UAE CORPORATE TAX GROUP:

PROS, CONS, & CONSIDERATIONS

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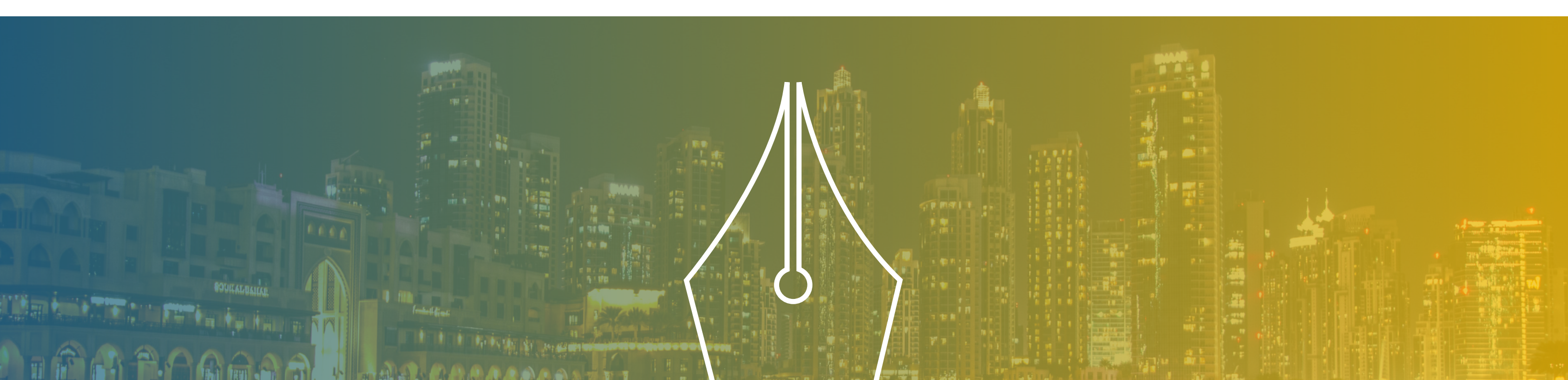

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Who Can Form a UAE Corporate Tax Group?

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In the UAE Corporate Tax Law, a tax group refers to a special arrangement where two or more resident companies can come together to operate as a single taxable entity, subject to the conditions of Article 40 of the Corporate Tax Law

This means If the companies meet the requirements to form a Tax Group, and the Federal Tax Authority approves their application to form a Tax Group, they can file a single UAE CT return covering all the members of the Tax Group.

Who Can Form a UAE Corporate Tax Group?

A resident parent company, along with its one or more subsidiaries, resident in the UAE (taxable person), can form a tax group, functioning as a single taxable entity for corporate tax purposes.

What Conditions Need to be Fulfilled to Form a UAE Corporate Tax Group?

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The following conditions need to be fulfilled to form a Tax Group under the UAE Corporate Tax Law:

Juridical persons

Each person forming part of the 'Tax Group' should be a juridical person. The natural persons (Individuals) cannot constitute a 'Tax Group'.

Tax Residents

All members of the group must be resident companies in the UAE. Non-resident persons or foreign companies cannot be added to the tax group.

Parent Company	Subsidiary	Allowed?
Resident	Resident	Yes
Resident	Non- Resident	No
Non- Resident	Non- Resident	No
Non- Resident	Resident	No

A foreign juridical person effectively managed and controlled in the UAE would be treated as a resident person for tax grouping subject to maintenance of the following documentation that such an entity is not a resident in any other country:

(A) A confirmation from the relevant tax authority of the other country; or

A confirmation from the relevant competent authorities for the purpose of the application of tax treaties in force supporting non-residency in another country.

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1 The parent company should own at least 95% of the ownership interest

A Parent Company can form a tax group with its resident subsidiary if it meets the Ownership Requirement as stated in Article 40(1) of the Corporate Tax Law accordingly – the parent company must hold, directly or indirectly, at least 95% of the following in each subsidiary:

- Share capital
- Voting rights
- Entitlement to profits and net assets

2 None of the company is an Exempt Person

Neither the parent nor any subsidiary can be an exempt person or a Qualifying Free Zone Person (QFZP).

