

**UAE CORPORATE TAX
DYNAMICS AND IMPACT
ON INDIAN COMPANIES
AND INDIVIDUALS WITH
UAE BUSINESS**



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UAE CORPORATE TAX (CT) REGIME – AN OVERVIEW

Draft Public Consultation Document (“PCD”) issued

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December 2022

MoF issued PCD on April 28, 2022 –
Comments were invited until May 19,
2022

Corporate Tax law issued – Effective from
June 1, 2023



EFFECTIVE DATE OF CORPORATE TAX IS JUNE 1, 2023

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CORPORATE TAX RATES

Non-Free Zone Companies and Non-qualifying Free Zone Entities : -

- 0% on taxable income up to AED 375,000
- Rate of 9% on taxable income Above AED 375,000

Free Zone Person - 0% on Qualifying income



EXEMPT PERSON UNDER UAE CORPORATE TAX LAW – ARTICLE 4(1)

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Government Entity



Government Controlled Entity



Qualifying Extractive Business



Non extractive Natural Resources business



Qualifying Public benefit entity.



Qualifying investment fund



Public pension and social security fund and Qualifying Private pension and social security fund



Juridical person controlled by exempt person.



Any other person specified

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TAXABILITY OF INCOME FROM EXTRACTIVE BUSINESS UNDER UAE CORPORATE TAX LAW

Income from Extractive Business shall be exempt under UAE Corporate Tax , if **all** of following conditions are satisfied

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Interest in **right, concession or Licence** issued by Local Government

Pays tax on Extractive Business imposed by Local Emirate



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TAXABILITY OF INCOME FROM NON - EXTRACTIVE BUSINESS

Income from Non-Extractive Business shall be exempt under UAE Corporate Tax ,
if **all** of following conditions are satisfied

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Interest in **right, concession or Licence** to undertake Non-Extractive Business.

Liability to pay tax on Non - Extractive Business to Local Emirate Government

Notified Ministry in form agreed by Ministry with Local Government.

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TAXABLE PERSON

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TAXABLE PERSON UNDER UAE CORPORATE TAX LAW



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1

UAE CT imposed on a Taxable Person

2

Taxable Person - Resident or Non-Resident

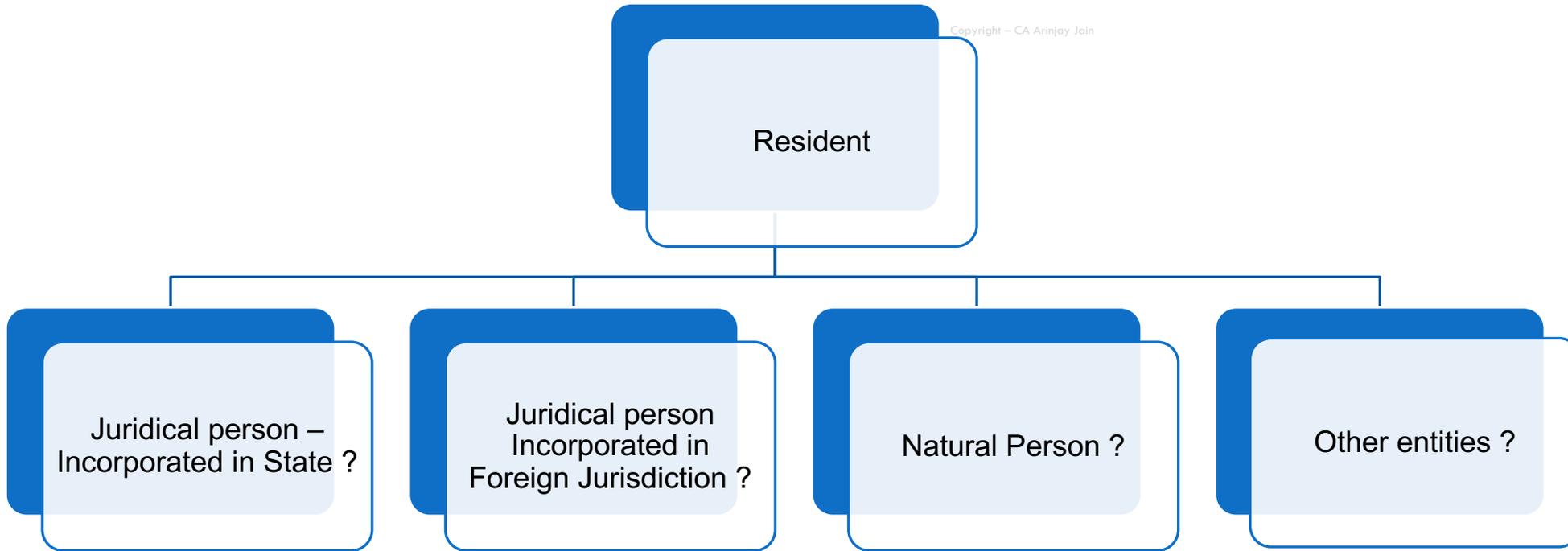
3

Branch of a Resident shall be treated same or different from Taxable Person ?

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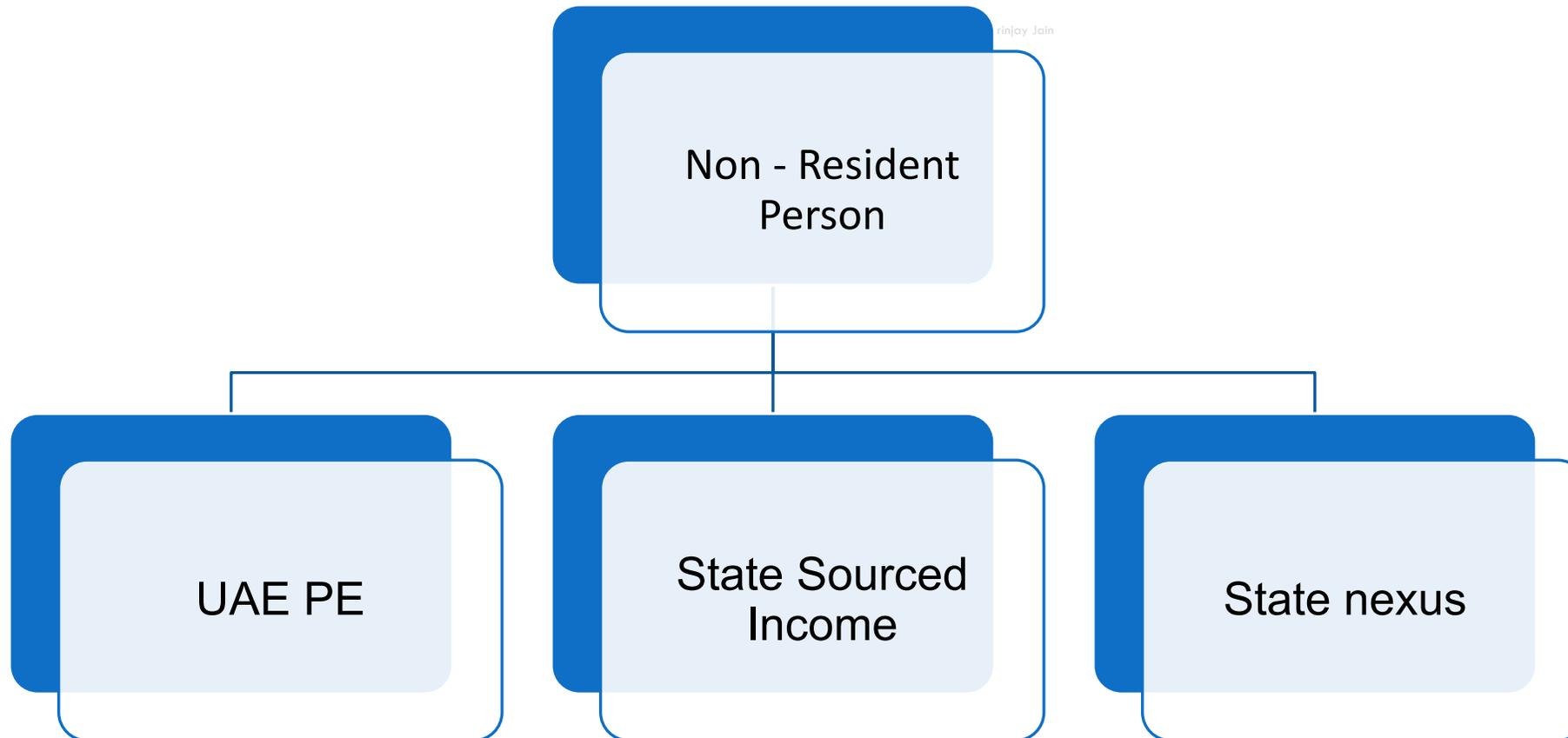
RESIDENT PERSON



