

UAE Tax Alert - Clarification on securities 'held for investment purposes'

Key aspects covered in DET's clarification

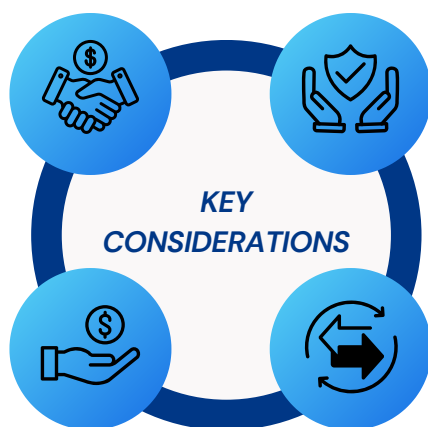
- 01 Under Ministerial Decision No. 265 of 2023, **holding of shares or other securities for 'investment purposes'** shall be classified as a Qualifying Activity, when held for an *uninterrupted period of at least 12 months*.
- 02 The Free Zone Guide issued by FTA further provides that 'investment purpose test' is satisfied even when shares or securities are sold *prior* to completion of 12 months, provided **intention to hold** can be evidenced.
- 03 Dubai Department of Economy and Tourism ('DET') has issued a clarification which highlights key considerations to *substantiate an investor's 'intention to hold'* shares or securities for Qualifying Activity purposes.

Circumstances of acquisition

Reason and how the shares or securities were acquired

Circumstances of disposal

Reason and how the shares or securities were disposed



Duration of ownership

Time period for which shares or securities were held

Frequency of transactions

Number of similar transactions involving shares or securities

Other factors

Other indicative factors include accounting treatment, percentage of ownership and mode of financing of acquisition.

Main principle

The 12-month deeming provision does not override the principle of Qualifying Income in case shares or securities are actually '*held for investment purposes*'.

Participation Exemption

The clarification is however **not** issued in the context of Participation Exemption, where a similar test of a continuous ownership period of twelve months is applicable.

Key takeaways

1

The clarification holds relevance for investment holding entities based in Free Zones that aim to claim the Qualifying Free Zone benefit of 0% tax rate on Qualifying Income under UAE Corporate Tax Law.

2

It can be inferred that investment income shall be considered Qualifying Income if there existed an evident 'intention to hold' such investments for more than 12 months, even if the same are ultimately sold earlier.

The DET oversees the emirate's business and tourism sectors but does not have legislative authority over corporate tax matters. Nonetheless, its interpretations are generally regarded as closely aligned with those of the UAE tax authorities, making this clarification (even though not legally binding) a strong indicator of the intended application of the UAE Corporate Tax law.

Our Team



G Vijay Krishnan

Managing Partner

vijay.krishnan@upnorthadvisors.in



Pranuve Subramanian

Associate

pranuve@upnorthadvisors.in