
# "UAE CORPORATE TAX"

WEBINAR

12th December 2022

Organized by

التميمي و مشاركوه
AL TAMIMI & CO.

DUBAI CHAMBER
COMMERCE

# Webinar

# UAE Corporate Tax

12 December 2022

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# Speakers

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# Our focus for today

1. An introduction to corporate tax
2. Overview of the new Federal corporate income tax regime in the UAE
3. The impact of corporate tax on businesses & next steps
4. Key takeaways
5. Q&A

# Housekeeping

1. The audience is muted; please submit questions via the 'chat' function. We will do our best to address all your questions at the end of the presentation.

2. If you can't hear us, please make sure you have connected your audio by clicking on communicate tab on the top of your screen and choose to either connect through your computer audio or phone.

3. Polling questions – be ready!

4. A copy of the presentation will be made available to you by Dubai Chambers of Commerce upon submission of your survey (please scan the QR code at the end of this presentation for the survey).

# An Introduction to Corporate Tax

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# Current income tax landscape in the UAE

**Legislative framework:**
- No Federal corporate income tax legislation
- Individual income tax decrees issued at the Emirate level
- In practice, only enforced on companies engaged in extraction of oil & gas and natural resources

**Branches of foreign banks:** Taxed at 20% in certain Emirates (e.g., Abu Dhabi, Dubai)

**Companies engaged in extraction of oil & gas and natural resources:** Taxed at progressive rates of up to 55% in certain Emirates (e.g., Abu Dhabi, Dubai, Fujairah, etc.)

**Free zone businesses:** Free zone entities enjoy tax holidays of up to 50 years

**Individuals:** No personal income tax

**Foreign businesses:** No withholding tax

# Recent tax reforms in the UAE

**September 2016**

The law establishing the Federal Tax Authority was issued

**June 2017**

The Tax Procedures Law was issued

**August – September 2017**

The UAE issues the Excise Tax Law and Regulations, VAT Law, and Tax Procedures Executive Regulations

**October 2017**

Excise tax is implemented in the UAE

**November 2017**

The VAT Executive Regulation was issued

**January 2018**

VAT is implemented in the UAE

**2018 onwards**

The UAE implements OECD commitments

# BEPS - 15 Action Points

The **BEPS** project is led by G20 and the **OECD**.

The BEPS initiative aims **at preventing tax planning that exploits gaps and mismatches in tax rules** to artificially shift profits to low or no-tax locations, not aligned to the actual economic activity in that location.

Although not legally binding, there has been widespread implementation by countries that are part of the consensus (i.e. **Members of the Inclusive Framework** ("IF")).

**The 15 BEPS Action Points**

| | | | |
|---|---|---|---|
| ***Action 1***<br>Address the challenges of the digital economy | ***Action 2***<br>Effect of hybrid mismatch arrangements | ***Action 3***<br>Controlled foreign company rules | ***Action 4***<br>Interest deductions and other financial payments |
| ***Action 5***<br>Counter harmful tax practices | ***Action 6***<br>Prevent treaty abuse | ***Action 7***<br>Prevent the artificial avoidance of PE status | ***Action 8***<br>Align TP with value creation - Intangibles |
| ***Action 9***<br>Align TP with value creation – Risk and Capital | ***Action 10***<br>Align TP with value creation – High risk transactions | ***Action 11***<br>Methodologies to collect and analyse data on BEPS | ***Action 12***<br>Disclose their aggressive tax planning arrangements |
| ***Action 13***<br>CbCR and other TP documents | ***Action 14***<br>Make dispute resolution mechanisms more effective | ***Action 15***<br>Develop a multilateral instrument | |

# UAE's commitment to follow the global tax agenda

**January 2017**
Common Reporting Standard (CRS) became effective on 1 January 2017

**April 2017**
UAE signed the OECD Convention on Mutual Administrative Assistance in Tax Matters

**December 2017**
EU published initial tax blacklist of 17 countries, including UAE

**January 2018**
UAE subsequently removed from EU blacklist and transferred to "grey list"

**May 2018**
The UAE joins the G20/ OECD Inclusive Framework on BEPS

**June 2018**
The UAE signed the Multilateral Convention (MLI) to implement Tax Treaty related measures to prevent BEPS

**July 2018**
UAE signed and ratified the **Multilateral Competent Authority Agreement** ('MCAA') to complete the implementation of the CRS and to facilitate compliance with various BEPS transparency measures

**September 2018**
UAE commits to first exchange of information under CRS by this timeline

**December 2018**
UAE committed to enact legislation on local substance requirements by this timeline

**March - April 2019**
**March 2019:** UAE re-included in the EU blacklist
**April 2019:** The UAE introduces Country-by-country requirements (CbCR) and Economic Substance Regulations (ESR)

**October 2019**
EU agreed to remove UAE from the blacklist

**January 2022**
The Ministry of Finance (MoF) announced the introduction of federal corporate tax that will be effective for FYs starting on or after 1 June 2023

**May 2022**
The MoF issued a public consultation document on the proposed federal corporate income tax regime

**December 2022**
MoF publishes the Federal Corporate Tax Law No. 47 of 2022

? Will the ESR regime continue to exist post-implementation of the CT regime?

# Drivers behind UAE Corporate Income Tax

**Global tax landscape**

- Focus on compliance, transparency, information exchange
- BEPS project
- Two-Pillar Solution (Pillar II - minimum global tax)

**International pressure**

- Global trends (OECD/ International Monetary Fund)
- Historical low tax revenues in the UAE
- Substance requirements

**Public finance**

- Generate alternative revenue stream
- Diversification
- Fund public services and expenses

**Business environment**

- Cement UAE’s position as a leading global business hub
- Offer an attractive and stable tax friendly environment
- Adopt tax frameworks similar to developed economies

# Direct Taxes vs Indirect Taxes


## Direct Taxes

A direct tax is a non-transferable tax imposed by public authorities on the income or profits of a person or organisation

- Personal income tax
- **Corporate income tax**
- Capital gains tax
- Property tax

