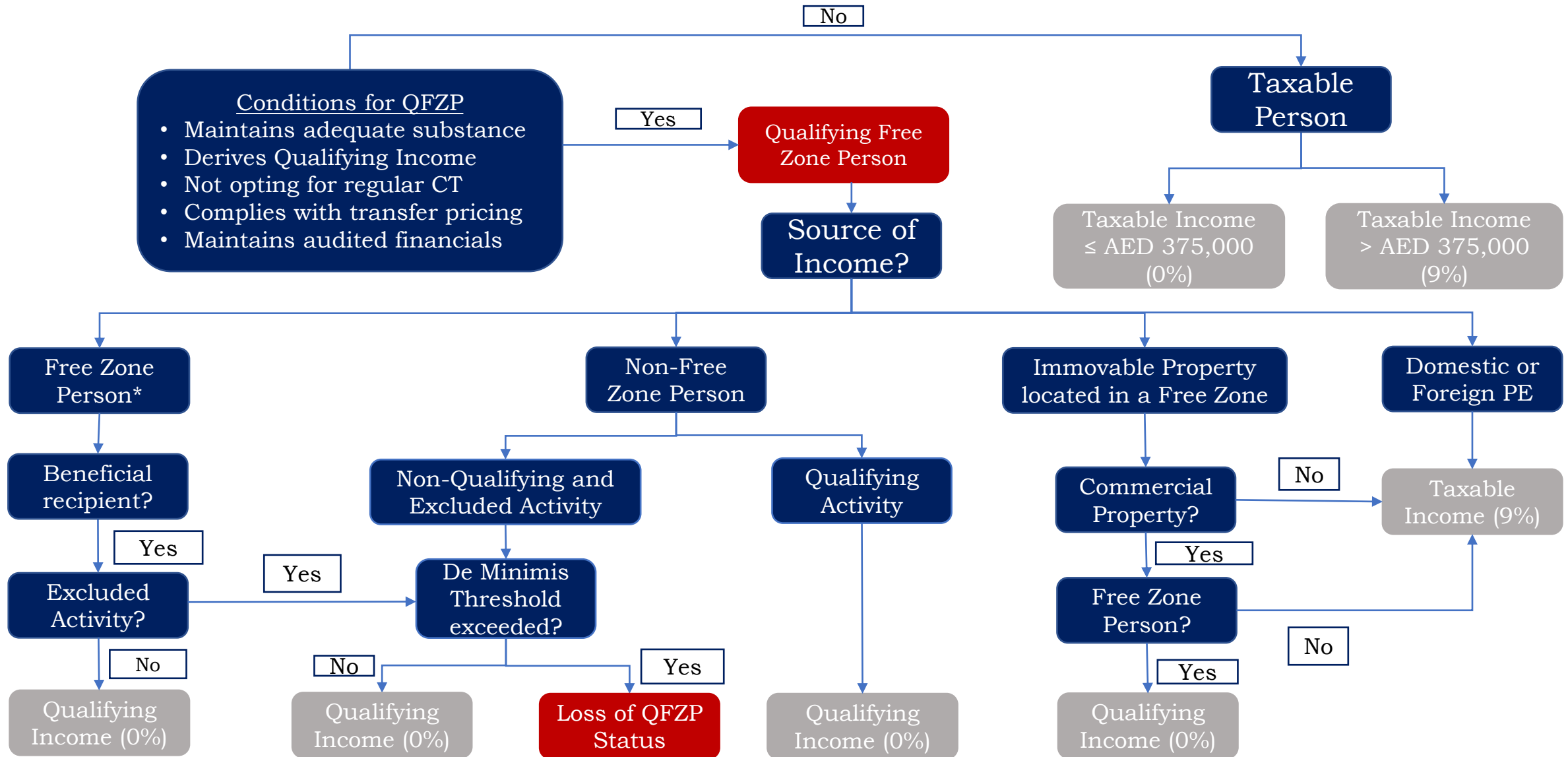




ICAI Dubai Chapter
Freezone – CT Impact Assessment - Approach and pitfalls
August 2023
Speaker: Dipesh Chauhan - Associate Director - ARDENT Advisory and Accounting

