

Overview of the Corporate Tax Guide CTGFZP1: **Free Zone Persons**

*The Corporate Tax Guide CTGFZP1 on Free Zone Persons
can be accessed [here](#)*

2024

www.pgplaw.ae



01

Qualifying Free Zone Person

Who is a Free Zone Person?

Special provisions for branches

QFZP and first Tax Period



Free Zone person -

a juridical person incorporated, established or otherwise registered in a FZ, including a branch of a non-resident person registered in a FZ

Free Zone person	Non-Free Zone Person
legal entity	natural persons, unincorporated partnerships and sole establishments
branch of a non-resident person or UAE resident person	permanent establishment
redomiciled foreign companies	PoEM Free Zone person

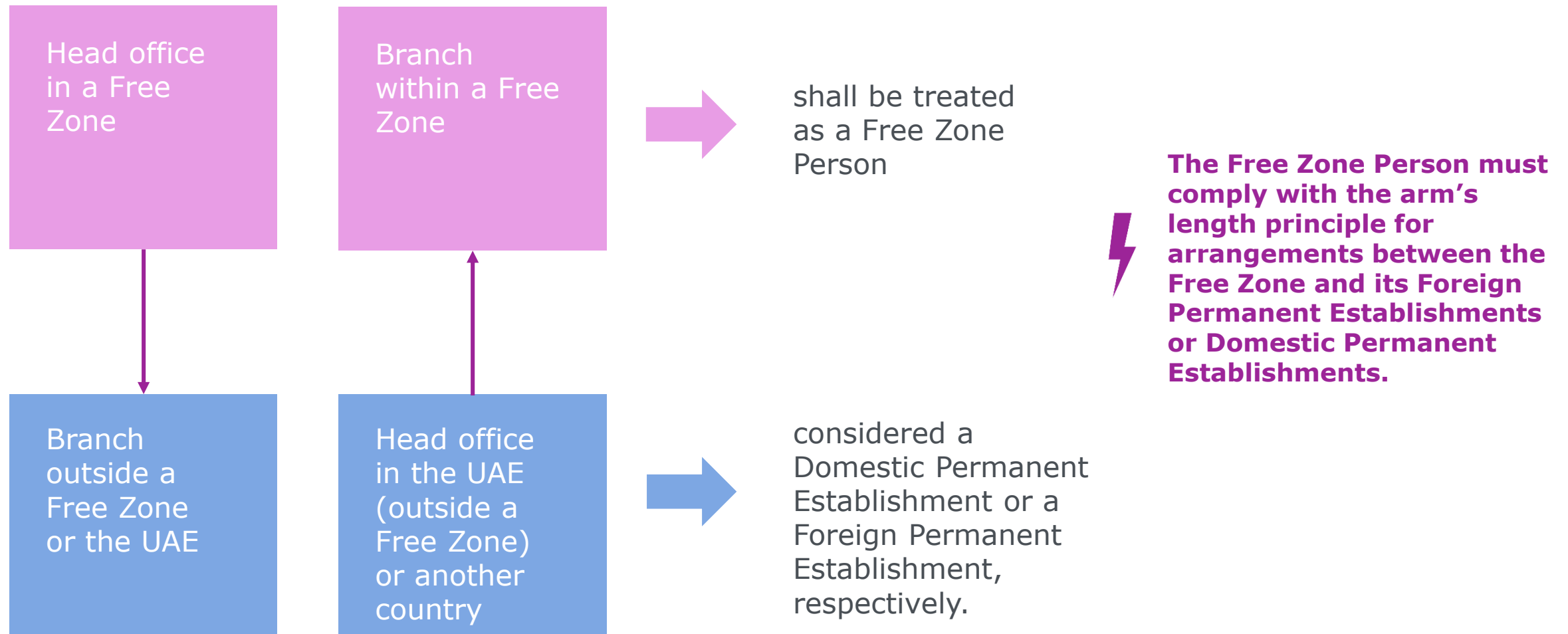


All taxpayers should check with the relevant Free Zone Authority to confirm that they operate in a Free Zone or Designated Zone for Corporate Tax purposes.



Free Zone/Designated Zone-


- ✓ there is no Cabinet Decision with the list of Free Zones for Corporate Tax purposes.
- ✓ the list of Designated Zones for VAT purposes (**not for Corporate Tax purposes**) is available [here](#).



Free Zone Persons can have:	
Foreign PEs (outside the UAE)	Domestic PEs (outside the free zone, but in the UAE)
✓ Taxed at 9% Corporate Tax, but can enjoy 0% under Art.24 of the UAE Tax Law	✓ Taxed at 9% Corporate Tax
Are treated as if it were a separate and independent Person from a Free Zone Parent	
Cannot be considered as a Free Zone Person for the Beneficial Recipient purpose	
If the outputs from the Free Zone Parent are used in the Business of its Foreign/Domestic PEs the Free Zone Parent would be treated as if it has derived Revenue from a Non-Free Zone Person	
Revenue attributable to a Foreign PE/Domestic PE are not Qualifying Income and are not included in the de minimis calculations	

A Free Zone Person will be deemed to be a QFZP **unless**:

- one of the conditions to be a QFZP is not met, or
- if the QFZP makes an election to be subject to tax.



non-compliance with conditions or election to be subject to tax

Regular Corporate Tax regime for 5 tax periods

Special treatment for start-up phase

A Free Zone Person that does not earn any Qualifying Income in a Tax Period because it has not started to derive Revenue will not be disqualified from being a QFZP provided it does not derive any non-qualifying Revenue

Example 9.

Company sells an office chair to an employee for AED 100 in the 2024 Tax Period.

The sale of the office chair to the employee is an Excluded Activity (transactions with natural persons) and would be treated as non-qualifying Revenue.

Company F will not meet the de minimis requirements in 2024 and will not qualify to be a QFZP for the 2024 Tax Period and the four subsequent Tax Periods.

02

Conditions for Qualifying Free Zone Person

Conditions

Qualifying and Non-Qualifying income

Beneficial Recipient concept

Conditions for QFZP and 0% Corporate Tax



to maintain adequate substance in a Free Zone



not to elect to be subject to 9% Corporate Tax rate



to comply with the arm's length principle and maintain Transfer Pricing documentation



