



Management Consultant  
MARS Auditing

## Notable Amendments - ESR

MARS professional team with its distinctive 360° approach addresses all your business concerns to ensure that the business functions are operating effectively and efficiently.

[www.marsgroup.ae](http://www.marsgroup.ae)

## Summary in comparative form of Notable Amendments In ESR

Sr. No.	Amendment relates to	Original	Amended	MARS Comments
1	Licensee	<p>Definition of Licensee</p> <p>Natural or Juridical person licensed by the competent licensing authority/ authorities in the State to carry out a relevant activity in the State, including free zone and financial free zone</p>	<p>Definition of Licensee</p> <ol style="list-style-type: none"> <li>1. A juridical person</li> <li>2. An Unincorporated partnership registered in the State, including free zone and financial free zone and carries on a relevant activity</li> </ol>	<p>Natural persons are now excluded from ESR applicability whereas unincorporated partnerships (including JVs) are required to comply with ESR</p> <p>Additionally, it has been also clarified that sole proprietorship, trust and a foundation will not be treated as licensees for the purpose of ESR</p>
2	Exempted Licensees	<p>Companies in which the Federal Government or Government of any Emirates of the UAE or any governmental authority or body of any of them which has at least 51% direct or indirect ownership in its shareholding.</p>	<p>Revised ESR provides exemption to following entities which undertake Relevant Activity-</p> <ol style="list-style-type: none"> <li>1. An Investment Fund (including its underlying SPVs/ investment holding entities)</li> <li>2. An entity that is tax resident outside the UAE</li> <li>3. An entity wholly owned by UAE residents and meets the following conditions: <ul style="list-style-type: none"> <li>• Entity is not part of a MNE Group</li> <li>• All of its activities are exclusively carried out in the UAE</li> </ul> </li> <li>4. Branch of a foreign entity whose relevant income is subject to tax outside the UAE</li> </ol>	<p>Exemption provides relief to the UAE based entities and Groups that only have local presence.</p> <p>Exempted licensees need to file notification and provide evidence for claiming exemption.</p>
3	Branch License	<p>All legal registered entities (including branch) had to access for ESR applicability</p>	<p>The guidance has clarified the treatment of branches as under-</p> <ol style="list-style-type: none"> <li>1. Local registered branches are an extension of head office ('HO'), hence are not to be considered as a separate legal entity.</li> <li>2. Locally registered branch of a foreign entity carrying out a relevant activity is not required to comply with ESR, if its income is taxed outside the UAE.</li> <li>3. Income of a foreign branch of the UAE entity is not required to be consolidated if income of foreign branch is taxed outside the UAE</li> </ol>	<p>Local branches are not required to file separate notification or report, part of its local Head Office.</p> <p>Can claim exemption as mentioned above.</p>

