



## REVAMP OF TAX RESIDENCY RULES IN THE UAE

On 2 September 2022, the UAE Cabinet (Cabinet) issued Decision No. 85 of 2022 (Decision) redefining the criteria of tax residency for both individual and legal persons in the UAE.

The Decision introduces granular conditions to be met for a natural or legal person to be considered a tax resident of the UAE, as well as procedural aspects of the application for issuance Tax Residency Certificates (TRC/s). It also clarifies specific rules around the concept of tax residency in a bilateral treaty context.

While further clarifications are expected via Ministry Decision on conditions and criteria of usual or principal place of residence and center of financial and personal interests, the long-awaited announcement is a substantial step forward in aligning the UAE with international best practices.

### Key takeaways

#### When will it apply?

- From 01 March 2023.

#### What is the objective of the Decision?

- To define the requirements and conditions to be met by a Person – natural or legal – to be considered a UAE Tax Resident.

#### When would an individual be considered a UAE Tax Resident?

An individual will be deemed a tax resident in the UAE if he/she meets **any** of the following criteria:

- he/she has been physically present in the UAE for **183+ days** during the relevant 12-month period.
- he/she **i)** has been physically present in the UAE for **90+ days** during the relevant 12-month period, **ii)** holds a **valid residence permit** in the country [or nationality of any GCC State], **and iii)** has in the UAE
  - » a permanent place of residence<sup>1</sup> **or**
  - » a job or Business<sup>2</sup>.
- Does not meet any of the day counting tests but has his/her **i)** usual or principal place of residence and **ii)** center of his/her financial and personal interests in the country - per conditions and criteria to be specified by Ministry decision.

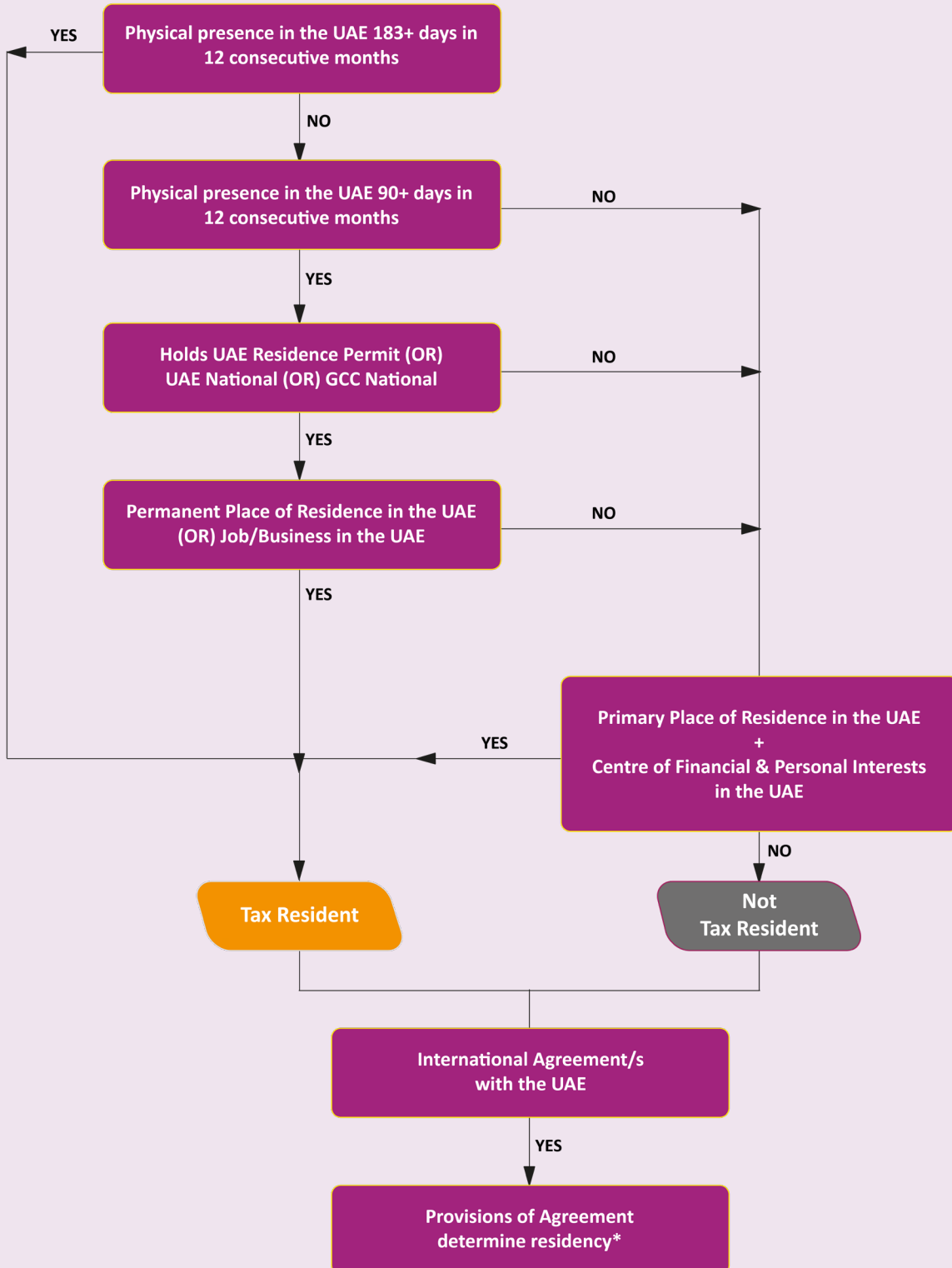
**See flowchart below for a better understanding!**