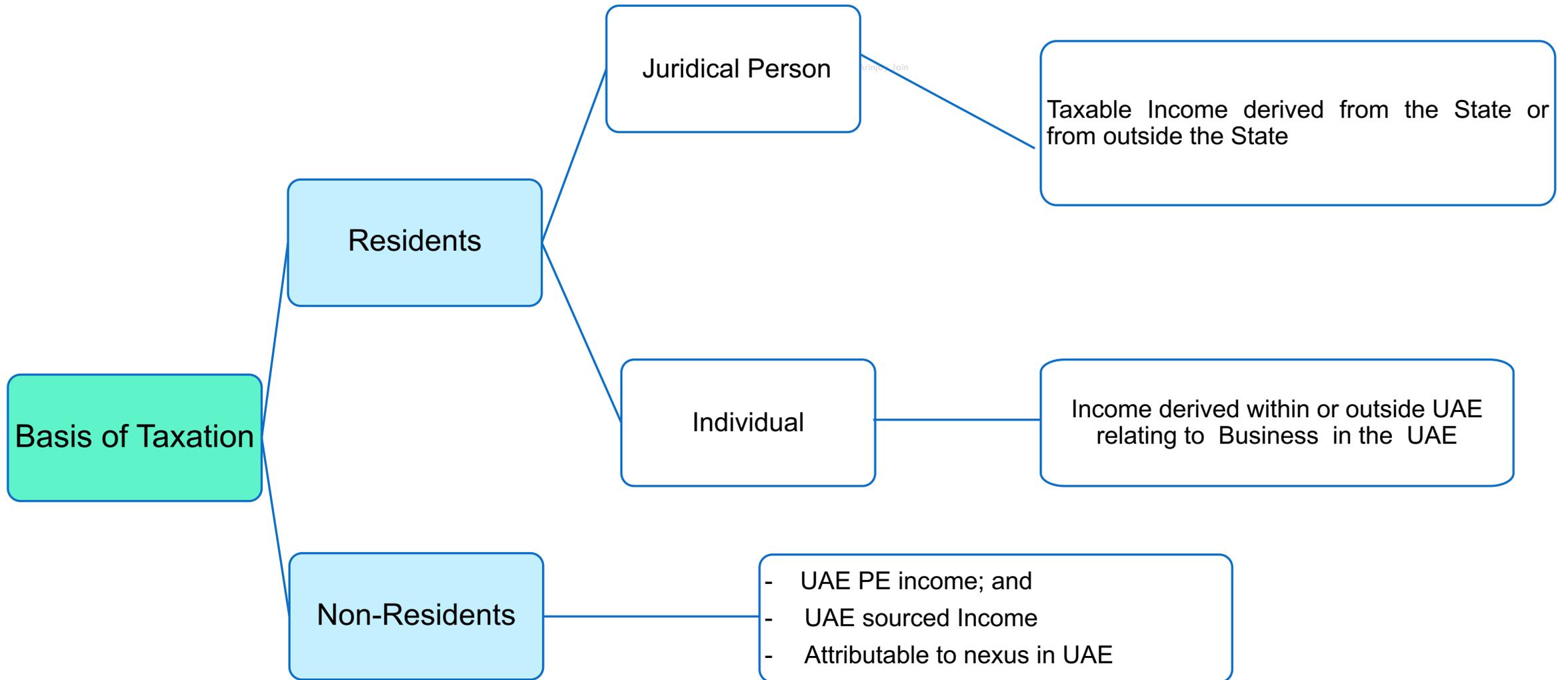
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WHO ARE NON-RESIDENT PERSONS UNDER UAE CORPORATE TAX LAW ?



WHICH INCOME ARE TAXABLE FOR RESIDENT OR NON-RESIDENT – ARTICLE 12 – CORPORATE TAX BASE



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TAXABILITY OF NON-RESIDENT

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UAE SOURCED INCOME - MEANING

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Income derived from a Resident person

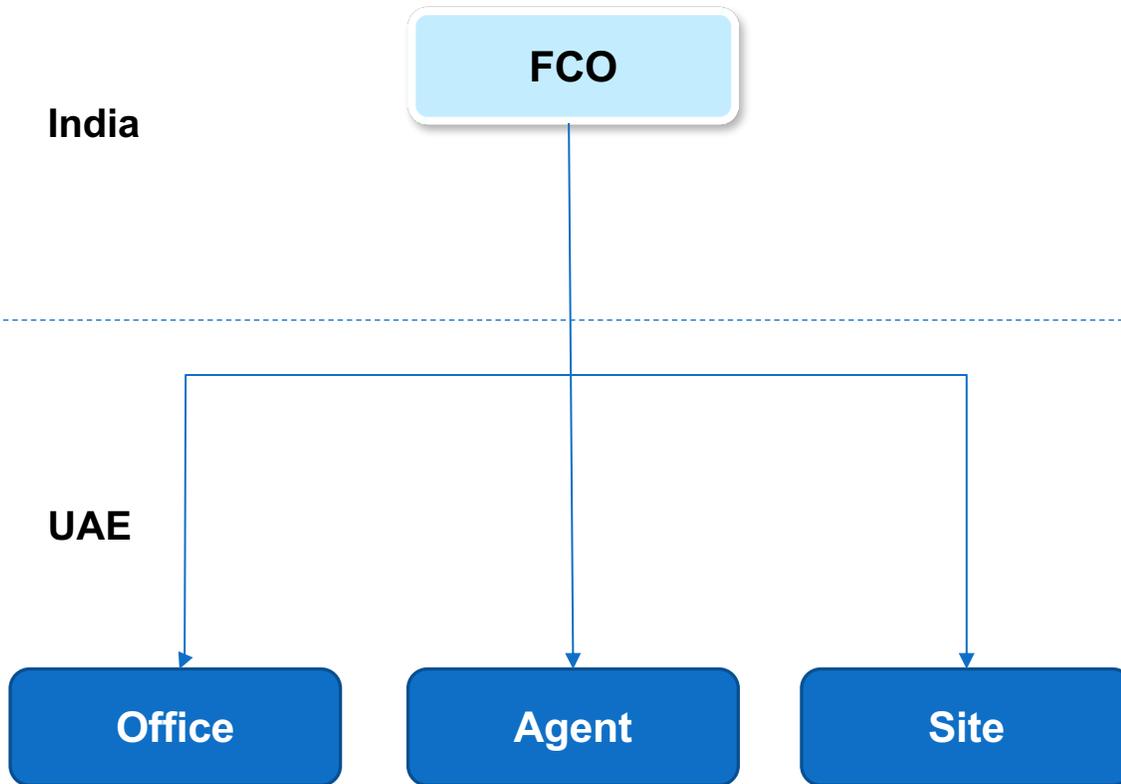
Payment attributable to UAE PE of a foreign company

Income accrued in or derived from activities or contracts performed in the UAE, assets located in the UAE, capital invested or services performed or benefited from in the State

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WHEN CAN A PE ARISE IN THE UAE - OFFICE, SITE OR AN AGENT ?



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▪ When a foreign company operates through an

- Office
- Agent
- Business Site

Permanent Establishment (under **local laws** or **applicable Treaty** needs to be examined)

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PE UNDER THE UAE CORPORATE TAX LAW

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MEANING OF PERMANENT ESTABLISHMENT

A **fixed place of business** through which the business of an enterprise is wholly or partly carried on, or



A Person **habitually exercises an authority** to conduct a Business on behalf of the Non- Resident, or

Any other form of **nexus in the UAE** as per the decision issued by the Cabinet

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EXCLUSION OF A FIXED PLACE FROM PERMANENT ESTABLISHMENT



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1

Storing, displaying or delivering of goods or merchandise belonging to that Non Resident

2

Keeping a stock of goods or merchandise belonging to Non Resident for the sole purpose of processing by another Person

3

Purchasing goods or merchandise or collecting information for the Non-Resident Person

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EXCLUSION OF A FIXED PLACE FROM PERMANENT ESTABLISHMENT



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4

Undertake any other activity which is of preparatory or auxiliary nature for the Non- Resident Person

5

Any combination of activities mentioned above if Overall activity is of preparatory or auxiliary nature

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TRAVELERS AS DEPENDENT AGENT PE



Travels to UAE



Business travelers who act on behalf of the foreign company in the UAE or exercise authority to conclude contracts for foreign company can constitute "dependent agent" in the UAE, resulting in taxation of income earned through PE .

Exclusion - Temporary and exceptional situation, non-core income generating activity ,
no State Sourced income of Foreign company

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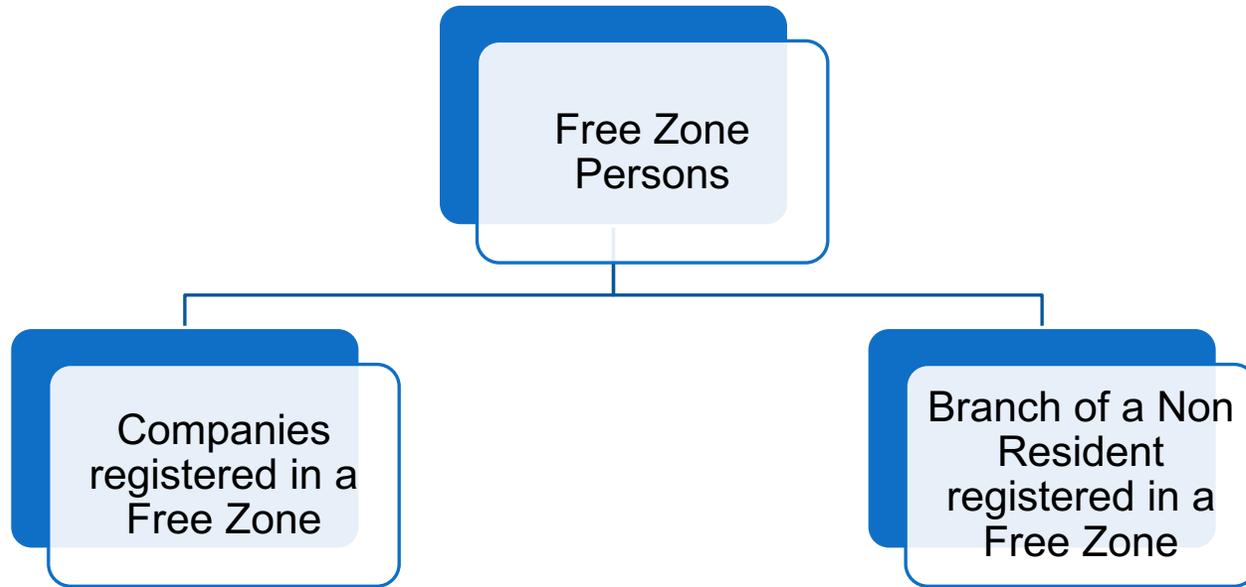
UAE FREE ZONES

