



SYNOPSIS OF
**QUALIFYING GROUP
RELIEF GUIDE**

On 3 April 2024, the Federal Tax Authority ('FTA') published a Corporate Tax Guide on "Qualifying Group Relief" ('Relief'), aiming to provide general guidance on the Relief available under the Corporate Tax Law ('CT Law'). The objective of the "Qualifying Group Relief" provisions is to facilitate the transfer of capital assets or liabilities between two Taxable Persons within a Qualifying Group, ensuring no gain or loss for CT purposes (transfer is considered at book value).

The key highlights of the Guide are outlined below: -

Assets and liabilities eligible for Qualifying Group (QG) Relief



1. QG Relief is applicable on transfers such as sale, exchange, relinquishment, sale, and lease back, etc.
2. QG Relief applies only to the **transfer of assets or liabilities held on capital account and recorded on the balance sheet of the Transferor.**
3. The transfer of **assets or liabilities which are not held on capital account** (for example, inventory transferred as part of regular Business operations) **is not within the scope of QG Relief and hence, cannot benefit from the no gain or loss tax treatment.**
4. 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 QG Relief.
5. Where **assets or liabilities are transferred to a Taxable Person as a result of liquidation, dissolution or merger, QG Relief shall not apply.**

Consideration for transfer under QG Relief



1. QG Relief does not require any consideration to be paid. Where it is paid, it does not need to be in a specific form. Further, the consideration can be in cash or in kind.
2. 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 QG shall be treated as two separate transfers for the purposes of QG Relief.

The key highlights of the Guide are outlined below: -

Conditions to be a member of a QG



1. Transferor and Transferee are Juridical Persons such as such as private or public joint stock companies or limited liability companies and incorporated partnerships.

- Natural persons or unincorporated partnerships which do not have separate distinct legal personality do not qualify for the Relief.
- However, 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.

2. Transferor and Transferee are Taxable Persons.

- Where the Transferor or Transferee is a Resident Person under the UAE CT Law, they can be a member of a QG.
- Non-Resident Person with a Permanent Establishment in the UAE can also be a member of a QG.
- Non-Resident Person with a Permanent Establishment in the UAE transfers 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.

Exceptions:

QG Relief is not available for transfers between a Permanent Establishment in the UAE and its head office outside the UAE.

Non-Resident Persons which derive UAE sourced income or have nexus in the UAE cannot be member of QG even though they are considered as Taxable Persons as per the CT Law.

The key highlights of the Guide are outlined below: -

3. **Transferor or Transferee must hold at least 75% direct, indirect or common ownership interest in the other party, or a third person (not necessarily a taxable person) must hold at least 75% ownership interest in both Juridical Taxable Persons (“Ownership Test”)**

For the purposes of QG Relief, a Taxable Person shall be treated as holding an ownership interest where the following two conditions are met: -

- 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.

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.

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4. **Neither the Transferor or Transferee is an exempt person or a Qualifying free zone person.**

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5. **Transferor and Transferee have the same financial year end and must prepare financial statements based on same accounting standards.**

- A Taxable Person has an option to apply to the FTA to change the financial year to align the end date of its financial year with other members of the Qualifying Group subject to certain conditions.
- 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.

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

The key highlights of the Guide are outlined below: -

Clawback of the QG Relief

The QG Relief shall not apply if within two years from the date of transfer: -

- there is **subsequent transfer of the asset or liability outside the QG**.
- the **transferor or the transferee cease to be member of the same QG**. This includes scenarios such as ownership changes, cessation of Taxable Person status, becoming an Exempt Person or QFZP, or financial year does not align with other group members.

However, the **claw back is not triggered if the subsequent transfer of the asset or liability is within the Qualifying Group or if the new Transferee joins the Qualifying Group before the transfer of the asset or liability.**



Consequences of election for QG Relief:

For Transferor:

Transfers deemed to be done at net book value, Accordingly, at the level of the Transferor, there would be no taxable gain or loss on transfer of the asset or liability.



The key highlights of the Guide are outlined below: -

For 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 CT purposes as a result of the no gain or loss treatment being applied.
- **in cases upon realization** – the Transferee will need to include any amount that has not been recognised for CT purposes.

Compliance requirements

- The no gain or loss treatment within the QG is only available if the **Transferor makes an election to FTA** which means the **QG relief is not automatic**.
- The **election** should be made in the Tax Return for the **Tax Period in which the transfer takes place**.
- 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**.
- Further, 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 QG** which take place in the Tax Period for which the election was made, as well as any transfers in subsequent Tax Periods.
- 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**.



The key highlights of the Guide are outlined below: -

Other Key Takeaways

- Resident Persons opting for **Small Business Relief** cannot claim the QG Relief.
- A **Taxable Person** that is a **Free Zone Person** but not a **Qualifying Free Zone Person** can be a member of a QG.
- QG Relief does not permit **Tax Losses** to be transferred to the Transferee.
- In case the **conditions of QG** are not met or the **Transferor** does not elect for the QG relief, the transfer will be taxable as per the normal provisions of the UAE CT Law. This implies that the transfer must adhere to arm length pricing as outlined in the Transfer Pricing Rules.
- Transfer pricing rules are not applicable if the transferor has made an election for QG Relief in respect of transferred assets or liabilities that are held on the capital account.



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