



**Newsflash:**  
**UAE releases Ministerial Decision No. 27 of 2023  
for Guidance on Determination of Tax Residency  
for Individuals**

## Newsflash

### UAE releases Ministerial Decision No. 27 of 2023 for Guidance on Determination of Tax Residency for Individuals

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#### 1.0 Background

United Arab Emirates ('UAE') has issued Cabinet Decision No. 85 of 2022 effective w.e.f. 01 March 2023 for determination of tax residency in UAE wherein provisions for determination of tax residency of juridical and natural person were introduced. On 22 February 2023, Ministry of Finance ('MoF') of UAE has issued guidance on implementation of certain provisions of cabinet decision vide Ministerial Decision No. 27 of 2023 explaining various crucial terms playing vital role in determination of tax residency such as Primary Place of Residence, Permanent Place of Residence, Centre of Financial and Personal Interest, Employment etc.

In this newsflash, we have summarized the provisions of tax residency in UAE for ease of understanding.

#### 2.0 Provisions determining residency of natural person i.e. Individuals

An Individual shall be considered a tax resident in the state of UAE if any of the following condition is satisfied:

- The 'Primary Place of Residence' and 'the Centre of Financial and Personal Interest' are in UAE; or
- If physical presence in UAE is for a period of 183 days<sup>1</sup> or more in 12 consecutive months; or
- In case of UAE or Cooperation Council ('GCC') national having permanent place of residence and/ or business or employment in UAE and such national is physically present in UAE for a period of 90 days or more in a 12 consecutive months;

Any day spent in UAE due to exceptional circumstances to be excluded as physical presence for computation of 183/ 90 days
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If Double Tax Avoidance Agreement ('DTAA' or 'tax treaty') specifies certain conditions for determination of tax residency, then the provisions of DTAA shall be applicable.

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<sup>1</sup> Days need not be consecutive during a period of 12 months in determining tax residency and shall include part of the day a natural person present in the state of UAE.

For example, DTAA between India and UAE provides that an individual who is present in the UAE for a period or periods totalling in the aggregate at least 183 days in the **calendar year concerned**, shall be considered as UAE resident.

It is notable that currently there is no amendment made to the said DTAA.

### 3.0 Tax Residency Certificate

Cabinet Decision No. 85 of 2022 also provides that Federal Tax Authority may issue tax residency certificate (TRC) upon receipt of application by individual and other person.

### 4.0 Terms defined in Ministerial Decision No. 27 of 2023

#### 4.1 Primary Place of Residence ('PPR')

PPR shall be the jurisdiction where the natural person habitually or normally resides. It is the jurisdiction where the individual spends most of his time when compared to any other jurisdiction as part of his settled routine in a way that is more than transient.

#### 4.2 Centre of Financial and Personal Interests ('CFPI')

CFPI shall be jurisdiction where:

- An Individual's personal and economic interests are the closest or of the greatest significance;
- The place of an Individual's occupation, familial and social relations, cultural or other activities, place of business, place of administration of property.

#### 4.3 Permanent Place of Residence

Article 5 of Ministerial Decision defines permanent place of residence as under:

- A furnished house, apartment, room or any other form of dwelling, available on continuous basis;
- A place where an Individual has the continuous right of occupation and on a regular basis with some degree of permanency and stability

A place not required to be owned but can be rented or otherwise occupied for qualifying as permanent place.
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## 5.0 Employment

An Individual shall be considered as carrying on employment in UAE in either of the following case:

- Where he is party to a contract with an employer<sup>2</sup> incorporated/ formed/ recognized in UAE under which such individual undertakes to offer a service under employer's administration or supervision for a promised remuneration in UAE; or
- Where he is in a continuing relationship where all or substantially all of his income for his labour is derived from one party whereby the income received by him constitutes remuneration for his labour performed in UAE.

The nature of the employment can be limited or unlimited and the work may be carried out on a full time or part time basis.

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<sup>2</sup> The nature of the employment can be limited or unlimited and the work may be carried out on a full time or part time basis and entering into a contract with employer is must to constitute employment.

For further information please contact:

RSM Astute Consulting Pvt. Ltd.

8th Floor, Bakhtawar, 229, Nariman Point, Mumbai - 400021.

T: (91-22) 6108 5555/ 6121 4444

F: (91-22) 6108 5556/ 2287 5771

**E:** [emails@rsmindia.in](mailto:emails@rsmindia.in)

**W:** [www.rsmindia.in](http://www.rsmindia.in)

Offices: Mumbai, New Delhi - NCR, Chennai, Kolkata, Bengaluru, Surat, Hyderabad, Ahmedabad, Pune, Gandhidham, and Jaipur, Vijayanagar.



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This Newsflash summarizes on the aspects of Ministerial Decision No. 27 of 2023 released by UAE for Guidance on Determination of Tax Residency for Individuals . It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said judgement and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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