



M2K UAE Knowledge Series

Tax Procedures Part - I

ALERT #12

Preface

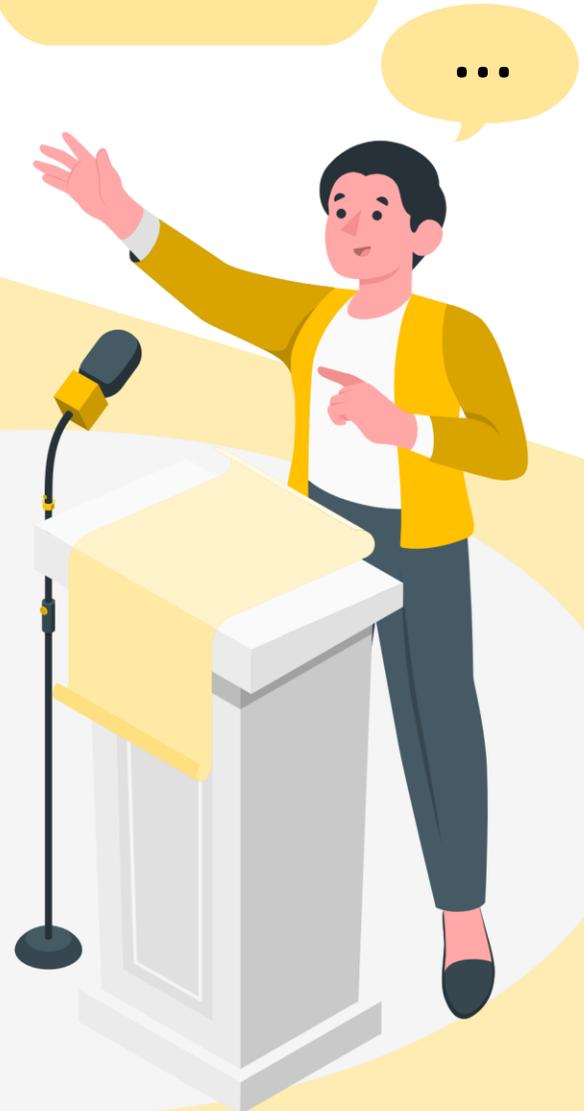
The Corporate Tax Law has provided for self-assessment, where the taxpayers are responsible for calculating, reporting and paying their taxes, and the procedures for tax audit, tax assessments etc. have been provided for in the laws¹. These act as mechanisms for the Government/ the tax authorities to safeguard their interest, monitoring of the implementation of the Tax Laws and ensuring that the Tax Laws are complied with.

Federal Decree-Law No. 28 of 2002 on Tax Procedures spells out the common procedures that are applicable to all the Tax Laws in UAE. We intend to cover the principal provisions of this Decree Law in two parts. This alert, being Part 1 of 2 would include the discussion on the following aspects:

(A) Compliance requirements (B) Voluntary Disclosure (C) Methods of Notification (D) Tax Agents (E) Tax Assessment and (F) Administrative Penalties Assessment (G) Tax Audit

Further, a brief summary of the recent updates have also been included.

¹Federal Decree-Law No. 28 of 2022 on Tax Procedures



Compliance requirements (1/3)

The taxpayers are required to comply with the following provisions under the Tax Procedures Decree-Law.



A

Any person conducting business or having obligations under the Tax Laws should keep prescribed accounting and commercial books of his business.

B

The tax return, any data, information, records and documents as requested by tax authorities should be submitted in Arabic language.

C

However, tax authorities may accept information and documents in English and may request to provide the Arabic translation of the whole or part thereof, at its discretion. However, if the data furnished is in any other foreign language, the same must be accompanied with Arabic translation.

Tax Registration



Tax registration No. should be quoted in all correspondences with the tax authorities.



Any changes requiring amendment of information in tax registration should be communicated to the tax authorities in the prescribed form and manner with 20 business days of such change.



Compliance requirements (3/3)

Legal representative

Legal representative should inform the tax authorities within 20 days of his appointment, duly following the prescribed procedures.

Legal representative would be responsible for furnishing of tax returns and undertake applicable compliances on behalf of the taxable person.



