

In the name of God, the Most Gracious, the Most Merciful

United Arab Emirates

Court of the Ruler of Ajman

No. (3) of 2024

**Law**

**Concerning the Tax on Foreign Banks Operating in the Emirate of Ajman**

We, Humaid bin Rashid Al Nuaimi, Ruler of the Emirate of Ajman,

- Having reviewed the Constitution of the United Arab Emirates,
- And Federal Law No. (14) of 2018 concerning the Central Bank and the Regulation of Financial Institutions and Activities, and its amendments,
- And Federal Law No. (28) of 2022 concerning Tax Procedures and its executive regulations,
- And Federal Decree-Law No. (47) of 2022 concerning the Taxation of Corporations and Businesses, and its amendments,
- And Emiri Decree No. (11) of 2011 issuing the Financial Law of the Government of Ajman,
- And Emiri Decree No. (15) of 2012 concerning the Department of Finance in Ajman, and its amendments,
- And Emiri Decree No. (5) of 2017 concerning the Financial Audit Authority in Ajman,
- And Emiri Decree (19) of 2017 concerning the collection of tax from branches of foreign banks operating in the Emirate of Ajman,
- And Emiri Decree No. (2) of 2018 concerning the Legislation Committee in the Emirate of Ajman,

And based on the approval of the Legislation Committee, we have issued the following law:

**Article (1) Definitions**

The following words and phrases, wherever they appear in this Law, shall have the meanings assigned to each of them, unless the context requires otherwise:

The State: The United Arab Emirates.

The Emirate: The Emirate of Ajman.

The Central Bank: The Central Bank of the United Arab Emirates.

The Ruler's Representative: The Ruler's Representative for Administrative and Financial Affairs.

The Department: The Department of Finance.

The Authority: The Financial Audit Authority in Ajman.

Corporate Tax Law: Federal Decree-Law No. (47) of 2022 concerning the Taxation of Corporations and Businesses, and its amendments.

The Unified Financial System of the Government of Ajman: Emiri Decree No. (11) of 2011 issuing the Financial Law of the Government of Ajman, its executive regulations, and any other complementary financial systems.

The Tax: The tax imposed on the Taxable Person under the provisions of this Law.

Foreign Bank: A foreign bank licensed by the Central Bank to operate in the State, in accordance with the legislation applicable to it.

Taxable Person: The foreign bank and its branches licensed by the Central Bank to operate in the Emirate.

Tax Period: The period for which the Taxable Person must file the tax return and calculate the due tax.

Taxable Income: The income earned by the Taxable Person in the Emirate during the tax period, which is calculated in accordance with the provisions of this Law.

Tax Return: The information and data that the Taxable Person must submit to the Department, in accordance with the decisions it issues in this regard and the forms approved by it.

The Auditor: Any person authorized by the Authority to audit the Taxable Person.

Tax Audit: The procedure undertaken by the Auditor to examine the commercial records, books, accounting documents, or any information or data related to the tax due from the Taxable Person.

Tax Assessment: The decision issued by the Department determining the amount of tax due from the Taxable Person, based on the results of the tax audit.

Voluntary Disclosure: The notification submitted by the Taxable Person to the Department in accordance with the provisions of this Law and the decisions issued thereunder, in which it informs the Department of any error, omission, or oversight in the tax return.

Tax Evasion: The use of illegal means by the Taxable Person resulting in the reduction of the amount of tax due, non-payment thereof, or the refund of amounts not entitled to be refunded.

Tax Registration: A procedure undertaken by the Taxable Person to register with the Department.

Tax De-registration: A procedure by which the registration of the Taxable Person with the Department is cancelled.

## **Article (2) Scope of Application**

The provisions of this Law shall apply to all foreign banks operating in the Emirate, including foreign banks licensed within Free Zones.

### **Article (3) Tax Rate**

- a. An annual tax of (20%) shall be imposed on the taxable income of foreign banks.
- b. Notwithstanding the provision of paragraph (a), a foreign bank operating in the Emirate for the first time shall be subject to a tax rate of (0%) for a period of two years starting from the date it is licensed to conduct its business, without prejudice to all the obligations stipulated in this Law for the Taxable Person.

### **Article (4) Avoidance of Double Taxation**

The corporate tax rate applied in accordance with the aforementioned Corporate Tax Law shall be deducted from the percentage referred to in paragraph (a) of Article (3) if the foreign bank pays the tax under the Corporate Tax Law, to avoid double taxation.

### **Article (5) Tax Registration**

The Taxable Person must register with the Department within three months from the date of issuance of this Law for existing foreign banks in the Emirate, and from the date of issuance of the commercial license for new foreign banks licensed to conduct their business in the Emirate, in accordance with the provisions and procedures established by the Department.

