

Tax Alert

RECENT GUIDE ON REAL ESTATE INVESTMENT FOR NATURAL PERSONS





BACKGROUND

A natural person will only be subject to Corporate Tax, and required to register for Corporate Tax, if the total Turnover they derive from Business or Business Activities conducted in the UAE exceeds AED 1 million within a Gregorian calendar year. Regardless of the AED 1 million threshold, wages, income from personal investment and income from Real Estate Investment, will not be considered as arising from a Business or Business Activity.



WHAT QUALIFIES FOR CORPORATE TAX EXCLUSION

The gross amount of income, and related expenditure, derived by a natural person from Real Estate Investment is excluded from Corporate Tax.

CRITERIA FOR REAL ESTATE EXCLUSION



Eligible Investment Activity

Sale, leasing/ sub-leasing, renting of land or property



Scope of real estate property

Residential property and land (including commercial or residential or both) located both in the UAE and/or outside of the UAE



Activity is not required to be conducted through a license

Authorises or permits a Business or Business Activity to be conducted in the UAE



Above list of investment activities are exhaustive and, unless directly or indirectly related to these activities.



Real estate property includes residential property, furnished holiday homes, commercial property, showrooms, warehouses and storage rooms, parking lots and garages.



Land includes agricultural land, industrial land, residential land, etc. It may also include structures, fixtures or similar equipment that are permanently attached to the land.



Tenancy contract such as Ejari, Tawtheeq is not a license.



The lack of a valid License does not result in the investment activity being outside the scope of Corporate Tax.



Investment activities can be conducted through an intermediary who may be an agent or property management company. It is not relevant that the third-party agent has a License to conduct its Business.



A natural person created a sole establishment which has a License to manage self-owned properties will not be classified as Real Estate Investment income.

OTHER ASPECTS



Apportionment of expense

Fairly & consistently allocate shared expenses between taxable business activities and non-taxable real estate investment using headcount, floor space, usage, time spent, or any other measurable and reasonable basis.



Joint ownership allocation

Income derived from Real Estate Investment activity must be allocated to each owner. Each joint owner should individually assess on case-to-case basis whether their income is from Real Estate Investment.



Taxable vs non-taxable

Under self-assessment principles, natural persons must demonstrate basis for separating real estate income earned in a non-Business capacity from their other Business activities.



General Anti-abuse Rule

Structuring property transactions in a way that artificially qualifies them for tax exclusion that lacks commercial substance, may lead to relevant income to be treated as Taxable Income by FTA.



KEY ACTIONS REQUIRED



- 1. Assess Licensing Requirements:**
Determine if your real estate activities require a business license, as Corporate Tax treatment varies based on licensing status.
- 2. Corporate Tax Impact Assessment:**
Review existing and proposed investments to evaluate if business activities might affect the exclusion for real estate income.
- 3. Transfer pricing:** Ensure related-party transactions, such as between a building owner and their property management company, comply with arm's length standards.
- 4. Accounting:** Keep separate records for personal real estate investments and those linked to business activities.
- 5. Income Classification & Expense Apportionment:**
Clearly define policies to distinguish personal investments from business activities conducted under a license. Establish allocation keys for shared expenses. Evaluate the tax impact of co-owned properties.



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