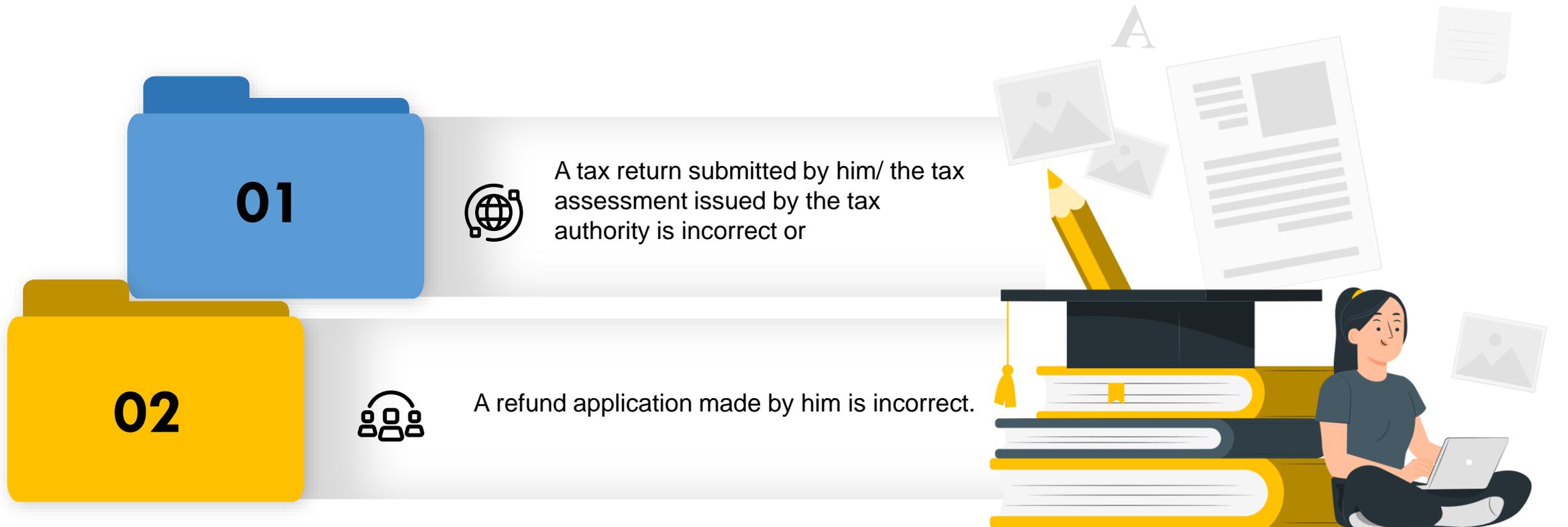
Tax Returns

Tax returns to be submitted would not be accepted, if the same does not include the minimum information specified in tax laws.

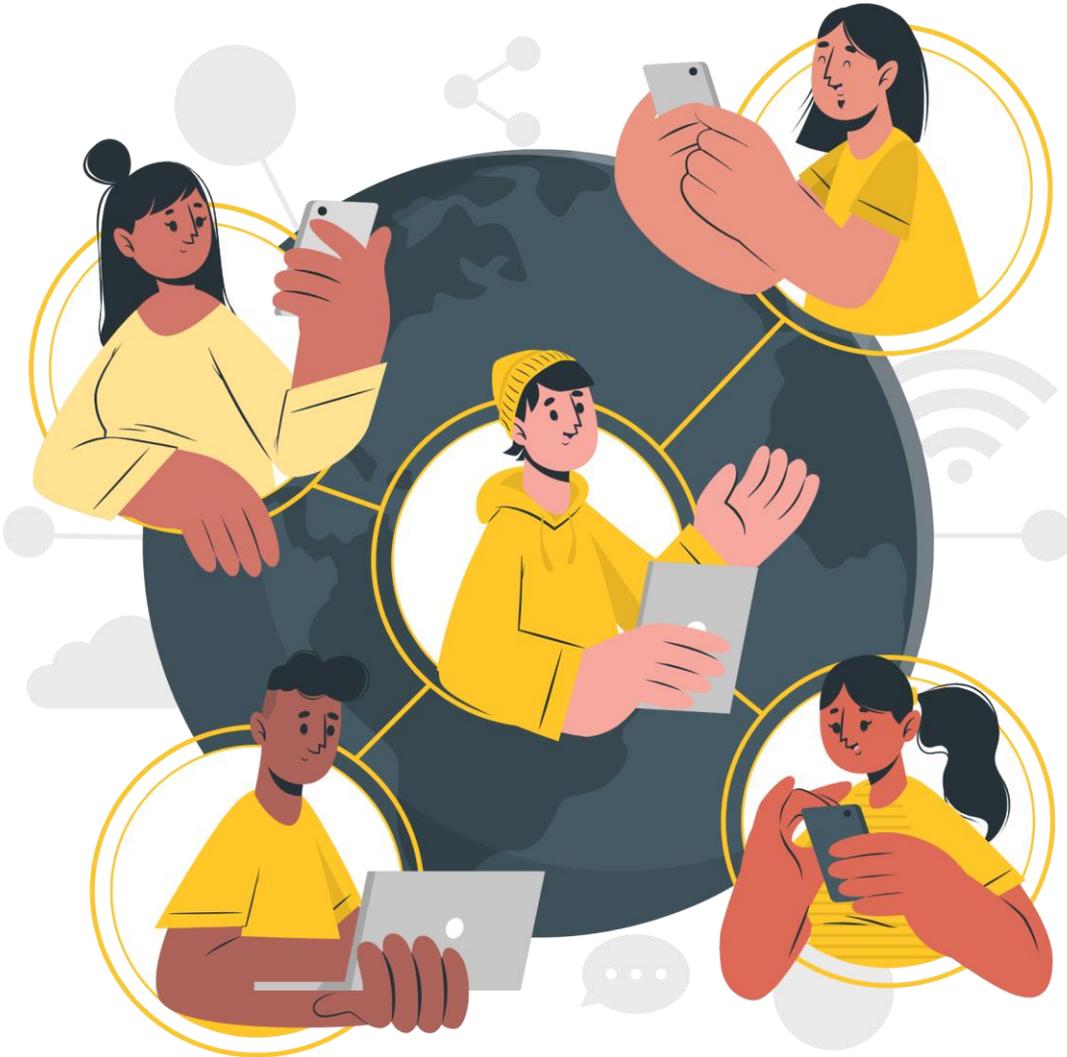
Taxable person would be responsible for the information and the data furnished in the tax return.

