



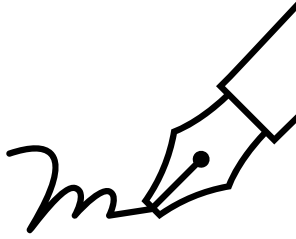
UAE Corporate Tax & Applicability on Free Zone Person



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Disclaimer: The views, wherever expressed in this presentation are of the author/writer/ complier. The intent of this presentation is to provide a broad picture on applicability of Corporate Tax in the UAE on Corporations and Businesses – Federal Law no 47 of 2022 and in detail Cabinet Decision No. 55 of 2023 - Determining Qualifying Income for the Qualifying Free Zone Person and Ministerial Decision No. 139 of 2023 - Regarding Qualifying Activities and Excluded Activities and does not purport to be a legal document or a client/situation specific advise. We therefore request you to consult a tax expert before taking any actions based on this document.

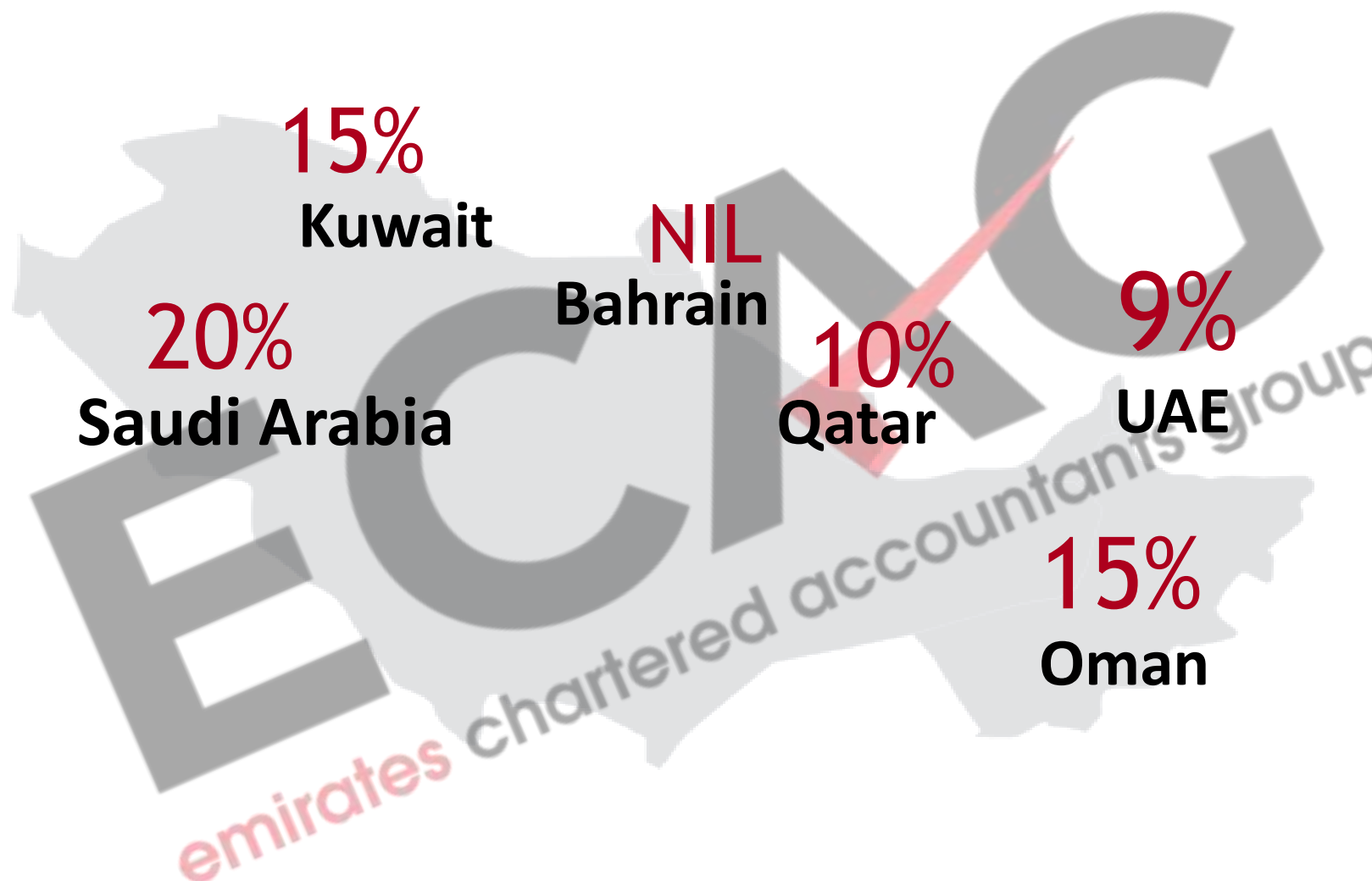
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1. BACKGROUND
2. FINANCIAL YEAR
3. CORPORATE TAX RATE
4. TAXABLE PERSON & EXEMPT PERSON
5. FREE ZONE PERSON
 - I. Qualifying Free Zone Person [QFZP]
 - II. Qualifying Income
 - III. Transaction with FZP
 - IV. Transaction with NFZP
 - V. De Minimis Requirements
 - VI. Immovable Property
 - VII. Nexus in the State
 - VIII. Distribution Activity
 - IX. Service Activity
 - X. Key Takeaways
6. COMPUTATION OF TAXABLE INCOME
7. TAX RETURN
8. REGISTRATION
9. TAX GROUP
10. TAX LOSS RELIEF
11. TRANSFER PRICING
12. TRANSFER PRICING DOCUMENTATION
13. AUDIT REQUIREMENTS
14. WITHHOLDING TAX/ FOREIGN TAX CREDIT
15. Q&A

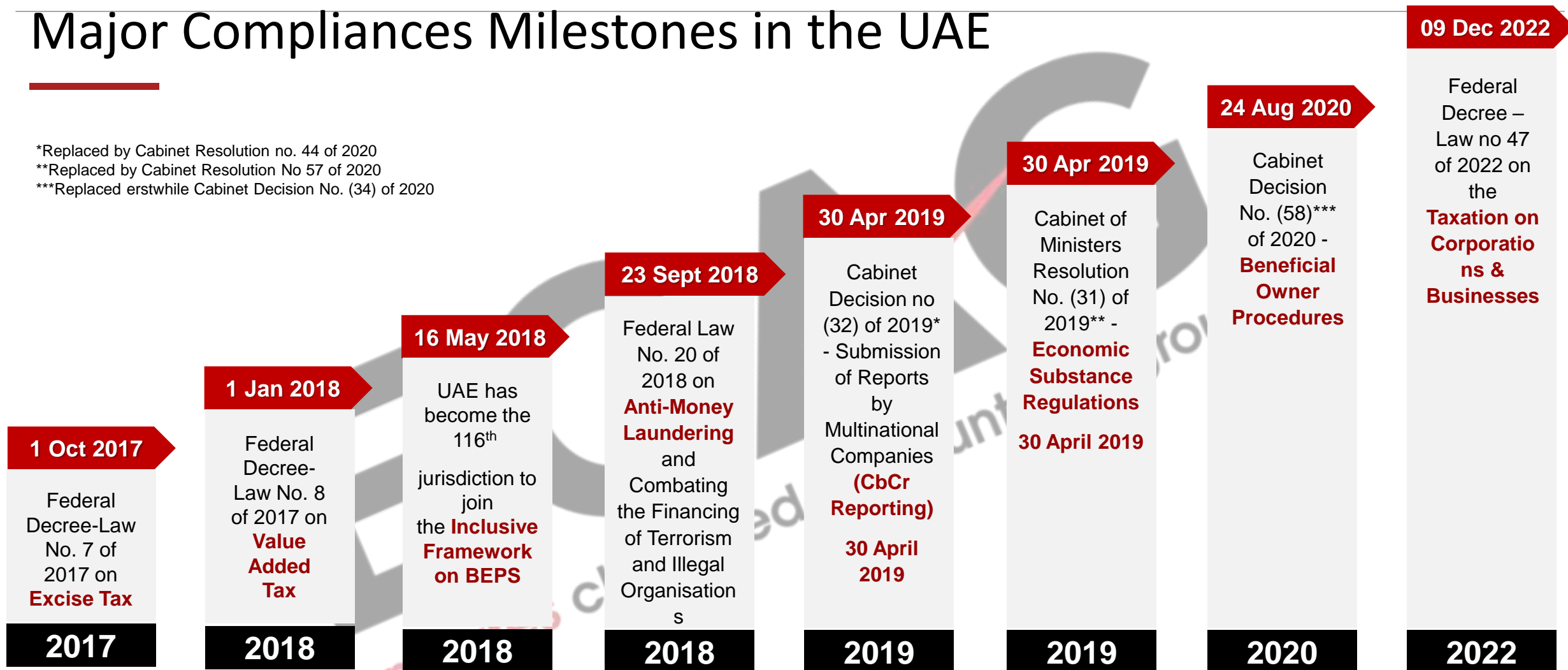
BACKGROUND

Corporate Tax in Gulf Countries [GCC]



Major Compliances Milestones in the UAE

*Replaced by Cabinet Resolution no. 44 of 2020
 **Replaced by Cabinet Resolution No 57 of 2020
 ***Replaced erstwhile Cabinet Decision No. (34) of 2020



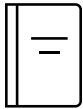
UAE Corporate Tax Timeline



UAE Corporate Tax – Source of Information



UAE CORPORATE TAX LAW



11

**CABINET
DECISION**



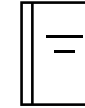
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**MINISTERIAL
DECISION**



