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UAE Corporate Tax

June 2023

Taxability of Free Zones

Qualifying free zone to be taxed at 0%

1. Maintenance of adequate substance in the UAE
2. Compliance with TP provisions
3. Financial statements to be audited
4. Not opted for a 9% tax rate
5. Derives Qualifying income as specified in a decision issued by the Cabinet

Qualifying Income

Qualifying Income (0%)

Transaction with other Free Zone Person - Income except for income derived from Excluded Activities.

Transaction with a Non-Free Zone Person - Income only in respect of Qualifying Activities that are not Excluded Activities**.**

Any other income provided that the QFZP satisfies the de minimis requirements.

De Minimis Requirements

The de minimis requirements will be satisfied where non-qualifying Revenue does not exceed 5% of total revenue or AED 5,000,000, whichever is lower. Failure to meet any of the qualifying conditions, Free Zone Person will be treated as a Taxable Person subject to 9% CT rate for a minimum of five years.

Non-qualifying Revenue

- Revenue derived from Excluded Activities or
- Activities that are not Qualifying Activities where the other party is a non-Free Zone Person.

Taxability of Free Zone Person

Excluded Activities

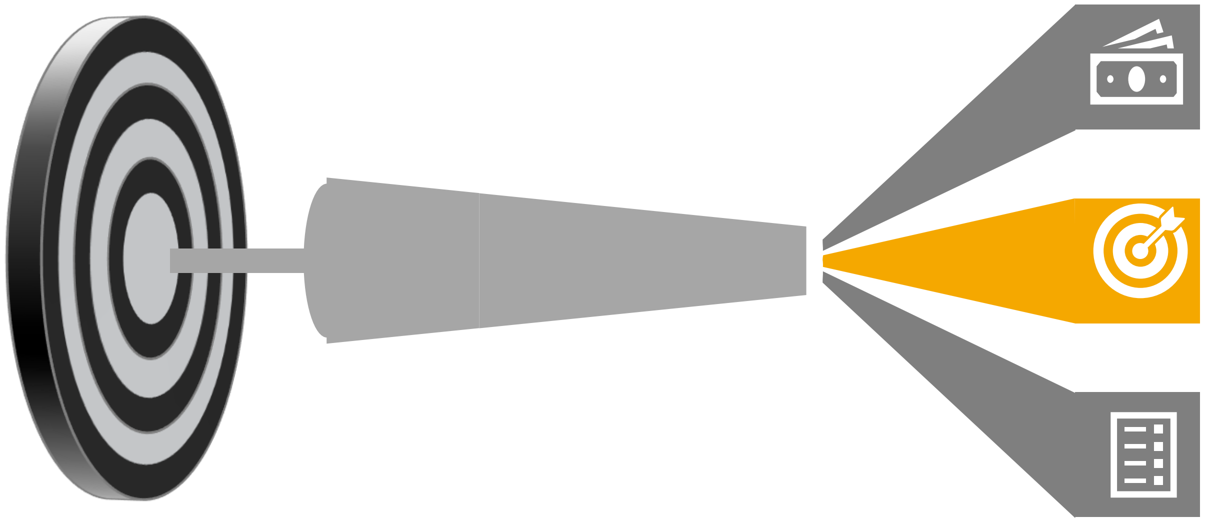
- Transactions with natural persons (except some transactions in relation to the qualifying activities);
- Regulated banking, insurance, finance and leasing activities;
- Ownership or exploitation of intellectual property assets; and
- Immovable property, other than transactions with Free Zone Persons in relation to commercial property located in a Free Zone.

Qualifying Activities

- Manufacturing and processing of goods or materials;
- Holding of shares and other securities;
- Ownership, management and operation of ships;
- Regulated reinsurance, fund/ and wealth management services;
- Headquarter and financing services to related parties;
- Financing and leasing of aircraft;
- Logistics; and
- The distribution of goods in or from a designated zone subject to certain conditions.

