



UAE Corporate Tax for Free Zone Person

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

07th June 2023



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|--|-----------------------------------|
| I. Qualifying Free Zone Person [QFZP] | V. De Minimis Requirements |
| II. Qualifying Income | VI. Immovable Property |
| III. Transaction with FZP | VII. Nexus in the State |
| IV. Transaction with NFZP | VIII. Key Takeaways |

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

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

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

1

Maintains adequate **substance** in the State.

- **CIGA** in the FZ
- Adequate **assets**
- Adequate number of qualified **employees**
- Incur an adequate amount of **operating expenditures**

2

Derives **Qualifying Income**.

- 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

3

Has **not elected** to be subject to 9% Corporate Tax [Article 19 of the CT Law].

4

Complies with the requirements of **Transfer Pricing** as per Article 34 & 55 of the Law.

5

Its non-qualifying revenue does not exceed the **de minimis** requirements [lower of AED 5M or 5% of the total revenue]

6

It prepares **audited financial** statements



If any one of the above condition 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

Checklist to choose the option for election

Are you a FZP?

Yes

Do you Maintain Adequate Substance in the FZ

No

Yes

Derives Qualifying Income?

No

Yes

Satisfies De Minimis requirements?

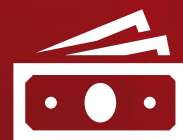
Yes

Retain as QFZP

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








Checklist



II. QUALIFYING INCOME

Qualifying Income

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

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



III. TRANSACTION WITH FZP

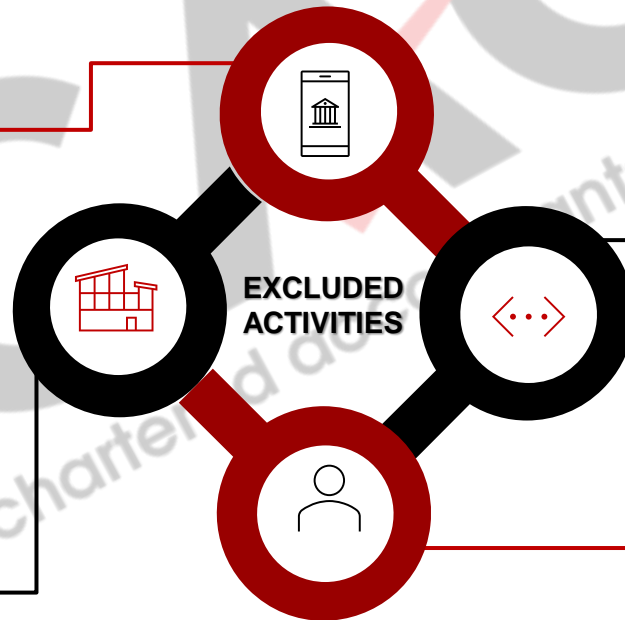
List of Excluded Activities

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:

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

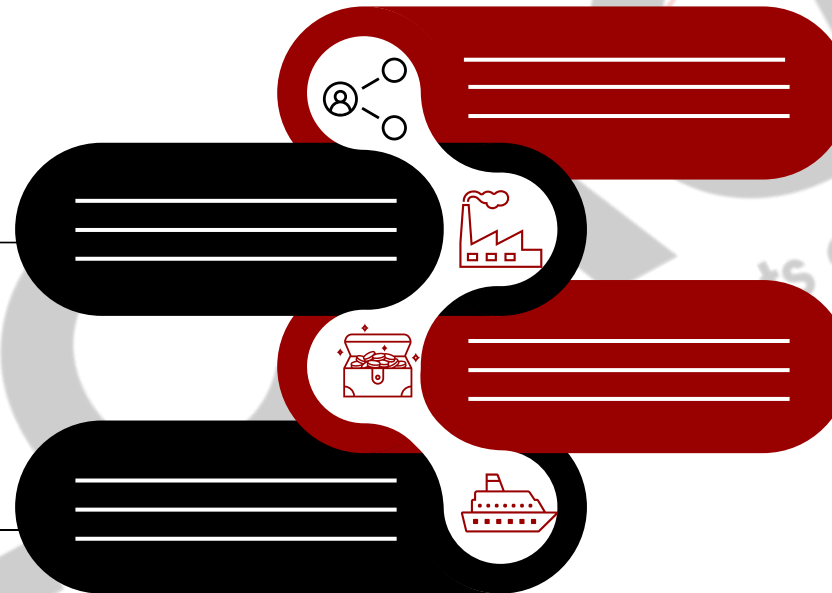
Any activities that are ancillary to the above activities.



