

Minister of Finance Decision No. (20) of 2021 for Applying the Requirements of Substantive Activity to Economic Activities Practiced in the State of Qatar 20/2021

Number of Articles: 30

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Minister of Finance,

After perusal of the [Law No. 7 of 2002](#) on the Protection of Copyright and Neighboring Rights, Law No. 9 of 2002 with respect to Trademarks, Trade Indications, Trade names, Geographical Indications and Industrial Designs and Templates,

[Law No. 5 of 2005](#) on Protection of Secrets of Trade,

[Law No. 6 of 2005](#) on Protection of Integrated Circuit Designs,

The Qatar Financial Centre Law, promulgated by Law No. 7 of 2005, and its amended laws,

[Law No. 34 of 2005](#) on Investment Free Zones, as amended by Decree Law No. 21 of 2017,

[Law No. 36 of 2005](#) on Establishing a Free Zone for Qatar Science and Technology Park,

The Patent Law promulgated by Decree-Law No. 30 of 2006,

[Law No. 17 of 2011](#) on Border Measures to Protect Intellectual Property Rights,

The Income Tax Law promulgated by Law No. 24 of 2018,

[Law No. 1 of 2019](#) on Regulating Non-Qatari Capital Investment in Economic Activity,

[Law No. 10 of 2020](#) on the Protection of Industrial Designs and Models,

[Decree No. 56 of 2020](#) ratifying the Multilateral Convention for the Implementation of Measures Relating to Tax Agreements to Prevent the Base Erosion and the Transfer of Profits;

and the adoption of this draft resolution by the Council of Ministers at its regular meeting (15) in 2021 on 14 April 2021,

the following has been decided:

[Part I Definitions](#)

Article 1

In the application of the provisions of such resolution, the following words and phrases shall have the meanings assigned thereto, unless the context requires otherwise:

State: Qatar

Competent Authority: General Tax Authority

Licensed Organization: Any Organization entrusted, under licensing, to work for companies or entities and administrate preferential tax systems for the benefit of such companies or entities, in accordance with the laws applicable in the State.

System of Taxation: Any system that offers a tax advantage comparing to the general principles of income taxation in the State, whatever the form or amount of the advantage.

Eligible Entity: The entity that engages in a covered services activity or an intellectual property activity and is eligible to benefit from a preferential tax system, in accordance with the laws applicable in the State.

Services Activities Covered: Any of the financial or other service activities stipulated in Article (7) hereof.

Intellectual Property Activities: Any activity that requires experimental research and development, and includes each creative and methodological work followed in order to increase the stock of knowledge and find new applications of the available knowledge.

Research and Development: Research and Development include three types of activities:

-Fundamental research is the empirical or theoretical work carried out primarily to acquire new knowledge of the Substantive foundations of the phenomena and the facts examined, without any particular application or use.

-Applied research means original research conducted in order to acquire new knowledge, primarily directed towards a specific practical goal or purpose.

-Empirical development means systematic work that draws on knowledge gained from research and practical experience, and produces additional knowledge directed towards the production of new products or methods or the improvement of products or methods in which the work is carried out.

Core Income-Generating Activity (CIGA): The activity that constitutes the core of the Eligible Entity's business.

Non-Core Income-Generating Activity: The activity that does not constitute the core of the Eligible Entity's business, such as clerical, informational, payroll and related functions and legal services.

Eligible Expenditure: It includes the expenses incurred by the Eligible Entity for the purpose of the actual exercise of the Research and Development activity, which are directly related to the Intellectual Property Asset, and consist of the following expenses:

- Expenses directly related to research and development, incurred by the Eligible Entity to develop the intellectual property asset, including salaries and wages, direct costs, and overhead costs directly related to research and development facilities. This is in addition to supply costs, insofar as all such costs arise from activities undertaken to enhance understanding of scientific linkages or technologies, address known scientific or technological obstacles, increase knowledge or develop new applications, as well as expenses incurred to improve IP assets after acquisition.

- Expenses directly related to research and development incurred by the Eligible Entity while using outsources unrelated thereto, whether located in the State or abroad.

- Expenses directly related to research and development, incurred by the Eligible Entity while using outsources unrelated thereto, that are present in the State and are engaged in the activities assigned thereto by the eligible entity.

