

An aerial photograph of a modern city skyline, likely Dubai, featuring a prominent skyscraper with a curved facade and a canal winding through the urban landscape. The image is overlaid with a semi-transparent orange banner containing text.

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Your tax advisers in the Middle East

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CORPORATE TAX: KEY TAKEAWAYS UNDER TRANSITIONAL RULES

Dubai, July 2023

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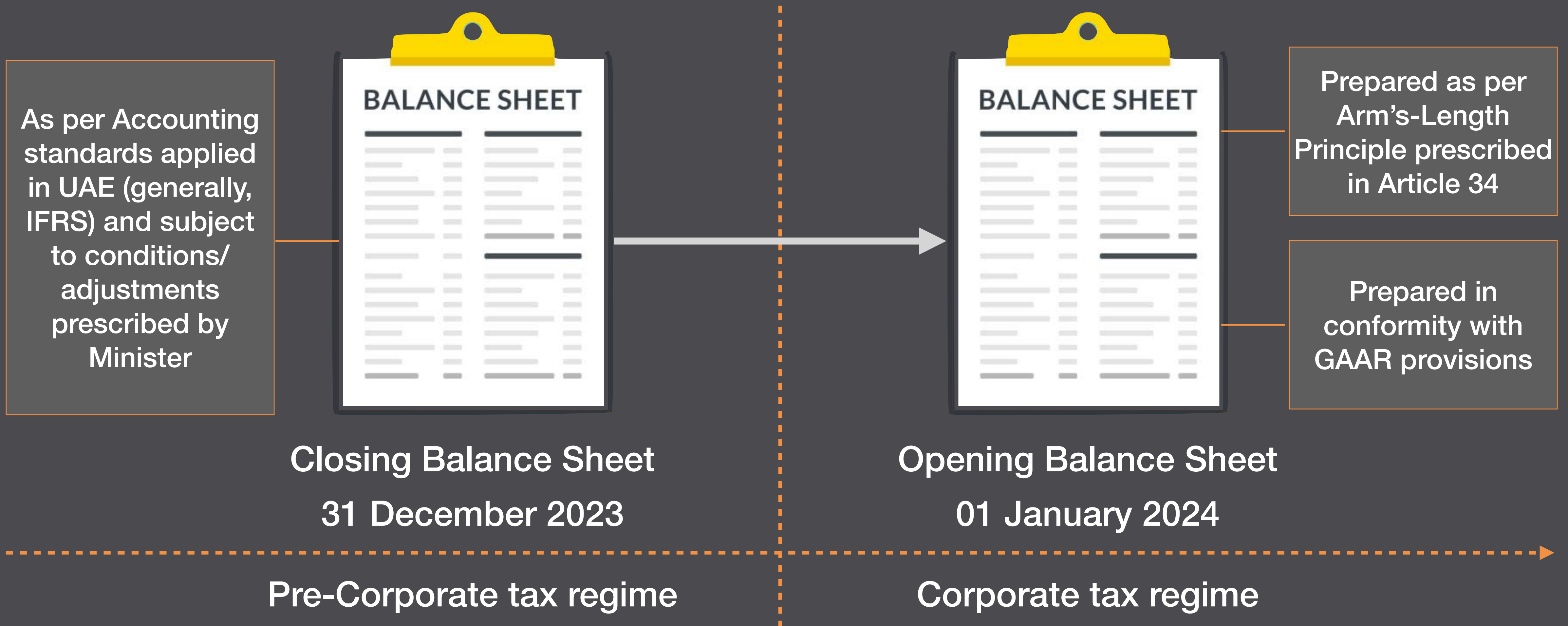
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Transitional Rules: Article 61 of CIT Law