## Taxes

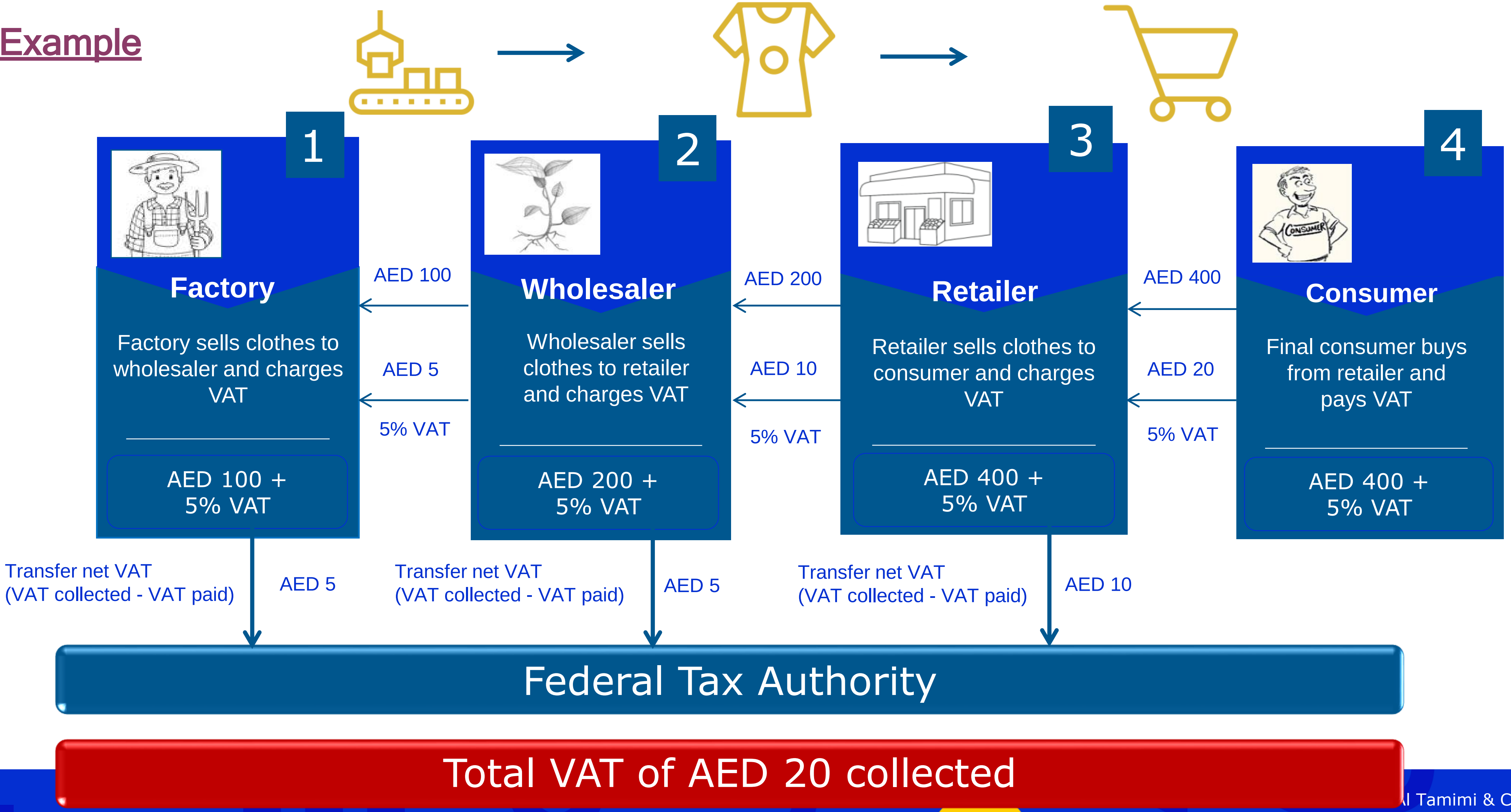
## Indirect Taxes

- Value Added Tax (VAT) or Goods and Services Tax (GST)
- Excise tax
- Customs duties
- Stamp duty
- Sales tax

A tax levied on the consumption of goods and services rather than on income or profits. Whoever is liable for these taxes can pass on or shift the burden to another person or group

# Indirect tax – VAT: How does it work?

Example



# Direct tax – Corporate Tax: How does it work?

## Example

| Determination of CT payable | |
|---|---|
| Final taxable income | |
| Final taxable income amount between AED 0 – AED 375,000 | CT @ 0% (A) |
| When the final taxable income is above AED 375,000, the difference between the final taxable income and AED 375,000 | CT @ 9% (B) |
| CT liability | A + B |
| *Less* foreign tax credit (if applicable) | |
| Final CT payable | |

**Taxable income**
= Net profit as per financial statements
+ any adjustments to income

# Overview of the new UAE Federal Corporate Tax Regime

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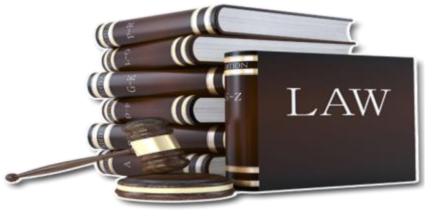
# UAE Corporate Income Tax – Policy objectives

1. Remain a competitive and productive economy
2. Continue to support and encourage growth
3. Continue to attract foreign investment
4. Be sufficiently flexible to respond to changing international and domestic environments and tax developments
5. Provide certainty for both businesses and tax administration
6. Minimize the compliance burden for businesses

# Principles of the UAE corporate tax system

| | |
|---|---|
| **Flexibility** | • Tax systems need to be dynamic to keep pace with changing economic and social circumstances. |
| **Certainty and simplicity** | • Tax rules should be clear and simple, so that businesses understand their obligations and make the right decisions, and compliance costs are minimized. |
| **Neutrality and equity** | • Tax rules should be neutral and equitable between different types and forms of businesses. |
| **Transparency** | • Clear guidance and public communication is important to ensure businesses understand their obligations, and to ensure the fair and effective enforcement of the corporate tax rules. |

# Legislative, administrative and enforcement framework for corporate income tax in the UAE




- FTA
- Double Tax Treaties
- CT law
- CT Implementing Decisions
- Tax Procedures law and regulations
- Guidance, practice, rulings and precedent?

- **Ministry of Finance -** The 'competent authority' for purposes of bilateral/ multilateral agreements and the international exchange of information for tax purposes.
- **Federal Tax Authority (FTA) -** Responsible for the administration, collection, and enforcement of UAE Corporate Income Tax (CT).

# To put it into perspective…

Interpretation issues and development of related practice and precedent

*"In this world nothing can be said to be certain except death and taxes."* Benjamin Franklin

*"The hardest thing in the world to understand is income tax."* Albert Einstein




**Get ready…Poll questions coming up!**

# Poll Question 1

**Is Jaffa cake a <u>biscuit</u> or a <u>cake</u>?**


Biscuit | Cake | Does it matter?

# Poll Question 2

**Are Pringles…potato crisps?**


Of course | No!

# Poll Question 3

**Is the Subway sandwich...bread?**


Of course | No!

# What does the UAE Corporate Tax Law look like?

CT Regime

1. Effective date
2. Taxable persons & exempt persons
3. Tax base, scope of taxable income, tax rates
4. Calculation of taxable income (exempt income, deductions, losses)
5. Restructuring reliefs
6. Tax groups
7. Qualifying free zone persons
8. Transfer pricing
9. Foreign tax and WHT credit
10. Administration and compliance
11. Audits and appeals, penalties

# When will UAE Corporate Tax be effective?

Taxpayers with financial year ending **(FYE) 31 May will have to comply first.**

Taxpayers with **FYE 31 December** will have to comply for the period **1 January 2024 to 31 December 2024**.