Ministerial Decision No 139 of 2023

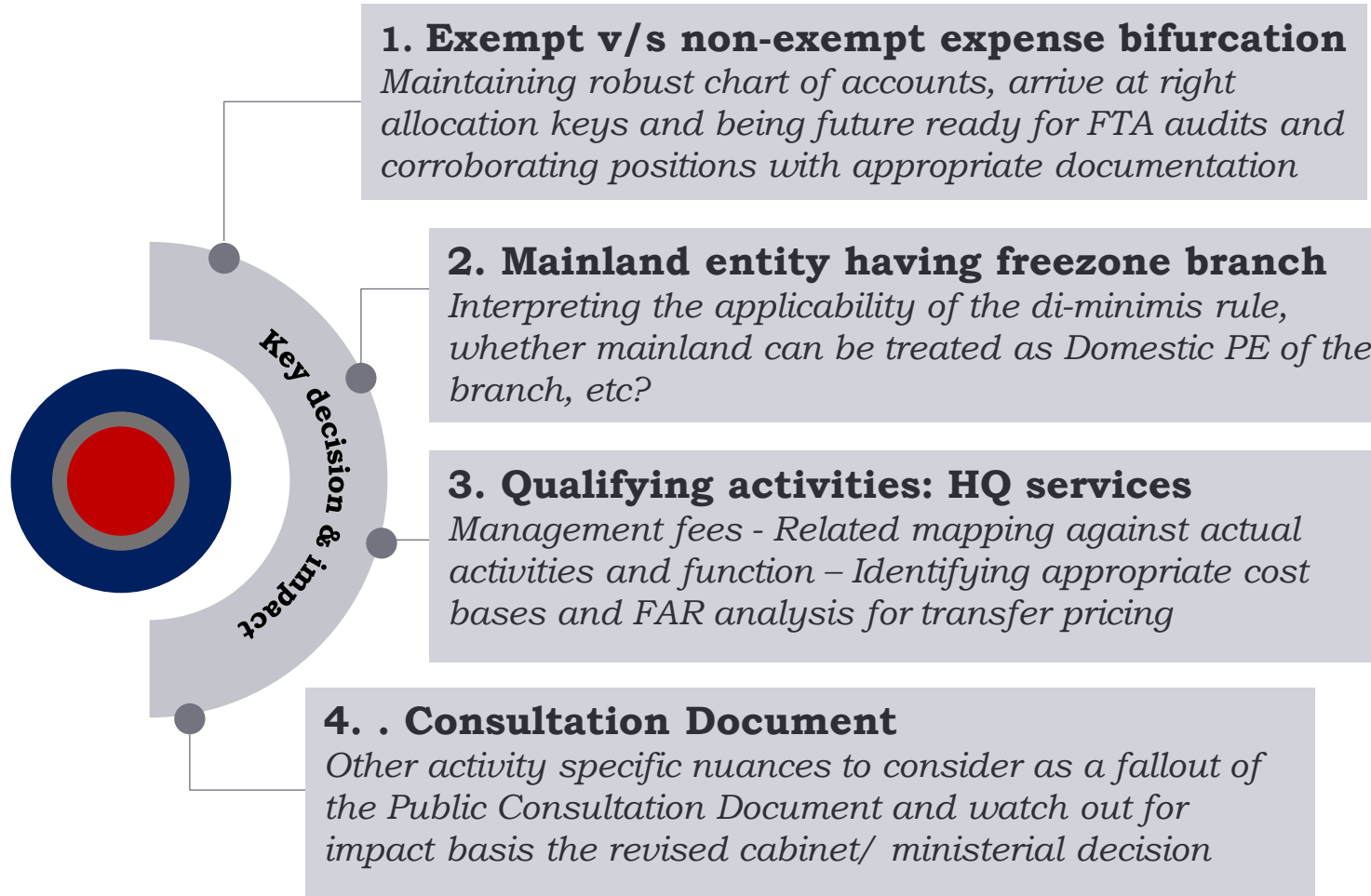
Taxability and exemptions for Free Zone Entities



