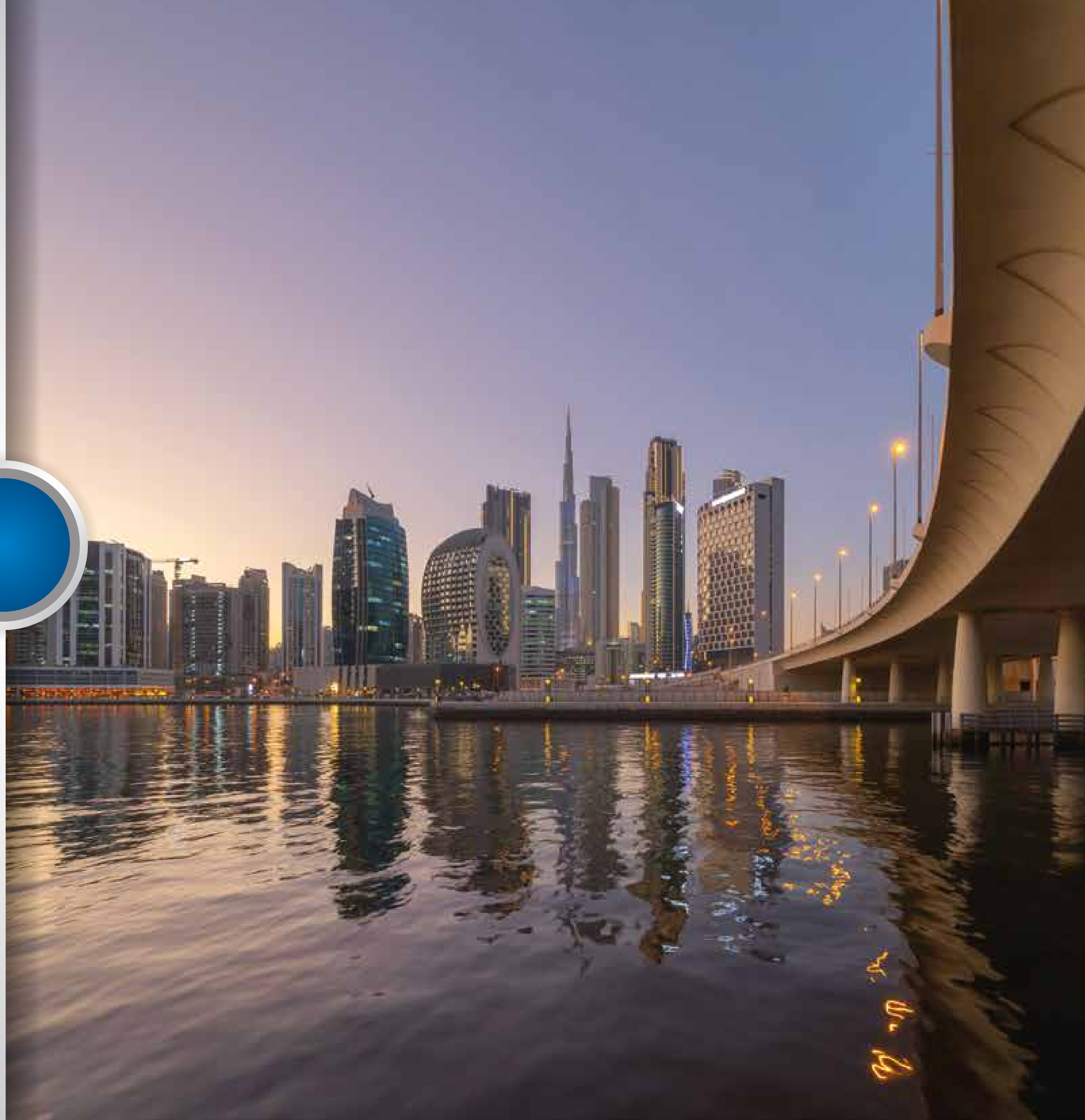
Brief
on

UAE CORPORATE TAX

21 December 2022



insights

www.insightss.co/ae

UAE Corporate Tax Law

1. Scope of Corporate Tax Law

Corporate Tax is applicable to "Taxable Persons" which includes:

Taxable Persons

Resident

- Juridical person including freezone incorporated in the state
- Juridical person incorporated or established in foreign jurisdiction that is effectively managed and controlled in the state
- Natural person conducts business or business activity in the state
- Any other person specified by law

Taxable Income

- UAE sourced income and foreign sourced income of a juridical person is taxable
- Income derived from the state or from outside the state insofar as it relates to the business or business activity conducted by the natural person in the state

Non Resident

- Has a permanent establishment in the state Derives state sourced income
- Has a nexus in the state as specified by law

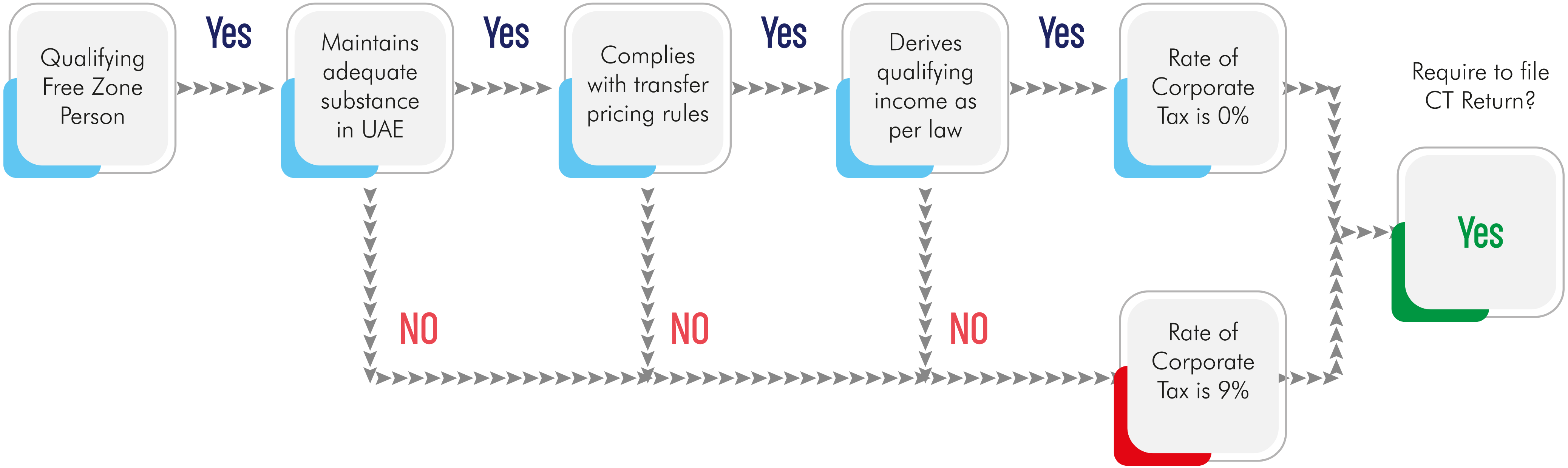
Taxable Income

- Income attributable to the permanent establishment in the state
- UAE sourced income not attributable to permanent establishment
- Income attributable to nexus of Non-Resident in the state