to derive Qualifying Income as specified in a decision issued by the Cabinet

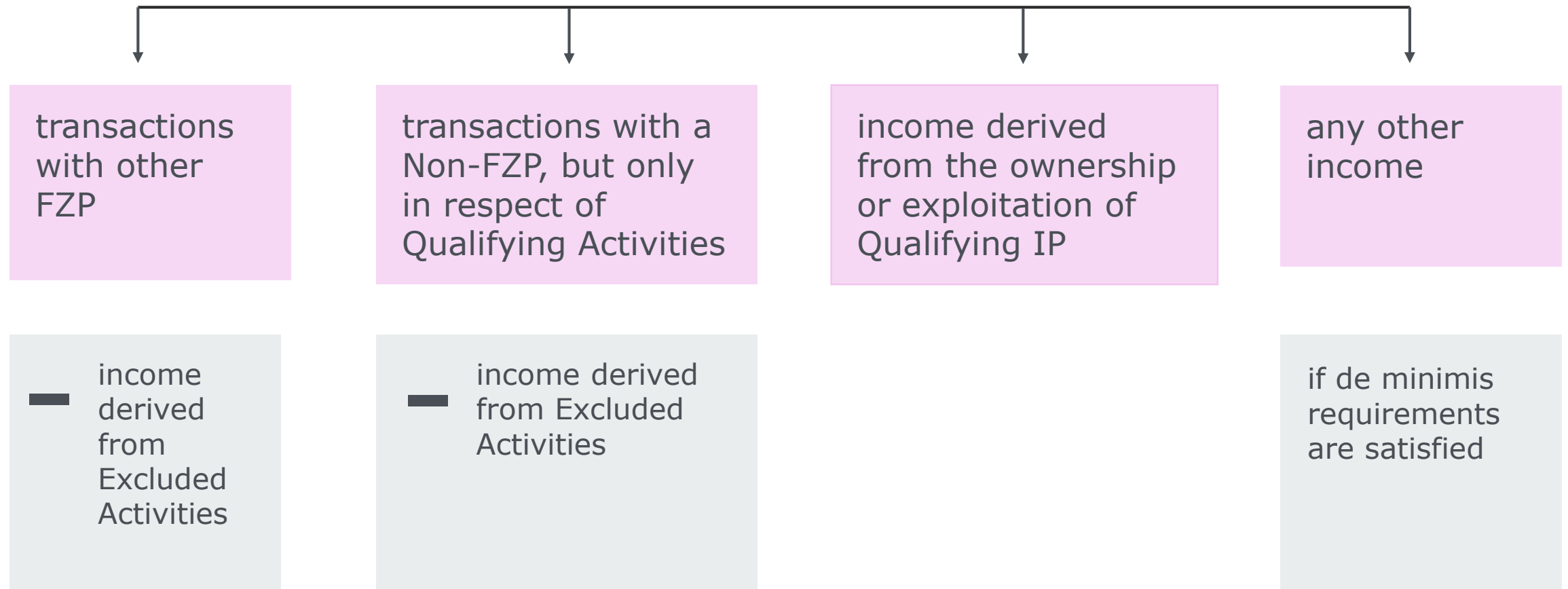


to meet the de minimis requirements



to prepare and maintain audited financial statements

0%



9%

from
Excluded
Activities

from the ownership
or exploitation of
intellectual property
that is not Qualifying
Intellectual Property
and income in
excess of Qualifying
Income

attributed to a
foreign
permanent
establishment
or mainland
permanent
establishment

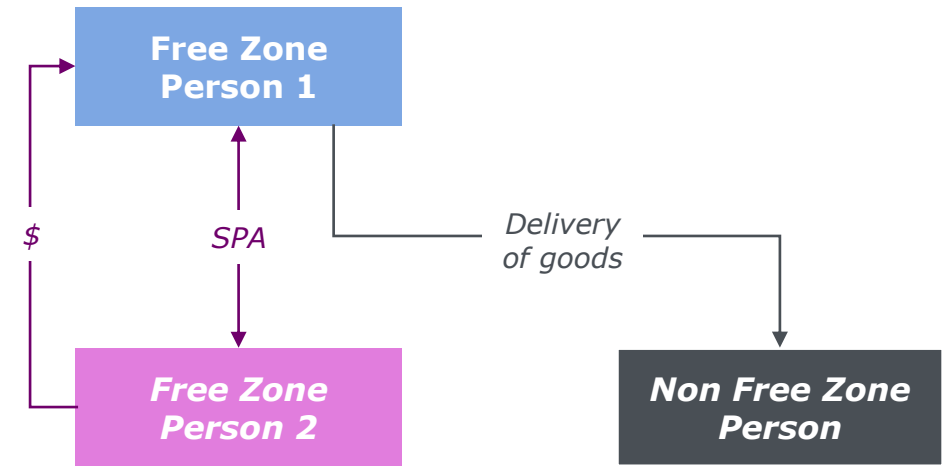
from ownership or
exploitation of immovable
property:

- a. transactions with non-Free Zone persons in respect of Commercial Property
- b. transactions with any person in respect of immovable property other than Commercial Property

Income from transactions with other Free Zone Persons is Qualifying Income if the other Free Zone Person is the Beneficial Recipient of services/goods:

- Has the right to use and enjoy the services/goods, and
- Is not bound to supply such services/goods to another person.

The QFZP may rely on a **written statement** or undertaking from the purchaser (for example, a contractual stipulation) confirming that the purchaser is the Beneficial Recipient



⚡ Is Free Zone Person 2 the Beneficial Recipient of goods?

Free Zone Persons		
Qualified Free Zone Person (QFZP) Regime		Standard 9% Taxation
0%	9%	<ul style="list-style-type: none"> ✓ A Free Zone Person needs to elect to be subject to 9% Corporate Tax rate (any time, but not after the due date for filing the tax return). ✓ <u>This election works for 5 years (i.e. the QFZP regime is not available for 5 years).</u> ✓ 0% for the first AED 375,000 is available, 9% after AED 375,000. ✓ Small Business Relief, Qualifying Group Relief, Business Restructuring Relief, transfer of Tax Losses, the Tax Group regime are available. ✓ VAT Tax Group is available.
Qualifying Income	Other income that is not Qualifying	
<ul style="list-style-type: none"> ✓ A Free Zone Person is deemed to be a QFZP, unless it fails the QFZP conditions or elects the 9% Corporate Tax rate. ✓ 0% for the first AED 375,000 is not available. ✓ Small Business Relief, Qualifying Group Relief, Business Restructuring Relief, transfer of Tax Losses, the Tax Group regime are not available. ✓ VAT Tax Group is available. ✓ <u>If the QFZP regime is failed – Standard 9% Taxation applies for 5 years.</u> 		<ul style="list-style-type: none"> ✓ VAT Tax Group is available.

03

De minimis requirements

De minimis rule and calculation

De minimis requirements are considered met, if:

The non-qualifying Revenue
in a Tax Period



5% of the total Revenue
or AED 5,000,000,
whichever is lower

Non-qualifying Revenue includes:

- (1) Revenue from Excluded activities
- (2) Revenue from non-qualifying activities, if the other party to the transaction is not a Free Zone person
- (3) Revenue from a FZP, where such FZP is not the Beneficial Recipient

Total Revenue includes:

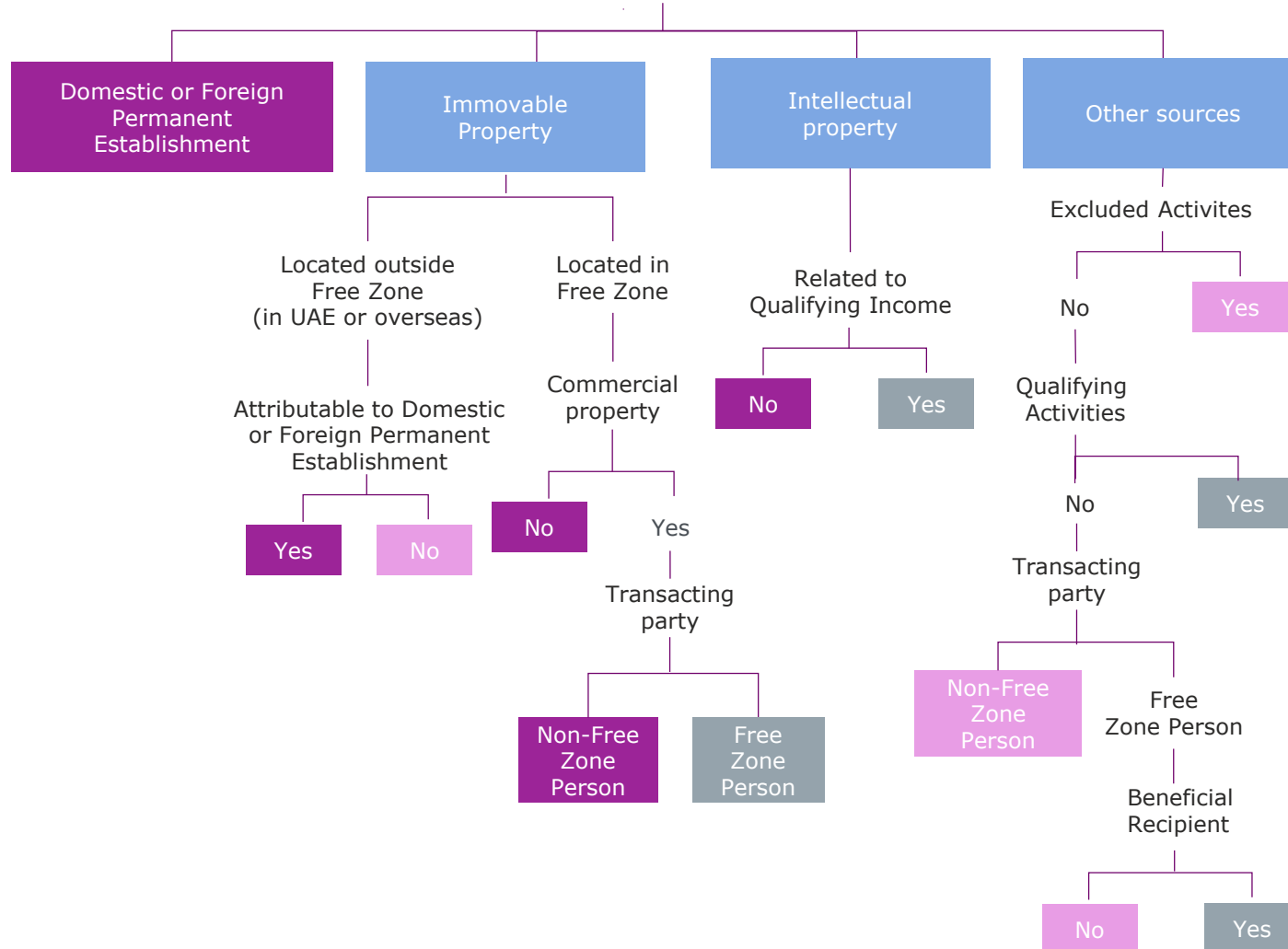
all Revenue received by a qualifying Free Zone person during the tax period.

