



**Sorting Tax**

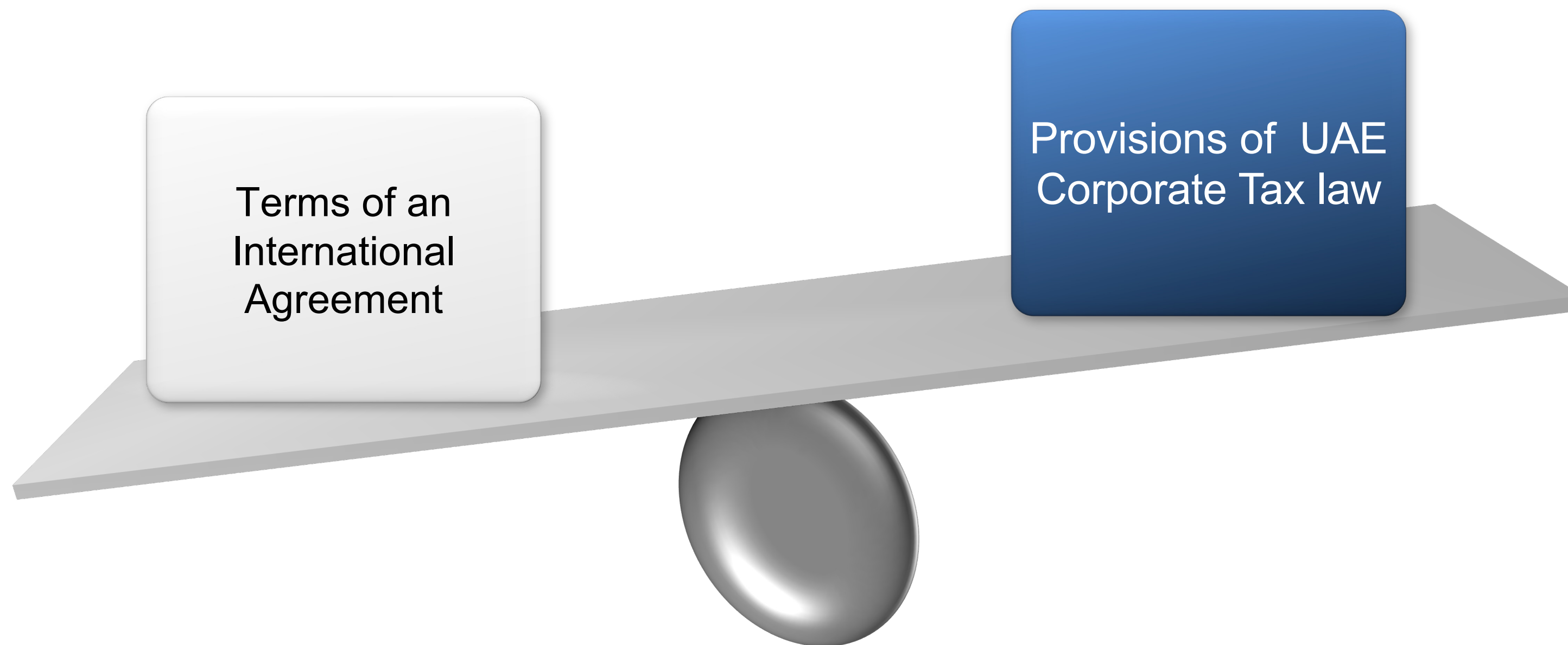
# TAXATION OF NON-RESIDENT IN THE UAE

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Name	Arinjay Kumar Jain
Position	General Manager, Sorting Tax Advisory, FZCO
Qualification	Member of the Institute of Chartered Accountants of India
Experience	<ul style="list-style-type: none"> <li>• Arinjay is a Chartered Accountant with more than 22 years of post qualification experience in Corporate Tax, International Tax, Transfer Pricing, Corporate Restructuring, UAE ESR Regulations to various companies in UAE and India</li> <li>• Presently , he is advising several MNC who are looking at setting their India and UAE, with key clientele in Solar power sector, IT &amp; ITES, manufacturing, e-commerce amongst others</li> <li>• He worked as Consultant Director in one of Top 10 UAE Accounting Firms from 2019 to 2022, setting up their ESR practice</li> <li>• He has worked as a Director with KPMG India until 2014, wherein he worked on several clients from US, Germany, Singapore , Netherlands , UAE and UK in respect of setting up their Indian operations and acquisitions of various business in India.</li> <li>• Trainer :-             <ul style="list-style-type: none"> <li>• Regular visiting Faculty with ICAI on International Tax and UAE Corporate Tax since 2009 ;</li> <li>• Trained more than 2500+ CA's in International Tax and Financial Accounting at 2 of the Big Four in India.</li> <li>• Trained over 250+ enrolled students working across industries in Live and Recorded UAE Corporate Tax classes</li> </ul> </li> <li>• Author – He is author of several books on International Tax and Income Tax</li> </ul>



# WHICH INCOME OF NON-RESIDENT IS SUBJECT TO CORPORATE TAX RATE ?

A.

NR **natural person**, who is not Resident **and** : -

Having **PE** in UAE

Deriving UAE -  
**sourced Income**

B.

NR is a **juridical person not** incorporated in UAE and **not** controlled or managed in UAE but:

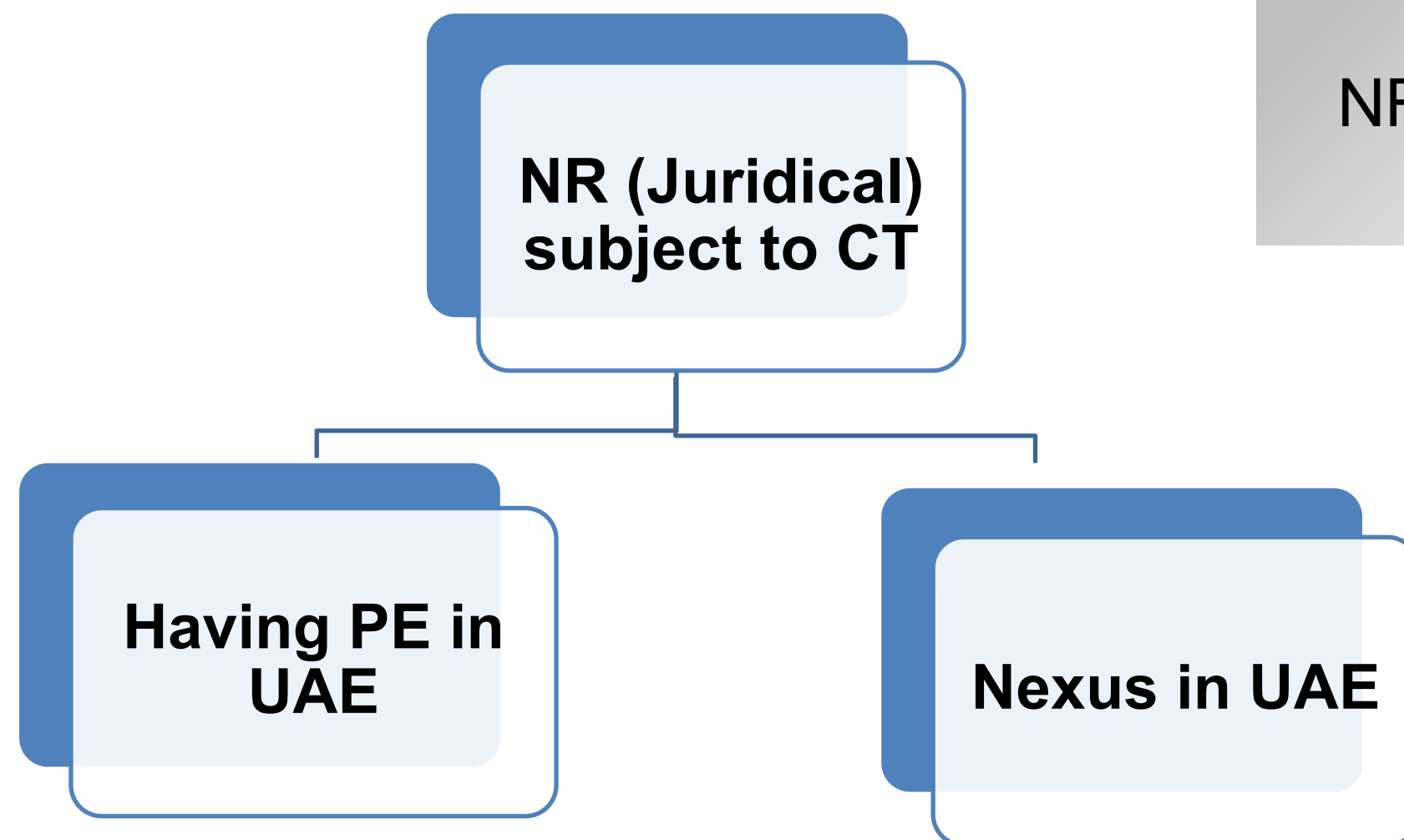
Having **PE** in UAE

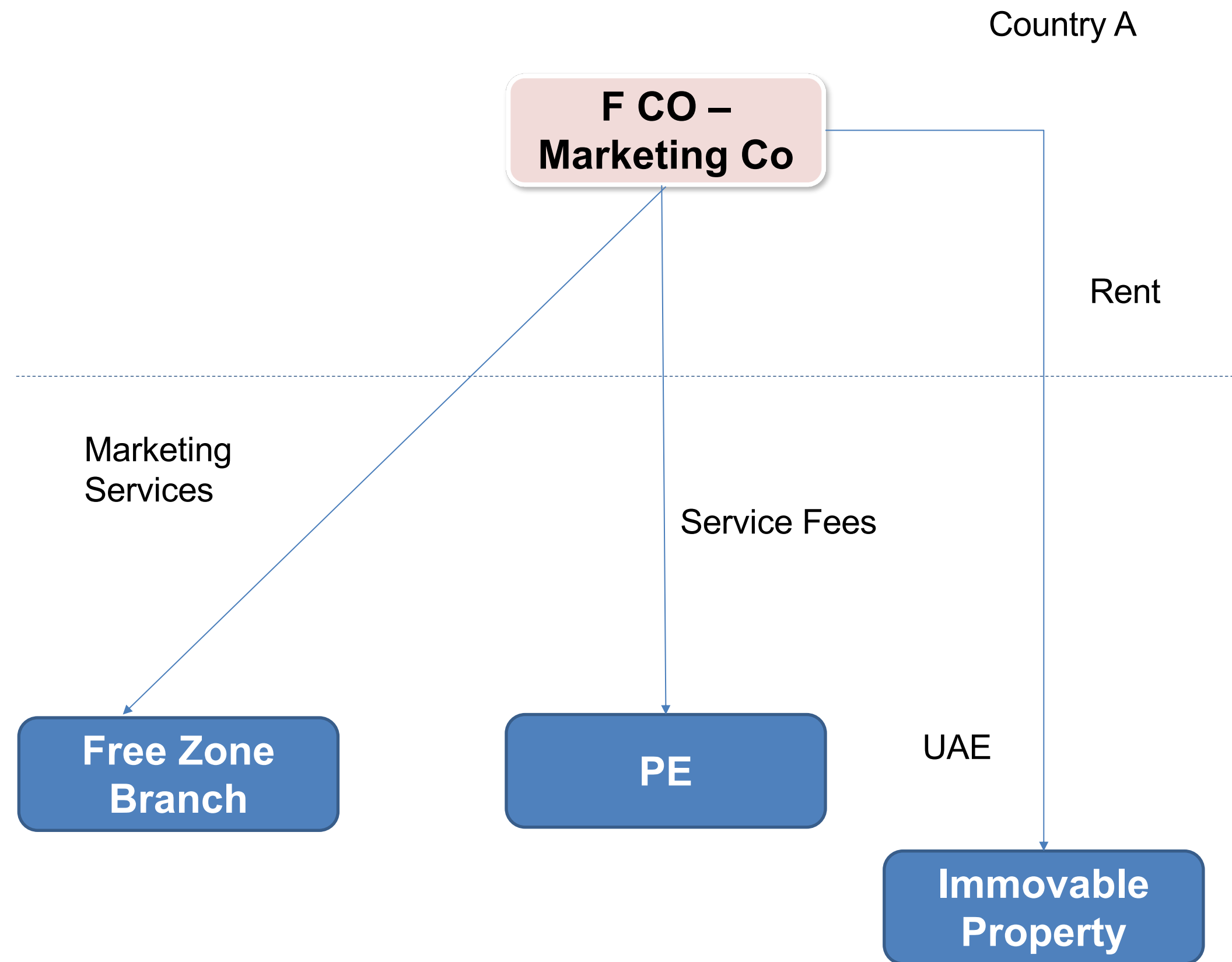
Deriving **UAE-**  
**sourced Income**

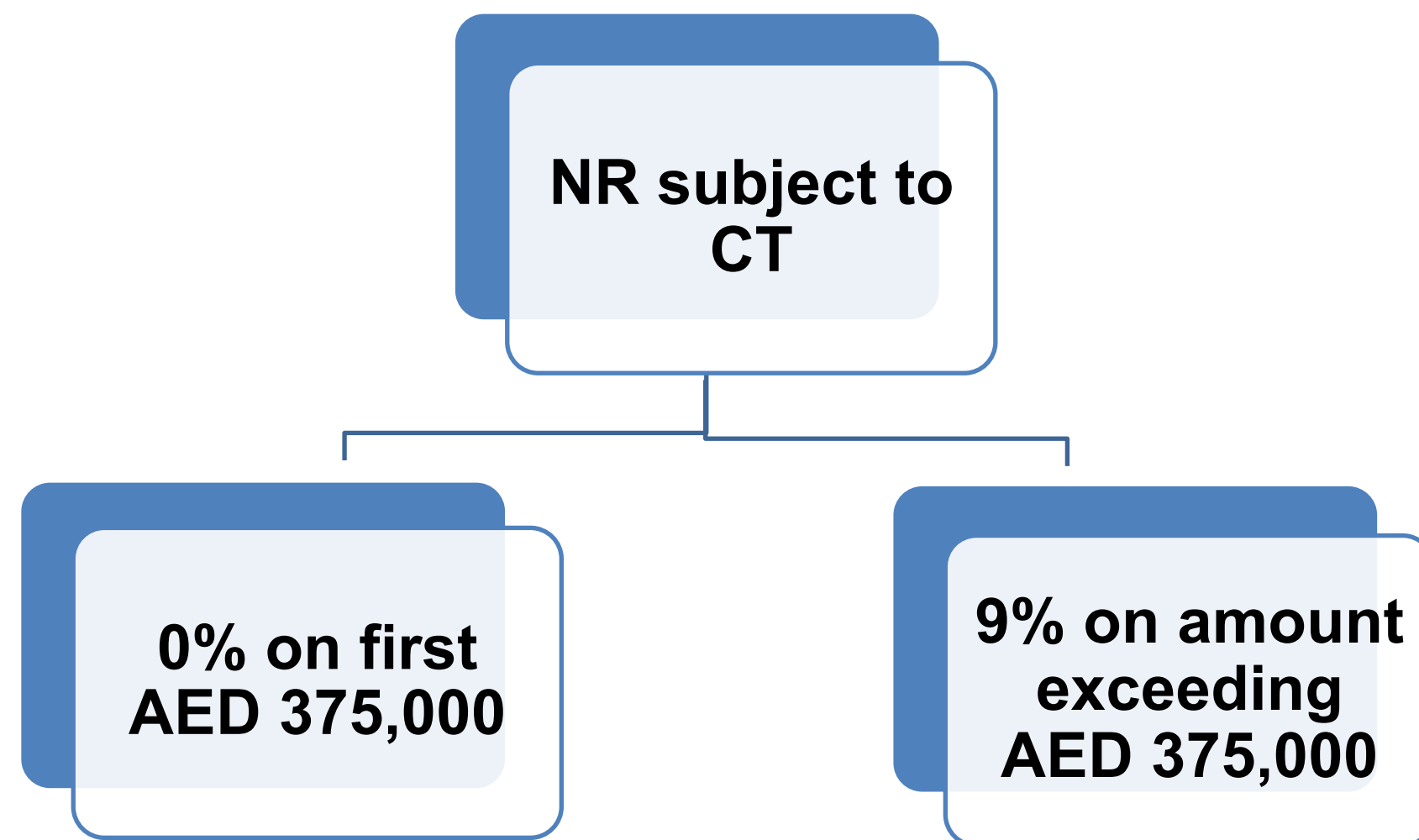
**Nexus** in UAE if it earns income from immovable property

NR **deriving UAE-sourced income** with **no PE** or **nexus** ?

NR **natural Person** ?