03

**FTA
DECISIONS**



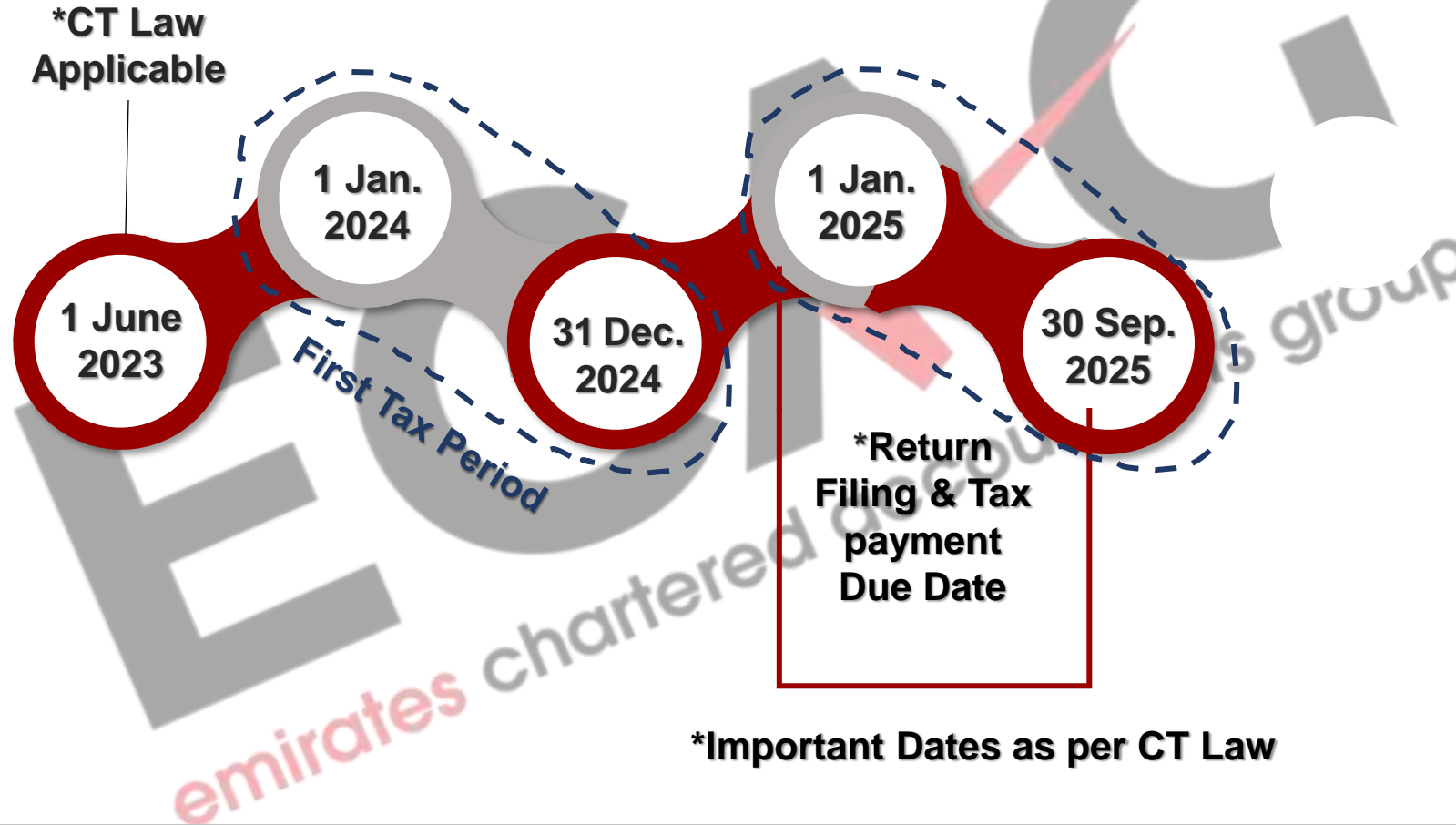
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**EXPLANATORY
GUIDE**



FINANCIAL YEAR

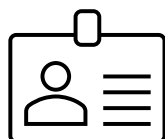
CT Timeline for Business with a financial year 1 Jan – 31 Dec



%

CORPORATE TAX RATE

Corporate Tax Rates in the UAE



Taxable Person

0%

Up to threshold limit

9%

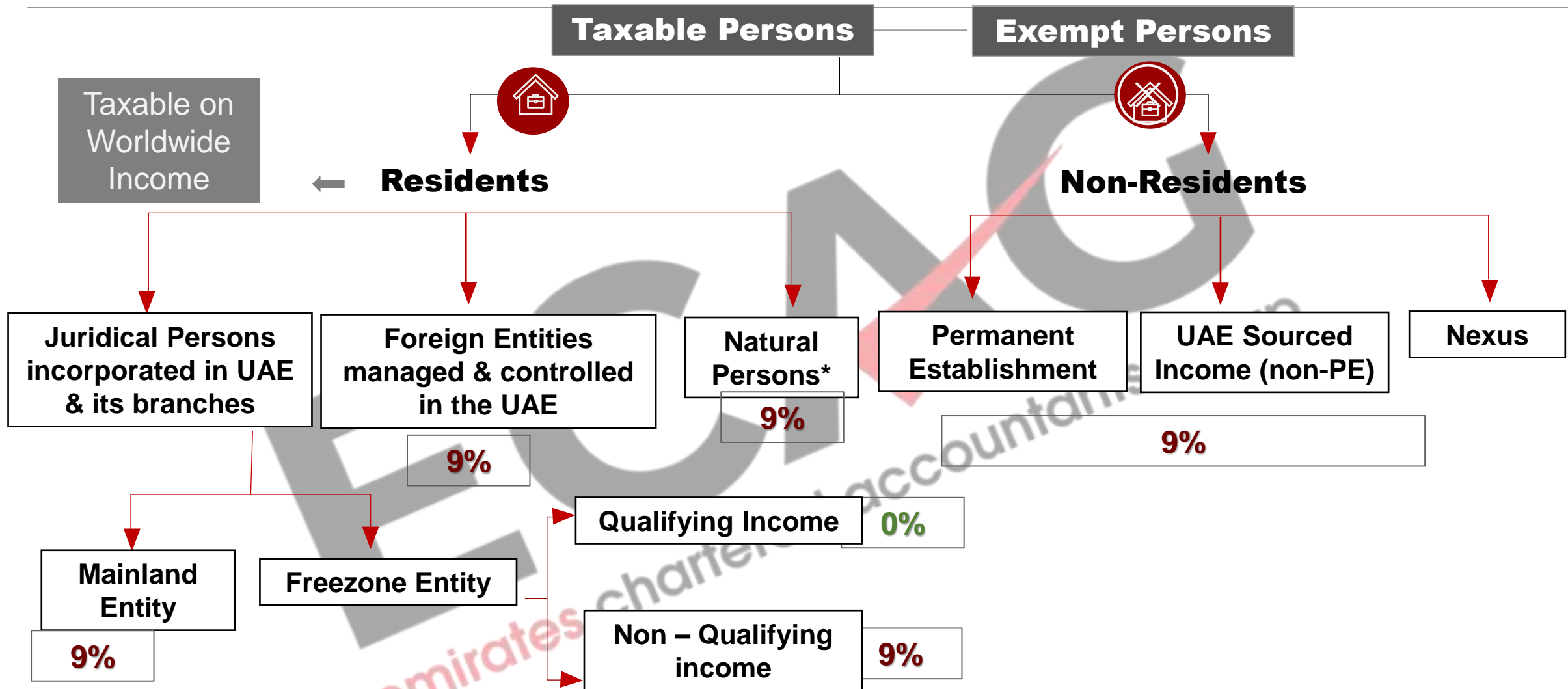
On taxable income exceeding the limit

Threshold limit “ AED 375,000”



TAXABLE PERSONS & EXEMPT PERSONS

Taxable Persons and Tax Base



*Natural Persons Taxable on income derived from outside UAE only if it relates to the business activity conducted in UAE.



FREE ZONE PERSONS

UAE Corporate Tax for Free Zone Person



***Cabinet Decision No. 55 of 2023 -
Determining Qualifying Income for the
Qualifying Free Zone Person***



***Ministerial Decision No. 139 of 2023
- Regarding Qualifying Activities
and Excluded Activities***



I. QUALIFYING FREE ZONE PERSONS

1. Who is a Qualifying Free Zone Person ?

A Free Zone Person

A **juridical person incorporated**, established or otherwise registered in a Free Zone, including a **branch of a Non-Resident Person** registered in a Free Zone.

Subject to Corporate Tax under Clause 2 of Article 3 of the Decree-Law [Fed. Law no 47 (2022)]

That meets the conditions of Article 18 of the Decree-Law [Fed. Law no 47 (2022)]

Qualifying Free Zone Person – 6 Conditions

2. Conditions to be met to be considered as a Qualifying Free Zone Person

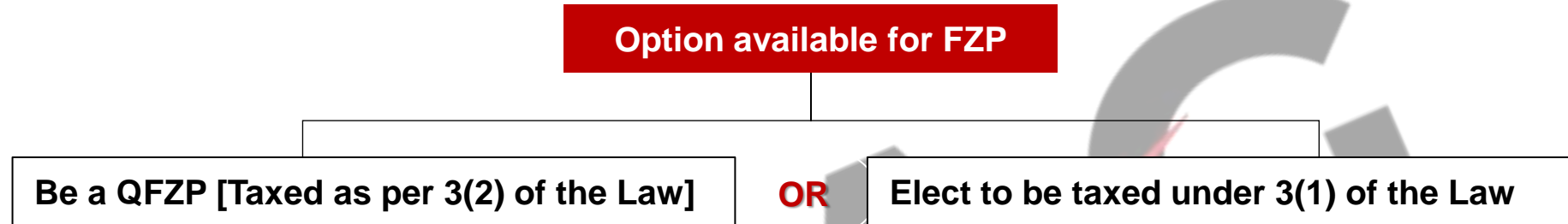
1	2	3	4	5	6
Maintains adequate substance in the State. <ul style="list-style-type: none">• CIGA in the FZ• Adequate assets• Adequate number of qualified employees• Incur an adequate amount of operating expenditures	Derives Qualifying Income. <ul style="list-style-type: none">• Income derived from transactions with other FZP, except for income derived from excluded activities• Income derived from transactions with a NFZP but only in respect of QA that are not excluded activities• Any other income provided that the qualifying FZ satisfies the de minimis requirements	Has not elected to be subject to 9% Corporate Tax [Article 19 of the CT Law].	Complies with the requirements of Transfer Pricing as per Article 34 & 55 of the Law.	Its non-qualifying revenue does not exceed the de minimis requirements [lower of AED 5M or 5% of the total revenue]	It prepares audited financial statements



If any one of the above conditions is not met in any particular year, it will not be considered as a QFZP for that year and the subsequent 4 years

Qualifying Free Zone Person

3.



A Qualifying Free Zone Person can make an election to be subject to Corporate Tax at the rates specified under Clause 1 of Article 3 of this Decree-Law



Such election shall be effective from either of:

a. The **commencement of the Tax Period** in which the election is made.

b. The commencement of the Tax Period **following the Tax Period** in which the election was made.

Qualifying Free Zone Person

4. Checklist to choose the option



Checklist

Are you a FZP?

Yes

Do you Maintain Adequate Substance in the FZ

No

Yes

Derives Qualifying Income?

No

Yes

Satisfies De Minimis requirements?