Announcement
31 January 2022

CT will be implemented
1 June 2023

1 January 2024

31 May 2024

31 December 2024

1st reportable period for
31 December FYEs

1st reportable period for
31 May FYEs

# Who is subject to corporate tax?

## Natural persons*

- ✓ Natural persons conducts a business or business activity in the UAE
- ✗ Employment and other personal income earned by UAE and foreign individuals (e.g. dividends, real estate, etc.)

## Legal persons*

- ✓ UAE companies and other legal persons incorporated in the UAE
- ✓ Foreign legal entities are effectively managed and controlled in the UAE.
- ✓ Foreign legal entities that have a Permanent Establishment (PE) in the UAE
- ✓ Limited liability Companies
- ✓ Free zone entities
- ✗ Unincorporated partnerships and foreign partnerships that are not subject to tax in another jurisdiction will be treated as 'transparent' for UAE CT purposes

## Exempt persons*

- Federal and Emirate Governments
- Government-owned and controlled UAE companies that carry out a mandated activity
- Businesses engaged in the extraction and exploitation, as well as non-extraction of UAE natural resources that are subject to Emirate-level taxations
- Qualifying public benefit entity
- Qualifying investment fund
- Pension and social security fund

*Any other Person as may be determined in a decision issued by the Cabinet

# Natural persons

**Subject to CIT**

Income earned from business or business activity:

- Trade / professional / freelance licence
- The Cabinet shall issue a decision to specify the categories of business or business activity

Foreign individuals – if conduct activity in ongoing or regular manner

**Not subject to CIT**

Investment in real estate

Salary/ employment income

Dividends, capital gains, other income earned from owning shares or other securities

Interest from bank deposit/ saving schemes

# Basis of taxation: Residents

**Residents**

- Legal person incorporated in the UAE
- Foreign company: If effectively managed and controlled in the UAE

Natural person engaged in business or commercial activity

- Taxed on worldwide income, subject to exemptions
- Family Foundation can be treated as an unincorporated partnership
- Foreign permanent establishment exemption available
- Foreign tax credit available

Tax limited to worldwide income earned from business activity in the UAE

# Basis of taxation: Non-residents

**Non-residents will be taxed on:**

**Taxable income attributable to permanent establishment in the UAE**

**Taxable income attributable to nexus of non-resident person in the UAE**

**Income sourced in the UAE**

Income sourced in the UAE that is not attributable to the PE of the non-resident in the UAE:

- Derived from resident person
- Derived from non-resident person and income paid or accrued in connection with, and attributable to, a PE of that non-resident person in the UAE
- Derived from activities or contracts performed in the UAE, assets located, capital invested, rights used, services performed or benefitted in the UAE

# Basis of taxation: Non-residents
## *Permanent Establishment (PE)*

### Fixed / permanent place of business test

- ✓ Place of management, branch, office, factory, workshop, real property, building site where activities are carried on >6 months
- ✓ Installations and structures used in exploration of natural resources, mines, oil /gas wells, quarries and other places of extraction of natural resources
- ✗ No PE if:
  - Activities carried out in the "fixed place in UAE" are preparatory or auxiliary in nature (e.g., marketing, market research, attending seminars)
  - Place used to store, display, deliver foreign company's goods or keeping stock of goods

### Dependent agent test

- ✓ Business travelers / UAE persons on behalf of foreign company habitually exercise the authority to conclude contracts in the name of the foreign company
- ✗ No PE where:
  - Person carries on foreign company's business in the UAE in the ordinary course of business
  - Agent is independent – i.e., does not work exclusively for foreign company and legally and economically independent

### Any other form of nexus in the UAE

- ✓ To be specified in a Cabinet Decision

**Permanent Establishment (PE)** = **UAE tax payment + filing obligations**

# **Basis of taxation: Non-residents**
## *Withholding Tax (WHT)*

**What?** Tax on income earned by foreign person who does not have PE in that jurisdiction

**Scope?**

- State Sourced Income not attributable to PE (*activities performed, assets located, capital invested, rights used or services performed or benefitted from in the UAE*)
- Any other income as specified in a decision issued by the Cabinet

**How?** Resident "withholds" tax from payment to non-resident and remits the tax to tax authority

**WHT rate in the UAE:** 0%

# Tax rates

**0%**

Taxable income up to AED 375,000

**9%**

Taxable income above AED 375,000

**Different tax rate**

Large multinationals subject to "Pillar Two" criteria

!

| | |
|---|---|
| **"Multinational"** | Corporation that operates in its home country, as well as in other countries through a foreign subsidiary, branch or other form of presence. |
| **"Large"** | Multinational corporation with consolidated global revenues in excess of EUR 750 million |

# Taxable income: Calculation (Art. 20)

Based on financial statements prepared using acceptable accounting standards and principles (e.g., IFRS)

Tax period as per financial year

Starting point: Accounting net profit (or loss) as per financial statements

# Taxable Income: Calculation (Art. 20) (cont'd)

| Determination of CT payable | |
|---|---|
| Final taxable income | |
| Final taxable income amount between AED 0 – AED 375,000 | CT @ 0% (A) |
| When the final taxable income is above AED 375,000, the difference between the final taxable income and AED 375,000 | CT @ 9% (B) |
| CT liability | A + B |
| *Less* WHT credit & foreign tax credit (if applicable) | |
| Final CT payable | |

**Taxable income**

= **Net accounting profit or loss** as per financial statements

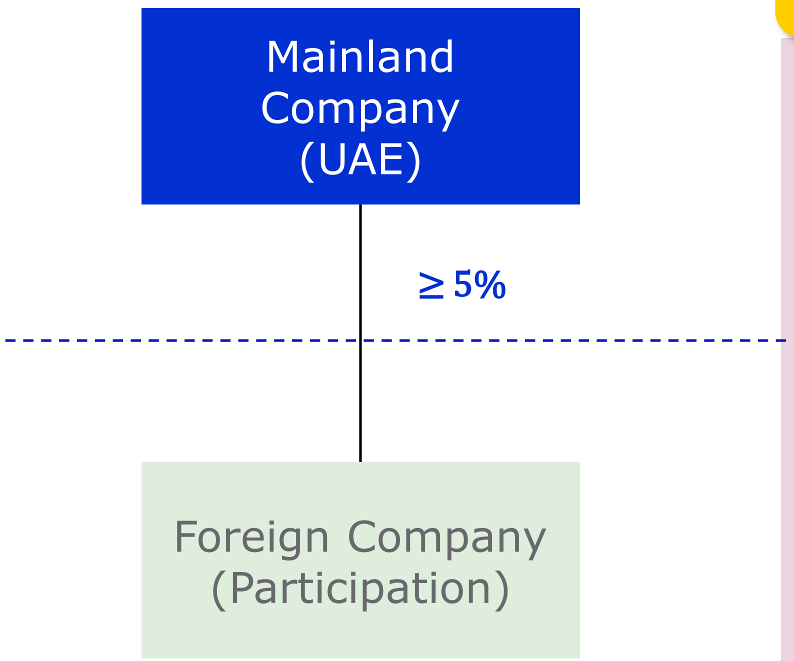
+/- **Adjustments to income**:

- *Any unrealised gain or loss under Art. 20(3)*
- *Exempt income*
- *Restructuring relief (no gain no loss)*
- *Deductions*
- *Transactions with related parties and connected persons*
- *Tax loss relief*
- *Incentives or special reliefs for a "qualifying business activity" (TBD)*
- *Any other adjustments TBD by the Minister*

# Exempt Income (Chapter 7)

| Domestic dividends & profit distributions | Income from Participating Interest | Income of Foreign PE | Income derived by a non-resident from operating aircraft or ships in international transportation |
|---|---|---|---|
| • Exempt | • Foreign dividends and profit distributions, capital gains/losses from disposal of Participating Interest, FX gains/losses, impairment gains/losses<br>• Exempt if meets all conditions under Art. 23 of CT Law<br>• Restrictions | • UAE resident can elect to claim exemption for foreign PE income | • Exempt if:<br>• Non-UAE resident is engaged in business of:<br>(i) international transportation of passengers, livestock, mail, parcels, merchandise or goods by air or by sea<br>(ii) Leasing or chartering aircrafts or ships in international transportation;<br>(iii) Leasing of equipment integral to seaworthiness of ships or airworthiness of aircrafts used in international transportation<br>• UAE resident engaged in business activities above and similarly exempt from tax under relevant jurisdiction's tax law |

# **Exempt Income (Chapter 7)(cont'd)**
## *Participation exemption (Art. 23)*



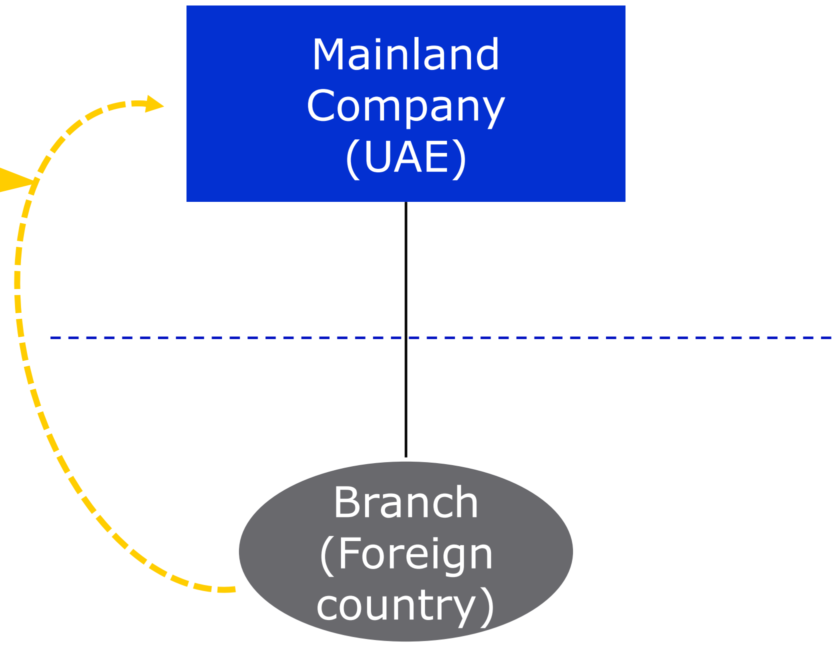

**"Participation Interest"**

- **≥ 5% ownership interest in shares/capital of entity ("Participation")**
- **<u>Conditions</u>:**
  - Taxable person has held / intends to hold the Participating Interest for uninterrupted period of **12 months**
  - **Participation subject to CT of at least 9%**
    <u>Exception</u>**:**
    - Participation is HoldCo with qualifying PIs
    - Participation is Qualifying FZ or Exempt Person
  - Taxable Person entitled to receive **≥ 5% of profits available for distribution + ≥ 5% liquidation proceeds** upon cessation of Participation
  - **Not more than 50% of Participation's assets** comprise ownership interests or entitlements that **would not have qualified for CT exemption if held directly** by Taxable Person
  - Any other conditions TBD

# Exempt Income (Chapter 7) (cont'd)
## *Foreign PE income exemption (Art. 24)*

**Key points:**

- **Elect to claim an exemption** for foreign PE/branch income and associated expenditure:
    - The exemption will apply to **all** foreign PEs
    - Calculated as if foreign PEs are UAE resident under CT Law
- "Income and associated expenditure" of foreign PEs = **total** in each foreign jurisdiction
    - Resident Person and each of foreign PE are treated as separate and independent persons
- The foreign PE should be subject to ≥ 9% tax in the foreign jurisdiction



# Deductions (Chapter 9)
## *Deductible expenses & restrictions*

**Wholly and exclusively for business**

↓

**Not capital in nature**

↓

**Supporting documents**

↓

**Deductible expense**

**Non-deductible / restricted expenses**

**Non-deductible (Art. 28 & 33):**

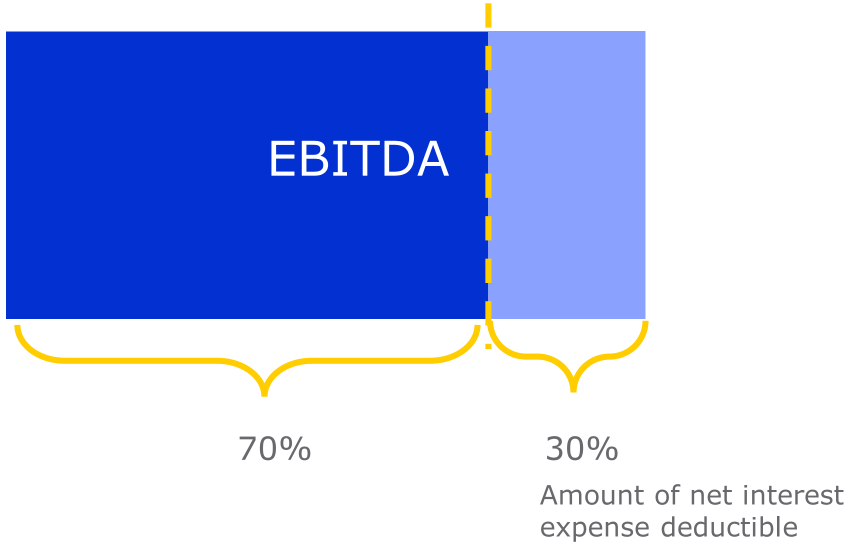
1. Non-business expenses, expenses re: Exempt Income, non-business losses, etc.
2. Donations to non-approved charities / public benefit organisation
3. Fines and penalties (exception: damages and breach of contract compensation)
4. Bribes or illicit payments
5. Dividends, profit distributions or similar
6. Amounts withdrawn from business by UAE resident natural person or partner
7. UAE CT and foreign tax
8. Recoverable input VAT
9. Any other expenditure TBD by Cabinet Decision

**50% cap on entertainment expenditure**
(customers, shareholders, suppliers, business partners)
e.g. meals, accommodation, transport, admission fees, entertainment facilities and equipment, etc.

