



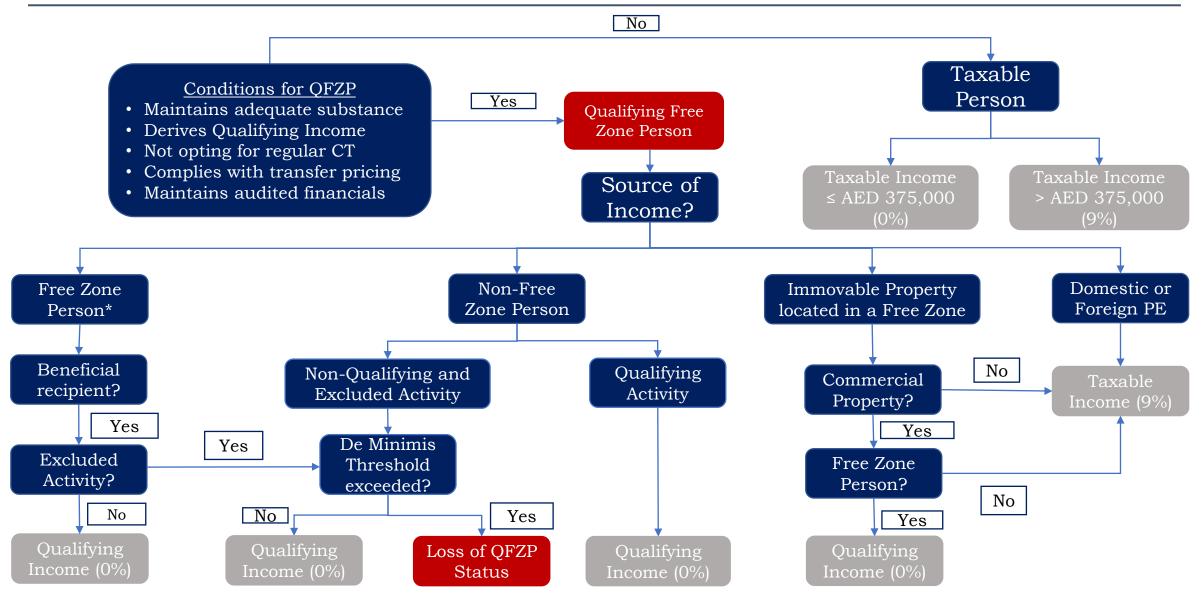
ICAI Dubai Chapter Freezone – CT Impact Assessment - Approach and pitfalls August 2023

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

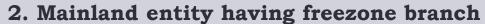
Freezone - Impact Assessment

Approach Agenda: Nuances to gear up for!



1. Exempt v/s non-exempt expense bifurcation

Maintaining robust chart of accounts, arrive at right allocation keys and being future ready for FTA audits and corroborating positions with appropriate documentation



Interpreting the applicability of the di-minimis rule, whether mainland can be treated as Domestic PE of the branch, etc?

3. Qualifying activities: HQ services

Management fees - Related mapping against actual activities and function – Identifying appropriate cost bases and FAR analysis for transfer pricing

