

UAE Corporate Tax

Ministerial Decisions



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Agenda



01

Ministerial Decision # 27 of 2023

02

Ministerial Decision # 68 of 2023

03

Ministerial Decision # 73 of 2023

04

FTA Decision # 6 of 2023

05

Ministerial Decision # 83 of 2023

I comply with the provisions of Article 2, 3, 5 & 6 of Ministerial Decision # 27 of 2023 read along with provisions of sub clause (a) & (b) of clause 3 of Article 4 of Cabinet Decision # 85 of 2022.



Ministerial Decision # 27 of 2023

**Implementation of
Certain Provisions
of Cabinet Decision
#85 of 2022 on
Determination of
Tax Residency**



**Determination of
Tax residency for
Natural person**

**Effective from 01st
March 2023**

Highlights of Cabinet Decision # 85 of 2022.

Determination of Tax
Residency

Conditions for
Resident Juridical
Person

Conditions for
**Resident Natural
Person**

Application of Tax
Residency Certificate

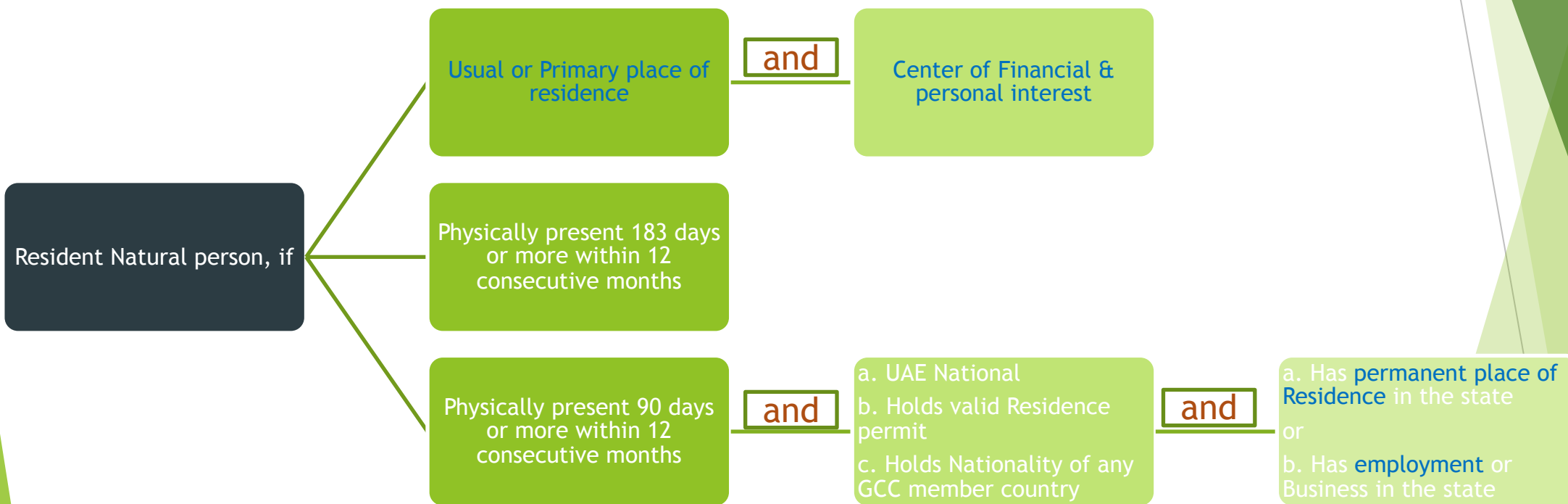
01

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03

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Natural Person (Article 4 of CD # 85 of 2022)



Usual or Primary Place of Residence - Article (2) of MD # 27 of 2023

Clause
(1)

- Habitually or Normally resides

Clause
(2)

- Spends most of his time

Clause
(2)

- When compared to any other jurisdiction as part of his settled routine

Clause
(2)

- in a way that is more than transient.



Center of Financial and personal interest - Article (2) of MD # 27 of 2023

Clause
(3)

- Personal and economic interests are the closest

Clause
(3)

- Or of greatest significance

Clause
(4)

- Factors such as occupation, familial and social relations, cultural or other activities, place of business, place of administration of property and any other relevant factor should be taken into account.

Permanent place of residence & Employment

- Article (5) & (6) of MD # 27 of 2023

Permanent place of residence

Furnished house, apartment, room or any other form of dwelling

Made continuously available

Can be owned or rented

Employment

1st Contract with resident employer to offer service under supervision and remuneration paid in the state.

2nd Where substantially all of his income is received from one party for labour performed in the state.

Can be limited or unlimited contract and work may be on full time or part time basis.

Ministerial Decision # 68 of 2023

- ▶ Grouping of all Businesses and Business activities of Federal Government.
- ▶ Grouping of all Businesses and Business activities of Local Government.
- ▶ Start and end dates for treatment as a single taxable person.
- ▶ Taxable income of the single taxable person.



Conditions for grouping - Article (2) & (3) of MD # 68 of 2023.

Federal Government Entities

Application by Representative Federal Government entity to FTA and shall include all Business and Business Activity

All entities under grouping should have license issued by licensing Authority.

Local Government Entities

Application by Representative Federal Government entity to FTA and shall include all Business and Business Activity

All entities under grouping should have license issued by licensing Authority.