2. Corporate Tax Applicability on Freezone Companies

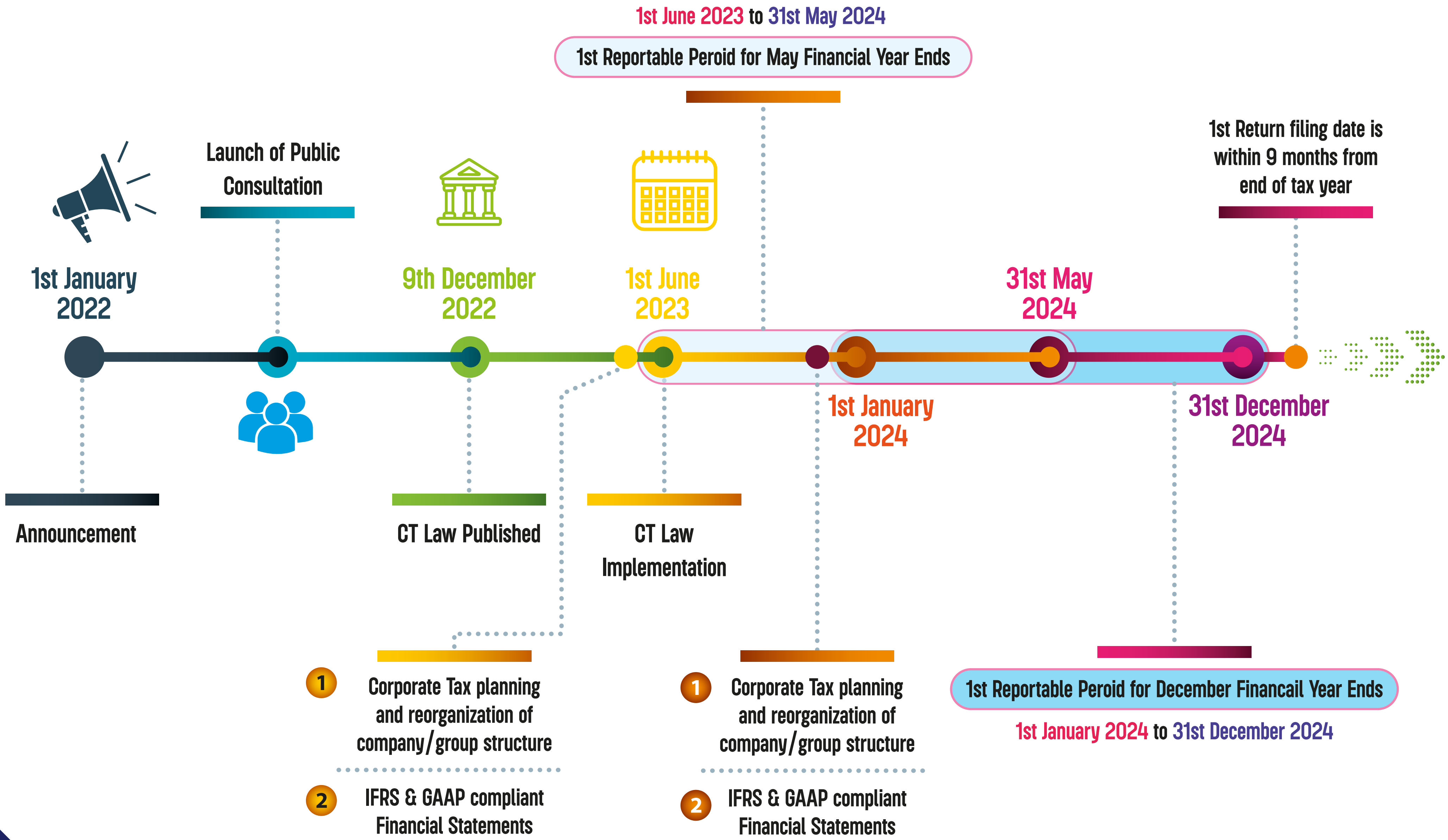
UAE Government aims to honor its commitment to exempt qualifying freezone businesses from applicability of Corporate Tax until the end of the holiday period. However, All free zones business are required by law to file their annual Corporate Tax Return.

Businesses operating in both Mainland UAE as well as Trade Free Zones should consider the impact on their operating model.