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
 - **Logistics Services**



- 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

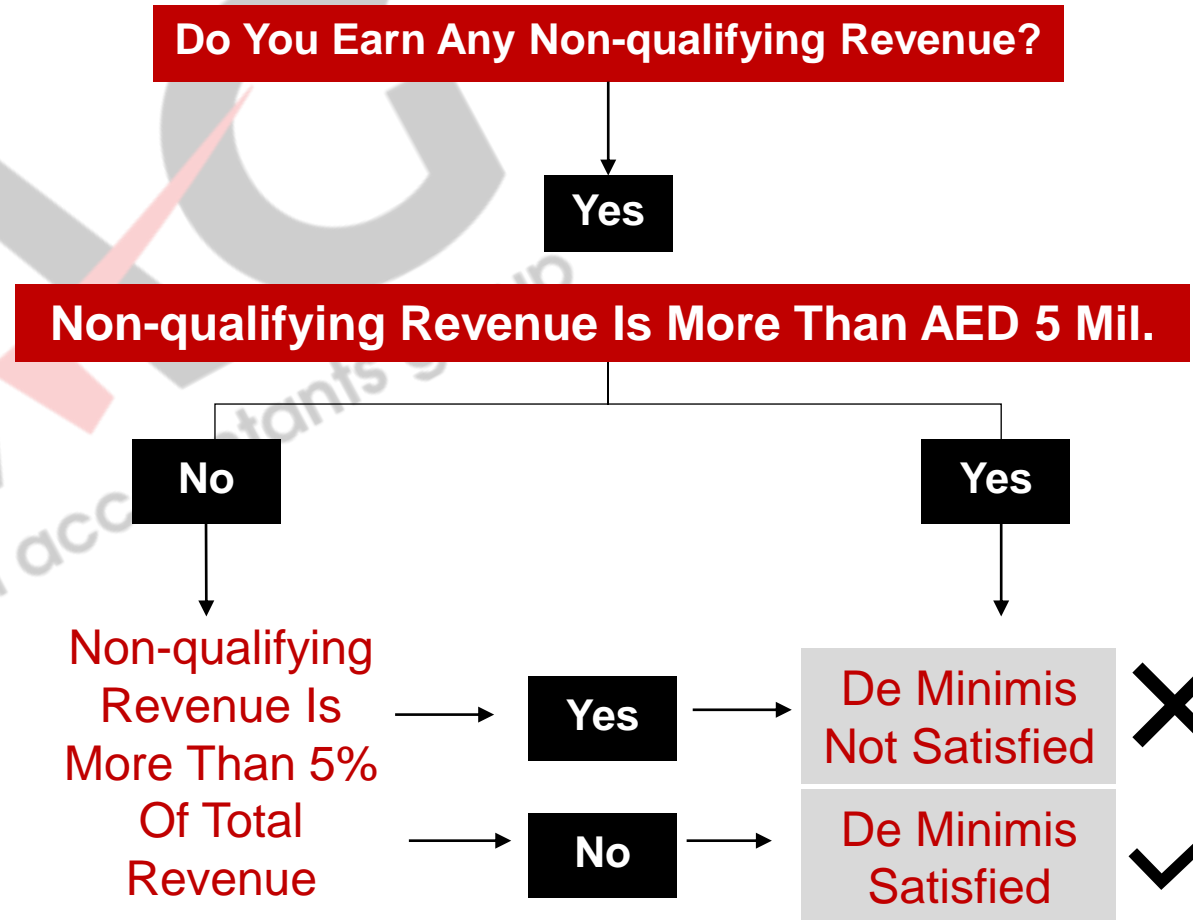
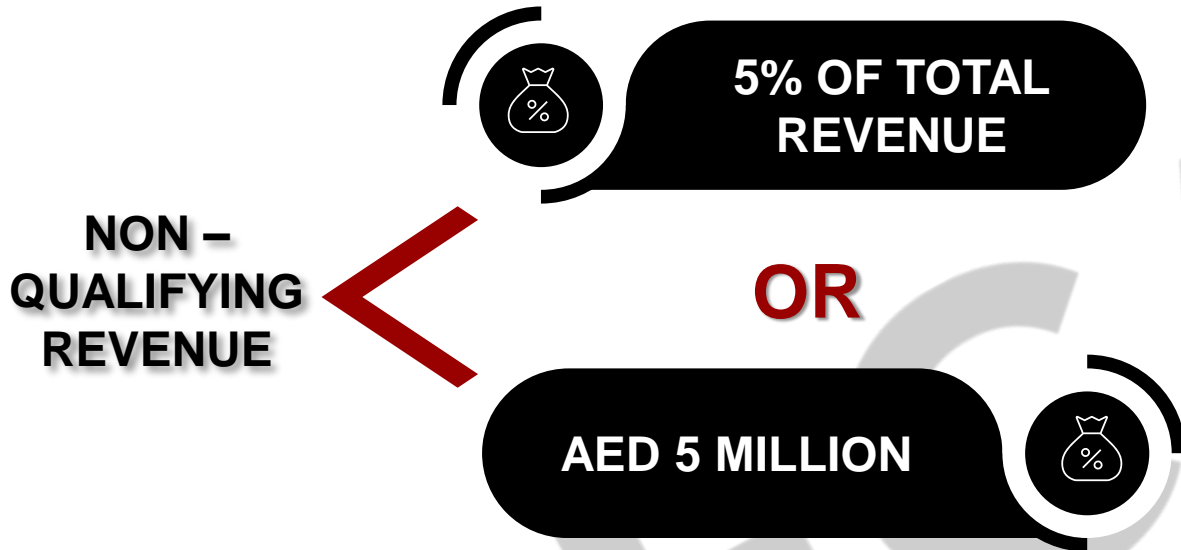
Any activities that are ancillary to the above activities.

