

Ajman Law No. 3/2024 **On Taxation of Foreign Banks Operating in the Emirate of Ajman**

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Abrogating

Ajman Emiri Decree No. 19/2017

We, Humaid bin Rashid Al Nuaimi, Ruler of the Emirate of Ajman,
After perusal of the Constitution of the United Arab Emirates;
Federal Law No. 14/2018 on the Central Bank and the Regulation of Financial Institutions and Activities, and its amendments;
Federal Law No. 28/2022 on Tax Procedures and its Implementing Regulation;
Federal Decree-Law No. 47/2022 on Corporate and Business Taxation, and its amendments;
Ajman Emiri Decree No. 11/2011 promulgating the Financial Law of the Government of Ajman;
Ajman Emiri Decree No. 15/2012 on the Department of Finance in Ajman, and its amendments;
Ajman Emiri Decree No. 5/2017 on the Financial Audit Authority in Ajman;
Ajman Emiri Decree No. 19/2017 on the collection of taxes from the branches of foreign banks operating in the Emirate of Ajman;
Ajman Emiri Decree No. 2/2018 on the Legislation Committee in the Emirate of Ajman; and
Based on the approval of the Legislation Committee,
Have issued the following Law:

Article 1 - Definitions

The following terms and expressions shall, wherever they appear in this Law, have the meanings assigned against each, unless the context requires otherwise:

State: The State of the United Arab Emirates.

Emirate: The Emirate of Ajman.

Central Bank: The Central Bank of the United Arab Emirates.

Ruler's Representative: The Ruler's Representative for Administrative and Financial Affairs.

Department: The Department of Finance.

Authority: Financial Audit Authority Ajman.

Corporate Tax Law: Federal Decree-Law No. 47/2022 on Corporate and Business Taxation and its amendments.

Unified Financial System of the Government of Ajman: Ajman Emiri Decree No. 11/2011 on the issuance of the Financial Law of the Government of Ajman and its Implementing Regulation, and any other complementary financial regulations.

Tax: The tax that is imposed on the Taxable Person, by virtue of the provisions of this Law.

Foreign Bank: The foreign bank that holds a licence from the Central Bank to operate in the State, in accordance with the applicable legislation.

Taxable Person: The foreign bank and its branches licensed by the Central Bank to operate in the Emirate.

Tax Period: The time-limit during which the Taxable Person shall submit the tax return and calculate the due tax.

Taxable Income: The income which is earned by the Taxable Person in the Emirate during the tax period, and which is calculated in accordance with the provisions of this Law.

Tax Return: The information and data that the Taxable Person shall submit to the Department, according to the decisions issued in this regard as well as the forms approved thereby.

Auditor: Any person authorised by the Authority to conduct audit for the Taxable Person.

Tax Audit: The procedure that is carried out by the auditor to examine the commercial records, books, accounting documents, or any information or data related to the tax to be paid by the Taxable Person.

Tax Assessment: The decision that is issued by the Department determining the amount of tax due by the Taxable Person, based on the results of the tax audit.

Voluntary Declaration: A Notice that is submitted by the Taxable Person to the Department in accordance with the provisions of this Law and the decisions issued pursuant thereto, in which the Taxable Person notifies it of any error, deficiency, or omission in the tax return.

Tax Evasion: Use of illegal means by the Taxable Person that result in reducing the amount of due tax, not paying the same, or recovering money that the Taxable Person is not entitled to recover.

Tax Registration: A procedure that is carried out by the Taxable Person, in order to be registered at the Department.

Tax Deregistration: A procedure that is carried out for the cancellation of the registration of Taxable Person at the Department.

Article 2 - Scope of Application

The provisions of this Law shall apply to all Foreign Banks operating in the Emirate, including the licensed Foreign Banks in the free zones.

Article 3 - Tax Rate

a- An annual Tax of 20% shall be imposed on the Taxable Income of Foreign Banks.

b- Notwithstanding the provisions of Paragraph (a), the Foreign Bank that exercises its activities in the Emirate for the first time shall be subject to (0%) Tax for a period of two years from the date of licensing it to operate, without prejudice to all obligations stipulated in this Law concerning the Taxable Person.