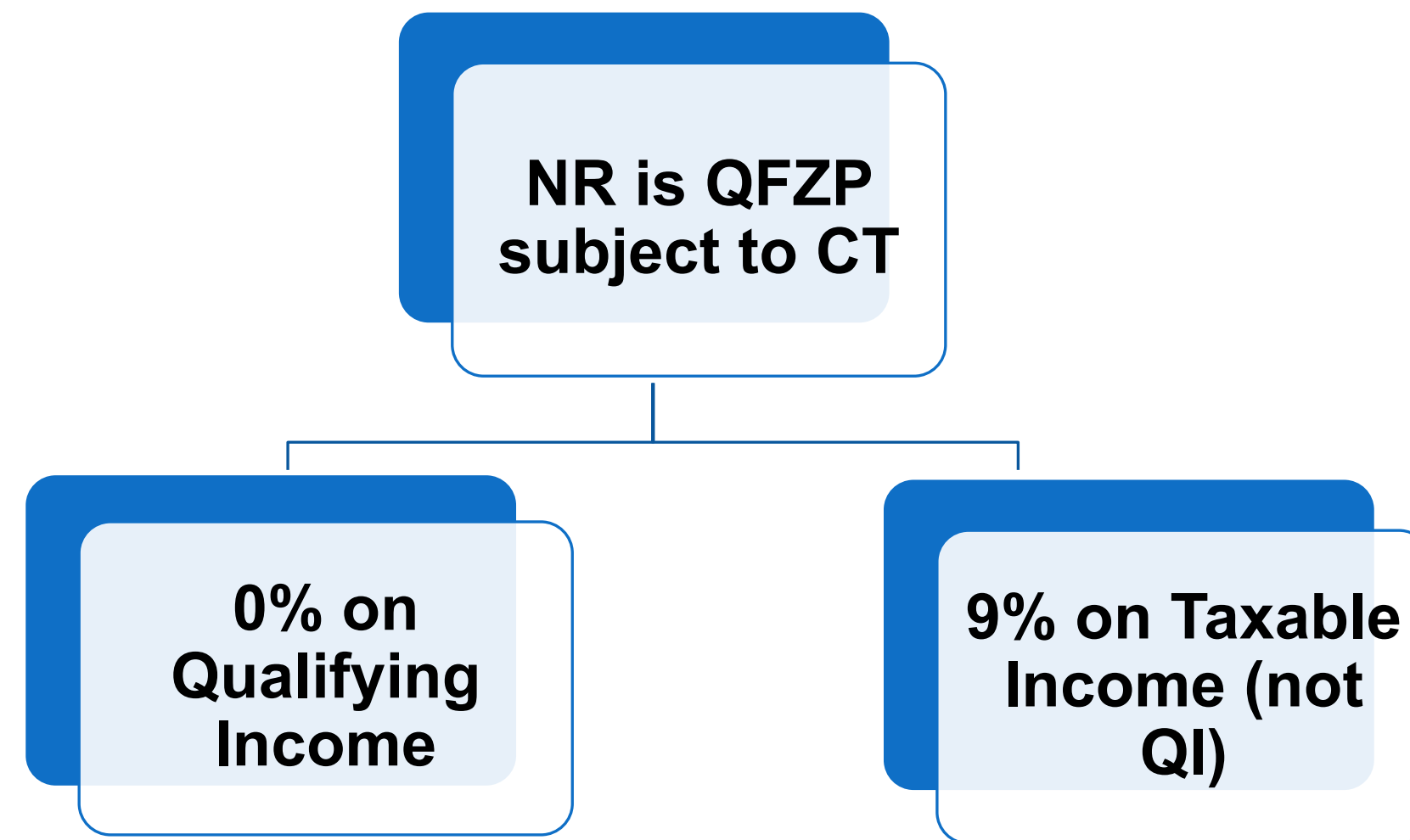


Income within or **outside UAE ?**

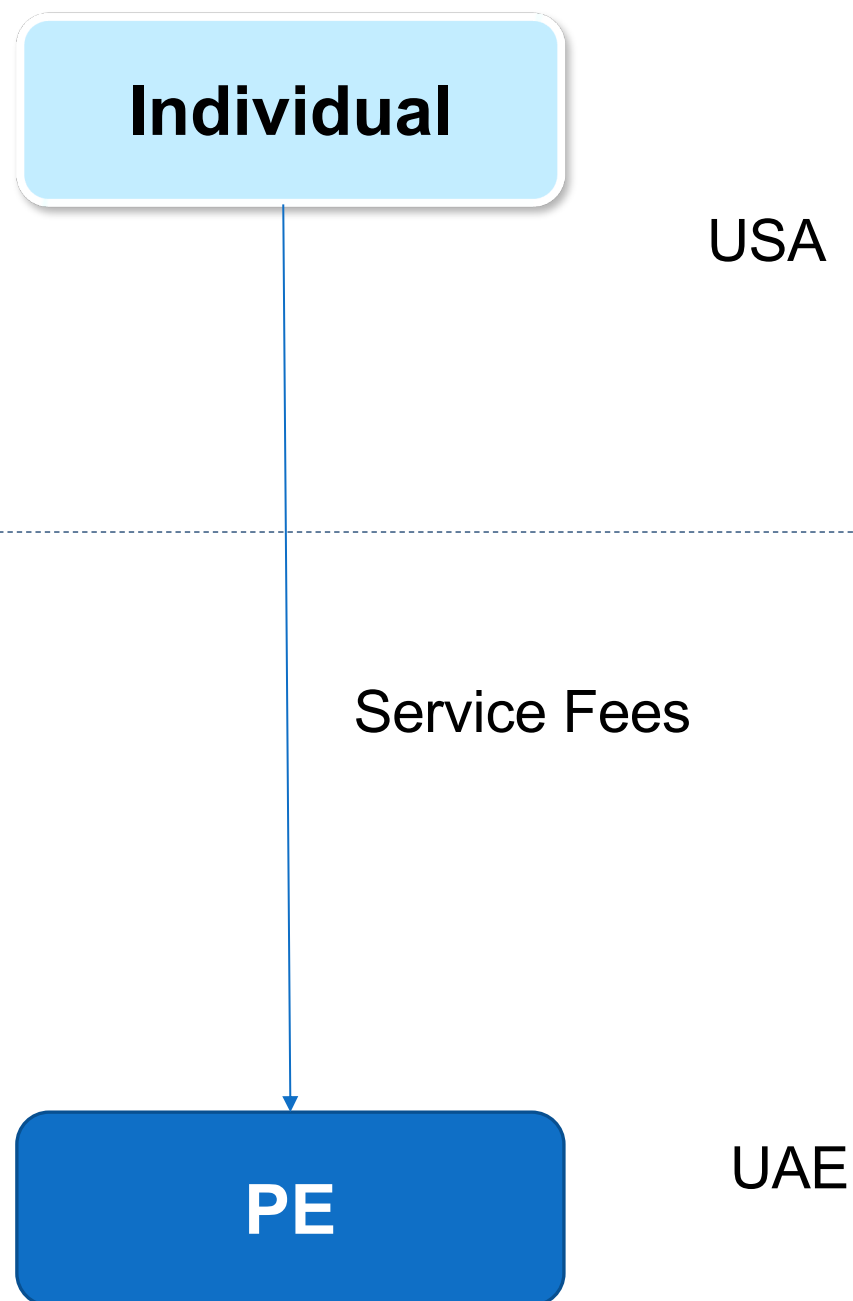
# CORPORATE TAX RATE







Taxable Income can be derived from **both inside and outside UAE.**



Gross Turnover criterion during Gregorian calendar year ?

Income excluded : –

- **Wages, salary under** employment contract ;
- **Return on Personal Investments**, made in the relevant person’s personal capacity, not through a Licence from a Licensing Authority
- Any **income from a Real Estate** Investment not conducted through a Licence from a Licensing Authority.