Income from immovable property (Art. 6 of Cabinet Decision 55), from a foreign or domestic permanent establishment and IP income (except for qualifying income) are NOT included in the calculation.

Income of an Exempt Person derived from the capacity of the Exempt Person (e.g., Extractive Business) is also excluded.

Determining "total Revenue" and "non-qualifying Revenue"

Revenue attributable to/derived from:



This represents that the relevant component is excluded from "total Revenue" and "non-qualifying Revenue" while applying the de-minimis requirements

This represents that the relevant component is included in "total Revenue" and "non-qualifying Revenue" while applying the de-minimis requirements

This represents that the relevant component is included in "total Revenue" and excluded from "non-qualifying Revenue" while applying the de-minimis requirements

04

Adequate substance

The understanding of the adequate substance

Examples from FTA



core income-generating activities in a Free Zone or a Designated Zone



adequate assets



adequate number of **qualified full-time employees**



adequate amount of **operating expenditures**



non-core activities – do not directly drive the sales or are routine in nature - **can be carried out outside the Free Zone/ Designated Zone.**



The Qualifying Income of the Free Zone Person should reflect the level of core income-generating activities performed in the Free Zone (or Designated Zone), consistent with the **arm's length principle.**



**What is 'adequate' depends on the nature and size of the Business.
There is no one-size-fits-all solution.**



QFZP is the regional headquarter company, responsible for marketing and commercial strategy of the Group. C-suite is in the Free Zone, reviews the regional performance and assists local management teams.

CIGAs are performed in the Free Zone, **adequate substance test is met.**



FZP has a warehouse in a Designated Zone that it uses for the storage and distribution of goods. However, it has its registered office and employees in a Free Zone performs its core distribution activities from that Free Zone office.

CIGAs are not performed in the Free Zone, **adequate substance test is failed.**



FZP provides fund management services. It merely rubber stamps the decisions of its foreign parent company without any independent review.

CIGAs are not performed in the Free Zone, **adequate substance test is failed.**

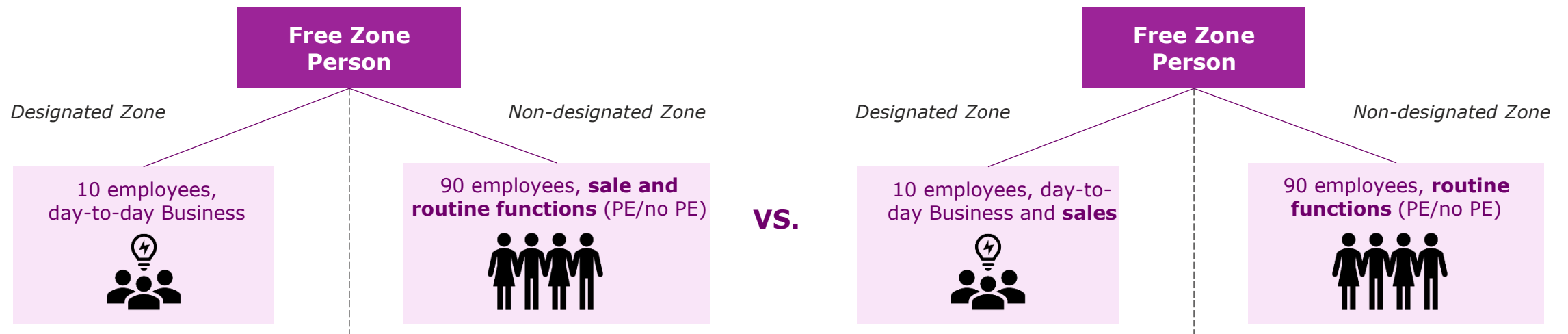


QFZP is the holding company. Company has a small office in a Free Zone but does not have any employees.

Although QFZP has no operational substance, the decision-making by the Board of Directors constitutes the core income-generating activities.

CIGAs are performed in the Free Zone, **adequate substance test is met.**

Only the assets, employees and operation in the Free Zone are evaluated, irrespective what the QFZP has outside the Free Zone.



⚡ Adequate substance test is failed, since CIGAs (sales) are not in the Designated Zone

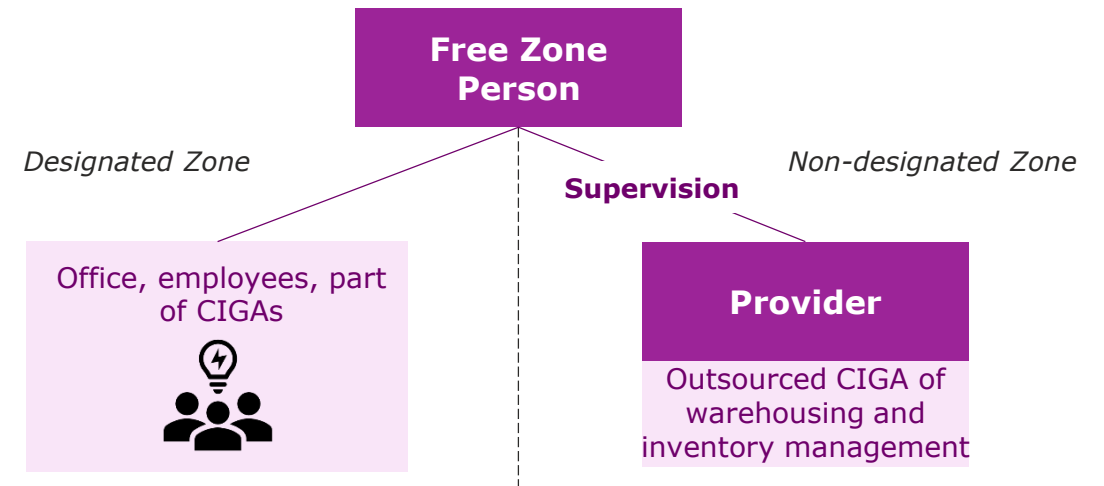
✓ Adequate substance test is met, since CIGAs (sales) are in the Designated Zone

Outsourcing?

CIGAs can be outsourced to another person in a **Free Zone/Designated Zone** provided:

- QFZP has **adequate supervision** of the outsourced CIGAs,
- CIGAs is performed in the Free Zone/Designated Zone,
- The provider has adequate employees, expenditures, and physical assets (double counting of resources is not allowed).

Adequate supervision – QFZP must be legally entitled to assess, instruct and provide guidance to the provider. Actual performance of the QFZP and the provider is also important.



