

RE Investment for Natural Persons

Tax Alert

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Corporate Tax Guide on Real Estate Investment for Natural Persons

The Federal Tax Authority has issued a detailed Corporate Tax Guide on Real Estate Investment for Natural Persons.

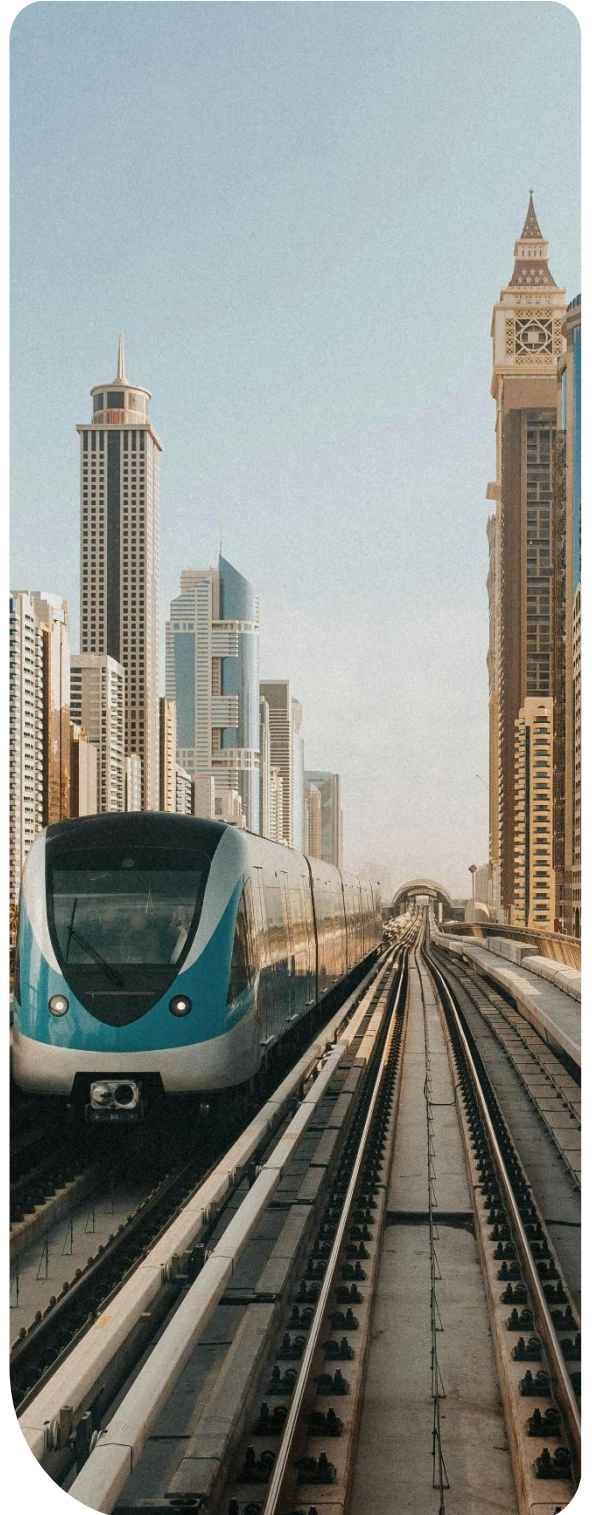
It clarifies how the UAE Corporate Tax Law affects natural persons earning Real Estate Investment income, particularly under Cabinet Decision No.49 of 2023, which excludes such income from Corporate Tax if certain conditions are met. Below we have outlined the key considerations covered in the guide:

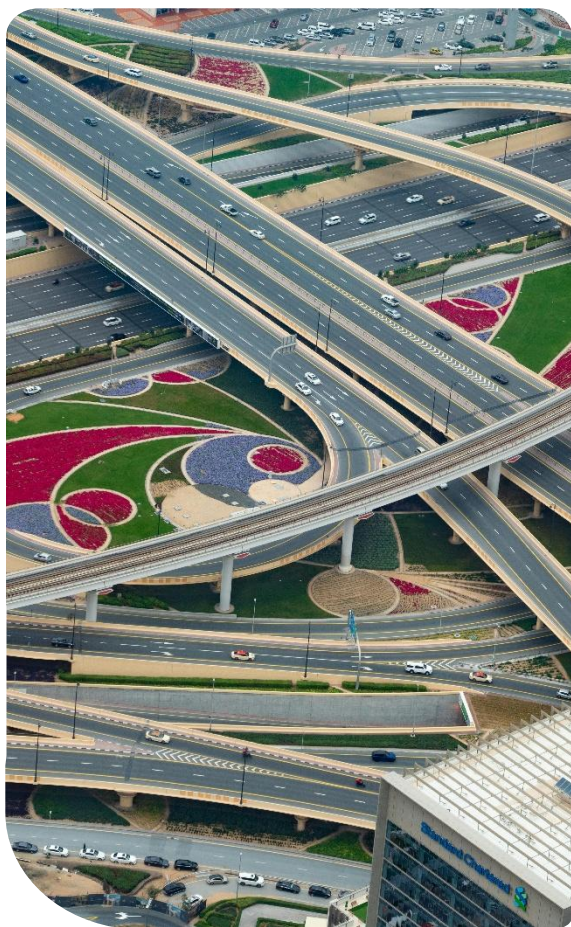
Corporate Tax Application:

- Natural persons are subject to Corporate Tax if their total Turnover from Business or Business Activities exceeds AED 1 million within a Gregorian calendar year.
- Income derived from Real Estate Investment (and related expenditure) is excluded from Corporate Tax.
- This exclusion applies regardless of the size, quantity, or value of the property and the amount of income derived.

Definition of Real Estate Investment:

- Any investment activity conducted by a natural person related directly or indirectly to the sale, leasing, sub-leasing, and renting of land or real estate property in the UAE.
- Can be conducted directly by the natural person or indirectly through an intermediary.
- The activity must not be conducted, or not require to be conducted, through a License from a Licensing Authority in the UAE.





Scope of Real Estate Investment:

- Includes residential property, furnished holiday homes, commercial property, showrooms, warehouses, parking lots, and more.
- Covers both land and buildings, including structures and fixtures permanently attached to the property.
- Applies to properties located in the UAE and/or outside of the UAE.

Criteria for Exclusion:

- Investment activity must be related to land or real estate property.
- The investment activity must not be conducted through a License or require a License.
- If a natural person has a License for other business activities, they may still qualify for the Real Estate Investment exclusion if the activities can be clearly distinguished.

Transactions at arm's length:

- Transactions between Related Parties must meet the arm's length standard.
- Such transactions would include, but not be limited to, lease agreements between a natural person and its Related Parties, and property management agreements between a natural person and its Related Parties.

Sole establishment and sole proprietorship:

- A sole establishment/proprietorship is a business owned and operated by a single natural person.
- The business and the owner are considered the same legal entity, distinct from a single-owner company, which has a separate legal personality.
- For Corporate Tax purposes, the Taxable Person is the natural person conducting the business and not the sole establishment/proprietorship itself.

Joint Ownership:

- In cases of co-ownership, income must be allocated to each owner.
- Each joint owner should individually assess whether their income qualifies as Real Estate Investment.

Accounting Standards:

- The Corporate Tax treatment follows how these transactions and activities are accounted for under applicable Accounting Standards.

Apportionment of Expenditure:

- If expenses are shared between Real Estate Investment activities and other business activities, they must be apportioned.
- The apportionment method chosen must be logical and must fairly represent the benefit that the expense generates for each income component.

General Anti-Abuse Rule:

- The FTA can counteract arrangements undertaken mainly to obtain a Corporate Tax advantage if they lack commercial substance or do not reflect economic reality.

Examples:

- The document provides various examples illustrating different scenarios of Real Estate Investment and their tax implications.

This guide is crucial for natural persons involved in real estate activities in the UAE to understand their Corporate Tax obligations and the applicability of the Real Estate Investment exclusion.

Natural persons and commercial businesses in the UAE have material exposure to Real Estate / property investments. It's critical that the Corporate Tax provisions and the guidance issued are pragmatically deployed while deriving tax outcomes.



Our Team

Should you desire to delve deeper into the implications, do not hesitate to contact the team members mentioned below.



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