# Deductions
## *Interest capping rules (Art. 30 & 31)*

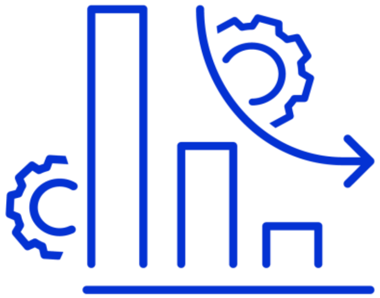
**Key points:**

- **General rule:** Deduction of net interest expense **capped to 30%** of accounting earnings before interest, tax depreciation and amortisation (EBITDA), excluding Exempt Income.
- Excess net interest expense can be carried forward and deducted in the subsequent **10 tax periods**
- **Exceptions:** Banks, insurance business, and businesses carried on by natural persons.
- **Related party** interest for specific transactions will only be deductible if:
  - Non-restricted interest expense under Art. 31(1)
    - ❖ Main purpose of loan transaction is not to gain CT advantage
      - ❖ "**CT advantage**": Where related party is taxed less than 9% under applicable foreign tax law



# Tax Losses (Chapter 11)

*Tax Loss Relief (Art. 37)*



**Can offset losses up to 75% of taxable income in future periods**

**Can carry forward indefinitely (?)**

**Same shareholders holding at least 50% of share capital <u>or</u> same business carried on by new owners**

**<u>Exception:</u>**

**Public-listed companies**

**No tax loss relief for:**

- Losses incurred before the effective date of CT
- Losses incurred before a person becomes a taxpayer for UAE CT purposes
- Losses incurred from activities or assets which generate income that is exempt from UAE CT

# Tax Losses (Chapter 11) (cont'd)

## *Transfer of Tax Loss (Art. 38)*

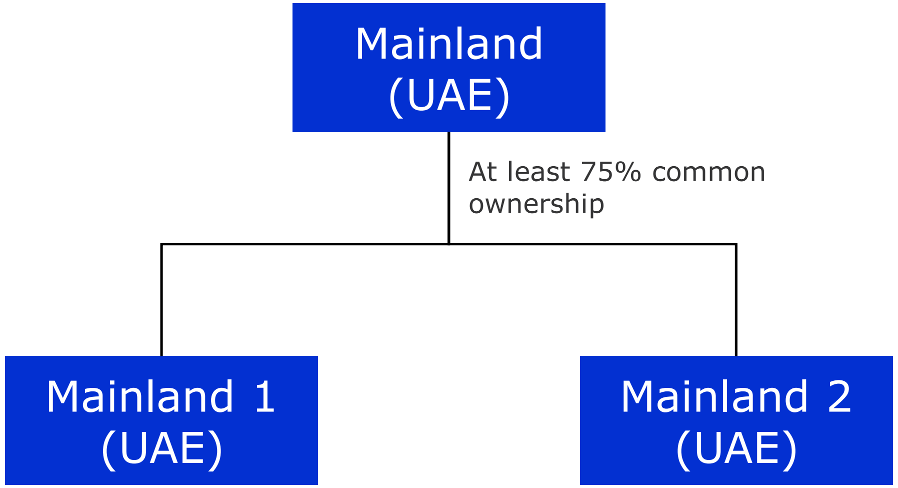
**Key points:**

- Tax loss or portion thereof can be offset against taxable income of another taxable person

- **<u>Conditions:</u>**
  - Both UAE resident legal entities
  - 75% ownership (either direct/indirect or common ownership by third person)
  - None are Exempt Persons
  - None are Qualifying Free Zone Persons
  - Same FY
  - Same FS accounting standards

- Total tax loss offset cannot exceed **75% of the taxable income** of the company receiving the transferred losses in the relevant period

**<u>Example</u>:**




**Taxable income**: (200)
**Losses after transfer to Mainland 2:** (125)
(200) - (75) = (125)

**Taxable income**: 100
**Transfer of losses from Mainland 1:** 100 x 75% = 75
**Taxable income: 25**

# Reliefs (Chapter 8)

*Intra-group transfer of assets and liabilities (Art. 26)*

**Key points:**

- Relief for transfer of assets and liabilities between two taxable persons who belong to <u>Qualifying Group</u>
  - Transfer of assets and liabilities **at net book value = no gain no loss**
    - ❖ Exemption / deferral of CT for intra-group transfers
    - ❖ Tax neutral
  - Value of consideration paid or received = net book value

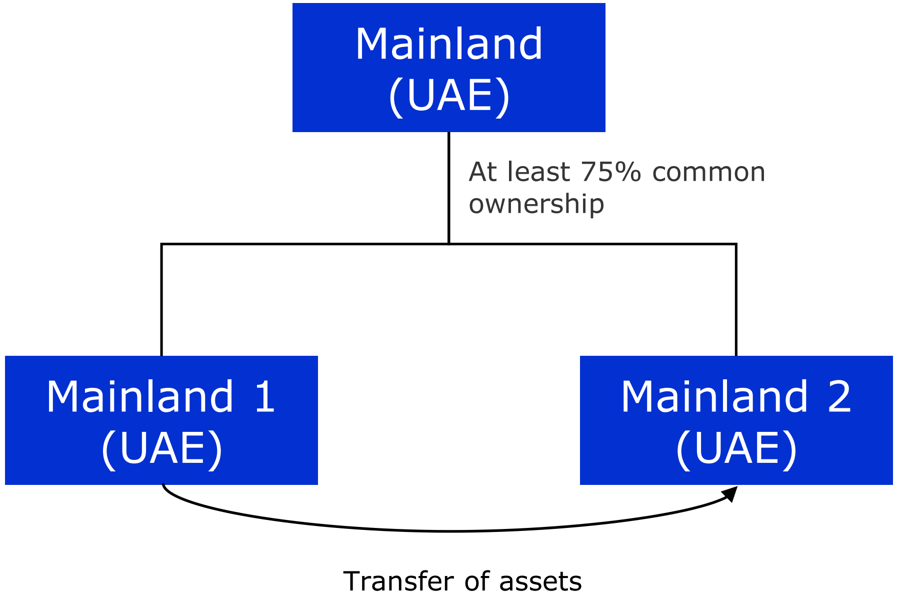
- **Clawback → market value:** Within 2 years, any of the following **occurs:**
  - Assets and/or liabilities transferred outside of Qualifying Group
  - Taxable persons cease to be members of Qualifying Group