- Exempt persons include public charities, government entities, and certain specialised activities.
- QFZPs are companies operating in designated free zones with their tax regimes

3 Shared Financial Year and Standards

To 'Tax group', the CT Law mandates that the financial year of each taxable person should end on the same date. The Parent Company and subsidiaries cannot follow two different financial years. Also, each tax group should have prepared financial statements using the same accounting standards.

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Pros of forming a Corporate Tax Group

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Single filing required

- The tax group is required to file only one consolidated tax return under UAE Corporate Tax Law.
- This will significantly simplify tax compliance compared to filing individual returns for each member separately.

No applicability of Arm's length principles and Transfer Pricing Documentation

Transactions between group members are exempt from arm's length requirements and transfer pricing documentation. This significantly reduces the burden and complexity of proving fair market value for intra-group transactions.

Losses of one company set off in the same year with another company leading to cash benefits

Losses incurred by one group member can be used to offset the profits of other members in the same tax year. This allows profitable companies to utilise the losses of loss-making companies within the group, potentially reducing the overall tax liability and generating immediate cash flow benefits.

Lower compliance burden due to single Corporate Tax return

Under the UAE Corporate tax law, the tax group applies for only one corporate tax registration on behalf of all the companies of the tax group and such tax group is required to file only one consolidated return instead of filing separate returns for every member company of the Tax Group. This will simplify the overall administration part for the tax group, and it also reduces the compliance cost as well.

Cons of Forming a Corporate Tax Group

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Single exemption limit irrespective of tax group members

- Under the UAE Corporate Tax Laws, once the tax group is formed, the threshold of AED 375,000 applies collectively to the entire tax group rather than to each member individually.
- This can be disadvantageous as companies with smaller amounts of profitability may lose their individual exemption limits by joining a group with more enormous taxable profits, as only one threshold limit applies to the entire tax group.

Mandatory to prepare consolidated financial statements

- The Formation of Tax groups mandatorily requires the preparation of consolidated financial statements by applicable accounting standards.
- This will make the overall accounting process complex and lead to higher compliance costs than individual financial statement preparation.

Triggers joint as well as several liabilities

- All members of a tax group share joint and several liabilities for the entire tax group's corporate tax liabilities. This implies that group members are collectively and individually responsible for meeting corporate tax obligations.
- So, if any member denies paying their share, other members can be held responsible for paying the entire corporate tax liability.

Potential complications on engaging in M&A activity

- Joining or leaving the tax group may lead to complications during mergers and acquisitions (M&A) activities.
- Changes in the overall group composition can affect tax positions, and restructuring among the group members might be required during the mergers and acquisitions.

Limited to parent-subsidiary relationships, resident, and taxable persons

- The formation of a Corporate Tax Group is limited to parent-subsidiary relationships, and it applies to only entities that are residents and taxable persons.
- Due to such restrictions, certain business entities cannot form a Tax group to enjoy the benefits of group taxation.

Conclusion

A Tax Group is a specialized arrangement wherein two or more resident companies consolidate their financials and operate as a single taxable entity.

Key prerequisites include the following: each member should be a juridical person, each participant should be a UAE tax resident and not exempt under UAE CT Law, the parent company should own at least 95% of the ownership interest, and shared financial years and accounting standards are mandated among all the subsidiaries of the Tax Group.

As an entity, a Tax Group enjoys multiple benefits, including a simplified registration process, consolidated tax filing, exemption from transfer pricing documentation, and the flexibility to offset losses against profits within the group.

However, Tax Groups face various challenges, including a collective exemption limit for the entire group, mandatory preparation of consolidated financial statements, joint and several liabilities for tax obligations, complexities during mergers and acquisitions, and limitations to parent-subsidiary relationships among resident and taxable entities.

Forming a tax group under the UAE corporate tax law can offer several advantages, but careful analysis is crucial before deciding. An assessment of the potential benefits against the drawbacks, considering your specific group structure, financial situation, and future plans, is essential.