Yes

Retain as QFZP






Elect to be taxed at normal rate Art. 3 (1)



II. QUALIFYING INCOME

Qualifying Income

Qualifying Income of the Qualifying Free Zone Person shall include the below categories of income:

				
<p>FZP:</p> <p>Transactions with other FZP, except income from Excluded Activities.</p> <div> <div>Excluded Activity</div> <div>Non-Commercial Property</div> </div>	<p>NFZP:</p> <p>Transactions with NFZP</p> <p>Income from transactions that are Qualifying Activities (which are not excluded activities)</p> <div> <div>Qualifying Activity</div> <div>Immovable properties</div> <div>Other Activity</div> </div>	<p>Other Income:</p> <p>Any other income (on the satisfaction of de minimis requirement)</p> <div> <div>Within de minimis</div> <div>Other Activity</div> </div>	<p>Permanent Establishment:</p> <p>Income attributable to a Domestic PE or a Foreign PE</p> <div></div>	<p>Immovable Properties:</p> <p>Ownership or exploitation of immovable property</p> <div> <div>Income from Commercial Property from FZP</div> </div>



III. TRANSACTION WITH FZP

List of Excluded Activities

Transactions of QFZP with FZPs shall be eligible for 0% Tax benefit, if the income is derived from transactions other than excluded activities, provided the Free Zone Person is the Beneficial Recipient of the relevant services or Goods.

Income from certain regulated financial service activities:

- **Banking activities***
- **Insurance activities*** except
 - ✓ Reinsurance services
- **Finance and leasing activities*** except
 - ✓ Treasury and financing services to Related Parties
 - ✓ Financing and leasing of Aircraft, including engines and rotatable components

- Ownership or exploitation of **Immovable property**, *except transaction in respect of **Commercial Property** located in FZ

Ownership or exploitation of **intellectual property assets**.

Any transaction with **natural persons**, except transactions in relation to:

- **Fund** management services*
- **Wealth** and investment management services*
- Financing and leasing of **Aircraft**, including engines and rotatable components.
- Ownership, management, and operation of **Ships**

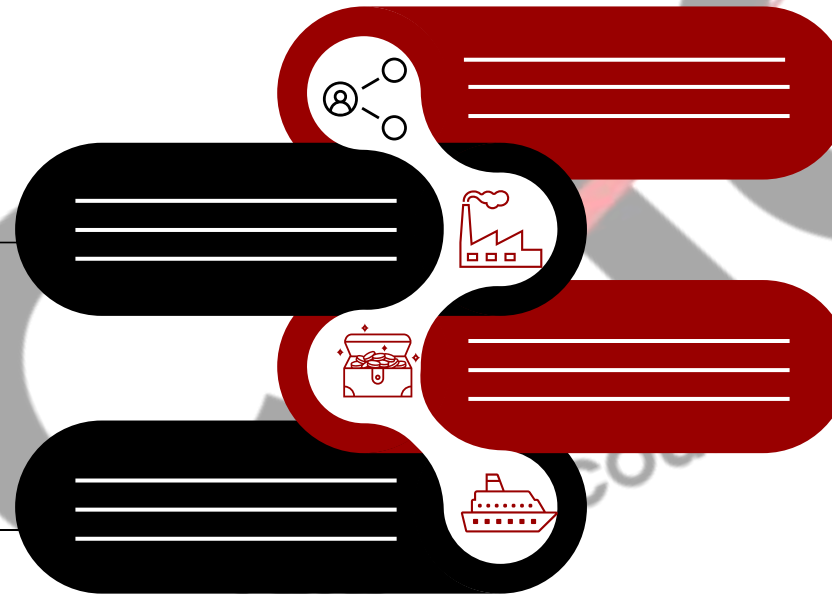
Any activities that are ancillary to the above activities.



IV. TRANSACTION WITH NFZP

List of Qualifying Activities

- **Manufacturing / processing** of goods or materials
 - **Distribution** of goods or materials in or from a DZ to a customer that resells such goods or materials, or parts thereof or processes or alters such goods or materials or parts thereof for the purposes of sale or resale
- Ownership, management and operation of **Ships**
 - Financing and leasing of **Aircraft**, including engines and rotatable components



- Reinsurance services,
- Fund management services
- Wealth & investment management services
(subject to regulatory oversight of the competent authority)

- **Treasury and financing** service to Related Parties
- **Headquarter** services to Related Parties
- **Holding of shares** and other securities
- **Logistics** Services

Any activities that are ancillary to the above activities.



V. DE MINIMIS REQUIREMENTS

De Minimis [CD 55]

De Minimis Requirements



Do You Earn Any Non-qualifying Revenue?

Yes

Non-qualifying Revenue Is More Than AED 5 Mil.

No

Yes

Non-qualifying Revenue Is More Than 5% Of Total Revenue

Yes

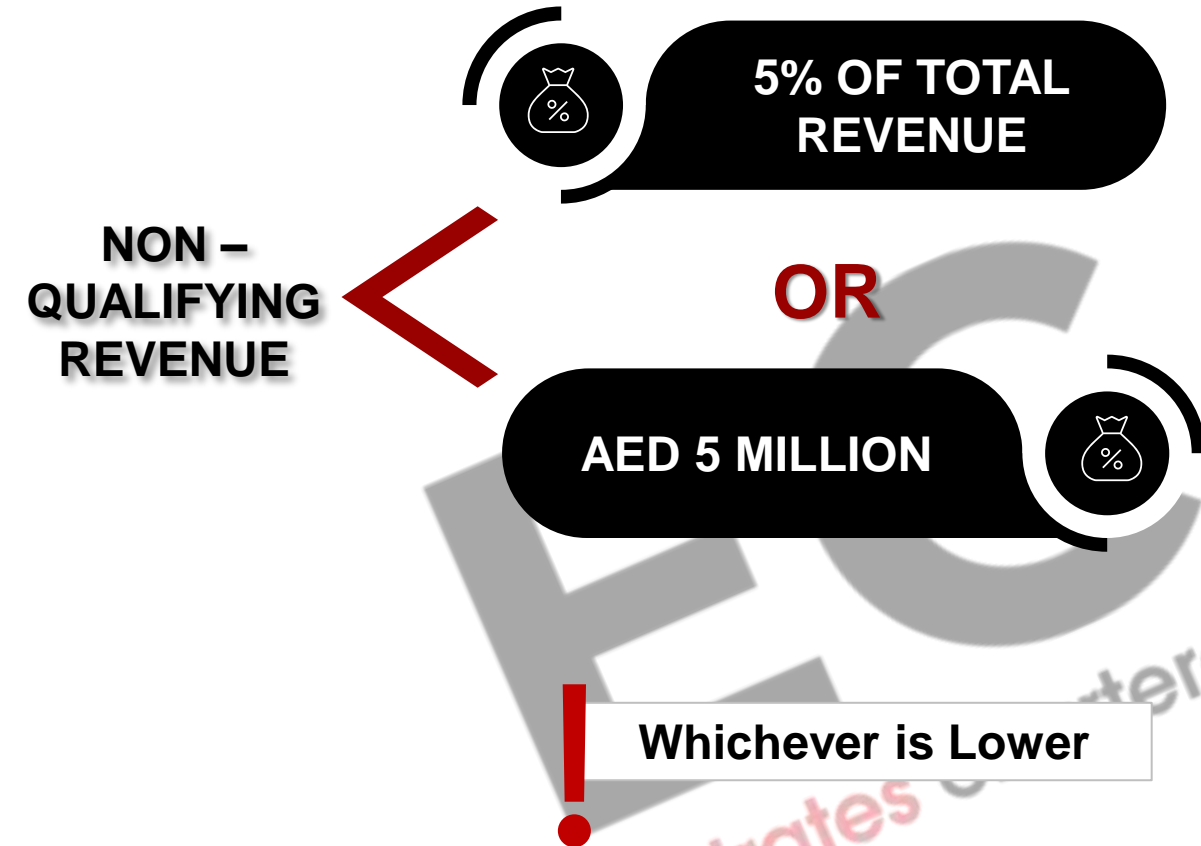
De Minimis Not Satisfied



No

De Minimis Satisfied





NON – QUALIFYING REVENUE

- Excluded Activities
- Activities Which are Not Qualifying Activities with NFZP

(Do not include)

- Transactions with NFZP – Commercial Property
- Transactions with any person – Non – Commercial Property
- Revenue attributable to Domestic / Foreign PE

TOTAL REVENUE

- Total Revenue LESS
 - Transactions with NFZP – Commercial Property
 - Transactions with any person – Non – Commercial Property
 - Revenue attributable to Domestic / Foreign PE



VI. IMMOVABLE PROPERTY

9%

Income Attributable to Immovable Property Located in a Free Zone

Income attributable to immovable property located in a Free Zone that is derived from the below transactions shall be considered Taxable Income and taxed at 9%

- a. Transactions with **Non-Free Zone Persons** in respect of **Commercial Property**.
- b. Transactions with **any Person** in respect of immovable property that is **not Commercial Property**.

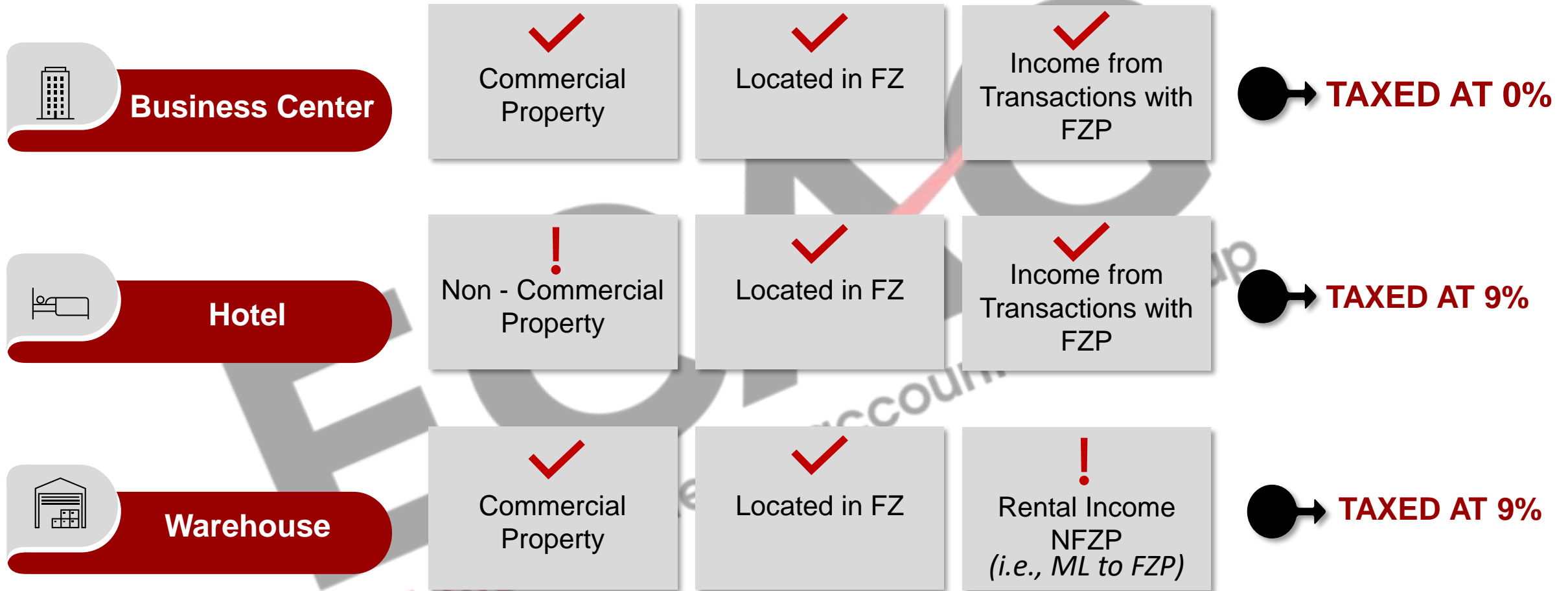


Commercial Property:

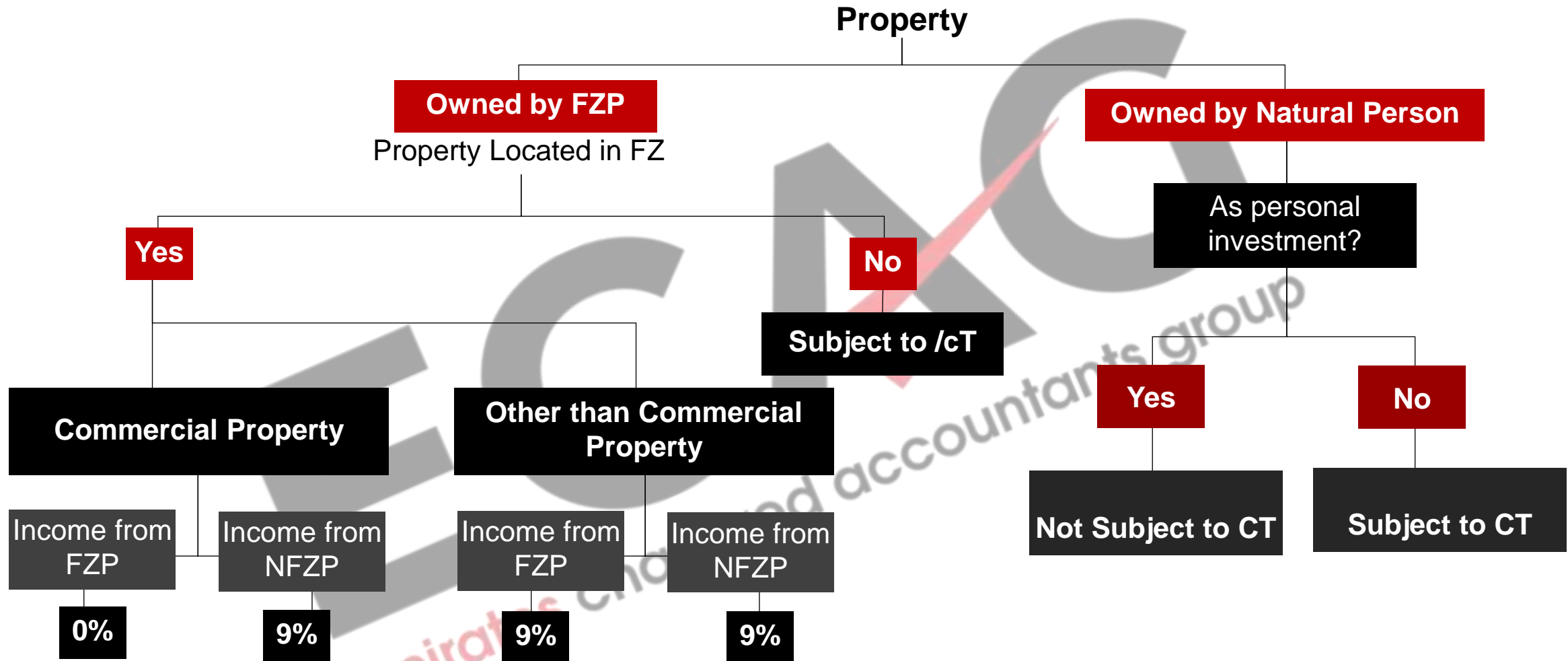
Immovable property or part thereof:

- (a) used exclusively for a **Business or Business Activity**.
- (b) not used as a place of residence or accommodation **including hotels, motels, bed and breakfast establishments, serviced apartments and the like**.

Income Derived from Immovable Property



Taxability of an Immovable Property





VII. NEXUS IN THE STATE

A juridical person that is a **Non-Resident Person** shall have a nexus in the State if it earns income from any **Immovable Property in the State**.

Immovable Property: Means any of the following:



a.

Any area of land over which rights or interests or services can be created.



b.

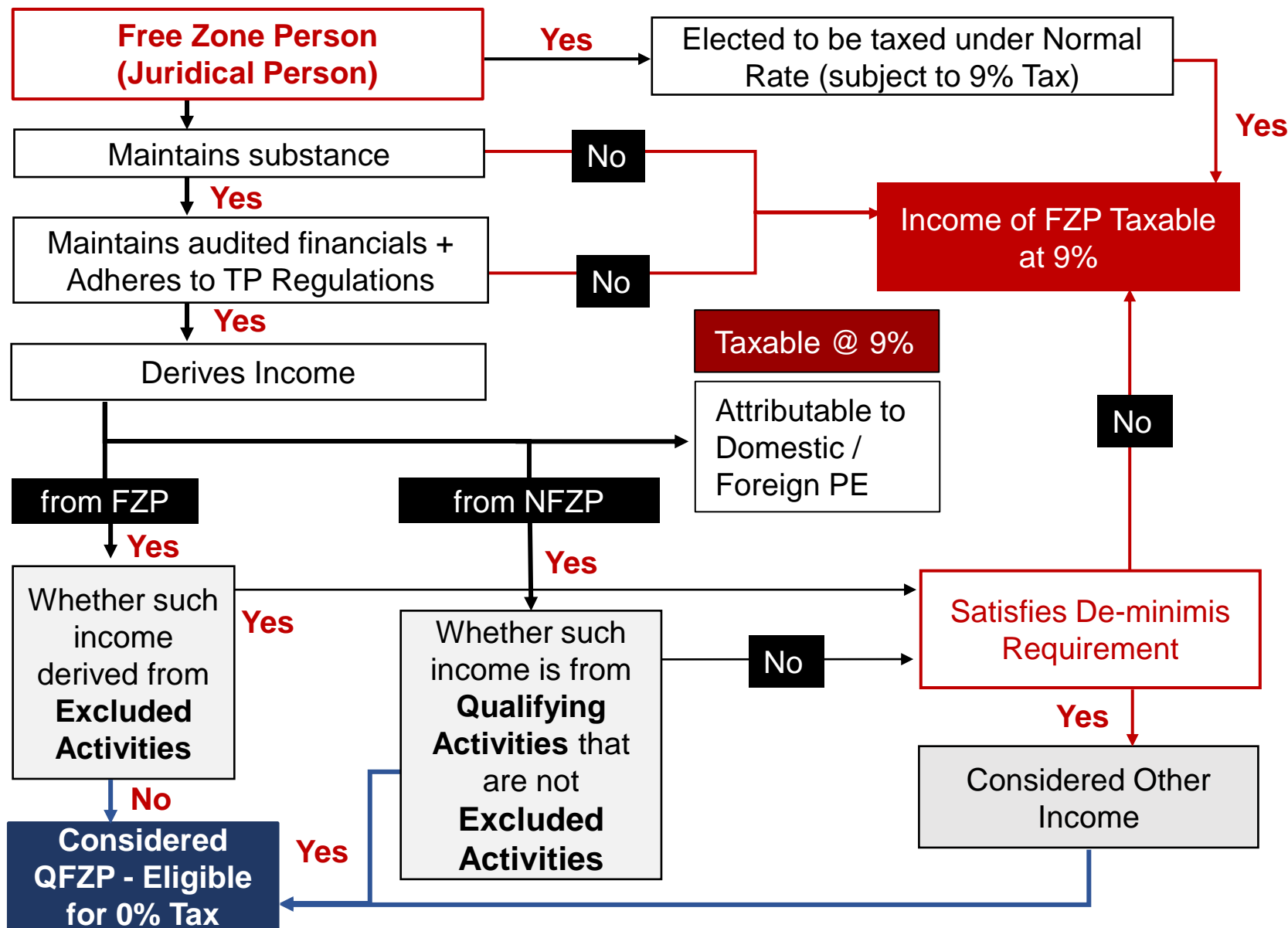
Any building, structure or engineering work attached to the land permanently or attached to the seabed.



c.

Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

S U M M A R Y



Example



Amount in AED

Particulars	Example 1	Example 2	Example 3
Revenue	19,500,000/-	90,000,000/-	75,000,000/-
Non – Qualifying Revenue	500,000/-	10,000,000/-	5,000,000/-
Total Revenue	20,000,000/-	100,000,000/-	80,000,000/-
[a] 5% of Total Revenue	1,000,000/-	5,000,000/-	4,000,000/-
[b] Limit Fixed	5,000,000/-	5,000,000/-	5,000,000/-
De minimis [lower of a & b]	1,000,000/-	5,000,000/-	4,000,000/-
Tax Rate	0%	9%	9%



VIII. DISTRIBUTION ACTIVITY

Distribution Activity in FZ will be a qualifying activity if:

Article 2(1)(k) of MD 139:



Distribution of goods or materials in or from a Designated Zone to a customer that **resells** such goods or materials, or parts thereof or **processes or alters** such goods or materials or parts thereof for the purposes of **sale or resale**.

- **Distribution** of goods/materials to a customer that **resells OR processes or alters** for **sale or resale**.



