



# Qualifying Group Relief

## Corporate Tax Guide | CTGQGR1

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## 1. Glossary

**Accounting Income:** The accounting net profit or loss for the relevant Tax Period as per the Financial Statements prepared in accordance with the provisions of Article 20 of the Corporate Tax Law.

**Accounting Standards:** The accounting standards specified in Ministerial Decision No. 114 of 2023.

**AED:** The United Arab Emirates dirham.

**Business:** Any activity conducted regularly, on an ongoing and independent basis by any Person and in any location, such as industrial, commercial, agricultural, vocational, professional, service or excavation activities or any other activity related to the use of tangible or intangible properties.

**Business Activity:** Any transaction or activity, or series of transactions or activities, conducted by a Person in the course of its Business.

**Business Restructuring Relief:** A relief from Corporate Tax for Business restructuring transactions, available under Article 27 of the Corporate Tax Law and as specified under Ministerial Decision No. 133 of 2023.

**Connected Person:** Any person affiliated with a Taxable Person as determined in Article 36(2) of the Corporate Tax Law.

**Corporate Tax:** The tax imposed by the Corporate Tax Law on juridical persons and Business income.

**Corporate Tax Law:** Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

**Double Taxation Agreement:** An international agreement signed by two or more countries for the avoidance of double taxation and the prevention of fiscal evasion on income and capital.

**Exempt Person:** A Person exempt from Corporate Tax under Article 4 of the Corporate Tax Law.

**Financial Asset:** Financial asset as defined in the Accounting Standards applied by the Taxable Person.



**Financial Liability:** Financial liability as defined in the Accounting Standards applied by the Taxable Person.

**Financial Statements:** A complete set of statements as specified under the Accounting Standards applied by the Taxable Person, which includes, but is not limited to, statement of income, statement of other comprehensive income, balance sheet, statement of changes in equity and cash flow statement.

**Financial Year:** The Gregorian calendar year, or the twelve-month period for which the Taxable Person prepares Financial Statements.

**Free Zone:** A designated and defined geographic area within the UAE that is specified in a decision issued by the Cabinet at the suggestion of the Minister.

**Free Zone Person:** A juridical person incorporated, established, or otherwise registered in a Free Zone, including a branch of a Non-Resident Person registered in a Free Zone.

**FTA:** Federal Tax Authority, being the Authority in charge of administration, collection and enforcement of federal taxes in the UAE.

**IFRS:** International Financial Reporting Standards.

**IFRS for SMEs:** International Financial Reporting Standard for small and medium-sized enterprises.

**Immovable Property:** Means any of the following:

- a. Any area of land over which rights or interests or services can be created.
- b. Any building, structure or engineering work attached to the land permanently or attached to the seabed.
- c. 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.

**Intangible Asset:** An intangible asset as defined in the Accounting Standards applied by the Taxable Person.

**Islamic Financial Instrument:** A financial instrument which is in compliance with Sharia principles and is economically equivalent to any instrument provided for under Article 2(2) of Ministerial Decision No. 126 of 2023, or a combination thereof.



**Market Value:** The price which could be agreed in an arm's-length free market transaction between Persons who are not Related Parties or Connected Persons in similar circumstances.

**Membership and Partner Interests:** The equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.

**Net Interest Expenditure:** The Interest expenditure amount that is in excess of the Interest income amount as determined in accordance with the provisions of the Corporate Tax Law.

**Non-Resident Person:** The Taxable Person specified in Article 11(4) of the Corporate Tax Law.

**Ordinary Shares:** The category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.

**Permanent Establishment:** A place of Business or other form of presence in the UAE of a Non-Resident Person in accordance with Article 14 of the Corporate Tax Law.

**Person:** Any natural person or juridical person.

**Preferred Shares:** The category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.

**Qualifying Free Zone Person:** A Free Zone Person that meets the conditions of Article 18 of the Corporate Tax Law and is subject to Corporate Tax under Article 3(2) of the Corporate Tax Law.

**Qualifying Group:** Two or more Taxable Persons that meet the conditions of Article 26(2) of the Corporate Tax Law.

**Qualifying Group Relief:** A relief from Corporate Tax for transfers within a Qualifying Group, available under Article 26 of the Corporate Tax Law and as specified under Ministerial Decision No. 132 of 2023.

**Redeemable Shares:** The category of capital stock or equity interest, which the juridical person issuing this instrument has agreed to redeem or buy back from the



owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.

**Related Party:** Any Person associated with a Taxable Person as determined in Article 35(1) of the Corporate Tax Law.

**Resident Person:** The Taxable Person specified in Article 11(3) of the Corporate Tax Law.

**Small Business Relief:** A Corporate Tax relief that allows eligible Taxable Persons to be treated as having no Taxable Income for the relevant Tax Period in accordance with Article 21 of the Corporate Tax Law and Ministerial Decision No. 73 of 2023 on Small Business Relief.

**State Sourced Income:** Income accruing in, or derived from, the UAE as specified in Article 13 of the Corporate Tax Law.

**Tax Loss:** Any negative Taxable Income as calculated under the Corporate Tax Law for a given Tax Period.

**Tax Period:** The period for which a Tax Return is required to be filed.

**Taxable Income:** The income that is subject to Corporate Tax under the Corporate Tax Law.

**Taxable Person:** A Person subject to Corporate Tax in the UAE under the Corporate Tax Law.

**Transferee:** A Taxable Person to which one or more assets or liabilities of the Transferor is transferred under Article 26 of Corporate Tax Law.

**Transferor:** A Taxable Person that transfers one or more assets or liabilities to another Taxable Person under Article 26 of the Corporate Tax Law.

**UAE:** United Arab Emirates.

**Unincorporated Partnership:** A relationship established by contract between two Persons or more, such as a partnership or trust or any other similar association of Persons, in accordance with the applicable legislation of the UAE.



## 2. Introduction

### 2.1. Overview

Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses (“Corporate Tax Law”) was issued on 3 October 2022 and was published in Issue #737 of the Official Gazette of the United Arab Emirates (“UAE”) on 10 October 2022.

The Corporate Tax Law provides the legislative basis for imposing a federal tax on corporations and Business profits (“Corporate Tax”) in the UAE.

The provisions of the Corporate Tax Law apply to Tax Periods commencing on or after 1 June 2023.

### 2.2. Purpose of this guide

This guide is designed to provide general guidance on the Qualifying Group Relief available under Article 26 of the UAE Corporate Tax Law.

The guide provides the readers with an overview of the following in respect of Qualifying Group Relief:

- transactions covered within the scope of the relief,
- conditions to be eligible for the relief,
- consequences of electing for the relief,
- circumstances when the relief will be clawed back and consequences of clawback of the relief,
- compliance requirements, and
- interaction with other provisions of the UAE Corporate Tax Law.

This guide does not address Tax Groups, except where the Tax Group provisions interact with the provisions outlined above.

### 2.3. Who should read this guide?

The guide should be read by any Taxable Person intending to transfer one or more of its assets or liabilities to another Taxable Person who are both members of the same Qualifying Group.

It is intended to be read in conjunction with the Corporate Tax Law, the implementing decisions and other relevant guidance published by the FTA.





## 2.4. How to use this guide

The relevant articles of the Corporate Tax Law and the implementing decisions are indicated in each section of the guide.

It is recommended that the guide is read in its entirety to provide a complete understanding of the definitions and interactions of the different rules. Further guidance on some of the areas covered in this guide can be found in other topic-specific guides.

In some instances, simple examples are used to illustrate how key elements of the Qualifying Group Relief under the Corporate Tax Law apply. The examples in the guide:

- show how these elements operate in isolation and do not show the interactions with other provisions of the Corporate Tax Law that may occur. They do not, and are not intended to, cover the full facts of the hypothetical scenarios used nor all aspects of the Corporate Tax regime, and should not be relied upon for legal or tax advice purposes, and
- are only meant for providing the readers with general information on the subject matter of this guide. They are exclusively intended to explain the rules related to the subject matter of this guide and do not relate at all to the tax or legal position of any specific juridical or natural persons.

## 2.5. Legislative references

In this guide, the following legislation will be referred to as follows:

- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses, and its amendments, is referred to as “Corporate Tax Law”;
- Cabinet Decision No. 56 of 2023 on Determination of a Non-Resident Person’s Nexus in the State for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Cabinet Decision No. 56 of 2023”;
- Ministerial Decision No. 116 of 2023 on the Participation Exemption for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 116 of 2023”;
- Ministerial Decision No. 120 of 2023 on the Adjustments Under the Transitional Rules for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 120 of 2023”;
- Ministerial Decision No. 125 of 2023 on Tax Group for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 125 of 2023”;



- Ministerial Decision No. 132 of 2023 on Transfers Within a Qualifying Group for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 132 of 2023”;
- Ministerial Decision No. 134 of 2023 on the General Rules for Determining Taxable Income for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “Ministerial Decision No. 134 of 2023”; and
- Federal Tax Authority Decision No. 5 of 2023 on Conditions for Change in Tax Period for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses is referred to as “FTA Decision No. 5 of 2023”.

## 2.6. Status of this guide

This guidance is not a legally binding document but is intended to provide assistance in understanding the provisions of Qualifying Group Relief under the Corporate Tax Law. The information provided in this guide should not be interpreted as legal or tax advice. It is not meant to be comprehensive and does not provide a definitive answer in every case. It is based on the legislation as it stood when the guide was published. Each Person’s own specific circumstances should be considered.

The Corporate Tax Law, the implementing decisions and the guidance materials referred to in this document will set out the principles and rules that govern the application of Corporate Tax. Nothing in this publication modifies or is intended to modify the requirements of any legislation.

This document is subject to change without notice.



### 3. Qualifying Group Relief: General aspects

Article 26 of the Corporate Tax Law allows assets or liabilities to be transferred between two Taxable Persons that are members of the same Qualifying Group without creating a gain or loss for Corporate Tax purposes (“Qualifying Group Relief”).<sup>1</sup> Broadly, this relief allows tax neutral restructuring of assets and liabilities where there is no change in the overall ownership of the assets or liabilities from a group perspective.

The relief is only available where both the Transferor and Transferee are members of the same Qualifying Group (see Section 4) and the Transferor has elected for the relief (see Section 7.1). The relief is also subject to conditions that ensure that any gain or loss will be subject to Corporate Tax if, within two years, the Transferee ultimately disposes of the asset or liability outside of the Qualifying Group, or the Transferor or Transferee leave the Qualifying Group (see Section 6).

#### 3.1. What is a transfer?

Ordinarily, a transfer refers to an act by which the legal and economic ownership in an asset or liability is conveyed from one Person to another. Examples of a transfer include, but are not limited to, the following transactions:

- sale,
- exchange,
- relinquishment,
- sale-and-lease back treated as a sale under Accounting Standards,
- exercise of options to sell or acquire an asset or liability, and
- transfer under universal title.

Where assets or liabilities are transferred to a Taxable Person as a result of liquidation, dissolution or merger (that is, an entity ceasing to have legal existence),<sup>2</sup> Qualifying Group Relief shall not apply.<sup>3</sup>

#### 3.2. Assets and liabilities eligible for Qualifying Group Relief

Qualifying Group Relief applies only to the transfer of assets or liabilities held on capital account and recorded on the balance sheet of the Transferor.<sup>4</sup> The transfer of assets or liabilities which are not held on capital account (for example, inventory transferred

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<sup>1</sup> Article 26(1) of the Corporate Tax Law.

<sup>2</sup> Article 12(1) of Ministerial Decision No. 116 of 2023.

<sup>3</sup> Article 12(3) of Ministerial Decision No. 116 of 2023.

<sup>4</sup> Article 3(4) of Ministerial Decision No. 132 of 2023.



as part of regular Business operations) is not within the scope of Qualifying Group Relief and hence, cannot benefit from the no gain or loss tax treatment. The general Corporate Tax rules, including the requirement to apply the arm's length standard on transfers between Related Parties,<sup>5</sup> apply in respect of the transfer of assets or liabilities between members of the Qualifying Group where they are not held on capital account on the balance sheet of the Transferor, or where the assets or liabilities transferred are held on capital account but the Transferor has not made an election for Qualifying Group Relief.

Assets and liabilities held on capital account should be interpreted in line with Article 20(4) of the Corporate Tax Law,<sup>6</sup> which provides the following:

- “Assets held on capital account” refers to assets that the Person does not trade, assets that are eligible for depreciation, or assets treated under the applicable Accounting Standards as property, plant and equipment, investment property, Intangible Assets, or other non-current assets.<sup>7</sup>
- “Liabilities held on capital account” refers to liabilities, the incurring of which does not give rise to deductible expenditure under Articles 28 to 32 of the Corporate Tax Law, or liabilities treated under the applicable Accounting Standards as non-current liabilities.<sup>8</sup>

Whether an asset or liability is held on capital account depends on the facts and circumstances of each case. As the asset or liability is recognised in the Financial Statements of the Transferor, a key indicator will be whether it is treated as a long-term asset or liability under the applicable Accounting Standards.

