

Cabinet Resolution No. (56) of 2023
Determining the Non-Resident Person's Nexus for the Purposes of
Federal Decree-Law No. (47) of 2022 Concerning the Corporate Tax

The Cabinet,

- Having reviewed the Constitution; and
- Federal Law No. (1) of 1972, Concerning the Competences of Ministries and Capacities of Ministers, and its amendments thereof; and
- Federal Decree-Law No. (13) of 2016, Establishing the Federal Tax Authority, and its amendments thereof; and
- Federal Decree-Law No. (28) of 2022, Concerning Tax Procedures; and
- Federal Decree-Law No. (47) of 2022, Concerning the Corporate Tax; and
- Based upon the proposal submitted by the Minister of Finance, and the Cabinet's approval,

Resolved:

Article (1)

Definitions

The definitions stipulated in Federal Decree-Law No. (47) of 2022 Concerning the Corporate Tax, shall apply to this Resolution, with exception to that, the following terms which shall have the meanings assigned to each, unless the context otherwise requires:

- Immovable Property** : It means any of the following:
- a. Any area of land over which rights, interests, or services can be established.
 - b. Any building, structure, or engineering work permanently attached to the land or attached to the seabed.

- c. Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the below, the structure, or the engineering work, or attached to the seabed.

Corporate Tax Law : Federal Decree-Law No. (47) of 2022 Concerning the Corporate Tax Law

Article (2)

Nexus in the State

1. For the purposes of paragraph (c) of clause (4) of Article (11) of the Corporate Tax Law, any juridical person – that is a non-resident person – shall have a nexus in the State in the event it is earning an income from any immovable property in the State.
2. For the purposes of paragraph (c) of clause (3) of Article (12) of the Corporate Tax Law, the taxable income that is attributable to the immovable property in the State, shall include the income derived from right in rem, sale, disposal, assignment, direct use, letting – including subletting –, and any other for of exploitation of the immovable property.

Article (3)

Fictitious Transfer of Rights in Immovable Property

If a non-resident person fictitiously transfers or otherwise disposes of its rights in rem in any immovable property in the State to another person, and that transfer or disposal is not for a valid commercial or other non-fiscal reason which reflects economic reality, such transfer or disposal shall be considered an arrangement to obtain a corporate tax advantage pursuant to clause (1) of Article (50) of the Corporate Tax Law.

Article (4)

Corporate Tax Registration Requirements

A non-resident person that has a nexus in the State in accordance with Article (2) of this Resolution shall be required to register with the Authority in accordance with Article (51) of the Corporate Tax Law.

Article (5)

Implementing Resolutions

The Minister shall issue the resolution necessary for implementing any of this Resolution's provisions.

Article (6)

Publication and Enforcement

This Resolution shall be published in the Official Gazette and shall come into force as of 01 June 2023.

Mohammad bin Rashid Al Maktoum

Prime Minister

Issued by us,

On: 10/ Thul Qidah/ 1444 A.H.

Corresponding to: 30/ May/ 2023 AD