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FREE ZONE PERSON

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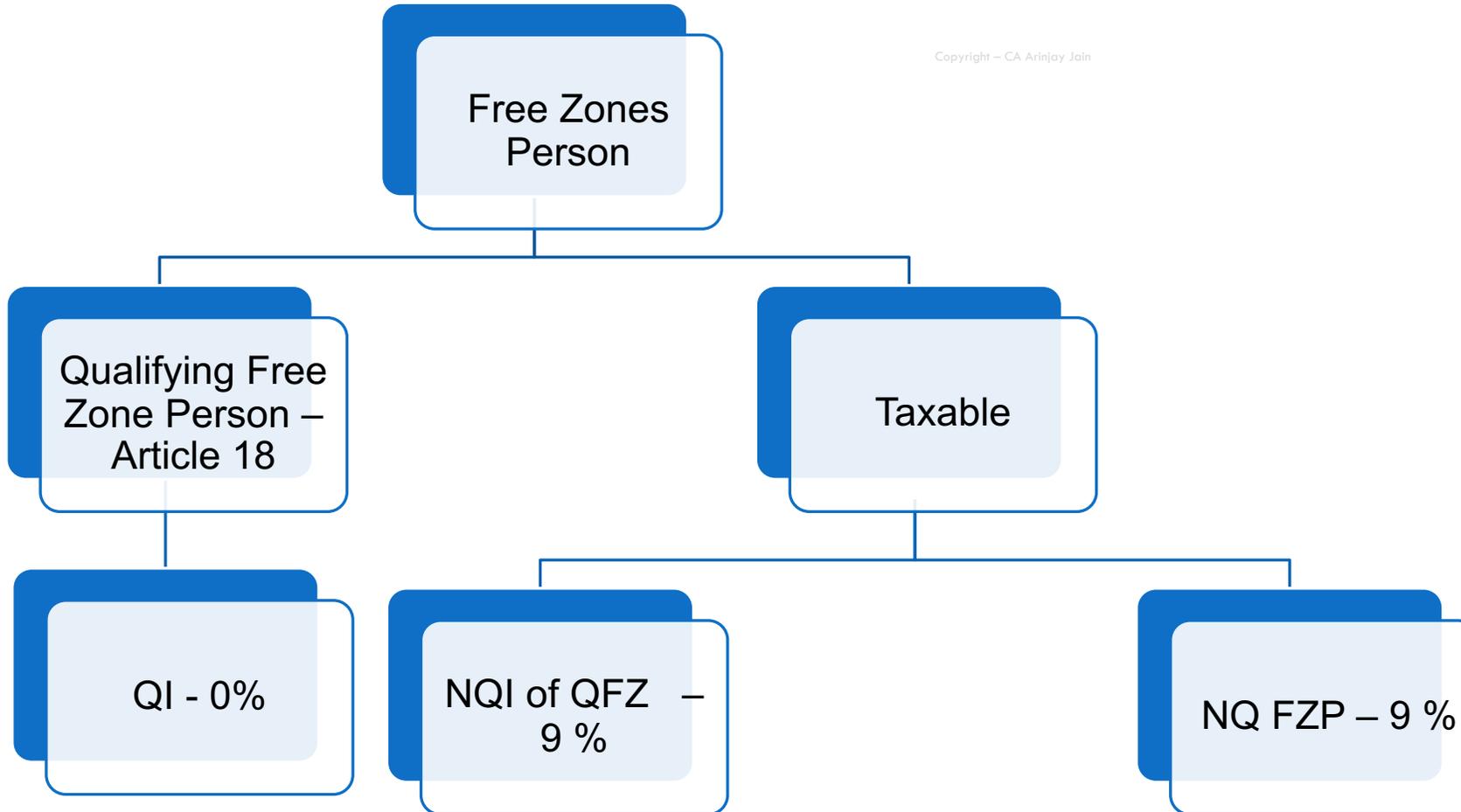


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TAXABILITY OF UAE FREE ZONE ENTITIES ?

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QUALIFYING FREE ZONE PERSON

WHAT IF QUALIFYING FREE ZONE PERSON FAILS TO MEET CONDITIONS OF ARTICLE 18(1) IN A SUBSEQUENT YEAR ?



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SMALL BUSINESS RELIEF UNDER UAE CORPORATE TAX LAW

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SMALL BUSINESS RELIEF

Revenue does not exceed a threshold

Fulfills all other specified conditions

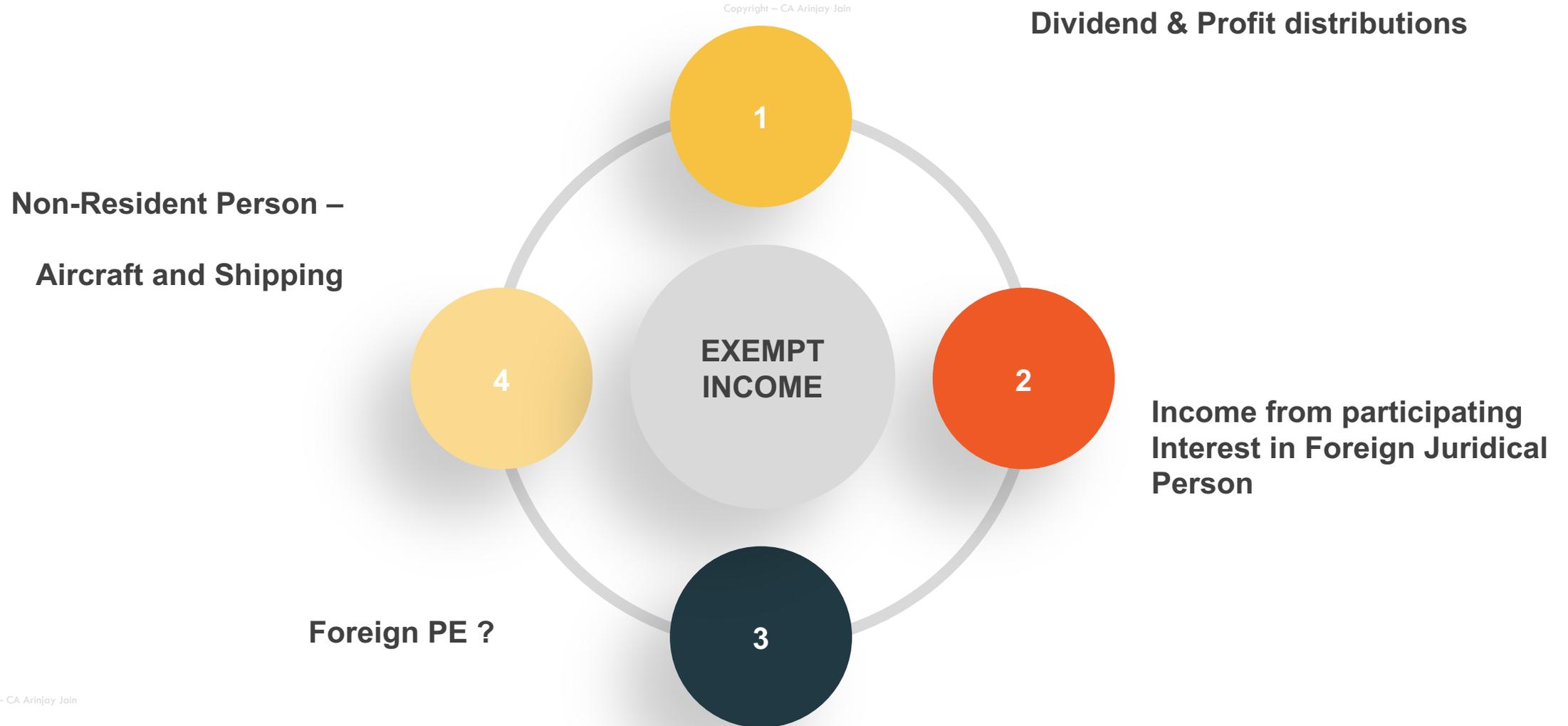


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EXEMPT INCOME UNDER UAE CORPORATE TAX LAW

Following income and related expenditure shall not be taken into account in determining the Taxable Income:



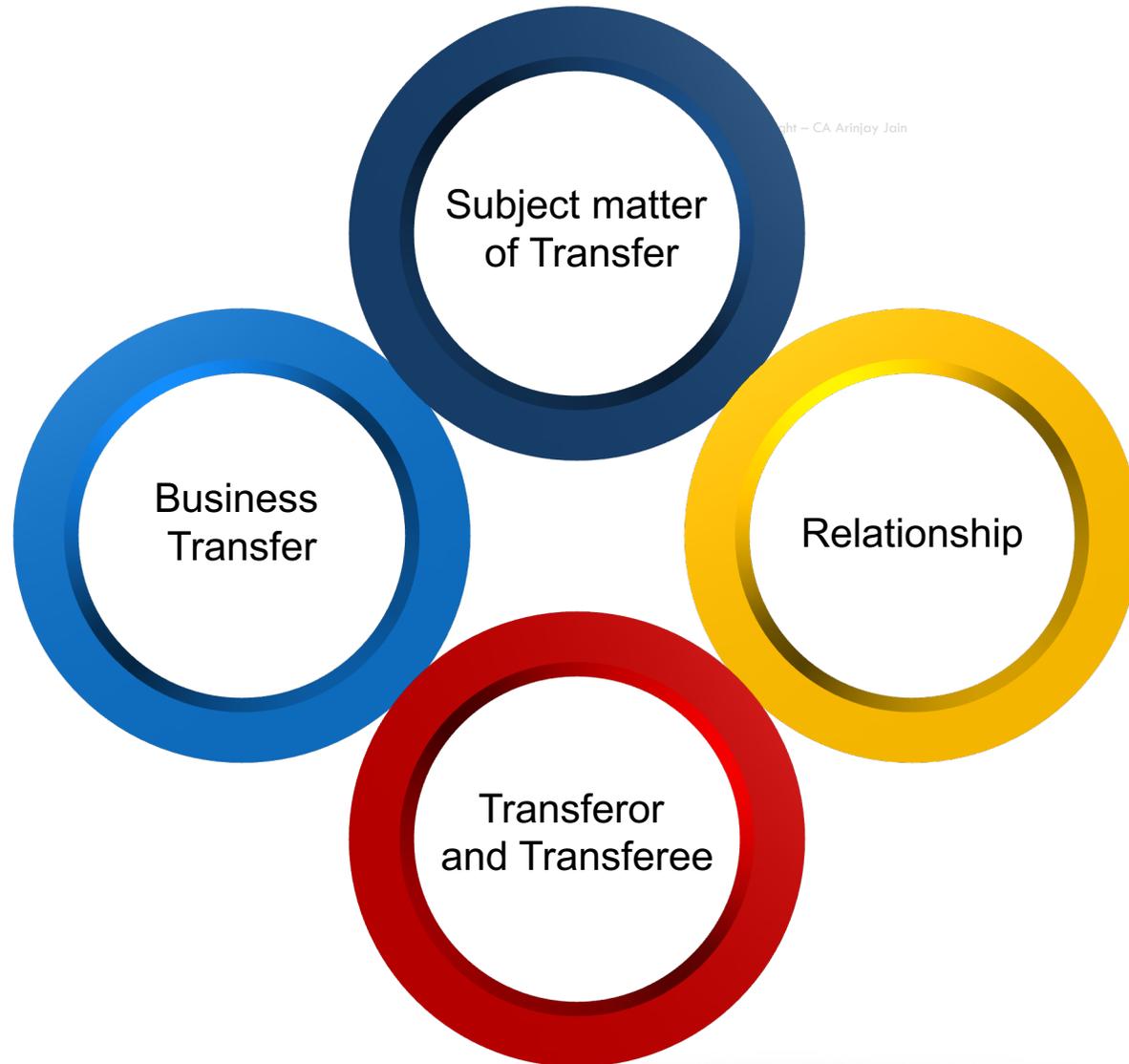
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CORPORATE RESTRUCTURING

