

# Newly Introduced Tax Residency Rules In UAE



## Tax Residency Rules

United Arab Emirates  
March 2023

## BACKGROUND

- Decision was issued by the UAE Cabinet of Ministers vide Decision No. 85 of for 2022 on 9th September 2022 for the purpose of determining the tax residency status of the individuals for UAE tax law or any other federal laws.
- The applicability of the determination of tax residency as per the definitions laid out in Decision No.85 of for 2022 is from 1st March, 2023.
- Further clarity to the definitions is brought about by Ministerial Decision No. 27 of 2023 on 22 February, 2023.
- The new definitions give a precise way of calculating the stay period in UAE that would constitute the status of Tax Resident of UAE for individuals or corporates.
- Introduction of the new domestic residency definition will help to make a reference to domestic laws of the UAE when bilateral law agreements have been entered into between UAE and any other country.





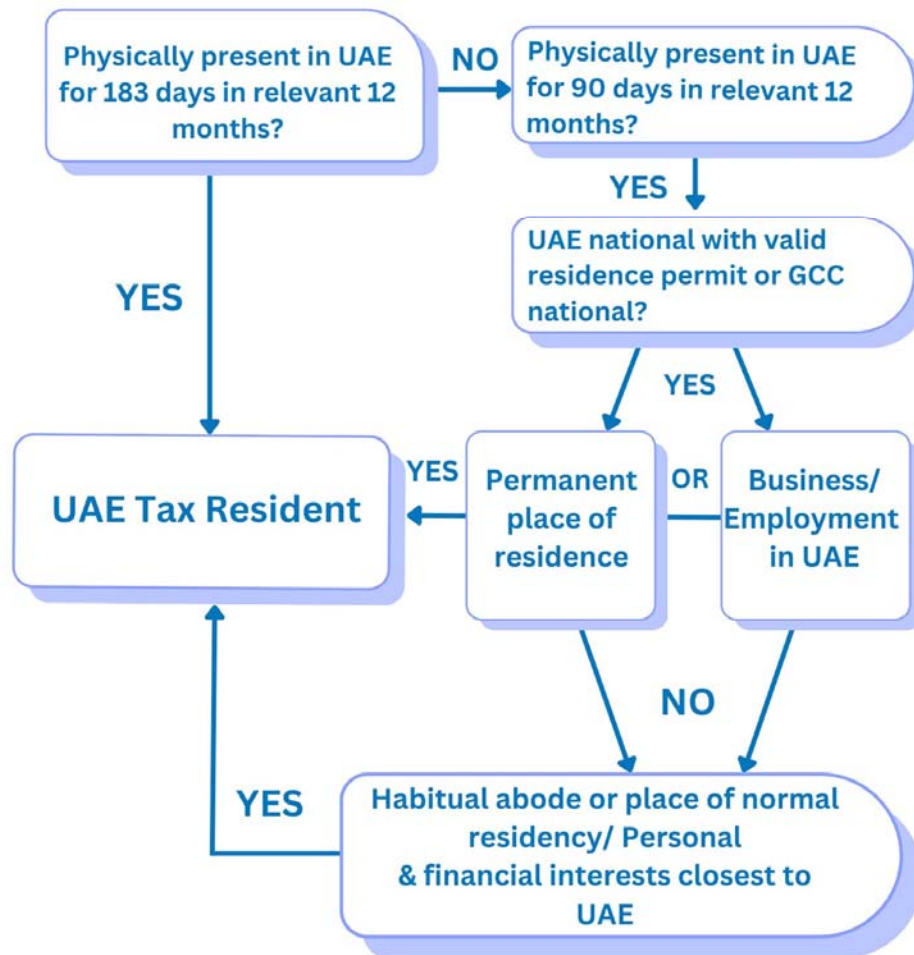
# TAX RESIDENCY STATUS FOR INDIVIDUALS

- *“A natural person shall be considered a Tax Resident in the State where any of the following conditions are met:*
  1. *If his usual or primary place of residence and the centre of his financial and personal interests are in the State, or he meets the conditions and criteria determined by a decision from the Minister.*
  2. *If he has been physically present in the State for a period of (183) one hundred and eighty-three days or more, within the relevant (12) twelve consecutive months.*
  3. *If he has been physically present in the State for a period of (90) ninety days or more, within the relevant (12) twelve consecutive months, and he is a UAE national, holds a valid Residence Permit in the State or holds the nationality of any member state of the Gulf Cooperation Council, and meets any of the following:*
    - *He has a Permanent Place of Residence in the State.*
    - *He carries on employment or Business in the State.”*



# INDIVIDUALS TAX RESIDENCY STATUS SUMMARY

## Individuals Tax residency status summary



## DECODING THE DEFINITION

- Primary place of residence is the place where a natural person spends most of his time as a part of his routine.
- Places where the financial and personal interests are the closest or are of greatest significance should be considered.
- Place of natural person's occupation, familial and social relations, cultural or other activities, place of business, place from which the property of the natural person is administered and any other relevant facts and circumstances is given due regards.
- Stay for a minimum period of 183 days within a 12 months' period would suffice the tax residency status in UAE.
- Stay for a period lesser than 183 days would require additional conditions to satisfy the Tax Residency criteria in Dubai which include:
  - a) minimum number of days of stay in UAE being 90 days, UAE national holding valid Residence Permit in the state with either a permanent place of residence in the state or undertaking employment/ business in UAE.
  - b) minimum number of days of stay in UAE being 90 days, holds nationality in any member state of the Gulf Cooperation Council with either a permanent place of residence in the state or undertaking employment/ business in UAE.
- However, if the stay is less than 90 days, it would not be possible to avail the status of Tax Resident in UAE.

# KEY TERMS IN THE DEFINITION

## Stay period in UAE:

- Presence in UAE would qualify as Tax resident if the conditions for number of days meet the criteria as explained above.
- All days or parts of the day in which an individual is present physically will be counted.
- Period of stay does not have to be a consecutive stay in the UAE.
- Some days can be disregarded from the count based on the exceptional circumstances which are outside the individual's control, which could not have been anticipated or prevented & stops individuals from leaving UAE when they originally planned.

## Permanent place of residence:

- A Permanent Place of Residence is a furnished house, apartment, room or any other form of dwelling.
- The natural person should occupy the property on a continuous basis and on a regular basis with some degree of permanency and stability. It cannot be a stay for a short duration.
- Such a place of residence can be rented or otherwise occupied by him as a dwelling and not necessarily owned.

## Employment/ Business in UAE:

- An employer should be incorporated/ formed/ recognised in UAE who enters into an employment contract with the natural person.
- Income derived by the natural person from one party in UAE would constitute remuneration for his labour performed in the state.
- The employment can be limited or unlimited and the work may be carried out on a full time or part time basis. Voluntary roles will not be classed as employment.
- Business can be said to be carried out by an individual when he/ she carries out any activity regularly, on an ongoing and independent basis.

# WATER AND SHARK'S TAKEAWAY

- Tax implications on the Individuals are quite clear with the Ministerial Decision No. 27 of 2023 and Cabinet Decision no. 85 of 2022.
- New UAE tax residency criteria laid out for individuals does not imply tax liability for individuals on personal income in UAE.
- Till date, there is no personal income tax for individuals' employment or other income.
- This new definition will result in determination of the tax residency status as per UAE tax laws when reference is made to the domestic tax laws of UAE.

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