Article 4 - Avoidance of Double Taxation

The Corporate Tax Rate applied in accordance with the Corporate Tax Law shall be deducted from the rate referred to in Paragraph (a) of Article (3), in the event where the Foreign Bank pays the Tax in accordance with the Corporate Tax Law for the purpose of avoiding Tax Evasion.

Article 5 - Tax Registration

The Taxable person shall register at the Department within 3 months, from the date of issuance of this Law, concerning Foreign Banks that currently exist in the Emirate, and from the date of issuance of the commercial licence concerning the new Foreign Banks that are licensed to operate in the Emirate, according to the provisions and procedures prescribed by the Department.

Article 6 - Calculation of the Taxable Income

Taking into consideration the federal legislation in force in this regard, the Taxable Income shall be calculated according to the accounting policies adopted by the Foreign Bank. The following shall be taken into consideration while calculating the Taxable Income:

a- Rules and Controls adopted by the Department in this regard:

1. 1- Method of calculation of joint revenues and joint expenses.
2. 2- Expenses of the headquarters, and expenses of the regional administration.
3. 3- Losses and unrealised gains from Taxable Income.
4. 4- Profits that are not included in the income statement.
5. 5- Any other matters deemed necessary to calculate the Taxable Income.

b- The provisions of the Corporate Tax Law and the decisions issued pursuant thereto, in cases other than those stipulated in the rules and controls approved by the Department for calculating the Taxable Income.

Article 7 - Submittal of the Tax Return and Payment of Tax

a- The Taxable Person shall submit the following to the Department, within a period that does not exceed 9 months from the end of the concerned Tax Period:

1. 1- The Tax Return related to the ending Tax Period, according to the form approved by the Department in this regard.
2. 2- Financial statements and clarifications of the Taxable Person.
3. 3- The amount of Due Tax for the ending Tax Period, along with supporting documents about the method of calculation of said amount.
4. 4- The Tax Rate imposed thereon and the amount of Tax paid, according to the Corporate Tax Law.

b- The financial statements and clarifications of the Foreign Bank shall be approved by an accredited external auditor.

c- Any Tax Return submitted to the Department shall be considered unacceptable if it does not include the basic data specified in the form approved by the Department.

d- The Taxable Person shall be responsible for the accuracy of the information and data contained in the Tax Return, financial statements, clarifications, and other data and information submitted thereby to the Department or the Authority.

Article 8 - Voluntary Declaration

a- If the Taxable Person finds that the Tax Return submitted thereby to the Department is incorrect, which has led to the calculation of the payable tax in accordance with the provisions of this Law at less than it should be, then it shall correct the Return submitted thereby, by virtue of the Voluntary Declaration, and settle the financial difference due, within (30) working days from the date of being aware of the same.

b- If the Taxable Person finds that the Tax Return it submitted to the Department is incorrect, which has led to the calculation of the payable Tax in accordance with the provisions of this Law at more than it should be, then it may, in this case, submit the Voluntary Declaration within (30) thirty days from the date of being aware of the same, provided that it notifies the Department of the appropriate recovery mechanism, either through its bank account or by considering the difference as an advance payment of the due Tax for the subsequent Tax Period.

c- The Voluntary Declaration referred to under paragraphs (a) and (b) of this Article shall be submitted in accordance with the forms and mechanisms approved by the Department in this regard.

Article 9 - Auditing the Tax Return and Voluntary Declaration

a- The Department shall transfer to the Authority the Tax Returns, financial statements, clarifications, data, information, documents, and Voluntary Declarations submitted by the Taxable Persons.

b- The Authority shall audit the Tax Returns, financial statements, clarifications, data, information, documents and Voluntary Declarations referred to it by the Department, ensure their accuracy, and state the results of such audit according to the reports submitted to the Department in this regard, while annexing a proof confirming that the Authority has informed the taxable party of the auditing results.

