



qatar  
FINANCIAL CENTRE  
AUTHORITY

# QFC Tax Regime

Tax Interest Group  
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# QFC Tax Regime

## Introduction

- Effective from 1 January 2010, applies to all QFC firms
- Standard flat rate set at 10%
- Charged on local source profits
- Deductions for expenses used to generate local source income
- Tax accounting period based on accounting date
- Accounting standards IFRS, UK GAAP, US GAAP, AAOIFI
- All QFC firms are required to make a return
- Tax return and payment due 6 months after end of accounting period (interest will be charged on overdue tax)
  
- In 2010 profits for accounting periods straddling 1 January will be time apportioned, and time limits for returns will be extended.
- QFC Tax site can be found at [www.qfc.com.qa](http://www.qfc.com.qa)

# QFC Tax Regime

## Introduction (contd)

- Tax losses calculated in same manner as taxable profits
- Losses can be carried forward, no time limits
- Losses can be restricted upon a change of ownership
- Losses cannot be carried back
  
- Group relief for losses may be claimed by QFC companies belonging to the same group
- 75% relationship required
- Claim can be made in tax return
- Written consent for surrender required

## QFC Tax Regime

### Local Source Income Introduction

- Territorial, Worldwide or Unitary Basis?
- Territorial, as
  - State Tax Regime is Territorial
  - Reduce Incidence of Double Taxation for QFC Firms
  - Focus Tax Department Resources on 'Profitable' Areas

## QFC Tax Regime

### The Charge to Tax

Article 10 – ‘Profits... arising in or derived from Qatar’

What do These Words Mean?

Note Territory is ‘Qatar’ and not ‘QFC’

## QFC Tax Regime

### Income Excluded From Charge

- Immoveable Property Outside Qatar
- IP Not Registered in Qatar
- PE's of QFC Entity Outside of Qatar

(Interest Income to be discussed later)

## QFC Tax Regime

### Operations Test

- What Were the Operations Giving Rise to the Profit in Question and Where did they Take Place? (*Hang Seng Bank Case*)
- 'Profit' in This Context Means Gross Profit on Transaction by Transaction Basis

## Application of Operations Test

- Look at Operations Most Directly Giving Rise to Profit in Question
- Avoid a 'Totality of Facts' or 'Heart and Mind' of the Business Approach
- Source for Services is where Services Were Performed
- Source for Trading in Commodities or Securities is where Contract is 'Effectuated'
- Source for Dividends is Residence of the Payer

## Application of Operations Test – Continued

- Actions of Agent can be regarded as Actions of Principal (*ING Barings Case*)
- Apportionment will be considered in Appropriate Cases

## Interest Source Rules

- Passive Interest – Simple Return on Investment
- Active Interest – Part of Trading Profit of a Financial Institution
- 'Passive Interest' Defined as Interest Derived by a Person *other than* a Financial Institution
- 'Financial Institution' Widely Defined *but* Excludes, for any AP, Firms which only Carry Out Advisory Activities

## QFC Tax Regime

### Source Rule – Passive Interest

- Source is Determined By Residence of Borrower – if in Qatar, Taxable, if not then not Taxable
- Provision to Prevent Obvious Manipulation of Rule
- Provision to Ensure all Investments in Foreign Branches of Qatari Banks are not Deemed to be Local Source

## QFC Tax Regime

### Interest Source Rule – Financial Institutions

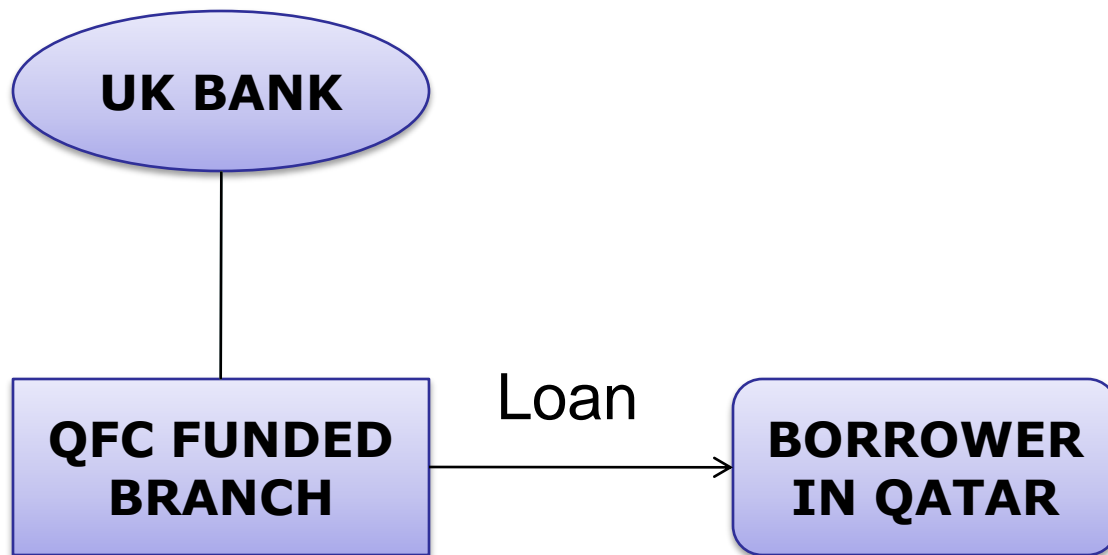
- Was Loan 'Initiated' in Qatar and is the risk carried in Qatar? If 'Yes' then 100% Taxable
- Was Loan 'Initiated' *or* is the Risk Carried in Qatar, but not both? If 'Yes' then 50% Taxable
- Otherwise –no part of interest is taxable