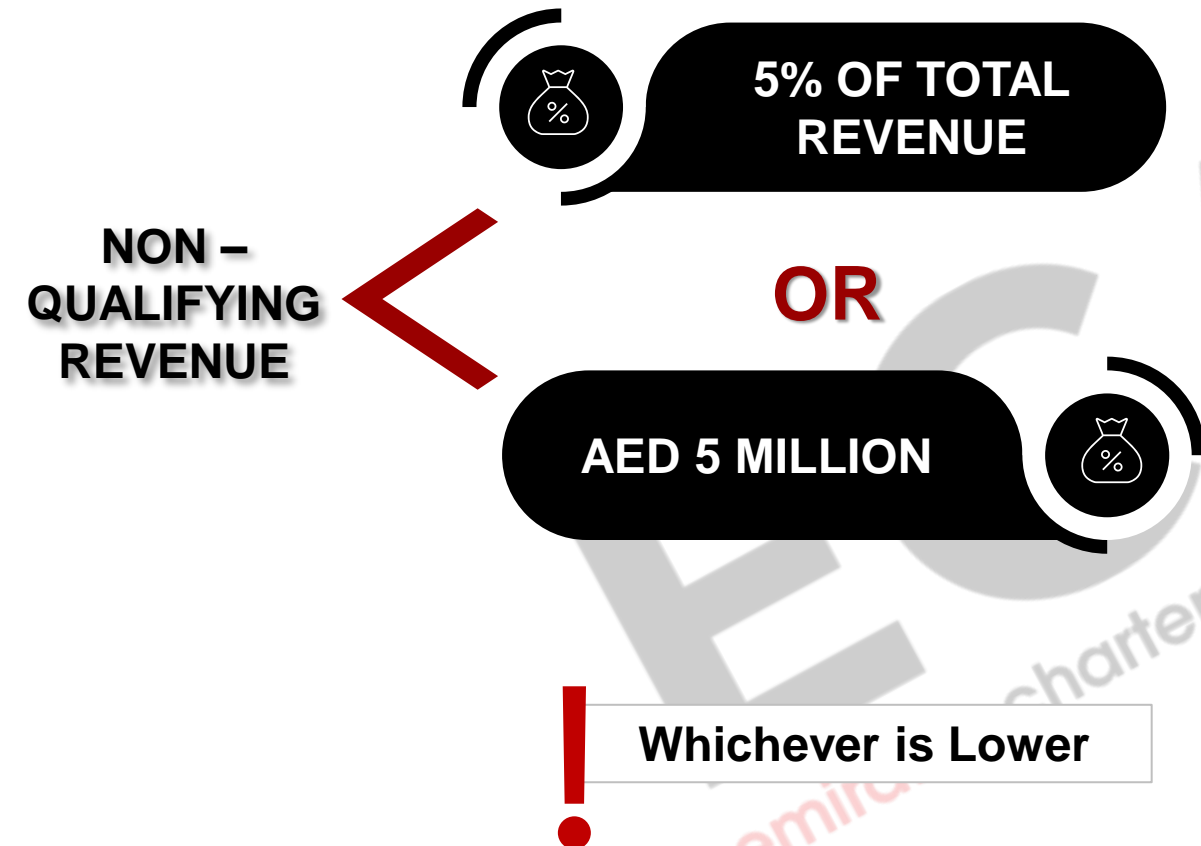


V. DE MINIMIS REQUIREMENTS

De Minimis [CD 55]

De Minimis Requirements





NON – QUALIFYING REVENUE

