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Small Business Relief for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Ministerial Decision No. 73 of 2023 – Issued 3 April 2023 (Effective 15 days after
publishing)

The Minister of State for Financial Affairs has decided

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Law No. 2 of 2014 on Small and Medium Enterprises,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 22 of 2016 on the Unified Definition for Small and Medium Enterprises,
- Cabinet Decision No. 44 of 2020 on Organising Reports Submitted by Multinational Companies,

Article 1 – Definitions

Words and expressions in this Decision shall have the same meanings specified in Federal Decree-Law No. 47 of 2022 referred to above (“Corporate Tax Law”).

Article 2 – Taxable Person’s Revenue Threshold

1. For the purposes of the Small Business Relief referred to in Article 21 of the Corporate Tax Law (“Small Business Relief”), the Taxable Person’s Revenue threshold for the relevant Tax Period and previous Tax Periods shall be AED 3,000,000 (three million dirhams) for each Tax Period.
2. The threshold set out in Clause 1 of the Article 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 of this Article.
4. The Revenue for the purpose of this Article shall be determined in accordance with the applicable accounting standards accepted in the State.

Article 3 – Additional Conditions for Small Business Relief

A Resident Person that elects to apply 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 referred to.
2. A Qualifying Free Zone Person.

Article 4 – 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 unutilised 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.

Article 5 – 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.

Article 6 – 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 specified under Clause (1) of Article 2 of this Decision 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.

Article 7 – Publication and Application of this Decision

This Decision shall be published and shall come into effect (15) fifteen days following its publication.