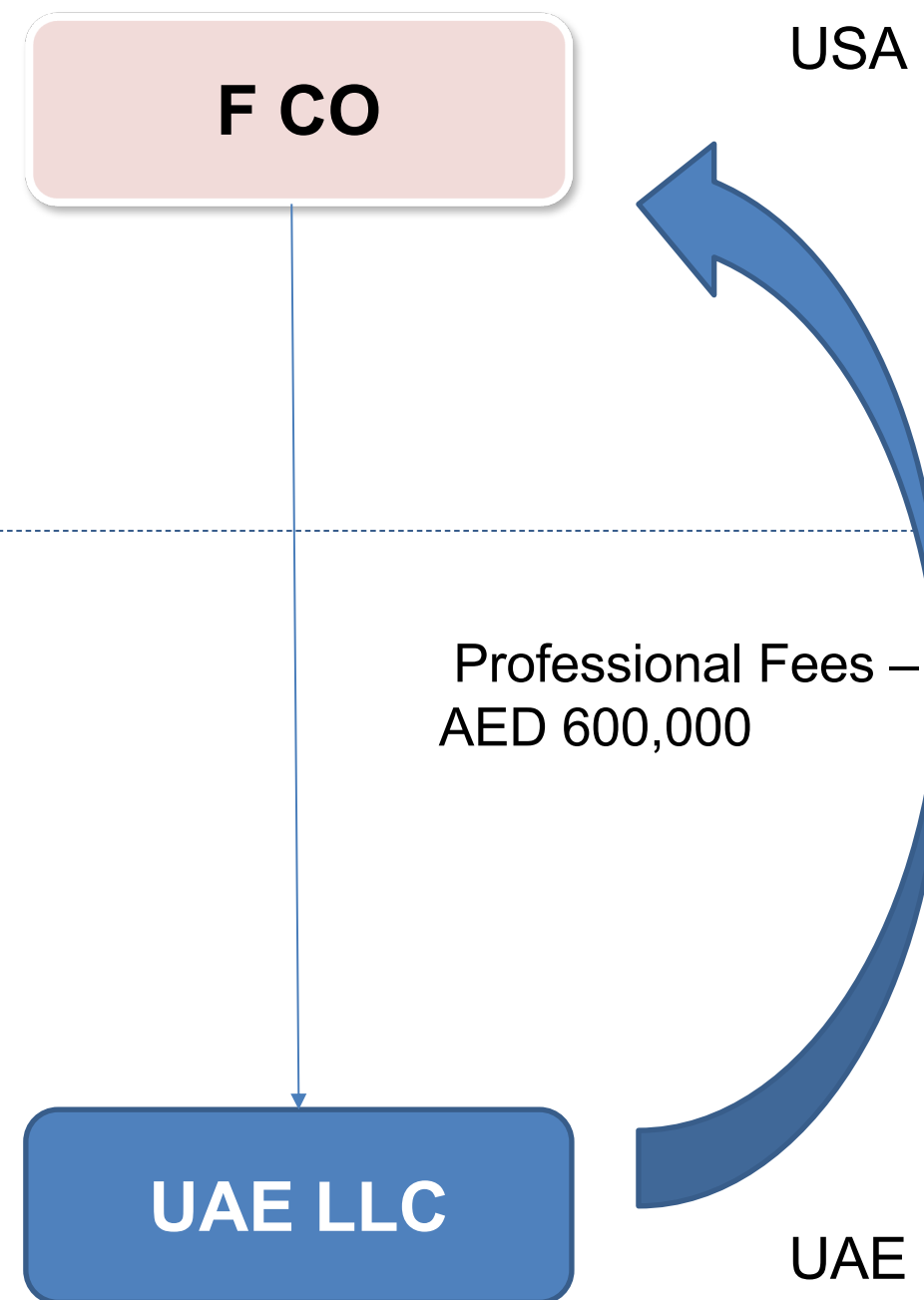
# UAE SOURCED INCOME



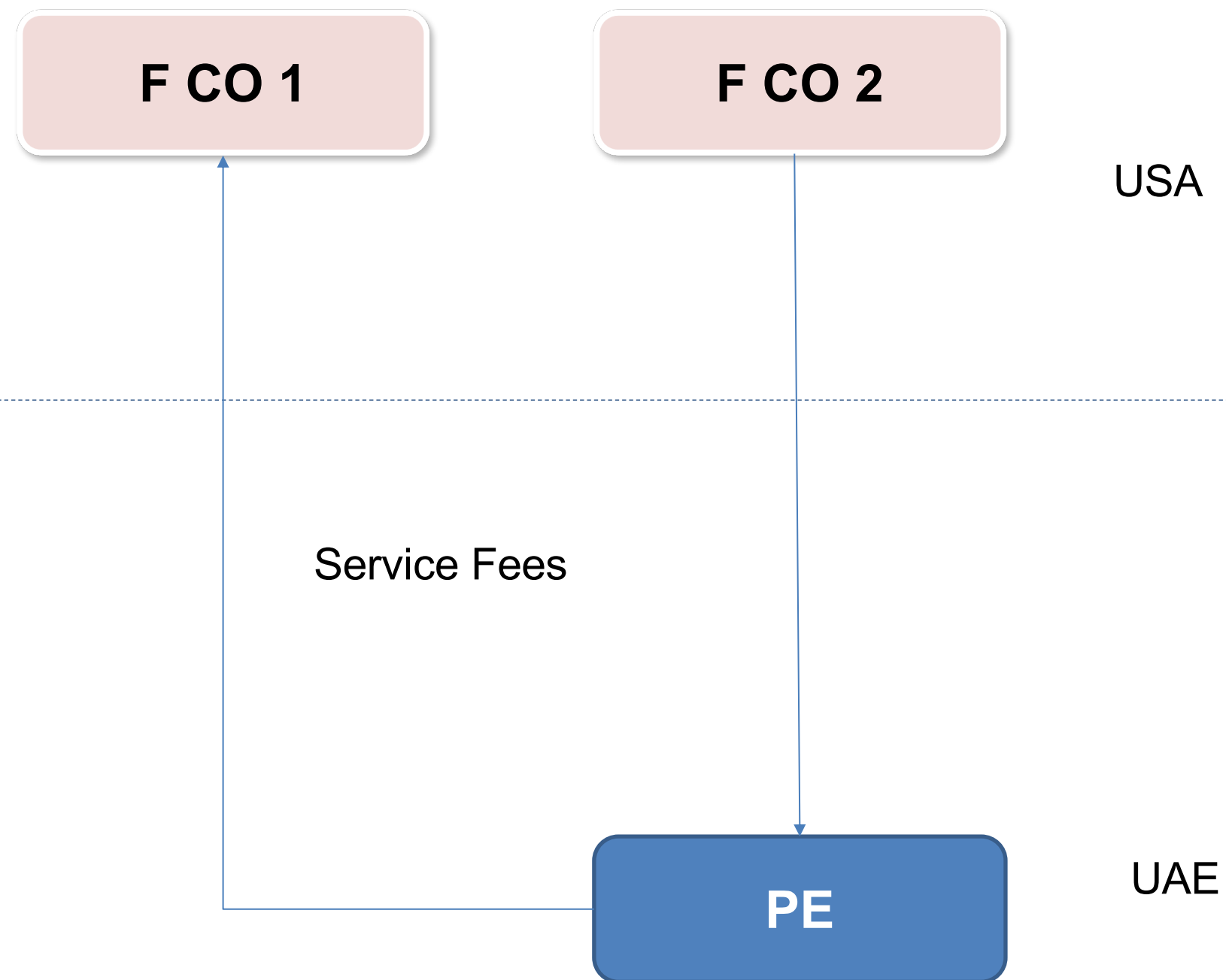
Income **derived** from a **Resident person**

Payment **attributable** to UAE PE of a foreign company

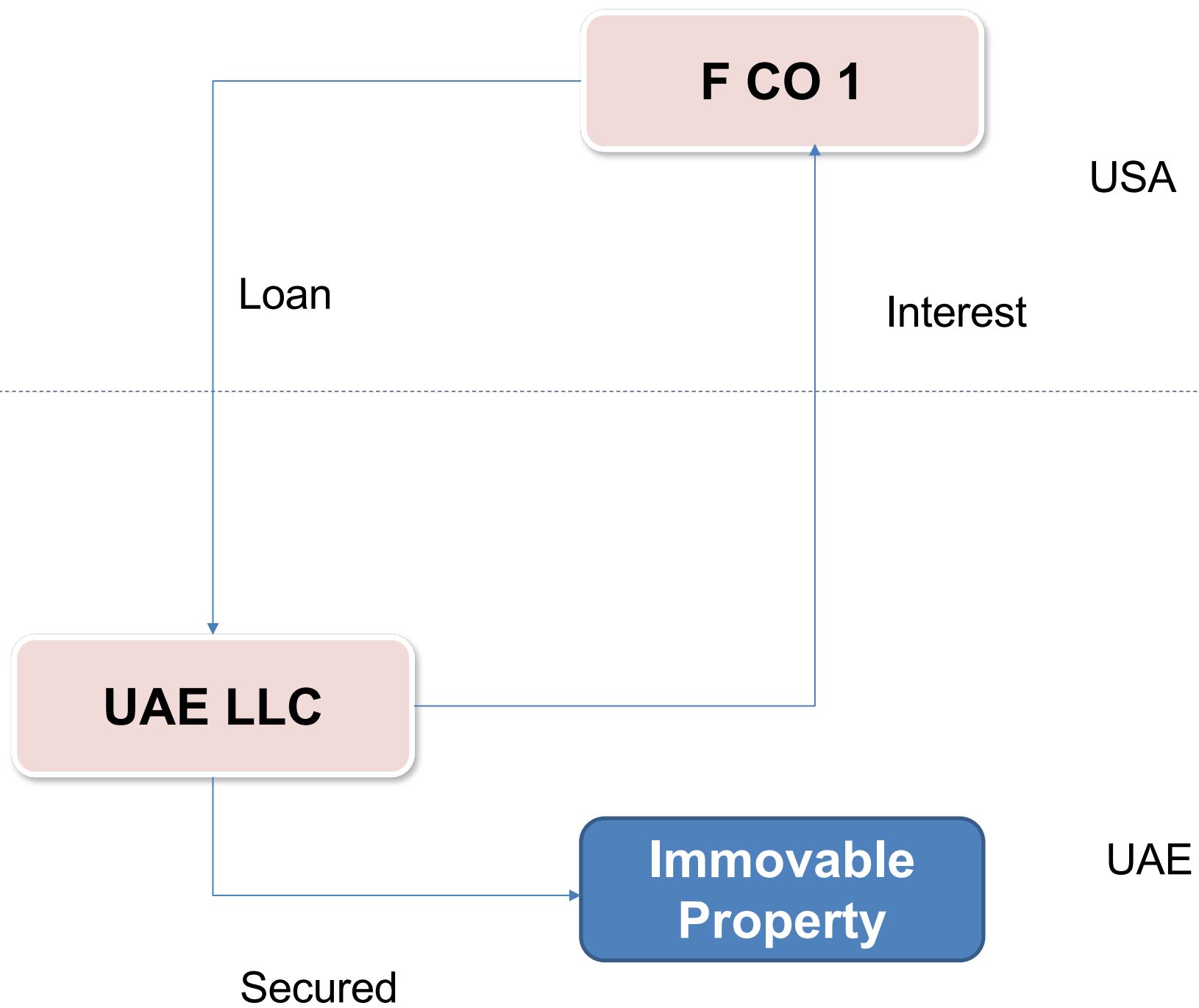
Income **accrued in** or **derived from** activities or contracts performed in the UAE, assets located in the UAE, capital invested, rights used, or services performed or benefited from in the State



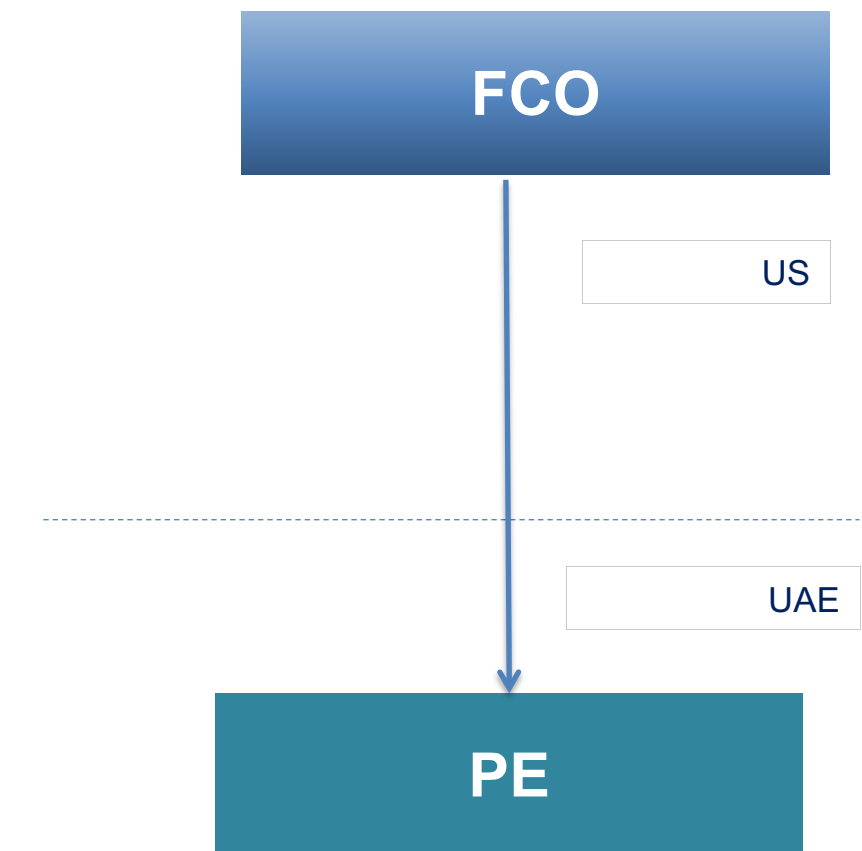
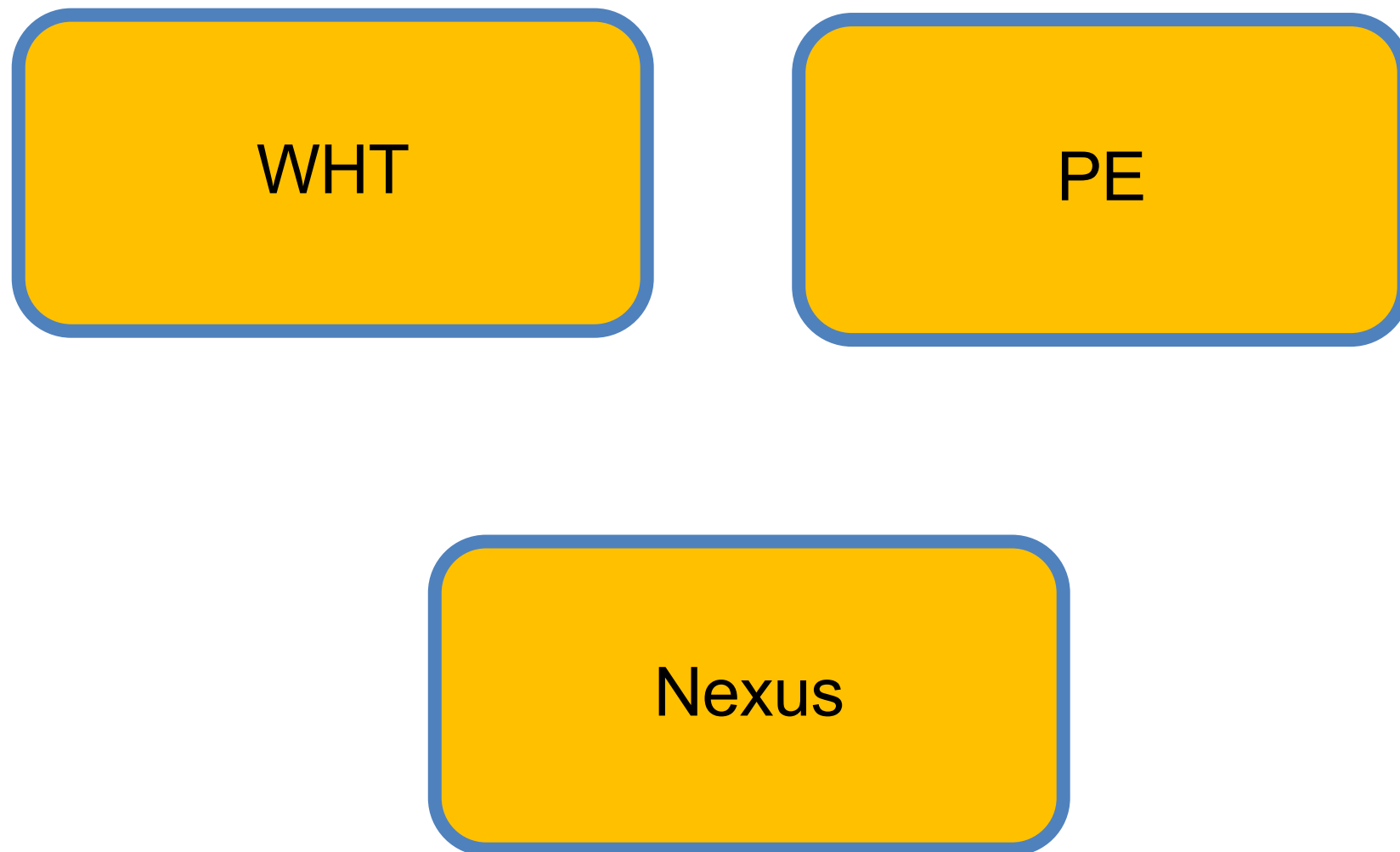
- UAE LLC is a resident of UAE ;
- It pays professional fees of AED 600,000 to FCO based out of US
- Whether professional fees can be said to be UAE sourced income ?



