

Cabinet Decision No. (81) of 2023
On Conditions for Qualifying Investment Funds for the Purposes of Federal Decree-Law
No. 47 of 2022 on the Taxation of Corporations and Businesses

The Cabinet:

- Having reviewed the Constitution,
- Pursuant to what was presented by the Minister of Finance and upon the approval of the Cabinet,

Decided:

Article (1)
Definitions

Definitions in Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses shall apply to this Decision, and the following words and expressions shall have the meaning assigned against each, unless the context requires otherwise:

- Investment Business** : The issuing of investment interests to raise funds or pool investor funds or establish a joint investment fund with the aim of enabling the holder of such an investment interest to benefit from the profits or gains resulting from the entity's acquisition, holding, management or disposal of investments, in accordance with the applicable legislation of the State.
- Real Estate Gains** : Gains derived from the sale or disposal of land or real estate.
- Real Estate Income** : Income derived from renting of land or real estate, excluding Real Estate Gains.
- Real Estate Asset Percentage** : The portion of the Real Estate Income generating assets as a percentage of the total value of the assets of the investment fund.
- Real Estate Investment Trust ("REIT")** : A real estate fund as defined in the applicable legislation of the State.
- Corporate Tax Law** : Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

Article (2)
Conditions to Exempt an Investment Fund from Corporate Tax

1. Without prejudice to the conditions under Clause (1) of Article (10) of the Corporate Tax Law, an investment fund, excluding a Real Estate Investment Trust ("REIT"), shall meet all of the following conditions to apply to the Authority to be exempt from Corporate Tax as a Qualifying Investment Fund:
 - a. The main Business or Business Activities conducted by the investment fund are Investment Business activities, and any other Business or Business Activities conducted by the investment fund are ancillary or incidental.

- b. A single investor and its Related Parties do not own the following:
 - 1) More than 30% (thirty percent) of the ownership interests in the investment fund, where the investment fund has less than ten investors.
 - 2) More than 50% (fifty percent) of the ownership interests in the investment fund, where the investment fund has ten or more investors.
 - c. The investment fund is managed or advised by an Investment Manager that has a minimum of three investment professionals.
 - d. The investors shall not have control over the day-to-day management of the investment fund.
2. For the purposes of applying paragraph (a) of Clause (1) of this Article, the following must be observed:
- a. Where Business or Business Activities of a resident Investment Manager are attributed to a resident investment fund, the Taxable Income of the Investment Manager shall be adjusted to include the income attributed to the investment fund, in accordance with Article (20) of the Corporate Tax Law.
 - b. Business or Business Activities of an Investment Manager that are attributed to a resident investment fund shall be considered to be Investment Business activities where they meet at least one of the following conditions:
 - 1) To be subject to Corporate Tax in the State through the Investment Manager.
 - 2) To be undertaken by an Investment Manager that would meet the conditions under Clause (1) of Article (15) of the Corporate Tax Law, had the reference to the Non-Resident Person in that Clause been related to a Resident Person.
 - c. Other Business or Business Activities that the investment fund conducts shall be considered as ancillary or incidental if the combined Revenue of such Business or Business Activities does not exceed 5% (five percent) of the total Revenue of the investment fund in the same Financial Year.
3. The investment fund shall be considered to have met any of the ownership interests conditions under paragraph (b) of Clause (1) of this Article as the case may be, in the first two Financial Years of the establishment of the investment fund if there is sufficient evidence to demonstrate the intention of the investors to meet these conditions after the first two Financial Years, as determined by the Authority.
4. Where an investment fund does not meet the conditions under Clause (3) of this Article, the investment fund shall cease to be treated as an Exempt Person from the beginning of the third Financial Year of its establishment.

Article (3)

Conditions to Exempt a Real Estate Investment Trust from Corporate Tax

Notwithstanding the provisions of Article (2) of this Decision, a Real Estate Investment Trust ("REIT") shall meet all of the following conditions, in addition to the conditions under Clause (1) of Article (10) of the Corporate Tax Law, to apply to the Authority to be exempt from Corporate Tax as a Qualifying Investment Fund:

- 1. The value of real estate assets, excluding land, under the management or ownership of the Real Estate Investment Trust ("REIT") exceeds AED 100,000,000 (one hundred million United Arab Emirates dirhams).

2. At least 20% (twenty percent) of the share capital of the Real Estate Investment Trust ("REIT") is floated on a Recognised Stock Exchange, or it is directly wholly owned by two or more institutional investors specified in Article (5) of this Decision, provided that at least two of those institutional investors are not Related Parties.
3. The Real Estate Investment Trust ("REIT") has an average Real Estate Asset Percentage of at least 70% (seventy percent) during the relevant Gregorian calendar year, or the relevant (12) twelve-month period for which the financial statements are prepared.

Article (4) Investor Income

1. Where a Taxable Person is an investor in the Qualifying Investment Fund in a Tax Period, the income of that Taxable Person for that relevant Tax Period shall be adjusted to include the income and the expenditure of the Qualifying Investment Fund as reflected in the financial statements of the Qualifying Investment Fund, and in proportion to its ownership interest, in accordance with Article (20) of the Corporate Tax Law.
2. The income of the investor shall not include any distribution they receive from a Qualifying Investment Fund in case it has been previously included as their income under Clause (1) of this Article.

Article (5) Institutional Investor

An institutional investor is any of the following:

1. The Federal Government.
2. A Local Government.
3. A Government Entity.
4. A Government Controlled Entity.
5. A foreign government, its institutions and authorities or the companies fully owned by any of them.
6. International organisations.
7. A Bank.
8. An Insurance Provider.
9. A pension or social security fund.
10. An investment entity licensed by a relevant competent authority or a similar regulatory authority in or outside of the State.
11. Any other juridical person determined by the Authority.

Article (6) Unincorporated Partnership

An Unincorporated Partnership that is considered a Taxable Person in its own right in accordance with Article (16) of the Corporate Tax Law shall be considered an entity under the definition of the Qualifying Investment Fund under the Corporate Tax Law.

Article (7)
Implementing Decisions

The Minister may issue the necessary decisions to implement the provisions of this Decision.

Article (8)
Publication and Application of this Decision

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

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us:

Date: 30 Dhu al-Hijjah 1444 H

Corresponding to: 18 July 2023