**"Qualifying Group"**

**Conditions:**

- Both UAE resident legal entities or non-UAE residents with PE in the UAE
- 75% ownership (either direct/indirect or common ownership by third person)
- None are Exempt Persons
- None are Qualifying Free Zone Persons
- Same FY
- Same FS accounting standards

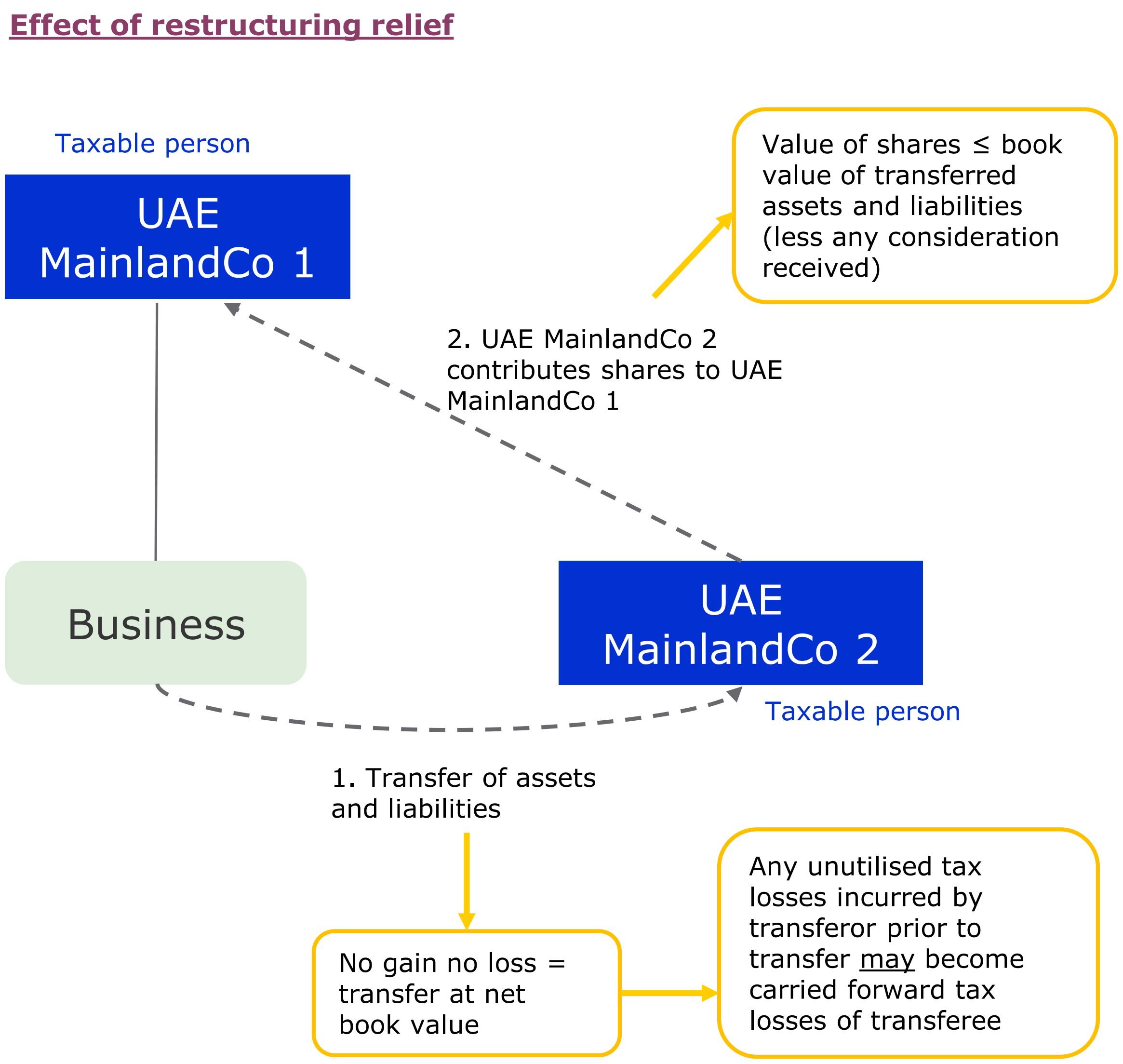
**Example:**



# Reliefs (Chapter 8)
## *Restructuring relief (Art. 27)*

**Key points:**

- **No gain no loss** where:
  - A **taxable person transfers a whole business or independent parts of business** to a taxable person or who will be a taxable person as a result of the transfer in exchange for shares or other ownership interests of transferee
  - **One or more taxable persons transfer entire business to other person** who is taxable person or will be a taxable person as a result of the transfer in exchange for shares or ownership interests of the taxable person that is the transferee, and the <u>transferor(s) cease to exist as a result of transfer</u>
- **Conditions:**
  - Transfer is undertaken in accordance with applicable UAE laws
  - Both UAE resident legal entities or non-UAE residents with PE in the UAE
  - None are Exempt Persons
  - None are Qualifying Free Zone Persons
  - Same FY
  - Same FS accounting standards
  - Transfer undertaken for valid commercial or non-fiscal reasons which reflect economic reality
- **Clawback → market value:** Within **2 years**, any of the following occurs:
  - Disposal of shares of transferor or transferee to a non-Qualifying Group member
  - There is a subsequent transfer of business or independent part of the business



