

Ministerial Decision No. 115 of 2023 on Private Pension Funds and Private Social Security Funds 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 Law No. 7 of 1999 on the Issuance of the Law of Pensions and Social Security, 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. 33 of 2021 Regulating Labour Relations, 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**"), and the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Disability: Means full disability and partial disability as defined in Federal Law No. 7 of 1999 referred to above.

Pension Plan: A contract having an explicit objective of providing benefits upon a defined retirement age in the State, prior to which the benefits cannot be paid without incurring a significant contractual penalty. It may also provide benefits in cases of Disability and death.

Pension Plan Member: A natural person who is making contributions, or on behalf of whom contributions are being made, to a private pension fund and is accumulating assets or entitlements in the private pension fund.

Beneficiary: Any Person entitled to a share in the Pension Plan due to the death of the Pension Plan Member.

End of Service Benefit: Benefits of an employee upon end of service as per the provisions of Federal Decree- Law No. 33 of 2021 and Federal Law No. 7 of 1999 referred to above.

Auditor: An independent Person licensed and registered by the competent authorities of the State, that is appointed and remunerated by a private pension fund or a private social security fund to audit its financial statements.

Article (2)
Private Pension Fund

A private pension fund may apply to the Authority to be exempt from Corporate Tax under paragraph (g) of Clause (1) and Clause (3) of Article (4) of the Corporate Tax Law where all of the following conditions are met:

1. The fund comprises a pool of assets which have been assigned by law or contract as Pension Plan assets or the acquisition of these assets has been financed by or with the use of contributions to a Pension Plan for the exclusive purpose of financing the Pension Plan benefits.
2. The fund grants Pension Plan Members or Beneficiaries a right or other contractual claim or entitlement, against its assets or earnings.
3. The income of the fund solely comprises income as specified in Article (4) of this Decision.
4. The fund must have an Auditor.

Article (3)
Private Social Security Fund

A private social security fund may apply to the Authority to be exempt from Corporate Tax under paragraph (g) of Clause (1) and Clause (3) of Article (4) of the Corporate Tax Law where all of the following conditions are met:

1. The fund comprises a pool of assets which have been assigned by law or contract as fund assets or the acquisition of these assets has been financed by or with the use of contributions to the fund for the exclusive purpose of financing the End of Service Benefit.
2. The income of the fund solely comprises income as specified in Article (4) of this Decision.
3. The fund must have an Auditor.

Article (4)
Income

For the purposes of Articles (2) and (3) of this Decision, a private pension fund and a private social security fund must earn their income from any of the following:

1. Investments or deposits, where the investments or deposits are held for the purposes of fulfilling the obligations of the fund, and the investments do not constitute a Business operated by the fund.
2. Underwriting commissions that are charged for the purposes of the fund.
3. Rebates of charges due or paid by the fund to Persons involved in managing part or all of the assets of the fund, that are not deemed as compensation for services provided by the fund.
4. Any other income derived in accordance with a defined investment policy for the benefit of Pension Plan Members or beneficiaries of the End of Service Benefit, as applicable.

Article (5)
Contributions to a Private Pension Fund

1. A Taxable Person who is an employer may deduct the total value of contributions made to a private pension fund in respect of its employees who are Pension Plan Members in the Tax Period in which such contributions are paid.
2. The value of contributions which may be deducted under Clause (1) of this Article for each Pension Plan Member shall not exceed (15%) fifteen percent of the total Pension Plan Member's remuneration that is deductible for Corporate Tax purposes in the relevant Tax Period.

Article (6)
Administration

1. The Auditor of a private pension fund or private social security fund shall confirm the compliance of the fund with the provisions of this Decision annually where the fund has made an application to the Authority under Clause (3) of Article (4) of the Corporate Tax Law to be exempt from Corporate Tax.
2. Where an exemption under paragraph (g) of Clause (1) of Article (4) of the Corporate Tax Law has been granted by the Authority, the Auditor shall report to the Authority any fact they have become aware of while carrying out the audit of accounting information contained in the annual report of a private pension fund or a private social security fund, where this fact constitutes a breach of the conditions specified in this Decision.
3. Subject to any other decisions issued by the Minister, the Authority shall have the right to withdraw the exemption provided for under paragraph (g) of Clause (1) of Article (4) of the Corporate Tax Law from a private pension fund or a private social security fund in any of the following circumstances:
 - (a) The Auditor has confirmed that the fund no longer meets the conditions specified in this Decision.
 - (b) The Auditor does not satisfy any of the conditions specified under Clauses (1) and (2) of this Article.
 - (c) The Authority finds that the fund no longer meets the conditions specified in this Decision.

Article (7)
Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.

Mohamed bin Hadi Al Hussaini
Minister of State for Financial Affairs

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