



ABDULLA ALMULLA

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CORPORATE TAX

Federal Degree
Law No. 47

FEB 2023

HANDBOOK

Designed by

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INTRODUCTION



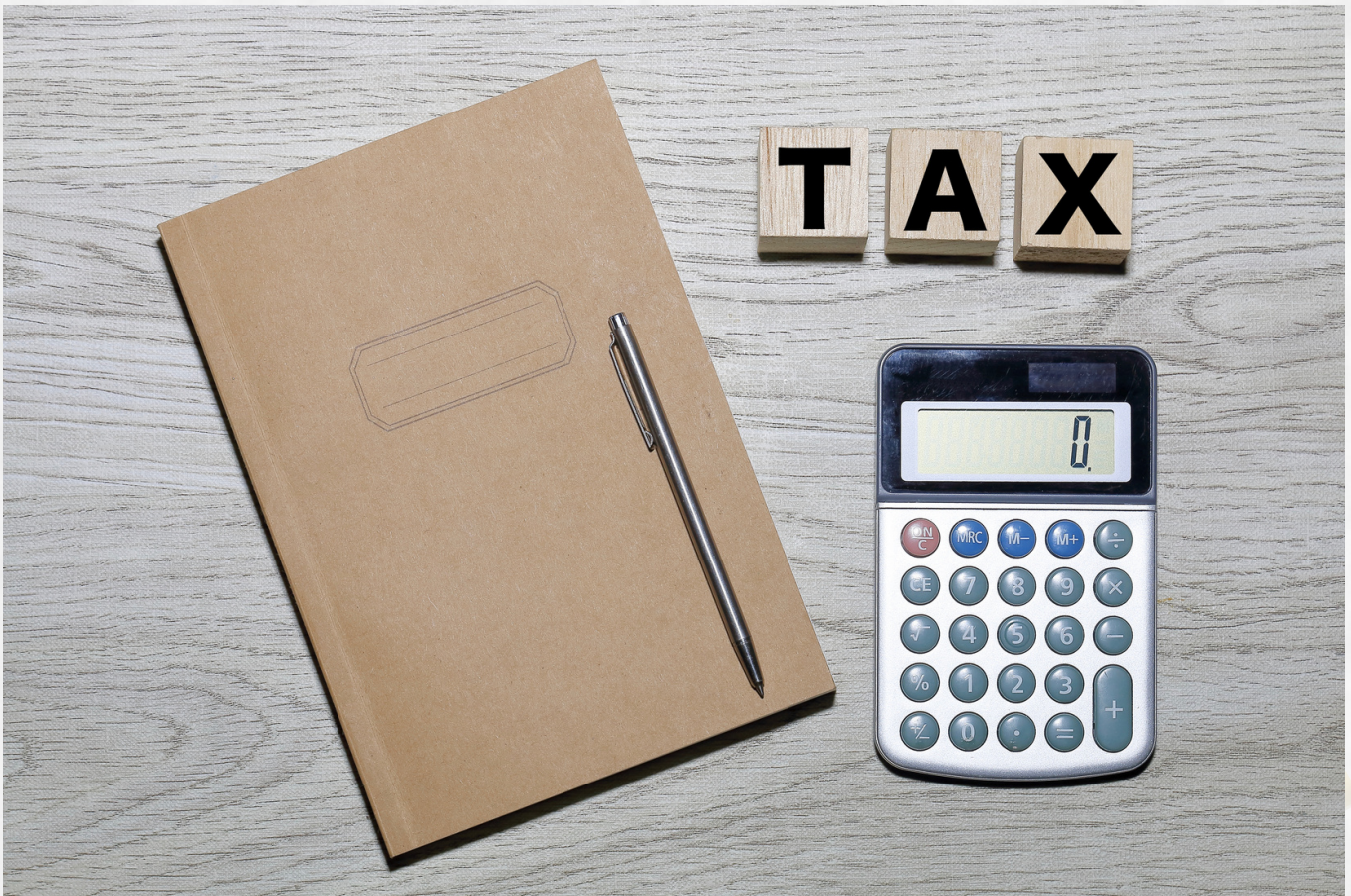
The UAE has embarked on a number of significant tax reforms over the past few years. These reforms reaffirm its commitment to achieving international standards of tax transparency and preventing harmful tax practices. Our company, Abdulla Almulla Auditing of Accounts, is committed to providing simplified information regarding the proposed Corporate Tax and Transfer Pricing compliance for businesses in the UAE.