TRANSITIONAL RULES



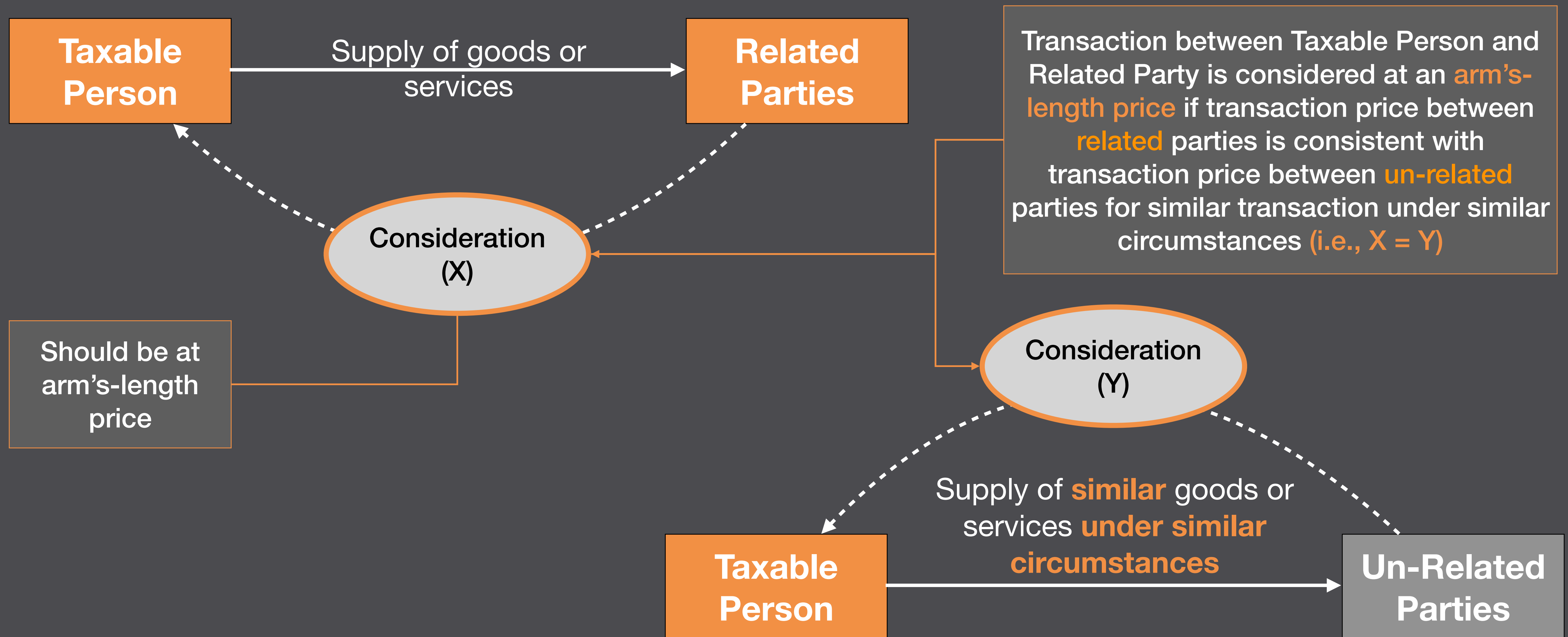
Subject to other Cabinet
Decisions



Arm's Length Principle

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ARTICLE 34 OF CIT LAW



ARTICLE 34 OF CIT LAW

Arm's length result of transaction/arrangement between related parties must be determined by applying **one or combination of following transfer pricing (TP) methods:**

- a. Comparable Uncontrolled Price (**CUP**) method;
- b. Resale Price Method (**RPM**)
- c. Cost Plus Method (**CPM**)
- d. Transactional Net Margin Method (**TNMM**)
- e. Transactional Profit Split Method (**PSM**)
- f. **Any other method (subject to conditions)**



TP Methods in line with
OECD TP Rules

General Anti-Abuse Rules

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ARTICLE 50 OF CIT LAW

- ▶ In any transaction or arrangement, if reasonably concluded that:
 - Entered **without valid commercial or non-fiscal reason**, and **does not reflect economic reality**
 - (One of the) main purposes of (any part of) transaction to **obtain a CIT advantage**, inconsistent with intention or purpose of law
- ▶ FTA may:
 - Disallow exemption, deduction or relief
 - Allocate exemption, deduction or relief to another person
 - Re-characterise transaction
 - Disregard effect resulting from application of other provisions