An asset (tangible or intangible) held on capital account is generally understood as a long-term asset held for future economic benefit. Thus, the Transferor's intention and purpose of holding the asset is relevant when determining if the asset is capital in nature. For example, assets such as machinery, equipment, real estate or similar assets are usually considered to be held as long-term assets on capital account, provided that such assets are not held as inventory for purposes of the particular Business of the Transferor. A transfer of assets or liabilities which are not recognised in the Financial Statements of the Transferor (for example, a self-generated intellectual property, such as goodwill, brand or customer lists) would not fall within the scope of Qualifying Group Relief. However, whilst out of scope of Qualifying Group Relief, such assets and liabilities may, where the relevant conditions are met, benefit from Business Restructuring Relief under Article 27 of the Corporate Tax Law.<sup>9</sup> This is since

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<sup>5</sup> Article 34(1) of the Corporate Tax Law.

<sup>6</sup> Article 3(4) of Ministerial Decision No. 132 of 2023.

<sup>7</sup> Article 20(4)(a) of the Corporate Tax Law.

<sup>8</sup> Article 20(4)(b) of the Corporate Tax Law.

<sup>9</sup> Article 27 of the Corporate Tax Law.



these assets may be inseparable from the Business as a whole, and so a transfer of the Business may include a transfer of such assets.

A liability held on capital account may generally be understood as a liability intended to be held as a long-term liability. If a liability does not qualify as a current liability in the Financial Statements prepared by the Transferor under the applicable Accounting Standards, this is an indication of the Transferor's intention. But if a liability has been held as a long-term liability on capital account, but at the time of the transfer has become a current liability (for example due to the end of a fixed-term liability falling within one year of the balance sheet date), it will generally be considered as not being held on capital account.

### 3.3. Consideration for transfer

Qualifying Group Relief does not require any consideration to be paid. Where it is paid, it does not need to be in a specific form. Accordingly, no gain or loss treatment under Qualifying Group Relief can be available if the value of the consideration differs from the net book value or the Market Value or is paid by a Person other than the Transferee. Further, the consideration can be in cash or in kind.

Where the Transferee pays consideration in kind in the form of another asset or liability held on capital account, this constitutes an exchange transaction. An exchange of assets or liabilities between two members of the same Qualifying Group shall be treated as two separate transfers for the purposes of Qualifying Group Relief.<sup>10</sup> Since the relief applies on an asset-by-asset basis, in an exchange transaction, both transfers shall be tested separately to assess whether Qualifying Group Relief is available. Whether a clawback is triggered under Article 26(4)(a) of the Corporate Tax Law on one of the transfers in an exchange, shall also be tested on each transfer separately. Therefore, it is possible that a clawback applies on one of the transfers in an exchange of assets and liabilities, but not on the other transfer. See Section 05.5 for a detailed discussion on exchange transactions.

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<sup>10</sup> Article 4(1) of Ministerial Decision No. 132 of 2023.



## 4. Conditions to be a member of a Qualifying Group

The Transferor and Transferee shall be treated as members of the same Qualifying Group where all of the following conditions are met:

- the Transferor and Transferee are juridical persons (the “juridical persons condition”),<sup>11</sup>
- the Transferor and Transferee are Taxable Persons (the “Taxable Persons condition”),<sup>12</sup>
- either Transferor or Transferee has a direct or indirect ownership interest of at least 75% in the other Person, or a third Person has a direct or indirect ownership interest of at least 75% in both the Transferor and the Transferee (the “ownership condition”),<sup>13</sup>
- neither the Transferor nor the Transferee are an Exempt Person (the “Exempt Person condition”),<sup>14</sup>
- neither the Transferor nor the Transferee are a Qualifying Free Zone Person (the “Qualifying Free Zone Person condition”),<sup>15</sup>
- the Transferor and the Transferee must have Financial Years ending on the same date (the “Financial Year condition”), and
- the Transferor and the Transferee must prepare their Financial Statements using the same Accounting Standards (the “Accounting Standards condition”).<sup>16</sup>

Where the Transferor and Transferee elect to apply the Qualifying Group Relief, they must remain members of the same Qualifying Group for a period of two years from the date of the transfer in order to avoid a clawback of the relief as discussed in Section 6 below. Thus, each of the above conditions must be met throughout the relevant two-year period.

### 4.1. Juridical persons condition

Only a juridical person can be a member of a Qualifying Group.<sup>17</sup> A juridical person has a separate legal personality from its founders, owners and directors. Examples of juridical persons include companies (such as private or public joint stock companies or limited liability companies) and incorporated partnerships.

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<sup>11</sup> Article 26(2)(a) of the Corporate Tax Law.

<sup>12</sup> Article 26(2)(a) of the Corporate Tax Law.

<sup>13</sup> Article 26(2)(b) of the Corporate Tax Law.

<sup>14</sup> Article 26(2)(c) of the Corporate Tax Law.

<sup>15</sup> Article 26(2)(d) of the Corporate Tax Law.

<sup>16</sup> Article 26(2)(e) and (f) of the Corporate Tax Law.

<sup>17</sup> Article 26(2)(a) of the Corporate Tax Law.



Natural persons carrying on Business as a sole establishment are not juridical persons and, therefore, cannot form or be in a Qualifying Group. Thus, a natural person cannot be a Transferor or Transferee for the purposes of Qualifying Group Relief.

Unincorporated Partnerships are a contractual relationship between two or more persons that do not have distinct legal personality separate from their partners/members. Given that Unincorporated Partnerships are not juridical persons in their own right, they cannot be part of a Qualifying Group. This applies even if an Unincorporated Partnership is treated as a Taxable Person after an application by its partners is approved by the FTA under Article 16(8) of the Corporate Tax Law, as this does not change the legal form of an Unincorporated Partnership.

A juridical person, who is a partner in an Unincorporated Partnership, can be a member of a Qualifying Group with other juridical persons (including juridical persons held by the Unincorporated Partnership). Accordingly, while an Unincorporated Partnership cannot be a Transferor or Transferee for the purposes of Qualifying Group Relief, the relief may be available to a juridical person who is a partner in an Unincorporated Partnership or to a juridical person who is held by an Unincorporated Partnership.

#### 4.2. Taxable Persons condition

A juridical person can only be a member of a Qualifying Group if it is a Taxable Person that is:<sup>18</sup>

- a Resident Person, or
- a Non-Resident Person that has a Permanent Establishment in the UAE.

Under the Corporate Tax Law, a juridical person is a Resident Person where:

- It is incorporated or otherwise established or recognised under the applicable legislation of the UAE;<sup>19</sup> or
- It is incorporated or otherwise established or recognised under the applicable legislation of a foreign jurisdiction but is effectively managed and controlled in the UAE.<sup>20</sup>

Where the Transferor or Transferee is a Resident Person under the UAE Corporate Tax Law, they can be a member of a Qualifying Group.

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<sup>18</sup> Article 26(2)(a) of the Corporate Tax Law.

<sup>19</sup> Article 11(3)(a) of the Corporate Tax Law.

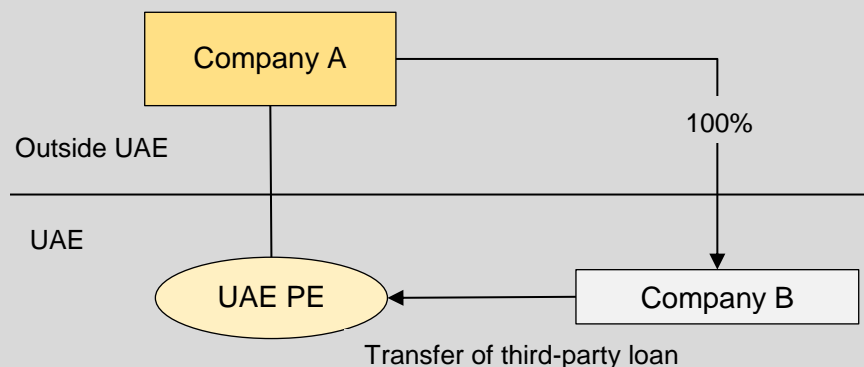
<sup>20</sup> Article 11(3)(b) of the Corporate Tax Law.



Further, a Non-Resident Person with a Permanent Establishment in the UAE can also be a member of a Qualifying Group.<sup>21</sup> Therefore, if a Non-Resident Person with a Permanent Establishment in the UAE transfers or is transferred assets or liabilities attributable to its Permanent Establishment to or from another Taxable Person within its Qualifying Group, this transfer could benefit from Qualifying Group Relief if the relevant conditions are met. This can also apply if assets or liabilities are transferred from one Permanent Establishment in the UAE to another Permanent Establishment in the UAE. In addition, Qualifying Group Relief can also apply if a Person becomes a Taxable Person for the first time as a result of the transfer, because the assets or liabilities transferred result in a Permanent Establishment in the UAE for the Transferee.

However, Qualifying Group Relief is not available for transfers between a Permanent Establishment in the UAE and its head office outside the UAE. Similarly, Qualifying Group Relief is not available if a Non-Resident Person transfers or is transferred assets or liabilities and these assets or liabilities are not attributable to a Permanent Establishment in the UAE. The assets attributable to the Permanent Establishment are those from which it derives profits, being those which the Permanent Establishment has economic ownership of, as determined by the use of the assets (including both tangible and intangible assets).

#### Example 1: Transfer of assets to a Non-Resident Person



Company A holds 100% of the shares of Company B. Company A is a Non-Resident Person with a Permanent Establishment in the UAE. Company B is a Resident Person.

Company B holds a loan receivable from a third party, which it transfers to Company A.

<sup>21</sup> Article 26(2)(a) of the Corporate Tax Law.





If the receivable can be attributed to Company A's Permanent Establishment in the UAE, the Taxable Person condition is met in relation to this transfer. However, if the receivable cannot be attributed to Company A's Permanent Establishment in the UAE, the Taxable Person condition is not met and Qualifying Group Relief will not be available.

A Non-Resident Person which derives State Sourced Income or has a nexus in the UAE is also a Taxable Person under the Corporate Tax Law.<sup>22</sup> However, such a Non-Resident Person cannot be a member of a Qualifying Group.

### 4.3. Ownership condition

The Transferor and Transferee shall be treated as members of the same Qualifying Group if:<sup>23</sup>

- the Transferor holds a direct or indirect ownership interest of at least 75% in the Transferee, or
- the Transferee holds a direct or indirect ownership interest of at least 75% in the Transferor, or
- a third Person holds a direct or indirect ownership interest of at least 75% in the Transferor as well as the Transferee.

#### 4.3.1. What is an ownership interest?

The term "ownership interest" should be applied consistently with how it is applied in other parts of the Corporate Tax Law.<sup>24</sup> Any other guidance relating to this term when used in other parts of the Corporate Tax Law should similarly apply in the context of Qualifying Group Relief under Article 26 of the Corporate Tax Law.

An ownership interest can be understood as any equity or similar interest (for example, a partnership interest) that carries rights to the profits and liquidation proceeds of the Taxable Person (that is Transferor or Transferee or both where the ownership interest is held by a third Person).

A holding can qualify as an ownership interest for the purposes of Qualifying Group Relief only if it is treated as an equity interest under the Accounting Standards applied by the Taxable Person holding the ownership interest.<sup>25</sup> This ensures that the mere

<sup>22</sup> Article 11(4)(b) and (c) of the Corporate Tax Law.

<sup>23</sup> Article 26(2)(b) of the Corporate Tax Law.

<sup>24</sup> Articles 23, 26, 27, 31, 35, 36, 38, 39 and 40 of the Corporate Tax Law.

<sup>25</sup> Article 2(2) of Ministerial Decision No. 132 of 2023.



legal ownership of shares or other ownership interests is not sufficient, in case the Accounting Standards do not treat the ownership interest as an equity interest.<sup>26</sup>

Two Taxable Persons can also be in a Qualifying Group if a third Person holds an ownership interest of at least 75% in both the Transferor and Transferee. If that third Person is not a Taxable Person, the ownership interest should also be treated as an equity interest under the accounting standards applied by that Person. If that Person does not apply an accounting standard (for example because they are a natural person), the condition of common ownership can be met if the ownership interest held by such third Person would have been treated as an equity interest if such Person had applied Accounting Standards acceptable in the UAE.

An ownership interest can include, but is not limited to, holdings in any one or a combination of the following instruments:<sup>27</sup>

Type of instrument	Description
Ordinary Shares	Category of capital stock or equivalent ownership interest, which gives its owner, on a share-by-share basis, equal entitlement to voting rights, profits, and liquidation proceeds.
Preferred Shares	Category of capital stock or equity interest which gives its owner priority entitlement to profits and liquidation proceeds ahead of owners of Ordinary Shares.
Redeemable Shares	Category of capital stock or equity interest which the juridical person issuing this instrument has agreed to redeem or buy back from the owner of this instrument at a future date or after a specific event, for a predetermined amount or with reference to a predetermined amount.
Membership and Partner Interests	Equity interests owned by a member or a partner in the juridical person, which entitles the member or the partner to a share of the profits, determined with reference to the member's or the partner's capital contribution, and which may be transferred to others.