UAE's ministry of finance on 31st January 2022, through a press release, announced that it will start imposing federal corporate taxes [Federal Decree Law Number No. 47 of 2022, hereafter known as the CT Law] on profits from business entities within the territories starting June 1st, 2023. As stated by the ministry, this will be a move to help minimize the compliance burden imposed on UAE businesses. This will be the first-time businesses will remit taxes on corporate profits after introducing the sales tax in 2018.

1. BASIS OF TAXATION

As Per Article 12 – Corporate tax base

- A Resident Person is subject to Corporate Tax on its Taxable Income derived from the State or from outside the State, in accordance with the provisions of this Decree-Law.
- The Taxable Income of a Resident Person, which is a natural person, is the income derived from the State or from outside the State insofar as it relates to the Business or Business Activity conducted by the natural person in the State as set out in Clause 6 of Article 11 of this Decree-Law.
- A Non-Resident Person is subject to Corporate Tax on the following:
 - a. The Taxable Income that is attributable to the Permanent Establishment of the Non-resident Person in the State.
 - b. State Sourced Income that is not attributable to a Permanent Establishment of the Non-Resident Person in the State.
 - c. The Taxable Income that is attributable to the nexus of the Non-Resident Person in the State as determined in a decision issued by the Cabinet pursuant to paragraph (c) of Clause 4 of Article 11 of this Decree-Law.



As Per Article 13 – State Sourced Income

Income shall be considered Sourced in the UAE, if:

- It is derived from a Resident Person
- Derived from a Non-resident in connection with its PE in the UAE
- Derived from activities performed, assets located, capital invested, rights used, or services performed or benefitted from in the UAE.

2. TAXABLE PERSONS

As Per Article 11 – Taxable Persons

- Taxable Persons are subject to corporate tax at the rates outlined in this decree-law.
- This Decree-Law defines a Taxable Person as either a Resident Person or a Non-Resident Person.

RESIDENT PERSON	NON-RESIDENT PERSON
<p>a. A juridical person that is incorporated or otherwise established or recognised under the applicable legislation of the State, including a Free Zone Person.</p> <p>b. A juridical person that is incorporated or otherwise established or recognised under the applicable legislation of a foreign jurisdiction that is effectively managed and controlled in the State.</p> <p>c. A natural person who conducts a Business or Business Activity in the State.</p> <p>d. Any other Person as may be determined in a decision issued by the Cabinet at the suggestion of the Minister.</p>	<p>a. Has a Permanent Establishment in the State as under Article 14 of this Decree-Law.</p> <p>b. Derives State Sourced Income as under Article 13 of this Decree-Law.</p> <p>c. Has a nexus in the State as specified in a decision issued by the Cabinet at the suggestion of the Minister.</p>

3. CALCULATION OF TAXABLE INCOME

As Per Article 11

- Taxable income from 0 to 375,000 dirhams at 0% = 0 dirhams
- taxable income exceeding AED 375,000 (400.00 – 375,000 = AED 25,000) at 9% = AED 2,250
- Corporate tax payable for the financial year is 0 + 2,250 = 2,250 dirhams

TAXABLE PERSONS	FREEZONE PERSONS
<p>a. 0% (zero percent) on the portion of the Taxable Income not exceeding the amount specified in a decision issued by the Cabinet at the suggestion of the Minister.</p> <p>b. 9% (nine percent) on Taxable Income that exceeds the amount specified in a decision issued by the Cabinet at the suggestion of the Minister.</p>	<p>a. 0% (zero percent) on Qualifying Income.</p> <p>b. 9% (nine percent) on Taxable Income that is not Qualifying Income under Article 18 of this Decree-Law and any decision issued by the Cabinet at the suggestion of the Minister in respect thereof.</p>

4. TAX GROUP

As Per Article 40

- Tax Group considered as single taxable person.
- It shall be represented by the parent company.
- Parent company must hold minimum of 95% of the share capital or voting rights or profits and net assets of the Subsidiaries.
- Companies should not be an exempt person or qualified freezone person.
- The Parent and its' subsidiaries have the same financial year and accounting standards.

As Per Article 41

Date of Formation & cessation of a Tax Group:

- Member company may join or leave the tax group from the tax period specified in the application or as determined by the authority.