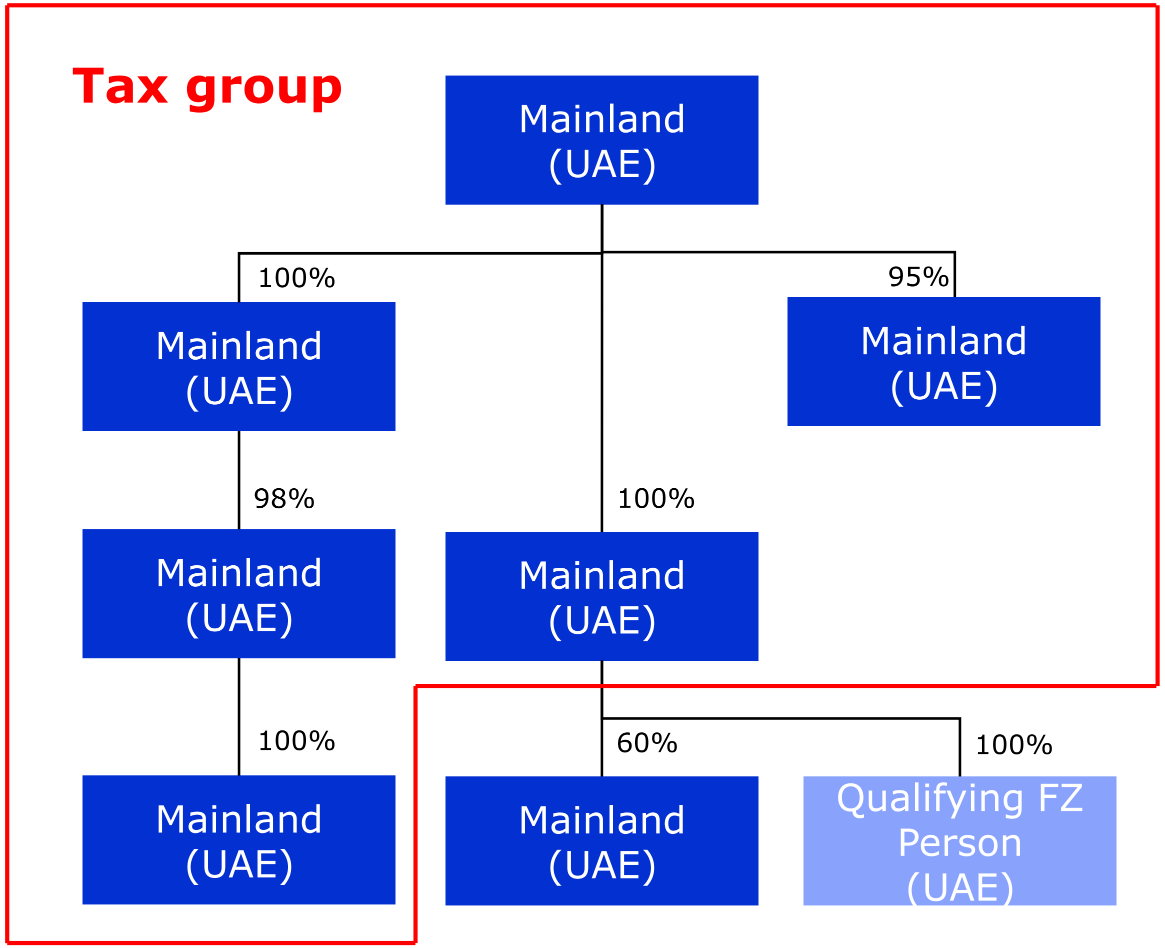
# Foreign Tax Credit & WHT credit

| | Foreign Tax Credit | WHT credit |
|---|---|---|
| **What?** | Tax paid in a foreign jurisdiction on income or profits can be credited against the UAE CT liability | If person becomes taxable person, WHT credit can be credited against CT payable |
| **Restrictions?** | Cannot exceed amount of CT due | The maximum Foreign Tax Credit available will be the lower of:<br>- The amount of UAE WHT deducted; or<br>- The UAE CT due. |
| **Carry forward / Refunds?** | Cannot carry forward or back | Any excess WHT credit as a result of restriction will be refunded |
| **Other considerations** | Necessary records to be maintained | Application for WHT refund |

# Tax group

**Key points:**

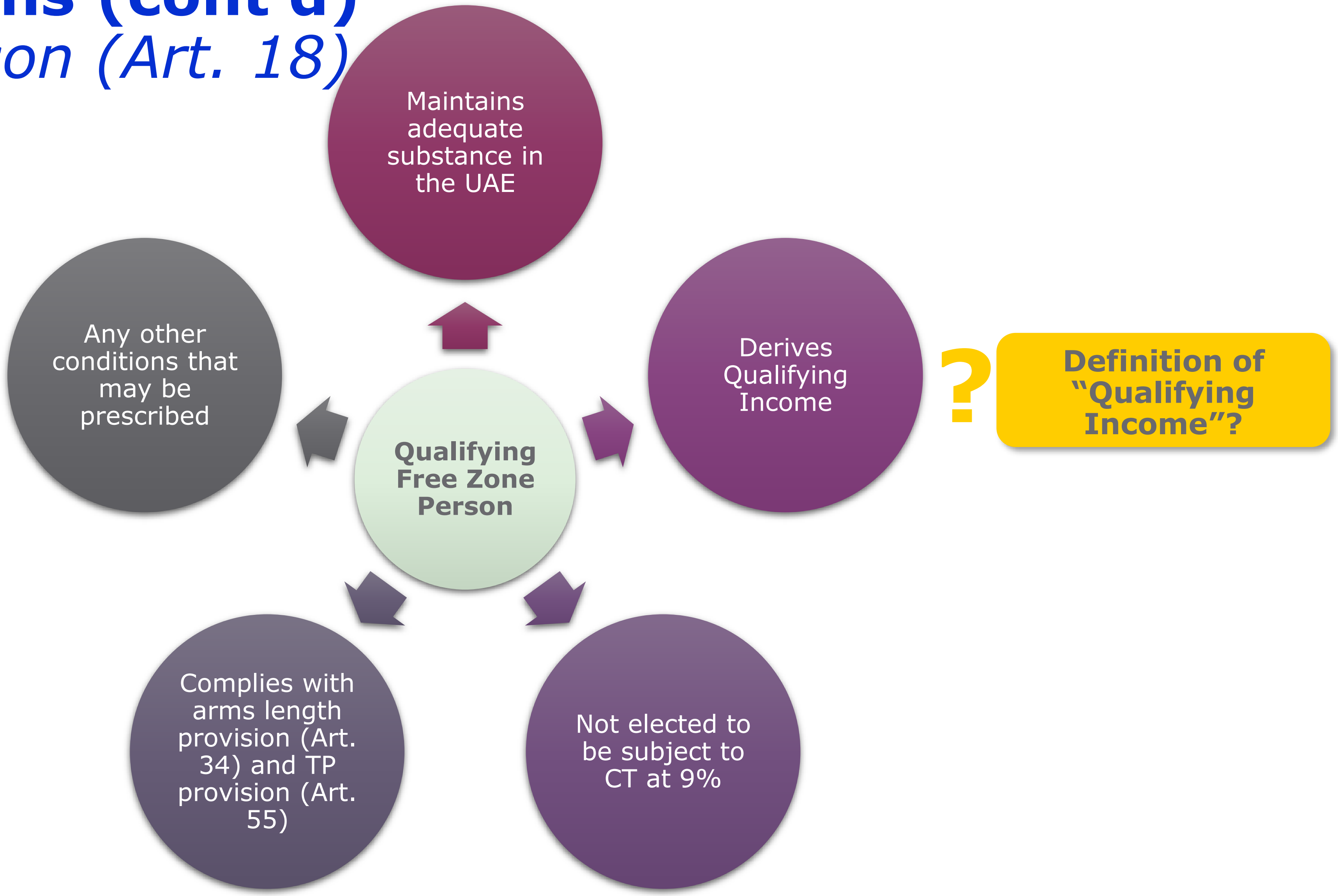
- **Conditions:**
  - Resident Persons are juridical persons
  - Parent Company owns **≥ 95%** of (i) share capital; (ii) voting rights; and (iii) subsidiary's profit and net assets
  - None are Exempt Persons
  - None are Qualifying Free Zone Persons
  - Same FY
  - Same FS accounting standards
- **Application** to form Tax Group needs to be submitted to the FTA
- **Single taxable person:** The parent company **will be responsible for the administration and payment of CT** on behalf of the tax group
- Parent company and subsidiary **jointly and severally liable** for CT
- The parent company will have **to consolidate the financial accounts, assets & liabilities** of each subsidiary for the relevant tax period, and **eliminate intra-group transactions**
- **Pre-grouping unutilized tax losses =** carried forward tax losses of the group and can offset taxable income of tax group



