

# LT in Focus

Tax & Legal



[Tax residency of individuals and legal entities](#)

[Permanent establishment](#)

[Tax treatment of dividends, interest and royalties](#)

[Income from immovable property](#)

[Capital gains](#)

[Income from shipping or aircraft operations](#)

[Other income](#)

[Business profits](#)

[Associates](#)

[An important update for individuals: employment income](#)

[Methods for eliminating double taxation](#)

[Limitation on benefits](#)

[Entry into force and termination](#)

## New Tax Treaty with the UAE is signed

Private companies and individuals have long been unable to access benefits typically offered by international tax treaties — the existing [DTT](#) signed with the UAE in 2011 applies only to government entities and sovereign wealth funds.

However, the development and strengthening of economic ties between Russia and the UAE gave rise to concerns regarding the revision of the DTT.

The negotiations were not easy, but successful.

A [new treaty](#) was signed on 17 February 2025.

It is expected to enter into force on 1 January 2026, provided that all necessary formalities, including the exchange of diplomatic notes, are completed in 2025.

The new DTT will apply to all tax residents of the UAE and Russia.

Let's explore its key provisions.

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## Tax residency of individuals and legal entities

The DTT contains all basic provisions for recognising individuals and legal entities as tax residents of the contracting states, as well as methods for dealing with residency conflicts.

Residency conflicts involving individuals will be settled consistently, based on the following principles:

- Permanent home location
- Centre of vital interests
- Habitual abode
- Nationality
- and by mutual agreement of the competent authorities of the parties to the DTT.

Residency conflicts involving other persons will be settled by mutual agreement between the competent authorities of the parties to the DTT (while also taking account of the head or main office location, actual place of management, place of incorporation, and any other significant factors).

It should be noted that any person who has legal residency status in the UAE, regardless of the payment of the Emirati income tax, will be treated as a resident of the UAE.

For example, companies that apply a zero corporate income tax rate in free zones, mining companies that are exempt from the corporate income tax, and some other persons will be treated as residents of the UAE for DTT purposes.

Therefore, the DTT provisions may still be applied even in the absence of legal double taxation.

Also be mindful that the Protocol to the DTT expressly mentions that residency certificates will not require legalisation or an apostille.

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## Permanent establishment

The DTT sets standard criteria for determining a permanent establishment that are in line with most other Russian treaties, i.e.:

- A place of management or operation
- A branch, office, factory, workshop
- A place of extraction of natural resources
- A building site; a construction, installation or assembly project; or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than twelve (12) months
- The provision of services, including advisory services, through employees or other personnel engaged for such purpose, but only where activities of that nature continue (for the same or a connected project) for more than six (6) months in any twelve (12) month period.

In addition, the DTT defines which activities of a 'preparatory or auxiliary character' are deemed not to constitute a permanent establishment.

It also contains anti-avoidance measures: the provisions regulating activities of a preparatory or auxiliary character will not apply in the event of any artificial separation of business activities of an enterprise or its associate enterprise (enterprises are deemed to be associated enterprises if one of them has control over the other, or both enterprises are under the control of another person, but only provided that the share of direct/indirect participation exceeds 50%).

Moreover, the DTT contains the definition of dependent and independent agents that coincides with the definition in the Russian Tax Code.

## Tax treatment of dividends, interest and royalties

The DTT with the UAE is based on the “10-10-10” formula:

Income	WHT rate	Comments
<b>Dividends</b>	10%*	The definition of dividends is quite broad. The term 'dividends' means income from shares, including income from the distribution of additional paid-in capital and reduction in share capital, or other rights, not being debt-claims, participating in profits, as well as other income, including income in the form of interest, which is subjected to the same taxation treatment as income from shares by the laws of the state in which the income has its source.  Dividends also include any payouts from collective financing schemes (other than real estate funds).
<b>Interest</b>	10%*	The definition of interest is also rather wide. The term 'interest' means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits; income from securities, income from bonds, and other income taxable as income from loans in accordance with the laws of the state in which the income has its source.
<b>Royalties</b>	10%*	The term 'royalties' means payments received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including software, films, patents, trademarks, designs, secret formulas, processes, industrial, commercial or scientific equipment, or information concerning industrial, commercial or scientific experience.

\* If such income is paid to another contracting state or its financial or investment institutions, it may be exempt from withholding tax.

It is important that the DTT enables claiming lower-rated withholding tax on the above income only where the recipient of the income is also its beneficial owner.

Moreover, the new treaty does not stipulate any additional criteria for reducing the WHT rate on dividends (participation share, investment value or taxation in the state of tax residence).

The DTT introduces additional restrictions on applying lower tax rates in relation to interest and royalties

where, owing to a special relationship between the debtor and the beneficial owner, the amount of interest and royalties to be paid differs from the amount which would have been agreed upon under similar conditions by independent parties.

Please note that DTT articles pertaining to dividends, interest and royalties do not apply if the main purpose, or one of the main purposes, of a person involved in the creation or transfer of shares, debts or other rights in respect of which income is paid is to take advantage of the DTT benefits.