As Per Article 42

Taxable Income of a Tax Group:

- Parent company shall consolidate the financial results, assets, and liabilities of all member companies, eliminating the inter group transactions.
- Unutilised Tax Losses of a new Subsidiary can be utilised by the Tax Group to off-set the Taxable Income of the Tax Group, relevant to that subsidiary.
- Unutilised taxable loss of the tax group cannot be used to offset the taxable income of the new subsidiary.
- If a member company leaves the tax group within 2 years of an asset/liability transfer, then such income should be taken in account on the date when the member company leaves the tax group.
- Any unutilised Tax Losses shall remain with the Parent Company in case of cessation of the Tax Group.



5. TRANSFER PRICING

As Per Article 34

- Transactions and arrangements between related parties to meet the arm's length standard.
- Five methods (as prescribed by OECD) to determine the arm's length price. Option to choose any other method also available, provided due justification rendered.
- The Revenue Authority shall adjust the taxable income when the transactions or arrangements are not at arm's length range.
- The Authority shall make a corresponding adjustment to the taxable income of the related party that is party to the relevant transaction or arrangement.
- If a foreign competent authority adjusts a taxable person's income, that person may apply to the authority to make a corresponding adjustment.



As Per Article 36

Connected Persons:

- A payment or benefit provided by a taxable person to its connected person shall be deductible only if payment is as per market and is incurred only for taxable person's business.
- Exception for listed entity.
- Exception for any other person determined by a decision of cabinet.

As Per Article 55

Transfer Pricing Documentation:

- Taxable person to file a disclosure on transactions or arrangements with its related parties and connected person along with their tax return.
- If the disclosure filed meet the conditions prescribed by the Minister, the taxable person must maintain both master and a local file.
- Documentation (Master file and a local file) to be submitted within 30 days from the request.

6. FREEZONE

As Per Article 18

Corporate Tax Applicability for Freezone Persons:

- Free Zone Persons eligible for zero % of Corporate Tax are known as Qualifying Free Zone Person.
- Some of the Free Zones stipulates specific period of Tax incentives for the entities registered under them. The eligibility of 0% of tax will be only for the remaining period of Tax incentive stipulated in the respective Free Zone Legislation.
- Qualifying Free Zone Person is a Free Zone Person that meets the following conditions:
 1. Maintains adequate substance in the State.
 2. Comply with the provisions of Arm's Length Principle and Transfer Pricing Documentation
 3. Derives Qualifying Income (The Cabinet will issue a decision, what kind of income will be considered as Qualifying Income).

If such Qualifying Free Zone Person fails to meet any of the above conditions during any particular Tax Period, he will be taxed at 9% rate from the beginning of the Tax Period.

7. CALCULATIONS OF CT LIABILITY

As Per Article 20

Taxable Income:

- Financial statements to be prepared in accordance with the accounting standards.
- Option for preparation of accounts on cash basis.
- Specified adjustment to the taxable Income prescribed.
- When accounts are prepared on accrual basis, assets and liabilities to be considered at fair value on impairment basis and unrealized gain and loss.

As Per Article 21

Small Business Relief:

- Small business can elect to be out of having taxable income if it meets; Threshold that shall be conveyed by Minister.
- Once the business is under the small business category, other provisions of exemption, relief, deductions, tax loss relief, etc shall not be applicable.

As Per Article 43

Currency:

- All amounts to be quantified in United Arab Emirates dirham (AED)
- Amounts quantified in any other currency to be converted at applicable Exchange Rate set by Central Bank of the UAE.

As Per Article 44

Calculation and Settlement:

As per the article, the due Corporate Tax will be settled as per Article 48 after setting off the following available credits in the below order:

1. Available Withholding Tax Credit.
 2. Available Foreign Tax Credit.
 3. Any credits or other forms of relief specified in Decisions
- Balance amount must be paid and settled.



8. WITHHOLDING TAX

As Per Article 45

The following income shall be subject to WHT at 0% or any other rate as specified by the Minister:

- a. UAE sourced income derived by non-resident person as prescribed in the decision issued (not attributable to a PE)
- b. Any other income specified by the Minister.

As Per Article 46

Withholding Tax Credit:

- The CT payable due can be reduced by the amount of Withholding tax credit for the respective tax period.
- Maximum credit available shall not exceed the corporate tax due.



