



SMART ADVISORS
GROUP

NEW BENEFITS FOR FREE ZONE COMPANIES IN THE UAE

What has changed in the preferential tax treatment?



Cancelled decisions

- UAE Cabinet Decision No. 55 of 2023 on Determining Qualifying Income
- UAE Cabinet Decision No. 139 of 2023 on Qualifying Activities and Excluded Activities



New decisions

- UAE Cabinet Decision No. 100 of 2023 on Determining Qualifying Income
- UAE Cabinet Decision No. 265 of 2023 on Qualifying Activities and Excluded Activities



THE TWO NEW
DECISIONS
ARE EFFECTIVE
AS OF JUNE 1,
2023

Qualifying free zone person is entitled to 0% corporate tax rate

A Qualifying Free Zone Person shall

- ✓ Have adequate economic substance in the UAE
- ✓ Carry out Qualifying Activities
- ✓ Derive Qualifying Income
- ✓ Non-qualifying income shall not exceed the threshold values
- ✓ Not elect general tax regime (9% applicable to taxable income above AED 375,000)
- ✓ Comply with the transfer pricing rules applicable to related-party transactions
- ✓ Maintain transfer pricing documentation
- ✓ Prepare audited financial statements
- ✓ Meet other criteria as may be set by the Minister of Finance



Qualifying Free Zone Persons are not entitled to claim a number of tax benefits (e.g. small business relief, business restructuring relief or relief for intra-group transfers of assets or losses, participation in consolidated groups of taxpayers).

FAILURE TO FULFILL ANY OF THE ABOVE REQUIREMENTS WILL RESULT IN THE LOSS OF BENEFIT FOR

5
YEARS


Who is eligible for 0% corporate tax rate?

IP COMPANIES

 Only those deriving income from Qualifying Intellectual Property localized in the UAE

 This includes patents, copyrighted software, etc., **except trademarks**

TRADING COMPANIES

 Only those engaged in physical trading of Qualifying Commodities traded on a recognized commodities exchange

 This includes metals, energy products, agricultural products, etc. in raw form

0%

Qualifying income

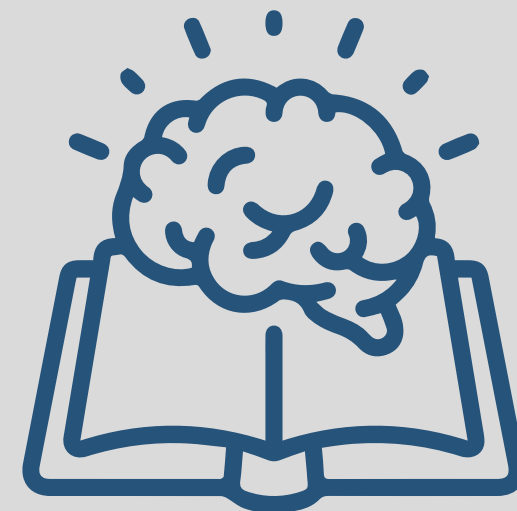
Transactions with other Free Zone Persons, except for Excluded Activities, in particular:

- Transactions with natural persons (except for activities related to shipping and aircrafts plus fund, wealth and investment management services);
- Regulated banking and insurance activities;
- Financing and leasing (except for treasury and financing services to related parties and aircraft financing and leasing, including engines and rotating components);
- Ownership or exploitation of immovable property (except for commercial property located in a Free Zone if the property transaction is conducted with other Free Zone Persons);

EXCEPT FOR: any marketing-related intellectual property, such as trademarks.

NEW!

NEW Income derived from the ownership or exploitation of Qualifying Intellectual Property localized in the UAE



- Patents;
- Copyrighted software and any rights functionally equivalent to a patent *.

**that are legally protected and subject to a similar to a patent approval and registration process, such as utility models, intellectual property assets that grant protection to plants and genetic material, orphan drug designations.*

Transactions with Non-Free Zone Persons (Mainland resident persons or foreign persons) in respect of Qualifying Activities:

- Ownership and operation of marine vessels;
- Manufacturing or processing of goods or materials;
- Services (reinsurance, fund management, headquarters and treasury services to related parties, financing and leasing, logistics);
- Stock and other securities holdings for investment purposes (if the holding period is more than 12 months);

NEW!