<sup>26</sup> Article 26(2)(b) of the Corporate Tax Law.

<sup>27</sup> Article 2(1) of Ministerial Decision No. 132 of 2023.



Type of instrument	Description
Islamic Financial Instrument or a combination of arrangements that form part of the same Islamic Financial Instrument	A financial instrument which is compliant with Sharia principles.

The above list of ownership instruments is illustrative. Other types of instruments which grant rights to the profits and liquidation proceeds of the Taxable Person (that is Transferor or Transferee or both where the ownership interest is held by a third Person) and are classified as an equity interest under the applicable Accounting Standards (or the accounting standards used by a third Person that is not a Taxable Person), may also qualify as ownership interests. For example, the definition of Ordinary Shares refers to capital stock which gives its owner equal entitlement to voting rights, profits, and liquidation proceeds. However, shares that do not carry voting rights but have rights to profits and liquidation proceeds can also qualify as an ownership interest, if classified as equity interests under the applicable Accounting Standards (or the accounting standards used by a third Person that is not a Taxable Person).

Ordinarily debt instruments do not qualify as an ownership interest. However, a debt instrument (including one convertible into equity) would be treated as an ownership interest if it is classified as an equity interest under the Accounting Standards applied by the Taxable Person holding the ownership interest (or the accounting standards used by a third Person that is not a Taxable Person).

#### 4.3.2. Holder of ownership interest

For the purposes of Qualifying Group Relief, a Taxable Person shall be treated as holding an ownership interest where the following two conditions are met:<sup>28</sup>

- the ownership interest is controlled by that Taxable Person under the Accounting Standards applied by the Taxable Person, and
- that Taxable Person has the right to the economic benefits produced by the ownership interest under the Accounting Standards as applied by the Taxable Person.

With respect to the first condition relating to control, the meaning of “control” is to be determined in accordance with the applicable Accounting Standard. On the basis of Accounting Standards, a Taxable Person shall be considered to be controlling the

<sup>28</sup> Article 2(3) of Ministerial Decision No. 132 of 2023.



ownership interest of a judicial person (i.e. the investee) if and only if, it has all of the following:

- power over the investee,
- exposure, or rights, to variable returns from its involvement with the investee, and
- the ability to use its power over the investee to affect the amount of the investor's returns.

With respect to the second condition relating to the right to economic benefits, the Taxable Person holding the ownership interests in another juridical person must be the economic owner of 75% or more of the ownership interests.<sup>29</sup> A Taxable Person is the economic owner of an ownership interest when they have (or are entitled to) at least 75% of the benefits and burdens of ownership, including rights to profits, liquidation proceeds, or voting in respect of the ownership interests held, and they have not renounced or transferred such rights under another arrangement. Accordingly, if a Taxable Person holds the ownership interest in the capacity of an agent, nominee, fiduciary or administrator, so that they are simply a conduit for another Person who in fact is entitled to the benefits and burdens of ownership, the former is not the economic owner of the ownership interest.

The Transferor and Transferee can also be members of the same Qualifying Group if a third Person (i.e. a common shareholder) holds an ownership interest of at least 75% in both of them.<sup>30</sup> The common shareholder does not need to be a Taxable Person (see Section 4.3.5). Where the common shareholder is not a Taxable Person, it will still be required to have control and economic right over the ownership interests.

### **Example 2: Transfer of economic ownership**

Company A holds 80% of the shares of Company B. Company A and Company B are Resident Persons. Company A enters into an agreement with a third party under which Company A transfers all control and economic entitlement relating to the shares of Company B to the third party. The legal ownership of the shares in Company B remains with Company A.

In this case, even though Company A legally holds 80% shares of Company B, Company A does not satisfy the ownership condition since it is not the economic owner of the shares. Hence Company A and Company B cannot be members of the same Qualifying Group.

<sup>29</sup> Article 26(2)(b) of the Corporate Tax Law.

<sup>30</sup> Article 26(2)(b) of the Corporate Tax Law.



### 4.3.3. Determining ownership percentage

The percentage of ownership must be calculated as:

Percentage of ownership (PO) =  $\frac{X}{Y} * 100$ , where:

X = Paid-up capital of ownership interests held by or the equity interest contributions made by the Transferor or Transferee or a third Person, as applicable (depending on which entity is holding shares in the Taxable Person for the purposes of assessing the conditions of a Qualifying Group). Different types of ownership interests held in the same Taxable Person can be aggregated for the purposes of determining the percentage of ownership.

Y = Total paid-up capital of the Taxable Person or the total equity interest contributions made to the Taxable Person, as applicable.<sup>31</sup> The Taxable Person here can be the Transferor or Transferee depending on which entity's shares are being held.<sup>32</sup>

Ownership interests may carry rights to profits and liquidation proceeds in different percentages. For example, an ownership interest may carry a right to 80% of the profits of an entity but only 10% of the liquidation proceeds. Such differential rights in ownership interests do not impact the ownership condition since the percentage of ownership interest held is determined with reference to the paid-up capital of the Transferor and/or the Transferee, provided that an ownership interest as described in 4.3.1 above, is held, i.e. provided that the ownership interest qualifies as an equity interest under applicable Accounting Standards.<sup>33</sup>

#### **Example 3: Computing the percentage of ownership**

Company A has paid-up share capital of AED 10,000:

- AED 1,000 towards Ordinary Shares, and
- AED 9,000 towards Preferred Shares.

Company B holds 100% of the Ordinary Shares in Company A and does not hold any Preferred Shares.

- Paid-up capital of ownership interest held by Company B (X): AED 1,000.
- Total paid-up capital of Company A (Y): AED 10,000 (Ordinary and Preferred Share capital together).

<sup>31</sup> Article 2(5) of Ministerial Decision No. 132 of 2023.

<sup>32</sup> Article 2(1) of Ministerial Decision No. 132 of 2023.

<sup>33</sup> Article 2(2) of Ministerial Decision No. 116 of 2023.



- Company B's percentage ownership:  $\frac{1,000}{10,000} * 100 = 10\%$

Accordingly, Company B's ownership interest amounts to only 10% of the total paid-up share capital in Company A, i.e. Ordinary and Preferred Share capital together. Hence, Company A and Company B cannot be members of a Qualifying Group.

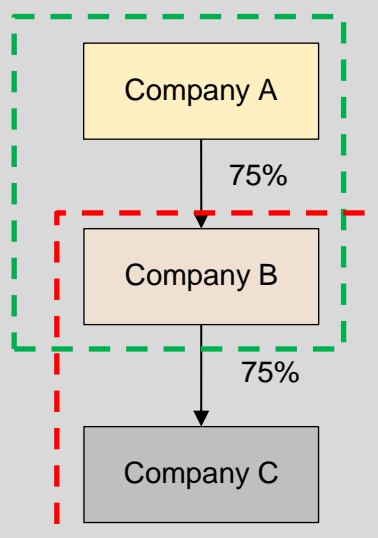
#### 4.3.4. Indirect ownership

The ownership condition is met even if the 75% of the ownership interest is held indirectly. Thus, the ownership condition is met even if:<sup>34</sup>

- the Transferor indirectly holds at least 75% of ownership interests in the Transferee or
- the Transferee indirectly holds at least 75% of ownership interests in the Transferor, or
- a third Person indirectly holds at least 75% of ownership interests in the Transferor as well as the Transferee.

Where the ownership interest in the Transferor or Transferee is held indirectly through a non-wholly owned intermediary, the holding in the Transferor or Transferee should be counted proportionately i.e. in proportion to the holding in the intermediate non-wholly owned intermediary.

#### Example 4: Indirect holding through non-wholly owned intermediary



<sup>34</sup> Article 26(2)(b) of the Corporate Tax Law.



Company A holds a 75% ownership interest in Company B and Company B holds a 75% ownership interest in Company C. Accordingly, Company A's indirect holding in Company C is 56.25% (75% of 75%). All three companies are incorporated and resident in the UAE.

Assuming that all the other conditions are met, Company B is in a Qualifying Group with Company A. Company B is also in another Qualifying Group with Company C. However, Company A and Company C are not part of the same Qualifying Group since the 75% ownership condition is not met.

As shown by this example, it is possible that a Taxable Person can be simultaneously a member of multiple Qualifying Groups.

Where the ownership interest is held indirectly through one or more intermediaries, it is not necessary that the intermediary is also a member of the Qualifying Group. For example, if the Transferor indirectly holds 75% ownership interest in the Transferee through an Exempt Person or a Qualifying Free Zone Person, the ownership condition for Qualifying Group Relief is still satisfied.

#### **Example 5: Indirect holding through a foreign company**

Company A holds 90% of the shares of Company B and Company B in turn holds 90% of the shares of Company C. Company A and Company C are incorporated and resident in the UAE. Company B is incorporated and managed outside the UAE and does not have a Permanent Establishment in the UAE. Therefore, Company B is not a Taxable Person under the Corporate Tax Law.

Company A and Company C can be members of a Qualifying Group since Company A indirectly holds 81% shares of Company C (90% of 90%). However, Company B cannot be a member of this Qualifying Group since it is not a Taxable Person under the Corporate Tax Law.

#### **4.3.5. Ownership by a common third Person in Transferor and Transferee**

The ownership condition is met where a third Person (i.e. a common shareholder) holds a direct or indirect ownership interest of at least 75% in the Transferor as well as the Transferee.<sup>35</sup> The term "third Person" means that the common shareholder is not required to be a Taxable Person. In other words, where a Person is not a Taxable Person (for example, a natural person or a foreign company that is not a Taxable Person under Article 11 of the Corporate Tax Law) and holds a direct or indirect

<sup>35</sup> Article 26(2)(b) of the Corporate Tax Law.



ownership interest of at least 75% in the Transferor and the Transferee, the Transferor and Transferee are members of a Qualifying Group. Because the third Person is not a Taxable Person, it is not itself a member of a Qualifying Group.

If a common shareholder has a Permanent Establishment in the UAE, it would be a Taxable Person (as a Non-Resident Person) and it would be a member of the Qualifying Group and transfers to or from that Permanent Establishment could be eligible for Qualifying Group Relief.<sup>36</sup> However, where the common shareholder does not have a Permanent Establishment in the UAE, but is a Taxable Person (as a Non-Resident Person) as a result of earning State Sourced Income or a nexus in the UAE as specified in Cabinet Decision No. 56 of 2023,<sup>37</sup> it cannot be a member of a Qualifying Group even though it is a Taxable Person under the Corporate Tax Law.<sup>38</sup>

#### **Example 6: Foreign company holding shares in Transferor and Transferee**

Company F is a company incorporated and managed outside the UAE and does not have a Permanent Establishment in the UAE. Company F holds 100% of the shares of Company M and Company N (both are companies incorporated and resident in the UAE).

Based on this, Company M and Company N can be members of a Qualifying Group as there is a common shareholder that holds at least 75% of the shares in both entities. This would also be the case if Company F held the shares in Company M or Company N indirectly through another company. However, Company F cannot be a member of the Qualifying Group since it is neither a Resident Person nor a Non-Resident Person with a Permanent Establishment in the UAE.

#### **4.3.6. Aggregation of ownership by Tax Group**

For the ownership condition, the direct and indirect ownership interests held by members of the same Tax Group shall be determined by aggregating the ownership interests of the Parent Company and each Subsidiary that is a member of the Tax Group.<sup>39</sup>

<sup>36</sup> Article 26(2)(a) of the Corporate Tax Law.

<sup>37</sup> Article 11(4) of the Corporate Tax Law.

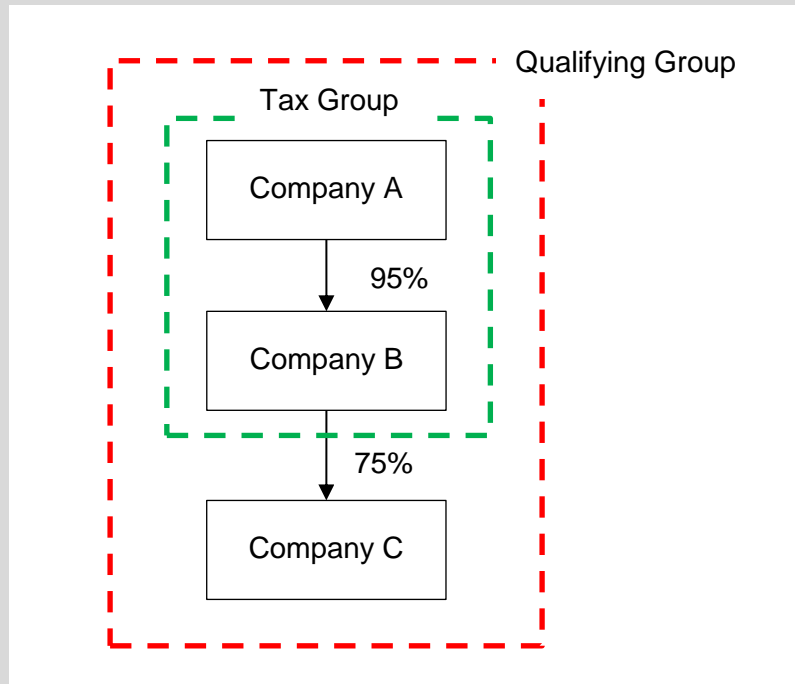
<sup>38</sup> Article 26(2)(a) of the Corporate Tax Law.