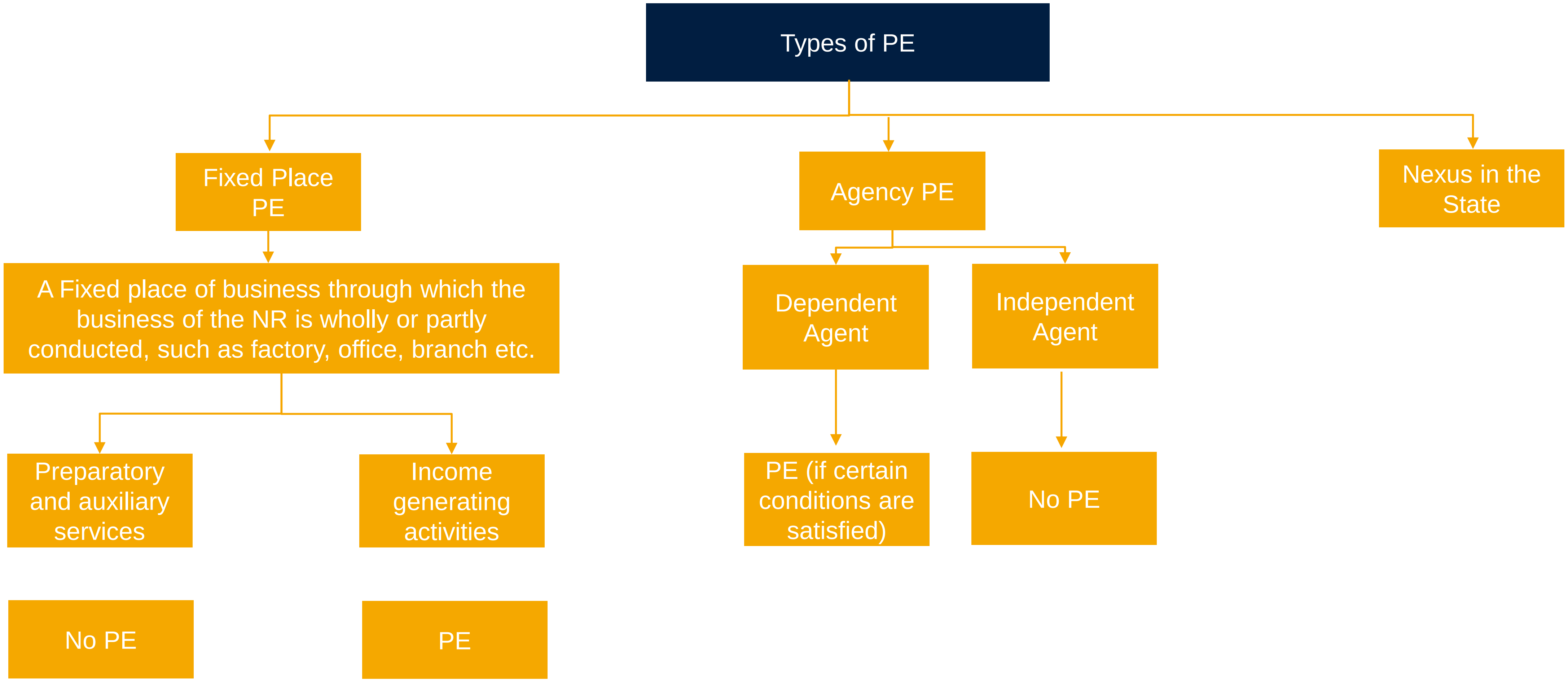
Certain revenue shall not be included in the calculation of non-qualifying Revenue and total Revenue which includes revenue attributable to certain immovable property located in a Free Zone, revenue attributable to a Domestic Permanent Establishment or a Foreign Permanent Establishment.