- Excluded Activities
- Activities 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**.

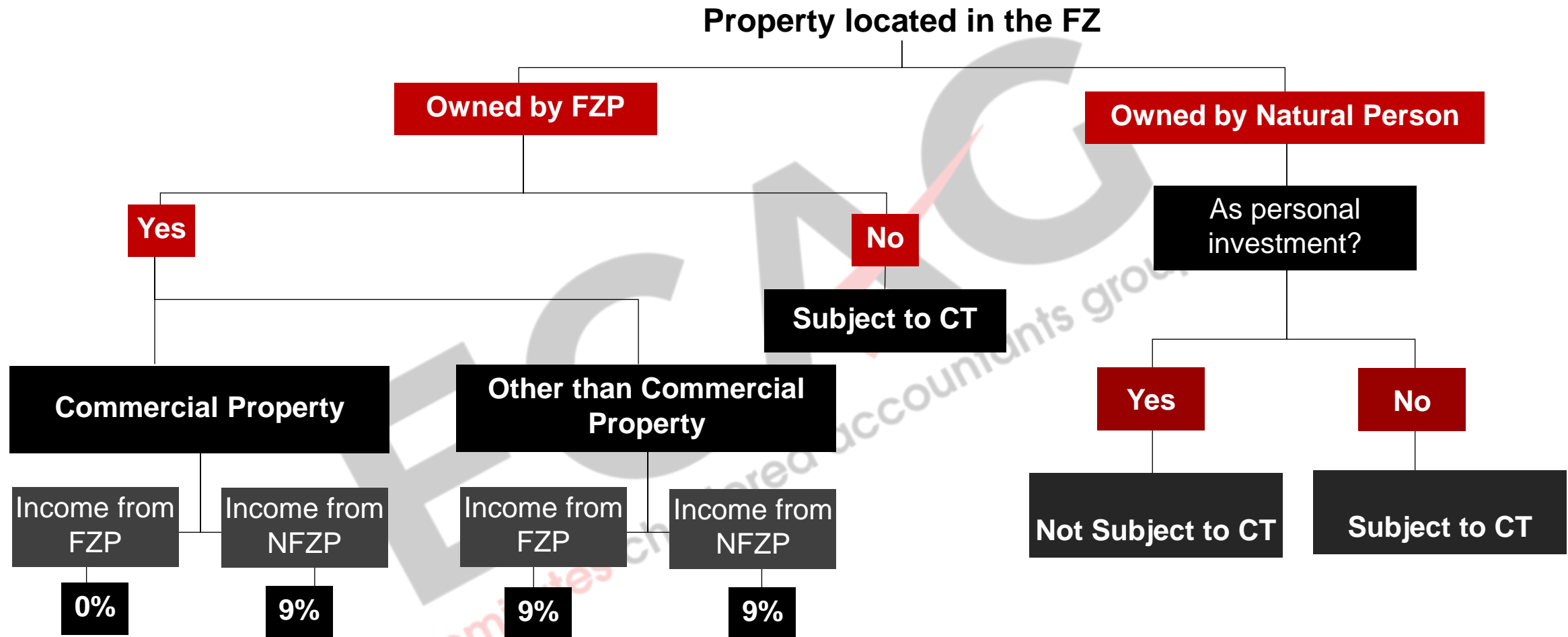


What is Commercial Property?