⚡ Adequate substance test is failed, since the provider is not in the Designated Zone

05

Qualifying activities

List of Qualifying and ancillary activities

Some examples of Qualifying activities from FTA

Qualifying Activities:

- Manufacturing of goods or materials,
- Processing of goods or materials,
- Trading of Qualifying Commodities,
- Holding of shares and other securities for investment purposes,
- Ownership, management, and operation of Ships,
- Reinsurance services,
- Fund management services,
- Wealth and investment management services,
- Headquarter services to Related Parties,
- Treasury and financing services to Related Parties,
- Financing and leasing of Aircraft,
- Distribution of goods or materials in or from a Designated Zone,
- Logistics services,
- Activities that are ancillary to the above activities.

An activity is **ancillary** if:

- It is necessary for the performance of the main activity (supportive function or seamlessly integral to the main activity), or
- It makes a minor contribution to the main activity and is so closely related to the main activity, that it should not be seen as a separate activity.

Investment of surplus funds is not an ancillary activity, but can be a Qualifying Activity in its own right (for example, treasury and financing services to Related Parties, which includes oneself).

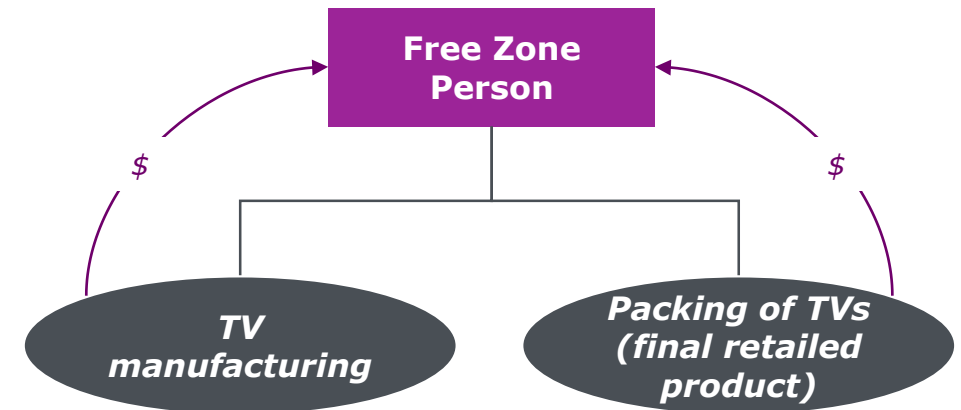
Ancillary activity in the absence of the main activity is not a Qualifying Activity.

Manufacturing activities (toll and full-fledged manufacturing):

- Production planning (developing the production strategy),
 - Production (converting raw materials into finished products),
 - Quality control (testing and inspection).
- ✓ Repairs is not a manufacturing activity.

Ancillary activities to manufacturing:

- Post-sales activities (installation, warranty, maintenance, upgrade of manufactured products).
- Customer support (post-sale support, warranty services, handling queries).



- ✓ **Both activities are Qualifying Activities, since packing is closely related to the manufacturing.**

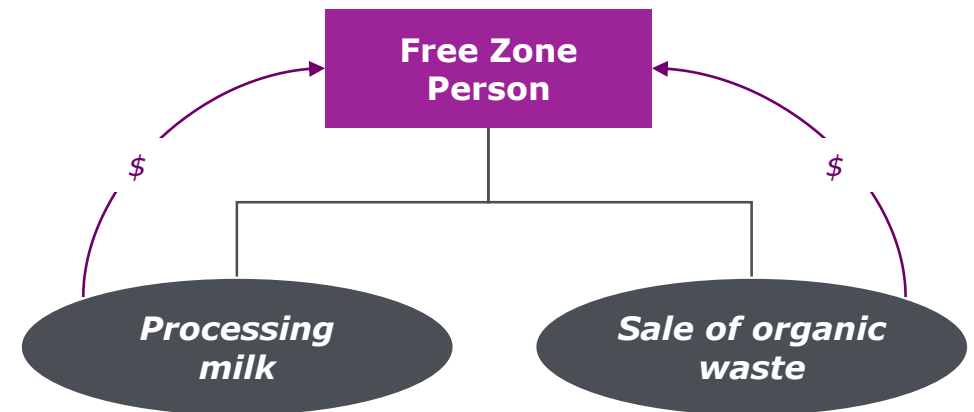
For **full-fledge manufacturing** the distribution activity is required to be conducted **in or from a Designated Zone** in order to be a Qualifying Activity.

Processing activities:

- Production planning (strategy on the schedule, sequence and method of processing materials),
- Processing (assembly, fabrication, machining, chemical reactions, printing, packaging),
- Quality control (testing, inspection, monitoring).

Ancillary activities to processing:

- Post-sales activities (services that directly linked to the processed goods).
- Customer support (post-sale support, warranty services, handling queries).



- ✓ **Both activities are Qualifying Activities, since the sale of organic waste is closely related to and makes a minor contribution to the processing activity.**



Trading activities – buying and selling.

Ancillary activities to trading – warehousing (storage or housing), delivery (transportation).

The trade itself does no need to be performed through an exchange (can be off market).



metal, minerals,
energy and agriculture
commodities



“raw form”

The HSN code can serve as an indicator if the commodity maintains its raw form

But! mere alteration in HSN code due to some level of processing does not conclusively determine whether that commodity has lost its raw form

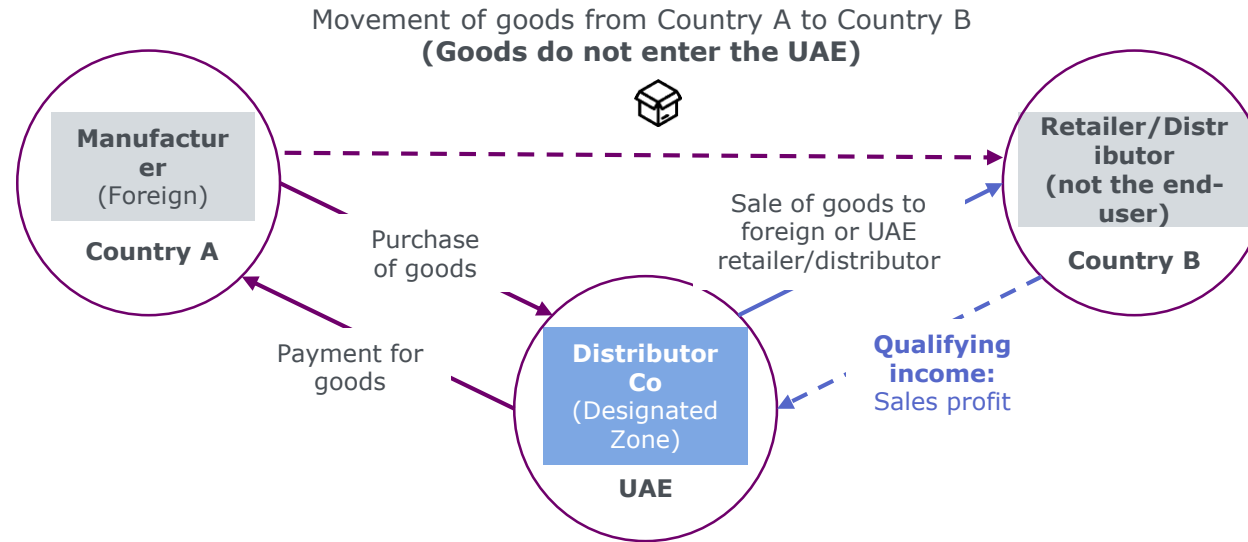


traded on:

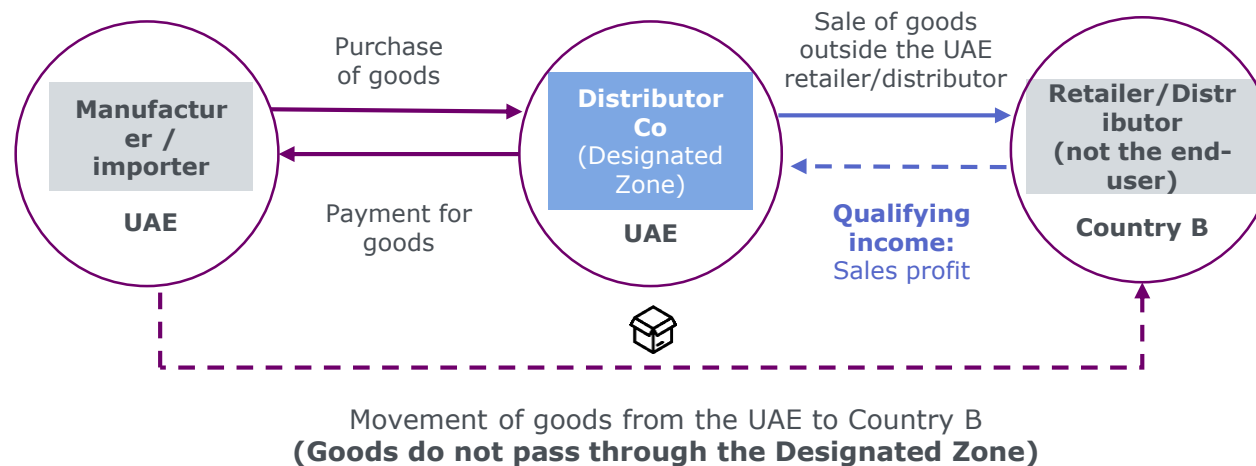
- UAE exchange markets (DFSA, FSRA, SCA, Dubai Gold & Commodities Exchange - licensed and regulated by the UAE Central Bank), or
- foreign commodities exchange markets of equal standing (the Chicago Board of Trade, the London Metal Exchange).

Distribution in or from a Designated Zone

a) high sea sales or third port trading



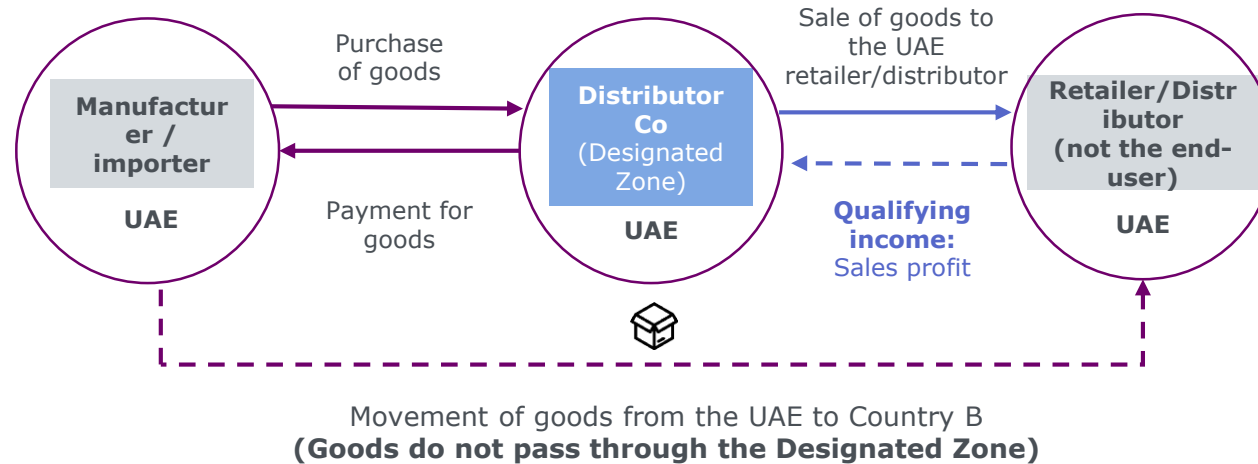
b) export from the UAE



There is **no need for the goods to enter the UAE.**

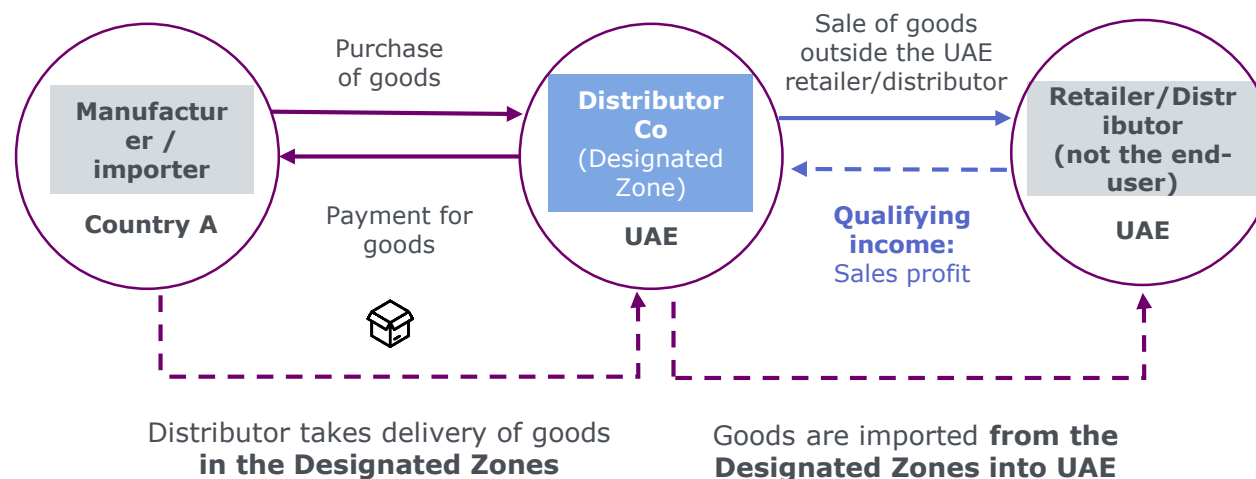
Distribution in or from a Designated Zone

c) distribution within the UAE



If goods enter the UAE – they must be imported through the Designated Zone.

d) import in the UAE



If the goods are already in the UAE, they do not need to be passed through a Designated Zone.

Distribution activities:

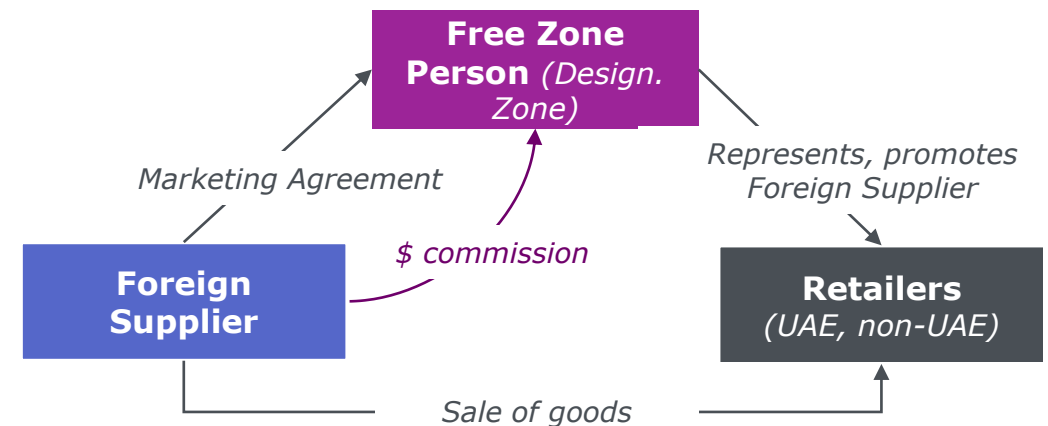
- Purchase and resale of goods or materials,
- Warehousing, transportation, delivery and logistics (including planning and control)
- Inventory management, order processing,
- Packaging and repackaging (adding branding, instructions, warranty information, improving packaging, etc.)

Ancillary activities to distribution:

- Marketing and advertising,
- Quality control and inspection,
- Customer support services (handling queries, grievances, feedback).

If the goods are distributed to the end user – it is not a Qualifying Activity. A proper due diligence of the customer is required.

Activities of the sales agent/consultant are not a distribution, unless their activities are linked to the physical activity of distribution.