Permanent Establishment

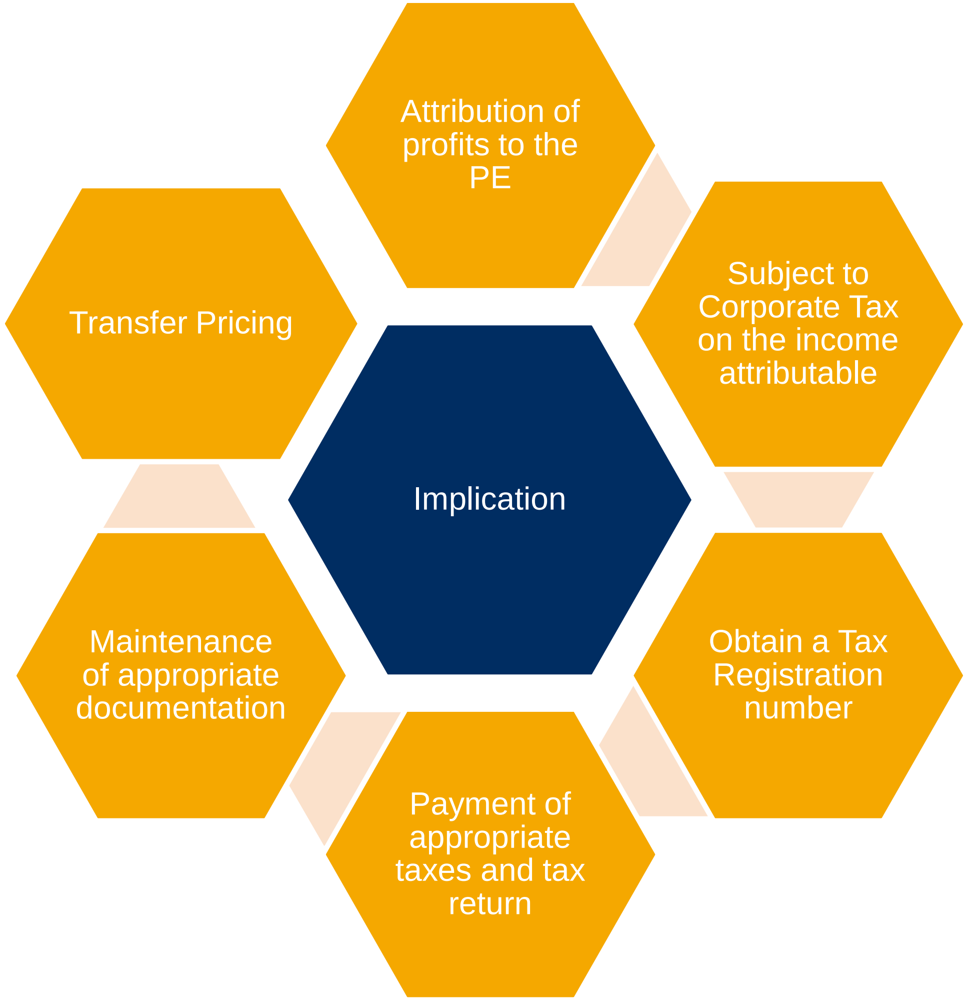


- What is the significance of a Permanent Establishment (‘PE’)?
- Implications of PE in the UAE
- Need to re-visit the business operations

