Water And Shark®

UAE Unveils New Tax Residency Rules

Tax Residency Rules

United Arab Emirates

INTRODUCTION

Ahead of the implementation of Corporate Tax, the United Arab Emirates government has, effective form **1st March 2023,** proposed fresh Tax Residency guidelines for determining the Residential Status of Natural and Legal Persons in the country. These amendments have broadened the criteria, especially from the point of view of a Natural Person, for being designated as a UAE Tax Resident. which was earlier limited to a strict requirement of atleast **183 days** of physical presence in the country.

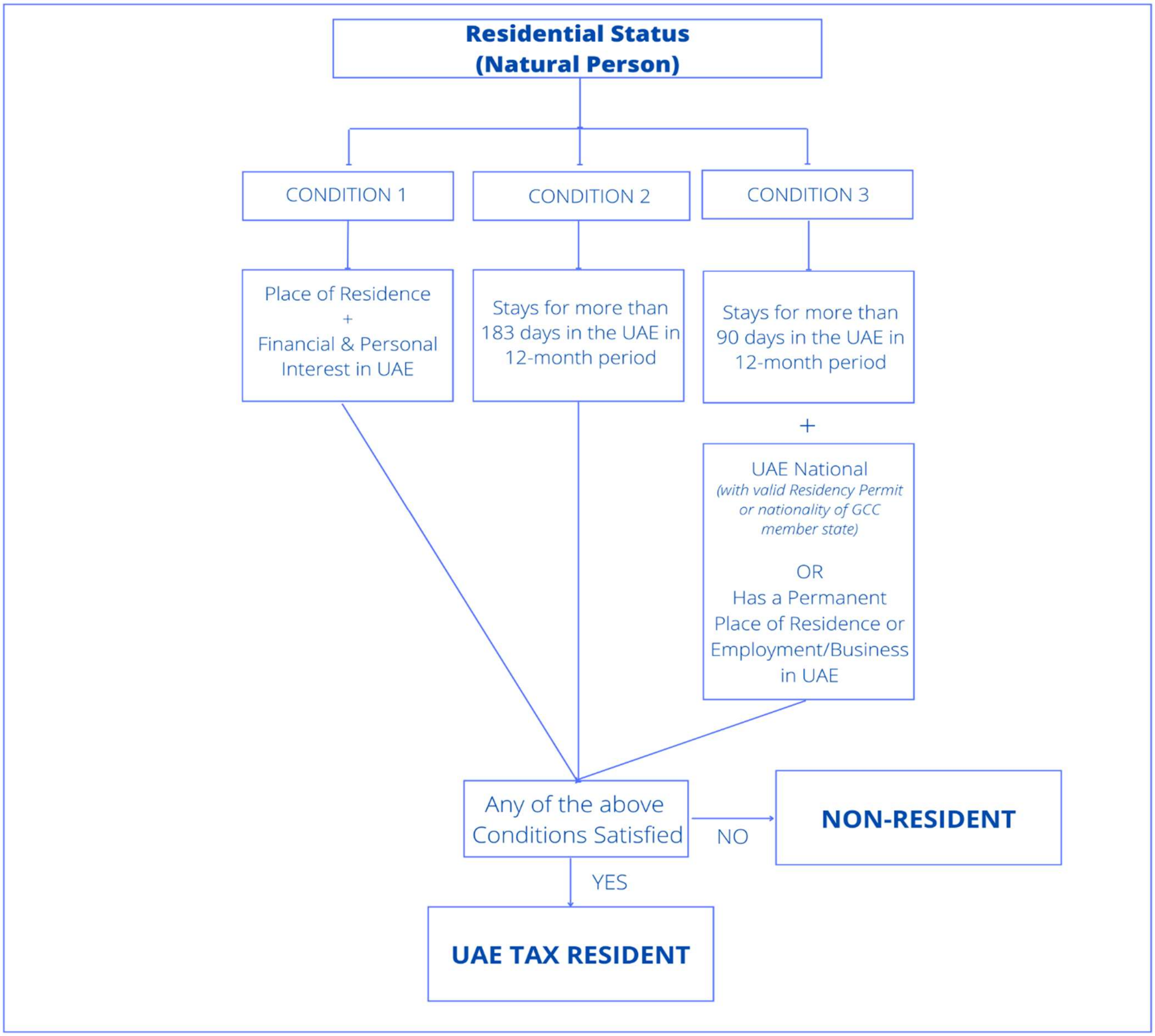
Where there isn't a Double Tax Agreement between your home country and country of residence, this can often place expats in a difficult position of confusion regarding their tax residency and resulting tax obligations, however, this step by the UAE goes some way to alleviate this.

