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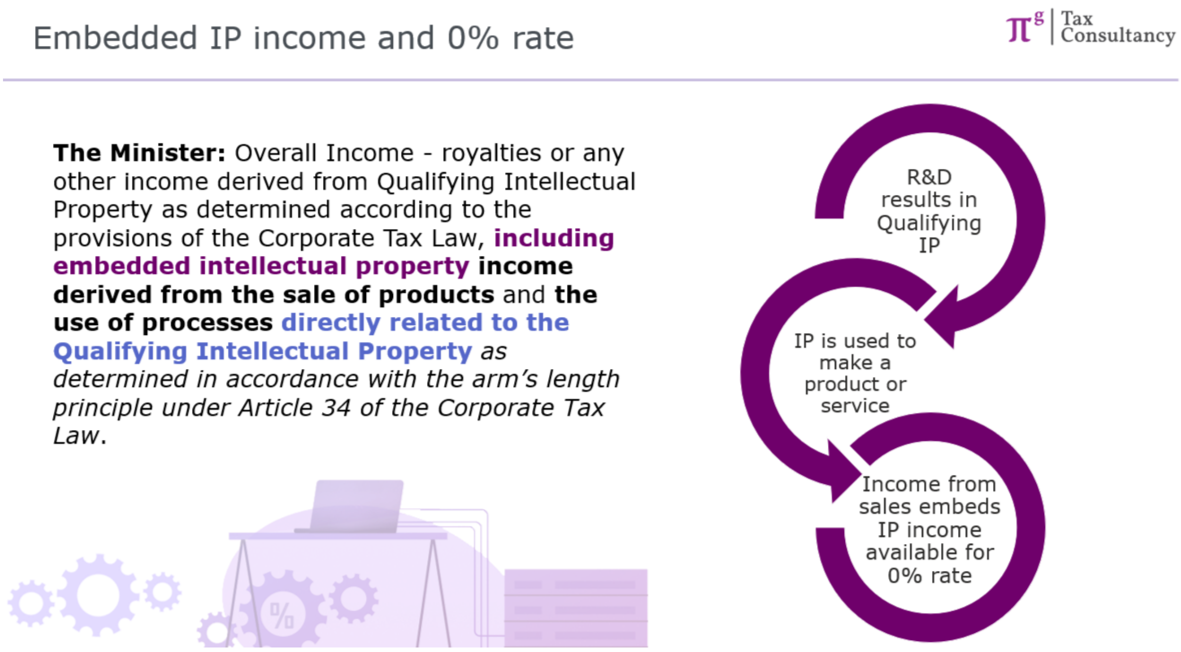
Emirati IP box regime for an embedded income

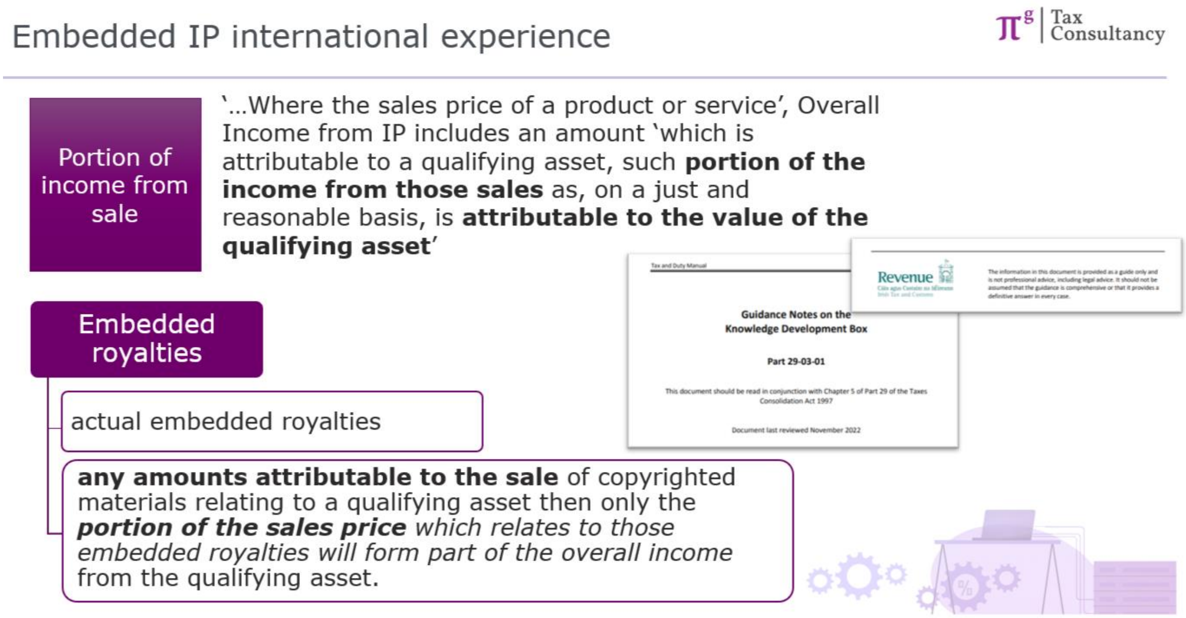
In October 2023, the UAE retrospectively introduced tax benefits for the ownership and exploitation of intellectual property. Income from patents or software and other qualifying IP assets can be in the scope of the 0% Corporate Tax rate. The regime is guided by the OECD guidelines highlighted in the final BEPS report on Action 5.