The following expenses and costs are not eligible:

- Expenses related to research and development incurred by the Eligible Entity while using outsources unrelated thereto and located outside the State.

- Interest payout

- Building costs

- Costs of acquiring IP assets, including those incurred to obtain search rights, royalties and fees paid for licensing the use of an intellectual property asset.

- Any costs that cannot be directly linked to a particular intellectual property asset.

Total Expenses: The sum of all expenses that would be counted as eligible if made by the entity itself, consisting of the following expenses:

- Eligible Expenditure.

- Expenses directly related to research and development incurred by the Eligible Entity while using outsources unrelated thereto and located outside the State.

- Costs of acquiring IP assets, including those incurred to obtain search rights, royalties and fees paid for licensing the use of an intellectual property asset.

The following costs and expenses are not included in the total expenses:

- Unsuccessful research and development expenses.

- Non-eligible expenditure, except as stated above, even if incurred by the Eligible Entity itself, such as interest payments, construction costs, and other costs that do not represent actual research and development activities.

Eligible IP assets: IP assets that are legally protected. For this purpose, legal protection includes exclusive rights to use IP assets, legal measures against infringement of IP assets, protection of trade secrets, contractual and criminal protection against unauthorized use of IP assets or unauthorized disclosure of information on IP assets.

Eligible IP assets include only the following two categories:

- Patents

- Copyrighted software.

Marketing-related IP assets, including trademarks, shall not be eligible for any preferential tax system.

Part Two Scope of Application

Article 2

This decision shall apply to Eligible Entities in the State.

Article 3

Residents of the State may avail themselves of any preferential taxation system for the activities of the covered services and the intellectual property activities they engage in, if they meet the conditions required. Entities established or participated by the residents may benefit from a preferential tax system, notwithstanding the proportion of such participation.

The exercise of the activities provided for in the preceding paragraph in the local market shall not be a justification for limiting or withdrawing the benefit of a preferential tax system.

Part Three Requirements for Substantive Activity

Chapter 1 Requirements for Substantive Activity in Relation to the Activities

Article 4

Subject to Article 5 hereof, any Eligible Entity engaged in one or more of the activities of the covered services may benefit from a preferential tax system if it meets the required conditions, provided that such entity carries out the CIGA benefiting from that system.

Article 5

The Eligible Entity that intends to benefit from a preferential tax system over income of one of the covered service activities shall carry out the CIGA in the State. It may ask the assistance of third parties related and unrelated thereto while engaging in such activities, provided that they are present in the State and carry out the activities assigned thereto.

Article 6

1. In carrying out its CIGA, the Eligible Entity shall comply with the following:

- Allocating an appropriate number of full-time employees with the necessary qualifications in the State.
- Incurring an appropriate amount of operating expenses to carry out such activities,
- Meeting other requirements determined by the licensed organizations in coordination with the competent authority.

2- Subject to the provisions of the preceding paragraph, the Licensed organizations may, in their respective jurisdictions, establish a minimum number of personnel and the required amount of operating expenses and other requirements, in coordination with the competent authority, taking into account the characteristics of each of the activities covered.

Article 7

1- Concerning covered service activities, CIGA include the following:

A. Headquarters Business:

Managing, coordinating, or monitoring the business activities of corporate Groups, including the following:

- Planning and developing the Group's business strategies.
- Making relevant administrative decisions.
- Incurring expenditures on behalf of the Group's constituent projects.

- Coordinating the activities of the Group's constituent projects.
- Managing and coordinating the Group's supply chain.
- Monitoring and providing services to the Group.

B. Distribution and Service Centers:

Purchasing and reselling raw materials and finished products from other members of the Group, and providing the following services thereto:

- Transportation and storage of goods.
- Managing inventories
- Receiving applications
- Providing consulting or other administrative services.

C. Funding and Delay:

- Approval of financing terms.
- Identification and acquisition of assets to be leased (in the case of leasing).
- Determining the terms and duration of any financing or leasing.
- Managing leasing contracts.
- Monitoring and reviewing agreements.
- Risks management

D. Funds Management

- Making decisions regarding the acquisition and sale of investments.
- Calculation of risks and reserves.
- Making decisions about interest rate or currency fluctuations and taking precautionary measures.
- Preparing regulatory reports or other relevant reports for government agencies and investors.

