

Ministerial Decision No. 83 of 2023 on the Determination of the Conditions under which the Presence of a Natural Person in the State would not Create a Permanent Establishment for a Non-Resident Person for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Minister of State for Financial Affairs:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- 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,

Has decided:

**Article (1)
Definitions**

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

**Article (2)
Conditions of a Temporary and Exceptional Presence in the State**

1. For the purposes of paragraph (a) of Clause 7 of Article 14 of the Corporate Tax Law, the presence of a natural person in the State shall be considered a consequence of a temporary and exceptional situation where all of the following conditions are met:
 - a) The presence of the natural person in the State is a consequence of exceptional circumstances of a public or private nature.
 - b) The exceptional circumstances cannot reasonably be predicted by the natural person or the Non-Resident Person.
 - c) The natural person did not express any intention to remain in the State when the exceptional circumstances end.
 - d) The Non-Resident Person does not have a Permanent Establishment in the State before the occurrence of the exceptional circumstances.
 - e) The Non-Resident Person did not consider that the natural person is creating a Permanent Establishment or deriving income in the State as per the tax legislation applicable in other jurisdictions.
2. For the purposes of Clause 1 of this Article, an exceptional circumstance is a situation or an event beyond the natural person's control, which occurred while he was already in the State, which he could not reasonably predict or prevent and which prevented him from leaving the State as originally planned, including but not limited to any of the following circumstances:

- a) With respect to the exceptional circumstances of a public nature:
1. Adoption of public health measures by the competent authorities in the State or in the jurisdiction of the original workplace or by the World Health Organization.
 2. Imposition of travel restrictions by the competent authorities in the State or in the jurisdiction of the original workplace.
 3. Imposition of legal sanctions on the natural person preventing them from leaving the State's Territory.
 4. Acts of war or occurrence of terrorist attacks.
 5. Occurrence of natural disasters or force majeure beyond reasonable control.
 6. Any other circumstances similar to those provided for in this paragraph as prescribed by the Authority.
- b) With respect to the exceptional circumstances of a private nature:
1. Occurrence of an emergency health condition affecting the natural person or their relatives up to the fourth degree, including by way of adoption or guardianship.
 2. Any other circumstances similar to those provided for in this paragraph as prescribed by the Authority.

Article (3)
Publication and Application of this Decision

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

Mohamed bin Hadi Al Hussaini
Minister of State for Financial Affairs

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