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IS YOUR UAE FREE ZONE BUSINESS READY FOR CORPORATE TAX?

Key priorities to consider

With the onset of the new year and the UAE Corporate Tax (CT) law coming into effect for most businesses, we trust that you are actively assessing your corporate tax readiness. To assist you in this, we offer you a guide to optimize and safeguard your CT position.

Under the UAE CT Regime, Qualifying Free Zone persons can avail **a 0% CT rate on their Qualifying Income**. Free Zone relief is not granted as a matter of course; seizing this opportunity requires adherence to certain conditions:

- Maintains **adequate substance** in the UAE,
- Derives **qualifying income,**
- Has **not elected to be taxed at a standard rate (9%)**,
- Complies with **Transfer Pricing ("TP") rules and documentation**,
- Prepares **audited financial statements**,
- Meets **de minimis requirements**,
- Any **other conditions** which would be specified in the Cabinet Decision to be issued by MoF

Meeting all these conditions from '**day one**' is pivotal. Failure to adhere could result in the loss of 0% benefit not only for the current year but a total of five (5) years, even if conditions are fulfilled later.

How To Be Prepared?

Here are some key indicators for a preliminary assessment to ensure your business is and remains eligible for Free Zone relief.

Substance Test	Qualifying Income Test	De-minimis Test
Assess the adequacy of your substance in the Free Zone considering: • Physical location of the operation • Employee contracts & visa • Functions outsourced & supervision • Adequacy of operating expenditure • Level of operation in Mainland • Compliance with the Economic Substance Regulation	**Evaluate the revenue streams to determine if the entity derives qualifying income,** focusing on • The counterparty to the transaction (Another free zone/Non-Free Zone Person) • List of Excluded Activities • List of Qualifying Activities • Testing the beneficial recipient of the goods/services • Implications on your income from Real Estate • Implications on your income from Qualifying Intellectual Property	**Evaluate and quantify if the Non-Qualifying Income is less than AED 5 Million or 5% of Total Income, whichever is lower.** For most businesses, the first tax period has commenced, and it is crucial to forecast and quantify the annual non-qualifying income. Evaluating the de-minimis requirement is essential to ensure that coveted free zone benefit is not jeopardized.

How To Be Prepared? [cont'd]

Transfer Pricing Test	Opt-out Test	Accounts & Audit Test
Assess the related party transactions adhere to the arm's length principle. • Identify the related parties/connected persons and ensure transactions with them are at arm's length. • Review the legal structure, business model, and capital structure rationalization.	**Analyze the pros and cons of FZ relief considering the conditions in place versus other reliefs/exemptions available on being taxed at standard 9% CT. More importantly in the case of** • Group of companies in UAE • UAE subsidiaries of MNEs	**Assess the adequacy of accounting practices. Ensure readiness for preparing financial statements and assess for audit requirements.** **Assess for audit requirements.**

For your ease, click here to access Re/think's *Free Zone Fact sheet* and *Self-assessment questionnaire on coporate tax readiness*.

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