⚡ Not a Qualifying Activity, since the Free Zone Person merely facilitates the sales.

Designated Zones for CT purposes

The list of Designated Zones for VAT purposes (not for Corporate Tax purposes) is available [here](#).

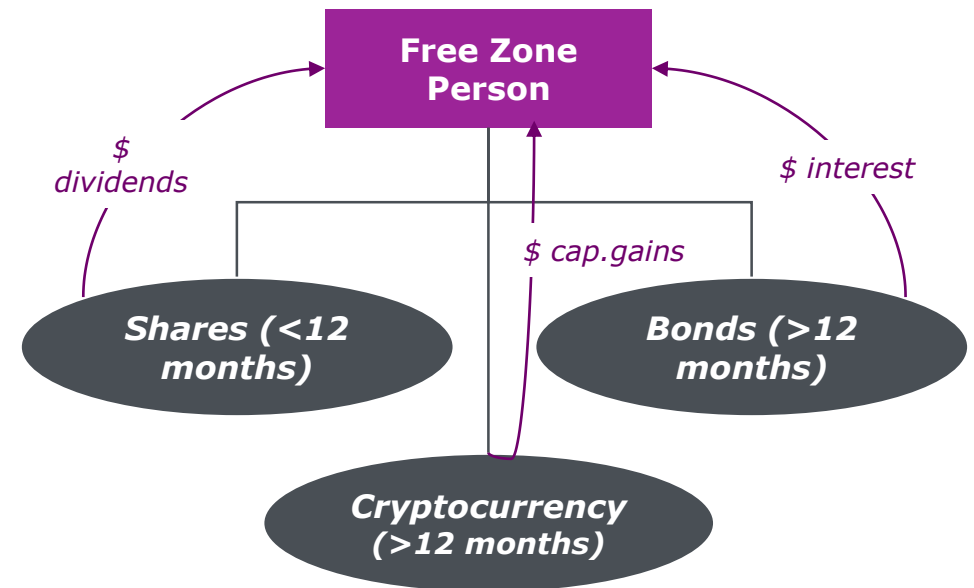
Some Designated Zones for VAT purposes will be considered as Designated Zones for CT purposes.

All taxpayers should check with the relevant Free Zone Authority **to confirm that they operate in a Designated Zone for Corporate Tax purposes.**



Holding activities:

- Investment planning (identifying opportunities, analyzing financial statements, trends to make informed investment decisions),
 - Buying and selling securities,
 - Portfolio management (monitoring, rebalancing making adjustments).
- ✓ Royalties, management fees from the investment are not considered as income from this activity. Financial recovery, indemnity claims can be considered as income from this activity.
- ✓ The 12-month period of uninterrupted holding is **similar to the holding test in the Participation exemption** – can be met if there is an intention to hold the shares/securities for more than 12 months.



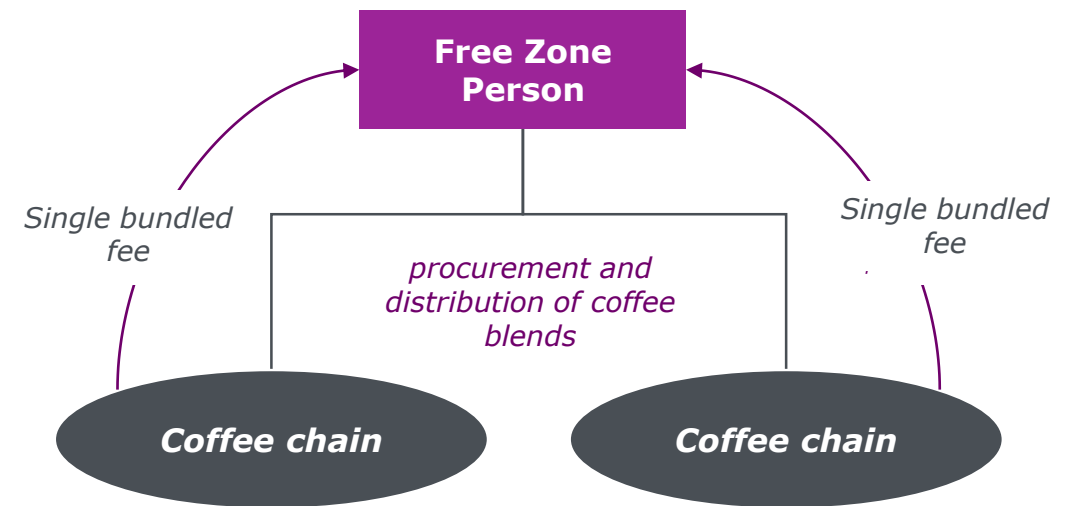
- ✓ **Dividends (assuming there is an intention to hold the shares for 12 months), interest income, and capital gains are income from the holding of shares and other securities for investment purposes.**

Headquarter activities:

- Taking relevant management/strategic decisions.
- Incurring operating expenditures on behalf of group entities,
- Coordinating group activities,
- Financial management (financial forecasting, budgeting, modelling, treasury functions),
- Central procurement services (assisting in the purchasing of equipment, office supplies, raw materials)
- HR management, technical support, legal and compliance services, IP management.

Related Parties – juridical persons and branches of juridical persons (domestic/foreign PEs).

Ancillary activities – training and development (hosting training sessions for the employees of Related Parties).



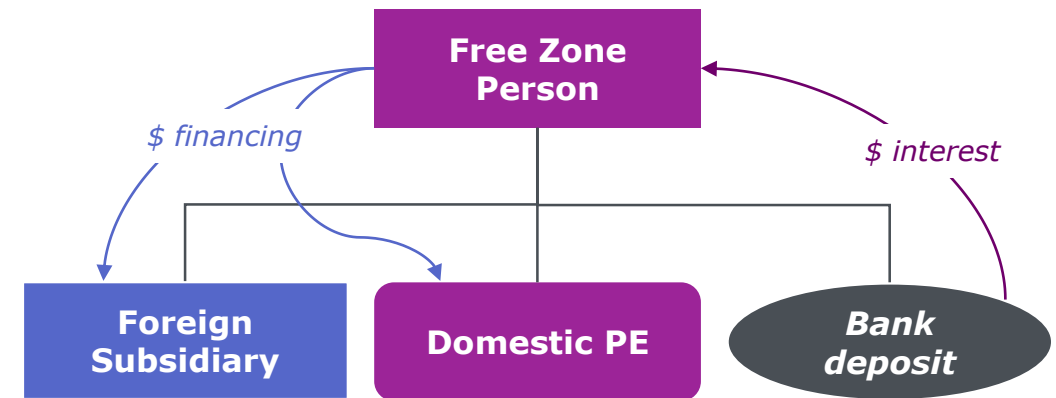
✓ **While both services and goods (the coffee blends) originate from the headquarters, for the purposes of accounting and management, they are treated as separate activities.**

Rendering headquarter services would be treated as a Qualifying Activity. Selling goods would be treated as a Qualifying Activity of distribution only if performed in a Designated Zone.

Treasury and financing activities:

- Cash management (tracking cash inflows/outflows and planning for short-term and long-term financial needs, e.g. cash pooling),
- Risk management (identifying, evaluating and managing financial risks, e.g. hedging),
- Investment management (deciding on investment strategies and managing the portfolio),
- Financing (securing funds via loans, bonds, equity financing, incl. shareholder loans).

Related Parties – juridical persons and branches of juridical persons (domestic/foreign PEs), **the Free Zone Person itself.**



- ✓ **The Free Zone Person performs a Qualifying activity in relation to treasury and financing services to Related Parties.**

The Free Zone Person **must be regulated as an investment fund manager/advisor and subject to regulatory oversight in the UAE** (the UAE Central Bank, DFSA, FSRA, SCA).

✓ Fund management services to natural persons are part of this Qualifying Activity.