- FCO 2 is a foreign company that has a PE in UAE ;
- FCO 2 availed services from FCO 1 in connection with provision of services to a UAE Company



- The loan is secured by movable or immovable property located in the State.
- The borrower is a : -
  - Resident Person.
  - Government Entity.





# PERMANENT ESTABLISHMENT



# TYPES OF PE



**14 (1)**

**Instances  
Resulting  
In a  
PE**

**14 (2)**

**Specific  
Inclusions  
In  
Fixed  
Place  
of Business**

**14 (3)**

**Specific Exclusions**

**14 (4)**

**Non-applicability of  
Exclusion Under  
Article 14 (3)**

**14 (5)**

**Habitually  
Exercising  
Authority**

**14 (6)**

**Independent  
Agent**

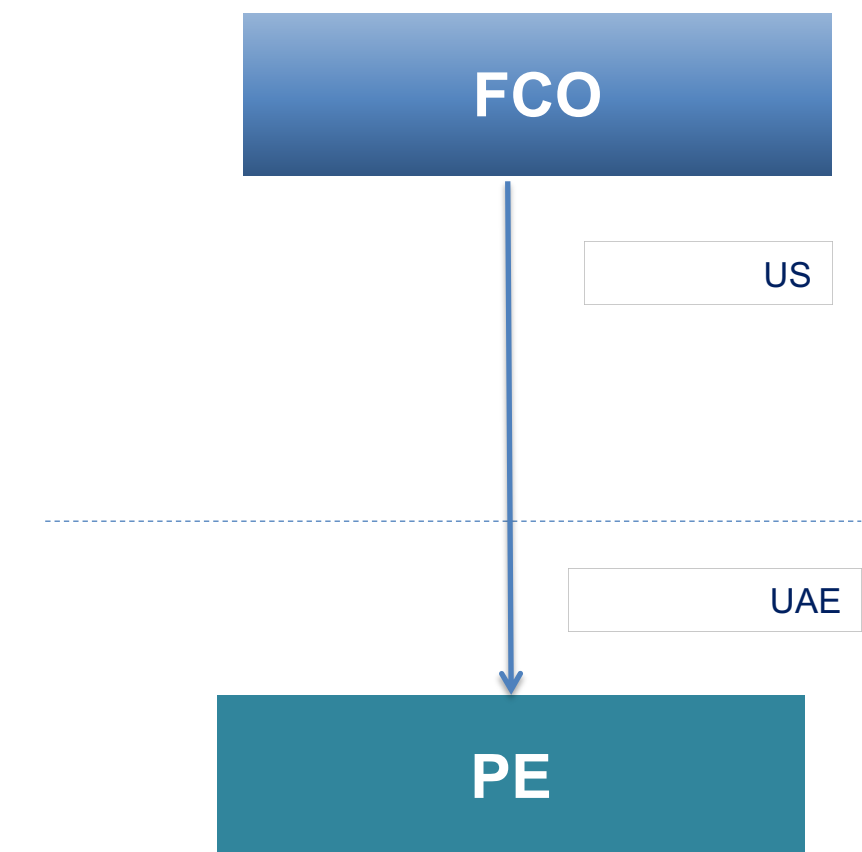
**14 (7)**

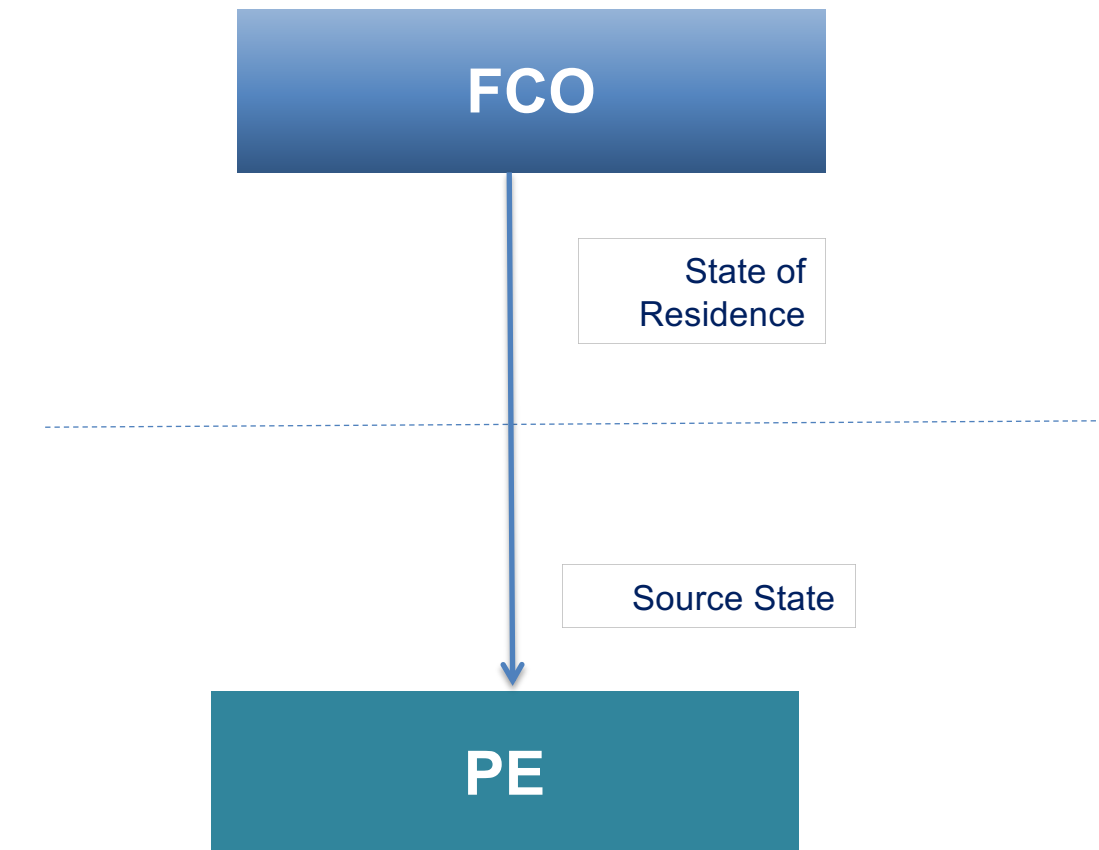
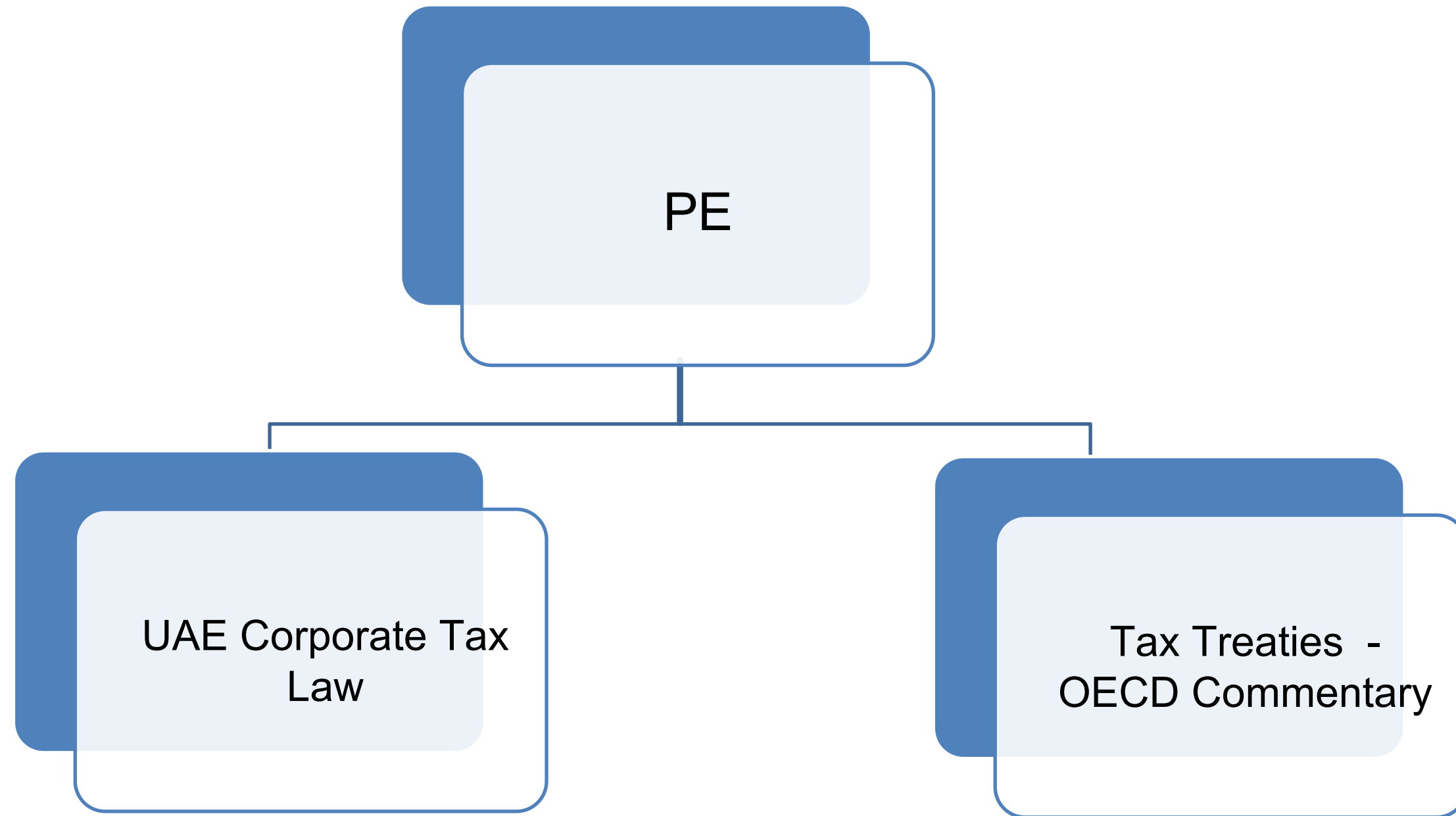
**Conditions  
by Minister**