9. EXEMPT INCOME

As Per Article 22

The following income and related expenditure shall not be taken into account in determining the Taxable Income:

1. Dividends and other profit distributions received from a juridical person that is a Resident Person.
2. Dividends and other profit distributions received from a Participating Interest in a foreign juridical person as specified in Article 23 of this Decree-Law.
3. Any other income from a Participating Interest as specified in Article 23 of this Decree-Law.
4. Income of a Foreign Permanent Establishment that meets the condition of Article 24 of this Decree-Law.
5. Income derived by a Non-Resident Person from operating aircraft or ships in international transportation that meets the conditions of Article 25 of this Decree Law.

As Per Article 23

Participation Exemption:

- Income from participating income is exempt, subject the certain conditions of holding minimum 12 months tax rate in foreign jurisdiction at least rate applicable in UAE, ownership at least 5%.
- Participation in qualifying free zone persons also similar to conditions for foreign participation.

As Per Article 24

Foreign Permanent Establishment Exemption:

- A Resident Person can make an election to not take into account the income, and associated expenditure, of its Foreign Permanent Establishments in determining its Taxable Income.
- a Resident Person shall not take into account the following in determining its Taxable Income or Corporate Tax Payable for a Tax Period:
 - a. losses in any of its Foreign Permanent Establishments.
 - b. positive income and associated expenditure in any of its Foreign Permanent Establishments.
 - c. any Foreign Tax Credit.

10. INTRA GROUP TRANSFERS - RELIEF

As Per Article 26

Transfer within qualifying group:

1. Transfers of one or more assets or liabilities between Taxable Persons that are members of the same Qualifying Group are not subject to gain or loss when determining the Taxable Income.
2. The following conditions must be met for two Taxable Persons to be considered members of the same Qualifying Group:
 - a. The Taxable Persons are juridical persons that are Resident Persons, or Non-Resident Persons that have a Permanent Establishment in the State.
 - b. Either Taxable Person has a direct or indirect ownership interest of at least 75% (seventy-five percent) in the other Taxable Person, or a third Person has a direct or indirect ownership interest of at least 75% (seventy-five percent) in each of the Taxable Persons.
 - c. None of the Persons are an Exempt Person.
 - d. None of the Persons are a Qualifying Free Zone Person.
 - e. The Financial Year of each of the Taxable Persons ends on the same date.

f. Both Taxable Persons prepare their financial statements using the same accounting standards.

3. For the purposes of this Decree-Law, where a Taxable Person applies Clause 1 of this Article:

a. the asset or liability shall be treated as being transferred at its net book value at the time of transfer so that neither a gain nor a loss arises; and

b. the value of any consideration paid or received against the transfer of the asset or liability shall equal the net book value of the transferred asset or liability.

4. The provision of Clause 1 of this Article shall not apply where, within (2) two years from the date of the transfer, any of the following occurs:

a. There is a subsequent transfer of the asset or liability outside of the Qualifying Group.

b. The Taxable Persons cease to be members of the same Qualifying Group.



11. DEDUCTIONS

As Per Article 28

Deductible Expenditure:

1. Subject to the provisions of this Decree-Law, expenses incurred exclusively for the purpose of the Taxable Person's business may be deducted in the Tax Period in which they are incurred.

2. For the purposes of calculating the Taxable Income for a Tax Period, no deduction Federal Decree-Law No. 47 of 2022 – Unofficial translation 36 is allowed for the following:

- Expenditure not incurred for the purposes of the Taxable Person's Business.
- Expenditure incurred in deriving Exempt Income.
- Losses not connected with or arising out of the Taxable Person's Business.
- Such other expenditure as may be specified in a decision issued by the Cabinet at the suggestion of the Minister.

3. If expenditure is incurred for more than one purpose, a deduction shall be allowed for:

- Any identifiable part or proportion of the expenditure incurred wholly and exclusively for the purposes of deriving Taxable Income.

As Per Article 29

Interest Expenditure:

Under the provisions of Article 28 and Articles 30 and 31 of this Decree-Law, interest expenditure is deductible in the Tax Period in which it is incurred.

As Per Article 30

General Interest Deduction Limitation Rule:

1. Taxable Persons can deduct Net Interest Expenditures up to 30% (thirty percent) of their accounting earnings before interest, tax, depreciation, and amortization (EBITDA), excluding Exempt Income under Article 22 of this Decree-Law.

