

## Latest Update on Tax Domicile Certificate or Tax Residency Certificate in the UAE

Tax Residency Certificate in UAE ('TRC') also known as Tax Domicile Certificate is an official document issued by the Government Authorities in any country on an application made by the resident (Individual or incorporated entity) to confirm that the applicant is a tax resident of its country.

### Change of Issuing Authority

In the UAE Tax Residency Certificate or Tax Domicile Certificate was being issued by the Ministry of Finance ('MoF').

However, as per Cabinet Resolution No. (65) of 2020 issued on 5 November 2020, it has been announced that issuance of Tax Residency Certificate or Tax Domicile Certificate service is transferred from MoF to the Federal Tax Authority ('FTA')



Therefore, from 14 November 2020, application for issuance of Tax Residency Certificate or Tax Domicile Certificate in the UAE will have to be made on FTA Portal.

### Need for Tax Residency Certificate / Tax Domicile Certificate

Tax Residency Certificate or Tax Domicile Certificate has always been accepted as Ultimate proof to demonstrate that a person is a tax resident of a particular country. It is well-accepted fact that Tax Treaty provisions apply only to the Residents of the countries which are party to the Tax Treaty. Thus, to be eligible for the benefits of Tax Treaties existing between two countries, the primary requirement is to obtain the proof of residency, i.e. Tax Residency Certificate or Tax Domicile Certificate.

This also helps the nation to create a database of its residents and in case of need, helps in the exchange of information to render international cooperation. Such a Tax Residency Certificate or Tax Domicile Certificate issued by the Tax Authorities is valid for a particular (single) tax year only.

### **Commercial Activities Certificate:**

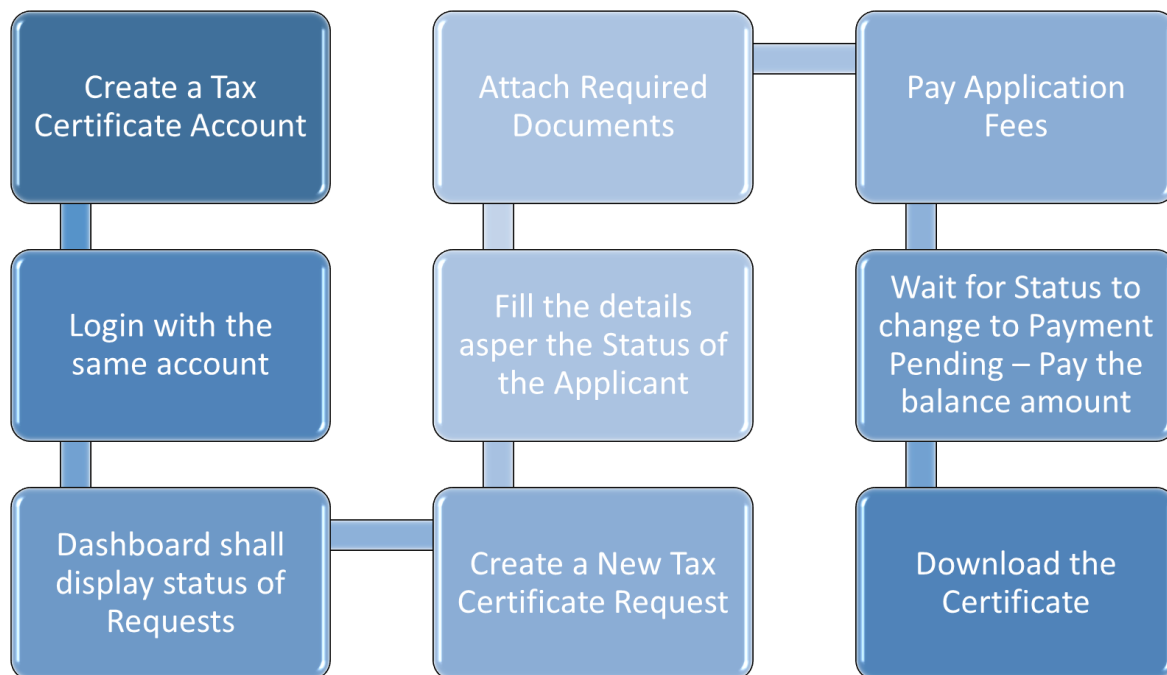
Along with the transfer of services regarding issuance of Tax Residency Certificate /Tax Domicile Certificates, MoF has also transferred the services of issuance of Certificate of Status of Business / Businessperson also known as Commercial Activities Certificate, to the FTA.

This document is issued for eligible government entities, companies and individuals to refund VAT paid in advance outside the UAE or that pertains to purchases in various countries, regardless of having an agreement of double taxation avoidance on income.

### **Procedure to Obtain Tax Residency Certificate / Tax Domicile Certificate**

FTA has recently issued User Guide to help an individual / Legal Person to navigate through the website and avail the Certificate.

The steps as mentioned in the User Manual are as under:



### **Documents:**

The Cabinet Resolution No. (65) of 2020 transfers the Authority to issue Tax Residency Certificate or Tax Domicile Certificate and Commercial Activities Certificate to FTA and specifies the Fee regarding the issuance of such Certificates.