<sup>39</sup> Article 9 of Ministerial Decision No. 125 of 2023.





### Example 7: Holding by a Tax Group



Company A holds 95% of the shares of Company B. Company A and Company B are members of a Tax Group under Article 40 of the Corporate Tax Law (as distinct from a Qualifying Group under Article 26 of the Corporate Tax Law). Company B holds 75% of the shares of Company C. Company A, Company B and Company C are incorporated and resident in the UAE.

Company A indirectly holds 71.25% of the shares in Company C (i.e. 95% of 75%). Hence on a standalone basis, Company A and Company C are not members of a Qualifying Group.

However, because Company A and Company B are members of a Tax Group, the ownership condition under Article 26(2)(b) of the Corporate Tax Law is to be determined on an aggregate basis for the Tax Group.<sup>40</sup> On an aggregate basis, Company C and the Tax Group formed by Company A and Company B are members of the same Qualifying Group. Thus, a transfer from Company A to Company C, for instance, could potentially benefit from Qualifying Group Relief.

#### 4.4. Exempt Person condition and Qualifying Free Zone Person condition

Qualifying Group Relief is intended to be applicable to Taxable Persons which are subject to Corporate Tax in a similar manner. In line with this principle, an Exempt Person according to Article 4 of the Corporate Tax Law or a Qualifying Free Zone

<sup>40</sup> Article 9 of Ministerial Decision No. 125 of 2023.



Person according to Article 18 of the Corporate Tax Law cannot be a member of a Qualifying Group.<sup>41</sup>

By contrast, a Taxable Person that is a Free Zone Person but not a Qualifying Free Zone Person can be a member of a Qualifying Group. In other words, the mere fact that a Taxable Person is incorporated or established in a Free Zone does not prevent it from being a member in a Qualifying Group.

Where a member of a Qualifying Group becomes an Exempt Person or a Qualifying Free Zone Person in a subsequent Tax Period, that Person will cease to be a member of the Qualifying Group from the date on which the condition is no longer met. If a Taxable Person becomes an Exempt Person or Qualifying Free Zone Person retroactively from the start of a Tax Period, they would cease to be a member of the Qualifying Group as of the start of that Tax Period.

Where a Resident Person elects for Small Business Relief, it is not entitled to apply the provisions of Article 26 of the Corporate Tax Law.<sup>42</sup>

#### **4.5. Financial Year condition**

A Qualifying Group requires the Financial Year of all members to end on the same date.<sup>43</sup> Consequently, all members of the Qualifying Group should have a Tax Period that ends on the same date.

Under the Corporate Tax Law, the Financial Year is defined as either the Gregorian calendar year (beginning on 1 January and ending on 31 December) or a 12-month period for which Financial Statements are prepared.<sup>44</sup>

If a Taxable Person meets all the conditions to be a member of a Qualifying Group except for the Financial Year condition, that Person may choose to change its Financial Year to align the end date of its Financial Year with other members of the Qualifying Group by making an application to the FTA, subject to the following conditions:<sup>45</sup>

- the Taxable Person has not yet filed the Tax Return for the Tax Period it is applying to change,<sup>46</sup>

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<sup>41</sup> Article 26(2)(c) and (d) of the Corporate Tax Law.

<sup>42</sup> Article 21(2)(b) of the Corporate Tax Law.

<sup>43</sup> Article 26(2)(e) of the Corporate Tax Law.

<sup>44</sup> Article 57(2) of the Corporate Tax Law.

<sup>45</sup> Article 58 of the Corporate Tax Law and Article 2(1)(b) of FTA Decision No. 5 of 2023.

<sup>46</sup> Article 2(2) of FTA Decision No. 5 of 2023.



- the Tax Period is not extended to last more than 18 months or not reduced to last less than 6 months,<sup>47</sup>
- where the Taxable Person filed an application to shorten a Tax Period, the application is not in respect of a prior or current Tax Period,<sup>48</sup>
- the application is made before the lapse of 6 months from the end of the original Tax Period.<sup>49</sup>

Further, the Financial Year condition requires that the Financial Year of all members of the Qualifying Group must end on the same date.<sup>50</sup> This does not necessarily require all members of a Qualifying Group to have the same Financial Year or Tax Period. For example, if a Taxable Person has a longer or shorter Financial Year as compared to other members of the Qualifying Group, the Financial Year condition is met so long as the longer or shorter Financial Year ends on the same date as other members.

#### 4.6. Accounting Standards condition

All members of a Qualifying Group must prepare their Financial Statements using the same Accounting Standards.<sup>51</sup> For the purposes of the UAE Corporate Tax Law, a Taxable Person is required to prepare Financial Statements based on IFRS.<sup>52</sup> Where the Revenue of the Taxable Person does not exceed AED 50 million, they may choose to apply IFRS for SMEs instead.<sup>53</sup> The condition would not be met if one Taxable Person uses IFRS and another Taxable Person uses IFRS for SMEs.

It is possible that a Taxable Person meets all the conditions to be a member of a Qualifying Group except the Accounting Standards condition because it prepares its Financial Statements under IFRS for SMEs whereas other members apply (full) IFRS. In such a case, the Taxable Person may choose to prepare its Financial Statements under (full) IFRS to align with other members of the Qualifying Group. This does not require any application to be made to the FTA.

Further, the Accounting Standards condition is not a requirement to follow the same accounting policies in the standalone Financial Statements. Thus, even if all members of the Qualifying Group use the same Accounting Standards, each member may follow different accounting policies, if those policies are permitted under the relevant Accounting Standards.

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<sup>47</sup> Article 2(3) of FTA Decision No. 5 of 2023.

<sup>48</sup> Article 2(5) of FTA Decision No. 5 of 2023.

<sup>49</sup> Article 2(4) of FTA Decision No. 5 of 2023.

<sup>50</sup> Article 26(2)(e) of the Corporate Tax Law.

<sup>51</sup> Article 26(2)(f) of the Corporate Tax Law.

<sup>52</sup> Article 4(1) of Ministerial Decision No. 114 of 2023.

<sup>53</sup> Article 4(2) of Ministerial Decision No. 114 of 2023.



## 5. Consequences of election for Qualifying Group Relief

### 5.1. Transfer of assets and liabilities at net book value

Where an asset or liability is transferred on a no gain or loss basis under Article 26(1) of the Corporate Tax Law, the asset or liability will be treated as transferred at its net book value at the date when the transfer transaction takes place.<sup>54</sup> Accordingly, at the level of the Transferor, there would be no taxable gain or loss on transfer of the asset or liability.

#### Example 8: Transfer at net book value

Company C and Company D are both manufacturing Businesses wholly owned by Company X. Company C and Company D are incorporated and resident in the UAE and meet all other conditions to be considered as members of a Qualifying Group. They have not elected to form a Tax Group under Article 40 of the Corporate Tax Law.

Company C transfers machinery to Company D to allow Company D to fulfil customer orders. Company C did not request payment and Company D did not pay for the machinery. At the time of the transfer, the net book value of the machinery was AED 800,000 and its Market Value was AED 1,200,000. Company D uses the fair value method of accounting and as a result, recognised the asset at a net book value of AED 1,200,000 for accounting purposes.

For Corporate Tax purposes, the machinery can be treated as having been transferred at the asset's net book value, AED 800,000. This means that when calculating their Taxable Income, Company C will be treated as having received AED 800,000 and Company D will be treated as having paid AED 800,000 for the machinery. As a result, no gain or loss will arise for Company C for Corporate Tax purposes and, thus, any loss arising in the accounts of Company C for accounting purposes must be disregarded in the determination of Company C's Taxable Income.

Company C position	Amounts in AED
Amount deemed to have been received for Corporate Tax purposes	800,000
Less: Net book value of the machine	(800,000)
Gain/loss arising for Corporate Tax purposes on the transfer of the machine	0

<sup>54</sup> Article 26(3)(a) of the Corporate Tax Law.



## 5.2. Determining the net book value of an asset or liability

The net book value of an asset or liability is generally the cost of the asset or liability after deducting any accumulated depreciation and amortisation and any other value adjustments that have been processed in the Financial Statements.

Thus, if the Financial Statements of the Transferor recognise depreciation or amortisation up to the date of a transfer which occurred during a Tax Period, the depreciation or amortisation will reduce the net book value of the assets and liabilities transferred by the Transferor. As a result, the depreciation and amortisation can reduce the Taxable Income of the Transferor for the period up to the transfer of the asset or liability, even if the transfer itself does not trigger a gain or loss.

### Example 9: Calculation of net book value

Company A is a manufacturing company incorporated and resident in the UAE. The Company acquired an asset (a piece of machinery) on 1 January 2024 for a cost of AED 100,000 with a useful life of 10 years (depreciated on a straight-line basis with no residual value). Company A uses the Gregorian calendar year as its Financial Year and Tax Period.

On 1 July 2026, Company A transfers the asset on a no gain or loss basis within a Qualifying Group.

As of 31 December 2025, the accumulated depreciation is AED 20,000. In this case, the Financial Statements of Company A for 2026 include a pro-rata depreciation charge of AED 5,000.

As a result, the net book value as of 1 July 2026, would be AED 75,000 (AED 100,000 – AED 25,000).

Where an asset or liability is transferred on a no gain or loss basis under Article 26(1) of the Corporate Tax Law, the Transferor shall treat the consideration received as being equal to the net book value.<sup>55</sup> To the extent consideration paid differs from the net book value of the asset or liability, the difference is ignored for the calculation of both the Transferor's and Transferee's Taxable Income.

<sup>55</sup> Article 26(3)(b) of the Corporate Tax Law.



### 5.3. Adjustments to Taxable Income of the Transferee

In cases other than realisation, the Transferee shall adjust its Taxable Income to exclude depreciation, amortisation or other change in the value of the transferred assets and liabilities to the extent that it relates to the gain or loss that arose to the Transferor and was not recognised for Corporate Tax purposes as a result of the no gain or loss treatment being applied.<sup>56</sup>

Upon realisation of the assets and liabilities, the Transferee will need to include any amount that has not been recognised for Corporate Tax purposes under application of Article 26(1) of the Corporate Tax Law. This will not apply to an amount that arose prior to the most recent acquisition where Article 26(1) of the Corporate Tax Law did not apply.<sup>57</sup> For these purposes, realisation includes the sale, disposal, transfer, settlement and complete worthlessness of any asset and the settlement, assignment, transfer and forgiveness of any liability, but does not include the no gain or loss transfers under Articles 26 or 27 of the Corporate Tax Law.<sup>58</sup>

#### Example 10: Adjustments to the Taxable Income of the Transferee

Company A and Company B are members of a Qualifying Group and follow the Gregorian calendar year as their Tax Period. Company A owns a building with a net book value of AED 10 million. On 31 December 2024, Company A transfers the building to Company B at Market Value of AED 12 million. However, for Corporate Tax purposes, Company A has made an election to apply the Qualifying Group Relief. Accordingly, Company A is treated as transferring the building at AED 10 million for Corporate Tax purposes and so will not include the gain of AED 2 million (i.e. 12 million – 10 million) in its Taxable Income for the Tax Period ending 31 December 2024.

In the Financial Statements of Company B, the asset is recorded as follows:

Tax Period	Opening net book value (in AED)	Depreciation (using straight line method over 10 years, in AED)	Closing net book value (after depreciation, in AED)
2025	12 million	1.2 million	10.8 million
2026	10.8 million	1.2 million	9.6 million
2027	9.6 million	1.2 million	8.4 million

<sup>56</sup> Article 4(1) of Ministerial Decision No. 134 of 2023.

<sup>57</sup> Article 4(2) of Ministerial Decision No. 134 of 2023.

<sup>58</sup> Article 9(2)(a) of Ministerial Decision No. 134 of 2023.



