



# UAE Corporate Tax news Taxation of partnerships

March 2024

# Introduction

---

On 4 March 2024, the Federal Tax Authority (FTA) published a Corporate Tax Guide on the “Taxation of Partnerships”, aiming to clarify how the provisions of the United Arab Emirates Corporate Tax Law (UAE CT Law) apply to incorporated and unincorporated partnerships, and the partners. The guide states that it is not a legally binding document but is intended to provide assistance in understanding the tax implications for Incorporated Partnerships and Unincorporated Partnerships.

This alert aims to summarize the key characteristics of both types of partnerships and discusses the specific aspects of taxation of both types of partnerships and their partners, as explained in the aforesaid guide.

- ***Incorporated Partnerships*** – An incorporated partnership has a separate legal personality based on the relevant legislation under which it is incorporated. Since such incorporated partnerships themselves have their own rights, obligations, and liabilities, in the context of the UAE CT Law, they are regarded as juridical persons.
- ***Unincorporated partnerships*** - An arrangement may, among other factors, be considered as an unincorporated partnership if there is a written or verbal contract between persons (can be a mix of natural and legal persons including incorporated partnerships) to conduct business jointly. Such arrangement may not have a separate legal personality; however, there is an intention to share the profits and losses of such business:
  - ***Taxability for Unincorporated Partnerships*** - An unincorporated partnership by default is not taxable and is considered as Fiscally Transparent entity but the relevant partners of such partnership are taxable on their distributive share of profits/gains. Where the partners in an unincorporated partnership apply to the FTA to treat it as a taxable person, such partnership will be considered as Fiscally Opaque subject to approval. In such case the partnership will be liable to pay tax on its profits instead of its partners.
  - ***Taxability for Partners*** - Partners in a fiscally transparent partnership should consider their corporate tax position as per the provisions of the UAE CT Law read with Cabinet Decision 49 of 2023 (Whether the business or business activities constitute a personal or a real estate investment and the revenue threshold of AED 1 million is exceeded) since in case of natural persons, they may not be subject to taxation on Personal Investment Income.
  - The partners are deemed to be conducting the Business of the Unincorporated Partnership, and they remain jointly and severally liable for the Corporate Tax Payable for the Tax Periods when they are partners in the Unincorporated Partnership.



# Income and Expenses for Unincorporated Partnerships

The Guide discusses different types of income and expenses from the perspective of Unincorporated Partnerships, which are summarized in the table below:

#	Particulars	Fiscally Transparent Partnerships	Fiscally Opaque Partnerships
<b>Taxability of Income</b>			
1	Income from Investment	All income will flow to the partners in proportion to the distributive shares and will be taxable/exempt as per provisions applicable to respective partners i.e., natural, or juridical persons.	All income will be taxable/exempt (subject to conditions) in the hands of the partnership and not the partners.
2	Distributive share of profits in the partnership received by the partners	Taxable in the hands of Partners (natural person or juridical persons).	Not taxable in the hands of Partners (whether natural or juridical persons).
3	Gain or loss on transfer, sale, or disposal of partner's distributive share in the partnership	Treated as business income and taxable in the hands of Partners.	Not taxable in the hands of Partners if participation exemption conditions are met.
<b>Deductible Expenditure</b>			
1	Expenditure incurred for Business purposes	<u>Amounts withdrawn</u> from the business by the partners are <u>not allowed</u> as deduction.	Dividends, profit distributions or similar amounts paid to Partners are <u>not allowed</u> as deduction.
2	General/ Specific Interest Deduction Limitation Rule	Interest is allowable, subject to the limitation rules to be tested in case of partners (general limitation rule not applicable to natural persons).	Interest is allowable, subject to the limitation rule to be tested at the level of partnership.
3	Interest paid to partners on their capital contribution by the Unincorporated Partnership	Interest paid to partners is treated as allocation of income to the partners and therefore not allowed as a deduction to the partners. The amount received by the partners is taxable in their hands.	Interest paid to partners is treated as profit distribution or benefit of similar nature paid to the partners and therefore not allowed as a deduction to the partnership. Interest payment will not be taxable in the hands of partners.
4	Interest paid to partners on loans advanced by partners	Interest paid to partners is deductible for the partners to the extent of their distributive share subject to expense incurred for business purposes and at arm's length. The partners will be taxable on such interest income.	Interest paid to partners is deductible subject to the general rule i.e., incurred for business purposes and is at arm's length. The partners will be taxable on such interest income.
5	Salary paid to partners (natural persons) by the Unincorporated Partnership	Salary received by partners (natural persons) is treated as amount withdrawn from business and not allowed as deduction. The partner receiving such amount must include such amount in the determination of its Taxable Income.	Salary paid is treated as profit distribution or benefit of similar nature paid to the partners (natural persons) and therefore not allowed as a deduction to the partnership. The salary payment will not be taxable in the hands of partners.
6	Payment to partners for services provided to an Unincorporated Partnership	Service provided in the capacity of service provider (and not as partner/employee), the payment is deductible for partners to the extent of their distributive share subject to such expense being incurred for business purposes and is at arm's length. Any income received by a partner for the services rendered will be taxable.	Service provided in the capacity of service provider (and not as partner/employee), the payment is deductible for partnership subject to such expense incurred for business purposes and is at arm's length. Any income received by a partner for the services rendered will be taxable.