*Excluding income from Immovable Property located in a Free Zone

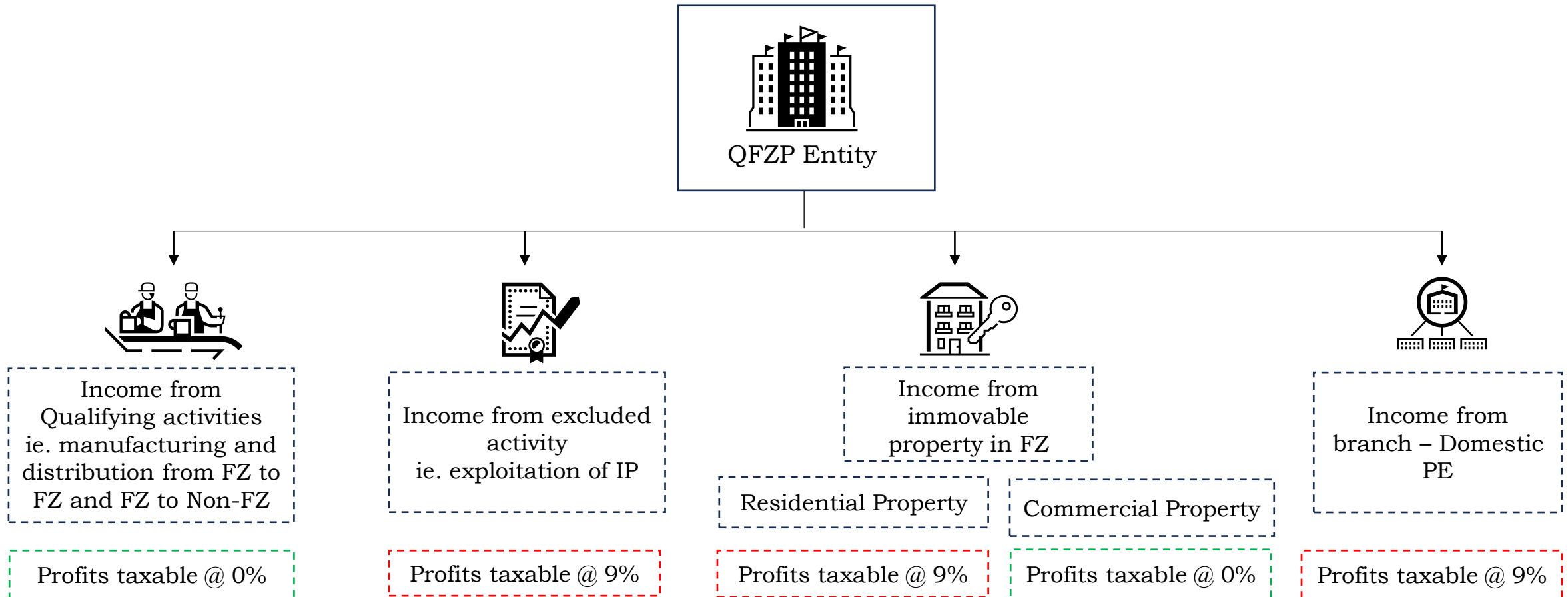
Freezone – Impact Assessment

Approach Agenda: Nuances to gear up for!



Case Study 1 – Expense bifurcation

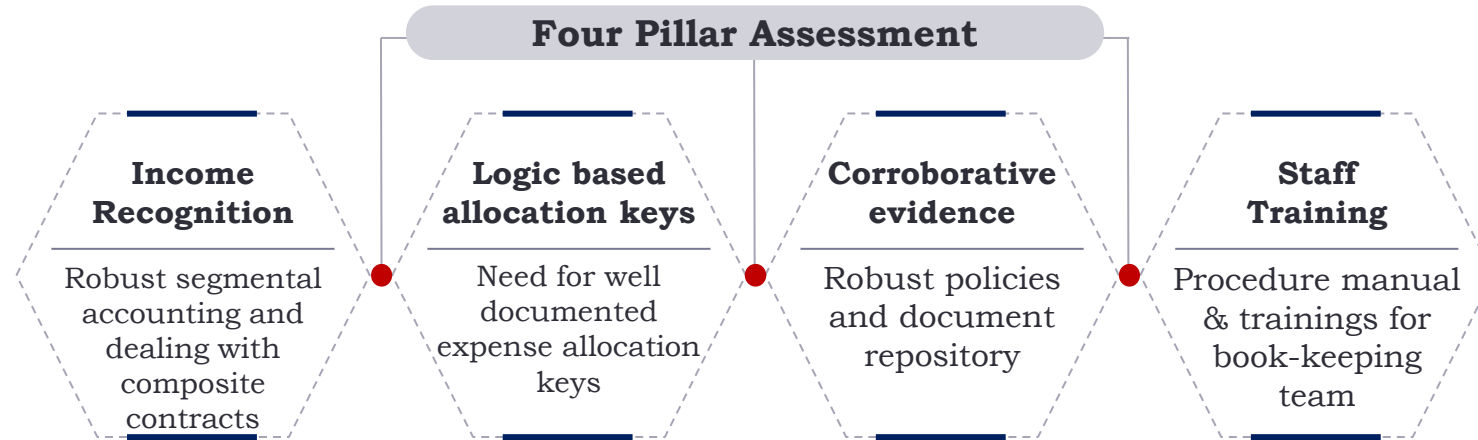
QFZP having different streams of income



Approach – Need for focus on ERP nuances as a part of impact assessment?

