DELTAKAP

Middle East
Tax Consultants

DELTAKAP TAX BREAKFAST

20 February 2025
Ras Al Khaimah

AGENDA

- 8:30 AM - 9:00 AM Registration and Breakfast
- 9:00 AM - 9:05 AM Welcome to DK ME
- 9:05 AM - 9:35 AM Presentation
- 9:35 AM - 10:00 AM Q&A
- 10:00 AM - 10:30 AM Networking

WELCOME TO DELTAKAP MIDDLE EAST

Who we are?

- A Tax Law consultancy established over 20 years ago in Munich, Germany
- Since 2016 registered in the UAE

What we do?

- Cross Boarder Taxation (DACH <-> UAE, etc)
- UAE Company Setup (free zone/mainland)
- Accounting / Bookkeeping / UAE tax

AGENDA

- Determining Corporate Tax Liability
- Loss Relief for Tax Purposes
- Tax credits
  - Withholding Tax
  - Foreign Tax Credits

CALCULATING CORPORATE TAX LIABILITY (I)

- Pro forma for calculating tax liability:

➢ Starting Point = Profit before tax (FS)	xx
➢ Non-deductible expenses (+)	x
➢ Exempt Income (-)	(x)
= Taxable income before taking account of loss reliefs	xx
➢ Loss Relief (-)	(x)
= Taxable income	**xx**
➢ Apply Corporate Tax Rate	
AED 375,000 @ 0%	0
(Taxable Income – AED 375,000) @ 9%	x
➢ Less: Tax Credits	
Withholding Tax (WHT)	(x)
Foreign Tax Credit Relief	(x)
= Corporate Tax Payable	**xx**

CALCULATING CORPORATE TAX LIABILITY (II)

- Order of Approach

  - Start with Pre-Tax Profit: Use the profit or loss before tax from the financial statements as the baseline (Article 20 of the CT Law)
  - Apply Adjustments: Identify and adjust for exempt income, non-deductible expenses, or other required modifications by adding or deducting the relevant amounts
  - Determine Taxable Income: Deduct any applicable reliefs, such as loss relief, from the adjusted figure in Step 2
  - Compute Corporate Tax Liability: Apply the appropriate corporate tax rates to the taxable income. If Step 3 results in a tax loss, no tax calculation is required
  - Account for Tax Credits: Deduct allowable tax credits to determine the final Corporate Tax payable

LOSS RELIEF FOR TAX PURPOSES (I)

- Losses for Tax Purposes
  - Allowable deductions exceed business taxable revenue for a tax period = tax loss for the period
  - In UAE Corporate Tax Regime, a tax loss may be:
    - **Offset** against taxable income of subsequent tax periods of the same taxable person (Article 37 of CT Law)
    - **Transferred** wholly/partially to another taxable person (Article 38 of CT Law)
  - Unallowable losses (No Relief Available) – Article 37.3 of CT Law
    - Incurred **before** the commencement of CT
    - Incurred **before** a person becomes a taxable person for CT purposes
    - Incurred on asset or activity for which the income is exempt, or otherwise not taken into account for CT

Losses are allowable only for taxable persons and must relate to taxable activities.

LOSS RELIEF FOR TAX PURPOSES (II)

- Losses Carried Forward

  - A tax loss from one tax period may be carried forward, and can be offset against taxable income in subsequent tax period (Article 37.1 of CT Law)
  - Relief is claimed against taxable income before loss relief, after all other adjustments, including allowable expenditure and unrealized gains/losses (Article 20.2(f) CT Law)
  - Carried-forward losses should be the final adjustment in taxable income calculation.

LOSS RELIEF FOR TAX PURPOSES (III)

- Restriction of offset
  - There is a cap – maximum of 75% of the taxable income for each tax period or any other percentage as specified in a Cabinet Decision (Article 37.4 of CT Law)
  - The carried-forward loss should be limited to the lower of:
    - The available loss brought forward, or
    - 75% of the taxable income for the period in which the loss is being used.

    The relief must be applied as soon as taxable income is available and cannot be postponed to a later, more profitable year.
  - Unused losses can be carried forward indefinitely, limited by taxable income, not the loss itself.

LOSS RELIEF FOR TAX PURPOSES (IV)

- Continuity Requirement – Article 39 of CT Law
  (For a company's losses to be carried forward indefinitely):
  - At least 50% shareholding must remain unchanged from the loss-incurring period to the offset period (Article 39.1 CT Law)
  - If ownership exceeds 50% change, the company must continue the same or similar business (Article 39.1(b) CT Law)
- Transfer condition – Article 38.2 of CT Law
  - Transferee's taxable income for the relevant tax period is reduced
  - Total tax loss offset cannot exceed 75% of the transferee's taxable income
  - Transferred tax losses reduce the transferor's available balance.

LOSS RELIEF FOR TAX PURPOSES (V)

- Transfer of losses between companies with common ownership (Article 38.1 of CT Law)
  - Both are juridical persons
  - Both are UAE resident persons
  - Common ownership exists if either person holds at least 75% direct or indirect ownership in the other, or a third party holds 75% in both
  - Common ownership must persist from loss incurrence until offset
  - None are exempt
  - None are QFZP
  - Same financial YE
  - Same accounting standards used

TAX CREDITS

- Tax credits are deducted from Corporate Tax Payable, not deducted in arriving at taxable income
- Withholding Tax (WHT)
  - WHT taxes payments such as interest, dividends, and royalties to non-residents in many jurisdictions
  - WHT is withheld under Article 45 of the CT Law on State-sourced income of non-residents. It is recoverable under Article 46 if the non-resident becomes a taxable person in the UAE (e.g., by forming a permanent establishment), but only in the tax period it is paid
- Foreign Tax Credits
  - Relief is provided for foreign taxes paid on income also taxed in the UAE to prevent double taxation
  - Foreign tax credit relief is given after WHT credits

Q&A SESSION

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