

UAE Corporate Tax Small Business Relief



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Key features of the Ministerial Decision No. 73 of 2023 on Small Business Relief for the purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Taxable Person's Revenue Threshold:

1. For the purposes of the Small Business Relief referred to in Article 21 of the Corporate Tax Law, the Taxable Person's Revenue threshold for the relevant Tax Period and previous Tax Periods shall be AED 3,000,000 for each Tax Period.
2. The threshold set out in Clause (1) above shall apply to Tax Periods commencing on or after 1 June 2023 and such threshold shall only continue to apply to subsequent Tax Periods that end before or on 31 December 2026.
3. A Taxable Person shall not be able to elect to apply the Small Business Relief if their Revenue in any relevant or previous Tax Period has exceeded the threshold set out in Clause (1) above.
4. The Revenue for the purpose of this Article shall be determined in accordance with the applicable accounting standards accepted in the State.

Additional Conditions for Small Business Relief:

A Resident Person that elects to apply for the Small Business Relief must not be any of the following:

1. A Constituent Company of a Multinational Enterprises Group as defined in Cabinet Decision No. 44 of 2020
2. A Qualifying Free Zone Person

Tax Loss Relief:

1. Where an election to apply the Small Business Relief is made in a Tax Period, any Tax Losses incurred in such Tax Period cannot be carried forward to any subsequent Tax Periods.
2. Any unutilized Tax Losses incurred in previous Tax Periods where an election to apply the Small Business Relief was not made, may be carried forward to subsequent Tax Periods in which an election to apply the Small Business Relief is not made, subject to the conditions of Article 37 of the Corporate Tax Law.

General Interest Deduction Limitation Rule:

1. Where an election to apply the Small Business Relief is made in a Tax Period, any Net Interest Expenditure incurred in such Tax Period cannot be carried forward to any subsequent Tax Periods.
2. Any Net Interest Expenditure incurred in previous Tax Periods where an election to apply the Small Business Relief was not made may be carried forward to subsequent Tax Periods in which an election to apply the Small Business Relief is not made, subject to the conditions of Article 30 of the Corporate Tax Law.

Artificial Separation of Business:

1. Where the Authority establishes that one or more Persons have artificially separated their Business or Business Activity and the amount of Revenue across the Persons' entire Business or Business Activity exceeds the threshold in any Tax Period and such one or more Persons have elected to apply the Small Business Relief, this would be considered an arrangement to obtain a Corporate Tax advantage under Clause (1) of Article 50 of the Corporate Tax Law.
- 2 For the purposes of determining whether the Business or Business Activity has been artificially separated, the Authority shall consider whether the arrangement was undertaken for a valid commercial purpose and whether the Persons carry on substantially the same Business or Business Activity by taking into account all relevant facts and circumstances, including but not limited to their financial, economic and organisational links.

Our Observations:

There's no doubt that small businesses and startups will be greatly benefited with the introduction of Small Business Relief. However, this threshold is only applicable for tax periods ending on or before 31 December 2026.

Small businesses with a revenue threshold of AED 3,000,000 gets tax relief (if elected) and be treated as not having derived any Taxable Income for that Tax Period, but they still need to register and file Corporate tax returns.

Maintenance of books of account will be required as this will be the basis to establish the turnover to claim the benefit. The Federal Tax Authority (FTA) is empowered to verify the compliance and may request any relevant information or records.

Businesses need to properly evaluate “small business relief “with that of the other provisions of the CT law such as tax grouping, before taking a decision to elect. Whether claiming “small business relief ‘is better or “loss set off” option would be better.

Evaluation of benefits of availing Small Business relief needs to be undertaken holistically rather than just based on the eligibility criteria.

THANK YOU

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