## Other Relevant Provisions of the UAE CT Law

The Guide also discusses the other relevant provisions of the UAE CT Law which are summarized as follows:

#	Particulars	Fiscally Transparent Partnerships	Fiscally Opaque Partnerships
<b>Compliance Requirements</b>			
1	Registration with FTA	Required to obtain Corporate Tax Registration Number (CTRN), for which the authorized partner will submit the application with FTA. CTRN will be inactive, and the partnership will remain non-taxable.	Will be required to obtain CTRN. An application is required to be made to treat such partnership as fiscally opaque. CTRN will become active as the partnership will be considered as a taxable person.
2	Tax returns	Partnership is not required to file a return. An authorized partner must be appointed for tax matters, responsible for annual declarations regarding total assets, liabilities, income, and expenses. Each partner must individually file returns for their distributive share for their respective tax period which can be different from the tax period for which declaration is furnished by the partnership.	Partnership is required to file a tax return for its tax period.
3	Audited Financial Statements	Revenue threshold of AED 50 million applies at the level of each partner to prepare and maintain audited financial statements.	Partnership is required to prepare and maintain audited financial statements if the revenue exceeds the threshold of AED 50 million.
<b>Interaction with other provisions of UAE CT Law</b>			
1	Small Business Relief and Foreign Tax Credit	Small Business Relief (SBR) and Foreign Tax Credit (FTC) to be evaluated at the level of the partners. FTC to be allocated amongst partners in accordance with their distributive share.	SBR and FTC to be evaluated at the level of the partnership.
2	Free Zone person	Unincorporated Partnership that is not a juridical person cannot be a Free Zone Person.	Fiscally opaque unincorporated partnership is not a juridical person and accordingly not covered by the definition of free zone person even if all the partners are juridical persons.
3	Tax Loss	Tax loss will not be carried forward by the unincorporated partnership.	Tax loss carried forward to subsequent tax periods can be utilized to offset the taxable income of the fiscally opaque unincorporated partnership and not its partners.
4	Foreign Partnerships	<p>Foreign partnership is treated as fiscally transparent unincorporated partnership if following conditions are met:</p> <ul style="list-style-type: none"> <li>Partnership is not subject to tax under laws of foreign jurisdiction where it is established (for a jurisdiction where tax legislation is absent, or tax legislation does not address taxability of partnerships then this condition is deemed to be met).</li> <li>Each partner is individually subject to tax for their distributive share as when income is received or accrued by partnership. (Partners are tax resident in a foreign jurisdiction that does not have a tax legislation or tax legislation for individuals, then this condition will be deemed to be met).</li> <li>Foreign Partnership is required to submit annual declaration to the FTA to confirm the above conditions.</li> <li>Adequate arrangements exist for cooperation between the UAE and foreign jurisdiction wherein the Foreign Partnership is established for the purpose of sharing tax information of the partners in the foreign partnership.</li> </ul>	If the conditions of fiscally transparent unincorporated partnership are not met, it will be considered as fiscally opaque for the purpose of corporate tax law on the same basis as a non-resident taxable person if it has a Permanent Establishment or nexus in the UAE.