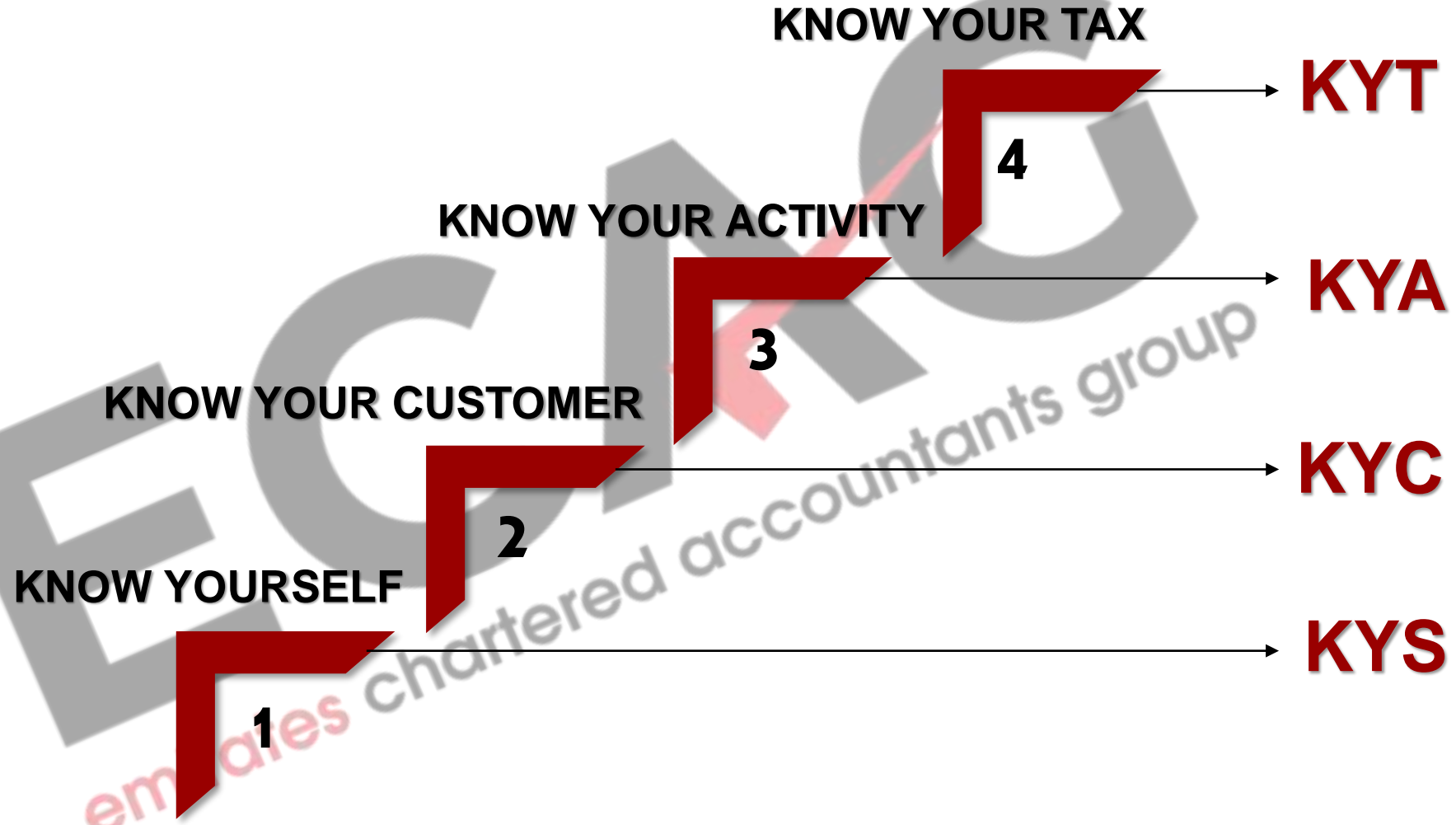
Article 2(3) of MD 139:

The activity of distributing goods or materials **must be undertaken in or from a Designated Zone** and the goods or materials **entering the State must be imported through the Designated Zone**

- **Distribution Activity in or from a Designated Zone**
- **Entering the State must be imported through the Designated Zone**

Thumb Rule to Determination of QFZP Status

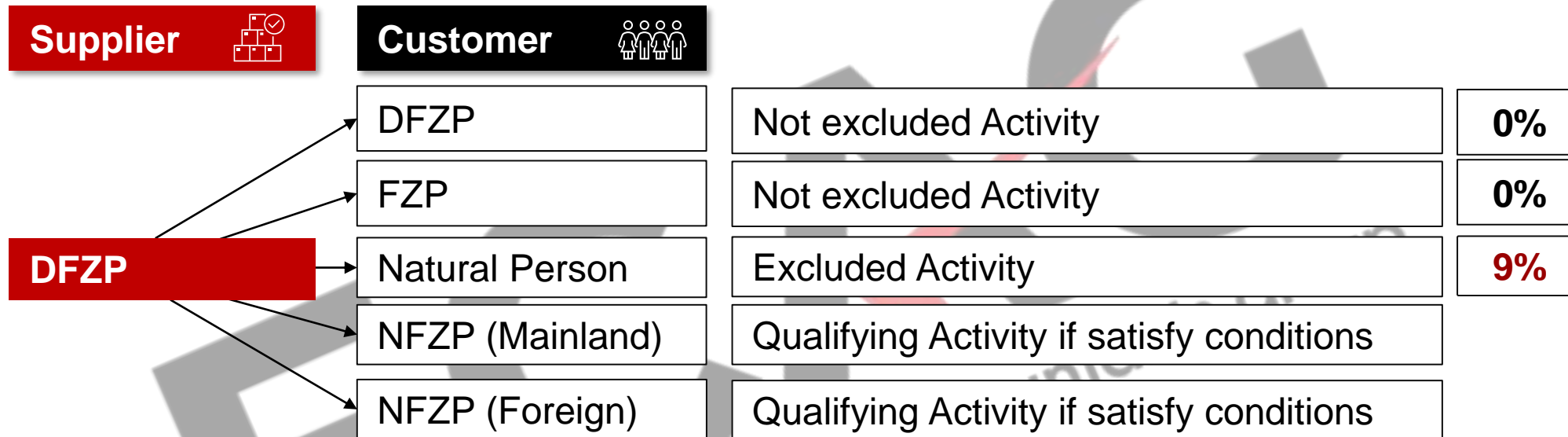
4
STEPS



Distribution Activity



Distribution Activity in FZ will be a qualifying activity if:



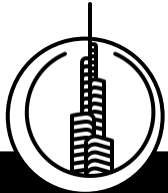
✓ IF IT SATISFIES **3** CONDITIONS:

1 Distributing of goods or materials is in or from a DZ

2 Customer resells OR processes & sells

3 The goods/materials entering must be imported through DZ

List of Designated Zones – as per CD 59 of 27



DUBAI

Jebel Ali Free Zone (North & South)

Dubai Cars and Automotive Zone (DUCAMZ)

Dubai Textile City

Free Zone Area in Al Quoz

DAFZA Industrial Park Free Zone - Al Qusais

Dubai Aviation City

Dubai Airport Free Zone

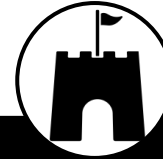


ABU DHABI

Free Trade Zone of Khalifa Port

Abu Dhabi Airport Free Zone

Khalifa Industrial Zone



RAK

RAK Port Free Zone

RAK Maritime City Free Zone

RAK Airport Free Zone



OTHERS

Sharjah

Hamriyah Free Zone

Sharjah Airport International Free Zone

Fujairah

Fujairah Free Zone

FOIZ (Fujairah Oil Industry Zone)

Umm Al Quwain

Umm Al Quwain Free Trade Zone in Ahmed Bin Rashid Port

Umm Al Quwain Free Trade Zone on Sheikh Mohammed Bin Zayed Road

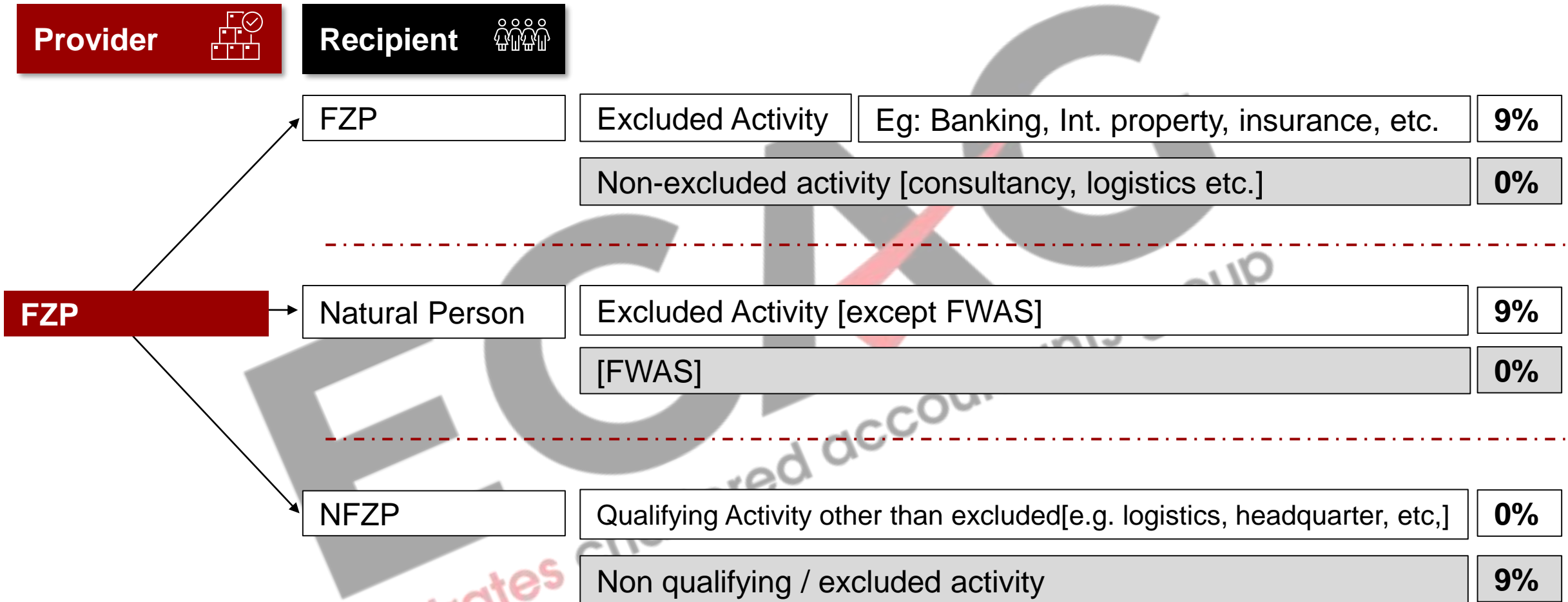
Ajman

Ajman Free Zone



IX. SERVICE ACTIVITY

Service Activity



Note: Subject to De minimis condition wherever applicable.



X. KEY TAKEAWAYS

Key Takeaways

01

If the entity **ceases to be a QFZP** due to failure to meet any of the requisite conditions during a Tax Period it shall cease to be a QFZP from the beginning of that Tax Period and for the **subsequent four Tax Periods**.

02

Detailed analysis and **clarity on entity's Excluded Activities and Qualifying Activities** would be required to determine Qualification.