Physical trading of Qualifying Commodities (metals, minerals, energy products and agricultural products traded on a recognized commodity exchange in raw form) and associated derivative trading used to hedge risks.

Any other income that satisfies the de minimis requirements

Non-Qualifying Income not exceeding either 5% of the company's total income or AED 5 million (~ USD 1.4 million), whichever is less.



NON-QUALIFYING INCOME MEANS INCOME FROM:

Excluded Activities;

Non-Qualifying Activities for transactions with Non-Free Zone Persons;

NEW Income from transactions with Free Zone Residents, which are not the Beneficial Recipients of the services or goods.

How to calculate qualifying ip income?



Qualifying
Income

=

Qualifying expenditures +
Up-lift expenditures

Overall expenditures

×

Overall
income

1

First, the taxpayer's IP development costs incurred in the UAE (not necessarily in a Free Zone, as those paid to independent persons abroad are also allowed) are taken into account

2

Then another 130% of such expenditures are added (but not more than the sum of overall expenditures)

3

The resulting expenditure amount is divided by overall expenditures on creation, invention and development of the relevant IP asset

4

The quotient is multiplied by overall income from the IP asset. This will be the base available for 0% corporate tax rate

Adequate economic substance criteria clarifications



Core income-generating activities (CIGA) should be carried out in a Free Zone or Designated Zone



QFZP should have a core income-generating activity that drives business value



QFZP should have qualified full-time employees, adequate assets and operating expenses



CIGA can be outsourced but only to a company in a Free Zone or Designated Zone subject to adequate supervision



The above CIGA outsourcing must take place in the Free Zone or Designated Zone where such activities are carried out



CIGA for Qualifying IP can be outsourced to any person in the UAE and to any person who is not a related party outside the UAE



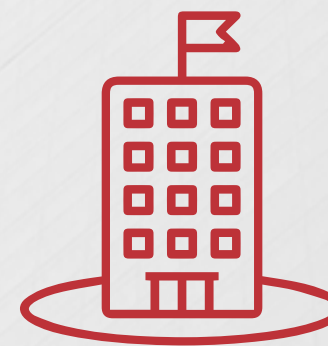
Economic substance requirements are mandatory for each type of activity

New clarifications by types of activity



Stock and other securities holdings

May meet the Qualifying Activity criteria if the holding period is more than 12 months.



Treasury and financing services to related parties

Cash flow, liquidity, debt, financial risk management, financing and financing-related services to related parties.



Headquarters services to related parties

Administration, supervision and management of related parties' business activities, including: senior and general management, captive insurance services, administrative services, business planning and development, risk management, coordination of group activities, various procurement and expenses incurred on behalf of related parties, other support services to related parties.



Distribution of goods or materials in or from a Designated Zone

Distribution of goods or materials must be undertaken in or from a Designated Zone and if the goods or materials are brought into the UAE, they must be imported through a Designated Zone, and the buyer should not be the end user.

What needs to be done?

Businesses will have to reanalyze their activities to determine whether they shall be considered Qualifying Activities and assess the possibility of applying a 0% corporate tax rate in light of the new legislation.



→ We will be happy to help:



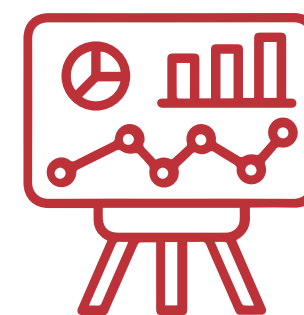
Register your company for corporate tax in the UAE



Prepare financial statements and conduct an audit



Assist in complying with the economic substance requirement, etc.



Analyze your situation in terms of 0% corporate tax rate for Qualifying Free Zone Persons or select another tax benefit



Assess the tax efficiency of your business structure and propose restructuring options



Please, contact us to find out how Smart Advisors Group can help your business

Corporate Services. Tax&Law Advice.
Accounting&Audit

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