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# **The Participation Exemption and Foreign Permanent Establishment Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses**

**Ministerial Decision No. 302 of 2024 – Issued 10 Dec 2024 – (Effective from 11 Dec 2024)**

## **Minister of State for Financial Affairs has decided:**

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses, and its amendments,
- Ministerial Decision No. 116 of 2023 on the Participation Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

## **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:

Accounting Standards	: The accounting standards specified in a decision issued by the Minister for the purposes of the Corporate Tax Law.
Participating Interest	: Means an ownership interest in the shares or capital of a juridical person that meets the conditions referred to in Article (23) of the Corporate Tax Law.
Participation	: The juridical person in which the Participating Interest is held.



- Ordinary Shares : The category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.
- Preferred Shares : The category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.
- Redeemable Shares : The category of capital stock or equity interest which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.
- Dividend : Any payments or distributions that are declared or paid on or in respect of shares or other rights participating in the profits of the issuer of such shares or rights which do not constitute a return of capital or a return on debt claims, whether such payments or distributions are in cash, securities, or other properties, and whether payable out of profits or retained earnings or from any account or legal reserve or from capital reserve or revenue. This will include any payment or benefit which in substance or effect constitutes a distribution of profits made in connection with the acquisition or redemption or cancellation of shares or termination of other ownership interests or rights or any transaction or arrangement with a Related Party or Connected Person which does not comply with Article (34) of the Corporate Tax Law.
- Membership and Partner Interests : The equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.
- Islamic Financial Instrument : A financial instrument which is compliant with Sharia principles.
- Accounting and Auditing Organization for : An Islamic international autonomous non-for-profit corporate body that prepares accounting, auditing, governance, ethics and Sharia standards for Islamic financial institutions.



## Islamic Financial Institutions

Qualifying Foreign Permanent Establishment : A Foreign Permanent Establishment that meets the conditions of Clause (7) of Article (24) of the Corporate Tax Law.

Non-Qualifying Foreign Permanent Establishment : A Foreign Permanent Establishment that does not meet the conditions of Clause (7) of Article (24) of the Corporate Tax Law.

Parent Company : A Resident Person that can make an application to the Authority to form a Tax Group with one or more Subsidiaries in accordance with Clause (1) of Article (40) of the Corporate Tax Law.

## Article 2 – Ownership Interest

1. For the purposes of Article (23) of the Corporate Tax Law, an ownership interest shall include, but not be limited to, holding any one or a combination of the following instruments:
  - a. Ordinary Shares.
  - b. Preferred Shares.
  - c. Redeemable Shares.
  - d. Membership and Partner Interests.
  - e. Other types of securities, capital contributions and rights that entitle the owner to receive profits and liquidation proceeds.
2. An ownership interest as referred to in Clause (1) of this Article, shall only be treated as such if it is classified as equity interest under the Accounting Standards as applied by the Taxable Person holding the ownership interest.
3. For the purposes of Article (23) of the Corporate Tax Law, a Taxable Person shall be treated as holding an ownership interest where the ownership interest is controlled by the Taxable Person and the Taxable Person has the right to the economic benefits produced by the ownership interest under the Accounting



Standards as applied by the Taxable Person.

4. An Islamic Financial Instrument, or a combination of arrangements that form part of the same Islamic Financial Instrument shall be treated as an ownership interest for the purposes of Article (23) of the Corporate Tax Law where it is classified as equity interest under the accounting standards issued by the Accounting and Auditing Organization for Islamic Financial Institutions.
5. The percentage of ownership held through ownership interests as specified under Clause (1) of this Article shall be determined with reference to the total paid up capital of the Participation or the total equity interest contributions made to the Participation, as applicable.

