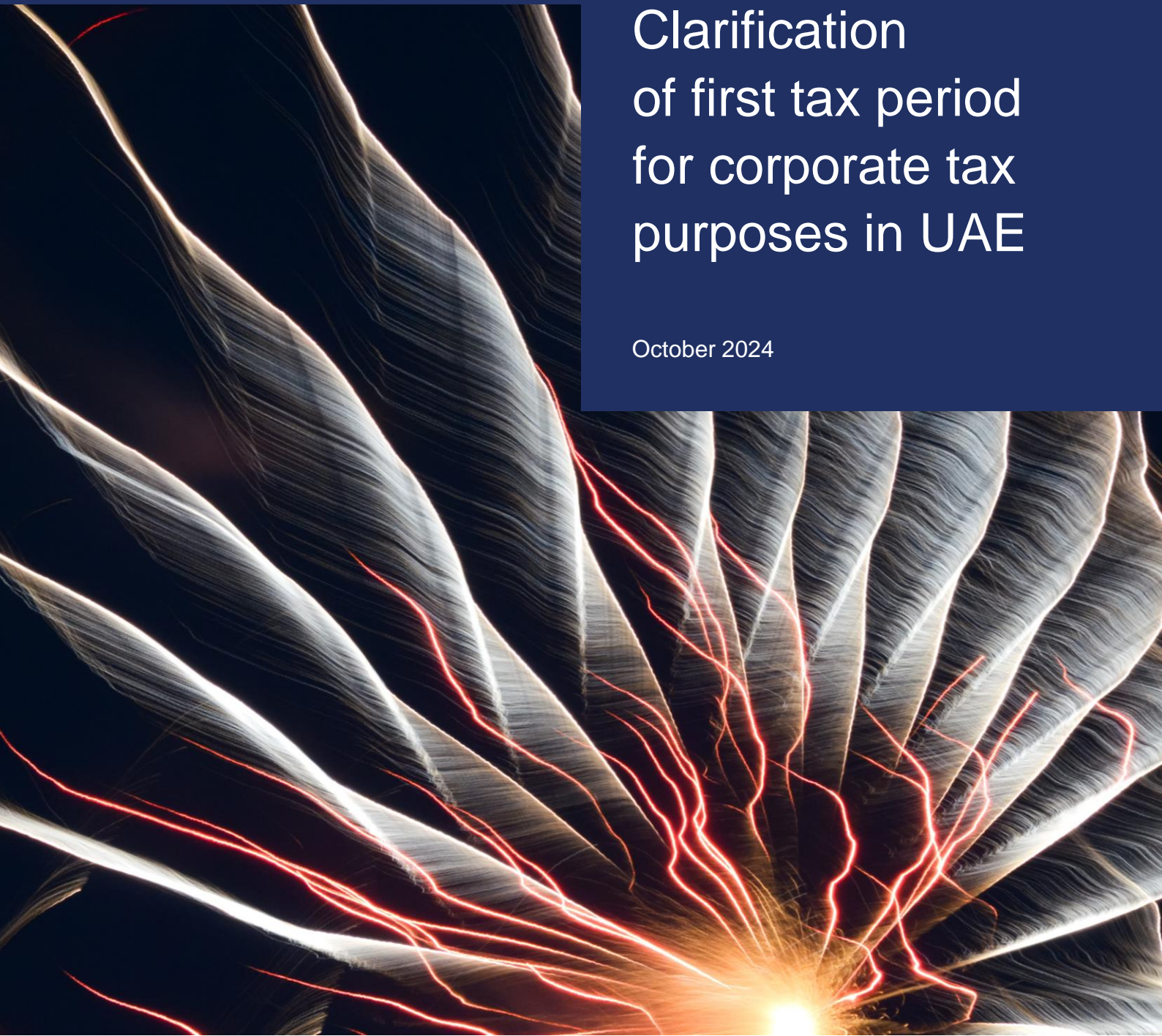




# Clarification of first tax period for corporate tax purposes in UAE

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# Issue

According to Federal Decree-Law No. 47 of 2022 “On the Taxation of Corporations and Businesses” (the - “Corporate Tax Law”) the UAE Corporate Tax regime is effective starting from tax periods commencing on or after 1 June 2023.