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CONDITIONS TO CLAIM EXEMPTION FROM UAE CORPORATE TAX ON TRANSFER OF ASSETS OR LIABILITIES

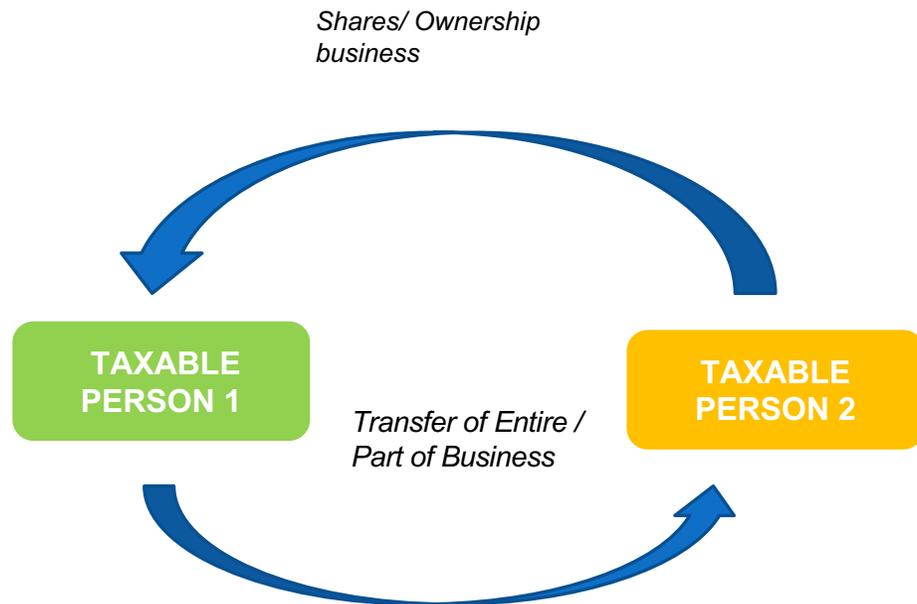


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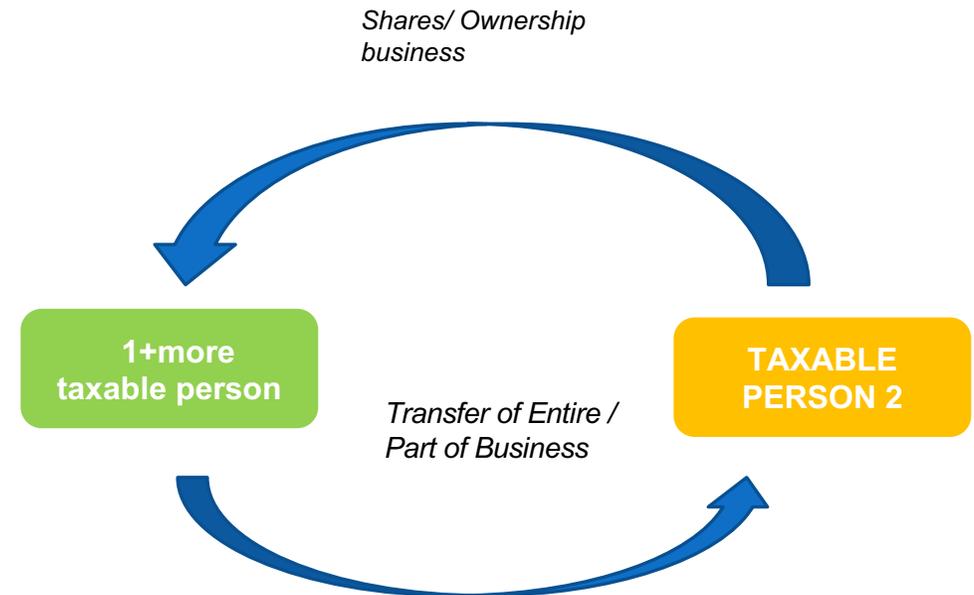
WHEN IS BUSINESS RESTRUCTURING RELIEF AVAILABLE UNDER UAE CORPORATE TAX LAW

Taxable Person transfers entire /part of business to another Taxable Person



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One or more Taxable Person transfer their Business to another Taxable Person



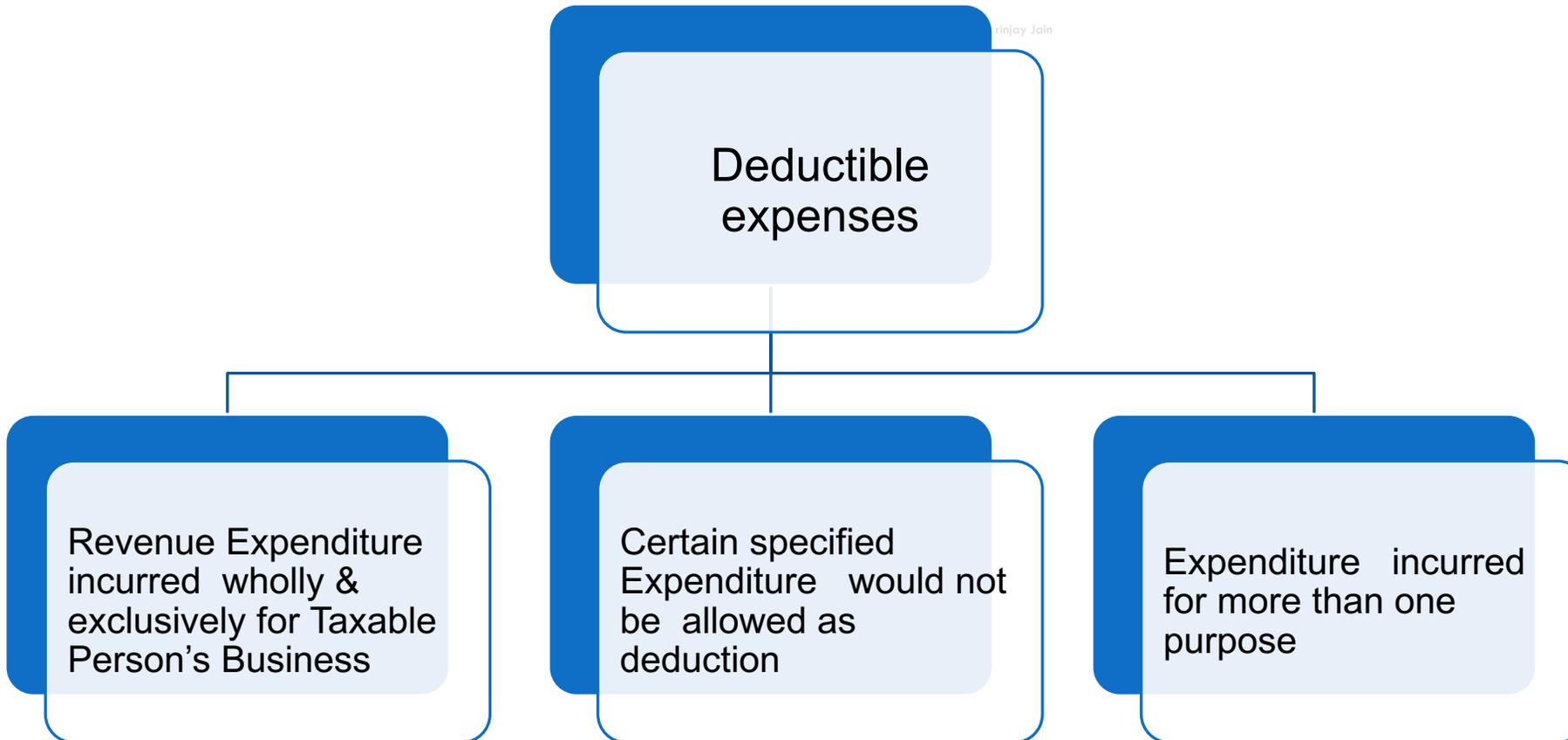
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CALCULATION OF TAXABLE INCOME