# Free Zone Persons

| | Free Zone Persons (all free zones across the UAE) |
|---|---|
| **In scope of the UAE CT?** | Yes |
| **Exceptions** | Qualifying FZ Person subject to:<br>• 0% CT on Qualifying Income;<br>• 9% on non-Qualifying Income |
| **Election** | Qualifying FZ Person can elect to be subject to 9% CT |
| **Compliance obligations** | Yes: required to register and file a CT return for every financial period |

# Free Zone Persons (cont’d)
*Qualifying FZ Person (Art. 18)*



# Transfer Pricing (TP)
## *What is the issue?*

| | Scenario A | | Scenario B | |
|---|---|---|---|---|
| | **Group company in Country 1** | **Group company in Country 2** | **Group company in Country 1** | **Group company in Country 2** |
| **Selling price** | 250 | 300 (third-party price) | 260 | 300 (third-party price) |
| **Cost of sales** | 100 (third-party price) | 250 | 100 (third-party price) | 260 |
| **Profit** | 150 | 50 | 160 | 40 |
| **Tax** | **0** (0% tax rate) | **10** (20% tax rate) | **0** (0% tax rate) | **8** (20% tax rate) |

# Transfer Pricing (cont'd)

*TP aspects of the UAE CT regime*

**Transfer Pricing**

**Concept** – Transfer pricing (TP) deals with the pricing of any transaction entered into between related entities

**Definition of association** – When are entities/ individuals considered to be Related/ Connected?

**Principle** – The Arm's Length Principle as an international accepted principle

**Regulation** – Related party transactions and transactions with Connected Persons will need to comply with TP rules as set out in the OECD TP Guidelines

# Transfer Pricing (cont'd)

## *TP documentation requirements in the UAE*

| | TP disclosure form | Local file | Master file | Country-by-Country Report |
|---|---|---|---|---|
| **Content** | Details of the related party transactions (e.g. related parties, amounts, etc.) | Contains information on the related party transactions of the local entity, including an evaluation of the arm's length nature of these transactions | Provides an overview of global business operations, transfer pricing policies and global allocation of income and activity | Contains Group's financial and general information on a jurisdictional basis (e.g. revenues, profit before tax, cash tax paid, number of employees, etc.) |
| **Objectives** | Tool to assess inconsistencies with the Group's TP policies | First line of defense for taxpayer's related party transactions | Overview of the group's value chain and structure | Most important tool to assess TP risks |

# Administration and compliance aspects


Form, manner and timeline to be determined

In accordance with accounting standards and principles accepted in the UAE (e.g., IFRS)

- Self-assessment
- Electronic filing
- Within 9 months from the end of tax year

- Within 9 months from the end of tax year
- No advance payment of CT

- Maintain documentation / records to substantiate the information contained in the CT return for 7 years

- Mechanism for taxpayers to seek clarification from FTA on the CT treatment of an arrangement or transaction and conclusion of advance pricing arrangement
- Binding on FTA?

# Overview of tax dispute process in the UAE

# The impact of corporate tax on businesses & next steps

# Lessons learned from the implementation of tax frameworks in the Middle East region

**Unclear understanding of the tax legislation**

- There was no corporate income tax regime in the UAE previously.
- Unclear understanding of the tax legislation.
- Taxpayer potentially adopts incorrect tax position.

**Late tax implementation in the organisation**

- Impact of tax on the business from legal, accounting, financial and operational perspective not clearly understood.
- Businesses rush to meet compliance requirements, filing and payment deadlines.

**Late issuance of tax legislation and pending guidance from the tax authorities**

- Understanding role of tax authority
- Tax authority should provide guidance and clarifications on the implementation of the tax legislation.
- Businesses have limited time to consider the impact of the tax

**Insufficient tax training within business**

- Insufficient or lack of in-house training.
- Stakeholders are not aligned on tax implementation and strategy.

**Disruption to business**

# What businesses should do?
*Next steps*

1. **Project plan:** Budget for implementation (e.g. consultants, training, resources, IT systems), set up steering committee and assign responsibilities
2. **Raise awareness:** Educate and train employees on impact of CT on accounting and reporting processes
3. **CT impact assessment:** Assess anticipated impact of the introduction of CT and TP based on existing legal and operational structure
4. **Systems, IT & accounting:** Analyse existing accounting systems capability and update IT systems to produce tax reporting
5. **Tax optimization:** Identify tax optimisation / restructuring opportunities to minimise administrative complexities and UAE CT cost
6. **Contracts:** Review tax position in existing contracts and amend where required
7. **Tax policy:** Establish tax policy, tax strategy and risk management framework
8. **Transfer pricing:** Review TP position, implement TP policies, maintain TP documentation
9. **Compliance:** Consider whether required to register and if so register within time, file and pay!
10. **Applications:** Apply for clarification/tax rulings, elections, exemptions and/or tax grouping

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# Q&A

# How can we assist?

## Getting started

- **CT impact assessment –** Analyse the CT impact on your business operations and assist with CT implementation in your organization.
- **CT training –** Conduct CT trainings and workshops for your organization.
- **CT strategy/ risk management framework and policy -** Develop a CT risk management framework and strategy in line with the corporate and business strategy.

## Compliance

- **CT fillings** - Assist with preparation, review and submission of CT registrations.
- **CT healthcheck** - Perform CT health checks to assess CT profile, compliance status and potential tax risks arising from your business operations.
- **Transactions review –** Analyse the CT implications of specific transactions.

## CT Advisory

- **Structuring and planning** - CT efficient transaction structuring of supply chain and advising on the related CT risks and consequences.
- **Mergers and acquisitions -** Purchaser and vendor tax due diligence to identify any potential tax issues/ risks and hidden CT liabilities.
- **CT legal opinion –** Prepare CT legal opinion addressing CT issues faced by your organization.

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# Thank you

Please scan QR code for survey