Case Study 1 – Expense bifurcation

QFZP having different streams of income



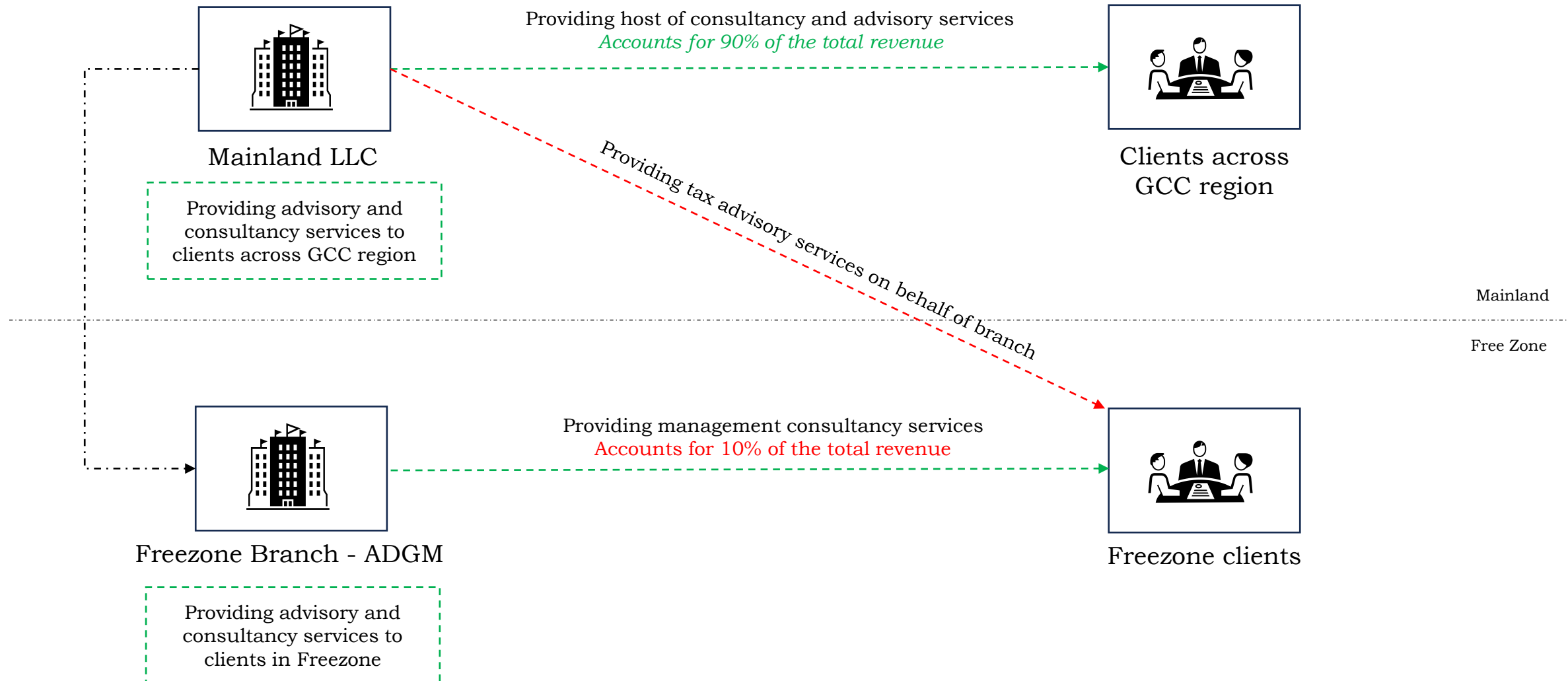
A robust four pillar assessment and related implementation would assist in achieving more informed tax positions and being future ready for tax audits

Key takeaways

- 1** Descriptive nomenclature for items
- 2** Need for robust tax policies and manuals with record retention
- 3** Training for finance team and review of ERP reports

Case Study 2 – Freezone Branch

Treating mainland HQ as domestic PE of the branch



Case Study 2 – Freezone Branch

Treating mainland HQ as domestic PE of the branch

Can we claim 0% tax rate for profits earned by QFZP Branch?

Whether Branch can be considered as a FZP?