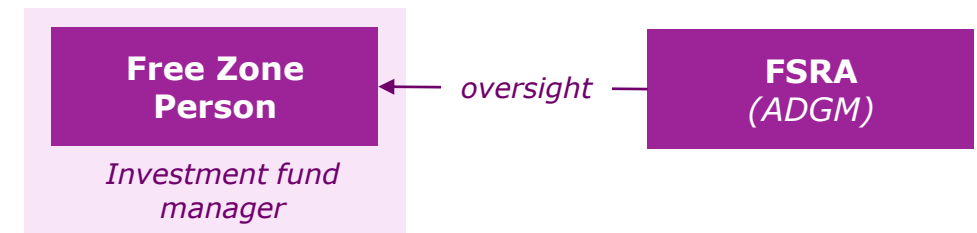
Fund management activities:

- Investment planning and strategy, investment diversification,
- Asset allocation, fund management,
- Performance monitoring.

Ancillary activities:

- Financial advisory,
- Training and education (for clients),

- Financial planning,
- Technological support (provision of digital platforms to clients).



✓ **Qualifying Activity since the Free Zone Person is a regulated investment fund manager and is subject to FSRA oversight.**

The Free Zone Person **must be subject to regulatory oversight in the UAE** (the UAE Central Bank, DFSA, FSRA, SCA).

- ✓ Wealth and investment management services to natural persons are part of this Qualifying Activity.

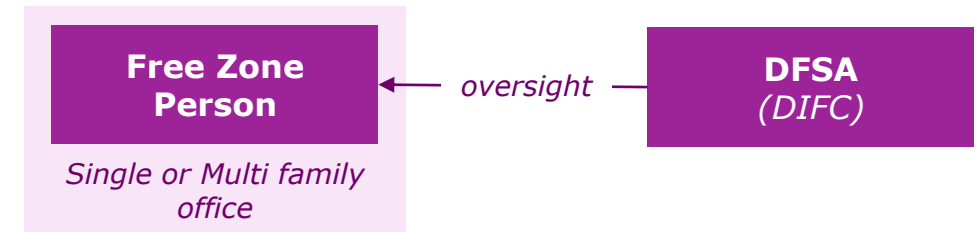
Wealth and investment management activities:

- Portfolio management,
- Financial planning (including tax advice estate planning),
- Asset allocation (placement of investments)

Ancillary activities:

- Risk management,
- Market research,

- Investment analysis,
- Family governance (wealth, succession planning, setting up family offices).



- ✓ **Qualifying Activity since the Free Zone Person is subject to DFSA oversight.**

Financing and leasing activities:

- Agreeing funding terms and financing (acquisition of Aircraft, Aircraft engines or rotatable components and agreeing on the leasing),
- Identifying and acquiring Aircraft, Aircraft engines or rotatable components
- Setting the terms and duration of the financing/leasing,
- Monitoring and revising agreements, lease management.

Ancillary activities:

- Credit analysis of the lessees, portfolio management,
- Disposal/sale of Aircraft or any part thereof, asset management.

- ✓ Financing and Leasing of Aircraft to natural persons, subleasing are part of this Qualifying Activity.
- ✓ Aircraft includes drones, but not hovercrafts or spacecrafts.

International transportation:

- Movement beyond the territorial waters of the UAE,
 - Movement between 2 ports in the UAE if the itinerary includes ports outside of the UAE,
 - Use in offshore oilfield and maritime services.
- ✓ Transactions with natural persons are part of this Qualifying Activity.

Ownership, management and operation of Ships:

- Ownership of Ships (purchase, ownership and maintenance),
- Management of Ships (administrative and operational aspects of running Ships),

- ✓ Operation of Ships (navigation, cargo handling, routine checks, overhaul and maintenance, route planning logistics management).

Ancillary activities:

- Ship broking (buying, selling, chartering Ships).
- Organizing and overseeing voyages (logistics, route planning).

Standalone maintenance, fit-out or repairing Ships is not a Qualifying Activity.

Leasing of shipping containers is not a Qualifying Activity, unless it is an ancillary activity.

Reinsurance activities:

- Underwriting premiums (underwriting and assessment of insurance policies),
- Salvage and subrogation recoveries,
- Claim handling/management,
- Loss adjusting and claims management.

Ancillary activities:

- Investing activities (investing premiums in bonds/stocks/real estate, etc.),
- Actuarial services (to insurance clients as an additional service),
- Risk management (risk management solutions to other insurance companies).

- ✓ Any income from the reinsurance is income from this Qualifying Activity (irrespective of the location of the primary issuer, insured persons).
- ✓ Insurance activities are not part of this Qualifying Activity.

Logistics services – storage and transportation of goods/materials on behalf of another Person, without taking the title to the goods/materials.

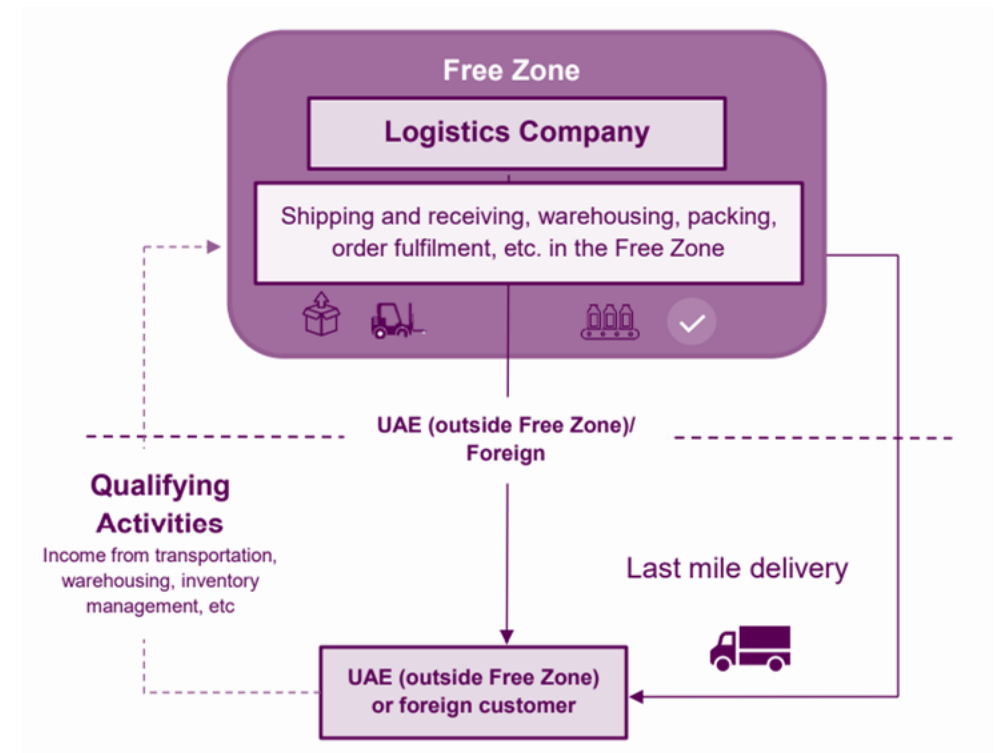
Logistics activities:

- Transporting goods (including planning and oversight),
- Warehousing and inventory management,
- Declaration and management (the UAE or any other jurisdiction),
- Freight forwarding services,
- Order fulfillment,
- Packing.

Last mile delivery services (in the UAE or outside) are part of logistics services.

Ancillary activities to distribution:

- Supply chain management,
- Customs brokerage,
- Customer service.





Qualifying IP



Patents,
granted the
UAE law or
the relevant
law of a
foreign
jurisdiction



copyrighted
Software



any right
functionally
equivalent to a
Patent

(utility models,
intellectual
property assets)



Non-Qualifying IP



marketing related IP

trademarks, trade name, brand (?),
client/customer database etc.

$$\text{Qualifying Income} = \frac{\text{Qualifying Expenditures} + \text{Up-lift Expenditures}}{\text{Overall Expenditures}} \times \text{Overall Income}$$


nexus ratio

Qualifying Expenditures:

- must be incurred to fund R&D activities and directly connected with the creation/invention/ significant development of QIP.
- R&D activities can be outsourced to any UAE Person and non-related non-UAE Person.
- Do not include interest payments, building costs, acquisition costs, or any costs that cannot be directly linked to specific QIP.