Article 10 - Tax Audit

a- The auditor shall conduct the tax audit for the Taxable Person to ensure the extent of its compliance with the provisions of this Law, whether at the Authority's headquarters, in the place where the Taxable Person carries out the activities thereof or where the Taxable Person keeps the relevant records. In this case, the Taxable Person shall be notified at least (5) days before the date of the tax audit.

b- In order to carry out the tax audit tasks, the auditor shall have access to all documents, information, records and data in the place where the Taxable Person carries out its activity or keeps its records, provided that they are related to the subject-matter of the Tax.

c- Notwithstanding the provisions of paragraph (a) of this Article, the auditor shall have the right to enter any place where the Taxable Person carries out its activities or keeps its records, without prior notification of the tax audit process, in any of the following cases:

1. 1- If the Authority has serious reasons to believe that the Taxable Person is involved or engaged in Tax Evasion or hides data or information related to the Tax.
2. 2- If the Taxable Person who was notified in advance of the tax audit attempts to prevent the auditor from entering the place where the tax audit will take place.

d- The tax audit process shall be conducted during the official working hours of the Authority. In case of urgency, the audit may be conducted outside said hours by a decision issued by the Director General.

e- The person subject to the tax audit and any person whose work is related to the tax audit process shall provide all possible facilitation and assistance to the auditor in order to enable the latter to perform his duties.

f- The Authority shall have the right to audit any matter that was previously audited, if new information emerges that may affect the outcome of the tax audit process.

Article 11 - Obtaining Records and Documents

During the tax audit process, the auditor may obtain or seize the original records and documents or copies thereof, in accordance with the controls determined by the Authority in this regard.

Article 12 - Rights of the Person subject to Tax Audit

A person subject to tax audit shall have the right to:

1. 1- Request the auditor to show his identification card.
2. 2- Obtain a copy of the tax audit report after its completion.
3. 3- Attend the tax audit process that is carried out at the workplace thereof or the place where it keeps its records, through a representative.
4. 4- Obtain copies of the records or documents that are seized or acquired during the tax audit.

Article 13 - Estimated Tax Assessment

The Department shall issue a Tax Assessment, through estimation, in case of failure to determine the Tax to be paid. The Department shall amend this assessment if new information emerges after its issuance, and notify the Taxable Person of such amendments within (10) ten days from the date of the amendment.

Article 14 - Notification of the Tax Audit Conclusions

The Authority shall inform the Taxable Person about the Tax Assessment within (10) working days from the date of termination of the Tax Assessment, and shall send a copy thereof to the Department.

Article 15 - Objection to the Payable Tax and Fines

a- The Taxable Person may object before the Department, to the amount of Tax or fine imposed on it under this Law, and in order for the objection to be accepted, the following conditions shall be met:

1. 1- The objection shall be written, justified, and supported by corroborating documents and facts.
2. 2- The objection shall be filed within (20) days from the date of notification of the Tax Assessment and the amount of due Tax or the imposed fine.
3. 3- At least 20% of the amount of the due Tax or the imposed fine shall be paid.

b- By a decision of the Director-General of the Department, a committee shall be formed for the consideration of the objection presented by the Taxable Person. Said committee shall verify the fulfilment of the conditions determined in Paragraph (a) of this Article before consideration of the objection.

c- The Department shall submit the recommendations of the Committee concerning the objection to the Ruler's Representative, within 30 working days from the date of submittal of the objection fulfilling all conditions.

d- A decision shall be issued on the objection by the Ruler's Representative within 10 working days from the date of submittal of the recommendations. The decision issued in this regard shall be deemed final, and it may only be appealed before the competent court.

e- The Department shall notify the Taxable Person of the decision issued on the objection within (5) working days from the date of its issuance.