2. The limitation under Clause 1 of this Article shall not apply where the Net Interest Expenditure of the Taxable Person for the relevant Tax Period does not exceed an Federal Decree-Law No. 47 of 2022 – Unofficial translation 37 amount specified by the Minister.

3. Interest expenditure disallowed under any other provision of this Decree-Law shall be excluded from the calculation of Net Interest Expenditure under Clause 2 of this Article.

Note: this Article shall not apply to the following Persons: a. A Bank. b. An Insurance Provider. c. Natural person. d. Any other Person as may be determined by the Minister.

As Per Article 31

Specific Interest Deduction Limitation Rule:

1.No deduction shall be allowed for Interest expenditure incurred on a loan obtained, directly or indirectly, from a Related Party in respect of any of the following transactions:

- a. A dividend or profit distribution to a Related Party.
- b. A redemption, repurchase, reduction or return of share capital to a Related Party.
- c. A capital contribution to a Related Party.
- d. The acquisition of an ownership interest in a Person who is or becomes a Related Party following the acquisition.

2.Clause 1 of this Article shall not apply where the Taxable Person can demonstrate that the main purpose of obtaining the loan and carrying out the transaction referred to under Clause 1 of this Article is not to gain a Corporate Tax advantage.

As Per Article 32

Entertainment Expenditure:

1.Taxable Person shall be allowed to deduct 50% (fifty percent) of any entertainment, amusement, or recreation expenditure incurred during a Tax Period.

2. Expenditure incurred for the purposes of receiving and entertaining the Taxable Person's customers, shareholders, suppliers or other business partners, including, but not limited to, expenditure in connection with any of the following:

- a. Meals.
- b. Accommodation.
- c. Transportation.
- d. Admission fees.
- e. Facilities and equipment used in connection with such entertainment, amusement or recreation.
- f. Such other expenditure as specified by the Minister.

As Per Article 33

Non-Deductible Expenditure:

- Fines and Penalties
- Bribes or similar payments
- Dividends or profits distributed to the owner
- Corporate tax
- Recoverable input VAT
- Tax imposed outside the state
- Donations, grants or gift made to entity that is not qualifying public benefit entity

12. TAX LOSS PROVISIONS

As per article 37 & 39

1. A Tax Loss can be offset against the Taxable Income of subsequent Tax Periods to arrive at the Taxable Income for those subsequent Tax Periods.

2. The amount of Tax Loss used to reduce the Taxable Income for any subsequent Tax Period cannot exceed 75%

3. A Taxable Person cannot claim Tax Loss relief for:

- Losses incurred before the date of commencement of Corporate Tax.
- Losses incurred before a Person becomes a Taxable Person under this Decree Law.
- Losses incurred from an asset or activity the income of which is exempt.

4. A Tax Loss carried forward to a subsequent Tax Period must be set off against the Taxable Income of that subsequent Tax Period, before any remainder can be carried forward to a further subsequent Tax Period, or any Tax Loss transferred under Article 38 of this Decree-Law can be utilised.

13. TAX GROUP PROVISIONS

As Per Article 40

- A Resident Person, referred as a “Parent Company”, can make an application to the Authority to form a Tax group with one or more Resident Persons, each referred as a “Subsidiary”.
- Parent company must hold minimum of 95% of share capital.
- Company should not be exempt person or qualified freezone.
- The parent and subsidiary companies must have same financial year and same accounting standards.



14. PAYMENT AND REFUND OF CORPORATE TAX

As Per Article 48

All amounts must be calculated and paid in UAE Dirham. The payments should be done within 9 months from end of relevant tax period.

As Per Article 49

A taxable persons can apply for tax refund, if the withholding tax credit available is in excess of corporate tax payable by him.



15. REGISTRATION, DEREGISTRATION AND RETURNS

As Per Article 51

Tax Registration:

Any Taxable Person shall register for Corporate Tax with the Authority in the form and manner and within the timeline prescribed by the Authority and obtain a Tax Registration Number, except in circumstances prescribed by the Minister.

As Per Article 52

Tax Deregistration:

- A Person with a Tax Registration Number shall file a Tax Deregistration application with the Authority where there is a cessation of its Business or Business Activity, whether by dissolution, liquidation, or otherwise, in the form and manner and within the timeline prescribed by the Authority.
- Deregistration is not allowed until all Corporate Tax and Administrative Penalties have been paid and all Tax Returns for the Tax Period up to and including the date of deregistration have been filed.