Voluntary Disclosure (2/2)

The taxpayers are also provided with an **option** to submit voluntary disclosure, where he becomes aware of the below situations, which has resulted in **higher amount of tax payment or lower amount of tax refund claim**.



Methods of Notification of decisions / procedures



Any decisions or procedures shall be communicated through prescribed means by the tax authority to the address registered with the tax authority. It shall be deemed that the same has been received by the recipient.

Tax Agents



Any person can practice as a tax agent, upon meeting the conditions and is listed in the Register and license has been obtained. The procedural aspects in connection with tax agents are as prescribed.



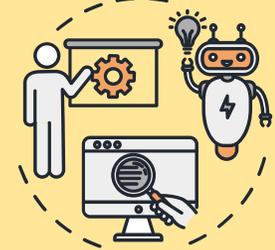
The tax agent shall notify the authority, if he ceases to practice his profession in the manner prescribed.



A person may appoint tax agent to act on his behalf with respect to his Tax affairs. However, the same would not absolve him from his responsibilities under the tax laws.



Tax authorities would not deal with the tax agents, where the person has notified the end of the appointment of the tax agent or his dismissal under specified mechanism.

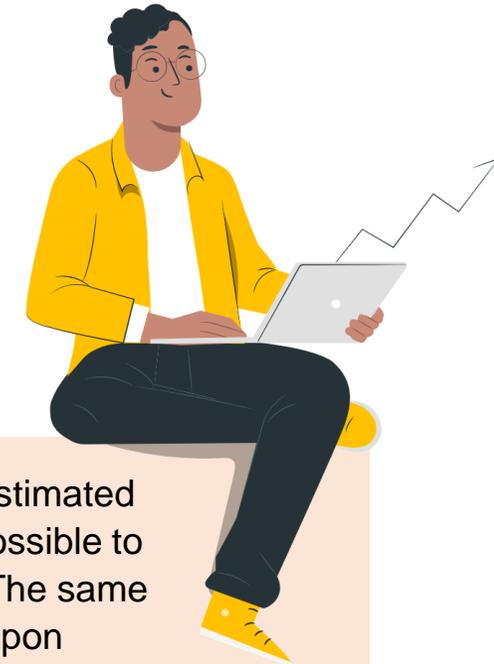
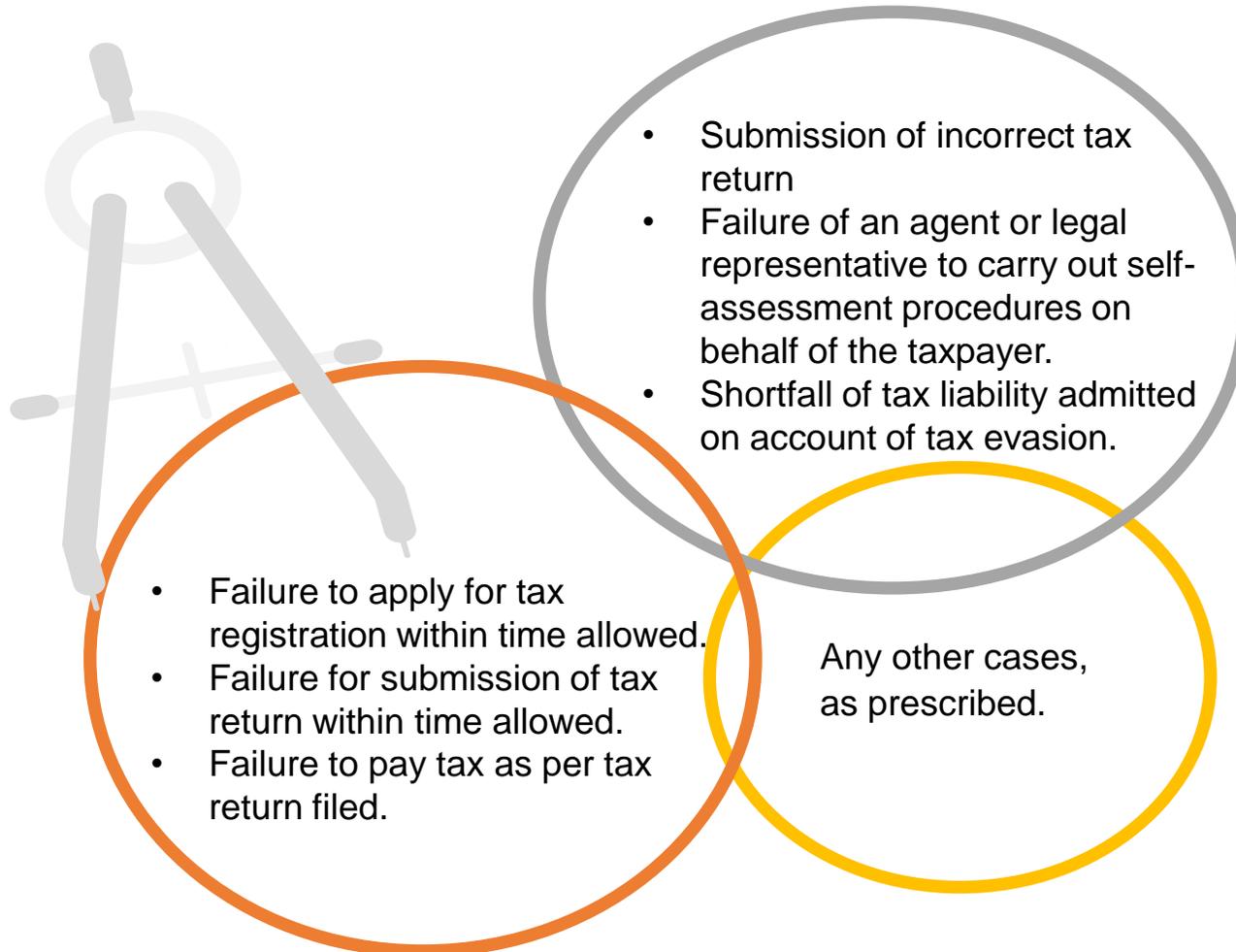


Tax agent shall keep the information, documents, records and data related to the taxpayer, as prescribed, who he represents and provide the same upon Authority's request.



Tax Assessment

The Tax Authority shall issue tax assessment in the manner prescribed to determine the tax payable/ refundable or any other matters prescribed and notify the taxpayer within 10 business days of issuance, in any of the following cases:



The Tax Authority may issue an estimated tax assessment, where it is not possible to determine the actual tax liability. The same shall be amended subsequently upon surfacing of relevant new information. The taxpayer shall be notified within 10 business days of amendment of tax assessment.

Administrative Penalties Assessment



A

The Authority shall issue an Administrative Penalties Assessment in the manner prescribed and notify the taxpayer within 5 business days of issuance for non-compliance with the provisions of the tax laws (not involving tax evasion or tax crimes).

B

List of non-compliances that would attract administrative penalties have been provided in the Decree Law. The amount of penalties have been specified under Cabinet Decision. However, the same is capped at two times the amount of tax in respect of which administrative penalty assessment was issued.

C

Administrative penalties are in addition to the obligation to settle the tax liability.