## Income from immovable property

The DTT sets forth that income from immovable property is taxed where the property is located.

Immovable property is defined in accordance with the legislation of the country where it is located.

The provisions apply to income from the direct use, letting, or any other use of immovable property, including income received through real estate trusts and similar collective investment schemes that are primarily aimed at immovable property.

In other words, according to the DTT, income is not eligible for a WHT exemption, if the national legislation of the country where the immovable property is located provides for withholding tax on such income.

Please be aware that withholding tax is not yet applicable in the UAE; however, the situation may change in the future.

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## Capital gains

Gains from the sale of real estate are taxed where the real estate is located.

Gains from the sale of movable property attributable to a permanent establishment in another state may be taxed in that other state.

The gains of an enterprise engaged in international shipping and aircraft activities received from the sale of vessels and related property are taxed where the enterprise is located.

Gains from the sale of shares and other similar ownership interests, including those in partnerships, trusts, collective investment schemes deriving at least 50% of their value directly or indirectly from immovable property located in another state at any day during 365 days preceding the sale, are subject to withholding tax. The only exception is when shares/ownership interests are traded on a recognised stock exchange and the seller owns not more than 5% of such shares.

Gains from the sale of any other property are taxed in the state of which the seller is a resident.

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## Income from shipping or aircraft operations

The profits of an enterprise engaged in international shipping and aircraft activities are taxed where the enterprise is located.

That is, withholding tax is not applicable in Russia, where a fee is paid to a resident of the UAE for international transport services.

The provisions also apply to income from the lease of vessels (with/without crews), as well as the use, storage or lease of containers, provided that services involving the lease, use and storage are ancillary to the principal international shipping and aircraft activities.

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## Other income

Other income that is not expressly mentioned in the DTT is taxed at the location of the income source.

For example, other income paid from Russia to a company in the UAE will be subject to withholding tax at a rate of 25%.

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## Business profits

According to the DTT, business profits are taxed in the recipient's jurisdiction (in the absence of a permanent establishment).

This means, withholding tax is not payable with respect to business profits.

The profits of a permanent establishment are taxed at its location, but only to the extent attributable to the permanent establishment.

There shall be allowed as deductions expenses incurred by the head office for the purposes of the permanent establishment, if the deduction is envisaged by the laws of the country where the permanent establishment is located.

Moreover, unless otherwise provided for by the state of a permanent establishment, the profits of a permanent establishment can be determined through the allocation of total profits of the enterprise.

The profits of a permanent establishment are determined annually, using the same method. Changes are only permitted for valid reasons.

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## Associates

A cross-border transfer pricing adjustment to taxable profit is allowed under a mutual agreement procedure.

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## An important update for individuals: employment income

Employment income is generally taxed where the services are physically exercised.

However, there is an exception to this rule: individuals who are residents in one state are not taxed in another state where they work, if:

- They spend in this another state fewer than 183 days in any 12-month period beginning or ending in the fiscal year concerned
- Remuneration is not paid and is not included in expenses by the employer who is a resident of this another state.

A noteworthy development that distinguishes this DTT from all other treaties signed by Russia is that remote work/services under an agreement with a resident of one state performed/provided in the territory of another state will still be deemed as performed/provided in the territory of the first state.

In essence, according to the DTT, income of an individual who performs work/provides services in the territory of the UAE under an employment or work/service contract with a company in Russia will be taxed in Russia, and vice versa.

Apparently, the provision is in line with the recent amendments to the Russian Tax Code, according to which employment income from remote work abroad is deemed as income from the source in Russia and is subject to Russian PIT.

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## Methods for eliminating double taxation

Elimination of double taxation on income and capital is achieved by the deduction of the amount of tax withheld at source from the amount of tax payable in the country of residence.

The deducted amount cannot exceed the amount of tax payable and calculated before the deduction as per the national legislation of the taxpayer's residence country.

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## Limitation on benefits

The DTT provision regulating the entitlement to treaty benefits is in line with the requirements of the principal purpose test (PPT), as defined in the Multilateral

Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Instrument, MLI).

Thus, the DTT benefit will not apply, if there are reasons to believe that obtaining the benefit is one of the main purposes of an arrangement or transaction,

unless it is established that granting the benefit is in accordance with the object and purpose of relevant DTT provisions.

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## Entry into force and termination

The DTT will enter into force on 1 January 2026 provided that all the required administrative procedures are completed in 2025.

The DTT may be terminated by either contracting state upon a six (6) months' notice before the end of a calendar year, but not earlier than five (5) years after the effective date.

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*The amended DTT undoubtedly creates new opportunities for both Russian companies and Arab investors.*

*Combined with the UAE tax reform, the signed document may result in the UAE being excluded from the 'black' list of the Russian Ministry of Finance.*

*This will open up additional benefits to Russian and Emirati businesses under the Russian Tax Code, including the substantial participation exemption for dividends from the UAE.*

*We hope you find this information useful.*

*If you have any questions, please do not hesitate to get in touch.*

*Sincerely,*

*Business Solutions and Technologies Partners*

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