As Per Article 53

Tax Returns:

- A Taxable Person must file a Tax Return, as applicable, to the Authority in the form and manner prescribed by the Authority no later than (9) nine months from the end of the relevant Tax Period, or by such other date as directed by the Authority.
- A Taxable Person shall provide the Authority with any such information, documents or records as shall be reasonably required by the Authority for the purposes of implementing the provisions of this Decree-Law.

As Per Article 54

Financial statements:

The minister may issue a decision requiring categories of taxable persons to prepare and maintain audited or certified financial statements.

As Per Article 55

Record Keeping:

All supporting and documenting records relating to corporate tax to be maintained for a period of 7 years from the end of the tax period.

16. PENALTIES AND OTHER APPLICABLE PROVISIONS

As Per article 60

Assessment of Corporate Tax and Penalties:

A Person may be subject to a Corporate Tax assessment in accordance with the Tax Procedures Law and the decisions issued in the implementation of its provisions.

As Per Article 61

Transitional Rules:

The opening balance sheet shall be closing balance sheet prepared or financial reporting purposes.

The balance sheet shall be prepared considering arm's length principle.

As Per Article 62

Delegation of power:

The Minister may delegate his powers under this Decree-Law, in full or in part, to the Authority, where the Minister deems appropriate.

As Per Article 63

Administrative policies and procedures:

The administrative policies, procedures and general instructions in relation to the requirements imposed on a Person under this Decree-Law shall be issued by the Authority in coordination with the Ministry.

As Per Article 65

Revenue sharing:

Corporate Tax revenues and Administrative Penalties collected under this Decree-Law shall be subject to sharing between the Federal Government and the Local Governments based on the provisions of a federal law issued in this regard.

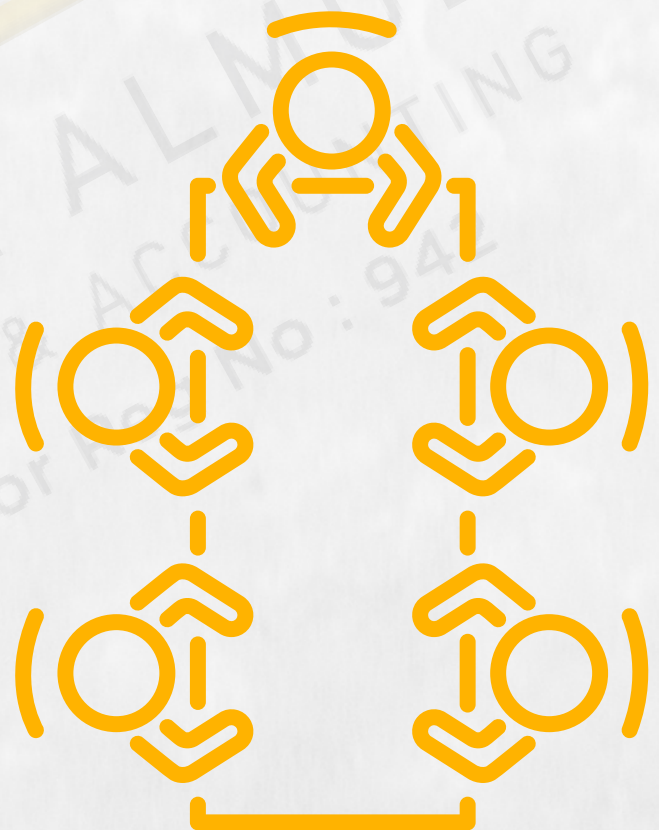


HOW AN AM AUDIT CAN HELP?

Even though the introduction of the corporation law is new to everyone, AM Audit is competent in audit, accounting, and tax-related issues. We would be happy to help your firm through the new era. Our accounting services can assist your company with the transfer pricing and corporate tax calculations required by the Ministry of Finance. It can be challenging but we are here to support you while you go through it.

We can help you with the following services:

- Conducting high impact assessment
- Corporate tax advisory
- Corporate tax compliance
- Documentation and reporting
- Country by Country Reporting
- Tax residency certificate



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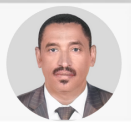
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Prepared Based on Federal Degree Law no. 47 of 2022 on Taxation of Corporation and Businesses Released by Ministry of Finance (MoF)

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Published by

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