### **Article 3 – Aggregation of Ownership Interests**

1. For the purposes of determining whether a Taxable Person has a Participating Interest under Clause (2) of Article (23) of the Corporate Tax Law, the following shall apply:
  - a. Different types of ownership interests in the same juridical person as specified under Article (2) of this Decision shall be aggregated.
  - b. Ownership interests in the same juridical person held by members of a Qualifying Group, as per Clause (2) of Article (26) of the Corporate Tax Law, in which the Taxable Person is a member shall be aggregated with those of the Taxable Person.
2. The provisions of Clause (1) of this Article shall apply for the purposes of determining whether the minimum ownership requirement is satisfied under Clause (11) of Article (23) of the Corporate Tax Law.

### **Article 4 – Transfer of Ownership Interests**

1. For the purposes of meeting the requirement under paragraph (a) of Clause (2) of Article (23) of the Corporate Tax Law, where a Taxable Person exchanges an ownership interest in a juridical person held by the Taxable Person for an ownership interest in another juridical person, these ownership interests shall be treated as the same continuous ownership interest where all of the following



conditions are met:

- a. The original ownership interest has been exchanged for another ownership interest as a no gain or loss transfer in accordance with Article (27) of the Corporate Tax Law.
  - b. The original ownership interest in the juridical person constitutes a Participating Interest under Article (23) of the Corporate Tax Law.
2. For the purposes of Clause (9) of Article (23) of the Corporate Tax Law and provided that the conditions under paragraphs (a) and (b) of Clause (1) of this Article are met, the two year period shall commence from the date of the first transfer that was exempted under Article (27) of the Corporate Tax Law and shall continue in respect of subsequent transfers that meet such conditions.
  3. Where a Participation was acquired by the Taxable Person in exchange for the transfer of an ownership interest that was exempted under Article (26) or (27) of the Corporate Tax Law and Clause (4) of Article (26) or Clause (6) of Article (27) of the Corporate Tax Law subsequently applied to that transfer, the Taxable Person may make a corresponding adjustment to its Taxable Income to reverse any income which was previously taken into account due to the application of Clause (9) of Article (23) of the Corporate Tax Law.
  4. For the purposes of Clause (3) of this Article, the Taxable Person shall make any necessary adjustments to their Taxable Income during the relevant Tax Period in which Clause (4) of Article (26) or Clause (6) of Article (27) of the Corporate Tax Law applies.

## **Article 5 – Debt Instruments Issued by the Participation**

Where a Taxable Person has a Participating Interest in a Participation, income from a debt instrument issued by that Participation that is not an ownership interest under paragraph (e) of Clause (1) of Article (2) of this Decision shall be treated as income from a Participating Interest provided that such instrument is classified as equity interest under the Accounting Standards applied by the Taxable Person.



## Article 6 – Subject to Tax

1. A Participation shall be considered to have met the requirement of paragraph (b) of Clause (2) of Article (23) of the Corporate Tax Law for a given Tax Period when it is resident for tax purposes throughout this same Tax Period in another country or foreign territory that levies a tax that meets all of the following requirements:
  - a. The tax is applied on a similar basis to Corporate Tax, taking into account the conditions set out in Clauses (2), (3), (4) and (5) of this Article.
  - b. The tax is levied at a statutory rate not less than (9%) nine percent.
2. For the purposes of Clause (5) of Article (23) of the Corporate Tax Law, the Participation will be considered as having continued to meet the condition under paragraph (b) of Clause (2) of Article (23) of the Corporate Tax Law where the Participation meets the conditions of Clause (1) of this Article in the period in which the income or gains arise.
3. None of the following shall result in the tax imposed under the applicable legislation of the other country or the foreign territory in which the Participation is resident for tax purposes to not be considered a tax that is applied on a similar basis to Corporate Tax under paragraph (a) of Clause (1) of this Article:
  - a. Differences in reductions and reliefs.
  - b. Lower tax rates applicable to certain brackets of income.
  - c. Targeted incentives or exemptions of a temporary nature.
  - d. Application of alternative taxes on income or profits.
4. A tax imposed under the applicable legislation of the other country or foreign territory in which the Participation is resident for tax purposes shall not be considered a tax which is of a similar nature to Corporate Tax in any of the following cases:
  - a. The tax is applicable only to selected activities.
  - b. The tax paid is refunded at the time of distribution of the relevant profits or income.
  - c. The tax is only due in the event of a distribution of profits or income.
5. A Participation shall also be considered to have met the requirement of paragraph