CRITERIA DETERMINING THE RESIDENTIAL STATUS

A. NATURAL PERSON

A Natural Person (an Individual) shall be considered as a UAE Tax Resident, if:

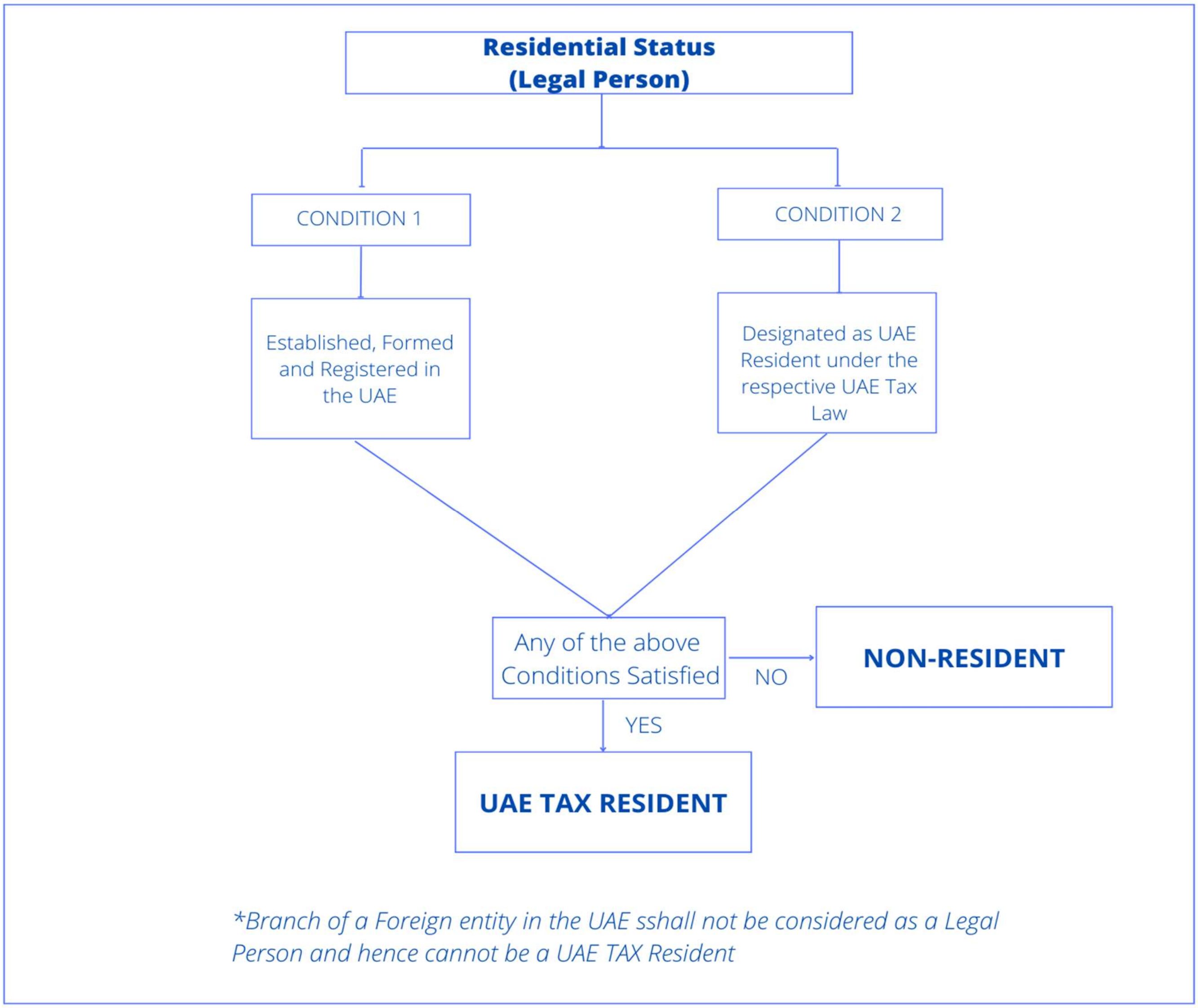
- The individual's usual or principal place of residence is in the UAE and the centre of their financial and personal interests are in the UAE or other conditions prescribed by the minister.
- The individual has been physically present in the UAE for a period of **183 days or more** in a **12-month period**.
- The individual has been physically present in the UAE for a period of **90 days or more** over a **12-month period** and is a UAE citizen, UAE resident, or GCC national who either has a permanent place of residence in the UAE; or carries out a job or business in the UAE.