UAE Corporate Tax Law

3. Date of Law Enforcement – Essential Milestones



UAE Corporate Tax Law

3. Date of Law Enforcement

Issuance of Law on
03 October 2022
(Effective 15 days after publishing in the Official Gazette)

Registration of companies with Authority
in the form, manner and within the timeline prescribed by the Authority

Corporate Tax Law shall be applicable to the "Taxable Person" having financial year commencing on or after **1 June 2023** & shall be required to file Annual Corporate Tax Return in the manner prescribed by the Authority.

Entities shall consider before getting registered with FTA:

- Review their existing legal structure and revamp the structure in accordance with Corporate Tax Law and Transfer Pricing Implications
- Assess the impact of corporate tax on foreign investments made by such entities i.e. How to manage the impact of double taxation.
- Decide on whether opting group registration for tax purposes will be more suitable for entities under same ownership or not.
- Adoption and implementation of applicable accounting policies for preparation of financial statements.

Once the entities are done with their registration process:

- They shall consider the nature of their expenses & check whether those are allowable under the provisions of Corporate Tax Law.
- They shall review their chart of accounts (COA).

Practical queries are expected to be addressed by the authority on the suggestion of Minister. Few examples are:

- Minimum threshold for Taxable Income.
- Conditions to be fulfilled by Qualifying Free Zone Person for maintaining adequate substance in the State.
- Clarification on Qualifying Income in UAE.

4. Allowable Deductions

Type of Expenditure and Limitation on its Deductibility

All the expenditure incurred by a taxable person solely for the purposes of driving taxable income in a tax period are 100% allowed as deduction, except:

- Expenses not incurred for the purposes of the Taxable Person's Business
- Expenses incurred by a taxable person for the purpose of deriving Exempt Income
- Losses not connected with the Taxable Person's Business
- Bribes
- Fines & penalties
- Donations, grants or gifts made to an entity that is not a Qualifying Public Benefit Entity
- Dividends and other profit distributions to owners
- Corporate Tax imposed under the Corporate Tax Law
- Non-arms length transactions with related parties
- Recoverable input tax

Interest Expense

- Interest Expenditure shall be deductible up to 30% of the Taxable Person's accounting earnings before the deduction of interest, tax, depreciation and amortization (EBITDA) for the relevant Tax Period, excluding any Exempt Income.
- Excess amount of Interest Expenditure (above 30% as stated above) disallowed for the tax period may be carried forward and deducted in the subsequent (10) Ten Tax Periods in the order in which the amount was incurred.

Entertainment Expenditure

- Taxable Person shall be allowed to deduct 50% (fifty percent) of expenditure incurred during a Tax Period on Taxable Person's customers, shareholders, suppliers or other business partners, including, but not limited to the following:
  - *Meals*
  - *Accommodation*
  - *Transportation*
  - *Admission fees*
  - *Facilities and equipment used in connection with such entertainment, amusement or recreation*

5. Exemptions

Automatically Exempt

- Government Entities.
- Government controlled entities specified in Cabinet Decision.

Exempt if notified to Ministry of Finance (Subject to certain conditions)

- Extractive Business
- Non-Extractive Natural Resource Businesses

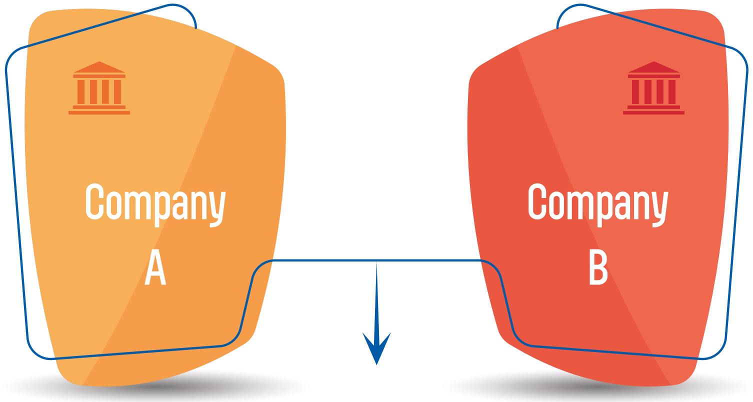
Exempt if listed in Cabinet Decision

- Qualifying Public Benefit Entities.