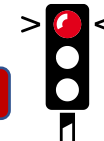
As per the extant provisions of the law, FZP is defined to include a juridical person incorporated, established or **otherwise registered** in a Free Zone

FAQ no. 114 issued by MoF clarifies that a branch of mainland UAE entity shall be considered as FZP and eligible for a 0% tax rate on satisfying the conditions

Tax Registration Number

Considering that the branch is considered as an extension of the HO, ideally there would be only one TRN that would be issued to the Mainland including the Free Zone Branch

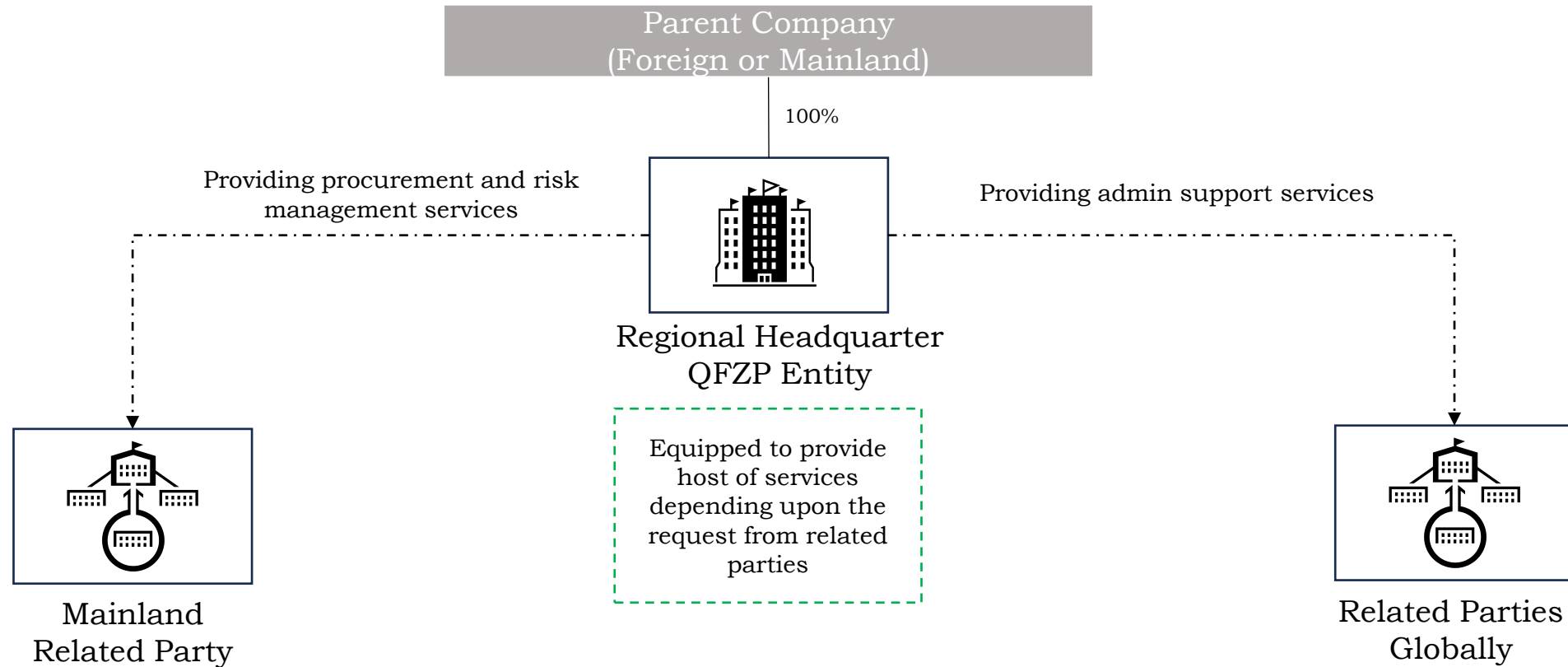
Areas for consideration



- 1 Would mainland income and Freezone branch income be eligible for separate tax regimes – Given one return and one of the condition being freezone not opting for normal CT
- 2 Would the income from mainland be treated as Non-Qualifying income and hence breach the Di-minimis threshold in all scenarios?
- 3 Alternatively, whether mainland be treated as a Domestic PE of the Branch (*deviation from general understanding of PE*) and therefore to be taxed at straight 9%
- 4 Need to maintain robust segmental for PE attribution?