### **Article (6) Calculation of Taxable Income**

Subject to the applicable federal legislation in this regard, the taxable income shall be calculated in accordance with the accounting policies followed by the foreign bank.

The following shall be considered when calculating the taxable income:

a- The rules and regulations adopted by the Department regarding the following:

1. How to calculate shared revenues and shared expenses.
2. Head office expenses and regional management expenses.
3. Unrealized losses and gains from taxable income.
4. Profits that are not included in the income statement.
5. Any other matters necessary for calculating taxable income.

b- The provisions of the Corporate Tax Law and the decisions issued thereunder in cases not stipulated in the rules and regulations adopted by the Department for calculating taxable income.

### **Article (7) Filing the Tax Return and Paying the Tax**

a - The Taxable Person must submit to the Department, within a period not exceeding nine months from the end of the relevant tax period, the following:

1. The tax return for the ended tax period, according to the form approved by the Department in this regard.
2. The financial statements and notes of the Taxable Person.
3. The amount of tax due for the ended tax period, supported by documents confirming how it was calculated.
4. The tax rate imposed on it and the amount of tax it paid in accordance with the Corporate Tax Law.

b- The financial statements and notes of the foreign bank must be approved by a certified external auditor.

c - Any tax return submitted to the Department shall be considered unacceptable if it does not include the basic data specified in the form approved by the Department.

d- The Taxable Person is responsible for the accuracy of the information and data contained in the tax return, financial statements, notes, and all other data and information submitted to the Department or the Authority.

#### **Article (8) Voluntary Disclosure**

a- If the Taxable Person discovers that the tax return submitted to the Department is incorrect, resulting in the calculation of the tax due under the provisions of this Law being less than it should be, it must correct the submitted return by means of a voluntary disclosure and pay the due financial difference within thirty working days from the date of becoming aware of it.

b- If the Taxable Person discovers that the tax return submitted to the Department is incorrect, resulting in the calculation of the tax due under the provisions of this Law being more than it should be, it may in this case submit a voluntary disclosure within thirty working days from the date of becoming aware of it, and shall notify the Department of the appropriate refund mechanism, either through its bank account or by considering the difference as an advance payment towards the tax due for the subsequent tax period.

c- The voluntary disclosure referred to in paragraphs (a) and (b) of this Article shall be submitted in accordance with the forms and mechanisms approved by the Department in this regard.

#### **Article (9) Auditing the Tax Return and Voluntary Disclosure**

a- The Department shall refer the tax returns, financial statements, notes, data, information, documents, and voluntary disclosures submitted by the Taxable Persons to the Authority.

b- The Authority shall audit the tax returns, financial statements, notes, data, information, documents, and voluntary disclosures referred to it by the Department,

verify their accuracy, and state the results of the audit in reports submitted to the Department in this regard, attaching proof that the Authority has notified the Taxable Person of the audit results.

#### **Article (10) Tax Audit**

a- The Auditor shall conduct a tax audit of the Taxable Person to verify its compliance with the provisions of this Law, either at the Authority's premises or at the place where the Taxable Person

conducts its business or keeps its records. In this case, the Taxable Person must be notified at least five working days before the date of conducting the tax audit.

b- For the purpose of carrying out the tax audit, the Auditor shall have the right to access all documents, information, records, and data at the place where the Taxable Person conducts its business or keeps its records, provided they are related to the subject of the tax.

c- Notwithstanding what is stated in paragraph (a) of this Article, the Auditor has the right to enter any place where the Taxable Person conducts its business or keeps its records, without prior notification of the tax audit process, in any of the following cases:

1. If the Authority has serious reasons to believe that the Taxable Person is participating or involved in tax evasion or is hiding data or information related to the tax.
2. If the Taxable Person, who was previously notified of the tax audit, proceeds to prevent the Auditor from entering the place where the tax audit is to be conducted.

d- The tax audit shall be conducted during the official working hours of the Authority. By a decision of its Director-General, in case of necessity, the tax audit may be conducted outside these hours.

e- The person subject to the tax audit and any person whose work is related to the tax audit process must provide all possible facilities and assistance to the Auditor to enable them to perform their duties.

f- The Authority has the right to audit any matter that has been previously audited if new information emerges that could affect the outcome of the tax audit process.

#### **Article (11) Obtaining Records and Documents**

During the tax audit process, the Auditor may request to obtain the original records and documents, copies thereof, or seize them, in accordance with the regulations specified by the Authority in this regard.

#### **Article (12) Rights of the Person Subject to Tax Audit**

The person subject to the tax audit has the right to the following:

1. Request the Auditor to show their identification card.
2. Obtain a copy of the tax audit report after its completion.
3. Have a representative present during the tax audit process that takes place at their place of business or where their records are kept.
4. Obtain copies of the records or documents that are seized or taken into possession during the tax audit process.