## Other Relevant Points

- The status as a fiscally opaque unincorporated partnership, if selected, is irrevocable. However, status can be revoked in case the partnership is dissolved/liquidated, or the approval is revoked under exceptional circumstances and pursuant to the approval by the FTA.
- On the change in the status of an unincorporated partnership from fiscally transparent to fiscally opaque due to a successful application, any gain or loss on a transfer may be covered under Business Restructuring Relief.
- If a partnership is established or subsequently changes are made to obtain a Corporate Tax advantage, this could be subject to adjustment under the General Anti-abuse Rule and the applicable penalties.

## Key Takeaways

The comments on the Guide recapitulate the important aspects on the applicability of UAE CT Law on the forms of unincorporated partnerships and their partners, the tax treatment of various related income and expenses. Partnerships conducting business or business activities in the UAE should carefully assess their structures for determining the taxability and the compliance obligations of the partnerships and the partners under the UAE CT Law read with relevant decisions issued in pursuance thereof.

There could be practical challenges such as different tax period followed by the partners of an unincorporated partnership vis-à-vis the annual declaration filed by the partnership, procedural condition of filing of annual declaration (being one of the mandatory conditions) for a Foreign Partnership to be treated as a fiscally transparent Unincorporated Partnership, etc. Thus, a detailed analysis of the provisions of the Guide should be done to ensure appropriate compliances in the matter.

## Notice

---

The above is only a brief summary of the current update, is valid at the time of circulation and is based only on information currently available in the public domain which is subject to change. This alert has been written in general terms and does not constitute any form of advice or recommendation by Deloitte and therefore cannot be relied on to cover specific situations; application of the principles set out will depend upon the particular circumstances involved and we highly recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Deloitte accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

Deloitte and Touche Middle East would be pleased to advise readers on how to apply the principles set out in this publication to their specific circumstances. Deloitte accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

## Contact

---

We have a dedicated Corporate Tax team based in the UAE who have in-depth experience and can support you throughout your readiness journey. 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](mailto:cituae@deloitte.com).

© 2024 Deloitte & Touche (M.E.) All rights reserved.

This communication contains information which is privileged and confidential. It is exclusively to the intended recipient(s). If you are not the intended recipient(s), please: (1) notify the sender by forwarding this email and delete all copies from your system and (2) note that disclosure, distribution, copying or use of this communication is strictly prohibited. Any erroneous disclosure, distribution or copying of this email communications cannot be guaranteed to be secure or free from error or viruses.

Deloitte & Touche (M.E.) (DME) is an affiliated sublicensed partnership of Deloitte NSE LLP with no legal ownership to DTTL. Deloitte North South Europe LLP (NSE) is a licensed member firm of Deloitte Touche Tohmatsu Limited.

Deloitte refers to one or more of DTTL, its global network of member firms, and their related entities. DTTL (also referred to as "Deloitte Global") and each of its member firms are legally separate and independent entities. DTTL, NSE and DME do not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

DME is a leading professional services organization established in the Middle East region with uninterrupted presence since 1926. DME's presence in the Middle East region is established through its affiliated independent legal entities, which are licensed to operate and to provide services under the applicable laws and regulations of the relevant country. DME's affiliates and related entities cannot oblige each other and/or DME, and when providing services, each affiliate and related entity engages directly and independently with its own clients and shall only be liable for its own acts or omissions and not those of any other affiliate.

DME provides services through 23 offices across 15 countries with more than 7,000 partners, directors and staff. It has also received numerous awards in the last few years such as the 2022 & 2023 Great Place to Work® in the UAE, the 2023 Great Place to Work® in the KSA, and the Middle East Tax Firm of the year.