4. . Consultation Document

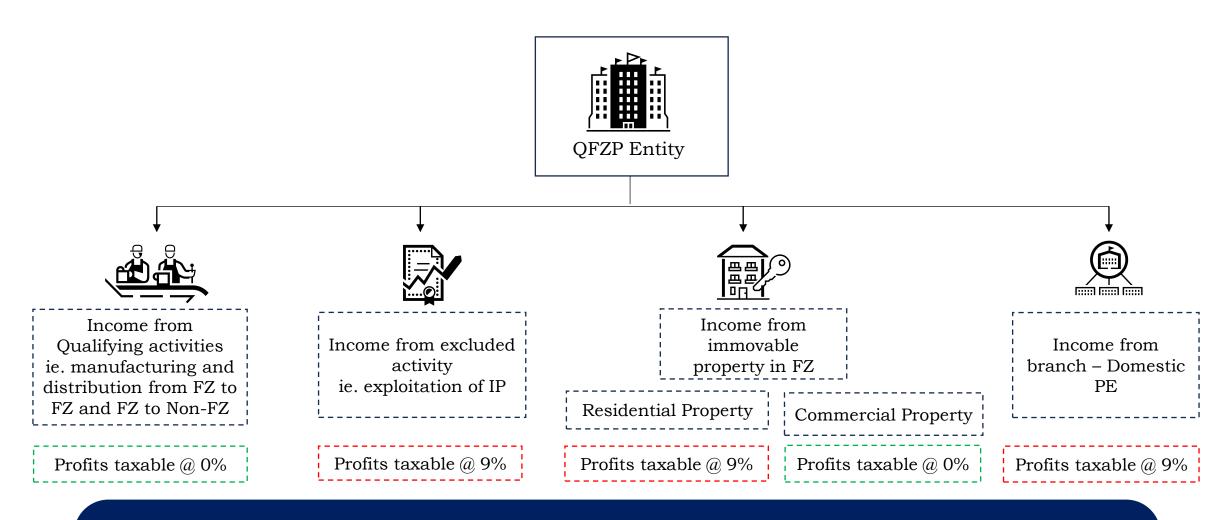
Other activity specific nuances to consider as a fallout of the Public Consultation Document and watch out for impact basis the revised cabinet/ ministerial decision



Case Study 1 – Expense bifurcation

QFZP having different streams of income



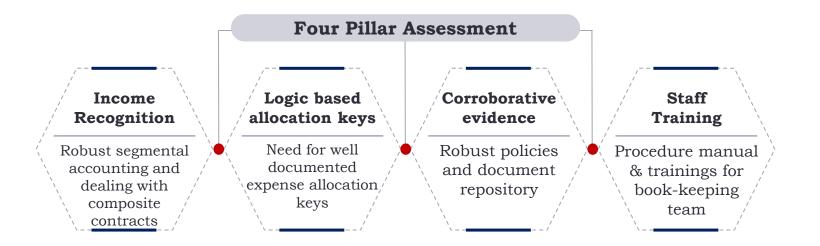


Approach - Need for focus on ERP nuances as a part of impact assessment?

Case Study 1 – Expense bifurcation

QFZP having different streams of income





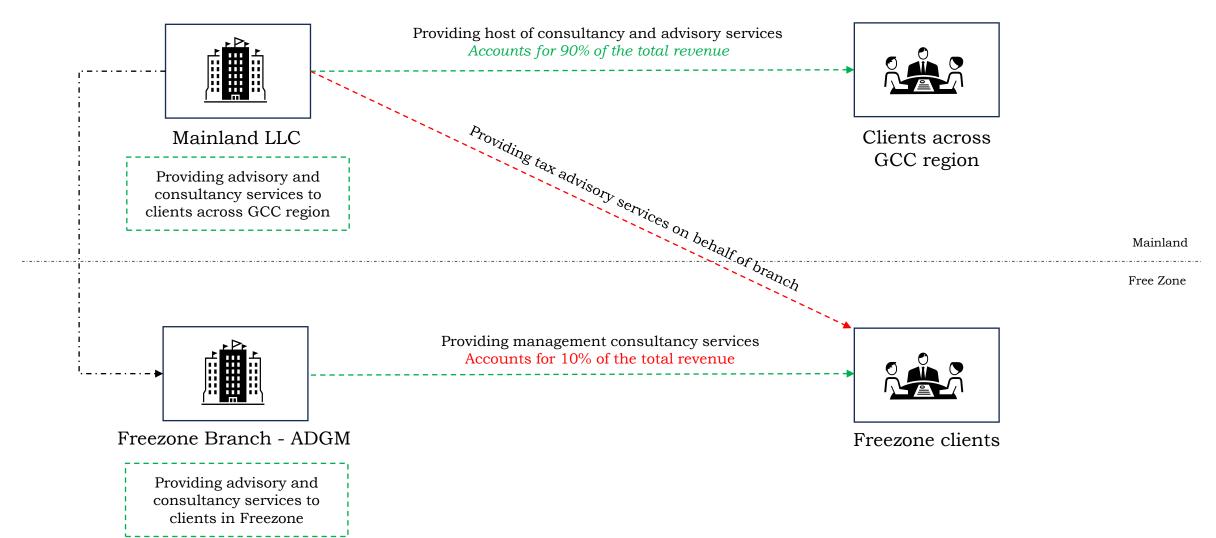
A robust four pillar assessment and related implementation would assist in achieving more informed tax positions and being future ready for tax audits

