January 2019. The introduction of the UAE CT regime will not impact the existing CbC reporting requirements and relevant regulations.

10. Administration

10.1. This section sets out the proposed compliance requirements under the UAE CT regime.

10.1 Registration and deregistration

10.2. A business subject to CT will need to register with the FTA and obtain a Tax Registration Number within a prescribed period. The FTA can also automatically register a business for CT purposes if the person does not voluntarily do so.

10.3. Where a business ceases to be subject to the CT (e.g., due to cessation or liquidation of the business), it will need to apply to the FTA to be deregistered for CT purposes within three (3) months from the date of cessation.

10.4. The FTA will only deregister a person where the FTA is satisfied that the person has filed CT returns and settled all CT liabilities and penalties (if any) due for all periods up to and including the date of cessation.

10.5. Where a person does not apply for deregistration within the time limits or comply with the payment and filing obligations, the FTA may deregister the person based on available information.

10.2 Filing, payment and refund

10.6. In order to keep the administrative burden on taxpayers to a minimum, a business will only need to prepare and file one tax return and other related supporting schedules with the FTA for each tax period. There will be no requirement for a business to file a provisional CT return and make advance payments of CT.

10.7. Each tax return and related supporting schedules will need to be submitted to the FTA within nine (9) months of the end of the relevant Tax Period. For additional documentary support that may need to be provided to the FTA, please refer to section 10.5.

10.8. Payments to settle a taxpayer's CT liability for a Tax Period will need to be made within nine (9) months of the end of the relevant Tax Period. Where a taxpayer can demonstrate that a CT refund may be due, the taxpayer can apply to the FTA to request a refund.

10.9. The table below illustrates the CT filing and payment deadlines for businesses with financial year ends of 31 March, 30 June and 31 December:

Table [4]: Illustrative timetable for CT filing and payment deadlines			
Financial year end	30 June	31 December	31 March

First Tax Period	1 July 2023 - 30 June 2024	1 January 2024 - 31 December 2024	1 April 2024 - 31 March 2025
CT return must be filed, and CT payment made, within nine (9) months of the tax period			
Filing & payment due date	31 March 2025	30 September 2025	31 December 2025

10.3 Assessment

10.10. The UAE CT regime will be based on a self-assessment principle. This means that a business is responsible for ensuring that the tax return and any supporting schedules submitted to the FTA are correct, complete and comply with the UAE CT law.

10.11. To ensure the integrity of the CT regime, the FTA may review a CT return filed and may issue an assessment within the timeframe prescribed in the Tax Procedures Law.

10.12. A taxpayer may challenge an amended assessment issued by the FTA via the processes and procedures outlined in the Tax Procedures Law.

10.4 Clarifications

10.13. Clarity around how to comply with CT is essential for a well-functioning CT regime. Therefore, where there is uncertainty in relation to a proposed or entered into arrangement or transaction, a business may apply to the FTA for a clarification with regards to the correct or intended CT treatment.

10.14. Provided the facts and circumstances outlined in a clarification continue to apply, a clarification would be binding on the FTA.

10.5 Documentation requirements

10.15. A business will be required to maintain financial and other records that explain the information contained within the CT return and other documents submitted to the FTA. Certain exempted persons will also be required to maintain records to allow the FTA to ascertain the person’s exempt status.

10.16. Whether the financial statements of a business are required to be audited by an accredited audit firm is and will continue to be determined by applicable company laws and regulations. However, the UAE CT regime will require a Free Zone Person to have audited financial statements if it wants to benefit from the 0% CT regime.

10.6 Transitional rules

10.17. The UAE CT regime is not intending to require businesses to restate their balance sheet upon entering into the CT regime. Instead, a taxable person's opening balance sheet for CT purposes would generally be their closing balance sheet for financial reporting purposes for the period that ends immediately before their first tax period begins.