Since the transfer is on a no gain or loss basis for Corporate Tax purposes, Company B is deemed to acquire the asset at its net book value. Accordingly, Company B must exclude any depreciation on the asset to the extent it relates to the gain that arose to Company A but was not taxed due to the application of Qualifying Group Relief.<sup>59</sup>

Thus, for Corporate Tax purposes, the tax treatment of depreciation recorded in the Financial Statements of Company B shall be as follows:

Tax Period	Depreciation as per Financial Statements	Depreciation not deductible for Corporate Tax purposes	Depreciation allowed for Corporate Tax purposes
2025	1.2 million	1.2 million	NIL
2026	1.2 million	0.8 million	0.4 million
2027	1.2 million	NIL	1.2 million

Assuming that in the 2027 Tax Period, Company B sells the building to a third party (not a member of the Qualifying Group). For the purposes of calculating its Taxable Income, Company B will include for its 2027 Tax Period, the gain of AED 2 million that arose to Company A on the transfer to Company B that has not been recognised previously for Corporate Tax purposes. During its 2027 Tax period, it will also be entitled to a deduction for the depreciation adjustments of AED 1.2 million previously made in the Tax Period ending 31 December 2025 and AED 0.8 million made in the Tax Period ending 31 December 2026.<sup>60</sup>

In case there have been several transfers on a no gain or loss basis, all the gains and losses in relation to those transfers would need to be included upon realisation, unless these amounts had already been adjusted or included in the Taxable Income as a result of a clawback.<sup>61</sup> In addition, if depreciation, amortisation or other change in the value of the transferred assets and liabilities was previously excluded from the Taxable Income of the Transferee, such depreciation, amortisation or other change in the value is included in the Taxable Income upon realisation (as illustrated in Section 5.4).<sup>62</sup>

If a clawback under Article 26(4) of the Corporate Tax Law is triggered in relation to a no gain or loss transfer, this is treated as a realisation of the asset or liability and the resulting gain or loss should be included in the Taxable Income of the Transferor of the transaction for which the clawback was triggered in the Tax Period when the event

<sup>59</sup> Article 4(1) of Ministerial Decision No. 134 of 2023.

<sup>60</sup> Article 4(2) of Ministerial Decision No. 134 of 2023.

<sup>61</sup> Article 26(4) of the Corporate Tax Law.

<sup>62</sup> Article 4(2) of Ministerial Decision No. 134 of 2023.



or circumstance giving rise to the clawback occurs.<sup>63</sup> See Section 6 for consequences on clawback of Qualifying Group Relief.

#### 5.4. Effect of several transfers on net book value

If there has been a previous transfer on a no gain or loss basis under Article 26(1) of the Corporate Tax Law, it is possible that a disposal will trigger a gain or loss that was previously not taken into account. In such cases, the income on disposal should be adjusted for that amount.<sup>64</sup>

##### Example 11: Effect of several transfers on a no gain or loss basis

Company A, Company B and Company C are companies incorporated and resident in the UAE and who all use the Gregorian calendar year (i.e. year ending 31 December) as their Financial Year and Tax Period. Company A holds 100% of the shares in Company B and Company B holds 100% of the shares in Company C.

Company A holds an asset that is transferred multiple times in accordance with the following table:

Date of transfer	Transferor	Transferee	Net book value on date of transfer (after depreciation)	Market Value on date of transfer
1 January 2025	Company A	Company B	AED 10 million	AED 12 million
1 January 2026	Company B	Company C	AED 10.8 million (AED 12 million – AED 1.2 million)	AED 14 million
1 January 2029	Company C	Third party	AED 9.8 million (AED 14 million – AED 4.2 million)	AED 16 million

<sup>63</sup> Article 5(1) of Ministerial Decision No. 132 of 2023.

<sup>64</sup> Article 4(2) of Ministerial Decision No. 134 of 2023.





Company A and Company B have elected to apply the no gain or loss treatment in respect of transfers made by them (i.e. as Transferors) within a Qualifying Group. In their Financial Statements, Company B and Company C each depreciate the asset over 10 years on a straight-line basis, starting from the date each of the entities acquired the asset.

Tax Period	Impact in hands of Transferor	Impact in hands of Transferee
2025	Company A will be considered to have transferred the asset at net book value meaning that the gain of AED 2 million will not be included in Taxable Income of Company A. <sup>65</sup>	Company B will exclude the AED 1.2 million of depreciation, as it relates to the AED 2 million gain that was not taken into account on the transfer. <sup>66</sup>
2026	Company A will not include the gain of AED 2 million that was not previously taken into account, because the subsequent transfer within the Qualifying Group is not treated as a realisation. <sup>67</sup>  The net book value of the asset at that date (1 January 2026) is AED 10.8 million, meaning AED 3.2 million of gain will not be taken into account either by Company B upon the transfer to Company C.	Company C will exclude AED 1.4 million of depreciation, as it relates to the AED 4 million gain (AED 0.8 million of remaining gain in relation to the transfer in 2025 and AED 3.2 million of gain in relation to the transfer in 2026) that was not taken into account on the transfers. <sup>68</sup>
2027	N/A	Company C will exclude AED 1.4 million of depreciation, as it relates to the AED 2.6 million of remaining gain that was not taken into account on the transfers. <sup>69</sup>
2028	N/A	Company C will exclude AED 1.2 million of depreciation, as it relates to the AED 1.2

<sup>65</sup> Article 26(3)(a) of the Corporate Tax Law.

<sup>66</sup> Article 4(1) of Ministerial Decision No. 134 of 2023.

<sup>67</sup> Articles 4(2) and 9(1)(a) of Ministerial Decision No. 134 of 2023.

<sup>68</sup> Article 4(1) of Ministerial Decision No. 134 of 2023.

<sup>69</sup> Article 4(1) of Ministerial Decision No. 134 of 2023.



		million of remaining gain that was not taken into account on the transfers. <sup>70</sup>										
2029	<p>The transfer of the asset outside the Qualifying Group on 1 January 2029 does not trigger a clawback on the no gain or loss transfers as this is not within two years of either of the Qualifying Group transfers.<sup>71</sup></p> <p>However, this is a realisation event, meaning that any gain or loss not previously taken into account is included in Company C's Taxable Income for 2029.<sup>72</sup> The amount to be included in Taxable Income upon transfer shall be calculated as follows:</p> <table border="1"> <thead> <tr> <th>Description</th> <th>Amount in AED</th> </tr> </thead> <tbody> <tr> <td>A. Disposal proceeds relating to asset</td> <td>16 million</td> </tr> <tr> <td>B. Net book value of asset (in Financial Statements)</td> <td>9.8 million</td> </tr> <tr> <td>C. Accounting Income on transfer of asset (A – B)</td> <td>6.2 million</td> </tr> <tr> <td>D. Gain not previously taken into account<sup>73</sup> [AED 2 million for the transfer on 1 January 2025 and AED 3.2 million for</td> <td>5.2 million</td> </tr> </tbody> </table>	Description	Amount in AED	A. Disposal proceeds relating to asset	16 million	B. Net book value of asset (in Financial Statements)	9.8 million	C. Accounting Income on transfer of asset (A – B)	6.2 million	D. Gain not previously taken into account <sup>73</sup> [AED 2 million for the transfer on 1 January 2025 and AED 3.2 million for	5.2 million	Third party will recognise the asset at Market Value as on the date of transfer (which is AED 16 million).
Description	Amount in AED											
A. Disposal proceeds relating to asset	16 million											
B. Net book value of asset (in Financial Statements)	9.8 million											
C. Accounting Income on transfer of asset (A – B)	6.2 million											
D. Gain not previously taken into account <sup>73</sup> [AED 2 million for the transfer on 1 January 2025 and AED 3.2 million for	5.2 million											

<sup>70</sup> Article 4(1) of Ministerial Decision No. 134 of 2023.

<sup>71</sup> Article 26(4)(a) of the Corporate Tax Law.

<sup>72</sup> Article 4(2) of Ministerial Decision No. 134 of 2023.

<sup>73</sup> Article 4(2) of Ministerial Decision No. 134 of 2023.



	the transfer on 1 January 2026]		
	E. Depreciation deduction <sup>74</sup> (AED 1.2 million for Company B in 2025 and AED 4 million for Company C in 2026, 2027 and 2028)	(5.2 million)	
	F. Included in Taxable Income of Company C upon transfer (C + D + E)	6.2 million	

### 5.5. Exchange of assets or liabilities

In case the consideration paid by the Transferee for the transfer of an asset or liability within a Qualifying Group is in the form of another asset or liability held on capital account, the transaction would be treated as two separate transfer transactions for the purposes of Article 26 of the Corporate Tax Law, and thus the Qualifying Group Relief would apply separately to each transfer, provided the relevant conditions are met.<sup>75</sup> In such a case, the no gain or loss transfer would apply to both transfers if at least one of the Taxable Persons involved in the transfer transaction has elected for the application of the relief.<sup>76</sup>

In other words, in the case of an exchange of assets or liabilities between a Taxable Person who has elected to apply Article 26 of the Corporate Tax Law and another Taxable Person who has not, the no gain or loss treatment would apply to both transfers, if the relevant conditions are met.

However, if an asset or liability held on capital account is transferred in exchange for an asset or liability which is not held on capital account, the no gain or loss treatment shall only be available to the transfer of the capital asset or liability if the Transferor of the asset or liability held on capital account has elected to apply Article 26 of the Corporate Tax Law and the no gain or loss treatment will not apply to the asset which is not held on capital account .

<sup>74</sup> Article 4(1) of Ministerial Decision No. 134 of 2023.

<sup>75</sup> Article 4(1) of Ministerial Decision No. 132 of 2023.

<sup>76</sup> Article 4(2) of Ministerial Decision No. 132 of 2023.



In case of an exchange of assets or liabilities to which Article 26 of the Corporate Tax Law applies, a difference between the net book value of such assets or liabilities is ignored when calculating Taxable Income.

### Example 12: Exchange of assets

Company C and Company D are members of a Qualifying Group. Company C transfers an item of equipment (held on capital account) to Company D in June 2024. In exchange, Company D transfers a patent for a manufacturing process (held on capital account), pays an amount in cash and records the balance as an amount payable to Company C (thus a receivable from Company C's perspective). In December 2025, Company D sells the equipment to Company E who is not a member of the Qualifying Group. Only Company D has elected for Qualifying Group Relief.

Several assets are transferred between Company C and Company D, as follows:

- The transfer of equipment, being an asset held on capital account, from Company C to Company D is treated at no gain or loss under Article 26 of the Corporate Tax Law, as Company D has elected for Qualifying Group Relief. However, as the asset is sold or subsequently transferred outside the Qualifying Group within 2 years from the date of transfer, the Qualifying Group Relief will be clawed back under Article 26(4)(a) of the Corporate Tax Law.
- The cash payment from Company D to Company C is not the transfer of an asset held on capital account and so is outside the scope of Qualifying Group Relief.
- The amount booked as a group receivable is not a transfer, as it creates a new asset as a result of the transfer. Therefore, like the cash payment, it will be outside the scope of Qualifying Group Relief.
- The transfer of the patent from Company D to Company C is the transfer of an asset held on capital account, and is treated as a no gain or loss transfer under Qualifying Group Relief. The clawback of Qualifying Group Relief on the subsequent transfer of the equipment does not impact the relief claimed on the transfer of the patent.

As the consideration paid by Company D consisted partially of an asset held on capital account, the transaction is treated as an exchange of assets within scope of Article 4 of Ministerial Decision No. 132 of 2023. As Company D has elected to apply Qualifying Group Relief, the no gain or loss treatment should be available on the transfer of assets held on capital account. In this case, this applies to the transfer of the equipment and the patent, provided the other conditions are met.<sup>77</sup>

<sup>77</sup> Article 4(2) of Ministerial Decision No. 132 of 2023.



However, the no gain or loss treatment for the equipment was subsequently clawed back. The Qualifying Group Relief should not be available on the parts that are not a transfer of assets held on capital account, such as the cash payment and the creation of the group receivable.

## 5.6. Transfer of losses

Qualifying Group Relief does not permit Tax Losses to be transferred to the Transferee. In relation to the transfer of Tax Losses, the provisions of Article 38 of the Corporate Tax Law would apply.

## 5.7. Consequences of not meeting the requirements or not electing for Qualifying Group Relief

Article 26(1) of the Corporate Tax Law does not apply to all transfers of assets or liabilities between two Taxable Persons. If the conditions for a no gain or loss transfer are not met or if the Transferor has not elected for application of Article 26 of the Corporate Tax Law, the transaction would be outside of the scope of Qualifying Group Relief. If such a transfer is between Related Parties, which will typically be the case where a Qualifying Group could be formed, the transfer is a transaction that should meet the arm's length standard.<sup>78</sup> This means the gain or loss resulting from the transfer should be determined based on the Market Value of the asset or liability being transferred.

If a transfer of assets or liabilities is not between Related Parties, the gain or loss on such a transfer should be determined based on the standalone Financial Statements prepared by the Taxable Persons in accordance with the applicable Accounting Standards.<sup>79</sup>

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<sup>78</sup> Article 34 of the Corporate Tax Law.

<sup>79</sup> Article 20 of the Corporate Tax Law.



## 6. Clawback of the Qualifying Group Relief

Qualifying Group Relief does not apply where, within two years from the date of transfer, any of the following occurs:

- there is a subsequent transfer of the asset or liability outside of the Qualifying Group,<sup>80</sup> or
- the Transferor or Transferee cease to be members of the same Qualifying Group.<sup>81</sup>

Where any of the above circumstances occur, any gain or loss on transfer of an asset or liability not previously taken into account shall be taken into account for the purposes of calculating the Taxable Income of the Transferor and included in the Tax Return of the Transferor (or the Transferee, where the Transferor has ceased to be a Taxable Person)<sup>82</sup> for the Tax Period in which the above circumstances occur.<sup>83</sup>

These circumstances are discussed in more detail in Section 6.1. The consequences of the clawback are discussed in detail in Section 6.2.