Descriptive nomenclature for items Need for robust tax policies and manuals with record retention

Case Study 2 - Freezone Branch

Treating mainland HQ as domestic PE of the branch





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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

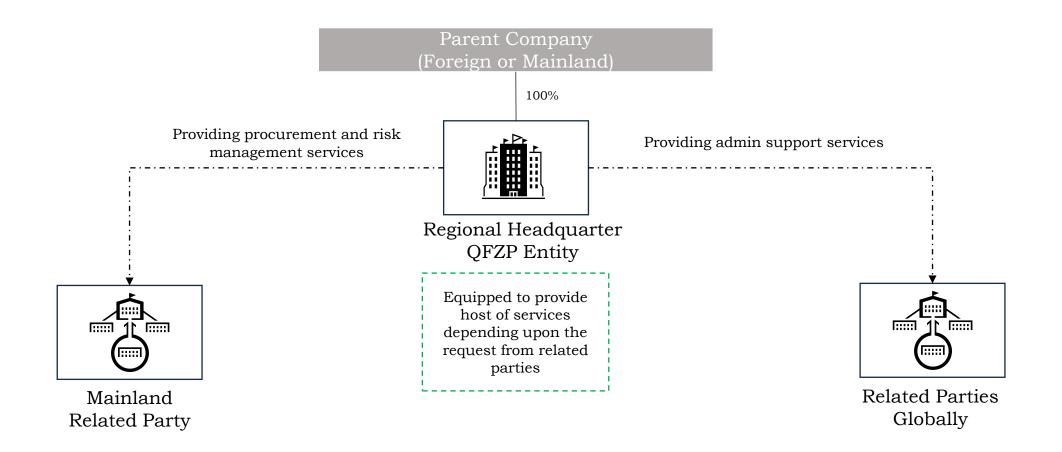


- Would mainland income and Freezone branch income be eligible for separate tax regimes Given one return and one of the condition being freezone not opting for normal CT
- Would the income from mainland be treated as Non-Qualifying income and hence breach the Di-minimis threshold in all scenarios?
- 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%
- Need to maintain robust segmental for PE attribution?