### **Article (13) Estimated Tax Assessment**

The Department shall issue a tax assessment on an estimated basis as it deems appropriate if it is unable to determine the tax considered due for payment. The Department must amend this assessment if new information emerges after its issuance, and notify the Taxable Person of these amendments within ten working days from the date of the amendment.

### **Article (14) Notification of Tax Audit Results**

The Authority shall notify the Taxable Person of the tax assessment within ten working days from the date of completion of the tax audit, sending a copy thereof to the Department.

### **Article (15) Objection to Due Tax and Penalties**

a- The Taxable Person may object to the Department regarding the amount of tax or penalty imposed on it under this Law. The acceptance of this objection is conditional on the following:

1. The objection must be in writing, reasoned, and supported by corroborating documents and facts.
2. The objection must be submitted within twenty working days from the date of being notified of the tax assessment and the amount of due tax or the imposed penalty.
3. At least 20% of the amount of the due tax or the imposed penalty must be paid.

b- A committee shall be formed by a decision of the Director-General of the Department to study the objection submitted by the Taxable Person. The formed committee must verify the conditions specified in paragraph (a) of this Article before studying the objection.

c- The Department shall submit the committee's recommendations regarding the objection to the Ruler's Representative within thirty working days from the date of submitting the objection that meets the conditions.

d- The objection shall be decided by a decision from the Ruler's representative within ten working days from the date the recommendations are submitted to him. The decision issued in this regard is considered final and may only be appealed before the competent court.

e- The Department shall notify the Taxable Person of the decision issued on the objection within five working days from the date of its issuance.

#### **Article (16) Penalty for Tax Evasion**

a- Without prejudice to any more severe penalty stipulated in any other legislation in force within the State, anyone who evades paying tax by committing any of the acts stipulated in paragraph (b) of this Article shall be punished with a financial penalty equivalent to double the amount of the evaded tax.

b- A Taxable Person is considered to be evading tax if they commit any of the following acts:

1- Submitting an incorrect tax return and failing to submit a voluntary disclosure about it within the period specified by this Law.

2- Intentionally refraining from paying the tax due or the differences resulting from the tax audit process.

3- Intentionally reducing the actual value of the taxable income.

4- Tampering with accounting data, or providing incorrect, incomplete, or forged information, records, or statements.

5- Destroying or concealing documents, data, or information that must be kept and provided to the Department or the Authority.

6- Preventing or obstructing the auditor from performing their duties in a way that leads to tax evasion.

7- Intentionally committing or refraining from any other act that would lead to the total or partial evasion of tax.

c- Without prejudice to the liability of the Taxable Person for tax evasion, if it is proven that a third party directly participated in or caused the tax evasion, the same penalty imposed on the Taxable Person shall be imposed on them independently.

#### **Article (17) Penalty for Late Payment of Tax or Fine**

If the Taxable Person is late in paying the tax due or the fine imposed on them, whether in whole or in part, from the payment date specified by this Law and the decisions issued thereunder,

a financial penalty of 2% of the value of the unpaid tax or fine shall be imposed for each month of delay, and a part of a month shall be considered a full month.

#### **Article (18) Administrative Violations and Fines**

a- An Amiri Decree shall specify the acts that constitute an administrative violation of the provisions of this Law and the decisions issued thereunder, and the financial fine prescribed for each, provided that the value of the fine imposed for each violation does not exceed (500,000) five hundred thousand dirhams.

b- The value of the financial fine referred to in paragraph (a) of this Article shall be doubled in the event of repeating the same administrative violation within two years from the date of committing the previous administrative violation, provided it does not exceed (1,000,000) one million dirhams.

#### **Article (19) Obligation to Pay Tax**

The imposition of the financial fines stipulated in Articles (16), (17), and (18) of this Law does not prejudice the Taxable Person's obligation to pay the tax due.

#### **Article (20) Judicial Enforcement Powers**

The employees of the Authority who are designated by a decision from the Minister of Justice shall have the capacity of judicial enforcement officers in proving acts committed in violation of the provisions of this Law and the decisions issued thereunder. For this purpose, they shall have the right to issue the necessary seizure reports and seek the assistance of police officers when necessary.

#### **Article (21) Notification of Decisions and Procedures**

a- The Department and the Authority, each within its competence, shall notify the Taxable Person of the decisions and procedures related to the application of the provisions of this Law and the decisions issued thereunder, at the address specified by them and by the means agreed upon between them and the Taxable Person, unless they are notified by the Taxable Person of a change of address.

b- The notification made in accordance with the provisions of paragraph (a) of this Article shall be considered valid and shall have its legal effects.

#### **Article (22) Seeking Assistance from Government Entities**

Government entities in the Emirate must fully cooperate with the Department and the Authority to enable them to apply the provisions of this Law and the decisions issued thereunder, whenever requested to do so.