The benefit is available not only for purely IP business, but also for businesses that use IP to manufacture products or provide services, generate income from an exploitation of software and other IP in trading, etc. Embedded income (or notional royalties) can also be zero-rated.

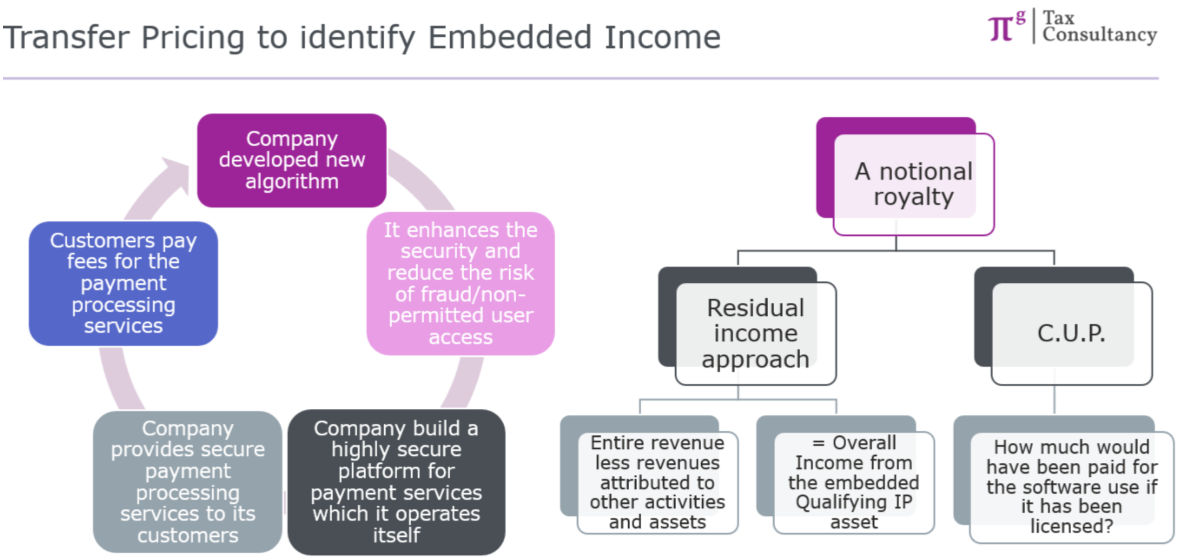


In our recent webinar, we dwelled on the uncertainties and complexities that companies may face in when applying these provisions.