E. Banking Activities:

- Raising funds
- Risk management, including credit, currency and interest risk.
- Deciding on hedging positions.
- Providing loans, credit or other financial services to clients
- Organizational capital management.
- Preparation of reports and regulatory approvals.

F. Insurance Activities:

- Anticipating risks.
- Insurance or reinsurance against risks.
- Providing services to clients.

G. Shipping:

- Managing crews, including hiring, paying, and supervising crew members.
- Transportation and maintenance of ships.
- Supervising and tracking deliveries.
- Determining the required goods and the date of delivery.
- Organizing and supervising trips.

H. Holding Companies

1- For holding companies with a variety of assets and different types of income (such as interest,

rent, and royalties), the CIGA are those associated with the income generated by holding companies.

2- For pure holding companies that have only equity contributions and earn only dividends and capital gains, the CIGA are those related to the management of equity contributions. For this purpose, pure holding companies shall provide the persons and premises necessary to carry out such activities and shall respect all applicable reporting requirements.

I. Technical Consultation:

- Providing an opinion, information or advice on technical issues in accordance with a scientific methodology.
- Providing technical assistance.
- Conducting technical studies.
- Making technical suggestions and recommendations.

J. Technical Training:

- Preparation, exercise, and assistance.
- Providing trainees with scientific and practical studies that lead to raising the degree of their skill when performing the duties of the job.
- Giving all theoretical and practical knowledge to acquire the practice of a profession.

2- Licensed organizations may, in their respective jurisdictions, identify CIGA in respect of any other covered service activities. In coordination with the licensed organization, CIGA shall be approved by virtue of the competent authority decision, in relation to any activities identified by the Forum on Harmful Tax Practices.

Chapter Two Requirements for Substantive Activity with Respect to Activities

Article 8

In order to benefit from a preferential tax system over income from an IP activity, the Eligible

Entity shall conduct research and development activities in the State.

An activity, whether continuous or incidental, is a research and development activity if it meets the following basic criteria:

- To be good.
 - To be creative.
 - To have uncertain results.
 - To be systematic.
 - To be transferable and reproducible
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Article 9

The Eligible Entity shall benefit from a preferential tax system only with respect to income derived from its activity in intellectual property, and to the extent that it results from the eligible expenditure incurred in research and development that contributed to the creation of the Eligible IP Asset.

2- The proportion of income benefiting from the preferential tax system shall be equal to the proportion of eligible expenditure to total expenditure. The following calculation shall be applied to determine such proportion:

$$\frac{\text{(Eligible Expenditure/ Total Expenditure)} \times \text{Gross Income from Eligible IP Asset}}{\text{Income benefiting from the preferential tax system for IP activity}} =$$

[Section I Eligible Expenditure](#)

Article 10

The eligible expenditure shall be included in the calculation of the proportion provided for in paragraph (2) of the preceding Article at the time they are incurred, regardless of being for

accounting or other tax purposes.

Article 11

In calculating eligible expenditure, the Eligible Entity shall be allowed to increase it by 30%, provided that the expenses calculated by applying that increase do not exceed the total expenses incurred.

Section II Total Expenditure

Article 12

Total expenses shall be included in the calculation of the percentage stipulated in paragraph (2) of Article (9) hereof at the time they are incurred, regardless of being for accounting or other tax purposes.

Section III Outsourcing

Article 13

Should the Eligible Entity use outsources related thereto in research and development activities, the expenditure derived therefrom shall be deemed to be an Eligible Expenditure, to the extent that the Associated Parties are located in the State where it carries out its activities mandated by the Eligible Entity.

Article 14

Should the Eligible Entity use outsources unrelated thereto in research and development activities, the expenditure derived therefrom shall be deemed to be an Eligible Expenditure, whether such outsources are located within or outside the State.

Section IV Gross Income

Article 15

Total income shall be calculated after deducting intellectual property expenditures, allocated to intellectual property revenues incurred in the year, from the total intellectual property income earned in the year

Article 16

Gross income includes only income earned from the following Eligible IP Assets:

- Royalties;
 - Capital gains;
 - and any other income from the sale of those assets.
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Section V Acquired IP assets

Article 17

Acquisition costs of IP assets are accounted for in total expenses but are not accounted for in eligible expenditures.