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

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

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





1

Fixed Place of Business – > 6 month

2

Foreign enterprise business may be carried on wholly or partly through such place

3

The business of Foreign enterprise should be carried from such place on regular or recurrent basis

4

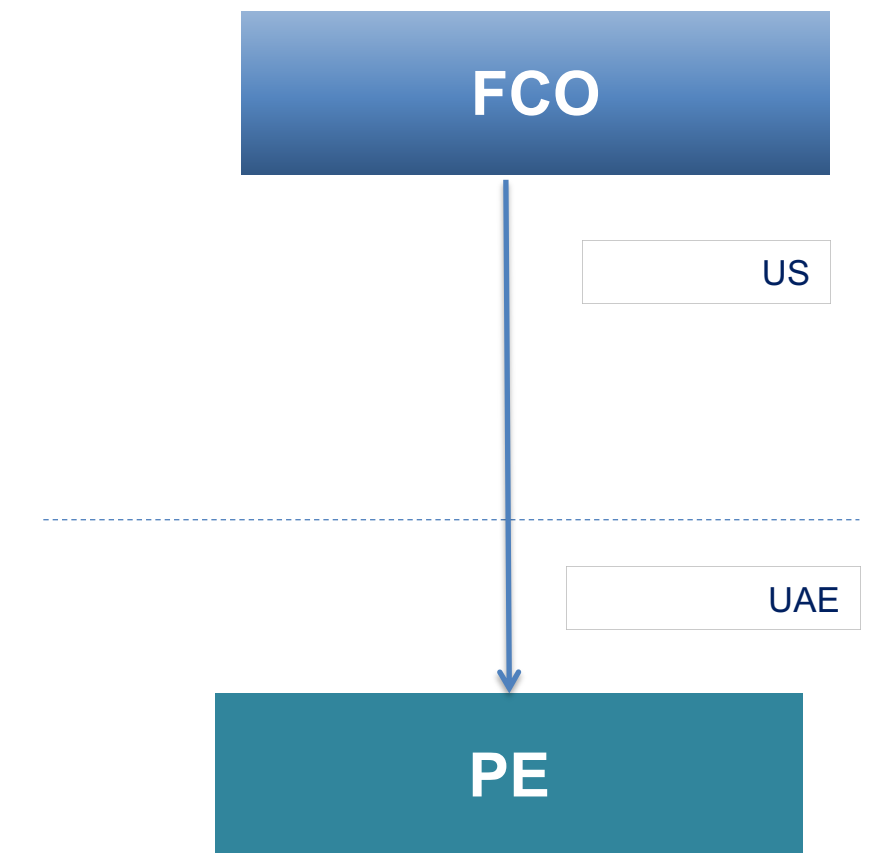
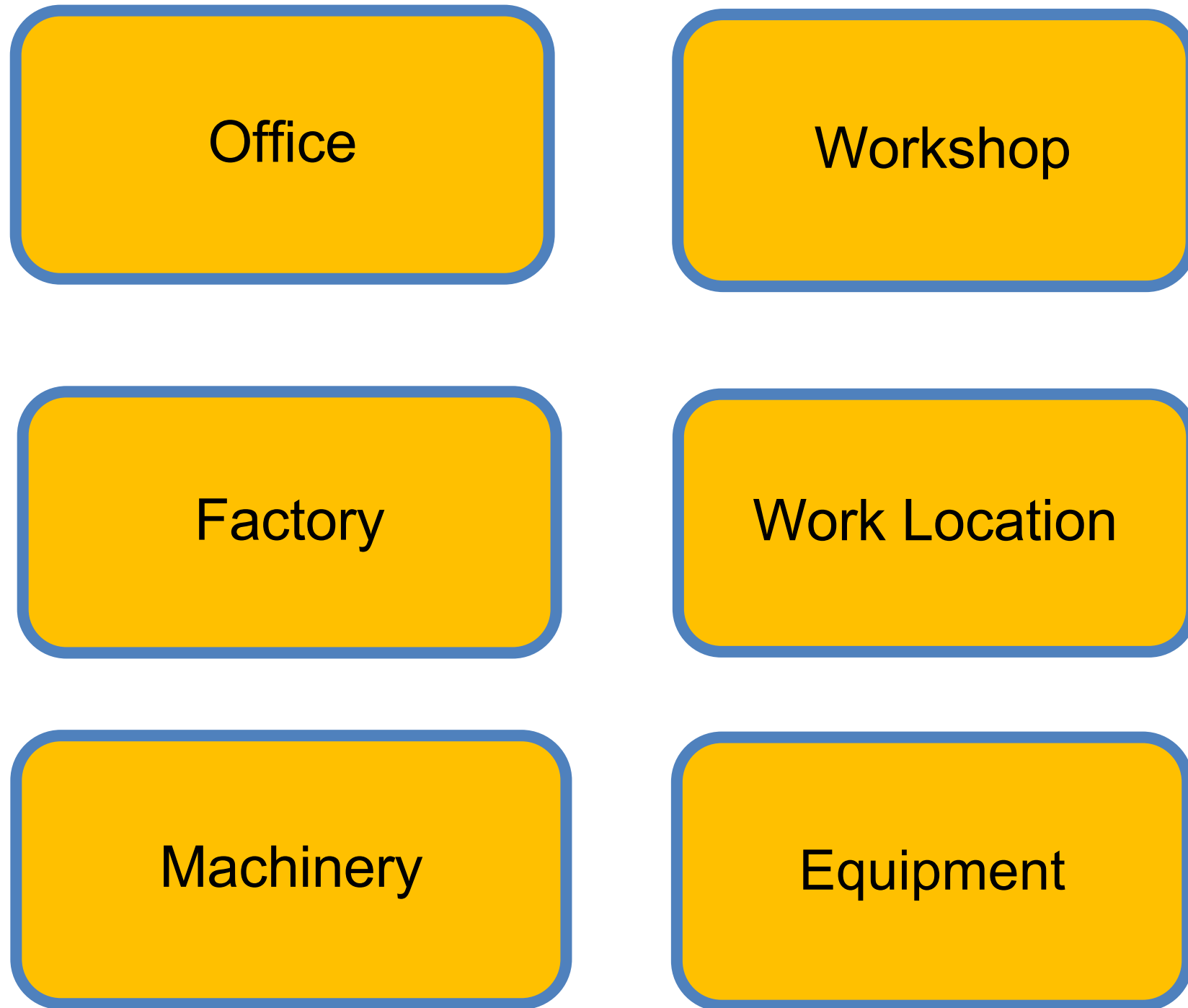
The place should be at the disposal of the NR