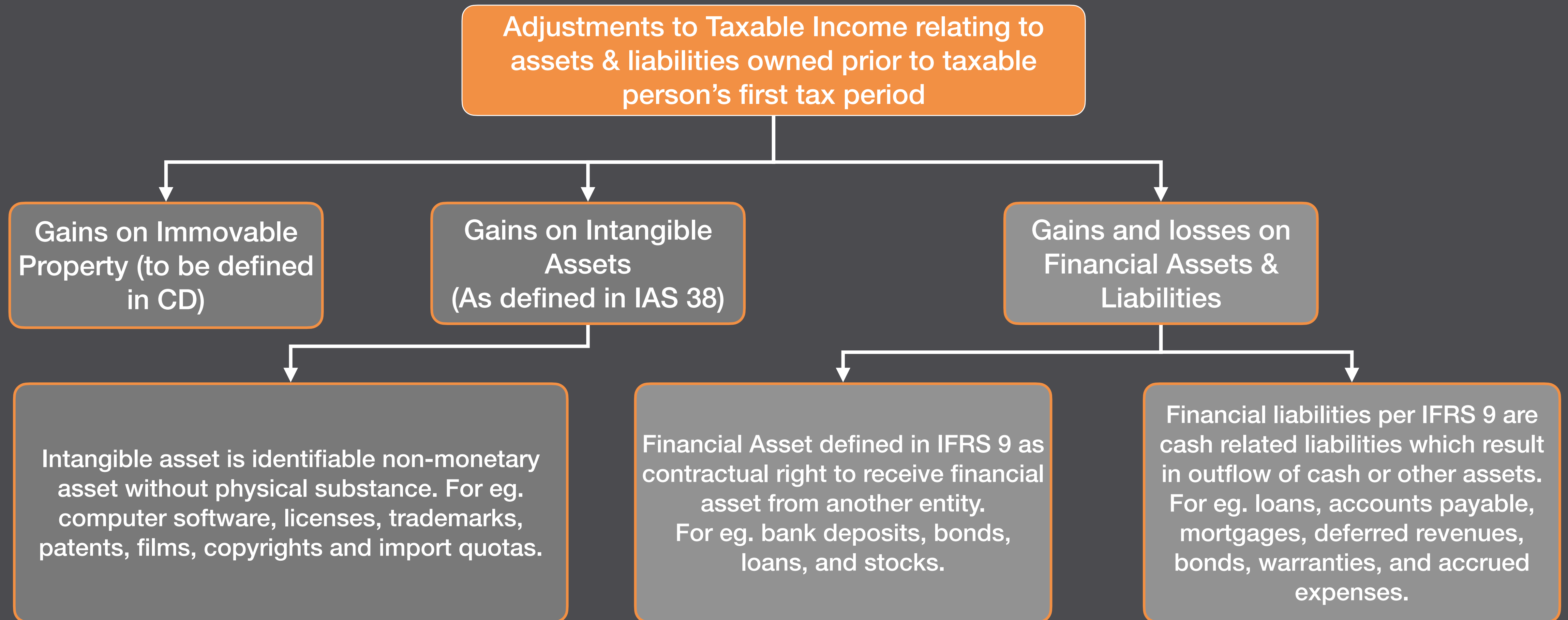
Taxable Income under Article 20 of CIT Law

GENERAL RULES FOR DETERMINING TAXABLE INCOME

1. The Taxable Income of each Taxable Person shall be determined separately, on the basis of **adequate, standalone financial statements** prepared for financial reporting purposes in accordance with accounting standards accepted in UAE (generally IFRS).
2. The Taxable Income for a Tax Period shall be the Accounting Income for that period, and to the extent applicable, **adjusted** for the following:
 - a. Any unrealised gain or loss under Clause 3 of this Article.
 - b. Exempt Income as specified in Chapter Seven of this Decree-Law.
 - c. Reliefs as specified in Chapter Eight of this Decree-Law (transfers between members of qualifying group, and business restructuring relief).
 - d. ...
 - e. ...
 - i. **Any other adjustments as may be specified by the Minister.**

