



Transfer Pricing & controversy in Saudi Arabia

KPMG in Saudi Arabia

22 March 2022





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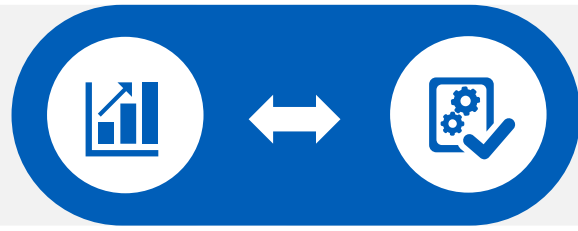
- Recent updates on TP compliance
- TP audit process
- TP audit experience
- Way forward



Recent updates on TP compliance

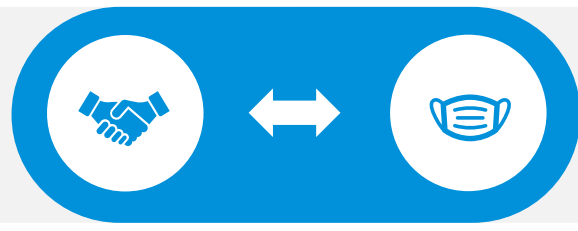
Middle East TP maturity profile - The big picture

Increasing TP activism



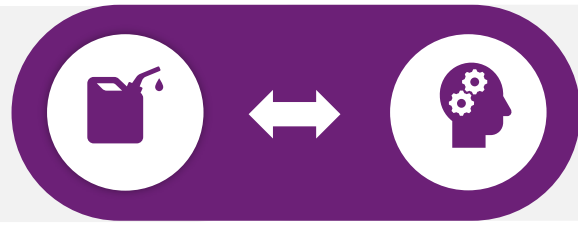
Maturing TP regulations in the region

Pre-COVID TP era



Post-COVID TP era – triggering structural shifts in TP framework

Middle Eastern inevitable diversification beyond oil & gas



Accelerated adoption of TP behaviors

Tax and Transfer Pricing compliance requirements in UAE

TP documentation



MF requirements for JV where no consolidation or when owned by Zakat payers



TP documentation for Zakat paying companies



TP adjustments and mixed companies



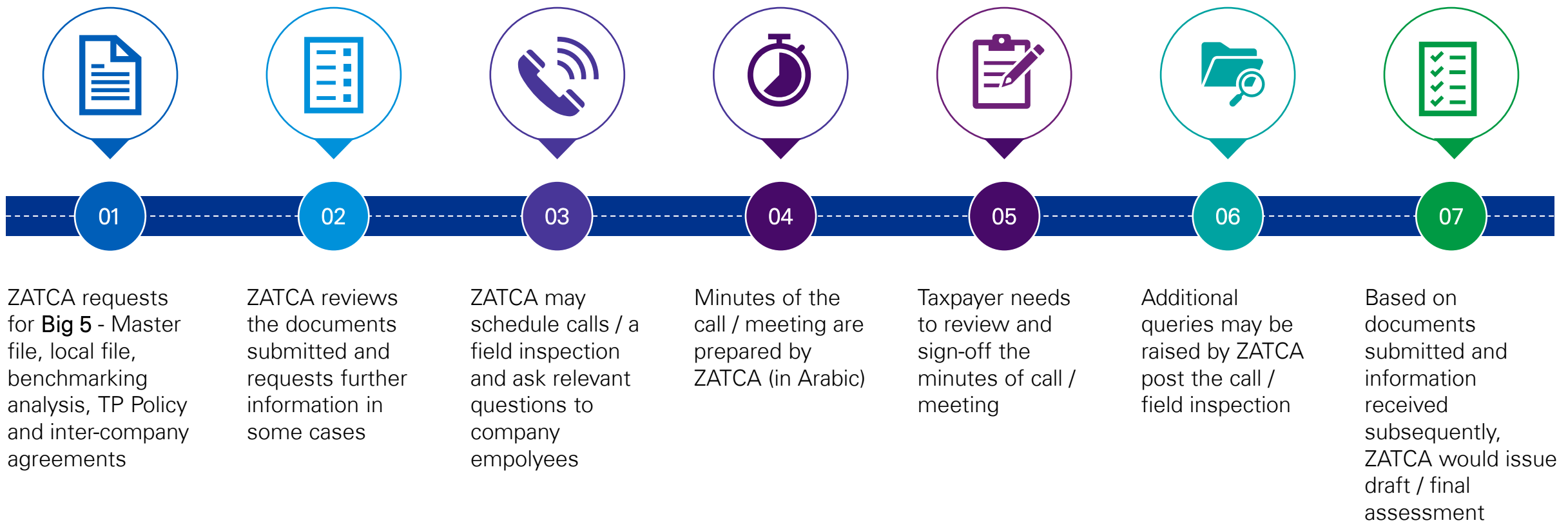
Recurrent topics

- Frequency of updating benchmarking analysis
- Use of foreign comparable data in Saudi Arabia
- English or Arabic documentation
- Any person who directly owns 5% or more of the taxpayer's listed shares must be listed down in the Disclosure Form
- Business restructuring
- Non-monetary or free of charge transactions
- Reimbursement of expenses
- Use of other methods in Saudi Arabia

