



## Managing income tax compliance for foreign banks in the UAE

### Introduction

The United Arab Emirates ("UAE") is a federation of seven Emirates comprised of Abu Dhabi, Ajman, Dubai, Fujairah, Ras Al Khaimah, Sharjah and Umm Al Quwain. No income tax is currently imposed at the federal level but most Emirates have issued income tax laws as follows:

- Income Tax Decrees providing for corporate income tax on business activities carried out in the respective Emirate<sup>1</sup>;
- Special banking tax legislation subjecting foreign banks to corporate income tax.

Accordingly, branches of foreign/international banks<sup>2</sup> are subject to income tax in the Emirate where they are established and operate. The number of international banks subject to tax in the UAE as of today is around 30.

### Mechanism of taxation under the banking tax regulations

Special banking tax regulations ("Regulations") have been issued by certain Emirates including Dubai and Abu Dhabi. The Regulations are broadly similar and share the following key characteristics:

- The taxable income of foreign banks is typically subject to tax at 20%;
- The taxable profit is determined based on the audited branch accounts and subject to the adjustments as prescribed by the Regulations;

- The Regulations contain a number of provisions dealing with the allocation/attribution of revenue as well as expenses<sup>3</sup> to the branch and expense deductibility rules<sup>4</sup>;
- The Regulations further contain specific guidance regarding accruals/provisions, depreciation of bankable assets and the carry forward of tax losses;
- The Regulations provide for procedural/administrative rules (e.g. filing deadline, late payment interest and penalties in case of non-compliance, payment of income tax and the appeal process).

All foreign banks operating in the UAE are required to prepare a tax computation in line with the Regulations. We note that the Regulations are not very detailed, and key terms used are broadly defined leaving certain areas open to interpretation (both by the tax payer and the tax authority). It is therefore important to obtain a full perspective of where the risks and opportunities lie when preparing the tax computation and especially classifying the costs as required under the Regulations.

Another aspect to consider is how the Regulations interplay with the Income Tax Decrees and international tax law such as double taxation agreements.

Due to the technicalities and associated challenges involved, foreign banks operating in the UAE adopt different tax operating/outsourcing models.

### Transforming your tax operating model

Deloitte is advising a number of foreign banks across the UAE on their business tax obligations and reporting requirements.

We have set out a brief overview of our key service offerings and areas where we are able to support and add lasting value. The scope of work required may vary depending on the bank's organizational structure and tax function and can be further tailored to meet your specific requirements.

### References

1. In practice, they are only enforced with regards foreign oil companies engaged in upstream hydrocarbon activities.
2. UAE incorporated Public Joint Stock Companies are not subject to income tax.
3. For example, the Regulations provide that the branch shall bear regional and shared expenses according to the ratio of its assets to the total assets of the operating branches.
4. For instance, the deductibility of the total of the head office expenses and the regional management expenses is capped at 2.5% of the branch's revenue.

Tax operating model	Description
<b>Review of tax return/computation prepared by Management</b>	<ul style="list-style-type: none"> <li>• High level review of the tax return/computation prepared by Management and commenting on the reasonableness of the computation from a conceptual perspective</li> <li>• High level review of the tax assessment once issued by the Ruler's Commissary</li> </ul>
<b>Tax return/computation preparation based on input provided by Management</b>	<ul style="list-style-type: none"> <li>• High-level review of the underlying input/data provided by Management through a Q&amp;A session/call</li> <li>• Preparation of the tax return/computation based on the input provided by Management</li> <li>• Review of the tax assessment once issued by the Ruler's Commissary</li> </ul>
<b>Year-end tax support and tax return/computation preparation</b>	<ul style="list-style-type: none"> <li>• Review of the draft branch and head office accounts and other supporting documents</li> <li>• Coordination with the stakeholders including auditors with a view to obtain and confirm the input required</li> <li>• Supporting Management in determining the relevant income, classifying the relevant costs and identifying the relevant assets for purposes of the income/expense allocations</li> <li>• Preparation of the tax return/computation based on the information obtained and the agreed allocations</li> <li>• Review of the tax assessment once issued by the Ruler's Commissary</li> </ul>

We have a dedicated team responsible for assisting foreign banks in the UAE with managing their tax compliance. This team sits within Deloitte's International Tax Centre for Excellence, which encompasses international and business tax compliance and transfer pricing specialists with deep banking and wealth management industry knowledge. By adopting this approach, we can support your business in applying industry best practices.

#### Contact information

Our tax experts listed below would be happy to arrange for a one on one discussion to further elaborate on our approach and address your compliance needs and questions and explore how we can assist.

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