### 6.1. Circumstances where relief is clawed back

#### 6.1.1. Subsequent transfer of the asset or liability outside the Qualifying Group

For the purposes of considering whether there has been a transfer outside of the Qualifying Group, the relevant Qualifying Group is the one in respect of which the Transferor and the Transferee are both members. The determination of whether the subsequent transfer is within the same Qualifying Group, must be considered at the time of the subsequent transfer.

The Qualifying Group Relief will be clawed back if, within two years of the transfer, there is a subsequent transfer of the asset or liability outside of the Qualifying Group.<sup>84</sup> The reason for subsequent transfer outside of the Qualifying Group is not relevant. For example, the clawback can be triggered even if the Transferee ceases to exist upon liquidation or on merger and the relevant asset or liability is transferred outside of the Qualifying Group as a distribution of liquidation proceeds or as consideration for a merger transaction.

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<sup>80</sup> Article 26(4)(a) of the Corporate Tax Law.

<sup>81</sup> Article 26(4)(b) of the Corporate Tax Law.

<sup>82</sup> Article 5(2) of Ministerial Decision No. 132 of 2023.

<sup>83</sup> Article 5(1) of Ministerial Decision No. 132 of 2023.

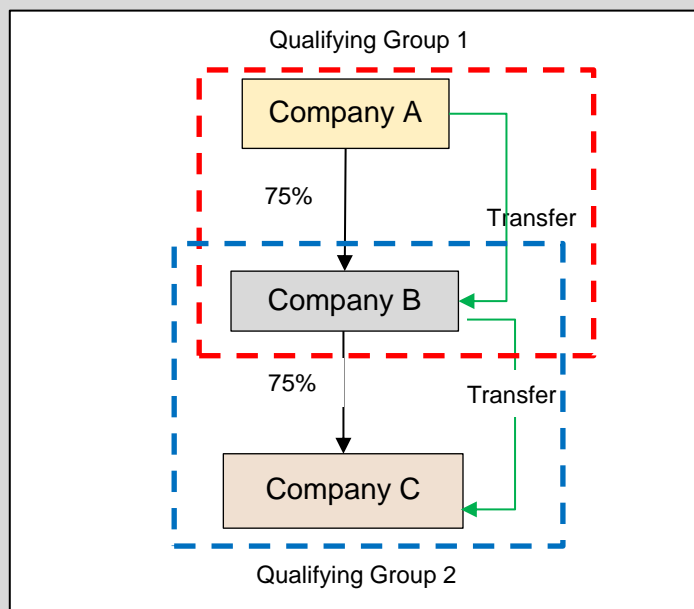
<sup>84</sup> Article 26(4)(a) of the Corporate Tax Law.



The clawback is not triggered if the subsequent transfer of the asset or liability is within the Qualifying Group. The reference to “the Qualifying Group” is to the Qualifying Group to which both the original Transferor and original Transferee belong. In other words, the condition under Article 26(4)(a) of the Corporate Tax Law will not be met if the original Transferor, original Transferee and the new Transferee are all members of the same Qualifying Group at the time of the second transfer (or any subsequent transfer).

The clawback is not triggered if the new Transferee was not a member of this Qualifying Group at the time of original transfer provided it is a member of the Qualifying Group when the asset or liability is transferred to it.

### Example 13: Transfer outside the Qualifying Group



Company A holds a 75% ownership interest in Company B and Company B holds a 75% ownership interest in Company C. The other conditions for a Qualifying Group are met such that Company B is in a Qualifying Group with Company A. Company B is also in another Qualifying Group with Company C. However, Company A and Company C are not in the same Qualifying Group since Company A’s indirect holding in Company C is 56.25% (75% of 75%) which means the 75% ownership condition is not met.

In January 2025, Company A transfers an asset to Company B on a no gain or loss basis. In March 2026, Company B transfers the same asset to Company C on a no gain or loss basis. Company A, Company B, Company C follow the Gregorian calendar year as their Tax Period.



Even though Company B and Company C are members of a Qualifying Group, the subsequent transfer of the asset to Company C in March 2026 will trigger a clawback of the no gain or loss tax treatment of the first transfer. This is because the subsequent transfer of the asset is outside the original Qualifying Group in which Company A and Company B (the original Transferor and original Transferee) are members.

### 6.1.2. Transferor or Transferee cease to be members of Qualifying Group

The Qualifying Group Relief is clawed back if, within two years of the transfer, the Transferor or Transferee cease to be members of the same Qualifying Group.<sup>85</sup>

Some examples where the Transferor and Transferee cease to be members of a Qualifying Group are:

- a change in the ownership of the Transferor or Transferee which results in failure of the ownership condition discussed in Section 4.3.
- the transferor or Transferee cease to be a Taxable Person, for example:
  - the Transferor or Transferee was a Non-Resident Person having a Permanent Establishment in the UAE, but the Permanent Establishment ceases to exist,
  - the Transferor or Transferee was a Resident Person but then ceases to be a Taxable Person (for instance, if a company incorporated outside the UAE stops being controlled and managed in the UAE without having a Permanent Establishment in the UAE), or
  - the Transferor or the Transferee ceases to exist.
- the Transferor or Transferee becomes an Exempt Person in a subsequent Tax Period or becomes a Qualifying Free Zone Person for a Tax Period and does not elect out of the Free Zone regime under Article 19 of the Corporate Tax Law.
- the Transferor or Transferee changes their Financial Year such that the end date no longer aligns with the other member(s) of the Qualifying Group.

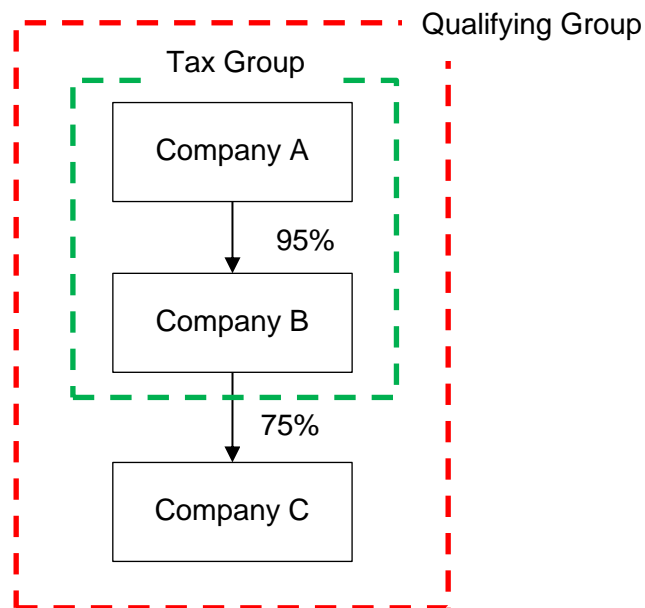
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<sup>85</sup> Article 26(4)(b) of the Corporate Tax Law.





### Example 14: Trigger of clawback where a Tax Group ceases to exist



Company A holds 95% of the shares of Company B. Company A and Company B are members of a Tax Group under Article 40 of the Corporate Tax Law (as distinct from a Qualifying Group under Article 26 of the Corporate Tax Law). Company B holds 75% of the shares of Company C. Company A transfers an asset to Company C. Company A, Company B and Company C are incorporated and resident in the UAE.

Company A indirectly holds 71.25% of the shares in Company C (i.e. 95% of 75%). Hence, on a standalone basis, Company A and Company C are not members of a Qualifying Group.

However, because Company A and Company B are members of a Tax Group, the ownership condition under Article 26(2)(b) of the Corporate Tax Law is determined on an aggregate basis for the Tax Group.<sup>86</sup> On an aggregate basis, Company C and the Tax Group formed by Company A and Company B are members of the same Qualifying Group. Hence, the transfer of the asset by Company A to Company C is covered by Qualifying Group Relief.

However, if the Tax Group between Company A and Company B ceases to exist within 2 years from the date of transfer, the no gain or loss tax treatment will be clawed back under Article 26(4)(b) of the Corporate Tax Law because of the Transferor and Transferee ceasing to be members of the Qualifying Group.

<sup>86</sup> Article 9 of Ministerial Decision No. 125 of 2023.



Not all changes to the Qualifying Group would trigger a clawback, only changes that result in the Transferor and Transferee no longer being members of the Qualifying Group. For example, the clawback may not be triggered if the Transferor and Transferee continue to remain members of the same Qualifying Group in the following circumstances:

- more members join the Qualifying Group without impacting the ownership of the Transferor and Transferee, or
- the Transferor and Transferee are acquired by a third Person at the same time without affecting the ownership requirement, or
- other members of the Qualifying Group (other than Transferor and Transferee) are sold or liquidated.

**Example 15: Change in ownership structure that does not trigger change in Qualifying Group**

Company M holds 100% of the shares of Company N. Both companies are incorporated and resident in the UAE. Company M and Company N are members of a Qualifying Group and follow the Gregorian calendar year (i.e. year ending on 31 December) as their Tax Period. The companies have not elected to form a Tax Group under Article 40 of the Corporate Tax Law. In the Tax Period 2024, the following events take place:

Date	Description
31 March 2024	Company M transfers an asset to Company N on a no gain or loss basis.
1 June 2024	Company M incorporates a new wholly owned subsidiary outside the UAE (Company F). Company F is not a Taxable Person in the UAE.
1 December 2024	Company M transfers shares of Company N to Company F.

Even though Company F is not a member of the Qualifying Group (since it is not a Taxable Person), Company M and Company N continue to be members of the Qualifying Group since Company M indirectly holds 100% shares in Company N. Accordingly, a clawback is not triggered.

If, after a transfer benefiting from Qualifying Group Relief, the Transferee transfers the relevant asset or liability to another Taxable Person within the Qualifying Group without triggering a clawback under Article 26(4)(a) of the Corporate Tax Law, the clawback under Article 26(4)(b) of the Corporate Tax Law would be triggered if the original Transferor, the original Transferee and the new Transferee cease to be in a



Qualifying Group within two years from the date of the original transfer, as illustrated below.

### Example 16: Clawback triggered in case of a subsequent transfer

Company A holds 100% of the shares in Company B. Company B holds 75% of the shares in Company C. Company A, Company B, and Company C are all incorporated and resident in the UAE. All 3 companies are members of a Qualifying Group and follow the Gregorian calendar year as their Tax Period. In the Tax Periods 2025 and 2026, the following events take place:

Date	Description
1 January 2025	Company A transfers an asset to Company B on a no gain or loss basis.
31 December 2025	Company B transfers the same asset to Company C on a no gain or loss basis.
31 March 2026	Company A transfers 25% of the shares in Company B to a third party.

On the date of the subsequent transfer (31 December 2025), Company A, Company B and Company C are members of the same Qualifying Group. Therefore, this subsequent transfer from Company B to Company C does not trigger a clawback under Article 26(4) of the Corporate Tax Law.

On 31 March 2026, Company A and Company C cease to be members of the same Qualifying Group since Company A then indirectly holds 56.25% (75% of 75%) of the shares of Company C, which is less than 75%. As there is no transfer of asset on that date, the clawback under Article 26(4)(a) of the Corporate Tax Law does not apply.

The clawback under Article 26(4)(b) of the Corporate Tax Law is triggered if the Taxable Persons cease to be members of the same Qualifying Group. As both Company A and Company C are relevant Taxable Persons, the clawback would be triggered if they cease to be members of the same Qualifying Group. Although the original Transferor (Company A) and the original Transferee (Company B) of the transfer on 1 January 2025 continue to be in a Qualifying Group, Company A would no longer be in a Qualifying Group with Company C as of 31 March 2026. Therefore, the clawback is triggered.

## 6.2. Consequences of clawback of Qualifying Group Relief

### 6.2.1. Consequences in hands of the Transferor



Where a clawback is triggered, the transfer of the asset or liability which was previously deemed to be at no gain or loss shall be treated instead as having taken place at Market Value at the date of the original transfer.<sup>87</sup> The gain or loss on transfer of the asset or liability shall be included in the Taxable Income of the Transferor for the Tax Period in which the circumstance triggering clawback occurs.<sup>88</sup>

This means that the clawed back gain or loss arising will be equal to the Market Value of the asset or liability at the date of the original transfer less the net book value of the asset or liability also at that date. When determining the gain or loss:

- the Market Value of the asset or liability at the date of the original transfer is used even if that is different to the Market Value on the date when the clawback is triggered,
- where, within 2 years from the date of the original transfer, only a part of the asset or liability is subsequently transferred outside the Qualifying Group, the gain or loss is calculated for the proportion of the asset or liability subsequently transferred (not the whole asset or liability),<sup>89</sup>
- the net book value of the asset or liability as at the date of original transfer will be the same amount determined for the purpose of the no gain or loss transfer as per Article 26(3)(a) of the Corporate Tax Law (see Section 5.2).