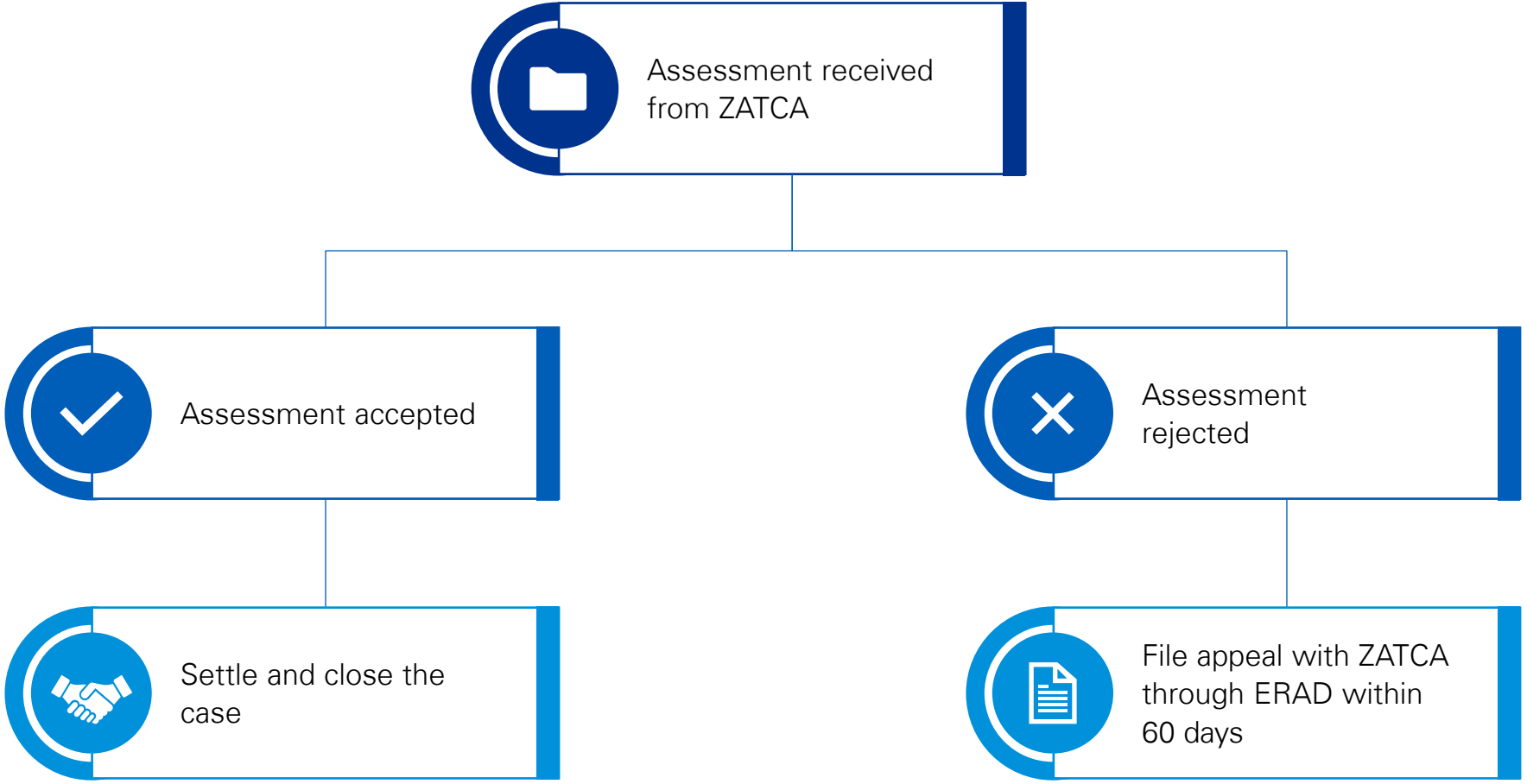


TP audit process

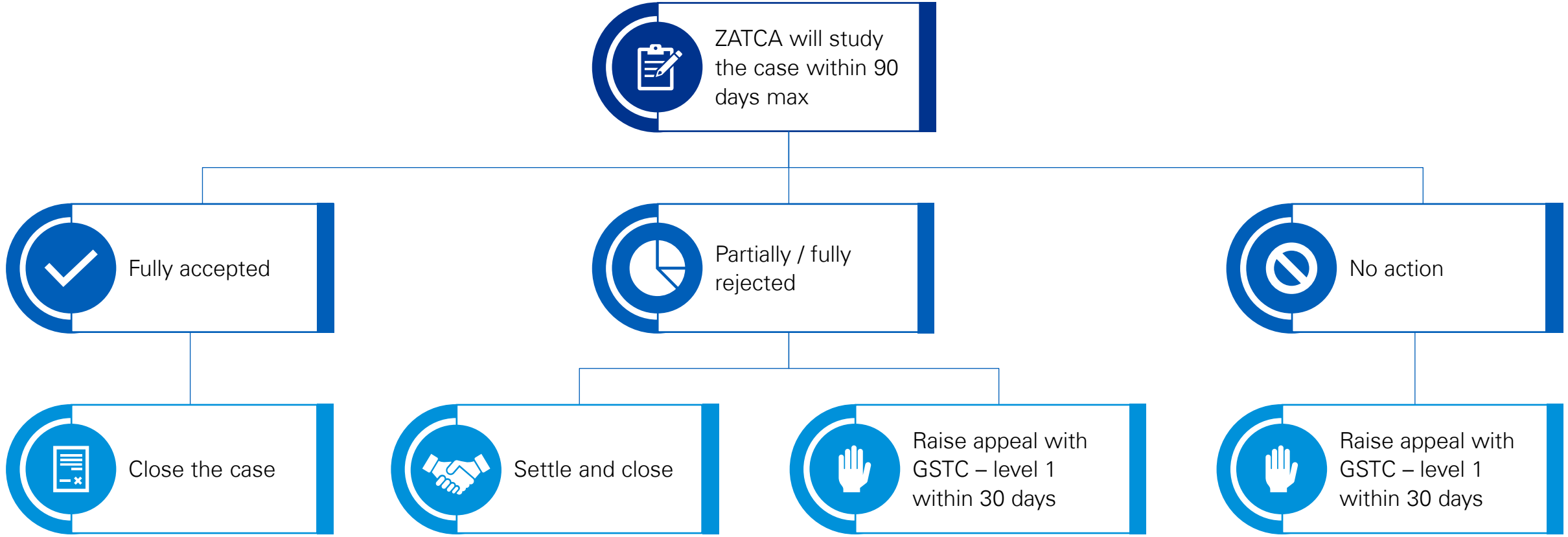
Transfer Pricing audit steps



ZATCA appeal process in Saudi Arabia



ZATCA and GSTC appeal process in Saudi Arabia



New rules for GSTC representation and option to approach settlement committee

Explore Mutual Agreement Procedure (MAP)