Tax Audit

- The tax authority is empowered to conduct tax audit on any person for verification of applicable compliances, during the official working hours⁴, at the premises or place of business or other place where the taxpayer conducts business or stores goods or keep records. The tax authority shall issue a prior notification of at least 10 business days to this effect.
- However, in specific instances of serious grounds like suspicion of tax evasion, or temporary closure of the premises, or the attempts to cause hindrance to the conduct of the tax audit, the tax auditor may enter the premise without prior notification⁵ and close such place for not more than 72 hours⁶ and conduct the tax audit.
- The tax auditor is empowered to obtain original records or copies, samples of the goods, devices and other assets, attach or keep the same in accordance with prescribed procedures.
- Where a new information that might the outcome of the tax audit surfaces, re-audit of any matter previously audited would be permissible.
- A person subject to tax audit would have the following rights: (A) Request the tax auditor to show his identity card (B) Obtain a copy of notification of the Tax Audit (C) Attend the tax Audit that takes place outside the Authority (D) Obtain copies of original papers or digital documents seized or obtained by the tax auditor

The results of the tax audit should be informed to the taxpayer as per prescribed procedures. The taxpayer may view or obtain the documents and data based on which assessment of tax or administrative penalties have been made as per prescribed procedures.

⁴ However, may be exceptionally conducted outside working hours, upon decision of the Director General. ⁵ Prior consent of Director General is required to be obtained for conduct of tax audit without prior Notification. Further, permit from a Public Prosecution is also required, if the place of audit is a place of residence. ⁶ Authority may obtain permit from Public Prosecution for extension of the said time limit.

Recent Updates



1

Accounting Standards and Methods⁷

2

Specific Provisions in relation Private Pension Funds and Private Social Security⁸

3

Specific Provisions in relation Participation Exemption⁹

⁷ Ministerial Decision No. 114 of 2023 ⁸ Ministerial Decision No. 115 of 2023 ⁹ Ministerial Decision No. 116 of 2023

Accounting Standards and Methods

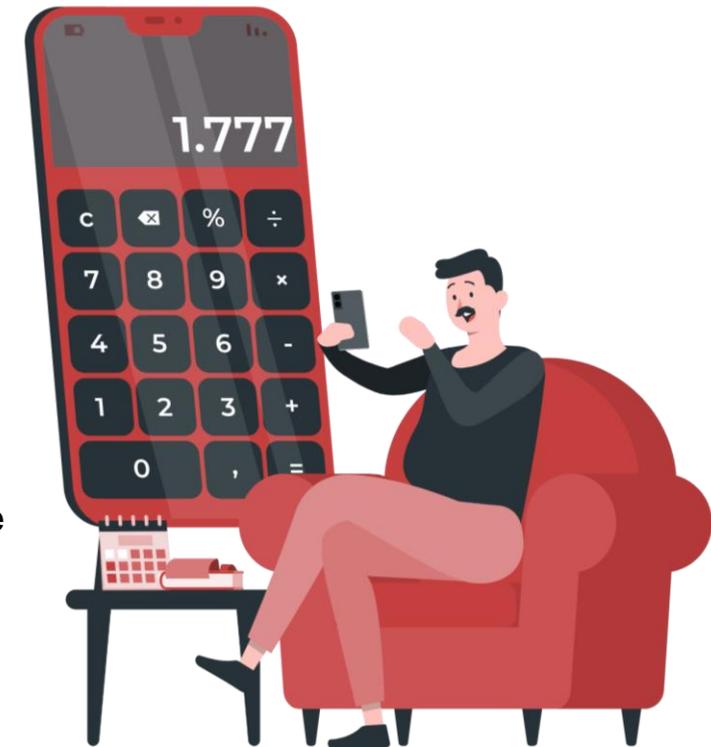
- A taxable person is provided with an option to prepare financial statements on cash basis in **any** of the following cases:
 - His revenue does not exceed AED 3 Million
 - in exceptional circumstances and based on the application submitted by him to the tax authority.
- The Corporate Tax law requires that the taxable income of each taxable person is to be determined based on the standalone financial statements in accordance with accounting standards accepted in UAE would be used as the basis and carrying out prescribed disallowances or adjustments.

On the other hand, it is provided for preparation of consolidated financial statements of the tax group (only considering the entities that are part of the tax group).

The conflict in the above provisions are resolved by prescribing preparation of consolidated financial statements of tax group as an exception to the former provisions. The manner of preparation of such financial statements is also provided

- It has been provided that the International Financial Reporting Standards (IFRS) would be the accounting standards accepted in the UAE for preparation of financial statements for the purpose of Corporate Tax.