5

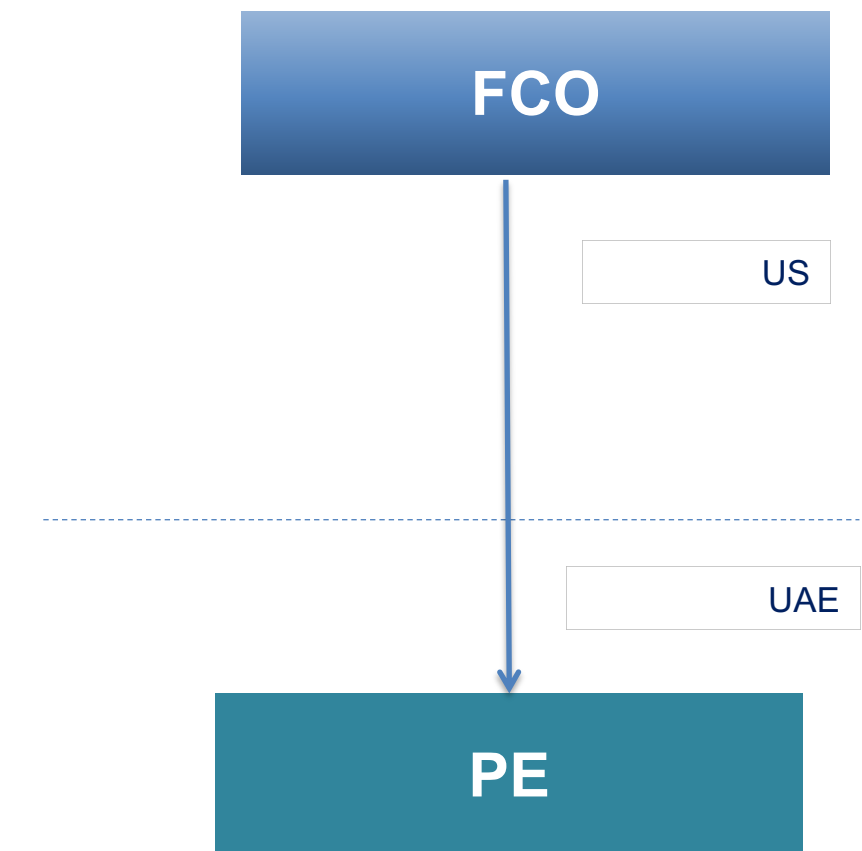
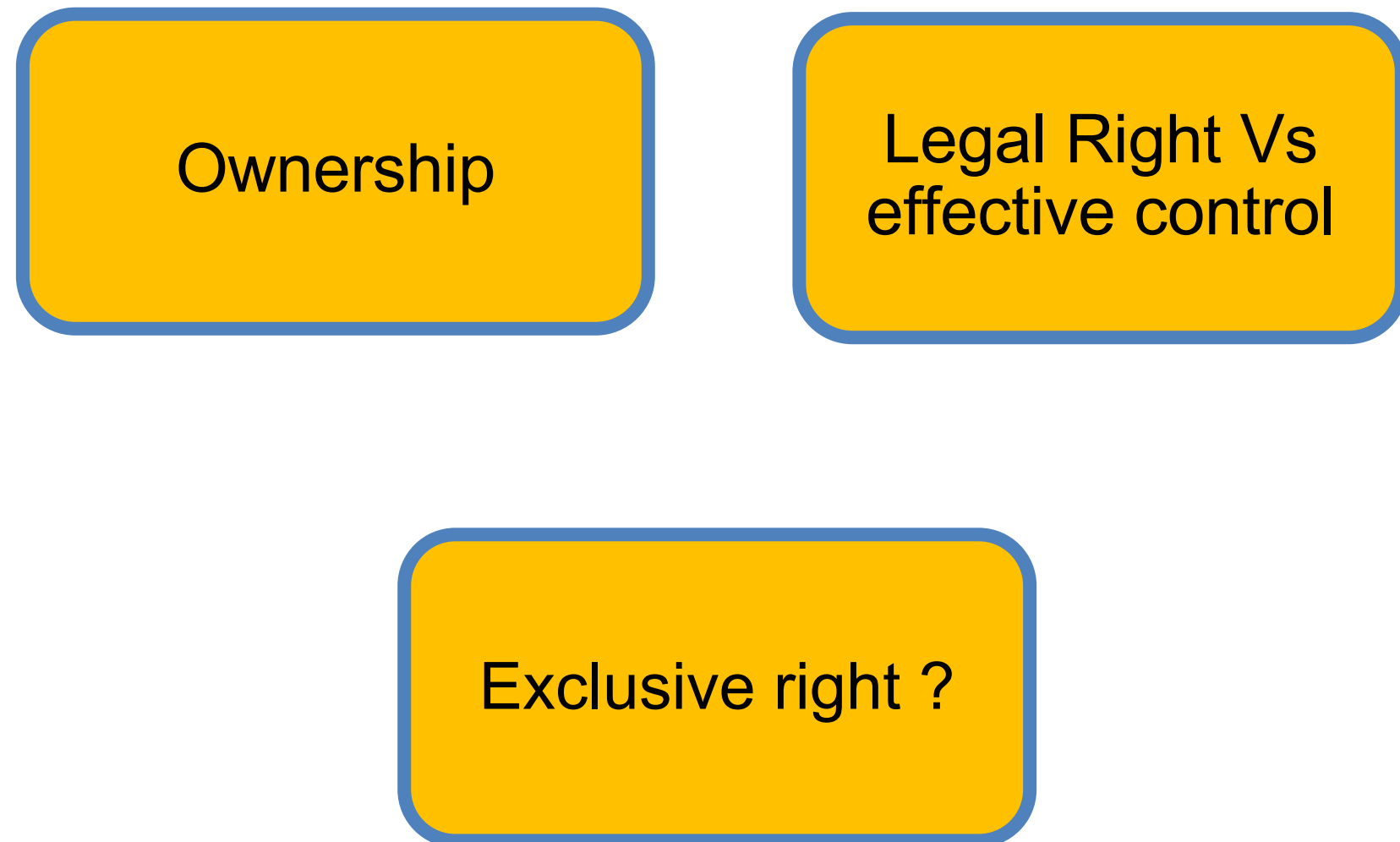
PE determination is an annual exercise

6

Core income generating activities







# AGENCY PE

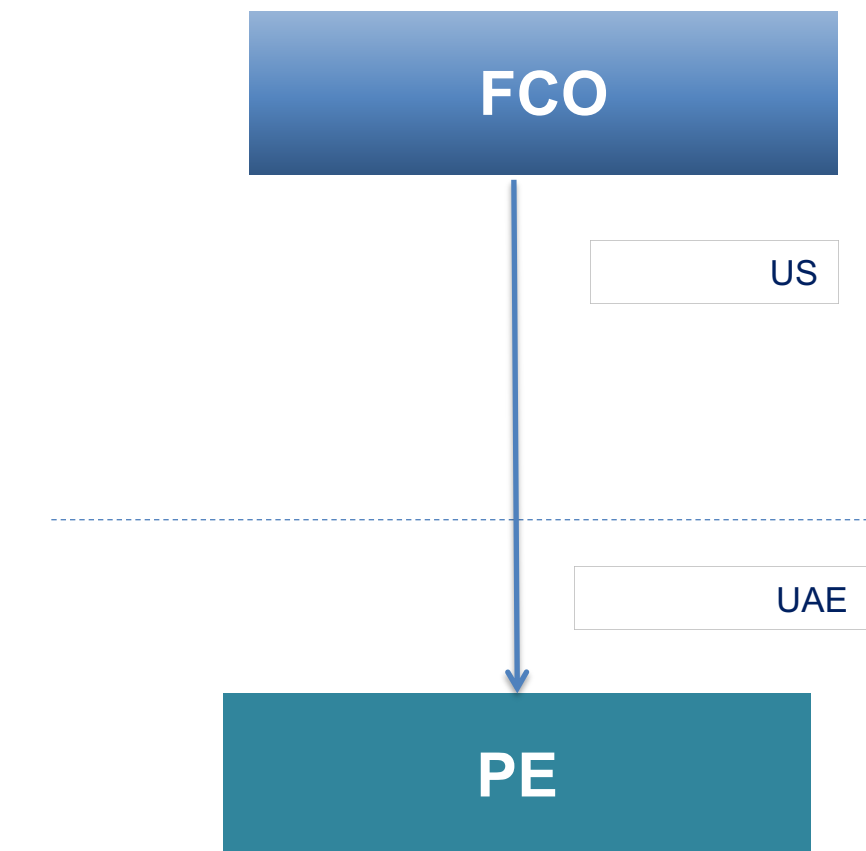


Exclusive Distributor of foreign Pharma company – Only Contract conclusion outside UAE