03

Industry-specific **exclusions** to be taken care of.

04

Special attention to determine qualification of income from export of Goods / Services, as **not all exports would be eligible for 0% Tax**.

05

Arm's Length Price to be adhered to in case of transactions with Domestic PE / Foreign PE. **Essential to maintain separate accounts of such PE**.

06

Most of the transactions with **Natural Persons** may not be eligible as Qualified Income.

07

Transactions in respect of **immovable properties** are to be reviewed to examine the taxability.



Computation of Taxable Income



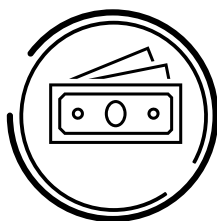
Starting Point - Accounting profits or loss as per financial statement prepared as per internationally accepted accounting standards

Following adjustments to be made to accounting profits to arrive at the taxable income:

- Unrealized gain or loss
- Exempt income
- Qualifying Group transfer relief
- Disallowed expenditure
- Tax loss relief
- Transfer Pricing adjustments

Then after these adjustments arrive Taxable Profit

Non-deductible Expenditure



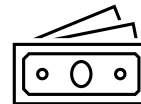
NON - DEDUCTIBLE EXPENDITURE

- Expenditure incurred for **other than taxable person's business**
- **50% of entertainment expenditure** to customers, suppliers, shareholders/ business partners
- **Managerial Remuneration** – limitations
- **Donations, grants or gifts** other than for QPBE
- **Fines and penalties** other than compensation awarded
- **Bribes** or illicit payments
- Expenses without genuine supporting or agreement like **Commission**
- Expenditure incurred for earning **exempt income**
- **Dividends / profit** distributions paid to owner
- **Drawings** by natural person
- **Corporate tax** paid
- **Foreign tax** paid

Treatment of Interest Expenditure



- Net interest expenditure upto **30% of EBITDA***
- Carry forward of interest allowed – **10 years.**
- **30% EBITDA rule** is not applicable for the interest amount upto – **AED 12 Million.**



- Interest on loan from related party in respect of specified transactions relating to profit / dividend distribution / acquisition of capital or capital contribution / shares
- Taxable person can demonstrate that no Corporate Tax advantage and claim deduction

*Provisions **not applicable** for banks, insurance businesses, and businesses carried on individuals

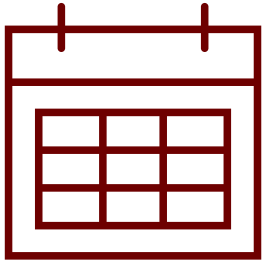
Allowable Interest Expenditure

Particulars		2024 (AED in Millions)	2025 (AED in Millions)
Profit as per P&L A/c (Book Profit) –	(A)	10	22
Add :			
• Net interest expenditure		15	15
• Depreciation / Tax / Amortization		5	5
	Total (B)	20	20
EBITDA (A+B)	(C)	30	42
Interest allowed – 30% of EBITDA OR 12 (whichever is higher)	(30% of C)	9M	12.6
Deductible Interest for the year		12	12.6 (3 + 9.6)
Interest allowed to be carried forward*		3 (15 - 12)	5.4 (15 - 9.6)

* Up to 10 tax periods



TAX RETURN



- **Due date for Tax Return** - Within **9 months** from the end of the relevant Tax Period
- Certain Exempt Person may also require to submit Tax Return
- Option given unincorporated partnership to file Tax Return when Partners are not registered as Taxable Person
- Parent Company to file Tax Return on behalf of the Tax Group
- All Taxable Persons to submit financial statements used to determine taxable income
- Certain categories may prepare and maintain **audited or certified financial** statements

TAX RETURN INFORMATION

- Tax period
- Name address and registration number
- Date of submission
- Accounting basis
- Taxable income
- Tax loss relief
- Tax loss carried forward
- Tax credits claimed
- Net tax payable



REGISTRATION

REGISTRATION FOR **VAT**



Mandatory Registration - taxable supplies and imports exceed AED 375,000 per annum.



Optional Registration - supplies and imports exceed AED 187,500 per annum.



REGISTRATION FOR **CORPORATE TAX**



Mandatory Registration – irrespective of the income*

**Except for the specific exclusion by MD 43 of 2023*



REGISTRATION

Any Taxable Person

(Certain persons may be exempted from registration through Cabinet Decisions)

- Certain Exempt Persons (Qualifying Public Benefit entity, Qualifying Investment fund) also require to Register
- Unincorporated Partnerships in case Partners not registered

✗ SPECIFIC EXCEPTION FROM REGISTRATION



**Government /
Government controlled
Entity**



**Person engaged in
extractive business**



**Person engaged in non-
extractive business fulfilling
certain conditions**



**Non-resident person - not
having PE –deriving state
sourced income**



TAX GROUP

Tax Group : Conditions for formation of a Tax Group

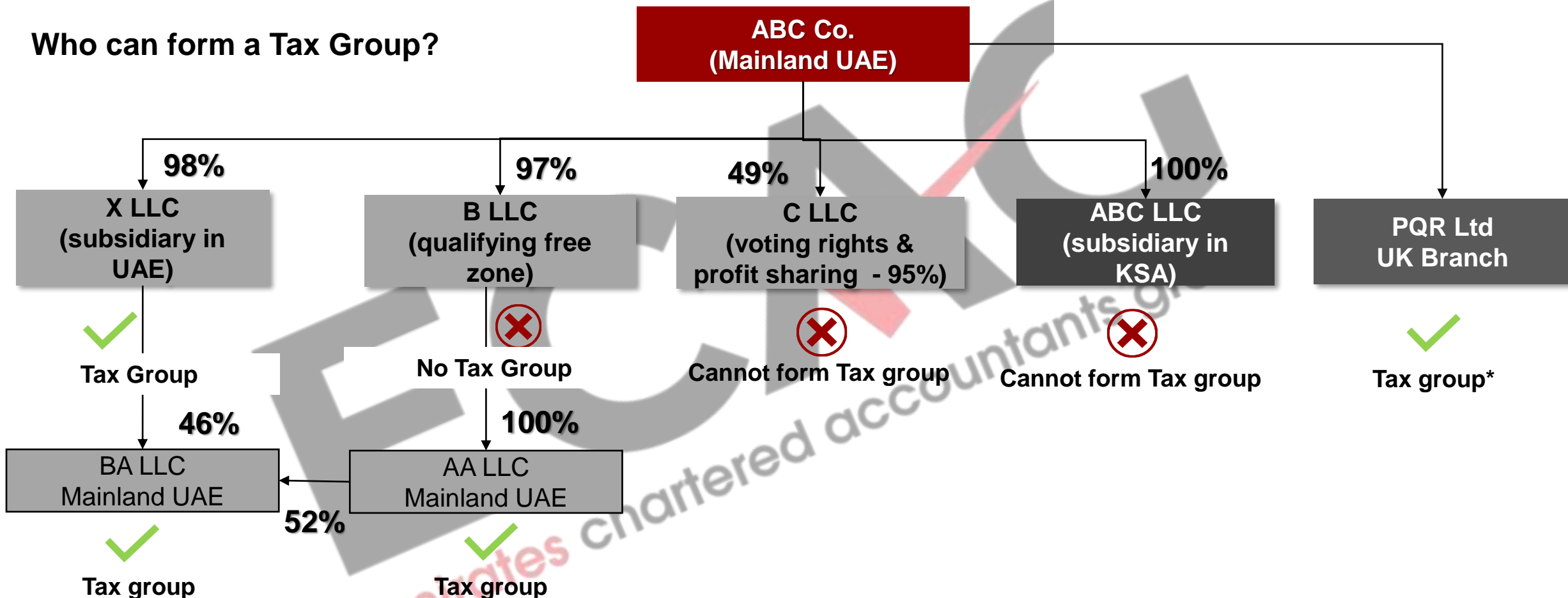
- Tax Group is treated as Single Taxable Person represented by Parent company



- Only Resident Juridical Persons
 - Parent Company owns **minimum 95%** of the
 - share capital
 - voting rights
 - profits &
 - net assets directly or indirectly
- All group members adopt
 - Same financial year &
 - Same accounting standards
- Neither of group members should be
 - Exempt person
 - Qualifying Free Zone person

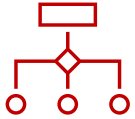
Example 5

Who can form a Tax Group?



*Considering no exemption is claimed and other conditions met

Features of a Tax Group



Tax Group is treated as Single Taxable Person represented by Parent company

- Single Registration
- Single Tax return
- Single Assessment
- Setoff losses
- Jointly & severally liable for Tax liability*

*Joint and several liability **can be limited** to one or members of the Tax Group – **subject to the approval by the authority**

Withholding Tax Obligations: Each subsidiary will be responsible for deducting the WHT and remitting to the Authority.

It will **NOT** be the **responsibility of the Parent Company** to fulfil the Withholding Tax obligations on behalf of the Subsidiaries of the Tax Group.

VAT GROUP \neq CORPORATE TAX GROUP



TAX LOSS RELIEF



Carry forward of Tax Loss

Tax Loss can be offset up to 75% of the taxable income

Tax losses carried forward indefinitely and utilised in succeeding years if:-

- The same shareholder(s) hold at least 50% of the share capital
OR
- the same or similar business is carried on by the new owners.