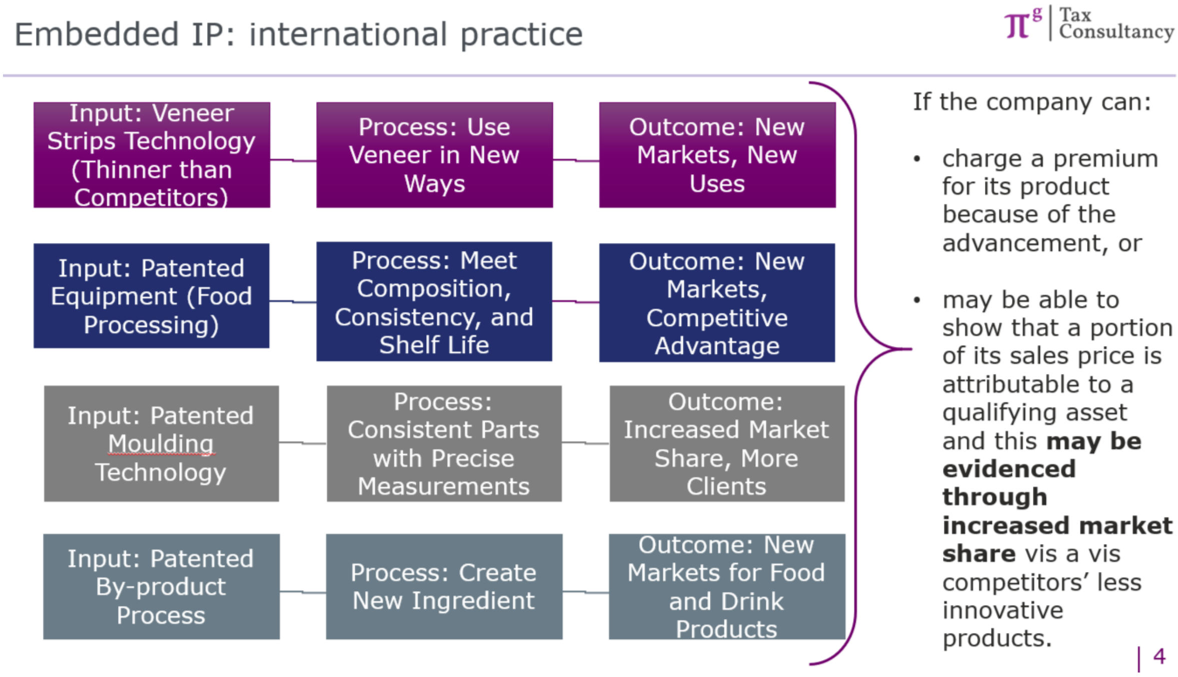
There is limited guidance from the authorities on the application of the above Ministerial rule. Therefore, we refer to international experience. This approach is relevant because these practices are based on OECD guidelines and clarify the meaning of commonly used terminology.



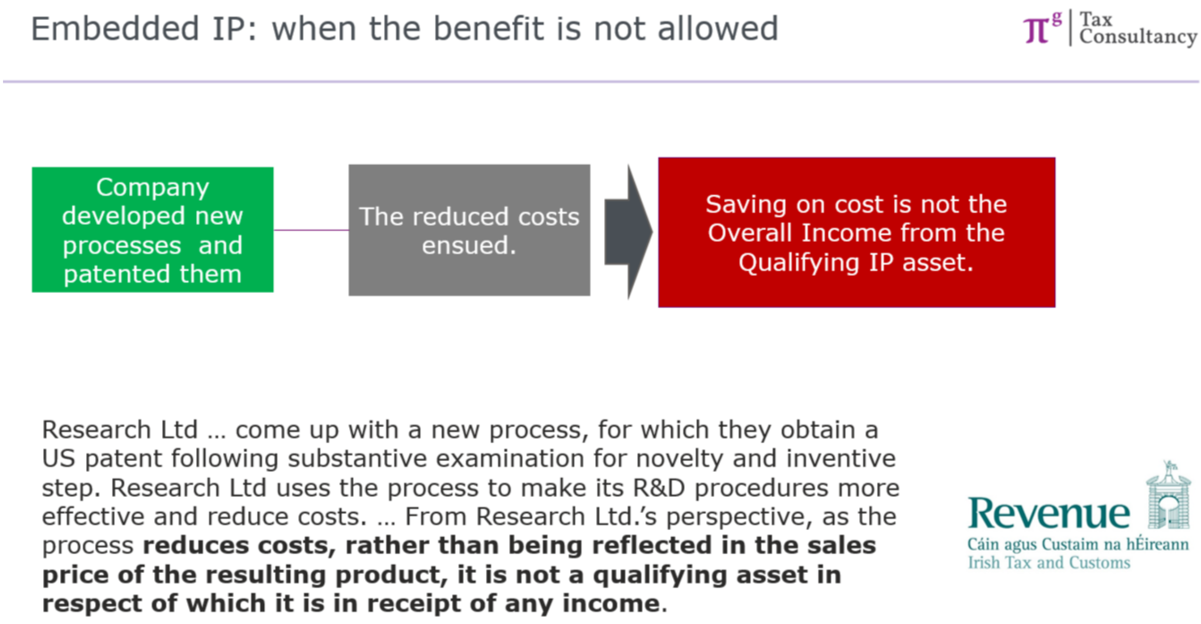
We dwelled on specific scenarios (see slide below on the left) and addressed the tools available to allocate incomes to qualifying IP assets.