However, a taxable person whose revenue does not exceed AED 50 Million is provided with an option to consider the financial statements prepared under IFRS for small and medium-sized entities (“IFRS for SMEs”).



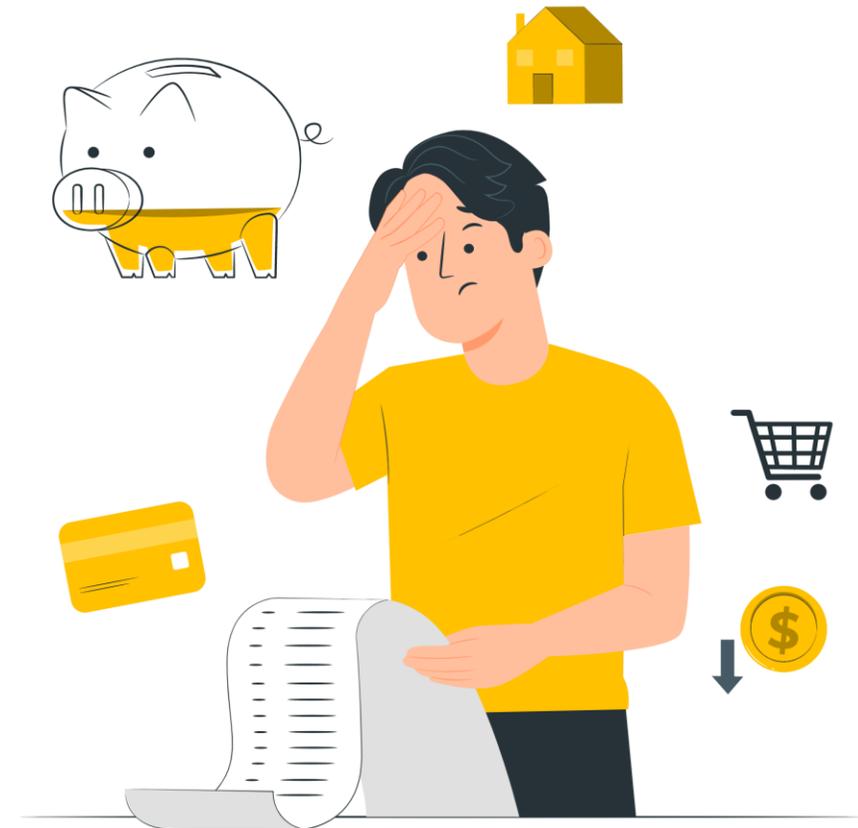
Specific Provisions in relation Private Pension Funds and Private Social Security Funds

“Exempt Person” under the Corporate Tax Law includes a private pension or social security fund subject to regulatory oversight that meets the conditions that may be prescribed. The said entities are required to make an application for exemption from Corporate Tax.

Ministerial decision has been issued prescribing conditions to be met by the said entities in order to qualify for exemption from Corporate Tax.

It has been provided that the employer’s contribution to private pension fund would be deductible in computation of taxable income, subject to a condition that: contribution in respect of each pension plan member shall not exceed 15% of total pension fund member’s remuneration that is deductible for tax purpose.

Certain reporting requirements have been prescribed by the auditor of the fund.



Specific Provisions in relation Participation Exemption

Dividend and other profit distribution from a foreign juridical person and other income (including capital gains) are exempt from tax, provided that the participation conditions are met. Also refer [Slides #8 to #14 of our Alert 4.](#)

In exercise of the powers conferred to the finance minister, Ministerial Decision has been issued with greater details, covering numerous aspects in relation to Participation exemption and prescribing additional conditions.



Stay tuned for more updates on UAE!

Please find below the list of completed & upcoming alerts from the series. In case you have missed the previous alerts, click on the hyperlink for the completed alerts to refer the same.

- 1
Levy Of Corporate Tax
- 2
Taxation of Non-residents - State Sourced Income
- 3
Permanent Establishment
- 4
Exempt Persons & Exempt Income
- 5
Deductions & Determination of Taxable Income
- 6
Corporate Tax calculations, payments, tax credits & refund
- 7 & 8
Reliefs – Part I & Reliefs – Part II
- 9
Tax Group
- 10
Transfer Pricing
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General anti-abuse rules & Corporate Tax Compliances
- 12 & 13
Tax Procedures Part I & Part II
- 14
India-UAE DTAA Key Provisions & Way Forward



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