Article 16 - Penalty for Tax Evasion

a- Without prejudice to any more severe penalty stipulated in any other legislation in the State, whoever evades the payment of Tax, by committing any of the acts stipulated in paragraph (b) of this Article, shall be punished with a fine equal to twice the amount of the evaded tax.

b- The Taxable Person shall be considered to have evaded Tax in case of committing any of the following acts:

1. 1- Submitting an incorrect Tax Return and failing to submit a Voluntary Declaration regarding it within the period specified under this Law.
2. 2- Refraining from paying the payable Tax or the differences resulting from the tax audit process.
3. 3- Reduce, intentionally, the actual value of the Taxable Income.
4. 4- Manipulate accounting data or submitting incorrect, incomplete or falsified information, records or statements.
5. 5- Destroy or hide documents, data or information that shall be preserved and provided to the Department or Authority.
6. 6- Prevent or hamper the auditor from carrying out his duties, in a manner that leads to Tax Evasion.
7. 7- Assume or refrain from assuming any other act that would lead to evading Tax, in whole or in part.

c- Without prejudice to the liability of the Taxable Person for Tax Evasion, if it is proven that a third party is directly involved in or caused Tax Evasion, the same fine imposed on the Taxable Person shall be imposed on that third party, separately.

Article 17 - Penalty for Late Payment of the Tax or Fine

If the Taxable Person is late in paying the Tax due or the fine imposed thereon, whether in whole or in part, beyond the payment date specified in accordance with this Law and the decisions issued pursuant thereto, then a fine shall be imposed on it at the rate of (2%) of the value of the unpaid Tax or fine for each month of delay. A part of a month shall be considered a full month.

Article 18 - Administrative Violations and Fines

a- The acts that constitute an administrative violation of the provisions of this Law and the decisions issued pursuant thereto, and the fine prescribed for each of them, shall be determined by an Emiri Decision, provided that the value of the fine imposed for each violation does not exceed (AED 500.000) five hundred thousand Dirhams.

b- The value of the fine referred to in paragraph (a) of this Article shall be doubled in the event where the same administrative violation is committed again within two years from the date of committing the previous administrative violation, without exceeding (AED 1.000.000) one million Dirhams.

Article 19 - Obligation to Pay the Tax

The imposition of the fines stipulated in Articles (16), (17), and (18) of this Law shall not exempt the Taxable Person from the payment of the tax due on it.

Article 20 - Law Enforcement Capacity

The employees of the Authority who are designated by a decision of the Minister of Justice shall have the law enforcement capacity in establishing the acts committed in violation of the provisions of the present Law and the decisions issued pursuant thereto. For this purpose, they shall draft the necessary records and seek the assistance of police officers when necessary.

Article 21 - Notification of Decisions and Procedures

a- The Department and the Authority shall notify the Taxable Person of the decisions and procedures related to the implementation of the provisions of this Law and the decisions issued pursuant thereto, at the address specified by it, and by the means agreed upon between them and the Taxable Person, unless they are notified by the latter of the change of address.

b- The notification made in accordance with the provisions of paragraph (a) of this Article shall be considered valid and legally effective.

Article 22 - Seeking Assistance of Governmental Entities

The government entities in the Emirate shall fully cooperate with the Department and the Authority, in order to enable them to implement the provisions of this Law and the decisions issued pursuant thereto, whenever they are requested to do so.

Article 23 - Maintaining Confidentiality

a- The employees of the Department and the Authority shall maintain the confidentiality of the information and data that they obtained or accessed while implementing the provisions of this Law and the decisions issued pursuant thereto and shall not disclose the same. Their commitment to maintaining this confidentiality shall continue even after the end of their service, otherwise they shall be considered liable.

b- Whoever obtains information or data related to the implementation of the provisions of this Law and the decisions issued pursuant thereto shall not disclose or use such information except for the purpose for which it was obtained or at the request of the competent judicial authority, without prejudice to the liability resulting from the same when necessary.

Article 24 - Rules for Collection of Public Funds

The rules and procedures stipulated in Unified Financial System of the Government of Ajman shall apply when the Taxable Person refrains from paying the due Tax or the fines imposed thereon by virtue of this Law and the decisions issued pursuant thereto.

Article 25 - The Period of Tax Obligations

Unless a specific time-limit is specified for carrying out any obligation or procedure under this Law and the decisions issued pursuant thereto, the Department or the Authority shall grant the Taxable Person a period that is adequate to the nature of the obligation or procedure it is assigned to implement, provided that this period is not less than (5) working days and does not exceed (40) working days.