Transitional Rules: Ministerial Decision No. 120/2023

ADJUSTMENTS UNDER TRANSITIONAL RULES



GAINS ON IMMOVABLE PROPERTY



Immovable Property

Measured in Financial
Statements on historical cost
basis

Historical cost = AED 10 Mn
Net Book Value = AED 2 Mn
Date of acquisition = 1/1/2016

31 December 2023

Pre-Corporate tax regime



Qualifying Immovable Property (QIP)

Disposed of/deemed to be disposed of
in/after first tax period for a value > net
book value

Market Value = AED 70 Mn
As determined by competent
authority (Eg. DLD)

01 January 2024

Corporate tax regime

GAINS ON IMMOVABLE PROPERTY

Taxable Person can make one of the following adjustments:

Option 1

Exclude Gain on QIP from taxable income calculated as follows:

Date	Particulars	AED (Mn)
1/1/2024	Market Value	70.00
Less (Higher of):	Original cost (10 Mn)	10.00
	Net Book Value (2 Mn)	
	Gains to be excluded in FY 2024	60.00

Option 2

Exclude Gain on QIP from taxable income calculated as follows:

Date	Particulars	AED (Mn)
31/12/2024	Disposal Value (Assumed)	80.00
Less (Higher of):	Original cost (10 Mn)	10.00
	Net Book Value (2 Mn)	
	Difference (A)	70.00
	Number of days QIP owned before 1/1/2024 (1/1/2016 — 31/12/2023) (B)	2920
	Total number of days QIP is owned (C)	3285
	Ratio (D = B/C)	0.89
	Gains to be excluded (A*D) [70*0.89]	62

GAINS ON IMMOVABLE PROPERTY

Computation of Taxable Income for FY 2024

#	Particulars	AED (Mn)
	Net Profit as per standalone Financial Statements (as per IFRS)	120.00
Less:	Gains on QIP	62.00
	Taxable Income after adjustments	58.00

Computation of Taxable Income for FY 2024

#	Particulars	AED (Mn)
	Net Loss as per standalone Financial Statements (as per IFRS)	-30.00
Less:	Gains on QIP	62.00
	Taxable Income after adjustments	-92.00

GAINS ON IMMOVABLE PROPERTY

Additional points to consider:

- ▶ Election to be made for **each qualifying immovable property**
- ▶ Should be made in the **first tax return** in prescribed form and manner
- ▶ **Irrevocable election** except under **exceptional circumstances** and upon **approval** of the FTA

GAINS ON INTANGIBLE ASSETS



Intangible Asset

Measured in Financial
Statements on historical cost
basis

Historical cost = AED 7 Mn
Net Book Value = AED 5 Mn
Date of acquisition = 1/1/2021

31 December 2023

Pre-Corporate tax regime



Qualifying Intangible Asset (QIA)

Disposed of/deemed to be disposed of
in/after first tax period for a value > net
book value

Disposal or deemed disposal
value = AED 12 Mn

01 January 2024

Corporate tax regime

GAINS ON INTANGIBLE ASSETS

Taxable Person should exclude gain on QIA from taxable income calculated as follows:

Date	Particulars	AED (Mn)
31/12/2024	Disposal or deemed disposal value	12.00
Less (Higher of):	Original cost (7 Mn)	7.00
	Net Book Value (5 Mn)	
	Difference (A)	5.00
	Number of days QIA owned before 1/1/2024 (1/1/2021 — 31/12/2023) (B)	1095
	Total number of days QIA is owned (C)	1460
	Ratio (D = B/C)	0.75
	Gains to be excluded (A*D) [5*0.75]	3.75

GAINS ON INTANGIBLE ASSETS

Computation of Taxable Income for FY 2024

#	Particulars	AED (Mn)
	Net Profit as per standalone Financial Statements (as per IFRS)	120.00
Less:	Gains on QIA	3.75
	Taxable Income after adjustments	116.25

Computation of Taxable Income for FY 2024

#	Particulars	AED (Mn)
	Net Loss as per standalone Financial Statements (as per IFRS)	-30.00
Less:	Gains on QIA	3.75
	Taxable Income after adjustments	-33.75

GAINS ON INTANGIBLE ASSETS

Additional points to consider:

- ▶ Election to be made for **all qualifying intangible assets**
- ▶ Should be made in **first tax return** upon submission
- ▶ **Irrevocable election** except under **exceptional circumstances** and upon **approval** of the FTA
- ▶ Number of days QIA is owned before first tax period **should not exceed 10 years**, except under **exceptional circumstances** and upon **approval** of the FTA

GAINS/LOSS ON FINANCIAL ASSETS AND LIABILITIES



Financial Assets and Liabilities

Measured in Financial Statements on a historical cost basis

Historical cost & NBV:
FA (eg. Bonds) = AED 20 Mn
FL (eg. Warranty) = AED 35 Mn

31 December 2023

Pre-Corporate tax regime



Qualifying Financial Asset and Liabilities (QFA & QFL)

Disposed at market value in first tax year

Disposal value:
FA = AED 25 Mn
FL = AED 38 Mn

01 January 2024

Corporate tax regime

GAINS/LOSS ON FINANCIAL ASSETS AND LIABILITIES

Taxable Person should exclude gain/loss on QFA and QFL from taxable income calculated as follows:

Date	Particulars	QFA AED (Mn)	QFL AED (Mn)
01/01/2024	Disposed at market value	25.00	38.00
Less:	Historical cost / NBV	20.00	35.00
	Gains/(Loss) to be excluded	5.00	-3.00

GAINS/LOSS ON FINANCIAL ASSETS AND LIABILITIES

Computation of Taxable Income for FY 2024

#	Particulars	AED (Mn)
	Net Profit as per standalone Financial Statements (as per IFRS)	120.00
Less:	Gains on QFA	5.00
Less:	Loss on QFL	-3.00
	Taxable Income after adjustments	118.00

Computation of Taxable Income for FY 2024

#	Particulars	AED (Mn)
	Net Loss as per standalone Financial Statements (as per IFRS)	-30.00
Less:	Gains on QFA	5.00
Less:	Loss on QFL	-3.00
	Taxable Income after adjustments	-32.00

GAINS/LOSS ON FINANCIAL ASSETS AND LIABILITIES

Additional points to consider:

- ▶ Election to be made for **all qualifying financial assets and liabilities**
- ▶ Should be made in **first tax return** upon submission
- ▶ **Irrevocable election** except under **exceptional circumstances** and upon **approval** of the FTA

Transitional Rules: Tax Groups

ARTICLE 5 - MINISTERIAL DECISION NO.120/2023

Points to consider:

- ▶ Taxable Person includes:
 - ▶ Member of Qualifying Group (75% shareholding)
 - ▶ Member of Tax Group (95% shareholding)
- ▶ For calculating holding period of QIP and QIA by taxable person including the above, period of ownership by such taxable persons should be considered other than the period of most recent Non-qualifying transfer.

Questions?



Nirav Rajput

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Our highly skilled and well-trained advisers guide you through your fiscal obligations in the Gulf. We are your personal pragmatic partner in all of your ventures. Our international tax experience in policy and implementation is exactly what you need for the changes lying ahead.

We exist to guide businesses and governments through assessing the impact of new VAT legislation and provide strategic tax advice to address any issues, seize possible opportunities. Together we determine your tax strategy and processes to ensure compliance and keep your financial edge. This may entail important changes to your corporate strategies and structure, such as merging, demerging or divesting some of your assets. In order to determine the impact we need to not only analyze your income but also all of your purchases and expenditure.

Our comprehensive analyses examine the impact on your organizational processes as well as on finance, IT and logistics department, HR, marketing and sales.

Aurifer assists in tax controversies with the tax administration. We guide you through initial stages of securing tax treatment through agreements with the tax authorities, through administrative controversies after an audit, and finally before the courts through our partnership with renowned law firms.

Traditionally, businesses in the Gulf have had some experience with corporate income tax, especially with respect to their foreign investments. Our experts guide you through questions around tax residency, analyzing how double income tax treaties apply to your structure and transfer pricing requirements.

The experts of Aurifer are also available for short term projects to assist clients more closely with particular tax transformation projects.

At Aurifer, we pride ourselves on our training skills. Our experts have extensive training experience in multiple jurisdictions, having provided training both to professionals and on an academic level. We provide general and sector specific training.

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