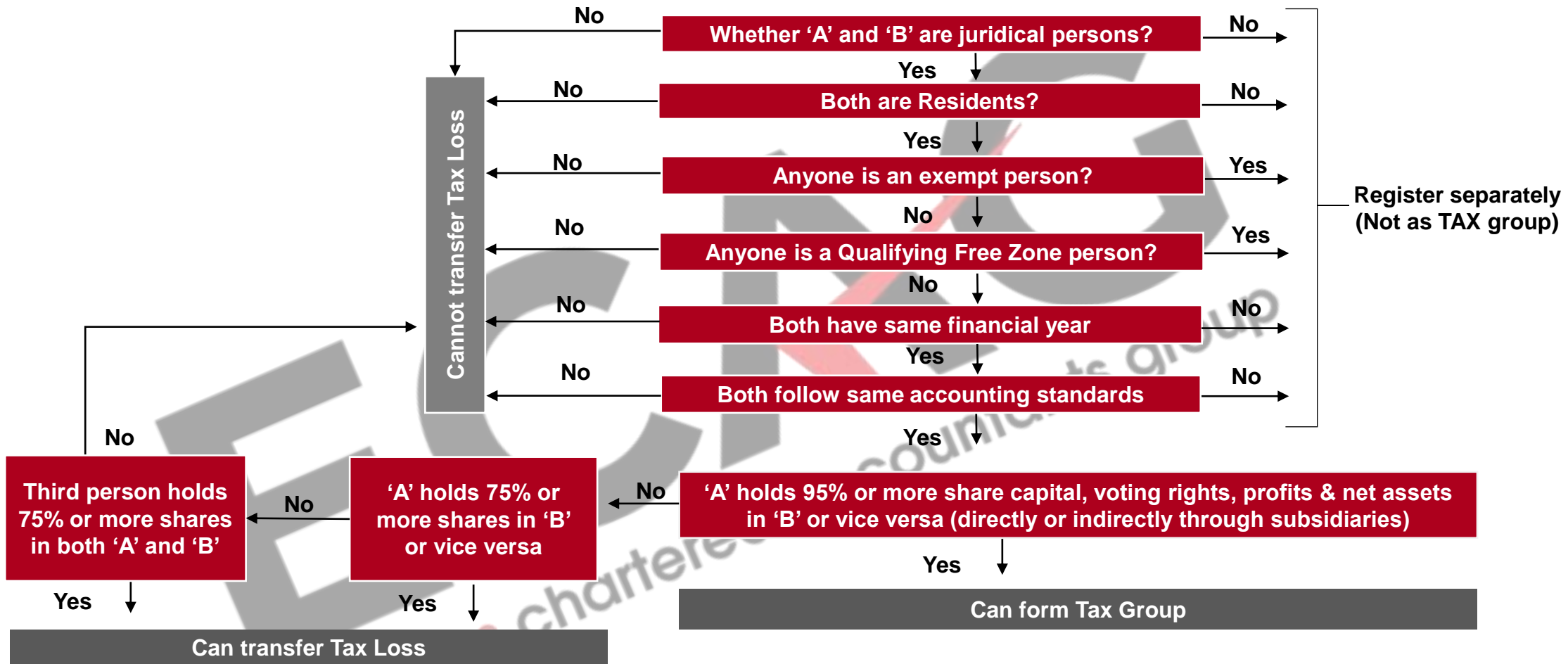


Transfer of Tax Loss

Tax Loss (Maximum 75% of the taxable income) may be offset against the taxable income of another taxable person if:

- Both taxable persons are Juridical and Resident persons having same FY.
- At least 75% of the Ownership Interest is commonly owned
- Should not be exempt companies / Qualifying Free Zone companies

Check whether taxable persons can be registered as a Tax Group?





Transfer Pricing

Two or more legal entities

Legal entity alone, or together with a related party, **directly or indirectly owns a 50% or greater share** in or **controls** the other legal entity.

Two or more Individuals

Related to the fourth degree of kinship or affiliation, including by way of adoption or guardianship

Taxpayer

Its branch or permanent establishment

An individual and a legal entity

Individual alone or together with a related party, **directly or indirectly owns a 50% or greater share** in, or **controls** the legal entity

Unincorporated Partnership

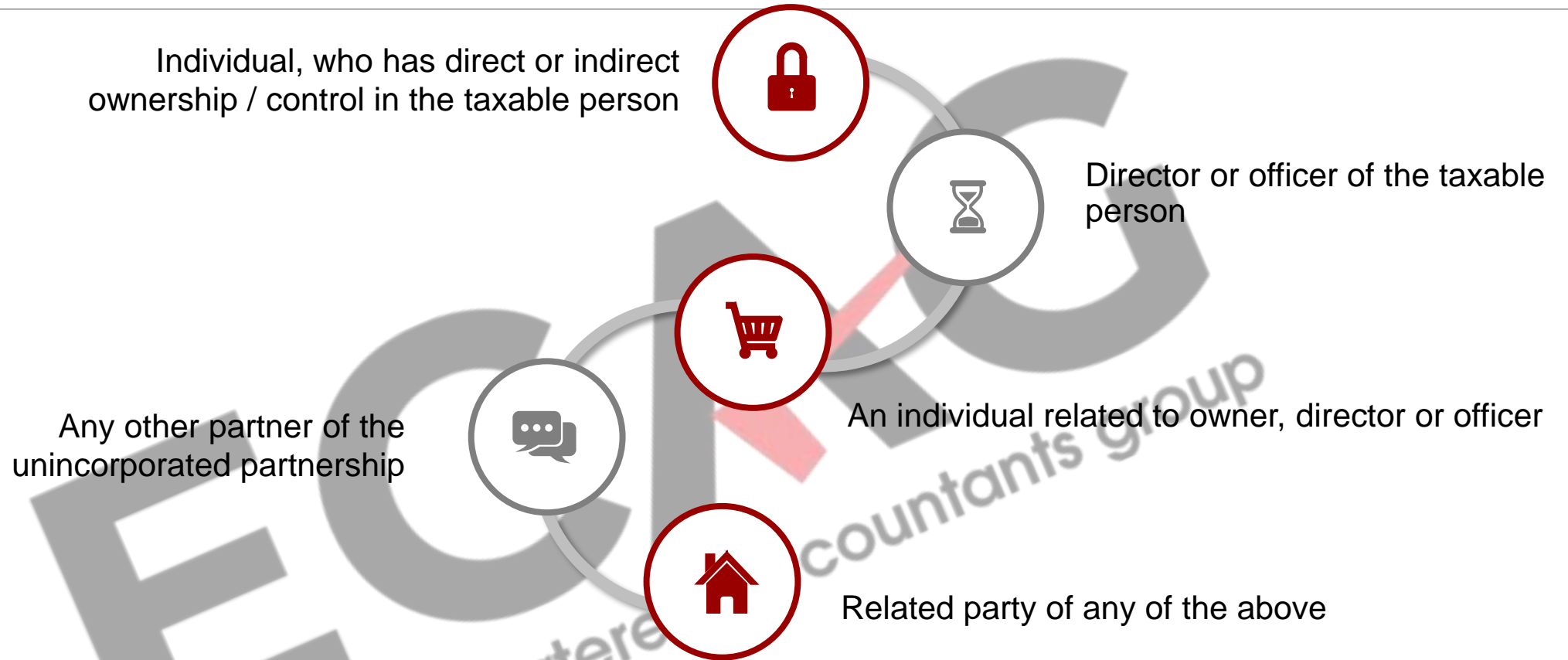
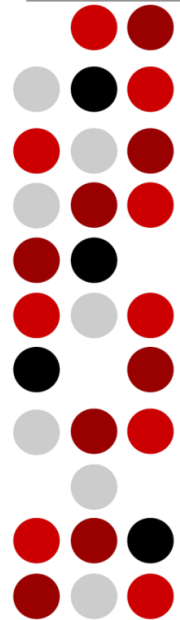
All partners

Trust or Foundation

A Person who is the trustee, founder, settlor or beneficiary of a trust or foundation, and its Related Parties.



Connected Persons



Payment to connected person deductible only to the extent it corresponds with the **Market Value** of the Service and it is exclusively for the purpose of business

Exception: Entity traded on Recognised Stock Exchange OR Any other persons as prescribed MCD

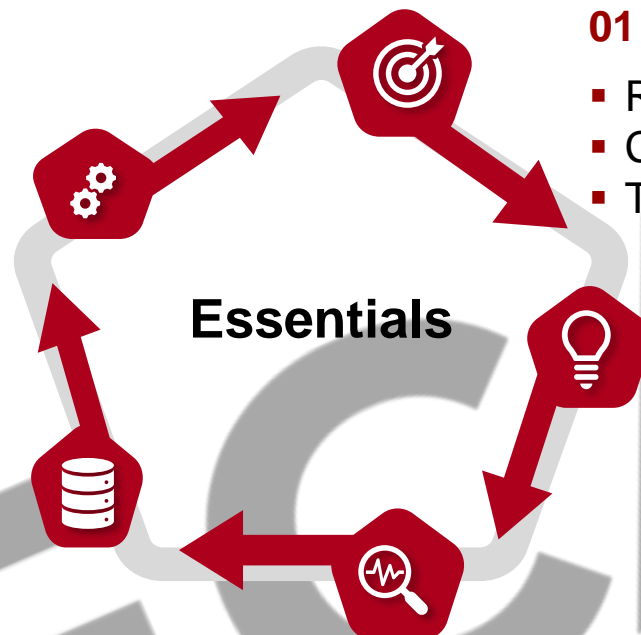
Transfer Pricing: Key aspects

ASSESSMENT - 05

- General questionnaires / information sought for
 - Request by the authorities to provide additional documents
- Submission deadlines
 - Appeals, if required

REPORTING - 04

- Method of Reporting
 - Documents to be submitted
 - Documents to be maintained
 - Deadlines



03 – ARM'S LENGTH COMPARABLES

- Pricing Policy
- Agreements
- Economic Implications
- Accepted Methods

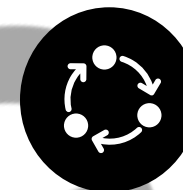
01 - APPLICABILITY

- Related party
- Connected Party
- Threshold

02 – FAR ANALYSIS

Evaluate the

- Functions performed
- Assets used
- Risk Assumed



METHODS TO DETERMINE ARM'S LENGTH PRICE

1. Comparable Uncontrolled Price Method (CUP)
2. Resale Price Method (RPM)
3. Cost Plus Method (CPM)
4. Transaction Net margin Method (TNMM)
5. Profit Split Method (PSM)



TRANSFER PRICING DOCUMENTATION

Threshold for maintaining Master file and Local file:

- 
1. Entity is a part of MNE group that has total consolidated **group revenue of AED 3.15 Billion** or more
 - OR**
 2. Revenue is **AED 200 million** or more in the relevant tax period

Master File and Local file must be submitted on request of the Tax Authority within 30 days following the request

Format to be Prescribed by the Tax Authority



AUDIT REQUIREMENTS



Who is required to prepare and maintain audited financial statements?



Audited Financial Statement

- Taxable Person deriving Revenue exceeding AED 50 million (\$13.6 mil)
- A Qualifying Free Zone Person*.