Article 26 - Rules for Calculation of Time-Limits

When calculating the time-limits specified under this Law and the decisions issued pursuant thereto, the following shall be taken into account:

- 1- The day of notification or the day of the incident giving rise to the period shall not be included within the calculated time-limit.
- 2- The time-limit shall be extended to the first working day, if the last day thereof falls on a weekend or official holiday.

Article 27 - Period of Limitation

a- Except in cases of proven Tax Evasion, the Department may not conduct a Tax Assessment after the lapse of (5) years from the end of the relevant tax period.

b- In the case of proven Tax Evasion, the Department may conduct a Tax Assessment within (15) years from the end of the Tax Period during which the Tax Evasion has occurred.

c- The payable Tax and the fines imposed under this Law and the decisions issued pursuant thereto, of which the Taxable Person has been notified, shall not be subject to statute of limitations, and they may be claimed at any time.

Article 28 - Proof

- a- Proving the accuracy of the Tax Return shall be the responsibility of the Taxable Person.
- b- Proving the commission of any of the violations stipulated in this Law and the decisions issued pursuant thereto shall be the responsibility of the Department or the Authority, as the case may be.

Article 29 - Application of the Corporate Tax Law

Without prejudice to the nature of the Tax imposed under this Law and the roles assigned to the Department and the Authority in accordance with its provisions, the rules, conditions, procedures, controls, and periods stipulated in the Corporate Tax Law and the decisions issued pursuant thereto, relating to the following, shall apply:

1. 1- Tax Period.
2. 2- Any other matters not stipulated in this Law and the decisions issued pursuant thereto.

Article 30 - Currency

For the purposes of this Law, all amounts shall be estimated in UAE Dirhams, and any amount estimated in another currency shall be converted according to the exchange rate specified by the Central Bank, unless the Department decides otherwise.

Article 31 - Keeping Records and Documents

The Taxable Person shall keep all records and documents related to the Tax for a period of not less than (7) seven years after the end of the Tax Period related thereto, for the purposes of enabling the Department and the Authority to have access thereto in the cases that so require.

Article 32 - Tax Deregistration

- a- The Taxable Person registered with the Department shall submit an application for the cancellation of the Tax Registration, in case of suspending the practice of the activity due to dissolution or liquidation or for any other reason, within 3 months from the date of the suspension.
- b- The registration may not be cancelled unless after payment of the overall payable tax and administrative fines, and upon submittal of all due declarations including the Tax Return for the Tax Period during which the suspension has occurred.
- c- In case of approval of the Department on the Deregistration Application, the registration shall be cancelled for tax purposes from the date of suspension of the practice of the activity.
- d- The Department shall determine any other conditions and controls deemed necessary for the cancellation of the Tax Registration.

Article 33 - Transitional Provisions

- a- This Law shall apply to Tax Periods that start with or after the implementation of its provisions.
- b- The rules, procedures and periods stipulated in aforementioned Emiri Decree no. (19) of 2017 shall apply to the Tax Periods that began before entry into effect of the provisions of this Law.

Article 34 - Transfer of Revenues

The proceeds of tax and fines imposed under this Law and the decisions issued pursuant thereto shall be transferred to the Public Treasury of the Government of Ajman.

Article 35 - Issuance of Implementing Decisions

The Department shall issue the necessary decisions for the implementation of the provisions of this Law.

Article 36 - Abrogation

Taking into account the provisions of paragraph (b) of Article (33) of this Law, aforementioned Ajman Emiri Decree No. 19 /2017 shall be abrogated, and so for any text in any other legislation to the extent that it conflicts with the provisions of this Law.

Article 37 - Enforcement and Publication

The present Law shall come into force from 01/01/2025 and shall be published in the Official Gazette.

Issued by us on this Thursday, 7 Dhi Al-Hijjah 1445 H., corresponding to 13 June 2024.

Humaid Bin Rashid Al-Nuaimi
Ruler of the Emirate of Ajman

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