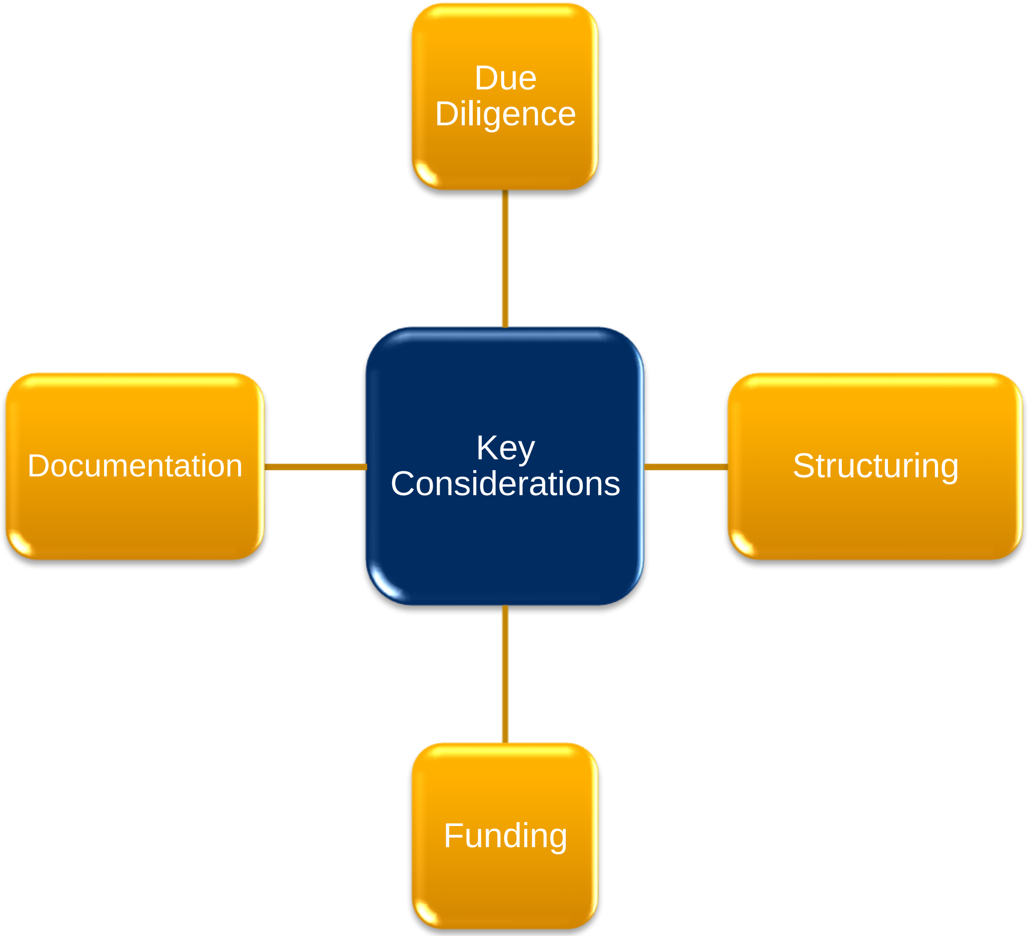
PE – An overview



Implication of PE



Key considerations – Mergers and Acquisitions



Thank you.

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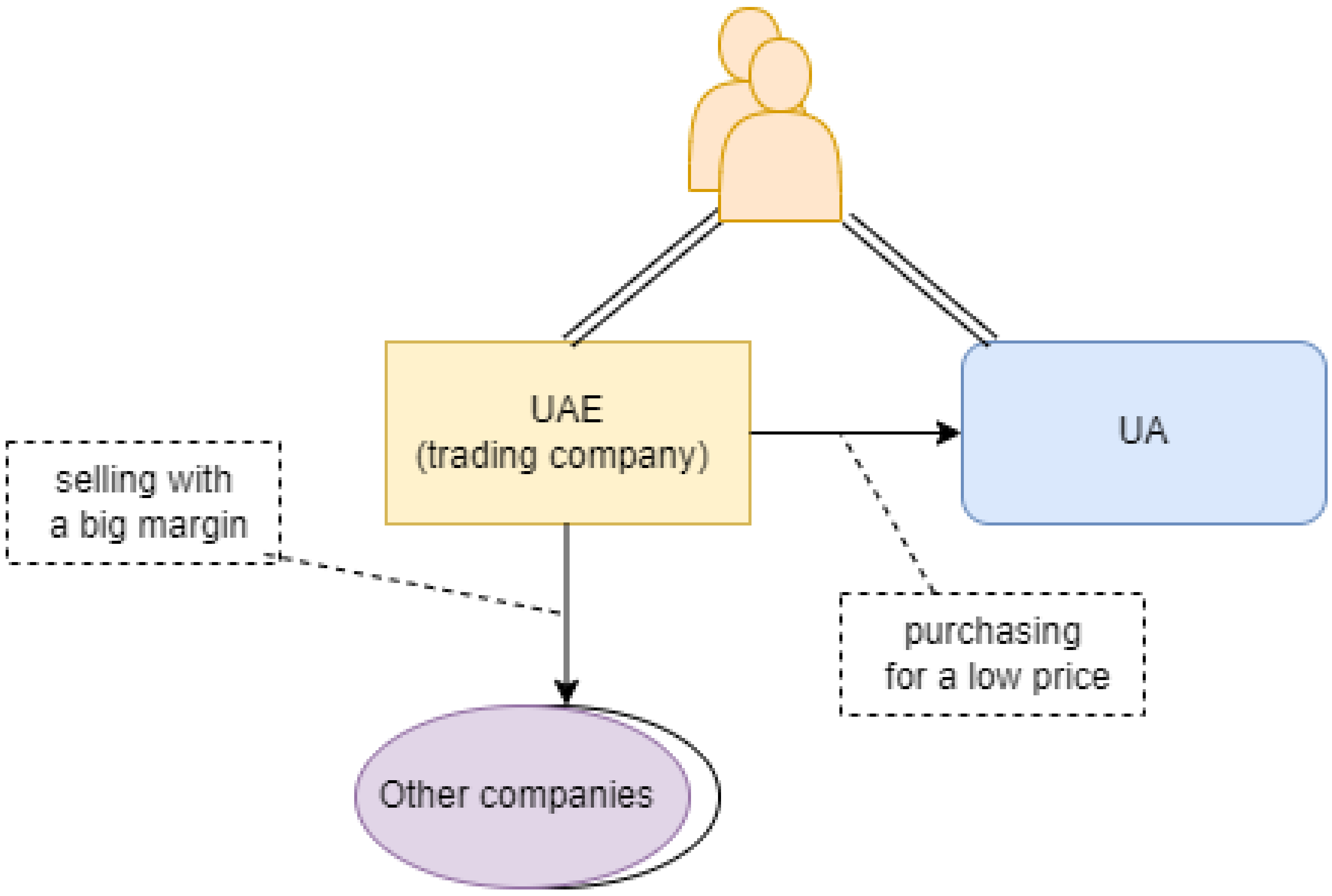
UAE CIT and UA business

