

# EXPANDED TAX TRANSPARENCY FOR HOLDING COMPANIES WITHIN UAE FAMILY FOUNDATIONS

BEFORE MINISTERIAL DECISION NO. (261) OF 2024, UNDERLYING HOLDING COMPANIES OF A UAE FOUNDATION WERE NOT ELIGIBLE FOR THE SAME TAX TRANSPARENCY TREATMENT AS THE UAE FOUNDATION ITSELF.

With the introduction of Decision No. (261), any holding company or Special Purpose Vehicle (SPV) wholly owned and controlled by a UAE Family Foundation ('Foundation') can now apply for the same tax-transparent treatment as the ultimate UAE Family Foundation.

## UNINCORPORATED PARTNERSHIP TREATMENT AND TAX TRANSPARENCY

Under Article 16 of Federal Decree-Law No. 47 of 2022, an Unincorporated Partnership is generally not considered a taxable entity. Instead, its individual partners are treated as separate Taxable Persons, unless a separate application is made.

Meanwhile, Article 17 states that a Foundation can apply to be treated as an Unincorporated Partnership if it meets all of these conditions:

- > The Foundation was established for the benefit of identified or identifiable natural persons, or for the benefit of a public benefit entity, or both.
- > The principal activity of the Foundation is to receive, hold, invest, disburse, or otherwise manage assets or funds associated with savings or investments.
- > The Foundation does not conduct any activity that would qualify as a Business or Business Activity under Clause 6 of Article 11 of the law, had those activities or assets been held directly by its founder, settlor, or beneficiaries.
- > The main or principal purpose of the Foundation is not to avoid Corporate Tax.
- > It meets any other conditions prescribed by the Minister.

## UPDATE FOR UNDERLYING HOLDING COMPANIES

Ministerial Decision No. (261) of 2024 clarifies that a juridical person wholly owned and controlled by a UAE Foundation can now also apply to be treated as an Unincorporated Partnership if:

- > It is wholly owned and controlled by the Foundation, either directly or through other entities that are already treated as Unincorporated Partnerships.
- > It meets the conditions outlined in Clause 1 of Article 17.

## OPTIONS FOR BVI COMPANIES

For individuals with BVI companies affected by the UAE's Place of Effective Management (POEM) rules, the new tax transparency provisions offer an alternative structuring solution, in which it is possible for individuals to transfer the BVI company's shares to a UAE Foundation and apply for the BVI company to be treated as an Unincorporated Partnership. Additionally, new structures formed under a Foundation can use local SPVs and Prescribed Companies to manage assets, providing greater flexibility and protection.

### HOW TRIDENT CAN ASSIST?

Trident is one of the largest global providers of corporate and fiduciary services and can provide assistance with the establishment of DIFC Foundations, as well corporate formation and administration services in more than 20 internationally recognised corporate domiciles and trust establishment and professional trustee services in over 15 jurisdictions worldwide.

Trident is also able to assist clients with registration on the FTA portal to ensure compliance and avoid penalties for late registration.

For guidance on structuring your assets under the new framework, please contact our Trident Trust Dubai team at [dubai@tridenttrust.com](mailto:dubai@tridenttrust.com).

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