A tax period is the financial year or its part for which a taxpayer is required to file a tax return. The financial year is a calendar year, or other 12-month period for which the taxpayer prepares financial statements.

Corporate Tax Law does not provide specific provisions for the start of the first tax period, especially in cases where the first financial year is not equal to 12 months.

Thus, Public Clarification CTP003 (the “**Clarification**”) was issued by the UAE tax authorities. The Clarification specifies the rules for defining the first tax period in various situations.

In addition, the UAE tax authorities issued Decision No. 7 of 2024, which stipulated postponing the filing of tax returns and paying corporate tax for several tax periods (the “**Decision**”).

## Clarification content

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The Clarification determines the rules for defining the first corporate tax period:

- for juridical persons – residents registered under the laws of the UAE
- for non-resident persons having a Permanent Establishment in the UAE
- for resident persons incorporated or otherwise established or recognised under foreign legislation which are effectively managed and controlled in the UAE

Furthermore, the Clarification stipulates the deadlines for deregistration in the event of the termination of the company's operations before or during the first tax period. Also, the Clarification defines the effect of the length of the first tax period on the application of the thresholds established by the corporate tax law.

## Clarifications on first tax period of juridical persons incorporated under applicable UAE legislation

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The establishment and registration process for juridical persons in the UAE is governed by Federal Decree-Law on Commercial Companies No. 32 of 2021 (the “Companies Law”), as well as the respective legislation of Free Zones.

Based on the Companies Law, the first financial year of a company can vary from 6 to 18 months, depending on the date of the company's registration. Similar provisions may be included in Free Zones legislation.

As mentioned above, the Corporate Tax law stipulates that the tax period is the financial year or part thereof for which a tax return must be filed. A financial year is a calendar year or another 12-month period for which financial statements are prepared.



UAE tax legislation also provides the possibility for companies to change their tax period in particular circumstances and in case certain conditions are met (for example, to make the tax period of a UAE resident equal to the financial year of another UAE resident in order to create a tax group, or join an existing tax group) based on an application submitted to the tax authority.

However, up until now tax legislation did not contain provisions governing the length of the first tax period. In addition, when registering for corporate tax purposes for a lengthy period there was no technical possibility to establish the length of the first financial year different from 12 months. In this regard, many taxpayers, including those whose first financial year does not correspond to 12 months, were questioning what the first tax period should be.

The Clarifications indicate that the first tax period of resident companies registered under UAE laws will be the company's first financial year starting from or after 1 June 2023, determined in accordance with the legislation on commercial companies, which can range from 6 to 18 months. If the first financial period is not equal to 12 months, the tax authority will consider such financial period to be the first tax period without the need to submit an application or perform other additional actions on the part of the taxpayer.

The Clarifications also contain practical examples regarding determining the first tax period in various situations.

Based on the above, three basic scenarios are possible with regards to the first tax period of the company.

- The first financial year of a company is a 12-month period. In this case, the first tax period will be the first financial year beginning on or after 1 June 2023.
- The first financial year of a company is a period of between 6 and 12 months. In this case, for a company incorporated after 1 June 2023 (for example, 5 June 2023) and having a financial year equal to a calendar year, the first tax period will be the period from its registration date (e.g. 5 June 2023) to 31 December 2023.



- The first financial year of a company is a period of between 12 and 18 months. In this case, for a company incorporated, for example, on 16 August 2023, and having its first financial year starting from the date of registration until 31 December 2024, this period (from 16 August 2023 to 31 December 2024) will be considered the first tax period.

It should be noted that each specific situation should be analysed individually in order to correctly determine the taxpayer's first tax period in detail and to mitigate against risks of penalties arising as a result of filing a late tax return or late tax payment.

The Clarification also emphasises that, regardless of whether the first tax period is longer or shorter than 12 months, there is no impact on the thresholds, which should remain the same as those indicated in corporate tax legislation, in particular:

- the AED 375,000 taxable income threshold for application of the 0% corporate tax rate
- the AED 3 million revenue threshold, which should not be exceeded for small business relief eligibility
- the de-minimis requirement to qualify as qualifying Free Zone person (non-qualifying revenue shall not exceed the lower of AED 5,000,000, or 5% of total revenue)

An exception to the principle in the above examples is the general interest deduction limitation rule. In general, there is no interest limitation if the net interest expenditure in a tax period does not exceed AED 12 million. Where the first tax period is less or more than 12 months, the mentioned threshold should be changed proportionally to the change in the tax period.