Case Study 3 – Headquarter Services

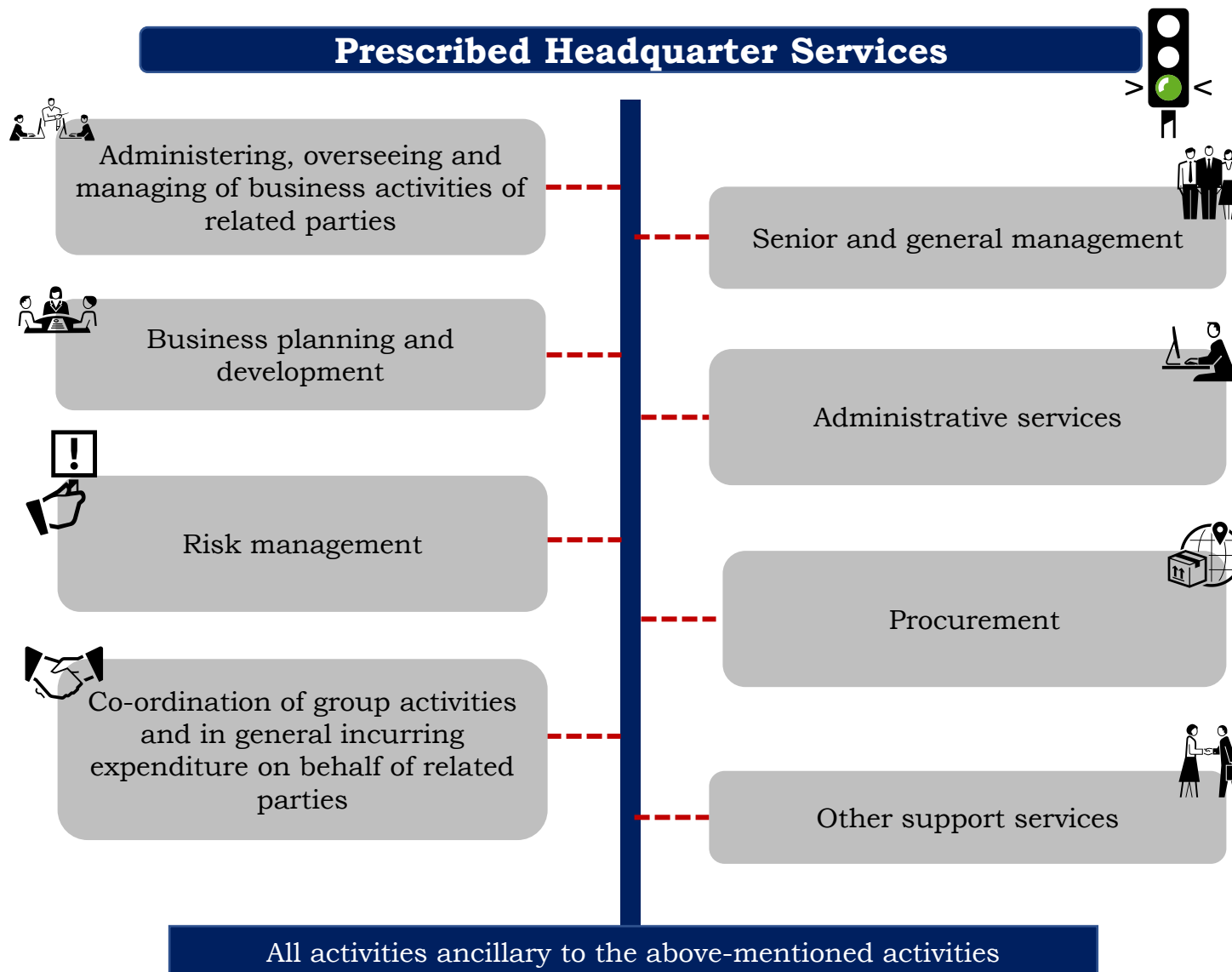
Assessment on availability of data to undertake transfer pricing benchmarking



Approach – Impact from a Transfer Pricing Standpoint?

