

UAE Ministry of Finance Corporate Tax Consultation Paper

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4. Excluded Activities

The following section sets out the proposed scope and description of each Excluded Activity. Comments and feedback on the specific questions raised at the end of each Excluded Activity are welcome.

4.1 Article 3(1)(b) – Banking.

Scope

Banking activities mean the following activities that are subject to regulatory oversight:

1. Receiving all types of deposits, including sharia compliant deposits;
2. Providing all types of credit facilities;
3. Providing all types of funding facilities, including Sharia-compliant funding facilities;
4. Providing currency exchange and money transfer services;
5. Providing monetary intermediation services;
6. Providing stored values services, electronic retail payments and digital money services;
7. Providing virtual banking services;
8. Arranging and/or marketing Licensed Financial Activities;
9. Acting as principal for financial products that affect the financial position of the Licensed Financial Institution, including but not limited to foreign exchange, financial derivatives, bonds and sukuk, equities, commodities, and any other financial products approved by the Central Bank.

The suggested scope of banking activities does not include fund or wealth management services. Such activities are regarded as a separate and distinct activity that can be performed by a Free Zone Person.



Please provide your feedback on the proposed scope of 'Banking activities' and confirm whether this provides sufficient clarity for your business:

Your answer

4.2 Article 3(1)(c) – Insurance activities

Scope

Insurance activities include activities that are subject to regulatory oversight, such as, the business of accepting risks by effecting or carrying out contracts of insurance, in both the life and non-life sectors. They do not include however reinsurance activities.

Captive insurance and reinsurance activities that fall within the scope of the Qualifying Activity of “Headquarter services to Related Parties” or “Reinsurance services” are specifically excluded from the scope of this Excluded Activity.

Is the distinction between 'Re-insurance' and 'Insurance' activities clear based on the above mentioned scope:

Your answer

Please provide your feedback on the proposed scope of 'Insurance activities' and confirm whether this provides sufficient clarity for your business:

Your answer



4.3 Article 3(1)(d) – Financing and leasing activities

Scope

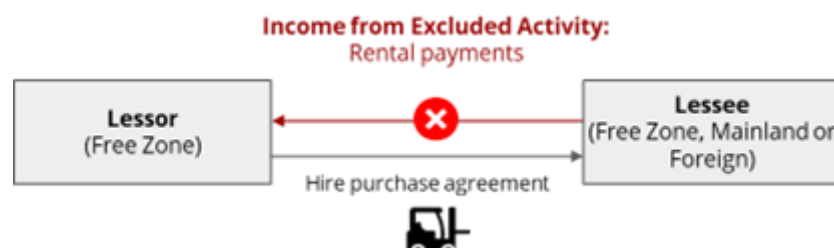
Financing and leasing activities include activities that are subject to the regulatory oversight, such as the provision of credit or financing for any kind of consideration, and the letting, hiring out or otherwise granting the right to use an asset in exchange for rental or other consideration pursuant to a finance lease, operating lease or other arrangement. They do not include however financing and leasing of aircraft (including engines and rotables) and financing services to Related Parties.

Excluded finance and leasing activities for the purposes of the Free Zone CT regime are suggested to include those finance and leasing activities that are regulated by the Central Bank, the Dubai Financial Services Authority (DFSA) or the Financial Services Regulatory Authority (FSRA).

Related party financing is not a regulated activity in the UAE and should therefore not fall within the suggested scope of this Excluded Activity. However, even in the event that related party financing was a regulated activity, group financing and treasury activities and aviation financing activities that fall within the scope of the respective Qualifying Activity categories are specifically not included in the scope of this Excluded Activity.

Illustrations

Leasing – Free Zone Person (Lessor) enters into a hire purchase agreement under which it leases a forklift to the Lessee for consideration (irrespective of the location of the Lessee). The rental income derived from the leasing activity is considered income from an Excluded Activity.



Financing – Free Zone Person (a regulated non-bank Lender) makes a loan to a borrower and earns interest on the loan (irrespective of the location of the borrower). The interest income is considered income derived from an Excluded Activity.





Please provide your feedback on the proposed scope of 'Financing and leasing activities' and confirm whether this provides sufficient clarity for your business

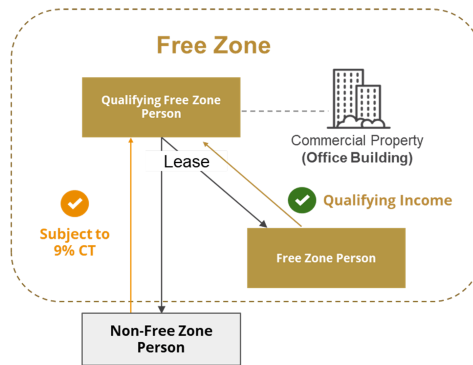
Your answer

4.4 Article 3(1)(e) – Ownership or exploitation of immovable property, other than Commercial Property located in a Free Zone where the transaction in respect of such Commercial Property is conducted with other Free Zone Persons

The Free Zone CT regime accommodates income derived by Free Zone Persons from other Free Zone Persons in respect of Commercial Property located in a Free Zone. Income derived from a Commercial Property located in a Free Zone would, however, generate income from an Excluded Activity where it is derived from a person who is not a Free Zone Person.



