FAMILY FOUNDATIONS IN THE UAE

As defined in the UAE Corporate Tax Law,
a foundation, trust or similar entity used to protect and manage the assets and wealth of a natural person or family.
Since 2017 the concept of foundation has been introduced in the UAE legal framework.

FILING OF TAX

Under the default rule, Family foundations are considered separate legal entities and are subject to tax on their worldwide income. Where a Family Foundation is a juridical person, it would be subject to Corporate Tax. In particular, any investment income of its founder, settlor or any of its beneficiaries would be subject to Corporate Tax at the Family Foundation level.

However, the FTA has allowed Family foundations to be treated as an unincorporated partnership, but this must be specifically applied for to the FTA. Unincorporated partnerships are not separate legal entities and are based on a contractual relationship between two or more partners. The partnership itself is not seen as a Taxable Person, and instead the individual partners are subject to corporate income tax on their share of the income of the partnerships revenue. This means that tax is not charged on the hands of the partnership but instead taxed on the hands of the individual partners.

Thus the foundation will not be subject to tax, but instead the founder, settlor, or beneficiaries are considered as the direct owners of the assets. If the owner is not carrying on a business any income or gains from the asset will not be subject to corporate income tax.

Furthermore the owners will only be charged corporate income tax only if he or she conducts business activities and the turnover of the activities is in excess of One Million AED within a calendar year. Another advantage of unincorporated partnerships is that each partner will be considered as an individual taxable person and will have their own AED 375,000 threshold.

FREE ZONES WHERE FAMILY FOUNDATIONS CAN BE ESTABLISHED

Currently there are three different free zones where family foundations can be established. namely:

i. ADGM ii. DIFC iii. RAKICC

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RULES TO BE FOLLOWED BY THE FOUNDATION

To be considered as an unincorporated partnership the foundation must meet the below rules:

1) The Family Foundation was established for the benefit of identified or identifiable natural persons (individuals), or for the benefit of a public benefit entity, or both.
2) The principal activity of the Family Foundation is to receive, hold, invest, disburse, or otherwise manage assets or funds associated with savings or investment.
3) The Family Foundation does not conduct any activity that would have constituted a Business or Business Activity under the Tax Law had the activity been undertaken, or its assets been held, directly by its founder, settlor, or any of its beneficiaries. (Doesn't have a trade license)
4) The main or principal purpose of the Family Foundation is not the avoidance of Corporate Tax.
5) Any other conditions as may be prescribed by the Minister.

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