

Place of Effective Management Taxation of Non-Residents – Permanent Establishment

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Place of Effective Management (“POEM”)

Place of Effective Management in the UAE

Foreign juridical persons regarded as a resident of UAE, if effectively 'managed' and 'controlled' in the UAE



POEM is triggered when:

- Key managerial and commercial decisions
- Concerned with broader strategy and policy matters
- Necessary for the conduct of company's business as a whole
- Are regularly and predominantly made and given.



Typically, a company may have **only one place of effective management and control**, which is where the strategic decisions and powers regarding the management of the entity (as opposed to the day-to-day operations) are regularly and predominantly exercised

MoF's Explanatory Guidance (which has been removed now from the FTA portal) provides certain points for consideration while applying the concept of POEM under UAE CT law



Place of Effective Management in the UAE

Primary Factors



Place where Board of Directors/controlling shareholders make their decisions



Location of another Person or body to which the board has delegated its decision-making powers



Place where board members or executive management reside



Place of –
- Incorporation and the governing laws
- Operational Management/ operational commercial decisions
- A place where accounting records are kept

Similar to the focus points provided under OECD

Place of Effective Management – OECD vs UN

OECD

- A place where meetings of the Board of Directors or equivalent body of the company are usually held
- A place where the chief executive officer and other senior executives usually carry on their activities
- A place where the senior day-to-day management of the person is carried on
- A place where the person's headquarters are located
- Place of which country's laws govern the legal status of the person
- A place where its accounting records are kept

UN

- A place where a company is actually managed and controlled,
- A place where the decision-making at the highest level on the important policies essential for the management of the company takes place,
- A place that plays a leading part in the management of a company from an economic and functional point of view and
- A place where the most important accounting books are kept.

Resident taxation – POEM in the UAE

Article 11 (3)(b) of the UAE CT Law

Regarded as RESIDENT
PERSON



TAX ON GLOBAL INCOME

02

Scope of taxation of Non-Residents

Non resident taxation

Article 11 of the UAE CT Law

Non-resident

Any person who is not a resident person and

Has a PE in UAE



Income attributable to PE

OR

Derives UAE sourced income



Income that is not attributable to
PE of the non-resident

OR

Have nexus in UAE



Income attributable to the nexus

03

Permanent Establishment

Permanent Establishment

Non – Resident to have a PE in UAE



PE definition under the UAE CT Law in line with OECD

Includes:

Fixed Place PE
Agency PE
Installation / Construction PE

Excludes:

Service PE
Any preparatory / auxiliary activities (*except where such activities performed together are not regarded as preparatory or auxiliary*)

Consequences – Income attributable to the PE (as per the TP provisions) subject to tax in UAE on net basis @ 9%

Registration to be obtained by the PE – Timeline for registration ?

Thank You

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