Case Study 3 – Headquarter Services

Assessment on availability of data to undertake transfer pricing benchmarking

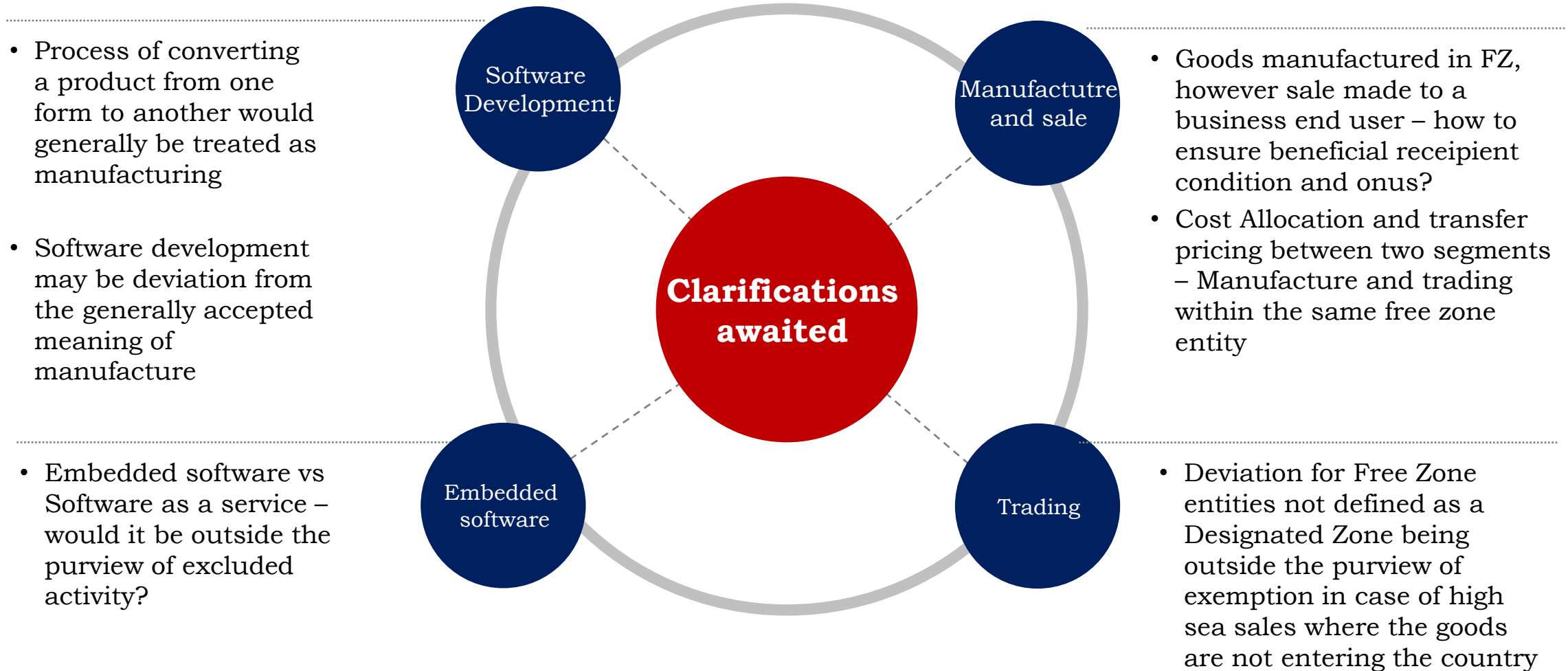


Areas for consideration

- 1 Need for robust expense mapping and a well-defined chart of accounts – ability to address FAR analysis
- 2 Activity specific cost– Defined allocation to each activity
- 3 Defined cost bases for different stream of activities – Segmental for arm’s length benchmarking
- 4 Impact of POEM for related parties and need for documentation