Further, the User manual on Tax residency Certificate issued by the FTA, indicates the following details / documents that would be required to make an application:

Individuals	For Legal Person
<ul style="list-style-type: none"><li>• <b>Eligibility to make an application</b><ul style="list-style-type: none"><li>• Residing and working in the UAE for at least 183 days</li></ul></li><li>• <b>Documents Required</b><ul style="list-style-type: none"><li>• A copy of Passport and Emirates ID</li><li>• Valid residence permit</li><li>• A certified copy of the (residential) lease agreement / Tenancy contract</li><li>• Bank statement for ix months of the required year</li><li>• Salary certificate / Income certificate</li><li>• Immigration Report: A report from the General Directorate of Residency and Foreigners Affairs mentioning the duration of the person's stay in UAE (Minimum 183 days)</li><li>• Tax forms (if any) from the country where the certificate needs to be submitted</li></ul></li></ul>	<ul style="list-style-type: none"><li>• <b>Eligibility to make an application</b><ul style="list-style-type: none"><li>• Operating in the country for at least one year</li></ul></li><li>• <b>Documents Required</b><ul style="list-style-type: none"><li>• A copy of valid trade license</li><li>• Name of Authorised Signatory for the application, his passport copy, Emirates ID and Permits of residence (Residence Visa Copy)</li><li>• A copy of Articles of Association and Memorandum of Association</li><li>• Audited financial Statements</li><li>• Bank statement for six months of the required year</li><li>• A certified copy of the Tenancy Agreement (Ejari).</li><li>• If certificate required in Special Template, the format of the Template</li></ul></li></ul>

**Importance of Tax Residency Certificate / Tax Domicile Certificate in GCC Region**

The trend shows that The GCC countries are tilting towards the introduction of taxes as an avenue to generate revenue. This is evident by the announcement made by the Sultanate of Oman to introduce taxes on rich individuals by 2022. Also, as per the news reports, Bahrain and Kuwait are considering introducing income-tax in near future.

In this era of globalization where businesses are no longer restricted to a single geographical territory, it is of utmost importance that every individual and business ensures that it is not paying taxes twice and that it has optimised its tax cost.

Further, considering the strong economic and social connection between residents of different GCC countries, it will be essential for the Residents of GCC countries to identify and substantiate their actual country of residence State in which they are liable to pay tax. Therefore, the Tax Residency / Domicile Certificate would play a vital role in determining their Residency and taxability.

### Frequently Asked Questions:

**1. I am residing in the UAE and as such I am not liable to pay tax in the UAE. But I am paying Tax in my home country. How Tax Residency Certificate will help me for my Tax liability?**

As a resident of UAE and with the Proof of being Resident i.e. by obtaining Tax Residency Certificate, you will be eligible to take advantage of the provisions of the Tax Treaty between UAE and your home country.

The Tax Treaty has a **tie breaker rule** to determine the Residency of an individual i.e. in which country will the individual be considered resident of. Tax treaty also helps **ascertain whether a particular income** would be taxable in the source country or the country of residence. Tax Residency Certificate helps to ensure that the tax position taken is correct and the tax liability determined is optimal.

Further, one can also avail the advantage of **lower tax withholding**, if any, specified in the Tax Treaty.

**2. I am residing in the UAE under my husband's sponsorship visa. Am I eligible for the Tax Residency Certificate?**

Any Individual residing in the UAE for more than **183 days** would be eligible to make an application for obtaining Tax Residency Certificate / Tax Domicile Certificate. However, as per the dash board on FTA website, it appears that Tax Residency Certificate application, should be done by individuals **residing and working** in the UAE. Therefore, without having source income in the UAE, it may be difficult to complete the application to obtain Tax Residency Certificate.

However, if such individual requires the Tax Residency Certificate, to take benefit of the Tax Treaty, it is advised that the case be put forth before the FTA by e-mail or by attaching the detailed explanation in the application (source of Income column). And it is expected that FTA would consider the application based on facts of the case.

**3. How much time normally does it take for a company to get a Tax Residency Certificate?**

Eligible Company will have to make an application on the FTA portal which will be reviewed by the FTA and then approved. To receive the Certificate, it generally takes **about 3 working days from the date of approval** of application and payment of fees.

**4. My company is registered for VAT in the UAE. Can we claim VAT refund by applying a Tax Residency Certificate?**

Tax Residency Certificate or Tax Domicile Certificate is a proof to demonstrate that a person is a Tax Resident of a particular country. It is a supporting to claim the benefits of Double Tax Avoidance Agreement and to avoid dual taxation of a particular income and nothing to do with VAT refund.

To claim refund for VAT paid in advance outside the UAE, eligible government entities, companies and individuals will have to make an application for Certificate of Status of Business also known as **Commercial Activities Certificate**.

After submitting the VAT periodic return, if you are in a refundable position, you can apply for refund of VAT by submitting the VAT Refund Form 311.

**Our Services:**

Our experienced and qualified professionals can support and guide you in the verification of the documentation required and obtaining the Tax Residency Certificate or Tax Domicile Certificate without any hassle.