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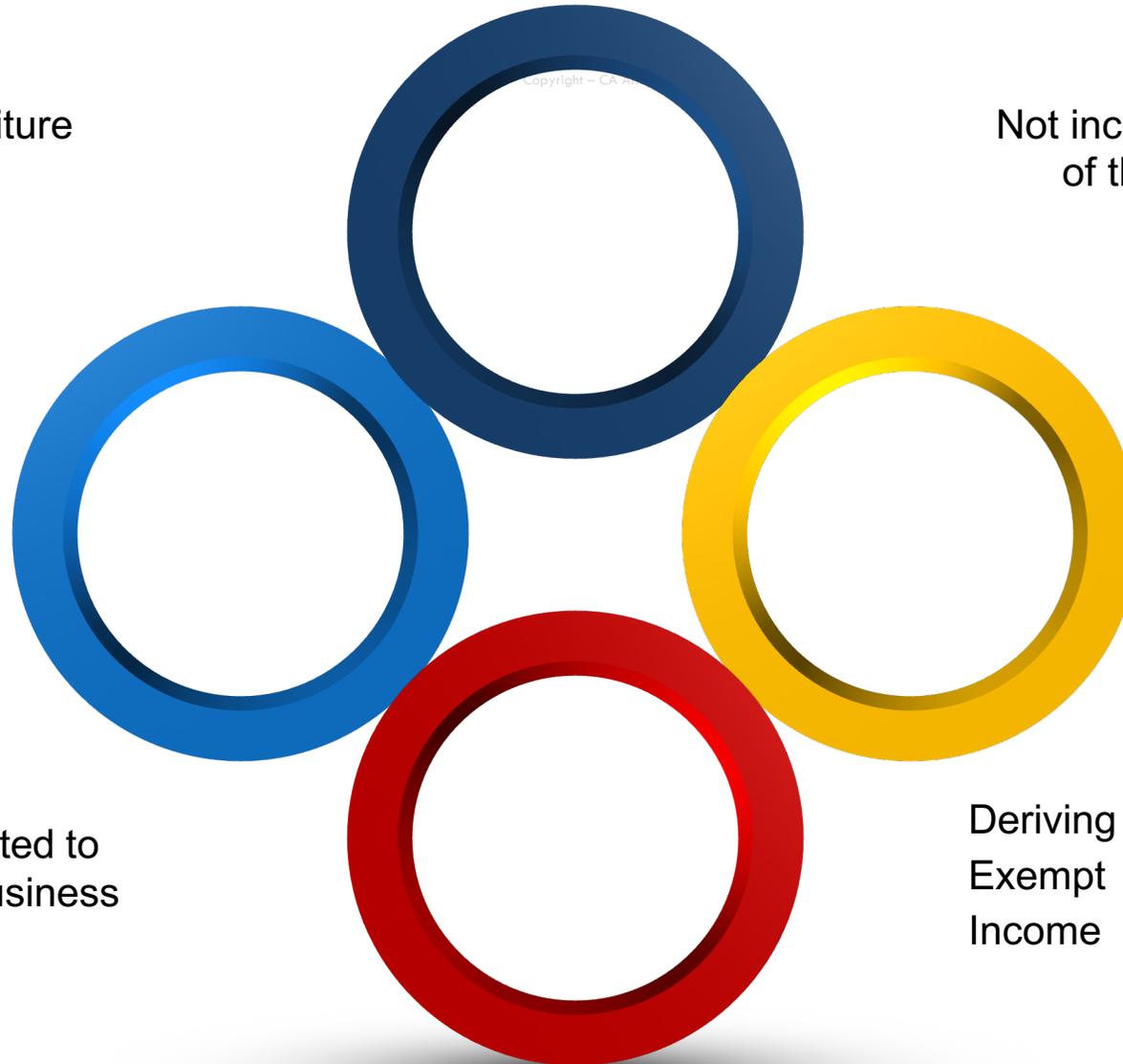
EXPENDITURE DEDUCTIBLE UNDER UAE CORPORATE TAX LAW



EXPENDITURE NOT ALLOWED AS DEDUCTION UNDER UAE CORPORATE TAX LAW

Specified Expenditure

Not incurred **for the purposes**
of the Taxable Person's
Business



Losses Not connected to
Taxable Person's Business

Deriving
Exempt
Income

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EXPENDITURE INCURRED FOR MORE THAN ONE PURPOSE UNDER UAE CORPORATE TAX LAW

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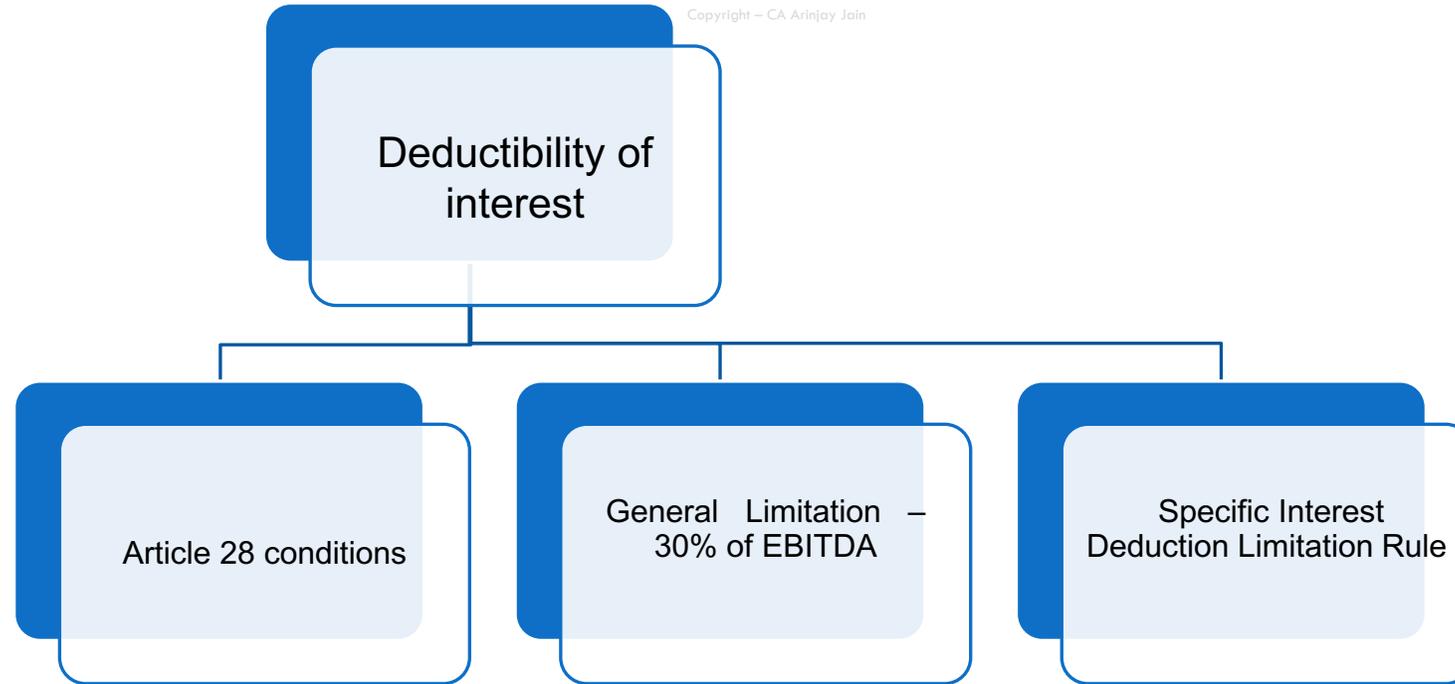
Deductible expenses

Part of Expenditure incurred wholly and exclusively for deriving Taxable Income

Appropriate proportion of any unidentifiable part or proportion of the expenditure

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DEDUCTIBILITY OF ENTERTAINMENT EXPENDITURE UNDER UAE CORPORATE TAX LAW

Covers Entertainment, Amusement or Recreation expenditure incurred during a Tax Period

Allowed subject to Article
28

Allowed up to 50% of
expenditure incurred
during a Tax Period

Covers expenditure incurred for
receiving and entertaining
customers, shareholders etc



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CARRY FORWARD OF TAX LOSSES

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MAXIMUM TAX LOSSES THAT CAN BE CARRIED FORWARD AND PERIOD OF CARRY FORWARD OF TAX LOSSES UNDER UAE CORPORATE TAX LAW

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Tax Losses

- Allowed – Limit - 75% of taxable income ;
- Unlimited carry forward



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TRANSFER PRICING

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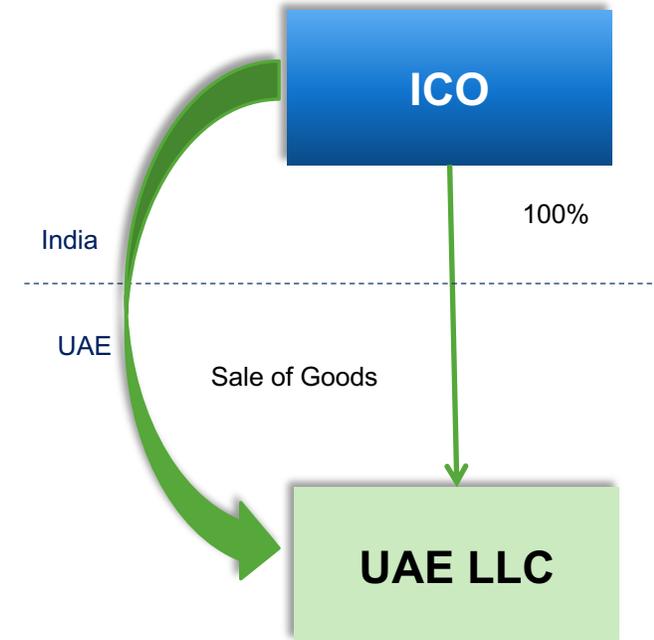
APPLICABILITY OF ALP ON RELATED PARTY TRANSACTION UNDER UAE CORPORATE TAX LAW : ARTICLE 34(1) AND 34(2)

34(1)

Transactions/Arrangements between Related Parties must meet Arm's Length Criterion

34(2)