June 2023

The general structure



Taxable persons and exemptions

New regulation is applicable to all businesses and commercial activities operating within the country’s seven emirates, with several exceptions.

Businesses operating in the extraction of natural resources, predominantly upstream oil and gas companies, will continue to be subject to the tax decrees issued by the respective emirate, rather than to the new corporate tax.

Another exemption applies to businesses registered in the country’s many **Free Trade Zones,** provided they comply with all the regulatory requirements and do not conduct business with mainland UAE.

Dividend income earned by company in UAE from qualifying shareholdings, capital gains, profits from a group reorganisation and intra-group transactions will be exempt from the CIT

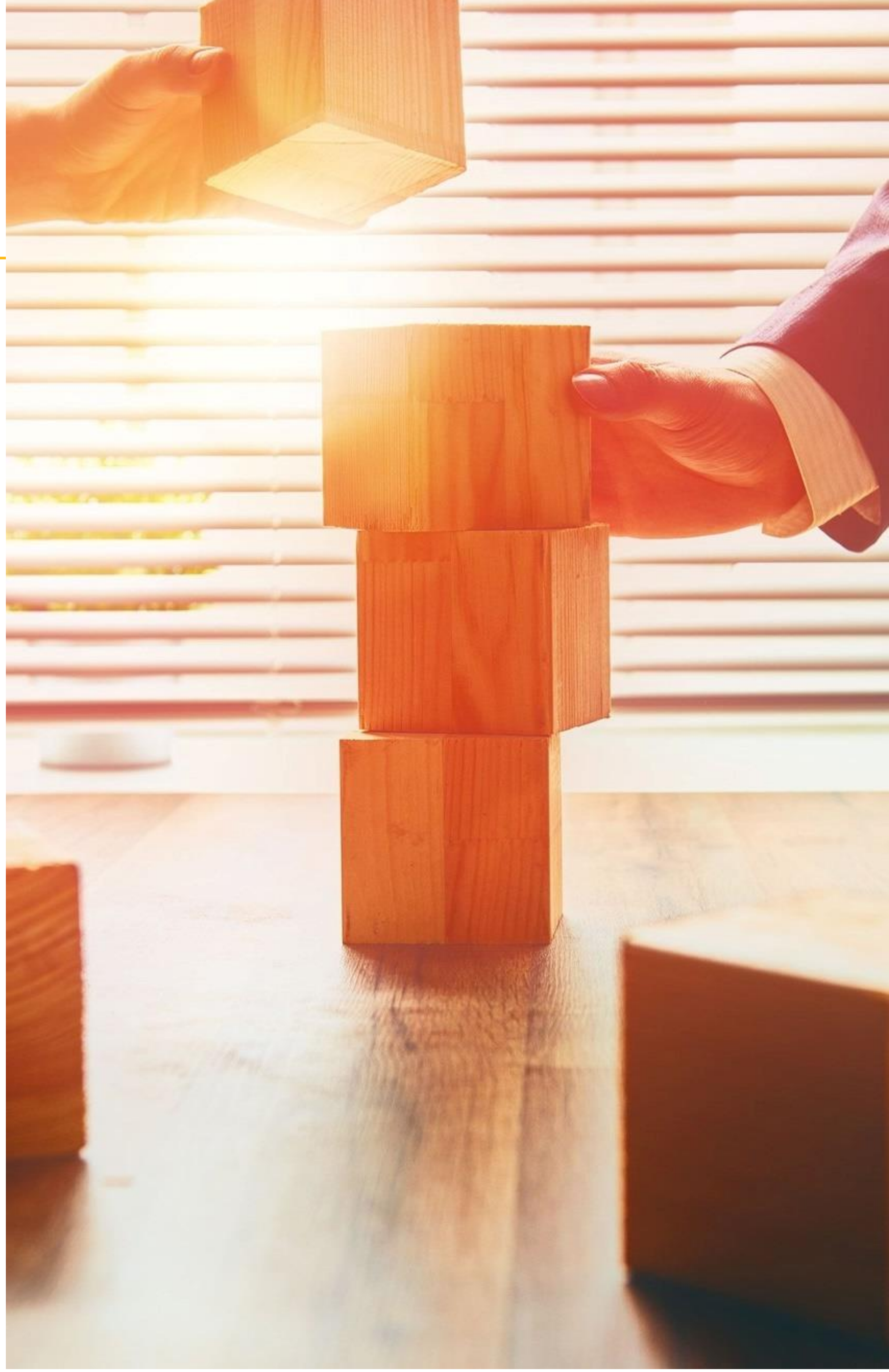
LIST TO DO/ CHECK:

1) Revise your contacts - Purchase costs and Selling price

2) Rethinking of the whole structing and reassesing the the overall tax burden

3) Registration of companies in Free Zones

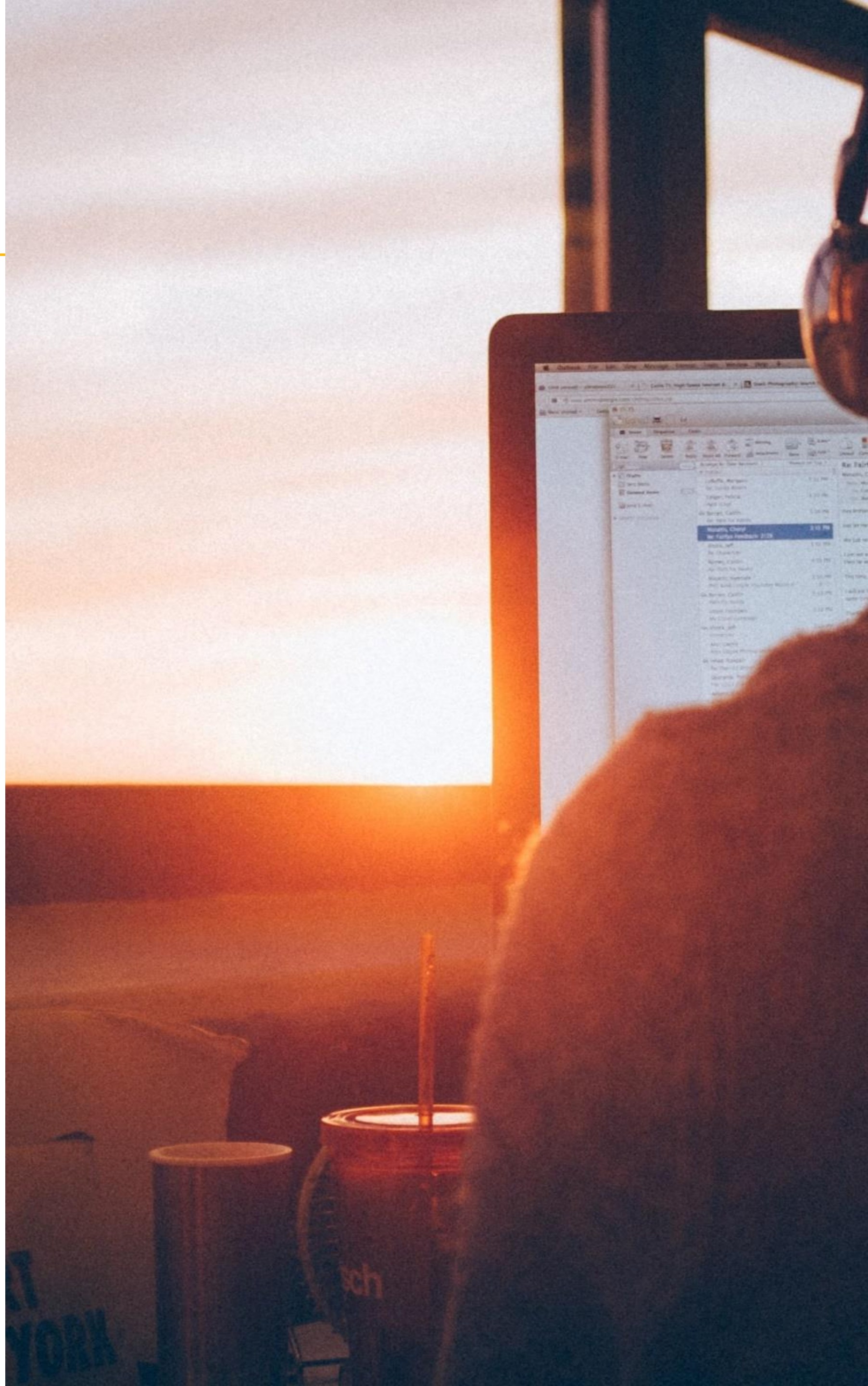
4) Substance overview and TP complience



CFC and controlling individual

Controlled foreign company is a legal entity registered in a foreign country or territory, which is recognized as being under control of individual or legal person – resident of Ukraine.

Controlling individual is individual or legal entity – residents of Ukraine, who are direct or indirect owners (controllers) of controlled foreign company.



Whom tax obligations concern?

- ✓Founders of CFC with a share of 50% or more.
- ✓Founders of the CFC with a share of more than 25% (from 2024 onwards - 10%), if you opened the company together with other residents of Ukraine, and in the total aggregate with them, you get 50%.
- ✓Beneficial owners or those persons who have an influence on CFC. This means the right to dispose of the company’s assets or profits, access to bank accounts and operations on them, and independent conclusion of agreements on behalf of the CFC. In other words, if there is a long-term general power of attorney for such actions.

What obligations arise before the tax authorities of Ukraine?

1.Notify about CFC.

About the ***acquisition*** of a company or the ***sale*** of a stake in the company, about the influence on the company, or about the termination of influence (for example, the expiration of the power of attorney). **The rule for CFCs registered after January 1, 2022.**

It is **given for 60 days for notification**, the countdown starts from the day when the changes took place.

What obligations arise before the tax authorities of Ukraine?

2.Report on CFC.

The report displays information about CFC. From general such as company name, address, registration number, share, to specific financial and tax information such as income, profit calculation, dividends, number of employees, etc. Copies of CFC reporting are attached to confirm the profit. The first reporting year is 2022.