B. LEGAL PERSON

A legal person (entity or establishment) shall be considered as a UAE Tax Resident, if the entity:

- Was established, formed, or registered in accordance with the UAE laws. However, branch of a legal entity, which is registered under a foreign legal person, shall not be considered a 'legal person' under the UAE tax regime; or
- Is treated as a tax resident under the applicable UAE tax law.



WHAT IS A TAX RESIDENCY CERTIFICATE?

A Tax Residency Certificate (TRC) is a certificate issued by the Federal tax Authority upon request to enable applicants to benefit from the Double Tax Avoidance Agreements (DTAA) on income signed by the UAE.

A person who falls under the definitions of either a "Legal Person', or "Natural Person" can submit an application to the Federal Tax Authority ("FTA") and get a Tax Domicile Certificate issued in his name. The FTA shall ensure the person has met all the conditions as the Legislation and at its discretion issue the certificate.

PREVAILING OF INTERNATIONAL AGREEMENTS

United Arab Emirates (UAE) has entered into Double Tax Avoidance Agreements (DTAA) with more than 130 countries worldwide. These International Agreements are inclusive of clauses citing specific criterias determining the Residential Status. In case a person falls under any of the provisions of any international agreement, entered into by the UAE, for the determination of his tax domicile, the provisions of the agreement shall supersede the provisions of this Legislation, for the purposes of the International Agreement only.

WATER AND SHARK'S TAKEAWAY

As an effort to adapt and stay in pace with the evolving tax landscape and be more in line with Global Compliance Framework, UAE has introduced new statutory definitions as well as key amendments broadening the criterias determining the Tax Residency in UAE, particularly for natural persons. Previously, the criteria determining tax residency was limited to a strict requirement of atleast 183 days of physical presence in the country.

With the introduction of Corporate Tax in the UAE, these criterias are crucial and shall aid in determining the applicability and the scope of the upcoming Corporate Tax on Businesses and Natural Persons.

It is pertinent to note that, with the introduction of the 90-Days criteria coupled with the permanent place of Residence and Employment requirement, this may result into having many natural persons attract the Dual Residency Status. Hence, in such cases, provisions contained under **Article 4** of the Double Taxation Avoidance Agreements shall require due deliberation.

For Instance, an Indian citizen having a business connection in India as well as UAE having his stay divided between India and UAE might result in Dual Residency. Such cases shall require careful examinations of **"Tie-Breaker"** rule contained under Article 4 of India-UAE DTAA. Hence, Water and Shark recommends that for such **"Global Persons"/ "Global Executives"/ "Global Businessmen"** having significant ties abroad, careful examination of potential Double Tax and the applicable credits need to be checked.

In a recent judgement passed by the ITAT in ***"ITO (International Taxation), Mumbai V. Shri Rajeev Suresh Gehi",*** it can be clearly observed how Tax Domicile Certificate and the corresponding Indo-UAE treaty provisions has provided resultant relief to the assessee.

For additional clarifications, contact the International Tax Desk of Water And Shark UAE.

AUTHORED BY

CA. Adv. Harsh Patel, **International Tax & Corporate Lawyer**

Founder & Managing Partner-Water and Shark

: +971 56 545 6055

&

Adnan Khan, **UAE Tax and Regulatory Services**

Manager-Water and Shark UAE

: +971 54 706 8741

DISCLAIMER

Water and Shark refers to global organization and may refer to one or more member firm of Water and Shark International Inc. (WASII) WASII and its member firms are not a worldwide partnership. WASII does not provide services to client. Please visit website www.waterandshark.com for more details about WASII and its member firms.

This Content has been prepared by Water and Shark UAE a member firm of Water and Shark International Inc. The information provided through this insight is merely informational and should not be construed as solicitation. In case a person acts relying on any information in this insight, W&S UAE, shall not be liable for the consequences thereof. No entity in Water and Shark network shall be responsible for any loss whatsoever sustained by any readers who relies on this content.

For More Details, Contact Us

+971 4 382 7869
uae@waterandshark.com
www.waterandshark.com