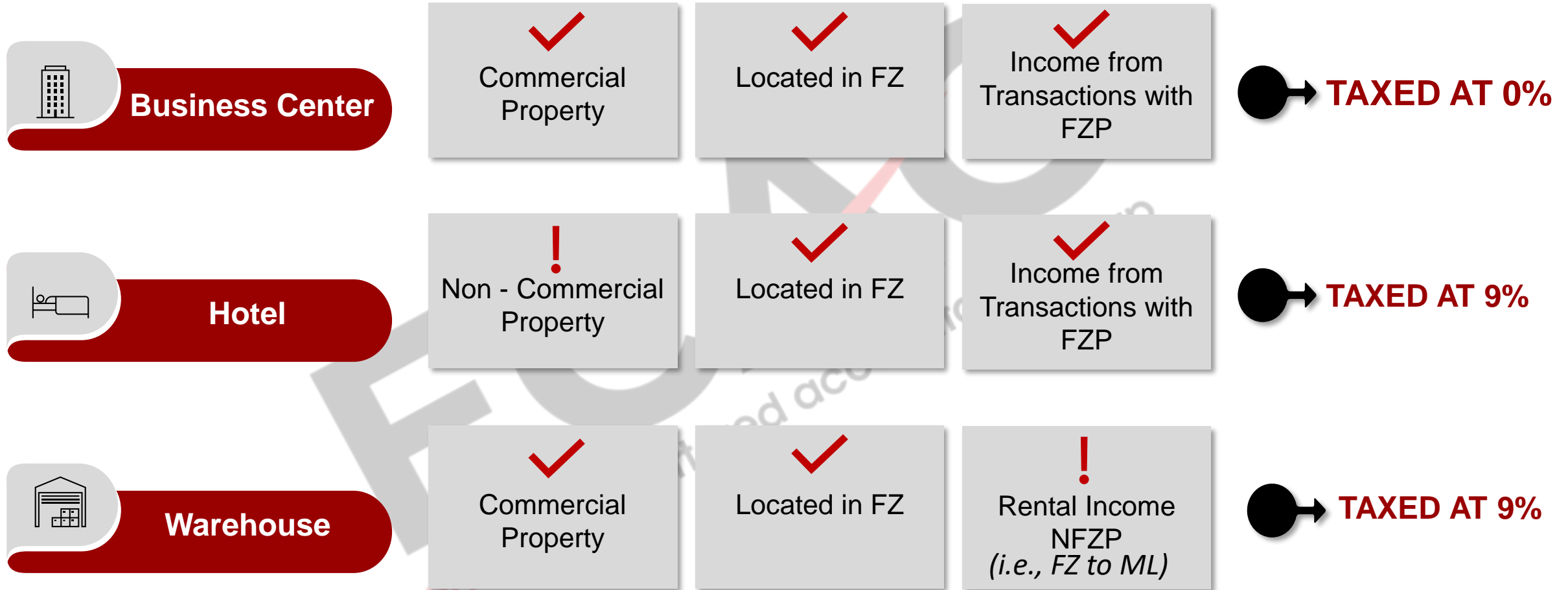
Immovable property or part thereof:

- (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**.

Taxability of an Immovable Property



Income Derived from 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.