When to report. As a general rule, by May 1, 2023, along with the annual declaration of assets and income for 2022. Or by March 1, 2023, together with the corporate income tax return for 2022, if the foreign company was registered by a Ukrainian company.

!

An exception to the rules. It is possible to postpone and submit the 2022 report in 2024. The procedure is the same as described above, simultaneously with the declarations, but for 2023. At the same time, such an exception is not a violation and fines are not applied for reporting after one year (**one of the provisions of the draft law № 8137 we proposed to establish the filing of the CFC Report after one year on a regular basis**).

What obligations arise before the tax authorities of Ukraine?

3.Pay taxes. The obligation to pay rests with the founders and beneficiaries of the CFC. A portion of the CFC's profit is taxed, which is proportional to the share in the CFC.

Tax rates. Individual founders pay personal income tax at the rate of 18%, or 5% or 9% under certain conditions (receipt of dividends from Ukraine, distribution of profit before reporting, etc.). In addition, a military levy of 1.5%. The general term of payment is until August 1, 2023.

Founders-legal entities pay 18% corporate income tax. The general payment term is until March 11, 2023.

Do you have to be responsible for violating the legislation on CFC?

Penalties are provided for failure to submit a report or violation of submission deadlines, for concealing information about CFC and others.

For the first accounting years 2022-2023, administrative and criminal liability is not applied. Also, there are no fines for incorrect calculations of CFC profit.

!

Please note that preferential conditions are temporary and do not exempt from the obligation to perform actions. And the amount of fines is quite large for various violations. If we count as of 2022, the following fines can be determined:

- **for failure to submit a report;**
- **for non-disclosure of CFC information in the report;**
- **for failure to submit a notification**.

Thank You

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