Exempt if applied to & approved by the Federal Tax Authority (Subject to meeting certain conditions)

- Public or private pension and social security funds.
- Qualifying Investment Fund.
- Wholly owned and controlled subsidiary of UAE Government Entity or Government Controlled Entity.

6. Conditions for forming a Tax Group



- Parent company and its subsidiaries are resident juridical persons.
- Companies have same Financial Year and prepare their financial statements using the same accounting standards.
- Parent company :

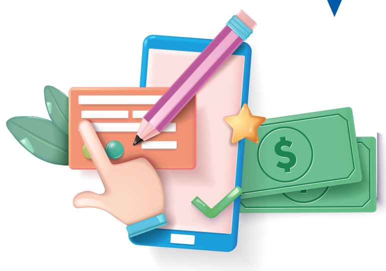
  own at least 95% of the share capital of the subsidiary;

  hold at least 95% of the voting rights in the subsidiary; and

  is entitled to at least 95% of the subsidiary's profits and net assets.

- **Tax Group cannot include an Exempt Person or Qualifying Free Zone Person**

One or more Subsidiaries in which a Government Entity directly or indirectly owns at least a 95% ownership interest can form a Tax Group, subject to the conditions to be prescribed by the Authority.



Tax Group

7. Transfer Pricing

United Arab Emirates joined the Organization for Economic Co-operation and Development (OECD) Inclusive Framework on BEPS (the 'Inclusive Framework') on 16 May 2018. By joining the Inclusive Framework, the United Arab Emirates (UAE) has committed to implement, in the immediate to short term, the following four Base Erosion and Profit Shifting (BEPS) minimum standards Actions:

- Countering harmful tax practices.
- Countering tax treaty abuse.
- Transfer pricing documentation
- Improving dispute resolution mechanisms.

Intercompany transections are common practice between UAE groups. Therefore, OECD Transfer Pricing Rules shall now be applicable in the UAE and may also be applicable on domestic transactions.

Transfer Pricing would be a game changer as intercompany transactions would need to be undertaken at arm's length and generally should be supported by appropriate documentation. Businesses would need to evaluate their current arrangements and assess the impact on both cross-border as well as domestic transactions.

The Authority may, by notice or through a decision issued by the Authority, require a Taxable Person to file together with their Tax Return a disclosure containing information regarding the Taxable Person's transactions and arrangements with its Related Parties and Connected Persons in the form prescribed by the Authority.

Additionally, Taxable Persons having transections with related parties are required by law to maintain both a master file and a local file in the form prescribed by the Authority.

8. Tax on Dividends

- Dividends and other profit distributions received from a Resident juridical person are specifically exempt under the Law.
- Dividend and other profit distribution received from a participating interest in a foreign juridical person shall be exempt subject to following conditions:

4 Conditions

1. minimum of 5% ownership interest in foreign juridical person.
2. Minimum of 12 months holding period of participation interest.
3. Participation being subject to tax in that foreign jurisdiction at the rate of atleast 9%.
4. Any other conditions as may be prescribed by the Minister.

9. Adjustment of Losses

75% **25 %**

Taxable Income for the Year

Tax loss

- Incurred after the date of commencement of Corporate Tax.
- Person becomes a Taxable Person under the Law.

Offset losses up-to 75% (or any other percentage as specified in a decision issued by the Cabinet at the suggestion of the Minister) of taxable income for the year.

Remaining 25% Taxable income for the year to be taxed at Corporate Tax Rate.

Remaining losses to be carryforward for subsequent Tax Periods unless all offset.