Ministerial Decision No. 82

Details about Category of Taxable person required to prepare and maintain Audited Financial Statement

Explanatory Guide issued by MOF

Financial Statement to be audited by a licensed public accountant

- Provides an additional layer of oversight on the quality of the financial information used for Corporate Tax purposes



INTERNATIONAL TAX IMPACT

Withholding Tax / Foreign Tax Credit



SCOPE

- Specific categories of state sourced income derived by a Non-Resident Person
- When not attributable to a PE of the Non-resident Person



RATE

- **0%** OR any other rate as per Cabinet Decision



DEDUCTION

- To be deducted from the **gross amount** of the payment to the Non-Resident Person & remit to the Authority



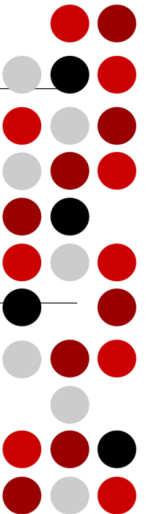
WITHHOLDING TAX CREDIT

- Credit for taxes deducted in other jurisdictions available
- To the extent of CT due on such income offered to tax



FOREIGN TAX CREDIT

- Foreign Tax Credit for the relevant Tax Period allowed
- To the extent of CT due on the relevant income



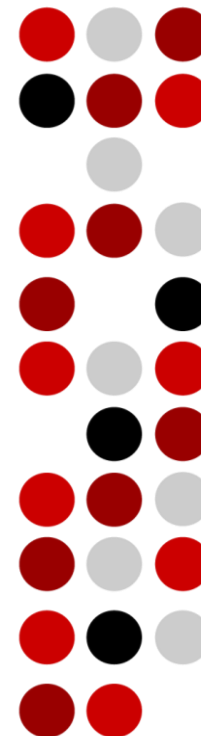


ABOUT US



EMIRATES CHARTERED ACCOUNTANTS GROUP

More Than Figures



united  **auditing**
AUDIT DIVISION

About Us

- We, *Emirates Chartered Accountants* started operation in Dubai, in 2005.
- We are ISO certified auditing, taxation and management consultancy firm.

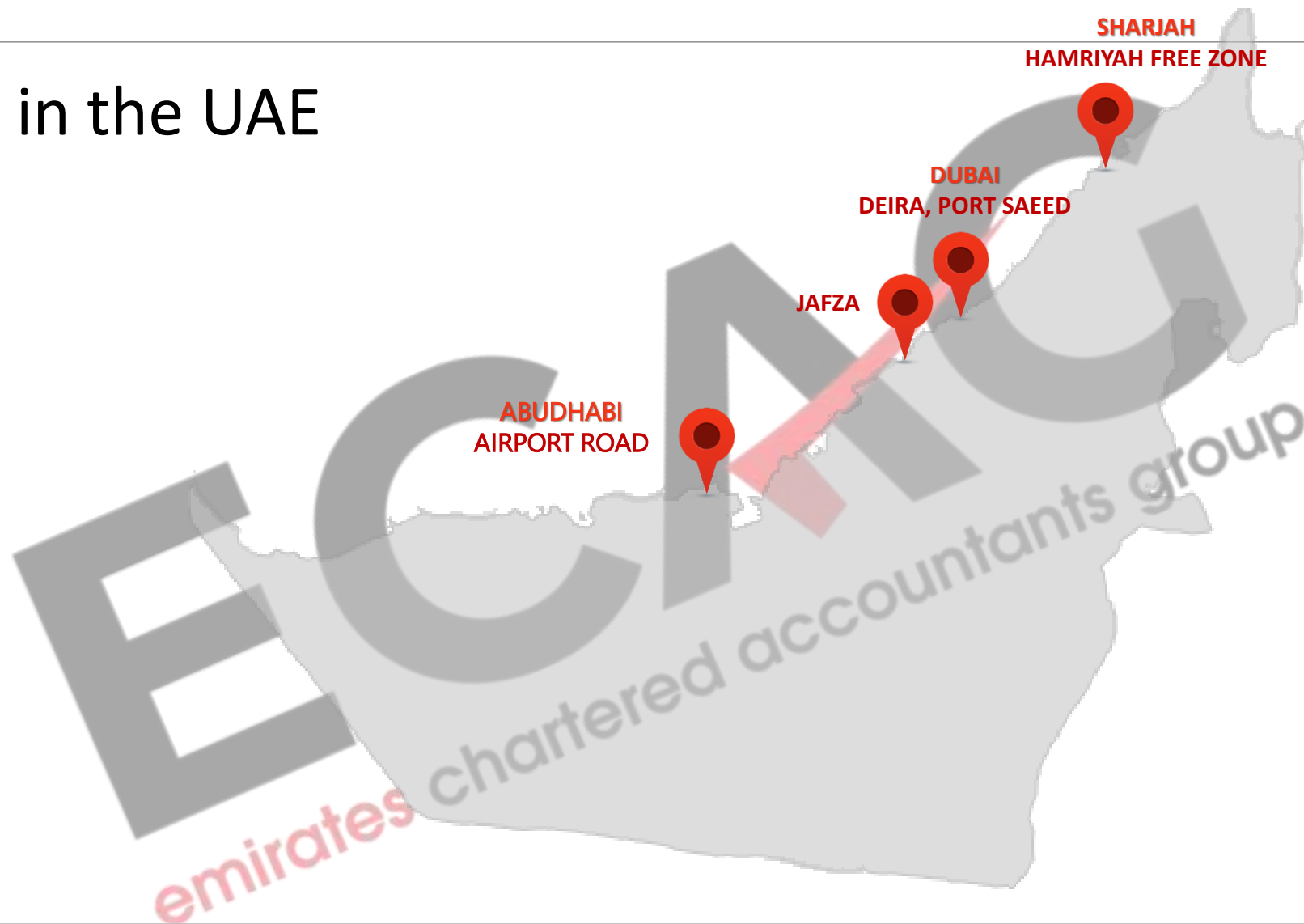
2005
UAE

2008
UK

2016
INDIA

2018
BAHRAIN

Locations in the UAE



OUR INTERNATIONAL PRESENCE

- Formed in 1987
- Paris, France
- 79 Members
- 63 Countries
- 06 Continents
- 26th Position in World Ranking



OUR SERVICES



Audit

Statutory Audit | External Audit | IFRS | Forensic Audit | Fraud Investigation | Anti Money Laundering



Tax

Direct Tax – UAE Corporate Tax | Transfer Pricing | International Tax
Indirect Tax – VAT | Excise | Customs



Accounting

MIS reporting | Accounts Supervision | Fixed Asset Management | Standard Operating Procedures



Company Set Up

Advisory | Mainland | Freezone | Offshore | Company Liquidation

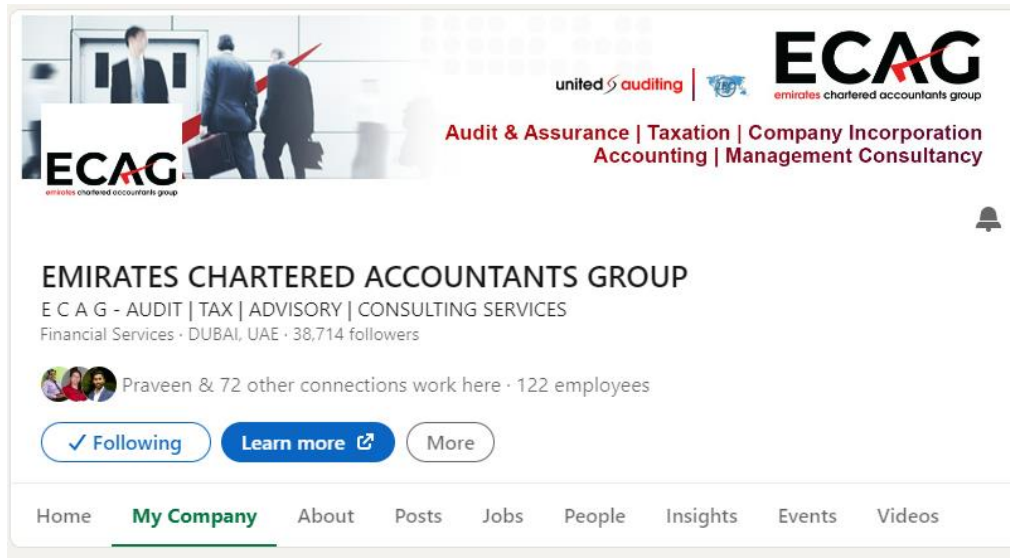


Business Advisory

CFO Services | Business Valuation | Consultancy | Mergers & Acquisitions | Trade Finance

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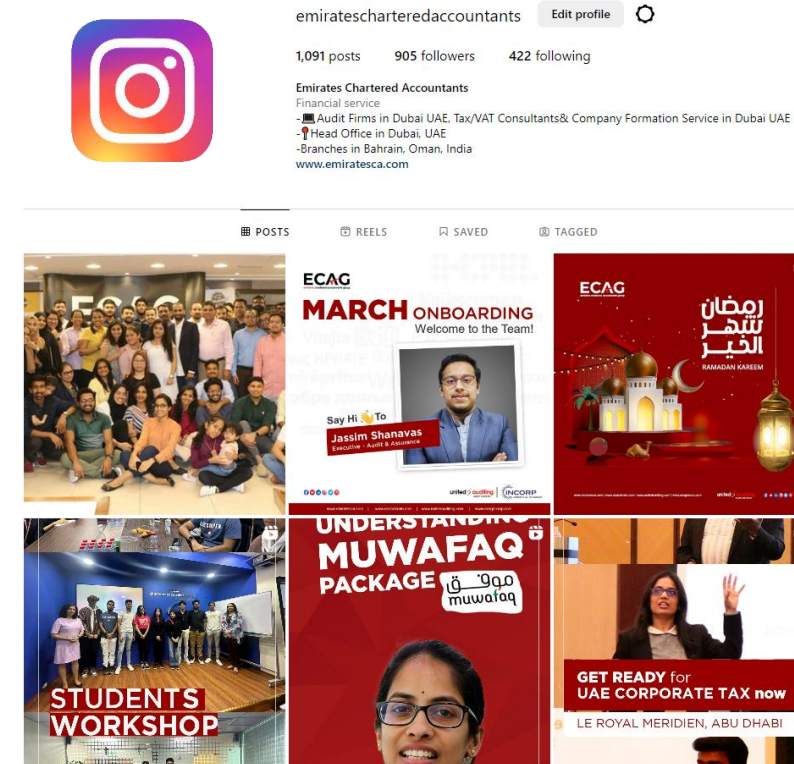


15,000+ Subscribers

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1,000 Followers



Seminars



Public Awareness Sessions:
300+ webinars & seminars
in last 5 years



**NAVIGATING UAE CORPORATE TAX
WITH CONFIDENCE**



united auditing
AUDIT DIVISION

Q & A

Thank you!



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Disclaimer: The views, wherever expressed in this presentation are of the author/writer/compiler. The intent of this presentation is to provide broad information on Cabinet Decision No. 55 of 2023 - Determining Qualifying Income for the Qualifying Free Zone Person and Ministerial Decision No. 139 of 2023 - Regarding Qualifying Activities and Excluded Activities does not purport to be a legal document or a client/situation specific advise. We, therefore, request you consult a tax expert before taking any actions based on this document.

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- United Auditing (Audit Division)
- Emirates International Chartered Accountants L.L.C (Registered Tax Agency)
- ECAG Taxation
- Emirates CA Consultancy W.L.L (Bahrain)
- ECAG LTD – UK
- ECAG - India

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