Case Study 4 – Other Areas

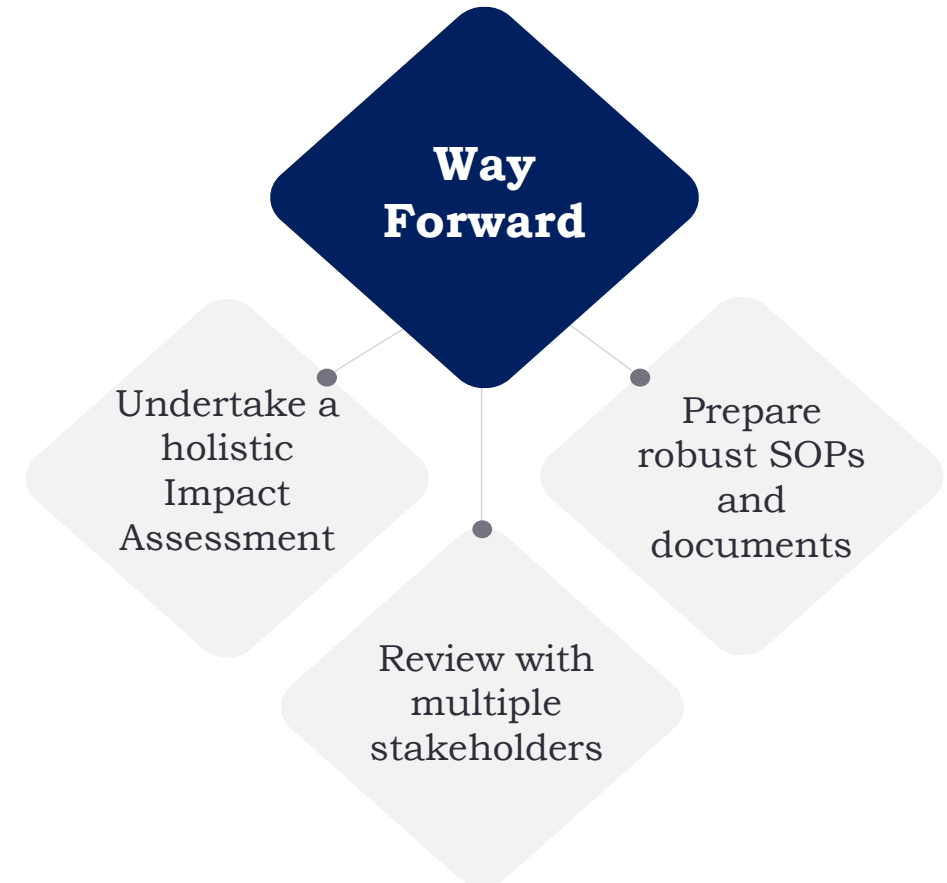
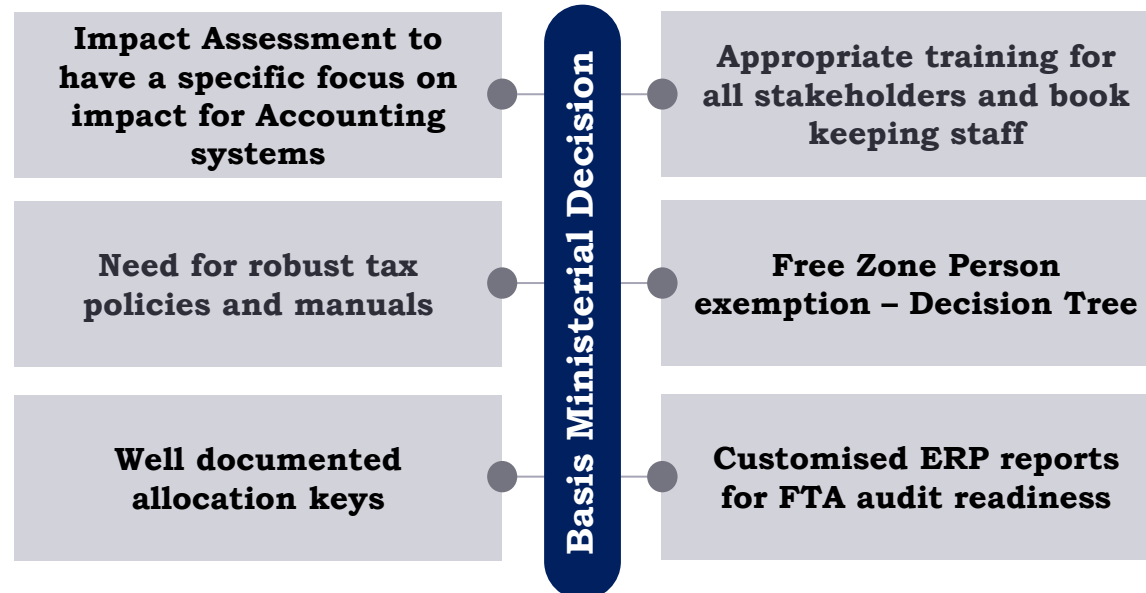
Readiness areas while we await revised guidance



Key Takeaways

Way Forward

Key Takeaway from the session



Questions



Thank You!

Please feel free to contact us for more information

Abu Dhabi

14th Floor, Dar Al Salam Building
Corniche Road
P.O. Box 42500
Abu Dhabi, UAE
T: +971 2 622 6700

Dubai

1201 & 1202, Al Moosa Tower 2
Shiekh Zayed Road
P.O. Box 24501
Dubai, UAE
T: +971 4 321 5622

Email : info@ardentadvisory.com or dchauhan@ardentadvisory.com

Website : www.ardentadvisory.com

Whatsapp: +971 50 539 1739