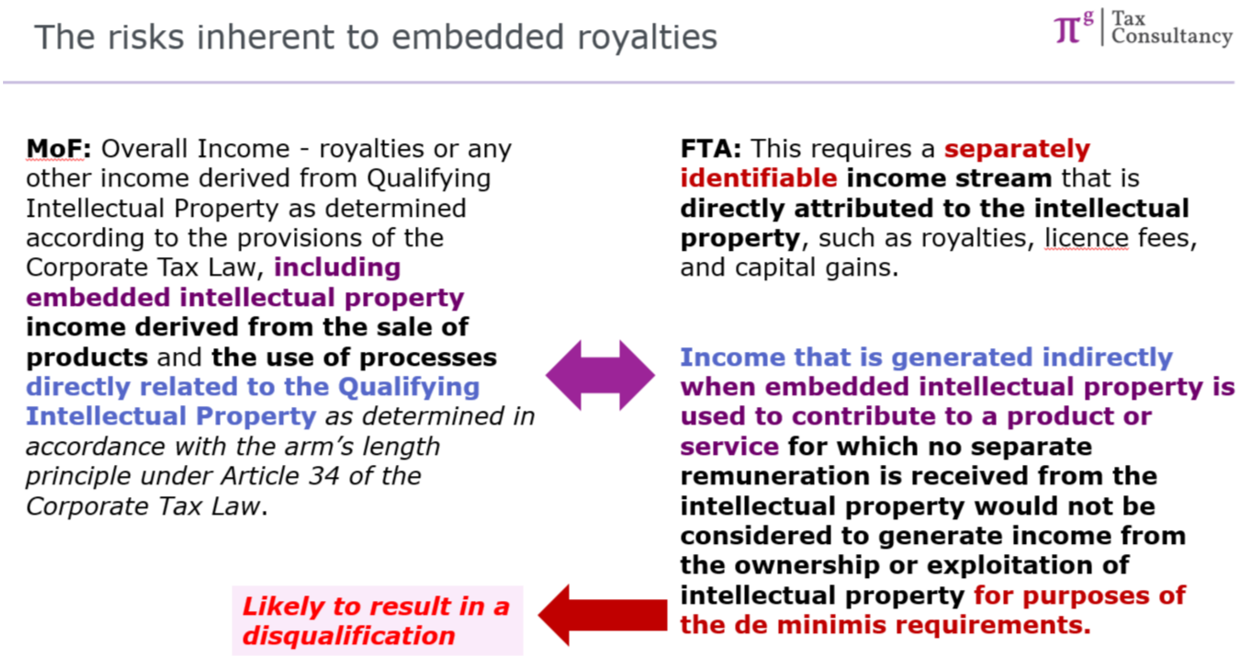
As shown in the examples below, the OECD's approach, which the UAE intends to implement, does not prevent the application of benefits for embedded IP, even if there is no separate charge for it.



Nevertheless, the benefit is only allowed in scenarios where the IP is integrated into processes to generate income, rather than to reduce costs.



However, the FTA's interpretation of the embedded income provisions introduces risk, as demonstrated below.



Keep in touch with us to stay updated on further developments.

Disclaimer

Pursuant to the [MoF's press-release] issued on 19 May 2023 "*a number of posts circulating on social media and other platforms that are issued by private parties, contain inaccurate and unreliable interpretations and analyses of Corporate Tax*".

The Ministry issued a reminder that official sources of information on Federal Taxes in the UAE are the MoF and FTA only. Therefore, analyses that are not based on official publications by the MoF and FTA, or have not been commissioned by them, are unreliable and may contain misleading interpretations of the law.

See the full press release here.

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