All entity's business activities shall be conducted within the same Emirate.

Ministerial Decision No. 73 of 2023 - Conditions

- ▶ Revenue < AED. 3MN in Tax period commencing on or after 1st June 2023.
- ▶ Valid upto 31st December 2026 i.e. 3 tax periods for F Y Ending on or before 31st December and 2 tax periods for F Y ending after 31st December.
- ▶ Revenue to be calculated as per the applicable accounting standard.
- ▶ Not applicable for :
 - ▶ Companies that are part of MNE Group.
 - ▶ A Qualifying Free Zone Person.
- ▶ Tax losses cannot be carried forward.
- ▶ Excess interest expenditure cannot be carried forward.
- ▶ GAAR will be applicable for artificial separation of businesses.



Small Business Relief - Points to Consider

- ▶ Registration for Corporate tax and filing of corporate tax return is mandatory.
- ▶ Are you recording revenue for the company correctly as per Applicable accounting standards?
- ▶ Will you be making losses in the relevant tax period?
- ▶ Do you have interest expenditure in the company? If yes, will it be required to carry forward to next tax period?
- ▶ Is your taxable profit for the relevant tax period more than AED. 375,000/-?

Federal Tax Authority Decision # 6 of 2023

- ▶ Tax de-registration timeline
- ▶ Effective from 01st June 2023
- ▶ For Natural Person - file application within 3 months of the date of cessation of the business or business activity.
- ▶ For Juridical Person - file application within 3 months of the date of entity ceases to exist, cessation of the business, dissolution, liquidation or otherwise.



Ministerial Decision # 83 of 2023 - Conditions under which the presence of Natural Person in the state would not create a Permanent Establishment for non - resident person.

Permanent Establishment - Non Resident Person (NRP) - Article (14) of Federal Decree Law # 47 of 2022

- ▶ An NRP has PE in UAE in any of the following instances (Article (14) clause 1):
 - A. **Fixed or permanent place** in UAE through which its business or business activity (BA) is conducted.
 - B. A person habitually exercises authority to conduct business or BA on behalf of NRP (In Individual capacity without any material modification of NRP)
 - C. Nexus as will be specified in Cabinet Decision
- ▶ **Fixed or Permanent place includes (Article (14) clause 2):**
 - a. place where management and commercial decisions are taken that are necessary for conducting business
 - b. Branch, Office, Factory, Workshop, Land, Building and other real property
 - c. Installation or structure for the exploration of renewal or non renewable natural resources.
 - d. Mine, oil or gas well, a quarry or any other place of extraction including vessels & structures
 - e. Building site, construction project or place of assembly or installation or supervisory activities for atleast 6 months including connected activities by one or more related parties of NRP

Permanent Establishment - Non Resident Person (NRP) - Article (14) of Federal Decree Law # 47 of 2022

Fixed or Permanent place of NRP shall not be considered if it is used solely for any of the following purposes (Article (14) clause 3):

- ▶ Storing, displaying or delivering of goods or merchandise
- ▶ Keeping stock of goods or merchandise for the sole purpose of processing by another person.
- ▶ Purchasing goods or merchandise or collecting information for the NRP
- ▶ Conducting any other activity for a preparatory or auxiliary nature for NRP
- ▶ Any combination of above.

Permanent Establishment - Non Resident Person (NRP) - Article (14) of Federal Decree Law # 47 of 2022

For purpose of clause 3 of Article (14), mere presence of a natural person does not create PE in the state if (Clause 7 of Article (14)):

- ▶ A. Such presence is a consequence of a **temporary and exceptional situation**.
 - ▶ B. Where the natural person is employed by NRP and:
 - ▶ Activities conducted are not part of core income generating activities of NRP or its Related Parties.
- &
- ▶ The NRP does not derive state sourced income.



Ministerial Decision # 83 of 2023

The presence of natural person in the state shall be considered a consequence of temporary and exceptional situation **only** if all of the following conditions are met (Article 2):

- ▶ The presence is a consequence of **exceptional circumstances of public or private nature**.
- ▶ The exceptional circumstances cannot be reasonably predicted by Natural person or NRP.
- ▶ The natural person did not express any intention to remain when the exceptional circumstances end.
- ▶ The NRP does not have a PE before the occurrence of exceptional event.
- ▶ The NRP did not consider that the natural person is creating a PE or deriving income in the state as per the tax legislation applicable in other jurisdiction.

Exceptional circumstances of public nature - Subclause (a) of clause 2 of article 2 of MD # 82 of 2023

- ▶ Adoption of public health measures by competent authority in the UAE or in the jurisdiction of the original workplace or by WHO.
- ▶ Imposition of travel restrictions by competent authority in the UAE or in the jurisdiction of the original workplace.
- ▶ Imposition of legal sanctions on the natural person preventing them from leaving UAE.
- ▶ Acts of war or occurrence of terrorist attacks.
- ▶ Occurrence of natural disasters or force majeure beyond reasonable control.
- ▶ Any other circumstance similar to above as [prescribed by the authority](#).



Exceptional circumstances of private nature - Subclause (b) of clause 2 of article 2 of MD # 82 of 2023

- ▶ Occurrence of an emergency health condition affecting the natural person or their relatives up to the fourth degree, including by way of adoption or guardianship.
- ▶ Any other circumstances similar to [above as prescribed by the authority](#).



Thank You