Expenditures incurred to improve IP assets only after acquisition are treated as eligible.

Article 18

In case the Eligible Entity acquires from a related party an IP asset, the fully competitive price is used to determine the acquisition costs.

Article 19

Notwithstanding whether the amounts owed have been paid or not, acquisitions of IP assets include any transfer of intellectual property rights.

Section VI Calculation of Expenses and Losses

Article 20

- 1- IP Expenses shall be calculated by applying the provisions of the tax laws and regulations applicable in the State.
 - 2- Losses associated with intellectual property shall not be deducted from taxable income.
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Part Four **Ensuring Compliance with Substantive Activity Requirements**

Chapter One **Income and Expenditure Tracking**

Article 21

For the purposes of applying the advantages of a preferential taxation system relating to intellectual property to the income of an entity that has arisen from eligible expenditures and to ensure that the Eligible Entity does not manipulate the amount of gross expenditure to inflate the amount of income that may benefit from that system, the Eligible Entity shall track expenditures, assets and income relating to IP activities, regardless of the number of assets it owns or the extent to which it has outsourced or acquired assets.

Article 22

While calculating the net income of IP activities, the Eligible Entity shall reduce the amount of the gross income of such activities by the amount of any other tax deductions or reductions arising from the same IP assets.

Chapter Two Other Obligations

Article 23

Any Eligible Entity shall maintain the following:

- 1- Information on the rate of income tax levied on its taxable income, and on any reduction in such rate.
 - 2- Information on dividends and interest paid on loans.
 - 3- Documents related to the selection or application of transfer pricing methods.
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Article 24

- Any entity eligible to benefit from a preferential tax system for an IP activity shall provide the following information:

- IP assets of the entity.
- The entity's annual revenue.
- Operating expenses incurred by the entity.
- Details of outsourcing, if any.
- Annual dividends of the entity.

Type of income and total amount of intellectual property activity.

2- An entity eligible to benefit from a preferential tax system for a covered service activity shall provide the following information:

- Identity, headquarters and management of the entity.
- Type of entity activity, with a description of the CIGAs and their location, as well as details of outsourcing, if any.

- Annual investment in fixed assets.

- Number of eligible full-time employees associated with core activities, and amount of their monthly base salaries.
- The entity's revenues and operating expenses associated with its core activities and dividends.
- Information relating to other requirements determined by the Licensed Organizations, in cooperation with the Competent Authority, pursuant to the provisions of Article 6 hereof.

The details of this information and the methods of providing the same shall be determined in coordination between the competent authority and the Licensed Organizations.

Chapter Three **Enforcement of Substantive Activities Requirements**

Section I **Enforcement Means**

Article 25

Licensed Organizations shall monitor compliance by their Eligible Entities with the requirements of the substantive activity set forth herein, in coordination with the competent authority, where appropriate. They may withdraw the benefits relayed to those entities, if they have violated those requirements.

Article 26

In coordination with the competent authority, Licensed Organizations shall be entitled to access information available in the records of eligible entities, with a view to verifying the information provided to them by those entities, if necessary.

Section II **Financial Penalties**

Article 27

In coordination with the competent authority, Licensed Organizations shall determine the amounts of financial penalties imposed on Eligible Entities committing one of the following violations:

- Breach in the requirements relating to essential activities described herein.
- Manipulation of expenditure and income amounts, to inflate incomes or reduce losses related to

the beneficiary activity of the preferential tax system

Part Five
Transitional Provisions

Article 28

1- Before 1 November 2020, Entities Eligible to benefit from a preferential tax system may continue to benefit from that system with respect to assets held and activities carried out prior to that date, until 31 December 2023, provided that the requirements set forth herein shall apply as of 31 December 2023.

2- As of 1 November 2020, Entities Eligible to benefit from a preferential tax system, as well as entities eligible to benefit from a preferential tax system prior to 1 November 2020 in respect of new assets acquired or activities undertaken by them as of 1 November 2020, shall apply the requirements of this resolution as of the date of its entry into force.

Article 29

In coordination with the Licensed Organization, the head of the competent authority, shall issue a procedures manual for the application of the provisions of this resolution.

Article 30

All competent authorities, in their respective jurisdictions, shall implement this decision. Such decision shall come into effect from the day following the date of its publication in the Official Gazette.