## Clarification on first tax period for non-resident persons having permanent establishment in UAE

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As a general rule, the first tax period for non-resident persons having a permanent establishment in the UAE is the financial year or part thereof starting from when the permanent establishment began operating.

Where a non-resident has a permanent establishment in the UAE and was operational on 1 June 2023, the first tax period will be its first 12-month financial year starting on or after 1 June 2023. For a permanent establishment created on or after 1 June 2023, the first tax period should be the period from when it began operations until its first-year end, as per its financial statements (a period of from 6 to 18 months).

At the same time, where the permanent establishment exists by virtue of a fixed place of business in the UAE, then for corporate tax purposes such permanent establishment would be treated as being created once it has been operational for 6 months.

As demonstrated in the example in the Clarification, for a non-resident with a branch created on 1 August 2024, the permanent establishment would be considered existed after 6 months (1 February 2025).

If its financial year is equal to a calendar year, the first tax period for such a branch would be considered to be the period from the branch creation date (1 August 2024) to 31 December 2025.

Where the permanent establishment exists by virtue of a person habitually exercising an authority to conduct business or business activity on behalf of the non-resident person (dependent agent situation), the permanent establishment is considered to be existed immediately. Therefore, if such an agent exists on or after 1 June 2023, then the permanent establishment is considered operational for corporate tax purposes since the beginning of the financial year started on or after 1 June 2023.

## Clarification on first tax period of residents effectively managed and controlled in UAE

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For residents incorporated under foreign legislation, but managed and controlled in the UAE, the first tax period will be the financial year or part thereof starting on or after 1 June 2023.

## Clarification on tax deregistration application timelines where business activities cease before or during first tax period

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Under Corporate Tax legislation, a taxable person is required to deregister and make an application to the tax authority if their business operations cease (whether by dissolution, liquidation, or otherwise).

It is noted that the Clarification states:

- Cessation during the first tax period does not impact the obligation to register for corporate tax. Registration for corporate tax is still required. Cessation before the first tax period will not require registration for corporate tax purposes.
- The first tax period will come to an end on the cessation date.

The timeline for submitting a tax deregistration application is 3 months after the deregistration triggering event. The Clarification also highlights that taxpayers must ensure that they register in time in order to allow sufficient time to meet the 3-month tax deregistration deadline. Failure to do so may result in administrative penalties.

## Postponement of deadline for filing returns and settling corporate tax payments

The UAE tax authorities have issued a decision which extends until 31 December 2024 the deadline for filing a tax return and paying corporate tax. This is applicable for taxpayers established, registered, or recognised under UAE legislation on or after 1 June 2023 whose first tax periods ended on 29 February 2024 or earlier.

This extension benefits tax payers, as it allows them to prepare appropriately, in particular, to organise their financial statements, and prepare the necessary documentation (for example, to confirm compliance with transfer pricing rules, the conditions for recognising companies as qualifying Free Zone persons, etc). In addition, further clarifications on the application of corporate tax provisions may be issued during this period.

## How we can help

The Clarification and Decision contain important information for companies corporate tax application, determining the first tax period, filing tax returns, and meeting corporate tax payment deadlines.

We will be pleased to discuss in detail your own situation individually in order to determine applicable UAE tax legislation requirements, and support you in the following:

- determining your company's first financial year and recording it in internal documentation
- determining your company's first tax period
- tax registration issues
- preparing audited financial statements
- preparing and filing tax returns
- accounting and tax consulting services
- analysing your company's compliance with requirements for the purposes of applying a 0% corporate tax rate
- analysing your company's compliance with substance requirements for corporate tax purposes

- calculating the tax base, calculating the de-minimis threshold as part of analysing the possibility of applying a 0% profits tax rate
- preparing transfer pricing methodology and documentation
- preparing Local and Master files as well as benchmarking studies for transfer pricing purposes
- audit support
- structuring your company's business activities in the UAE, including international transactions and consulting on international tax issues

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