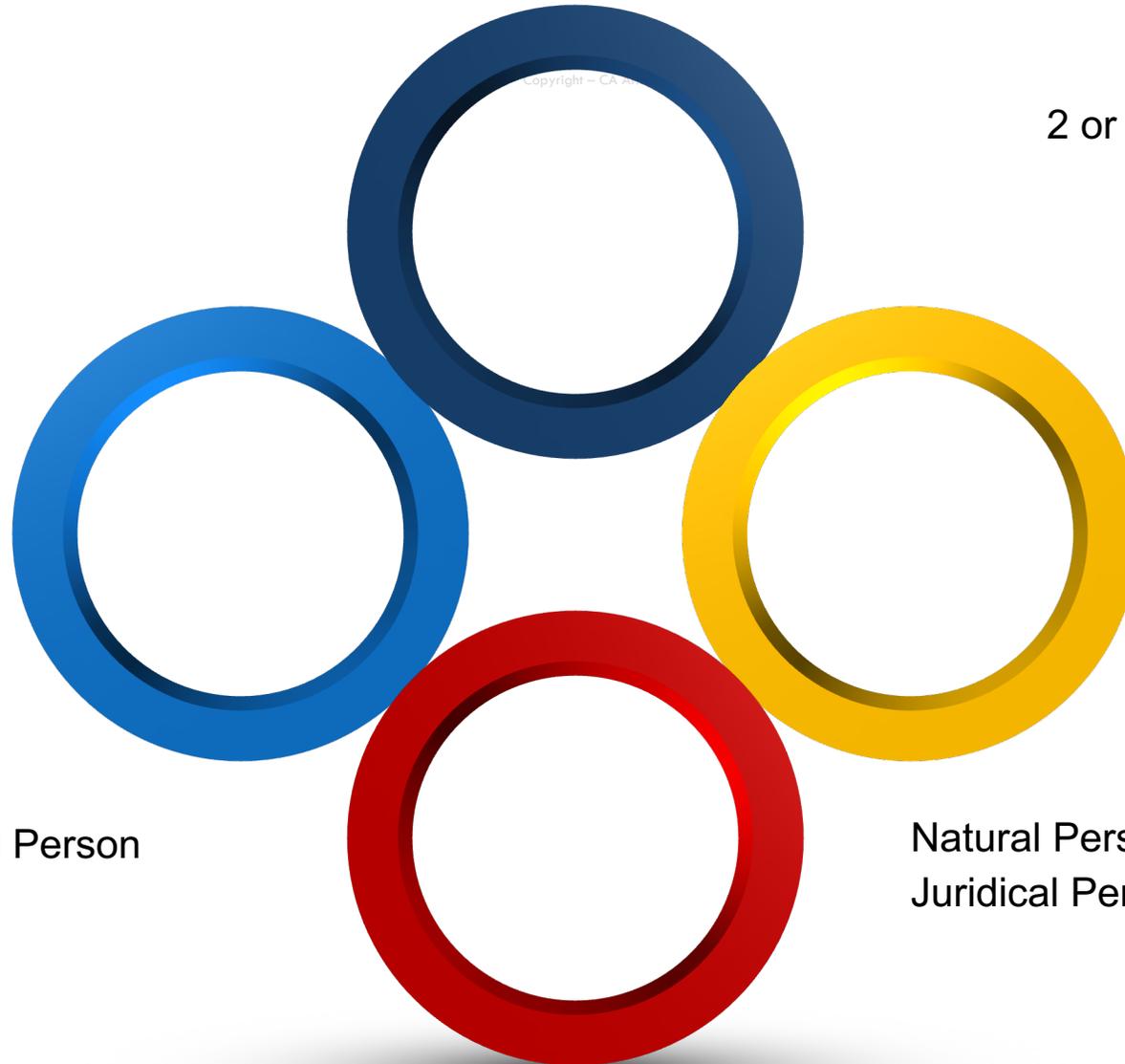
Related Party Transaction/ Arrangements fulfills ALC if outcome of transaction similar to transactions between non Related Parties



TRANSACTIONS COVERED UNDER UAE CORPORATE TAX TRANSFER PRICING PROVISIONS

Control Criterion

2 or more Natural person



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WHO ARE CONNECTED PERSON UNDER UAE CORPORATE TAX ? - ARTICLE 36 (2)

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**Who are
Connected
Persons?**

➤ **Owner of Taxable person**

➤ **Director or officer of Taxable Person**

➤ **Related Party of the above**

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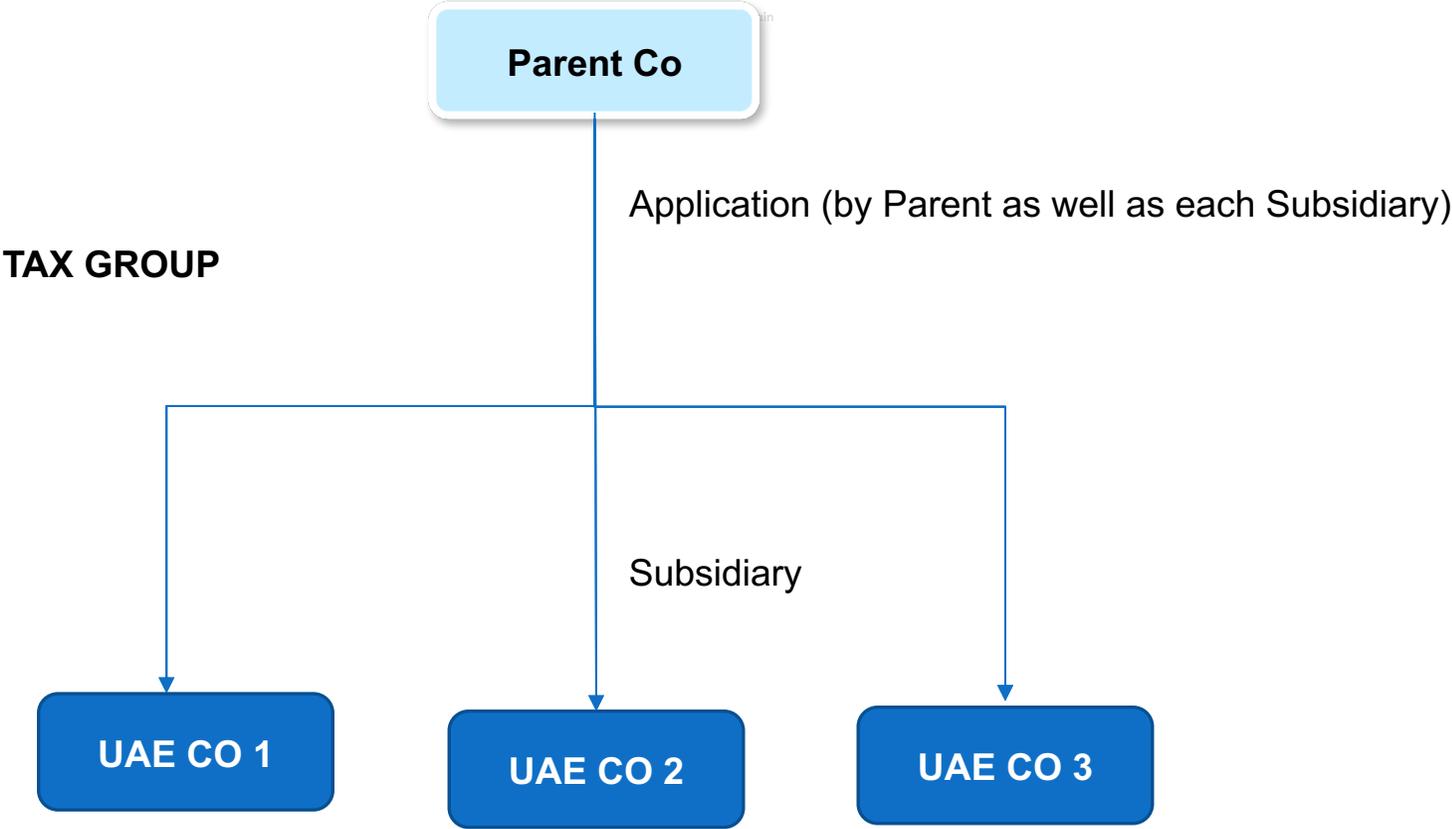
TAX GROUPING

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PARENT COMPANY TO FORM A TAX GROUP WITH SUBSIDIARY COMPANY – ARTICLE 40

UAE



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CONDITIONS NECESSARY FOR PARENT COMPANY TO FORM A TAX GROUP WITH SUBSIDIARY COMPANY – ARTICLE 40 (1)



1

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Resident Persons are juridical persons

2

Parent Company has at least 95% of share capital / voting rights / profits and net assets

3

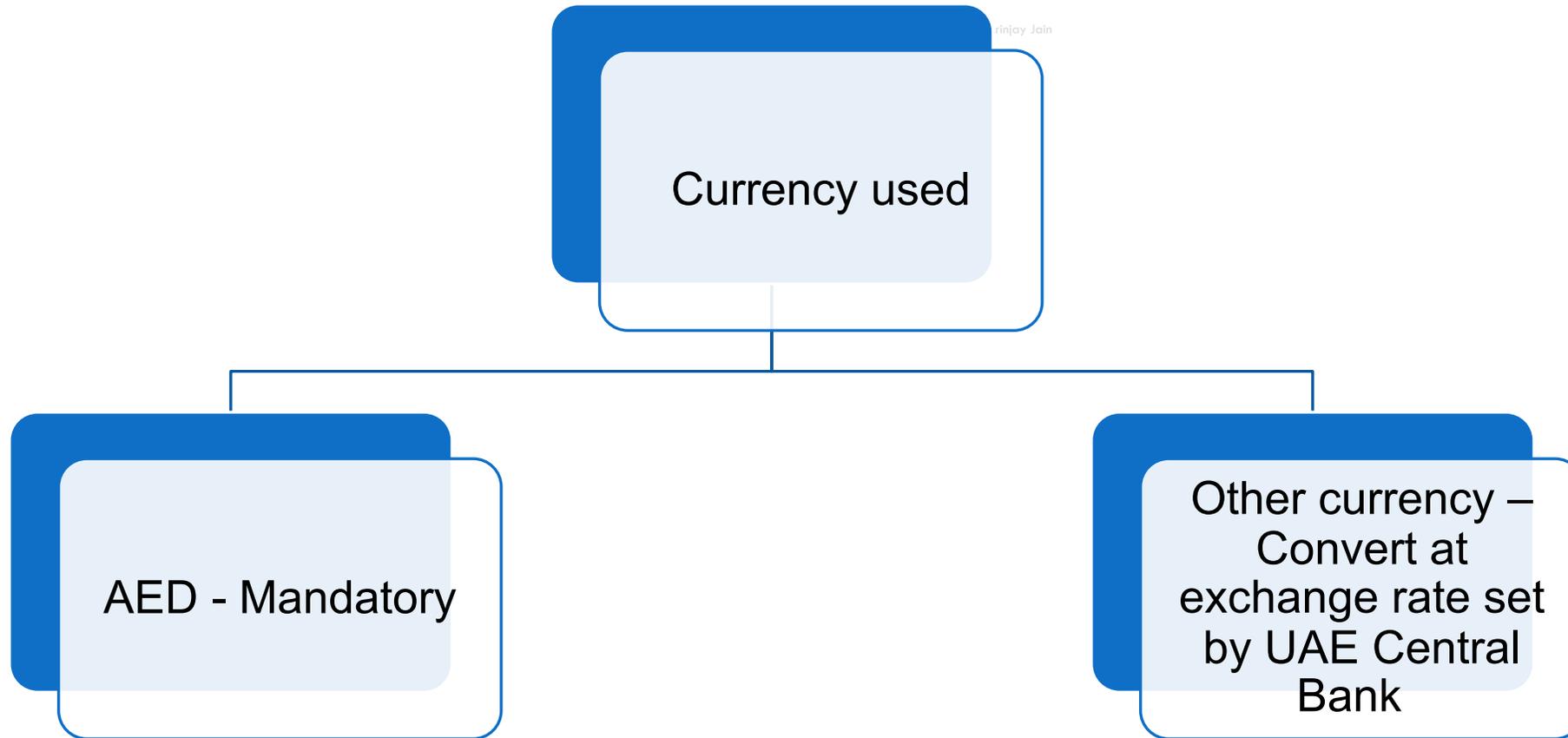
Neither Parent Company nor Subsidiary is an Exempt Person /Qualifying person