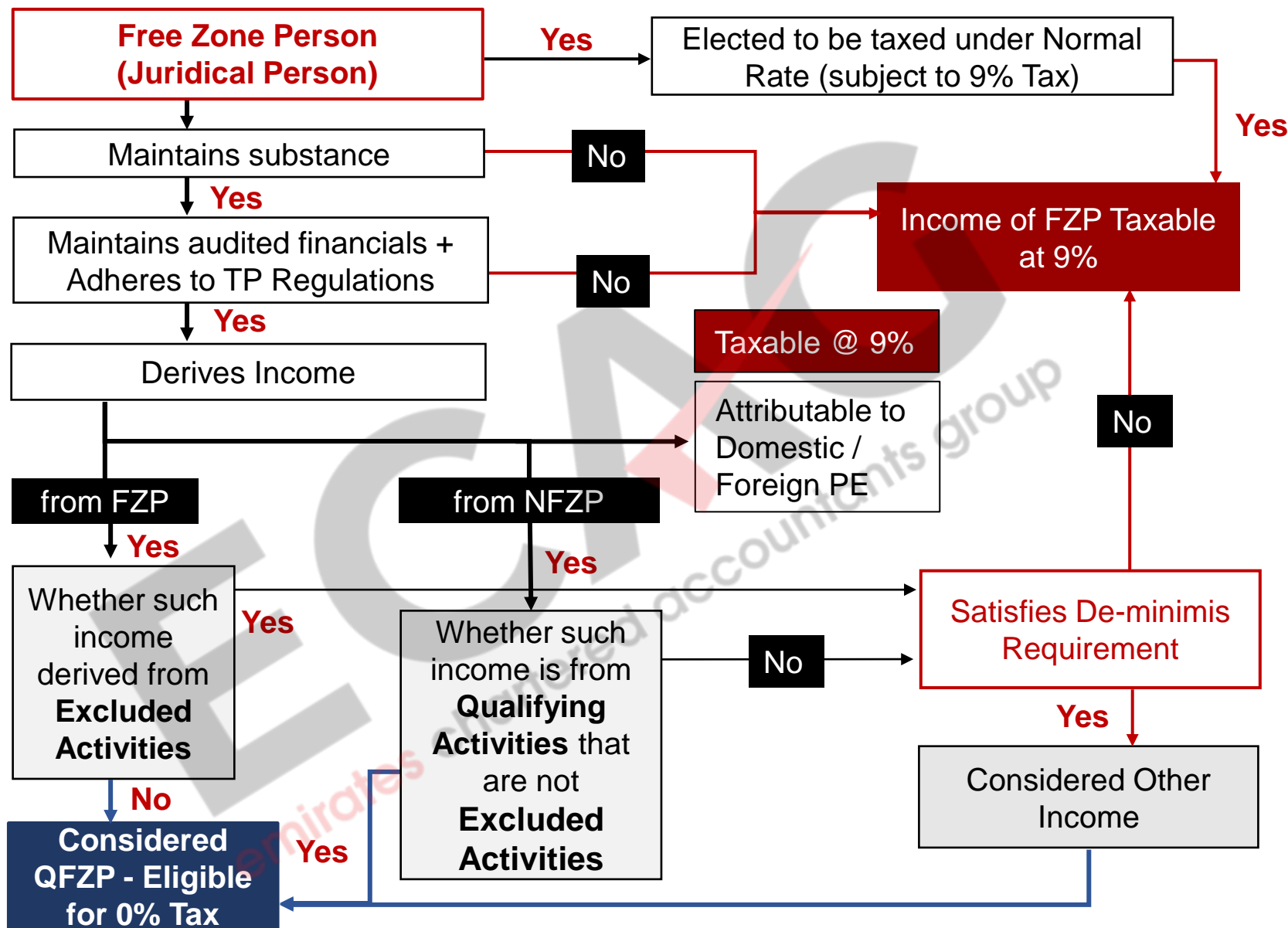
Any building, structure or engineering work attached to the land permanently or attached to the seabed.