(b) of Clause (2) of Article (23) of the Corporate Tax Law if it demonstrates to the Authority either of the following:

- a. It is subject to a tax on income or profits at an effective tax rate in the relevant Tax Period of not less than (9%) nine percent.
  - b. If it recalculated its accounting net profits according to the basis provided for in the Corporate Tax Law, and the tax levied on such profits, then this would result in an effective tax rate of not less than (9%) nine percent.
6. A Participation that is resident for tax purposes in another country or foreign territory that does not impose a tax that meets the requirements of Clause (1) of this Article shall be considered to have met the requirement of paragraph (b) of Clause (2) of Article (23) of the Corporate Tax Law if it is subject to a tax charged in respect of income, equity or net worth, or a combination of any or all of these in that other country or foreign territory, and the tax levied results in an effective tax rate of not less than (9%) nine percent on the accounting profits of the Participation calculated in accordance with the Accounting Standards in the relevant Tax Period.

## Article 7 – Conditions for Holding Companies

1. For the purposes of paragraph (a) of Clause (3) of Article (23) of the Corporate Tax Law, the Participation must satisfy all of the following conditions:
  - a. Be directed and managed in the relevant other country or foreign territory.
  - b. Comply with the requirement to submit any documents, records or information to the relevant authority under the laws and regulations applicable to such Participation in the relevant other country or foreign territory.
  - c. Have adequate personnel and premises for the acquisition and holding of the shares or equitable interests in the relevant other country or foreign territory, having regard to the level of activity carried on by the Participation and the extent to which those activities are performed on behalf or for the benefit of the Participation by another Person in that other country or foreign territory.
  - d. Not conduct any other activities other than those that are incidental or ancillary to the acquisition and holding of shares or equitable interests.





2. A Participation shall be considered as having met the condition of paragraph (b) of Clause (3) of Article (23) of the Corporate Tax Law where (50%) fifty percent or more of its income during the relevant Tax Period and the preceding Tax Period on average consisted of Dividends, capital gains and other income from Participating Interests.

## Article 8 – Minimum Acquisition Cost

1. For the purposes of Clause (11) of Article (23) of the Corporate Tax Law, a Taxable Person will be treated as having an ownership interest in the shares or capital of a juridical person that meets the minimum ownership requirement under Clause (2) of Article (23) of the Corporate Tax Law, and the conditions of paragraph (c) of Clause (2) of Article (23) of the Corporate Tax Law, where the aggregated acquisition cost of the ownership interests in that juridical person as provided for in Article (2) of this Decision is equal to or exceeds AED 4,000,000 (four million dirhams).
2. In calculating whether the minimum acquisition cost threshold under Clause (1) of this Article has been met, all of the following amounts may be aggregated:
  - a. The value of the equity interest or capital contribution made or consideration paid in cash or in kind for ownership interests in the Participation by the Taxable Person.
  - b. The value of any subsequent equity interest and capital contributions made to the Participation less the value of any equity interest or capital repayments made by the Participation to the Taxable Person.
  - c. Expenditure incurred by the Taxable Person in relation to the acquisition or transfer of ownership interests in the Participation that shall be capitalised as part of the acquisition cost of the ownership interest in the Participation in accordance with Clause (1) of Article (11) of this Decision.
3. The value of an equity interest or capital contribution, consideration paid or repayment of equity interest or capital for the purposes of Clause (2) of this Article shall be determined at the time that the contribution or repayment was made, or the consideration was paid by applying Article (43) of the Corporate Tax Law, without taking into account any subsequent value adjustments made under the





Accounting Standards applied by the Taxable Person holding the ownership interest.