TP audit experience

Potential triggers for a TP audit




Loss making or low profit entities having substantial foreign shareholding



PEs existence in Saudi Arabia and allocation of revenue



Non-maintenance of TP documentation reported in DFCT




Business restructuring



Transactions with related parties in low tax jurisdictions

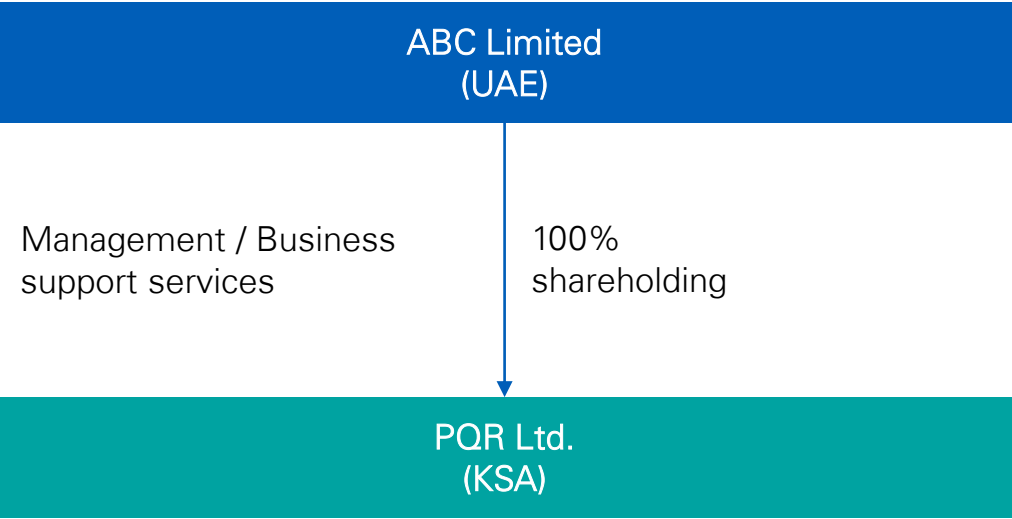


Foreign branch offices with Cost plus arrangements



Specific transactions:
— Management fees
— Financial transactions
— Royalty payments
— Cost sharing agreements

Management and business support services - Illustration



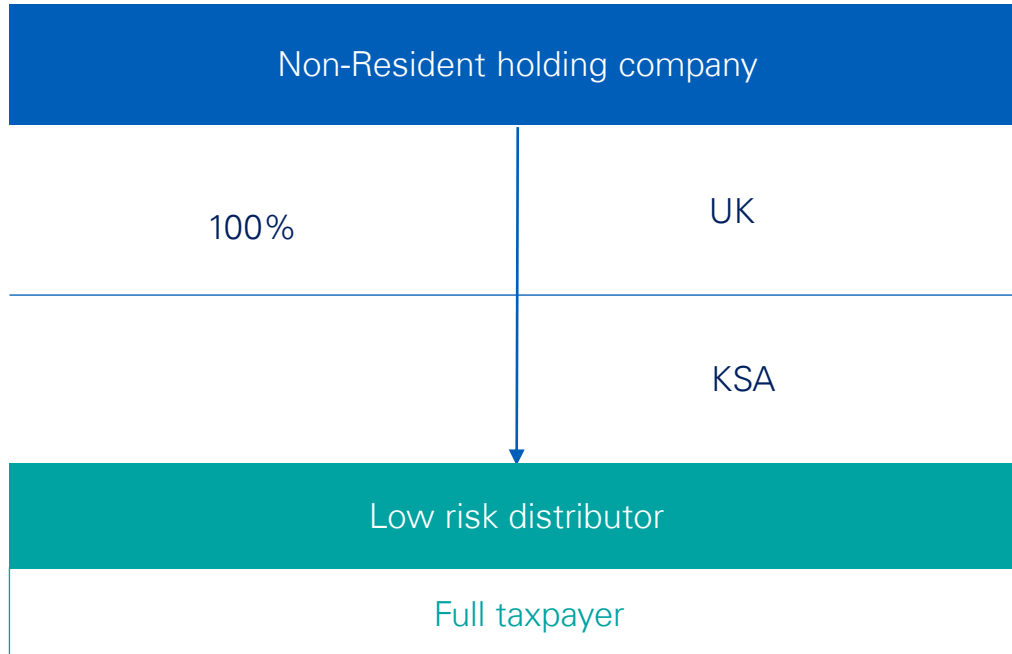
Particulars	Amount
Total cost of services	100
Cost allocated to KSA	20
Profitability of UAE Company	1%



Does cost allocation for group services trigger TP adjustments?

- Basis of cost allocation
- Review allocation keys applied
- Supporting documents for services rendered - emails, deliverables, advices, etc.
- Need benefit test
- Cost v/s Cost plus mark-up – Economic analysis for mark-up applied
- Review TP Policy specially for arrangements with UAE based companies

Arm's length price - Illustration



What should be the taxable profit of LRD?

- LRD engaged in distribution of products in Saudi Arabia
- Inter-company agreement defines arm's length margin of 5% (example only)
- LRD incurs losses / earns margin below 5%
- Risk profile of LRD in the FAR analysis
- Industry specific requirements



Transfer Pricing way forward

How to mitigate possible Tax and TP risks?



Create TP policies



Create defense files for specific transactions



Maintain intercompany agreements



Review comparability adjustments applied (e.g., Idle capacity)



Apply TP adjustments when required / Align transactions with the ALP



Obtain TP rulings from ZATCA



TP documentation review when it is prepared inhouse (e.g., favored regional BMs)



Avoid loss making comparable or companies not having data



Document impact of COVID-19 pandemic for loss making companies



MAP as an alternative

Questions & answers





Thank you



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