

Summary of Ministerial Decision No. 83 of 2023 on the Conditions for Non-Resident Natural Person's Temporary Presence without Creating 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:

The Minister of State for Financial Affairs has issued this decision based on a review of various laws and regulations related to taxation in the United Arab Emirates. The decision provides specific conditions under which the presence of a natural person in the UAE will not create a Permanent Establishment (PE) for a Non-Resident Person, in accordance with the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses (referred to as the "Corporate Tax Law"). The decision outlines the following key points:

Article 1: Definitions

- The decision adopts the definitions specified in the Corporate Tax Law for this implementation.

Article 2: Conditions of a Temporary and Exceptional Presence in the State

- The decision lists the conditions under which the presence of a natural person in the UAE will not be considered a consequence of a Permanent Establishment for a Non-Resident Person. The following conditions must all be met:
 1. The presence of the natural person in the UAE is a consequence of exceptional circumstances of a public or private nature.
 2. The exceptional circumstances cannot reasonably be predicted by the natural person or the Non-Resident Person.
 3. The natural person did not express any intention to remain in the UAE when the exceptional circumstances end.
 4. The Non-Resident Person does not have a Permanent Establishment in the UAE before the occurrence of the exceptional circumstances.

5. The Non-Resident Person did not consider that the natural person is creating a Permanent Establishment or deriving income in the UAE as per the tax legislation applicable in other jurisdictions.

Article 2 (continued):

- The decision defines "exceptional circumstances" as a situation or event beyond the natural person's control, which occurred while they were already in the UAE, and prevented them from leaving the country as originally planned.
- It provides examples of exceptional circumstances for both public and private nature, such as public health measures, travel restrictions, legal sanctions, acts of war, terrorist attacks, natural disasters, and emergency health conditions affecting the natural person or their relatives.

Article 3: Publication and Application of this Decision

- The Decision shall be published and come into effect 15 days following the date of its publication.

The decision aims to clarify the specific conditions under which the presence of a natural person in the UAE will not create a Permanent Establishment for a Non-Resident Person, thus providing guidance on tax implications for such situations in accordance with the Corporate Tax Law.