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

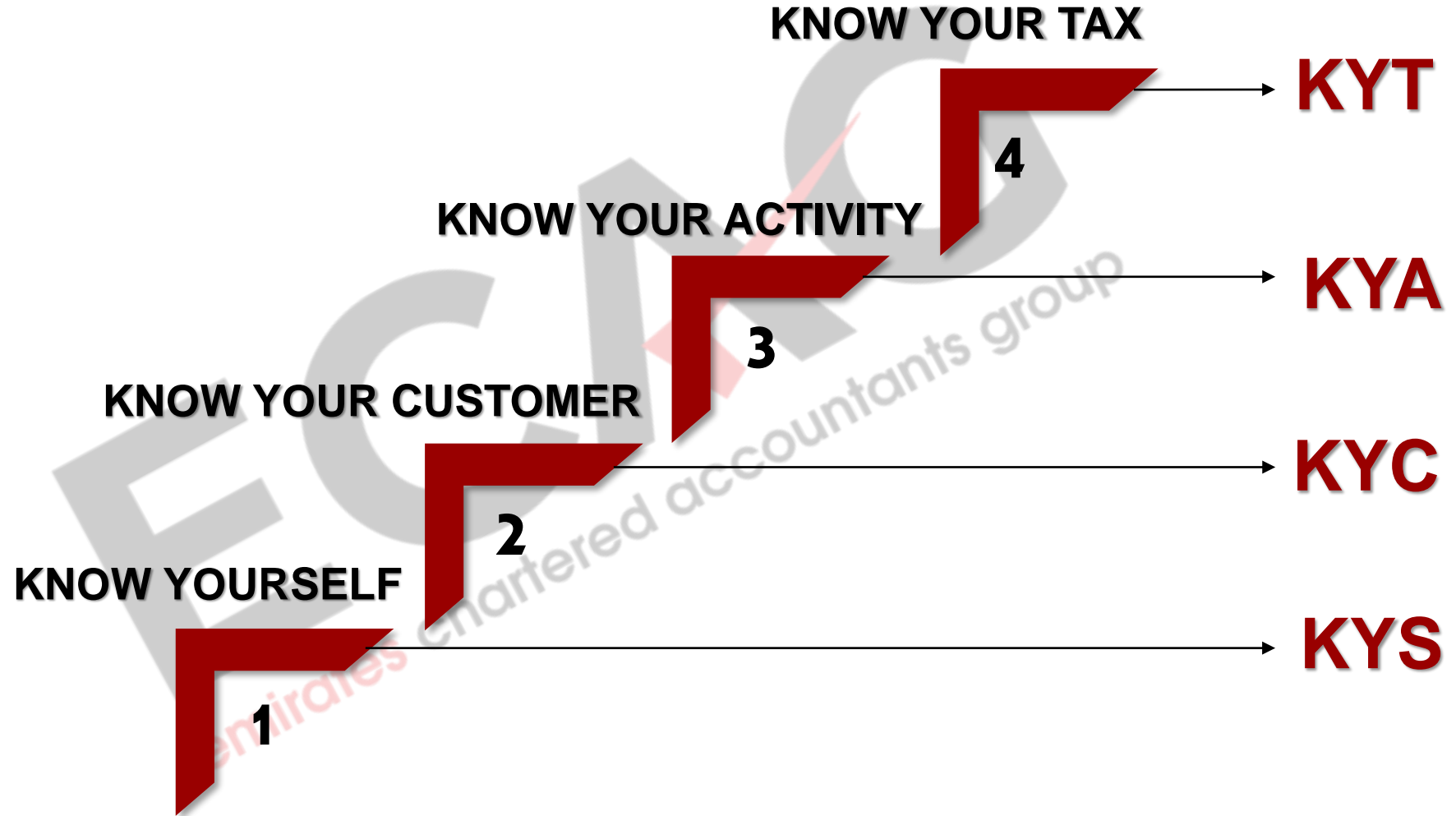
Particulars	Example 1	Example 2	Example 3
Revenue	19,500,000/-	90,000,000/-	75,000,000/-
Non – Qualifying Revenue	500,000/-	10,000,000/-	5,000,000/-
Total Revenue	20,000,000/-	100,000,000/-	80,000,000/-
[a] 5% of Total Revenue	1,000,000/-	5,000,000/-	4,000,000/-
[b] Limit Fixed	5,000,000/-	5,000,000/-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



VIII. KEY TAKEAWAYS

Thumb rule to Determination of QFZP Status

4
STEPS



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**.

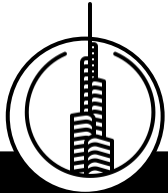
06

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.

List of Designated Zones – as per CD 59 of 2017



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

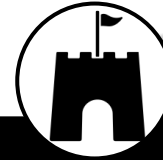


ABU DHABI

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

Licenses In the UAE & Bahrain

- 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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