Uplift Expenditures:

- Qualifying Expenditures increased by 30%, provided that Qualifying Expenditures + Uplift Expenditures will be the lesser of: (i) 130% of Qualifying Expenditures or (ii) Overall Expenditures.

Overall Expenditures:

- Must be incurred to fund R&D activities and directly connected with the creation/invention/ significant development of QIP.
- Includes acquisition costs of QIP.

Overall Income:

- royalties or any other income derived from QIP, and
- embedded intellectual property income derived from the sale of products and the use of processes directly related to the QIP (determined as per the arm's length principle).

- ✓ There must be **tracking systems** to demonstrate the nexus between Qualifying Expenditures and the income from QIP and maintain the records (to provide on the FTA's request).
- ✓ Historical expenditures (prior to the 1st Tax Period) can be accounted on a 3-year rolling average.

05

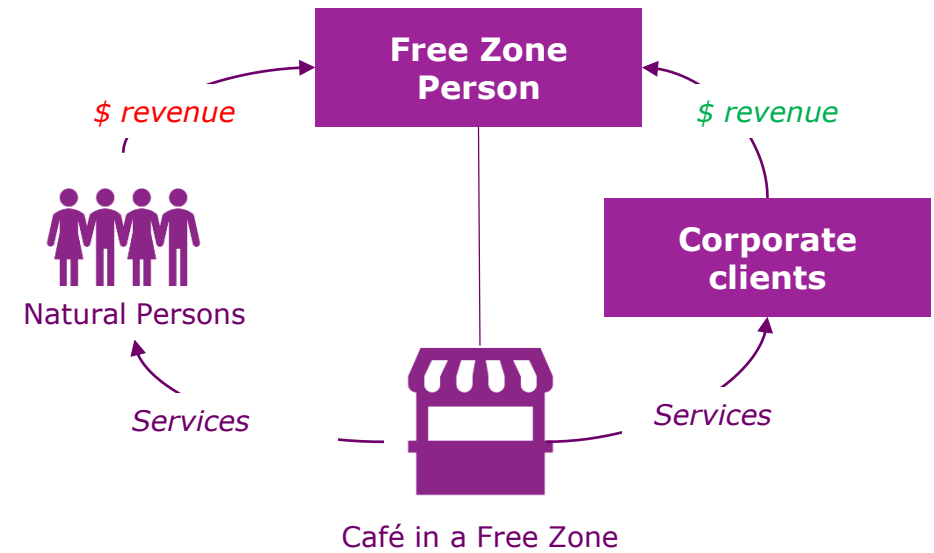
Excluded activities

Examples of Excluded activities

The following transactions give rise to Qualifying Income:

- ownership, management and operation of Ships,
- fund management services that are subject to the regulatory oversight of the Competent Authority in the UAE,
- wealth and investment management services that are subject to the regulatory oversight of the Competent Authority in the UAE, or
- financing and leasing of Aircraft, including engines and rotatable components.

Other transactions with natural persons do not generate Qualifying Income, but it can enjoy 0% if the de minimis requirements are met.



⚡ Revenue from Natural Persons – Non-qualifying Revenue

✓ Revenue from Corporate clients – can be Qualifying, if they are Free Zone persons

Banking Activities:

- Receiving all types of deposits, including Sharia-compliant deposits.
- Providing all types of credit facilities, funding facilities, including Sharia-compliant funding facilities.
- Providing currency exchange and money transfer services, monetary intermediation services.
- Providing stored values services, electronic retail payments and digital money services.
- Providing virtual banking services, arranging and/or marketing licensed financial activities, etc.

Insurance Activities:

- Insurance operations that are regulated under Federal Law No. 6 of 2007.127 - the Business of accepting risks by effecting or carrying out contracts of insurance in both the life and non-life sectors.
- Do not include reinsurance activities.

Finance and Leasing Activities:

- Include the provision of credit or financing for any kind of consideration (including digital and cryptocurrency) and granting the right to use the asset under arrangements that are subject to the regulatory oversight in the UAE.
- Financing and leasing of Ships, financing services to Related Parties financing and leasing of Aircraft (including engines and rotables) are not included.

The ownership or exploitation of Immovable Property is an Excluded Activity, except for:

- Commercial Property located in a Free Zone where the transaction in respect of such Commercial Property is conducted with other Free Zone Persons.

Immovable Property:

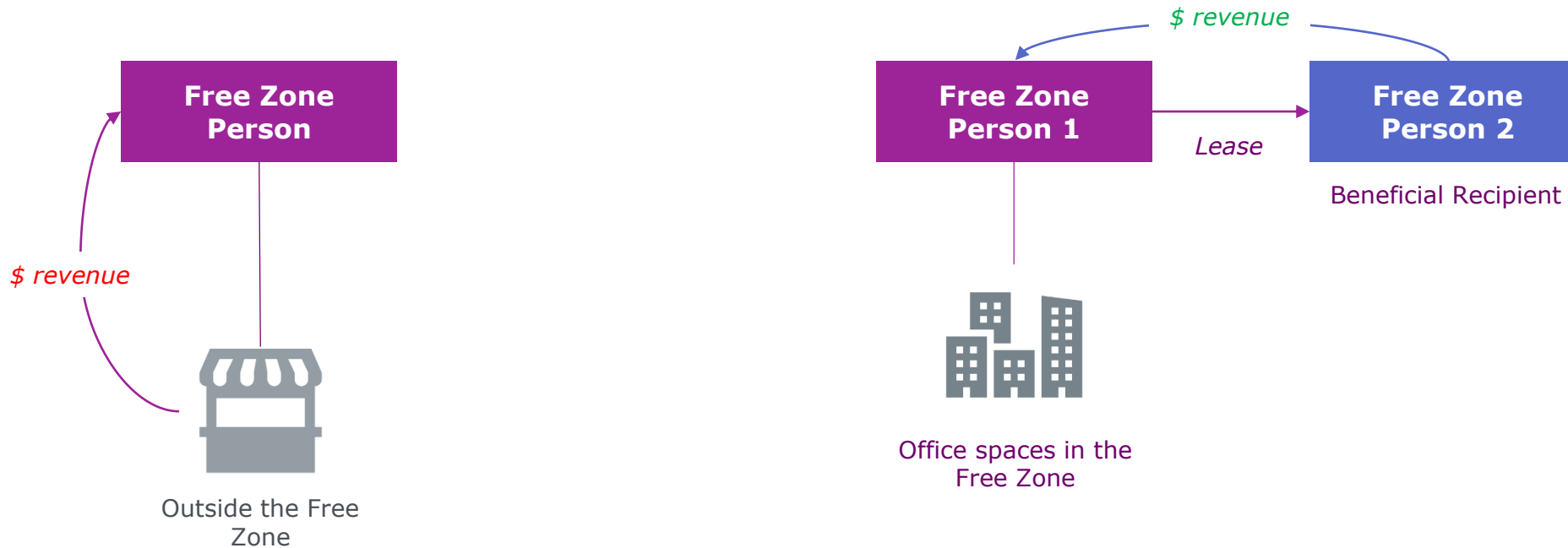
- Any area of land over which rights or interests or services can be created.
- Any building, structure or engineering work attached to the land permanently or attached to the seabed.
- Any fixture or equipment which makes up a permanent part of the land or is permanently attached to the building, structure or engineering work or attached to the seabed.

- ✓ Construction site and other temporary structures are not immovable property.

Commercial Property:

- an Immovable Property or part thereof used exclusively for a Business or Business Activity, and
- not used as a place of residence/accommodation (hotels, motels, B&B establishments, serviced apartments, etc.).

Mixed use of the property - the revenue allocation is required subject to 0% and 9% Corporate Tax rates.



⚡ Revenue from the Immovable property located outside the Free Zone – Revenue from Excluded Activity, can enjoy 0% if the de minimis requirements are met.

✓ Revenue from Free Zone Person 2 is Qualifying Income.



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