1. Available to the natural person at all times

2. Any activity conducted regularly, on an ongoing and independent basis, such as industrial, commercial, agricultural, professional, vocational, service or excavation activities or anything related to the use of tangible or intangible properties.

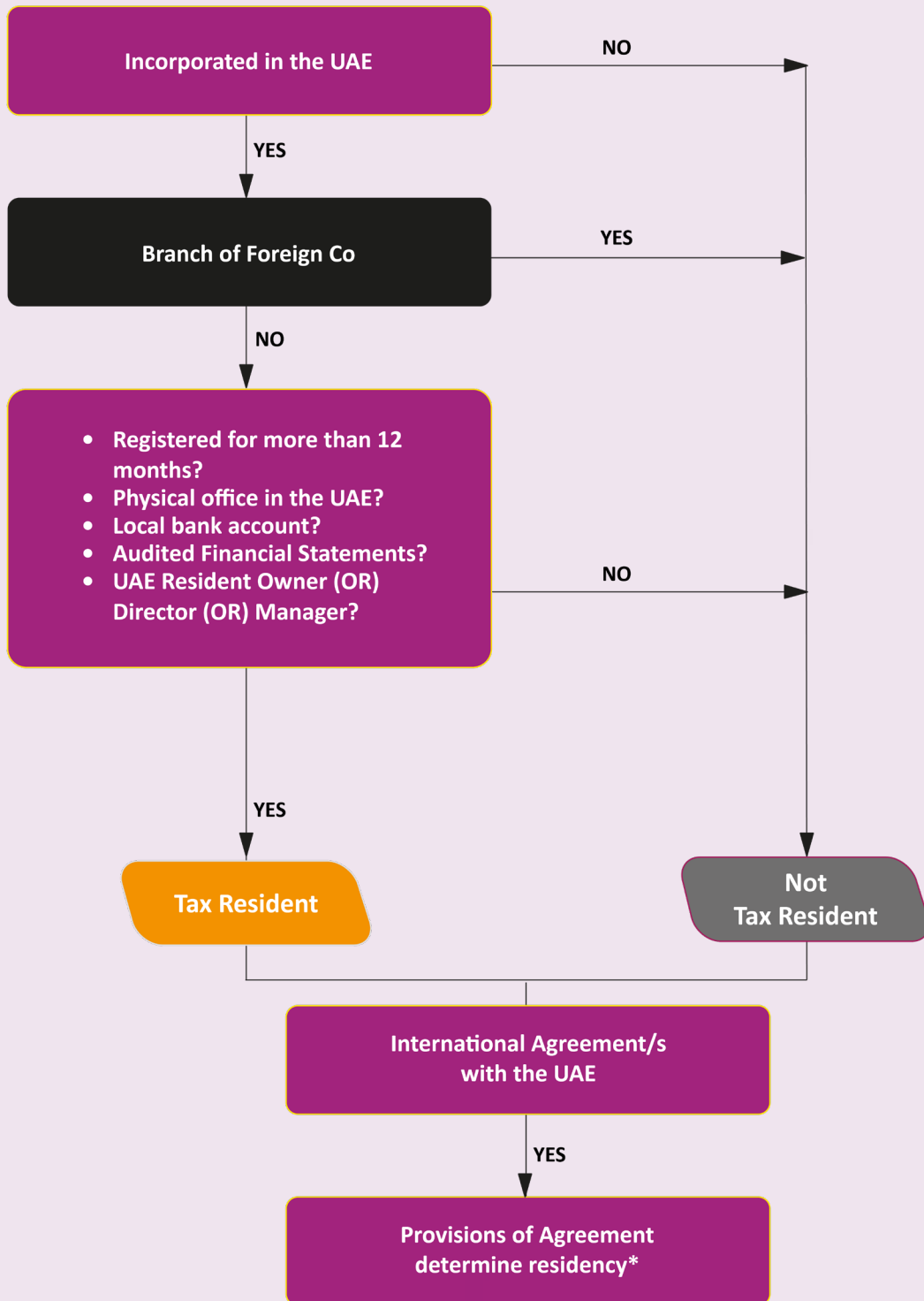


## TRC at a glance | Individual applicant/s



*\*Only for purpose of such international Agreement*

## TRC at a glance | Corporate applicant/s



*\*Only for purpose of such international Agreement*



## REVAMP OF TAX RESIDENCY RULES IN THE UAE

### When would a legal person be considered a UAE Tax Resident?

A legal person is considered a Tax Resident of the UAE if:

- It is incorporated or otherwise formed or recognized in the UAE; **or**
- It is otherwise considered a Tax Resident of the UAE under the applicable legislation in the UAE.
- UAE branches of a domestic or a foreign legal person are an extension of their “parent” or “head office” and are not considered separate legal persons. A branch of a foreign legal person registered in the UAE would therefore generally not be considered a Tax Resident of the UAE.

**See flowchart above for a better understanding!**

### What is a TRC?

- An official document issued by the Federal Tax Authority (FTA) evidencing the applicant’s formal status as a UAE resident with respect to a particular Double Taxation Avoidance Agreement (DTTs) between the UAE and a specific foreign jurisdiction.
- The core element in support of an application to seek the benefits of a DTT. A TRC is issued for a period of one [1] year for one [1] specific tax treaty.

### Why does the update matter?

- The revision addresses several gaps that existed under the previous regulations and practices of the FTA:
  - » To issue a TRC, the FTA demanded evidence of **stay for 180 days** on UAE territory [objective day-counting criteria]

- » Though a person could demonstrate a financial and personal nexus with the country [subjective nexus criteria], he/she could only obtain a TRC if he/she stayed in the UAE more than 180 days, leaving no chance for further explanations or subjective assessment beyond objective day-counting.

