

Economic Content in the UAE: briefly on the main changes that everyone should know

As you recall, on March 12, 2019, the Council of the European Union (hereinafter referred to as the “Council”) published a list of non-cooperative jurisdictions for tax purposes (hereinafter referred to as the “EU Black List”), which included the United Arab Emirates (“UAE”) and Oman. The reason for the inclusion of the UAE in the EU black list was the failure to comply with the requirements for economic content by the deadline of December 31, 2018 (see our publication on this topic). In the light of these events, on April 30, 2019, the UAE adopted Resolution of the Cabinet of Ministers No. 31 on the establishment of requirements for economic content (hereinafter - the “Resolution”).

To whom and how does the economic content requirement apply?

Economic content is essentially a combination of attributes and resources, the presence of which is necessary for the implementation of a particular type of activity. Requirements for economic content are presented to determine the “reality” of a legal entity and its operations.

The adopted Resolution applies to companies registered in the UAE (including, but not limited to, companies in the free economic zone) and applies to legal entities whose main activities are:

- Banking;
- insurance;
- fund management;
- Investment holding;
- Transportation;
- Financing and leasing;
- Distribution and service center;
- Holding companies and
- Intellectual property (IP).

Companies carrying out the above activities must satisfy the following requirements for economic content:

- Carry out appropriate activities in the UAE;
- Managed and supervised from the UAE;



- Have a sufficient number of qualified full-time employees in the UAE;
- Carry sufficient operating expenses in the UAE;
- Have a sufficient number of assets (office / equipment, etc.) in the UAE necessary for carrying out activities.

It is generally accepted that the concept of “sufficient” will be determined on an individual basis, depending on the characteristics of the company itself. Also, if the company carries out several types of activities, then it will need to comply with the requirements for economic content for each of these types of activities. In addition, the Decree contains requirements for corporate governance of companies, in particular with respect to the board of directors, its meetings held in the country, members of the board of directors, quorum and minutes of meetings of the board of directors.

What will happen now?

The inclusion in the EU blacklist does not mean that the country will remain there forever. Earlier, in 2017, the UAE was also included in the very first EU blacklist, however, already at the beginning of 2018, after making certain commitments to the EU, the UAE was able to go to Appendix 2 of the Council Conclusions (also known as the “gray list”). The EU Council may remove countries from its list after it is confirmed that these countries have reviewed and clarified EU concerns about their tax system. According to UAE officials, the country has committed itself to the EU within a specific time frame that will be implemented in the UAE in accordance with the internal legal process and constitutional requirements.

How will this affect the business?

Transnational corporations and international companies must take into account the stricter reporting and control rules imposed on them in order to increase the transparency of operations and conduct business in the UAE. It should be noted that the UAE was already included in the Black List earlier, but subsequently were able to successfully withdraw from it. We expect the story to happen again and the UAE will be removed from the list by the end of this year. Nevertheless, in the near future we expect the introduction of requirements for economic presence in the country (for example, the presence of an office and personnel), as well as the introduction of corporate income tax at a reduced rate. We also expect strengthened internal audit procedures for opening bank accounts. We strongly recommend that you make sure that your accounting documents are in good condition and that you consider starting to introduce certain attributes and signs of economic presence. We will be happy to advise you regarding the support of your company in the UAE, as well as identifying specific risks and consequences for your business.



Who we are?

Garant Business Consultancy DMCC is a boutique business advisory firm with wide expertise in business establishment and operation in the UAE market.

Garant has an extensive hands-on experience in advising on worldwide structuring assets as well as estate planning and wealth management.

Having supported establishment of more than hundreds of companies Garant is the best choice for those looking for well-trusted, diligent and quality-oriented business advisors.

Who will support you?



Alexander Marts
Managing Partner
t: +971 4 421 4335
e: A.MARTS@GARANT.AE



Assem Muratova
Senior Legal Adviser
t: +971 4 421 4335
e: ASSEM.M@GARANT.AE

Disclaimer

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or any other professional advice. The information herein is provided "as is" and without warranty of any kind, express or implied.

Garant disclaims all express and implied warranties with regard to the information and materials contained on this material, including without limitation implied warranties of merchantability, fitness for a particular purpose and non-infringement.

If you require any further information or explanations, or specific advice, please contact us and we will be happy to discuss matters further.

© 2019 Garant Business Consultancy DMCC. All Rights Reserved