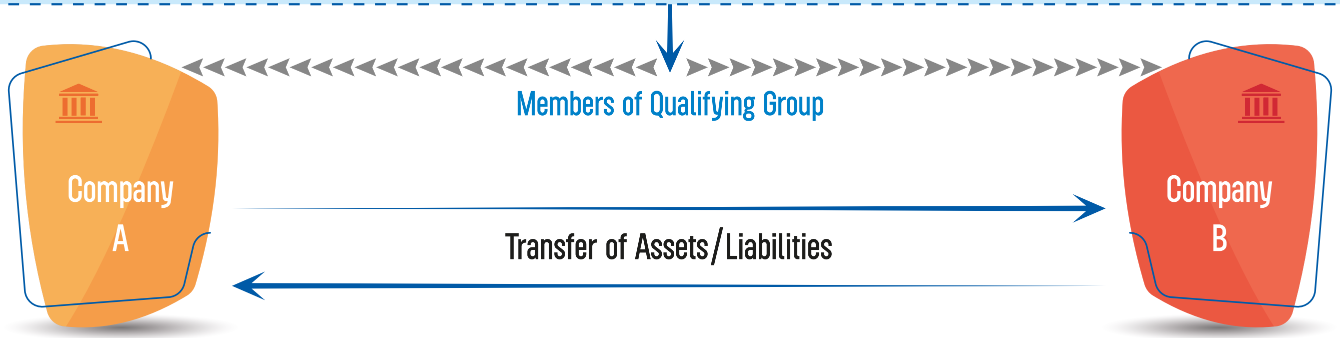
Conditions

- Same Person or Persons continuously owned at least a 50% ownership interest in the Taxable Person.
- Taxable Person continued to conduct the same or a similar Business or Business Activity following a change in ownership of more than 50%.
- Above mentioned conditions shall not apply to a Taxable Person whose shares are listed on a Recognized Stock Exchange.

10. Transfers of Assets/Liabilities Within a Qualifying Group

Conditions for being members of Qualifying Group:

- One or more taxable person are Resident Judicial Persons or Non-Resident Person have PE in the State.
- Either Taxable Person of Qualifying Group or any third person have direct or indirect ownership interest of at least 75%.
- None of the Persons are an Exempt or Qualifying Free Zone Person.
- The Taxable Persons prepare their financial statements using the same accounting standards along with having year end on the same date.



- Assets/Liabilities being transferred at Net Book Value.
- Value of any consideration paid/received against such transfer of the asset/liability is equal the net book value of assets/liabilities.
- No subsequent transfer of the asset/liability outside of the Qualifying Group within (2) two years from the date of transfer.
- Non of the Taxable Persons cease to be member of the same Qualifying Group in subsequent 2 two years from the date of transfer.

