Corporate Tax in the UAE

Tax grouping considerations

The introduction of Corporate Tax (CT) in the United Arab Emirates (UAE) will be a big change for finance and tax teams of local businesses.

In practice, the effective tax rate of local groups will likely increase. In parallel, the tax compliance obligations of group companies may result in a higher administrative cost and complexity in managing the UAE's tax position.

To address those concerns, and as foreseen by a number of foreign jurisdictions allowing tax grouping, the UAE CT regime will provide an option to apply for a tax consolidation regime: a tax group. Assuming similar rules as the Dutch fiscal unity regime, entering into a tax group will, among others result in a consolidation of the profit and loss account for tax purposes. Also, intra-group transactions between entities that are part of the same tax group would generally be disregarded for tax purposes. Therefore, these transactions would be carried out on a tax neutral basis, which also means that this would simplify the Transfer Pricing (TP) documentation with regards to those transactions. However, intra-group transactions would, in principle, still be required to be performed at arm's length.

Example:

- In case no tax group exists between UAE Company 1 (Co1) and UAE Company 2 (Co2).
- UAE Co2 owns an asset with a fiscal book value of USD $100,000 and would like to transfer the asset to UAECo1.
- The market value of this asset is USD $500,000.

Without a tax group, UAE Co2 will have to pay USD $36,000 CT when transferring the asset to UAE Co1: 9% (assumed tax rate) x (USD $500,000 – USD $100,000). After this transfer, UAE Co1 will have to calculate the tax depreciation on the USD $500,000.

If there is a tax group between UAE Co1 and UAE Co2, the transfer of the asset can take place, at book value, without directly levying the CT. The tax depreciation on the asset does not change as a result of this transfer.

Finance and tax teams should start analyzing the possibility of forming tax group(s) and consider the following:

- **Identifying profit-making and loss-making entities:** There will be a tax consolidation of the financial accounts of the subsidiaries that are part of the tax group, the positive result of the consolidated entities will be offset by the negative result of the other consolidated entities. This may result in a lower effective tax rate in some cases.

- **Excluding entities that are exempt or free zone persons that benefit from 0% CT rate:** Only companies that are subject to the regular CT rate will be able to join the tax group. Therefore, exempt persons and free zone persons subject to 0% rate cannot be part of the tax group.

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- **Determining the tax group perimeter:** The perimeter of the tax group should include the parent company that holds, directly or indirectly, at least 95% of the share capital and voting rights of its subsidiaries. Therefore, the legal structure of the group should be reviewed to identify whether the entities will meet the ownership requirement.

- **Running tax group simulations:** To determine the cash tax impact of creating a tax group, simulations based on the latest financial statements available or on projections can be prepared. Simulations can be presented to the board of managers of these group companies as a support for discussion.

- **Aligning the financial year of the tax group's entities:** One of the conditions of the tax group regime is that all the entities of the group should have the same financial year. Therefore, the financial year of the identified entities may need to be changed.

Tax group is one regime that can be applied and while it should be carefully considered, the advantages and disadvantages of this regime should be compared with other tax rules such as interest capping rules.

Alternatively, if the conditions for the tax group are not met, the transfer of losses from one group company to another group company may still be possible under the group relief provision.

Performing this analysis upfront, enables taxpayers to react quickly once the UAE CT law is issued and file the tax group request in time.

Contacts

We have a dedicated corporate tax team based in the UAE who have in-depth experience and can support you throughout your readiness journey.

If you require assistance at any stage during the CT implementation, please get in touch with one of our tax experts listed on the following page.

You can also contact us and submit all your queries on this email cituae@deloitte.com.

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