4	Group Companies	Companies under same ownership or control was considered as part of the same group.	<p>MNE Group is defined as - any group that includes</p> <ol style="list-style-type: none"> <li>1. Two or more entities the tax resident of which is in different jurisdictions or;</li> <li>2. An entity that is resident for tax purposes in one jurisdiction and is subject to tax, with respect to activities carried out through branch or permanent establishment in another jurisdiction</li> </ol> <p>Also, group has been defined as two or more entities related through ownership or control such that they are required to prepare Consolidated Financial statements under applicable accounting standards (UAE: IFRS)</p>	Natural person having companies in different tax jurisdiction will not be creating Group for ESR perspective.
5	Relevant Income	Not defined	<p>Relevant income is now defined as</p> <p>All gross income of entity from a Relevant Activity that is recorded in its books and records under applicable accounting standards whether earned in the UAE or outside the UAE and irrespective of whether the entity has derived profit or loss from its activities.</p>	It is clarified that gross income does not mean taxable or accounting income of profit. It is before any deduction like cost of goods sold or the cost of services.
6	Distribution and Service Centre Business	<p><u>Distribution Business</u> It included -</p> <ul style="list-style-type: none"> <li>• Purchase of goods from foreign group company and</li> <li>• Import and storage of such goods into the UAE and</li> <li>• Sale of such goods to anyone outside the UAE (export transactions)</li> </ul> <p><u>Service Centre Business</u> Consulting, administrative, or other services provided to a foreign group company in connection with the foreign group company's business outside the UAE.</p>	<p><u>Distribution Business</u> It includes -</p> <ul style="list-style-type: none"> <li>• Purchase of goods from foreign group company and</li> <li>• Distribution of those goods</li> </ul> <p>-</p> <p><u>Service Centre Business</u> Consulting, administrative, or other services are provided to a foreign group company</p>	<p><u>Distribution Business</u></p> <p>As condition of imports into the UAE is now removed, entities which are engaged in transactions such as third port shipments, high sea sales, bill to ship to transactions, etc. would now be covered (if goods are purchased from foreign group company)</p> <p><u>Service Centre Business</u> Purview of Service Centre business is broadened by removing "in connection with foreign group company's business outside the UAE".</p>
7	High Risk Intellectual Property ('IP') Business	<ul style="list-style-type: none"> <li>• A Licensee was treated as High Risk IP only if any of the following two conditions apply:</li> </ul> <p>a. the Licensee -</p> <ol style="list-style-type: none"> <li>i. did not create the intellectual property in an intellectual</li> </ol>	<p>The definition of High-Risk IP has been revised.</p> <p>All the below conditions are required to be satisfied:</p> <p>High Risk IP Licensee is a Licensee which carries on an IP business and the Licensee:</p>	<p>Second condition has been deleted</p> <p>Further, one of the sub-conditions was that the Licensee licenses IP asset to one or more Connected Persons. Such sub-condition is now</p>



		<p>property asset which it holds for the purposes of its business.</p> <p>ii. acquired the intellectual property asset either from –</p> <p>(a) a Connected Person</p> <p>(b) in consideration for funding research and development by another person situated in a country other than the State.</p> <p>iii. licenses the intellectual property asset to one or more Connected Persons or otherwise generates income from the asset in consequence of activities performed by Foreign Connected Persons.</p> <p>b. the Licensee does not carry out research and development, or branding, marketing and distribution as part of its State Core Income-Generating Activity.</p>	<p>a. did not create the IP asset which it holds for the purposes of its business</p> <p>b. acquired the intellectual property asset either from –</p> <p>i. a Connected Person</p> <p>ii. in consideration for funding research and development by another person situated in a country other than the State</p> <p>and</p> <p>c. licenses or has sold the intellectual property asset to one or more Connected Persons, or otherwise earns separately identifiable income from a Foreign Connected Persons in respect of use or exploitation of the IP asset</p>	<p>broadened to include sale of IP as well</p>
8	Financial Statements	Not requested while reporting on annual substance filing	Authority has added new requirement to share the Financial Statements in ES Report	It is very crucial and important requirement for UAE Businesses which are required to file ES Report. The Financial statements are required for each licensee and not as group.



# Need Guidance, we are here!!

Office 204 Bushaqer Building,  
Near GGICO Metro Station Al Garhoud,  
PO Box: 48593, Dubai, UAE

<p>Abdulkader H Bhanpurawala Managing Partner E: <a href="mailto:ak.bhanpurawala@marsgroup.ae">ak.bhanpurawala@marsgroup.ae</a> M: 0564133479 T: 042850950</p>	<p>Mustafa Saifuddin Managing Partner E: <a href="mailto:mustafa.saifuddin@marsgroup.ae">mustafa.saifuddin@marsgroup.ae</a> M: 0564133477 T: 042850950</p>
<p><b>Instagram:</b> <a href="https://www.instagram.com/marsmanagementconsultants/">https://www.instagram.com/marsmanagementconsultants/</a></p>	<p><b>LinkedIn:</b> <a href="https://www.linkedin.com/company/mars-management-consultants/">https://www.linkedin.com/company/mars-management-consultants/</a></p>

[www.marsgroup.ae](http://www.marsgroup.ae)