#### **Example 17: Subsequent transfer of an asset**

Company C and Company D are both manufacturing Businesses wholly owned by Company X. Company C and Company D also meet all other conditions to be considered as members of a Qualifying Group. Company C and Company D follow the Gregorian calendar year as their Tax Period.

On 1 January 2025, Company C transferred an item of machinery to Company D. At the time of the transfer, the net book value of the machinery was AED 800,000 and its Market Value was AED 1,200,000. Company D recognised the asset at a net book value of AED 1,200,000 in its Financial Statements. Company C elects for transfer on a no gain or loss basis within a Qualifying Group.

For Corporate Tax purposes, the machinery is treated as transferred at its net book value of AED 800,000. As a result, no gain or loss will arise for Company C for Corporate Tax purposes. In the hands of Company D, the machinery is treated as acquired for AED 800,000 for Corporate Tax purposes.

<sup>87</sup> Article 26(5) of the Corporate Tax Law.

<sup>88</sup> Article 5(1) of Ministerial Decision No. 132 of 2023.

<sup>89</sup> Article 5(4) of Ministerial Decision No. 132 of 2023.



On 1 January 2026, Company D sold the machinery to a third party for AED 1,500,000. Accordingly, the no gain or loss treatment under Article 26(1) shall no longer apply because there is a subsequent transfer of the asset outside of the Qualifying Group within 2 years.

As a result, Company C (the original Transferor) shall treat the transfer from Company C to Company D on 1 January 2025 as having taken place at Market Value on 1 January 2025. Company C shall include a gain of AED 400,000 (AED 1,200,000 – AED 800,000) in its 2026 Tax Return, being the Tax Period in which Company D subsequently transferred the asset.

Because the gain on the original transfer is included in the Taxable Income of the Transferor (due to the clawback), the gain does not need to be taken into account by the Transferee.<sup>90</sup> Therefore, for the purposes of calculating the gain or loss on subsequent transfer that will be subject to Corporate Tax for Company D, the tax treatment would follow the accounting treatment. If Company D has not depreciated or made other adjustments to the net book value of the machinery, its taxable gain would be AED 300,000 (AED 1,500,000 – AED 1,200,000).

Generally, on clawback of the relief, the gain or loss on transfer of the asset or liability shall be included in the Taxable Income of the Transferor. However, that gain or loss shall be attributed to the Transferee if the Transferor has ceased to be a Taxable Person.<sup>91</sup> In such a scenario, the gain or loss on the original transfer of the asset or liability will be included in the Taxable Income of the Transferee for the Tax Period in which the circumstance triggering clawback occurs.<sup>92</sup>

The Transferor can cease to be a Taxable Person for various reasons, for example:

- The Transferor ceases to exist due to liquidation, dissolution or merger.
- The Transferor was a Non-Resident Person having a Permanent Establishment in the UAE at the time of the original transfer, but the Permanent Establishment ceases to exist subsequently.
- The Transferor becomes non-resident (without having a Permanent Establishment in the UAE).
- The Transferor becomes an Exempt Person in a subsequent Tax Period.

In some circumstances, the Transferor and Transferee can cease to be a Taxable Person on the same date. For example, this can be the case if they both become an Exempt Person at the start of a certain Tax Period. In such a case, the gain or loss on the original transfer of the asset or liability will be included in the Taxable Income of

<sup>90</sup> Article 4(2) of Ministerial Decision No. 134 of 2023.

<sup>91</sup> Article 5(2) of Ministerial Decision No. 132 of 2023.

<sup>92</sup> Article 5(3) of Ministerial Decision No. 132 of 2023.



the Transferor in line with the general rule. The Transferor shall include this gain or loss in its Taxable Income of its last Tax Period before it becomes an Exempt Person.

### 6.2.2. Consequences in hands of the Transferee

If a no gain or loss transfer within a Qualifying Group is clawed back, the Transferee will reverse any depreciation, amortisation or other change in the value of the assets and liabilities that has previously been adjusted by the Transferee.<sup>93</sup> The Transferee will make this adjustment by including previously disallowed depreciation, amortisation and other changes in the value of the assets and liabilities in the Tax Period when the clawback was triggered.

In addition, after the clawback has been triggered, the Transferee will no longer make the adjustments required under Article 4 of the Ministerial Decision No. 134 of 2023 (as explained further in section 5.3).<sup>94</sup> However, if the transfer was recorded in the Financial Statements at a value that differs from the Market Value, the Transferee will be required to make adjustments under Article 3 of Ministerial Decision No. 134 of 2023.<sup>95</sup>

#### **Example 18: Adjustments to the Taxable Income of the Transferee on clawback**

Company A and Company B are members of a Qualifying Group and follow the Gregorian calendar year as their Tax Period. Company A owns a building with a net book value of AED 10 million. On 1 January 2024, Company A transfers the building to Company B at Market Value of AED 12 million. For Corporate Tax purposes, Company A has made an election to apply Qualifying Group Relief.

Upon transfer, Company B records the asset at Market Value of AED 12 million in its Financial Statements. Company B depreciates the asset using a straight-line method over 10 years. The depreciation in the 2024 Tax Period is AED 1.2 million, resulting in a net book value of AED 10.8 million in the Financial Statements at 31 December 2024.

On 1 January 2025, Company B sells the asset to a third party at Market Value of AED 12.5 million.

<sup>93</sup> Article 5(5)(a) of Ministerial Decision No. 132 of 2023.

<sup>94</sup> Article 5(5)(b) of Ministerial Decision No. 132 of 2023.

<sup>95</sup> Article 3 of Ministerial Decision No. 134 of 2023.



Tax Period	Company A	Company B
2024	Company A will not include the gain of AED 2 million (i.e. 12 million – 10 million) in its Taxable Income.	When computing its Taxable Income Company B will add back the depreciation of AED 1.2 million. <sup>96</sup>
2025	<p>The subsequent sale of the asset by Company B is within 2 years of the date of original transfer, and so will trigger clawback of the Qualifying Group Relief.<sup>97</sup></p> <p>Company A shall treat the transfer to Company B on 1 January 2024 as having taken place at Market Value on 1 January 2024. Company A shall include a gain of AED 2 million (AED 12 million – AED 10 million) in its 2025 Tax Return, being the Tax Period in which Company B subsequently transferred the asset.</p>	<p>Because the gain on the original transfer is included in the Taxable Income of the Company A (due to the clawback), the gain does not need to be taken into account by the Transferee (Company B).</p> <p>Further, Company B can claim a deduction for the depreciation adjustment of AED 1.2 million previously made in the Tax Period ending 31 December 2024.<sup>98</sup></p>

<sup>96</sup> Article 4(1) of Ministerial Decision No. 134 of 2023.

<sup>97</sup> Article 26(4) of the Corporate Tax Law.

<sup>98</sup> Article 5(5)(a) of Ministerial Decision No. 132 of 2023 and Article 4(2) of Ministerial Decision No. 134 of 2023.



## 7. Compliance requirements

### 7.1. Election by Transferor

The no gain or loss treatment within the Qualifying Group is only available if the Transferor makes an election to apply the provisions of Article 26 of the Corporate Tax Law to a transfer that meets the conditions.<sup>99</sup> The election should be made in the Tax Return for the Tax Period in which the transfer, to which the Taxable Person wishes to apply Article 26 for the first time, takes place.<sup>100</sup> In other words, the election should coincide with the tax reporting of the Tax Period in which the Transferor, for the first time, transfers any of its assets or liabilities to a member of a Qualifying Group.

Once an election is made by the Transferor, it is irrevocable in the hands of the Transferor and cannot be reversed without the FTA's approval.<sup>101</sup> Thus, the election will apply not only to the specific transfer in respect of which it was made, but instead to all transfers of assets and liabilities held on capital account by the Transferor within a Qualifying Group which take place in the Tax Period for which the election was made, as well as any transfers in subsequent Tax Periods.<sup>102</sup>

Further, the election is valid only if it is made in respect of a transfer that meets the conditions of Qualifying Group Relief. If the Transferor makes an election in respect of a transfer to a member of a Qualifying Group, but subsequently, during audit, it is determined that the transfer does not meet the conditions of Qualifying Group Relief, the election will be treated as invalid and any Tax Return in which Qualifying Group Relief was applied on the assumption that a valid election was made would be incorrect. If the Transferor has tried to make an election, but the election is invalid, an election can be made in a subsequent Tax Period if the relevant conditions are met in that Tax Period. However, if the Transferor has validly made an election in a Tax Period, it is not possible to make an election in subsequent Tax Periods.

An election made by the Transferor shall not be binding on any future transfer of the same asset or liability by another member of the Qualifying Group unless that other member had itself previously made an election in this regard, i.e. each Transferor in a Qualifying Group is required to make its own election, except in relation to an exchange of assets as contemplated in Article 4 of Ministerial Decision No. 132 of 2023.

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<sup>99</sup> Article 3(1) of Ministerial Decision No. 132 of 2023.

<sup>100</sup> Article 3(2) of Ministerial Decision No. 132 of 2023.

<sup>101</sup> Article 3(3) of Ministerial Decision No. 132 of 2023.

<sup>102</sup> Article 3(4) of Ministerial Decision No. 132 of 2023.





## 7.2. Record keeping

Both the Transferor and the Transferee are required to maintain a record of the agreement to transfer the asset or liability and evidence of the value prescribed under Article 26 of the Corporate Tax Law.<sup>103</sup> Additionally, the Transferee must document the requirements necessary for making any adjustments prescribed under Ministerial Decision No. 134 of 2023.<sup>104</sup>

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<sup>103</sup> Article 6 of Ministerial Decision No. 132 of 2023.

<sup>104</sup> Article 6 of Ministerial Decision No. 132 of 2023.



## 8. Interaction of Qualifying Group Relief with other parts of Corporate Tax Law

### 8.1. Business Restructuring Relief

A transaction can be eligible for both Qualifying Group Relief and Business Restructuring Relief where all the following conditions are met:

- a Transferor transfers its Business or an independent part of its Business to a Transferee,
- the Transferor continues to exist after the transfer,
- the consideration for the transfer is paid in the form of shares or ownership interests of the Transferee or a Person that has a direct or indirect ownership interest of at least 50% in the Transferee, and
- the Transferor and Transferee are members of a Qualifying Group.

In such a case, the Transferor can elect for Business Restructuring Relief. However, it is possible that the Transferor in the past already elected for Qualifying Group Relief on each asset and liability (that is held on capital account) and, hence, Qualifying Group Relief is also applicable on the assets and liabilities which are transferred as part of the Business restructuring. If an election has been made for Qualifying Group Relief or Business Restructuring Relief, the transaction will be subject to the condition of that elected relief. This also means that if a clawback is triggered, the relief would be clawed back even if the conditions for a different relief would have been met and would not have resulted in a clawback being triggered.<sup>105</sup>

If a Transferor has elected for Qualifying Group Relief and it also makes an election for Business Restructuring Relief in respect of a specific Business restructuring, the no gain or loss treatment would be clawed back in the case of a clawback triggered by either of the reliefs. For instance, if the Transferor and the Transferee cease to be in a Qualifying Group within two years of applying Qualifying Group Relief, the no gain or loss treatment would be clawed back, even if no clawback is triggered for Business Restructuring Relief.<sup>106</sup> Similarly, if the Transferee transfers an independent part of the Business it has received within two years of a restructuring that attracted Business Restructuring Relief, the no gain or loss treatment would be clawed back on any Business or independent part of the Business transferred, even if no clawback is triggered for Qualifying Group Relief.<sup>107</sup> Once a clawback has been triggered, the no gain or loss treatment no longer applies which also means that any subsequent events would no longer trigger an additional clawback.

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<sup>105</sup> Articles 26(5) and 27(7) of the Corporate Tax Law.

<sup>106</sup> Article 26(4)(b) and (5) of the Corporate Tax Law.

<sup>107</sup> Article 27(6)(b) and (7) of the Corporate Tax Law.



### Example 19: Transfer of Business to a member of Qualifying Group

Company A holds 100% of the shares of Company B. Company A and Company B are members of a Qualifying Group. Company A is engaged in two Businesses, a printing Business and a stationery Business. In the Tax Period ending 31 December 2025, Company A transfers its printing Business to Company B and in consideration Company B issues additional shares to Company A. Company A elects for Business Restructuring Relief on the transfer of this Business.

However, Company A has previously made an election for Qualifying Group Relief in its first Tax Period (i.e. Tax Period ending 31 December 2024). Hence, the transfer of assets and liabilities of the printing Business is subject to Qualifying Group Relief as well.

In March 2026, Company A sells 30% of the shares of Company B to a third party. Thereby, Company A and Company B cease to be members of a Qualifying Group. Accordingly, a clawback of Qualifying Group Relief under Article 26(4)(b) of the Corporate Tax Law is triggered. Once a clawback has been triggered, the no gain or loss treatment no longer applies and the original transfer will be treated as having taken place at Market Value for Corporate Tax purposes.