Conditions are met

No gain or loss needs to be taken into account in determining the Taxable Income

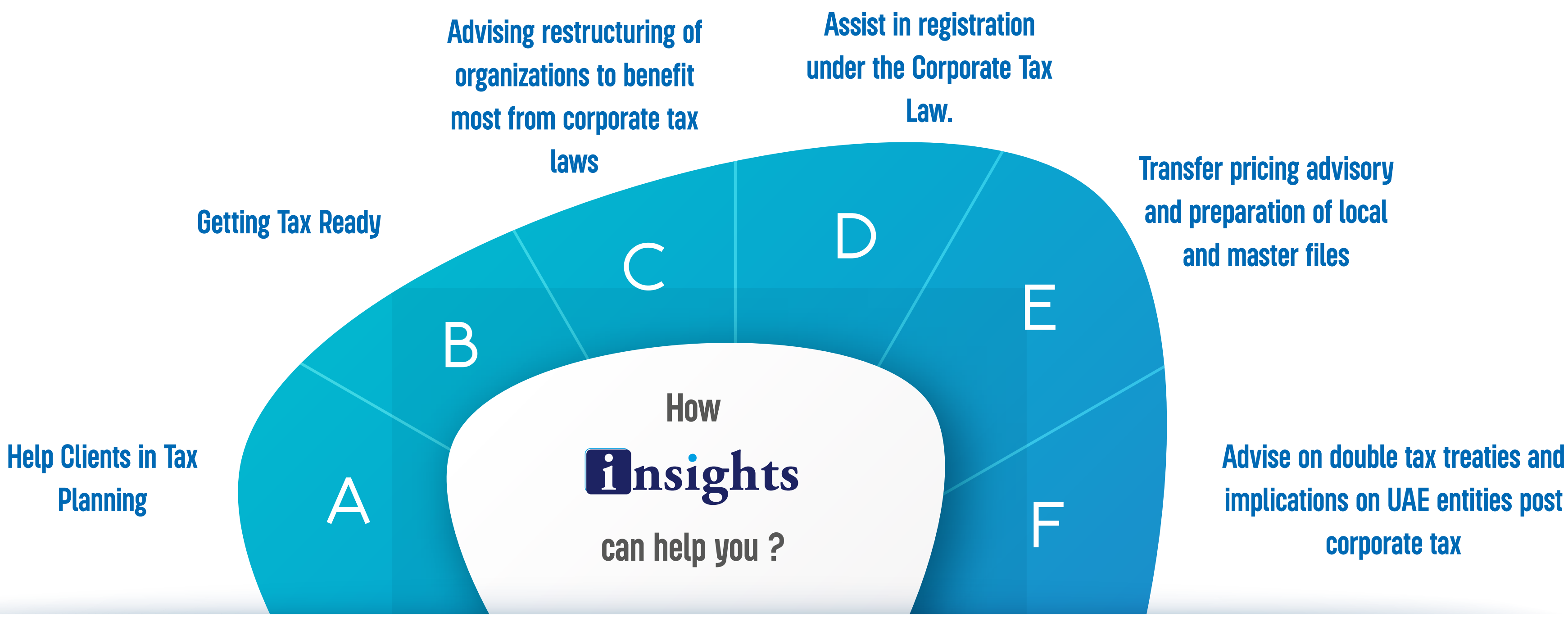
Conditions are not met

Transfer of the asset/liability shall be treated as having taken place at Market Value at the date of the transfer for the purposes of determining the Taxable Income

11. How Insights can help you

Insights have a dedicated team of professionals, specialist in Tax Laws.

Who can;



About Insights

Insights is a network of firms providing Financial Advisory and Management Consulting Services in UAE, Saudi Arabia, North America and Australia. We are fully committed to sharing our wealth of knowledge on the challenges which companies are currently facing and how they can best address and overcome them in order to become more prosperous in this dynamic era. To that end, we are offering a variety of services including Tax Advisory, Corporate Finance & Deal Advisory, Financial & Risk Advisory and Real Estate Advisory Services, powered by our highly skilled team of qualified professionals with strong practical backgrounds who strive to provide our clients with the most tailored and best quality services.

Disclaimer of Liability

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax or other professional advice. Please refer to professional advisors for specific advice.

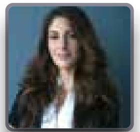
Contact Us

For further information, clarification and discussion concerning the contents, please contact:

Hafiz Muhammad Almas
Partner - Tax Advisory
: malmas@insightss.co
: +971 50 980 5845

Muhammad Shahid Nazir
Partner - Corporate Finance & Deal Advisory
: msnazir@insightss.co
: +966 56 437 6295

G Hussain
Vice President – Tax Advisory
: ghussain@insightss.co
: +971 55 282 6685



Amaryllis Kanoni
Vice President Business Development - UAE
: akanoni@insightss.co
: +971 52 716 9591

Insights
: + 966 11 2930 665
: + 971 6 742 8992
: uae@insightss.co
: www.insightss.co/ae

Dubai Office :
Office 711, Iris Bay Building, Business Bay, Dubai - UAE.

Riyadh Office : 107 Legend Tower, King Fahd Road, Riyadh - KSA.

Jeddah Office : Royal Plaza, Prince Sultan Street, Jeddah 23615 - KSA.

New York Office : 14, Wall Street, 20th Floor, New York 10005 - USA.

Adelaide Office : P.O. Box 6387, Halifax Street, Adelaide South Australia 5000