4

Parent and Subsidiary Company use same accounting standards



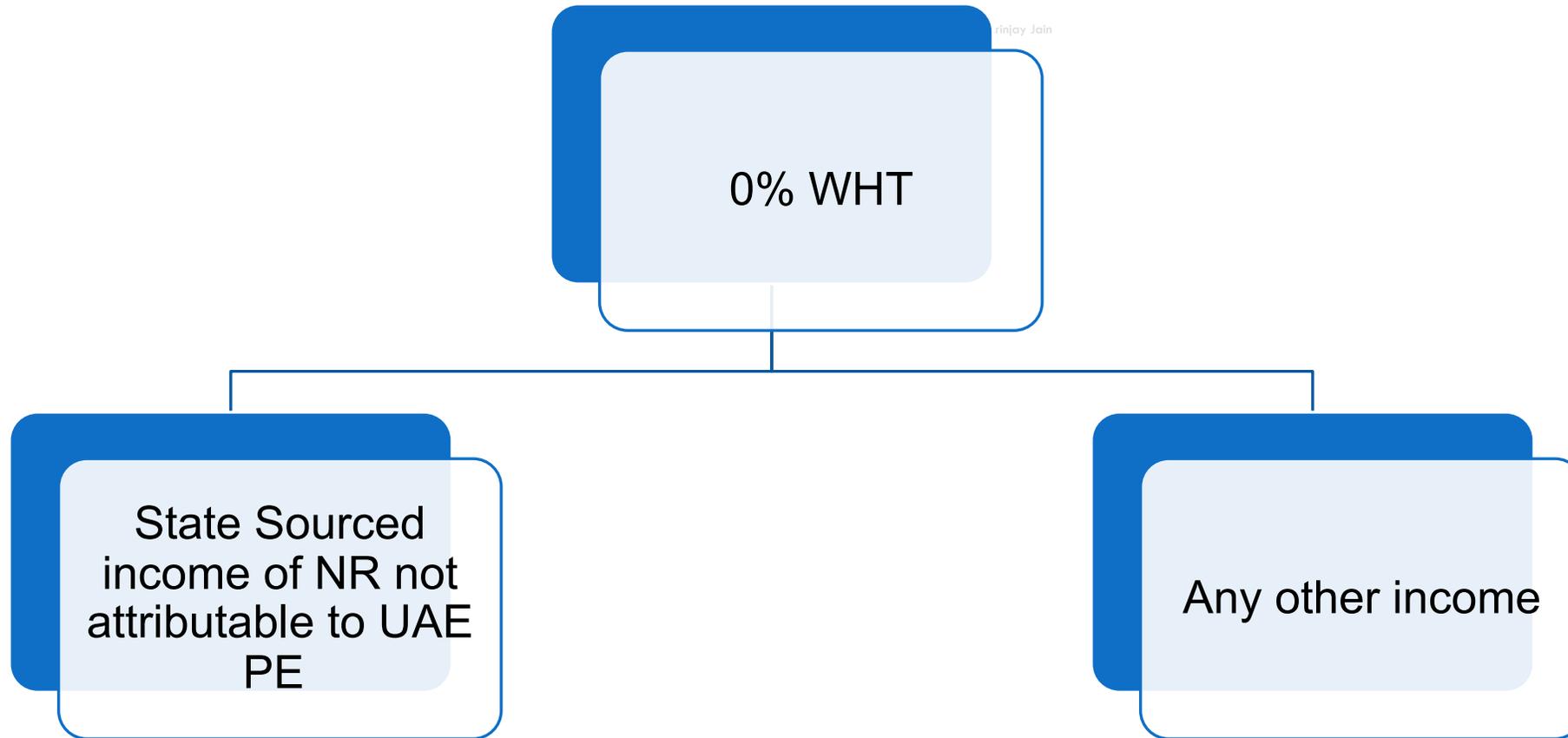
CURRENCY FOR CALCULATING UAE CORPORATE TAX



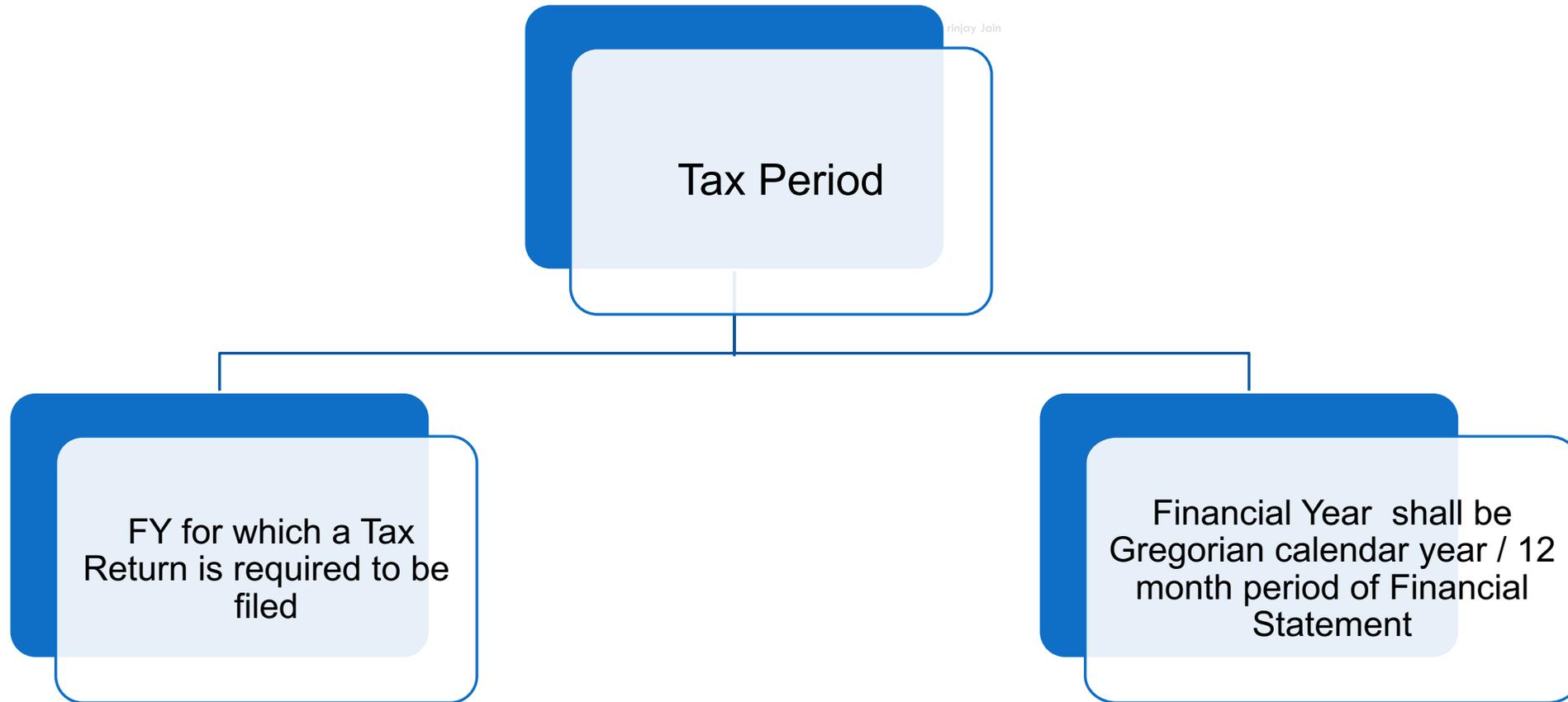
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WITHHOLDING TAX UNDER UAE CORPORATE TAX