Case Study 3 – Headquarter Services



Assessment on availability of data to undertake transfer pricing benchmarking

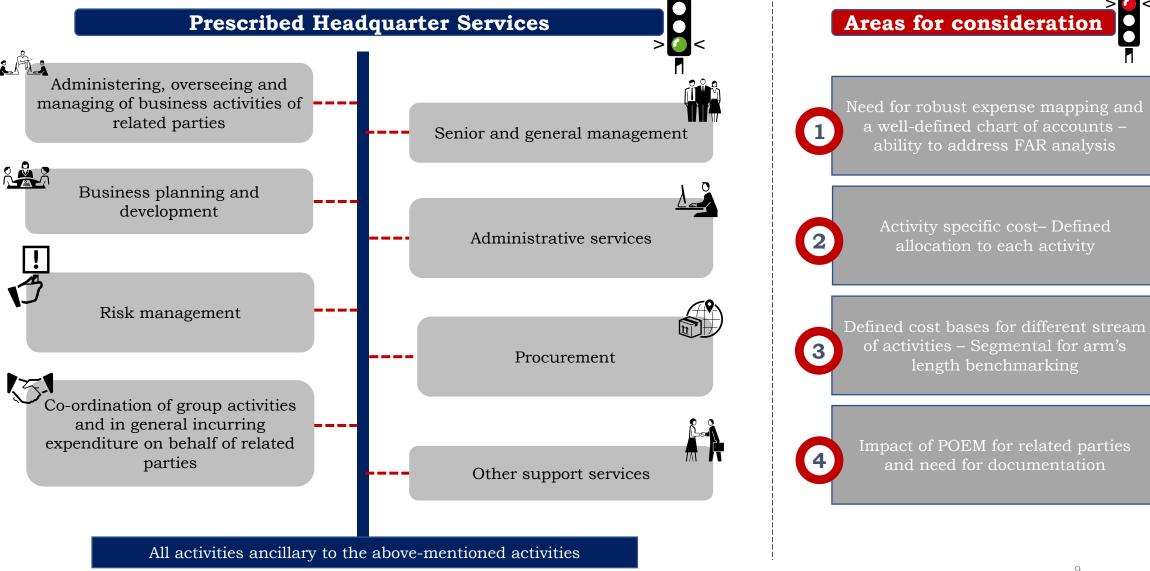


Approach – Impact from a Transfer Pricing Standpoint?

Case Study 3 – Headquarter Services





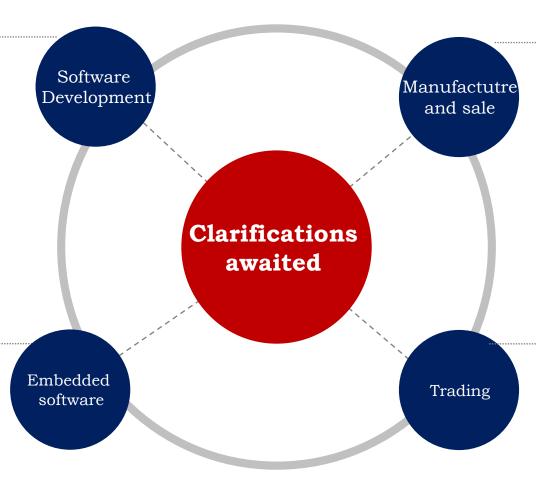


Case Study 4 – Other Areas

Readiness areas while we await revised guidance



- Process of converting a product from one form to another would generally be treated as manufacturing
- Software development may be deviation from the generally accepted meaning of manufacture
- Embedded software vs Software as a service – would it be outside the purview of excluded activity?



- Goods manufactured in FZ, however sale made to a business end user – how to ensure beneficial receipient condition and onus?
- Cost Allocation and transfer pricing between two segments
 Manufacture and trading within the same free zone entity

Deviation for Free Zone
 entities not defined as a
 Designated Zone being
 outside the purview of
 exemption in case of high
 sea sales where the goods
 are not entering the country

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Key Takeaways

Way Forward



Key Takeaway from the session

Basis Ministerial

Impact Assessment to have a specific focus on impact for Accounting systems

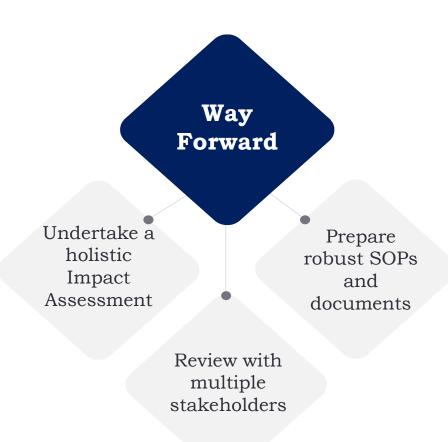
Need for robust tax policies and manuals

Well documented allocation keys

Appropriate training for all stakeholders and book keeping staff

Free Zone Person exemption – Decision Tree

Customised ERP reports for FTA audit readiness



Questions



Thank You!

Please feel free to contact us for more information

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