4. In determining the acquisition cost in respect of an ownership interest in a foreign Participation, the applicable exchange rate at the date of acquisition or formation of the relevant ownership interest shall be used.
5. Where an ownership interest is partly sold, transferred, or otherwise disposed of, the aggregated acquisition cost shall be reduced in proportion to the average acquisition cost attributable to the part of the ownership interest that is sold, transferred or otherwise disposed of.
6. Where a Taxable Person holding the ownership interest does not meet the minimum acquisition cost threshold under Clause (1) of this Article for an uninterrupted period of at least (12) twelve months, any income previously not taken into account under Article (23) of the Corporate Tax Law shall be included in the Taxable Income in the Tax Period in which the ownership interest in the Participation did not meet the minimum acquisition cost threshold under Clause (1) of this Article.

## Article 9 – Application of the Asset Test

For paragraph (d) of Clause (2) of Article (23) of the Corporate Tax Law to apply, the Participation must be a Related Party of the Taxable Person.

## Article 10 – Assets of the Participation

1. The determination of whether the condition under paragraph (d) of Clause (2) of Article (23) of the Corporate Tax Law is satisfied shall be made on the basis of either of the following:
  - a. The consolidated balance sheet of the Participation and the accounting asset values reflected therein.
  - b. A Market Value valuation of the direct and indirect ownership interests and other assets of the Participation.
2. The condition under paragraph (d) of Clause (2) of Article (23) of the Corporate Tax Law should be met throughout the Tax Period.



## Article 11 – Expenditure in Relation to the Acquisition and Disposal of a Participating Interest

1. Expenditure incurred in relation to the acquisition, sale, transfer, or disposal of an entire Participating Interest or part of a Participating Interest shall not be deductible in accordance with Article (22) and paragraph (b) of Clause (2) of Article (28) of the Corporate Tax Law.
2. Expenditure referred to in Clause (1) of this Article shall include, but not be limited to, any of the following:
  - a. Professional fees.
  - b. Due diligence costs.
  - c. Litigation costs.
  - d. Commissions and brokerage fees.
  - e. Stamp duty, registration duties and other irrecoverable taxes.
  - f. Appraisal and valuation costs.
  - g. Refinancing costs.
3. Interest expenditure incurred in relation to the acquisition and subsequent holding of a Participating Interest shall be deductible subject to Chapter Nine of the Corporate Tax Law.
4. The expenditure as specified in Clause (1) of this Article shall be capitalised as part of the acquisition cost of the Participating Interest.

## Article 12 – Income from Ownership Interests in a Participation

1. Income provided for in Clause (5) of Article (23) of the Corporate Tax Law that is derived from a Participation shall be exempt insofar it is received by a Taxable Person in his capacity as owner of an ownership interest or ownership interests in the Participation.
2. Income derived in any other capacity than that mentioned in Clause (1) of this Article and income derived in relation to, but not directly from, an ownership



interest in a Participation shall not be exempt from Corporate Tax.