TAX PERIOD

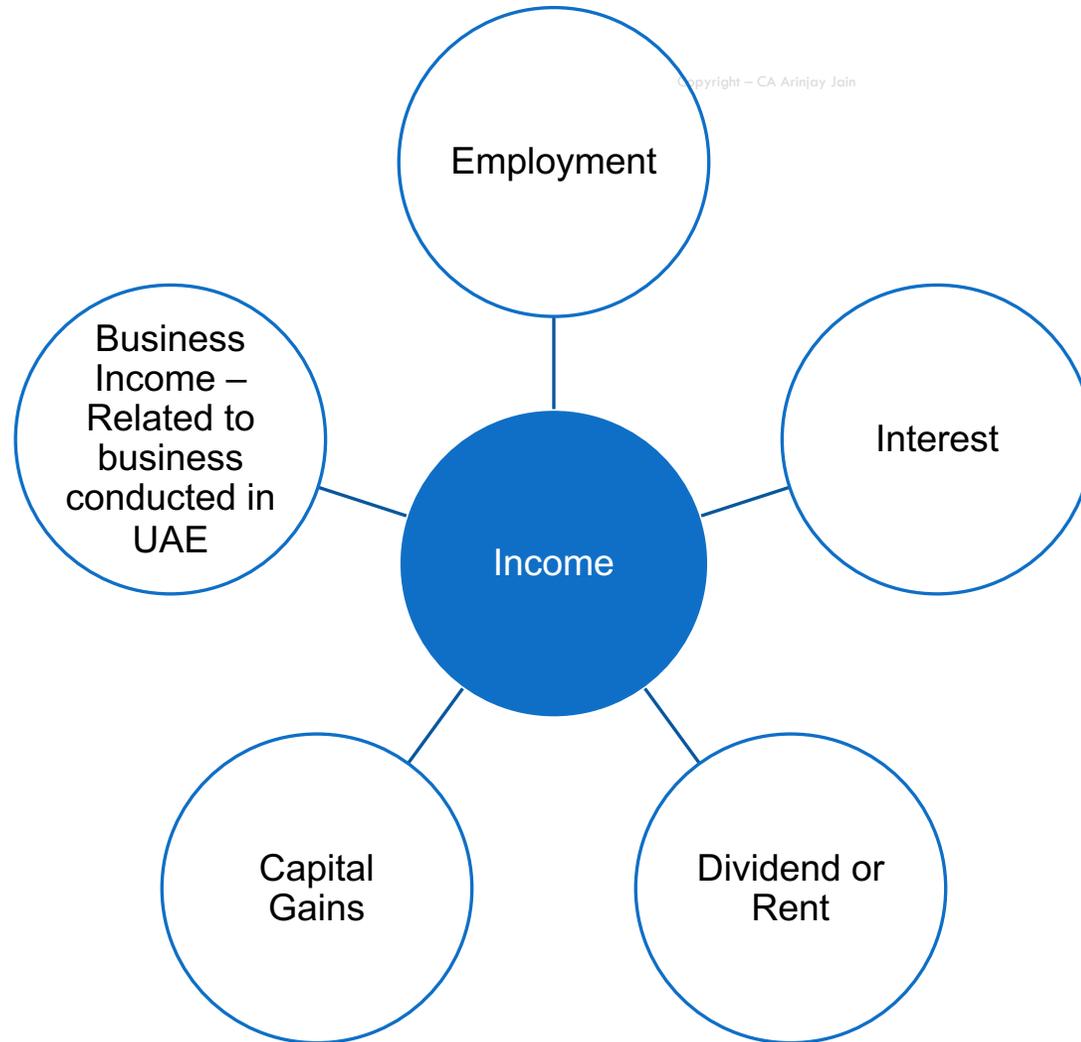


TAXATION OF INDIVIDUALS



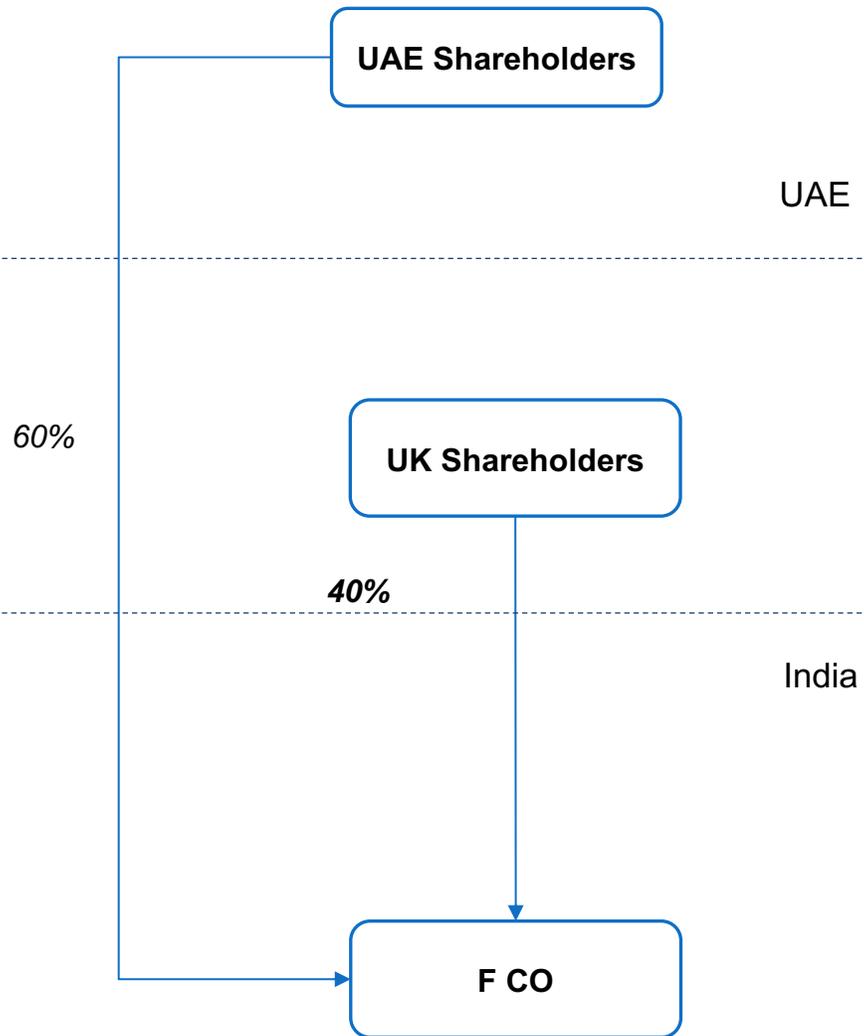
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NATURAL PERSON - NATURE AND TYPE OF INCOME



Credit for Foreign Tax
in India ?

INDIAN COMPANY – DEEMED UAE RESIDENT



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- FCO is incorporated in India
- FCO has 5 Directors of whom 4 are permanent tax resident of UAE
- The Directors conduct majority, but one Board Meeting in the UAE
- Important strategic decisions are taken in the UAE
- FCO has a General Manager based out of India who looks after the day to day operations in the India

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FREE ZONE ENTITIES – TRANSACTION WITH FREE ZONE ENTITIES IN SAME OR DIFFERENT FREE ZONE

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FREE ZONE ENTITIES – INCOME FROM MAINLAND BRANCH

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Free Zone A

INDIA
OWNED FZE

Covered Income
– AED 500,000

Mainland

Mainland
Branch

Branch Income –
AED 500,000

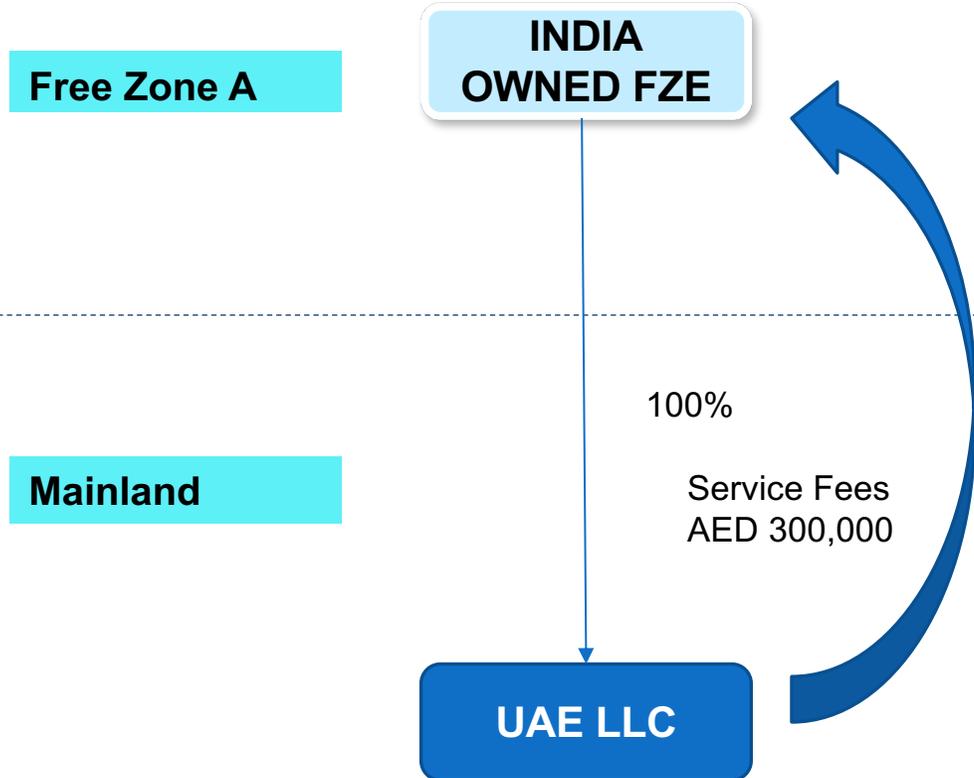
- What if the income of the Branch was AED 3,74,000 ?

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CASE STUDY - INCOME OF UAE FREE ZONE FROM MAINLAND GROUP COMPANY

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- Tax in Hands of UAE FZE ?
- Tax on UAE LLC, assuming net profit excluding, Service Fees expense is AED 600,000

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Arinjay Kumar Jain- Profile



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Name	Arinjay Kumar Jain
Position	Managing Partner – Arinjay & Associates
Qualification	Member of the Institute of Chartered Accountants of India
Experience	<ul style="list-style-type: none">❑ Arinjay is a Chartered Accountant with more than 21 years of post qualification experience in Mergers and Acquisitions, Corporate Restructuring , Succession Planning, International Tax to various India and MNC's operating in India, as well as HNI and NRI individuals❑ He has also worked extensively on UAE Economic Substance Regulations and UAE Corporate Tax, and has provided training to 100's of CA in this area, over the last 1 year❑ Presently , he is advising several MNC who are looking at setting their India or UAE operations and related restructuring❑ As Director – M&A Tax in KPMG India, he worked on several clients from US, Germany, Singapore , Netherlands and UK in respect of : -<ul style="list-style-type: none">❑ Setting up their Indian operations and acquisitions of various business in India.❑ Tax advisory work in connection with their corporate group structures, outbound acquisitions, family settlements, succession planning and regular tax advise.❑ Due diligence in various transactions spanning across solar power, technology startups, pharmaceuticals, automobile manufacturing, online e-commerce companies, logistics, manufacturing, solar power, trading companies, financial services, social networking, telecommunication, beverage and bottling and others❑ Author – He has authored several books on International Tax and Income for CA Students❑ Trainer – Arinjay has trained more than 2500+ CA's in : -<ul style="list-style-type: none">❑ Face to face classes on International Tax with various organizations, including Big 4 consultancies❑ UAE Corporate Tax to independent CA working at various renowned UAE companies at Tax head, CXO'S and CFO❑ Visiting faculty at ICAI for Diploma in international Tax and for CA Final International Tax paper.