#### **Article (23) Maintaining Confidentiality**

a- Employees of the Department and the Authority are obligated to maintain the confidentiality of information and data they have obtained or accessed while applying the provisions of this Law and the decisions issued thereunder and not to disclose it. Their obligation to maintain this confidentiality continues even after the end of their service, under penalty of liability.

b- Anyone who obtains information or data related to the application of the provisions of this Law and the decisions issued thereunder is obligated not to disclose or use the information except for the purpose for which it was obtained or upon the request of the competent judicial authority, without prejudice to the resulting liability when applicable.

#### **Article (24) Rules for the Collection of Public Funds**

The rules and procedures stipulated in the Unified Financial System of the Government of Ajman shall apply when the Taxable Person refrains from paying the due tax or the fines imposed on them under this Law and the decisions issued thereunder.

### **Article (25) Duration of Tax Obligations**

Unless a specific time period is set for carrying out any obligation or procedure under this Law and the decisions issued thereunder, the Department or the Authority shall grant the Taxable Person a period commensurate with the nature of the obligation or procedure they are tasked with, provided that this period is not less than five working days and not more than forty working days.

### **Article (26) Rules for Calculating Time Periods**

When calculating the time periods specified under this Law and the decisions issued thereunder, the following shall be observed: 1- The day of notification or the day on which the event that gave rise to the period occurred shall not be included in the period. 2- The period shall be extended to the first working day if the last day of the period falls on a weekend or an official holiday.

### **Article (27) Statute of Limitations**

- 1- Except in cases of proven tax evasion, the Department may not conduct a tax assessment after five years from the end of the relevant tax period.
- b- In the case of proven tax evasion, the Department may conduct a tax assessment within fifteen years from the end of the tax period during which the tax evasion occurred.
- c- The tax due and the fines imposed under this Law and the decisions issued thereunder, of which the Taxable Person has been notified, shall not be subject to a statute of limitations and may be claimed at any time.

### **Article (28) Proof**

- a- The burden of proving the correctness of the tax return lies with the Taxable Person.
- b- The burden of proving the commission of any of the violations stipulated in this Law and the decisions issued thereunder lies with the Department or the Authority, as the case may be.

### **Article (29) Application of the Corporate Tax Law**

Without prejudice to the nature of the tax imposed by this Law and the roles assigned to the Department and the Authority according to its provisions, the rules, conditions, procedures, controls, and periods stipulated in the Corporate Tax Law and the decisions issued thereunder relating to the following shall apply:

- 1) The tax period
- 2) Any other matters not stipulated in this Law and the decisions issued thereunder.

### **Article (30) Currency**

For the purposes of implementing this Law, all amounts must be estimated in UAE Dirhams, and any amount estimated in another currency must be converted according to the exchange rate set by the Central Bank, unless the Department decides otherwise.

### **Article (31) Retention of Records and Documents**

The Taxable Person must retain all records and documents related to the tax for a period of not less than seven years after the end of the related tax period, to enable the Department and the Authority to refer to them in cases that require it.

### **Article (32) Tax Deregistration**

- 1- A Taxable Person registered with the Department must apply for tax deregistration if they cease to conduct the activity as a result of dissolution, liquidation, or for any other reason, within three months from the date of cessation.
- b- Deregistration is not permitted until the tax and administrative fines due are paid in full and all due returns, including the tax return for the tax period in which the cessation occurred, have been submitted.
- c- If the Department approves the deregistration request, the registration for tax purposes will be canceled effective from the date of cessation of the activity.
- d- The Department may set any other conditions and controls it deems necessary for tax deregistration.

### **Article (33) Transitional Provisions**

- a- This Law applies to tax periods that begin on or after its provisions come into effect.
- b- The rules, procedures, and periods stipulated in the aforementioned Amiri Decree No. (19) of 2017 shall apply to tax periods that began before the provisions of this Law came into effect.

### **Article (34) Devolution of Revenues**

The proceeds of the tax and fines imposed under this Law and the decisions issued thereunder shall accrue to the public treasury account of the Government of Ajman.

### **Article (35) Issuance of Executive Decisions**

The Department shall issue the decisions necessary to implement the provisions of this Law.

### **Article (36) Repeals**

Subject to the provision of paragraph (b) of Article (33) of this Law, the aforementioned Amiri Decree No. (19) of 2017 is repealed, as is any provision in any other legislation to the extent that it contradicts the provisions of this Law.

**Article (37) Entry into Force and Publication**

This Law shall come into effect as of 01/01/2025, and shall be published in the Official Gazette.

Issued by us on this day, Thursday, the 7th of Dhul-Hijjah 1445 Hijri, corresponding to the 13th of June 2024 Gregorian.

Humaid bin Rashid Al Nuaimi

Ruler of the Emirate of Ajman