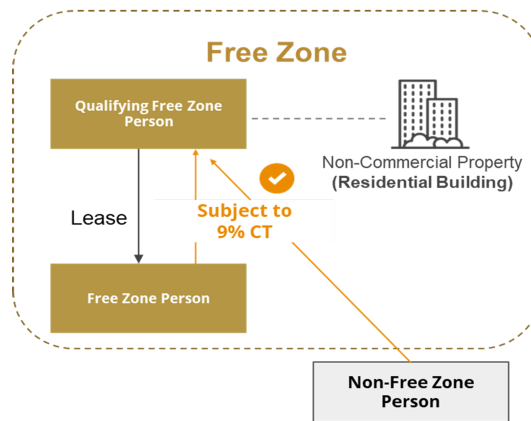
Illustrations



- ✓ Income from ownership and exploitation of Commercial Property located in the Free Zone, where the transaction in respect of such property is not with a Free Zone Person is subject to 9% Corporate Tax and does not form part of the de-minimis calculation

Income derived from immovable property located in a Free Zone that is not Commercial Property, as well as income in respect of immovable property located outside of the Free Zone, shall also be treated as income from an Excluded Activity, irrespective of the use of the property.

Earning income from immovable property located in a Free Zone that does not benefit from the Free Zone CT regime does not need to be taken into account for purposes of the de-minimis requirement and would not disqualify the Free Zone Person from the Free Zone CT regime. Instead, such income will be subject to Corporate Tax at the regular 9% rate.



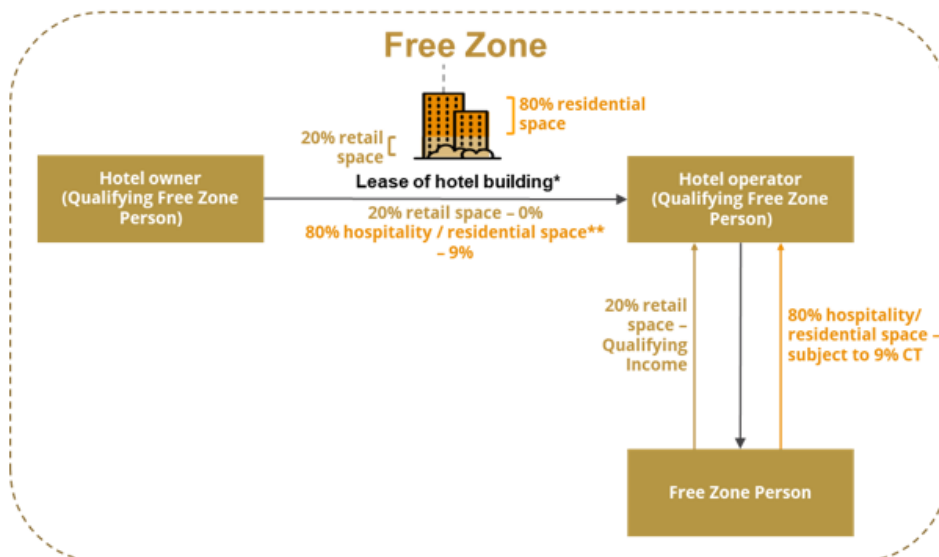
- ✓ Income from ownership and exploitation of non-Commercial Property located in the Free Zone is an Excluded Activity, subject to 9% Corporate Tax (irrespective of whether the transaction is with a Free Zone Person or not) and does not form part of the de-minimis calculation

Income derived from a mixed-use property located in a Free Zone (a property that includes both a Commercial Property and a non-Commercial Property component) shall be subject to Corporate Tax at 0% and 9%, respectively, based on the use of the respective components of the property.

Example: an apartment building located in a Free Zone that has retail units on the ground floor can generate both:

- o Qualifying Income from the renting of retail space to Free Zone Persons; and
- o Taxable Income from the renting of residential apartments to any Person (under Article 6 of Cabinet Decision No. 55 of 2023)[3].

[3] As the relevant income is always subject to Corporate Tax at 9%, the associated revenues from the sale or leasing of residential / hospitality units (including hotel rooms and conference rooms in hotels) are not included in non-Qualifying Revenues for the purposes of the de minimis requirement and calculation.



**Lease of building by hotel owner to hotel operator will follow the same principle based on the allocation between commercial and non-commercial units as recorded by the relevant land registry department (i.e., retail and residential space)*

Are you able to distinguish between your Commercial and non-Commercial Property? If not, what is required for you to do so?

Your answer

Please provide your feedback on the proposed scope of 'Ownership or exploitation of immovable property' and confirm whether this provides sufficient clarity for your business.

Your answer



4.5 Article 3(1)(f) – Ownership or exploitation of intellectual property (IP) assets

Scope

The ownership or exploitation of intellectual property assets means activities that generate separately identifiable income from intellectual property assets that are owned and legally protected, for example, trademarks, patents, copyrights, brands and technical know-how.

The reference to “separately identifiable” income means that income such as royalties, licence fees, capital gains and other income that is directly attributed to the intellectual property assets would be considered income from an Excluded Activity.

On the other hand, income derived from the use of intellectual property assets that is used in or otherwise contributes to a product or service for which no separate remuneration is received should generally not generate income from the ownership or exploitation of intellectual property assets for the purposes of the Free Zone CT regime.

Illustrations

(1) IP Co develops (or acquires) IP and licences the IP to its customers in exchange for a royalty. The royalty income is directly attributable to the licensed IP asset and hence considered income from an Excluded Activity.



(2) A manufacturer in a free zone produces and sells branded goods to its customers. The value of the branded goods includes ‘embedded IP’ (i.e. the sales price intrinsically includes a value associated with the ‘brand’ which cannot be separately determined). Given no separately identifiable income from intellectual property assets is earned in this scenario, the manufacturer may benefit from the Free Zone CT regime where it meets the conditions of undertaking the Qualifying Activities of “manufacturing: and “distribution”.

Please provide your feedback on the proposed scope of 'Ownership and exploitation of intellectual property assets' and confirm whether this provides sufficient clarity for your business:

Your answer

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