## Article 13 – Liquidation Proceeds and Losses

1. For the purposes of Clause (8) of Article (23) of the Corporate Tax Law, a Participation shall be considered liquidated if it ceases to have legal existence.
2. A loss realised on the liquidation of a Participation for the purposes of Clause (8) of Article (23) of the Corporate Tax Law shall be calculated as the difference between the acquisition cost of the Participating Interest determined in accordance with Article (8) of this Decision and the fair value of the liquidation proceeds received by the Taxable Person.
3. The provisions under Articles (26) and (27) of the Corporate Tax Law shall not apply where assets or liabilities are transferred to the Taxable Person as a result of a liquidation as specified under Clause (1) of this Article.
4. A loss realised by the Taxable Person on the liquidation of a Participation as calculated under Clause (2) of this Article shall be reduced by the following in the relevant Tax Period and preceding (7) seven Tax Periods, as applicable:
  - a. Tax Losses transferred by the Participation or its Participations to the Taxable Person or any of the Taxable Person's Related Parties.
  - b. Dividends or other profit distributions received by the Taxable Person from the Participation that are exempt under Article (22) or (23) of the Corporate Tax Law.
  - c. The difference between the Market Value and the amount of consideration paid for an asset or liability which was transferred between the Taxable Person or the Taxable Person's Related Parties and the Participation or its Participations where the Market Value exceeds the amount of consideration paid insofar such difference has not already been taken into account by the Taxable Person under paragraph (a) or (b) of this Clause or under Articles (20) and (34) of the Corporate Tax Law.
  - d. Any adjustments taken into account under paragraph (a) or (c) of this Clause by the Participation being liquidated in determining losses realised on the liquidation of its Participations insofar such adjustment has not already been



taken into account by the Taxable Person under paragraph (a), (b) or (c) of this Clause.

5. Without prejudice to Clause (4) of this Article, where the Participation was a member of a Tax Group, any liquidation loss recognised in relation to that Participation by the Tax Group or the Parent Company or any of its Related Parties shall be reduced by the following in the relevant Tax Period and preceding (7) seven Tax Periods, as applicable:
  - a. Tax Losses attributable to the Participation while it was a member of the Tax Group calculated in accordance with Article (7) of Ministerial Decision No. [301] of 2024 which have been taken into account in determining the Taxable Income of the Tax Group.
  - b. Dividends or other profit distributions made by the Participation while it was a member of the Tax Group that were eliminated for the purposes of determining the Taxable Income of the Tax Group under Article (42) of the Corporate Tax Law.
6. A loss cannot be realised by a Tax Group on the liquidation of a Participation where the Participation leaves the Tax Group due to the application of Article (10) of Ministerial Decision No. [301] of 2024.

## **Article 14 – Foreign Permanent Establishment Exemption**

1. Where a Taxable Person has taken into account Tax Losses incurred by the Taxable Person's Qualifying Foreign Permanent Establishments, the aggregate amount of the Tax Losses must be fully offset by either the aggregate Taxable Income from the Taxable Person's Qualifying Foreign Permanent Establishments, or by an adjustment made under Clause (2) of this Article, before the Taxable Person can elect to apply the Foreign Permanent Establishment exemption provided for in Article (24) of the Corporate Tax Law in the subsequent Tax Period.
2. Where a Taxable Person transfers all the assets and liabilities of a Qualifying Foreign Permanent Establishment to a Participation, resulting in the termination of the existence of that establishment, the Taxable Person can only benefit from the provisions under Article (23) of the Corporate Tax Law on the amount of income from the Participation in excess of the aggregate Tax Losses incurred by



the Taxable Person's Qualifying Foreign Permanent Establishments that have not been fully offset by the aggregate Taxable Income from the Taxable Person's Qualifying Foreign Permanent Establishments or any adjustments previously made under this Clause.

3. Where a Taxable Person transfers all the assets and liabilities of a Non-Qualifying Foreign Permanent Establishment to a Participation, resulting in the termination of the existence of that establishment, the Taxable Person can only benefit from the provisions under Article (23) of the Corporate Tax Law on the amount of income from the Participation in excess of the aggregate Tax Losses incurred by the Taxable Person's Non-Qualifying Foreign Permanent Establishments that have not been fully offset by the aggregate Taxable Income from any of the Taxable Person's Non-Qualifying Foreign Permanent Establishments or any adjustments previously made under this Clause.

## **Article 15 – Repeals**

Ministerial Decision No. 116 of 2023 referred to above shall be repealed but it shall continue to apply to Tax Periods that commenced before 1 January 2025.

## **Article 16 – Application of this Decision to Tax Periods**

This Decision shall apply to Tax Periods commencing on or after 1 January 2025.

## **Article 17 – Publication and Application of this Decision**

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