

## UAE CORPORATE TAX LAW

CT Alert - 7 JUNE 2023

### Ministerial Decision No. 126 of 2023 | General Interest Deduction Limitation Rule

The Ministry of Finance (MOF) has issued Decision No. 126 of 2023 on General Interest Deduction Limitation Rule for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

#### Summary of Decision

As per the provisions of Article 30 of the Decree-Law, Net Interest Expenditure (NIE) shall be deductible up to 30% of Accounting Earnings Before Interest, Tax, Depreciation and Amortisation (EBITDA). Under the provisions of this General Interest Deduction Limitation Rule ('the Rule'),

#### SCENARIO

# 01

Annualised NIE in the relevant Tax Period is less than or equal to AED 12 million

Amount of deduction available:  
100% of interest NIE



#### SCENARIO

# 02

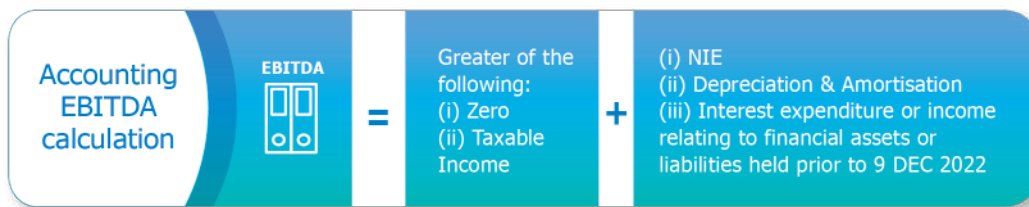
Annualised NIE exceeds AED 12 million

Amount of deduction available:  
Higher of (i) AED 12 million; or  
(ii) 30% of accounting EBITDA



The following shall be considered as interest expenditure or income, as the case may be, for the purposes of this Rule:

- Returns on a financial asset or a liability comprising of interest or other payments, in the nature of interest, regardless of the classification thereof.
- All amounts incurred in connection with raising finance (such as guarantee fees, arrangement fees, commitment fees or other fees of similar nature).
- Interest component on any instruments used to hedge risks directly connected with raising the finance.
- Interest equivalent component on Islamic Financial Instruments.
- Interest component of a finance or a non-finance lease computed in accordance with the Accounting Standards.
- All foreign exchange gains and losses accruing from Interest.
- Income or expenditure attributable to any interest capitalised, in accordance with the Accounting Standards.



Interest income and expenditure relating to Qualifying Infrastructure Projects to be excluded in the above calculation.

### Exemptions from the Rule

- NIE attributable to debt instruments or other liabilities for which the terms were agreed prior to 9 December 2022, being lower of the following:
  - NIE on the debt instrument or the liability for the Tax Period;
  - NIE that would have arisen on the debt instrument or the liability as they stood on 9 December 2022.
- NIE incurred by a Qualifying Infrastructure Project Person (QIPP).
  - QIPP is a Person responsible for the provision, maintenance, or operation of a Qualifying Infrastructure Project (QIP) or carries out any incidental or ancillary activity.
  - QIP is a project that creates long-lasting assets (more than 10 years) exclusively for the public benefit (transport, healthcare, utilities, education etc.) of the State, satisfying specified conditions.

### Tax Groups

- Pre-grouping unutilised NIE of a Subsidiary shall only be utilised against the Taxable Income that is attributable to that Subsidiary.
- Any unutilised NIE of a Subsidiary, except in the nature as referred above, shall remain with the Tax Group when such Subsidiary leaves the Tax Group.
- In the event of cessation of a Tax Group,
  - Where the Parent Company continues to be a Taxable Person - Carry forward NIE of the Group shall remain with the Parent Company.
  - Where the Parent Company ceases to be a Taxable Person - Carry forward NIE of the Group shall not be available to be offset against future Taxable Income of Subsidiaries, except to the extent of pre-grouping unutilised NIE.

### Key Takeaways

- The Decision aims at providing due relief to certain businesses, giving due weightage to the economic and industry factors.
- The businesses must maintain adequate documentation with regard to NIE attributable to debt instruments or other liabilities for which the terms were agreed prior to 9 December 2022 and calculations thereto.
- The businesses must maintain detailed calculation sheets demonstrating the allowable NIE for each Tax Period, pre-grouping NIE, effects of additions and deletions to the Tax Group, cessation of Tax Group etc.

#### Disclaimer

The above seeks to summarise the update from the relevant authority. The same may not be construed to be a written opinion on matters that may require specific examination of the Decree on a case-to-case basis.

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