### What will be the impact of the regulations?

- **Clarity on the various paths available to qualify for TRC.**
- Increased attractiveness of the UAE for inbound immigration of targeted people, cementing the country’s safe haven status.
- Boost the use of the UAE’s family business ecosystem – holding and foundations in particular – thereby protecting value-generating locally based assets [businesses (often SME), real estate, portfolios]
- Encourage locally based entrepreneurs to take advantage of long-term visa scheme for themselves and their family.

### And the impact on International Agreements?

- If an International Agreement sets out certain conditions for determining tax residency, the provisions of that International Agreement on determining the tax residency shall apply for the purposes of this International Agreement.
- In such a case, for determining the tax residency, the Ministry of Finance will issue a decision specifying the form and manner of issuing TRCs.

### Who we are

We are a multi-services platform catering to a broad spectrum of clients – from individual entrepreneurs and local SMEs to wealthy international families to established blue-chip companies and multinationals. Our one-stop-shop offering is unique in the Middle East: a holistic and cross-disciplinary combination of a market-leading corporate services firm, a law firm’s specialist expertise and a regulatory & compliance services practice, all through one single platform.

We have broad experience in assisting clients with multi-jurisdictional interests in securing an alternative residence and domicile. Bringing together our tax and private wealth expertise, along with the broad capabilities of our sister fiduciary firm, our team can support our clients in all aspects of their immigration.

Headquartered in the UAE, we are an entrepreneurial firm for entrepreneurial clients.

### Who will assist you



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