## 8.2. Realisation basis

A Taxable Person that prepares its Financial Statements on an accrual basis may elect to take into account gains and losses on a realisation basis if the relevant conditions are met.<sup>108</sup> The election can apply on either (a) all unrealised accounting gains and losses,<sup>109</sup> or (b) only unrealised gains and losses in relation to those assets and liabilities held on the Taxable Person's capital account.<sup>110</sup> If an election is made, the Taxable Person will make adjustments to ensure the Taxable Income is calculated as if the Financial Statements were prepared on a realisation basis.<sup>111</sup> A Taxable Person will decide in its first Tax Period whether to make an election and the decision is irrevocable, except under exceptional circumstances and pursuant to approval by the FTA.<sup>112</sup>

<sup>108</sup> Article 20(3) of the Corporate Tax Law.

<sup>109</sup> Article 20(3)(a) of the Corporate Tax Law.

<sup>110</sup> Article 20(3)(b) of the Corporate Tax Law.

<sup>111</sup> Article 2(3) and (4) of Ministerial Decision No. 134 of 2023.

<sup>112</sup> Article 8(3) of Ministerial Decision No. 134 of 2023.



A no gain or loss transfer of assets or liabilities under Qualifying Group Relief shall not be considered as a realisation of the assets or liabilities.<sup>113</sup>

Where a Transferee has received assets and liabilities on a no gain or loss basis under Qualifying Group Relief, the Taxable Income of the Transferee would be determined by making the adjustments outlined in Ministerial Decision No. 134 of 2023 (see Section 5.3).<sup>114</sup> If the Transferee has elected for the realisation basis under Article 20(3) of the Corporate Tax Law, the depreciation, amortisation or other change in value adjusted in previous Tax Period(s) and any gain or loss that was not taken into account due to Qualifying Group Relief would be taken into account at realisation.<sup>115</sup>

### 8.3. Transitional relief

A Taxable Person's opening balance sheet for Corporate Tax purposes is the closing balance sheet prepared for financial reporting purposes under applicable Accounting Standards on the last day of the Financial Year that ends immediately before its first Tax Period commences.<sup>116</sup> Further, adjustments can be made to the Taxable Income of a Taxable Person in respect of gains recognised on Immovable Property, Intangible Assets and Financial Assets and Financial Liabilities owned prior to the Taxable Person's first Tax Period.<sup>117</sup>

When determining whether these assets were owned prior to the first Tax Period and for assessing the ownership period,<sup>118</sup> ownership of the asset by all members of the Qualifying Group should be considered.<sup>119</sup> Thus, ownership by a Taxable Person of the relevant assets shall include the ownership by any other member of the Qualifying Group for purposes of applying the transitional rules.

If an asset or liability is transferred on a no gain or loss basis within a Qualifying Group after Corporate Tax has entered into force, the transfer is not a disposal for the purposes of the transitional relief,<sup>120</sup> and the ownership period of such an asset and liability is considered to continue and include the ownership period of the Transferee under Article 26(1) of the Corporate Tax Law.<sup>121</sup>

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<sup>113</sup> Article 9(1)(a) of Ministerial Decision No. 134 of 2023.

<sup>114</sup> Articles 3, 4 and 5 of Ministerial Decision No. 134 of 2023.

<sup>115</sup> Article 4(1) of Ministerial Decision No. 134 of 2023.

<sup>116</sup> Article 61(1) of the Corporate Tax Law.

<sup>117</sup> Articles 2, 3 and 4 of Ministerial Decision No. 120 of 2023.

<sup>118</sup> Articles 2(1)(a) and 3(1)(a) of Ministerial Decision No. 120 of 2023.

<sup>119</sup> Article 5(3) of Ministerial Decision No. 120 of 2023.

<sup>120</sup> Article 9(1)(a) of Ministerial Decision No. 134 of 2023.

<sup>121</sup> Article 5(4) of Ministerial Decision No. 120 of 2023.



However, if the clawback provisions of Article 26(4) of the Corporate Tax Law apply, the asset or liability is considered to be disposed of in the Tax Period when the original transfer took place since the clawback disapplies the Qualifying Group Relief. However, since upon clawback of relief, the gain or loss is included in the Taxable Income in the Tax Period of clawback, the transitional relief should be claimed in the Tax Period when clawback is triggered. There is no need to reopen the earlier Tax Period when the original transfer took place.

In relation to Immovable Property, there are two methods to compute the excluded amount of gains and the Taxable Person can choose either of the methods.

- **Valuation method:** The excluded amount is the amount of the gain that would have arisen had the Immovable Property been disposed of at Market Value at the start of the first Tax Period, and considering the cost of the Qualifying Immovable Property as the higher of the original cost and the net book value.<sup>122</sup>
- **Time apportionment method:** The excluded gain is calculated based on the period elapsed between the time the asset was purchased and the start of the first Tax Period.<sup>123</sup>

In relation to Intangible Assets, only the time apportionment method applies.

While applying transitional relief to Immovable Property and Intangible Assets, for the purpose of calculating the excluded amount of gain under the time apportionment method, the period of ownership includes the period of ownership by any member of the same Qualifying Group of the Taxable Person that has acquired the relevant assets in accordance with Qualifying Group Relief.<sup>124</sup> Any period of ownership before the most recent Non-Qualifying Transfer is excluded.<sup>125</sup> A Non-Qualifying Transfer is a transfer that is not covered, or would not have been covered had the Corporate Tax Law been effective, by the Qualifying Group Relief.<sup>126</sup>

There is only one method available for computing the excluded gain or loss on Financial Assets and Financial Liabilities owned prior to the first Tax Period under transitional relief. The Taxable Person excludes the amount of the gain or loss that would have arisen at the start of the first Tax Period, had the Financial Assets or Financial Liabilities been disposed of at Market Value and considering the cost of these assets or liabilities as being equal to the net book value.<sup>127</sup> While considering

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<sup>122</sup> Article 2(2)(a) of Ministerial Decision No. 120 of 2023.

<sup>123</sup> Article 2(4) of Ministerial Decision No. 120 of 2023.

<sup>124</sup> Article 5(3) of Ministerial Decision No. 120 of 2023.

<sup>125</sup> Article 5(4) of Ministerial Decision No. 120 of 2023.

<sup>126</sup> Article 5(2)(c) of Ministerial Decision No. 120 of 2023.

<sup>127</sup> Article 4(2) of Ministerial Decision No. 120 of 2023.



Financial Assets and Financial Liabilities owned by a Taxable Person, ownership by a member of the same Qualifying Group of the Taxable Person should be considered.<sup>128</sup>

**Example 20: Transitional rules on Immovable Property transferred within a Qualifying Group**

Date	Description
15 July 2021	Company A (a company resident and incorporated in the UAE) acquired an Immovable Property (a building) from a third party for AED 10 million.
1 December 2023	Company B was incorporated in the UAE with Company A as its 100% shareholder.
1 January 2024	The net book value of the Immovable Property is AED 9.1 million. The Market Value of the Immovable Property is AED 12 million. Company A elects for transitional relief in respect of the Immovable Property.
10 April 2024	Company A transfers the Immovable Property to Company B at the Market Value of AED 12.5 million. In the Tax Return for Tax Period 2024, Company A elects to apply Qualifying Group Relief in respect of the transfer.  Since Company A measures the Immovable Property in its Financial Statements on a historical cost basis, the net book value of the Immovable Property in Company A's Financial Statements as on the date of transfer is AED 9 million. The reduction in net book value is on account of depreciation from 1 January 2024 until 10 April 2024 (i.e. an amount of AED 0.1 million based on the depreciation rate claimed by Company A).
1 February 2025	Company B sells the Immovable Property to a third party for AED 14 million.

Company A and Company B follow the Gregorian calendar year as their Tax Period. The Corporate Tax implications for Company A and Company B in Tax Periods 2024 and 2025 are as follows:

Tax Period	Company A	Company B
2024	Company A will be considered to have transferred the Immovable Property at	Company B will report the Immovable Property at such

<sup>128</sup> Article 5(3) of Ministerial Decision No. 120 of 2023.



	<p>net book value. Thus, the gain of AED 3.5 million (Market Value on date of transfer of AED 12.5 million less net book value on the date of transfer of AED 9 million) will not be included in the Taxable Income of Company A.<sup>129</sup></p> <p>Further, since Company A has transferred the Immovable Property on a no gain or loss basis under Article 26 of the Corporate Tax Law, the transfer will not be considered as a disposal for the transitional rules.</p>	<p>value as determined for the purposes of its Financial Statements (here assumed to be the Market Value of the asset of AED 12.5 million). Company B will adjust amounts of depreciation and changes in value when calculating its Taxable Income.<sup>130</sup></p>
2025	<p>The subsequent transfer of the Immovable Property by Company B to a third party will trigger the clawback of the Qualifying Group Relief in the hands of Company A. Accordingly based on the book value of the asset, Company A would derive a gain of AED 3.5 million in the 2025 Tax Period from the original transfer of the asset.</p> <p>However, upon clawback, the original transfer is no longer on a no gain or loss basis and hence is treated as a disposal for the purposes of the transitional rules. Because of the transitional rules, the amount of clawback gain to be included in the Taxable Income of Company A will be reduced as detailed below.</p>	<p>After clawback of the relief on the original transfer, the requirement to adjust depreciation and changes in value no longer applies.</p> <p>Company B will include the gain on the sale of the Immovable Property (AED 14 million less the book value AED 12.5 million) i.e. AED 1.5 million in its Taxable Income.</p> <p>Further, since the transitional relief on Immovable Property has already been applied by Company A upon clawback, Company B is not eligible for transitional relief on its gain.</p>

Under the transitional rules, there are two methods to compute the amount of the excluded gain. Company A (i.e. the Person required to include the clawback gain in its Taxable Income) may elect for either method:<sup>131</sup>

- Method 1: Valuation method:

<sup>129</sup> Article 26(3)(a) of the Corporate Tax Law.

<sup>130</sup> Article 3(1) of Ministerial Decision No. 134 of 2023.

<sup>131</sup> Article 2(2) of Ministerial Decision No. 120 of 2023.



The amount of gain that would have arisen if Company A had disposed of the Immovable Property at Market Value at the start of the first Tax Period and the cost of the Financial Asset was the higher of the original cost and the net book value.<sup>132</sup>

Description	Amounts in AED
Market Value of the Immovable Property at start of first Tax Period (1 January 2024)	12 million
Higher of the original cost and the net book value (i.e. AED 10 million vs AED 9.1 million)	10 million
Excluded gain (Market Value - Higher of the original cost and the net book value)	2 million

- Method 2: Time apportionment method: The excluded gain amount is calculated by applying the following steps to pro-rate the excluded gain based on the period of time elapsed between the purchase of the asset and the start of the first Tax Period.<sup>133</sup>

Step	Description	Amounts in AED
Step 1: The amount of total gain by reference to the disposal proceeds and the higher of the original cost and the net book value at the start of the first Tax Period.	Disposal proceeds under application of the clawback	12.5 million
	Higher of the original cost and the net book value (i.e. AED 10 million vs AED 9.1 million)	10 million
	Gain	2.5 million
Step 2: The number of days the Immovable Property was owned by the Tax Group before the first Tax Period is divided by the total number of days the	(A) Number of days the Immovable Property is owned by Company A before the first Tax Period	900 days (i.e. 15 July 2021 to 1 January 2024)
	(B) Number of days the Immovable Property is owned by members of Qualifying Group in total	1,000 days (i.e. 15 July 2021 to 10 April 2024)

<sup>132</sup> Article 2(2)(a) of Ministerial Decision No. 120 of 2023.

<sup>133</sup> Article 2(4) of Ministerial Decision No. 120 of 2023.





Immovable Property was owned.	(i.e. both Company A and Company B) <sup>134</sup>	
	(A)/(B)	90% (900/1,000*100)
Step 3: - Multiply the amount calculated in Step 1 by the amount calculated in Step 2		AED 2.25 million (AED 2.5 million x 90%).

As a result, Company A shall make an adjustment to exclude either (a) AED 2 million or (b) AED 2.25 million from its Taxable Income. As Company A can determine which exclusion to apply, it may exclude the higher amount (i.e. AED 2.25 million) from its Taxable Income in 2025 if it chooses to do so.

Transitional relief can apply only where the Taxable Person has made an election in the first Tax Period to adjust their Taxable Income to exclude gains or losses related to the periods preceding the first Tax Period from the disposal of Immovable Property, Intangible Assets and Financial Assets and Financial Liabilities owned prior to the Taxable Person's first Tax Period. Where a Taxable Person has made an election for transitional relief in its first Tax Period and transfers any asset or liability that is eligible for the transitional relief on a no gain or loss basis to a Transferee under Qualifying Group Relief, such Transferee will be eligible for transitional relief on disposal of such asset or liability even if the Transferee has not made an election for transitional relief.

<sup>134</sup> Article 5 of Ministerial Decision No. 120 of 2023.



## 9. Updates and Amendments

Date of amendment	Amendments made
April 2024	<ul style="list-style-type: none"><li data-bbox="517 398 740 427">• First version</li></ul>