Commissionaire Arrangement – Direct passing of title from NR to customer

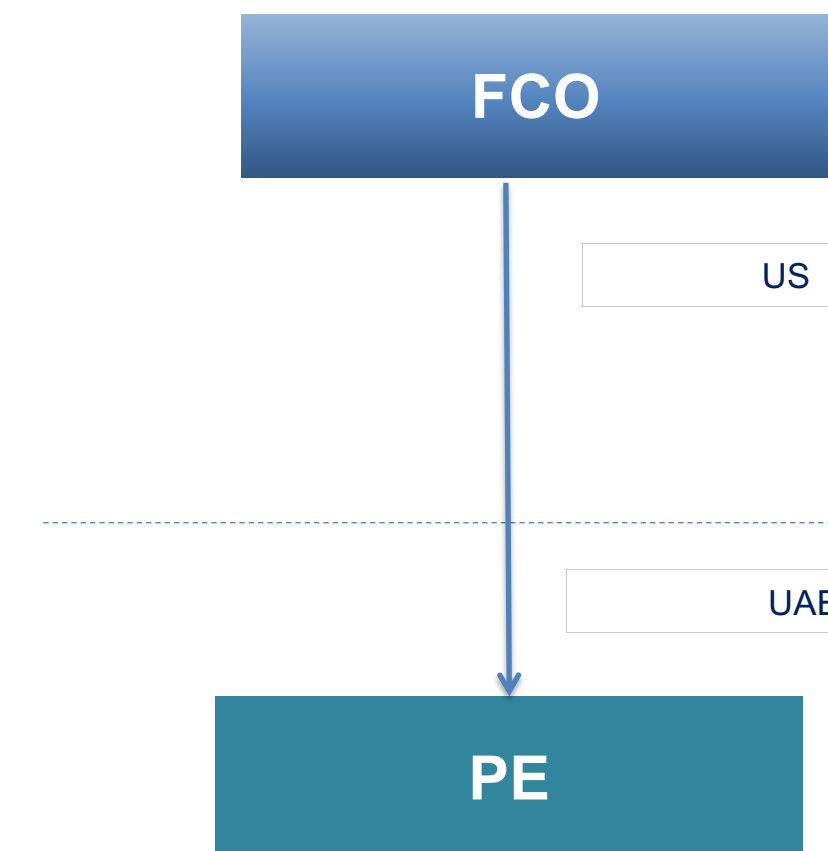
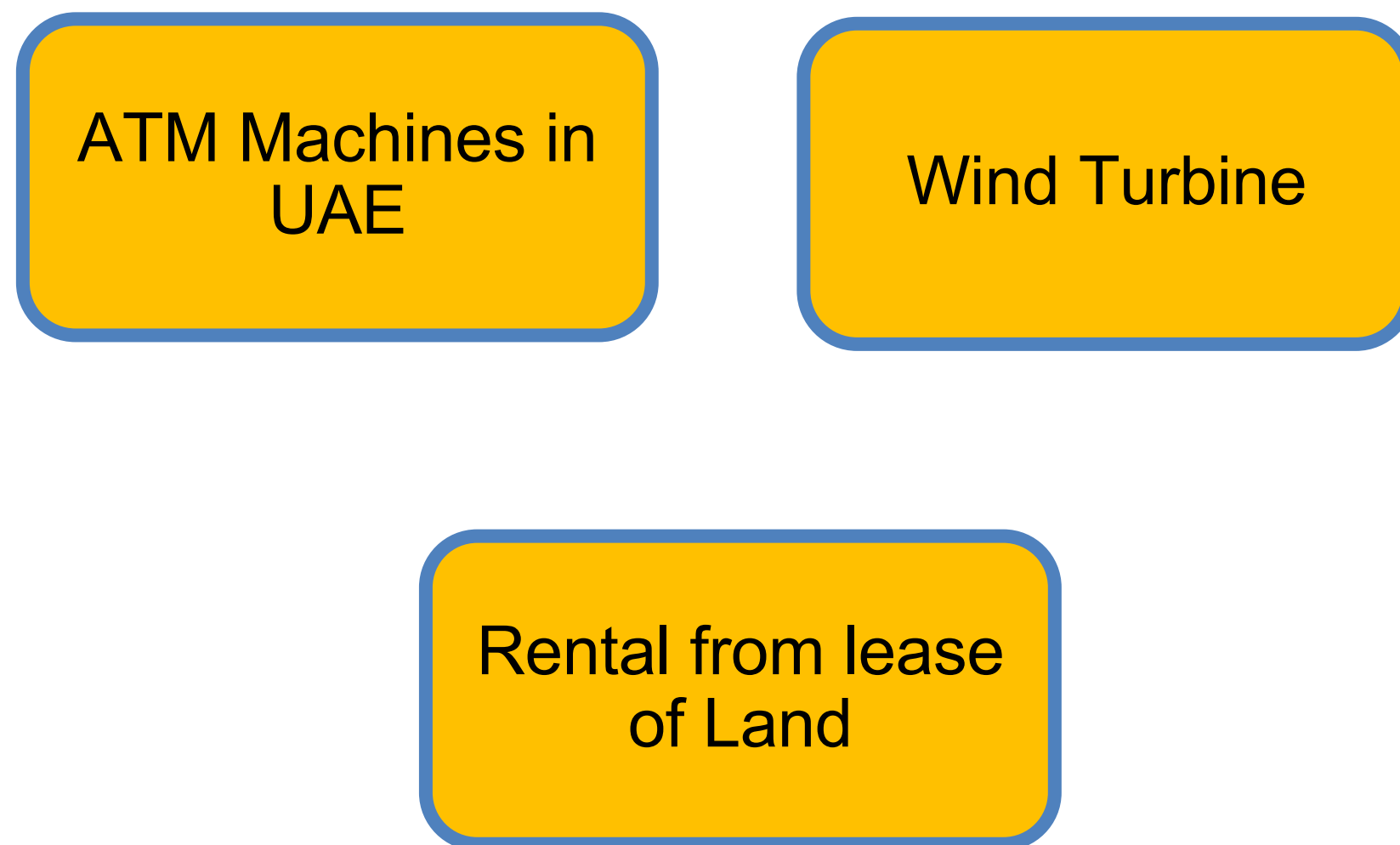
Representatives of a pharmaceutical company contacting Doctors

UAE subsidiary and PE



# NEXUS OF NON-RESIDENT IN THE UAE





1

International transport of passengers, livestock, mail, parcels, merchandise, or goods by sea or air

2

Leasing or chartering aircrafts or ships used in International transportation

3

Leasing equipment that are integral to seaworthiness of ships or airworthiness of aircraft

NR should prepare tax return on basis of **adequate and standalone Financial Statements** prepared in accordance with AS accepted in the UAE - IFRS

Opt for **Cash Basis of Accounting**, if specific conditions are met

Income should **be attributed to the PE / Nexus**, on ALP treating PE and HO as separate entity

Non-Resident to **file a Tax Return with the FTA** and settle the Corporate Tax payable, **within 9 nine months** from the end of the **relevant Tax Period**

Non-Resident Person must **maintain all records** and documents for a period of **7 years following the end of the Tax Period to which they relate**



1

Taxable Person may be **resident for Corporate Tax purposes in more than one jurisdiction**

2

**Incorporated** in **foreign jurisdiction** but effectively managed and controlled in UAE

3

Company would be **tax resident in both jurisdictions**

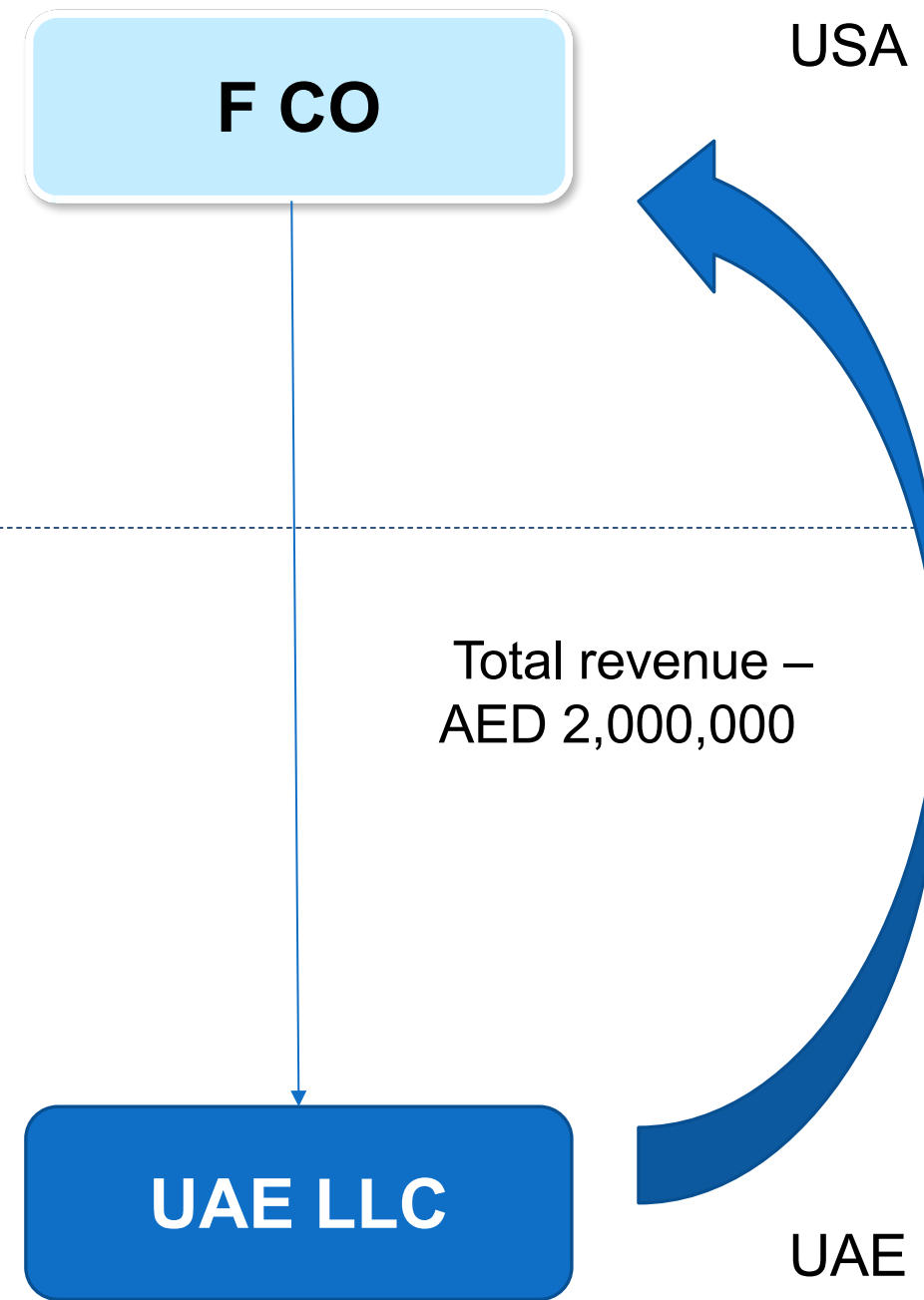
4

**DTAA** b/w UAE and other jurisdiction, **contains tie-breaker Rule** to determine right to tax income

5

DTAA provisions **override** UAE CT Law

# IS SMALL RELIEF AVAILABLE TO NON-RESIDENT PERSON ?





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