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UAE Corporate Tax Group FAQs

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Q. Can UAE subsidiaries of a foreign parent company form a Tax Group for UAE Corporate Tax purposes?

Ans. Being owned by a foreign parent company does not preclude UAE subsidiaries from forming a Tax Group. However, the UAE subsidiaries must be held by an intermediary UAE parent company that will be the "parent" of the Tax Group for UAE CT purposes.

Q. Will the 0% Corporate Tax rate threshold apply to the Tax Group?

Ans. Yes. The AED 375,000 threshold for Taxable Income subject to the 0% Corporate Tax rate will apply to the Tax Group as a single Taxable Person, irrespective of the number of entities in the Tax Group.

Q. What are 'pre-Grouping Tax Losses'?

Ans. Pre-Grouping Tax Losses are those that are accrued by a Taxable Person before joining or forming a Tax Group.

About FAME Advisory

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Fame Advisory DMCC is a leading corporate tax service provider specializing in the dynamic United Arab Emirates market.

Founded and directed by our visionary leader, CA Nirav Shah, FAME is dedicated to enhancing the overall tax compliance landscape of the UAE through widespread awareness and promoting a culture of tax adherence. With three decades of experience and Mr. Nirav Shah at its steering wheel, FAME stands as UAE's most trusted tax advisory firm.

Our relentless efforts are dedicated to shielding businesses from non-compliance and penalties, irrespective of their scale. We achieve this by crafting operational methodologies rooted in UAE's tax rules and regulations.

Moreover, we provide a wide range of corporate tax services such as:

- **Corporate tax impact assessment**
- **Corporate tax advisory**
- **Transfer Pricing**
- **International Taxation**
- **Corporate tax registration**
- **Corporate tax return filing**
- **Tax residency certificate**
- **Tax clearance certificate**
- **Corporate tax representation and litigation support**

ESR notification and report filing

VAT health checkup

VAT registration and filing

Accounting and bookkeeping

Company formation services

Branch registration of foreign corporations

Establishment of trusts and foundations

Corporate group structure and governance

Driven by a highly motivated team of taxperts with extensive knowledge of the UAE's tax regime, we adopt a client-oriented approach to deliver tailored tax solutions.

We can also assist our clients with several other services, such as VAT compliance, family succession planning, business setup in the UAE, corporate group structure and governance.,

When you choose FAME Advisory DMCC, you're not just partnering with a tax service provider – you're aligning with a team committed to delivering unparalleled expertise and personalised solutions to meet all your corporate tax and business needs in the UAE.

Our Team

Mr. Nirav Shah

Director at FAME Advisory

With over two decades of experience in corporate advisory, consultancy, and compliance, CA Nirav Shah is a qualified Chartered Accountant and a stalwart in the industry, being recognized as amongst the top corporate structuring, international tax, and compliance experts in the UAE, India, and other countries.

For more than 15 years, Mr Nirav has had a distinguished journey consulting global clients on Corporate Structures and Governance and family asset holding structures and has served as a specialist in providing strategic inputs to organizations.

Hemang Agravat

Manager - Business Development

As a Business Development Manager at FAME, Hemang has had a long professional career with a focus on growing the company's client base.

He holds a successful track record of nurturing clients & has been instrumental in building high-performing teams. He specializes in building programs that add value to the clients relationship. Hemang brings in a wealth of experience bridging the gap between Sales & Advisory teams.

Udit Chokshi

Manager- Corporate Tax and VAT Advisory

Udit Chokshi is a Taxpert, helping businesses all across the UAE in getting tax audit-ready, streamlining their VAT and accounting processes, and shield them against tax evasion. Being an active listener, Udit absorbs and understands the client's problem and situation and communicates the facts and solutions honestly. As a customer service-oriented person, he believes in providing utmost dedication and availability to customers.

Karishma Bhuwalka

Tax Advisory Manager

Karishma Bhuwalka is an experienced chartered accountant who has been working in the field of direct and international taxation for more than a decade. Karishma strives to provide solution-oriented advisory for clients and ensure tax compliance. Over the course of her professional journey, she has helped several firms solve complex group structure and transfer pricing issues.

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