## QFC Tax Regime

### Interest Source Rules – Financial Institutions

- Interest 'Profit' to be Taxed – Gross Profit Not all of the Interest Received
- Risk Generally Carried Where Loan Booked, or Where Guarantee, etc Held
- 'Initiated' Means *all* Steps Taken to Create Loan– Not Just Booking of Loan.

## Financial Institutions – Interest Example 1

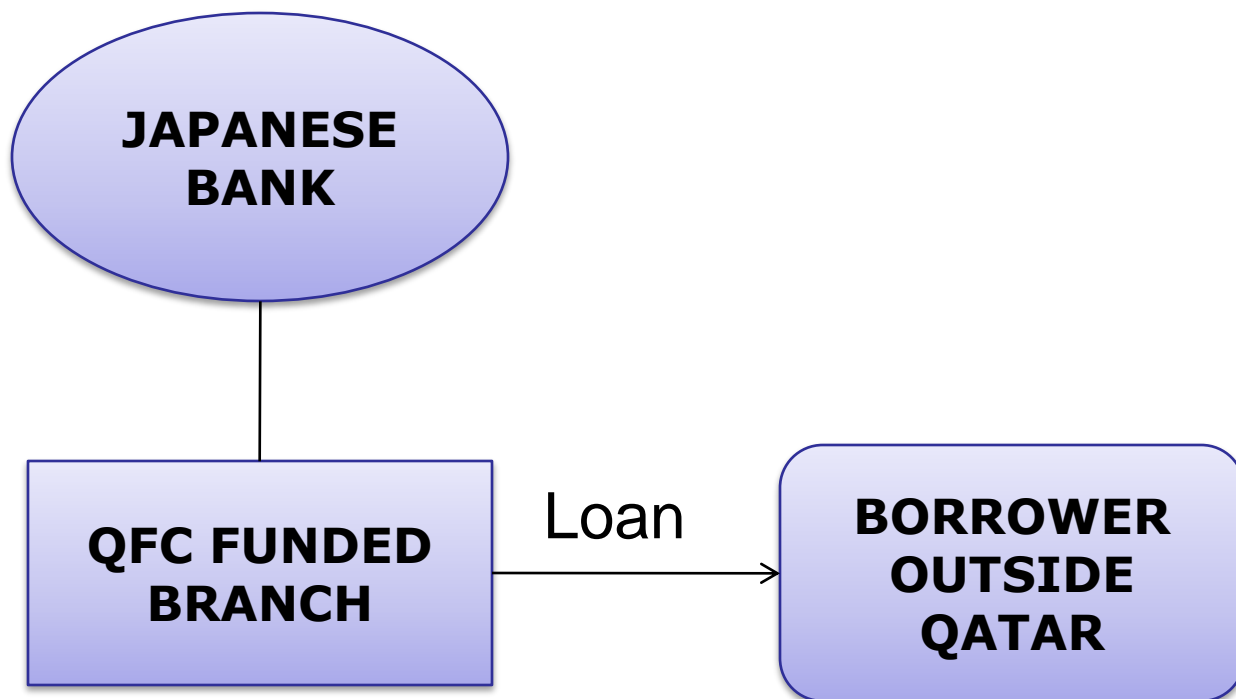


Loan initiated in Qatar,  
and  
Loan booked in Qatar  
(no transfer of risk of  
default)

*Interest will be  
**taxable** in hands of  
QFC Branch.*

# QFC Tax Regime

## Financial Institutions – Interest Example 2



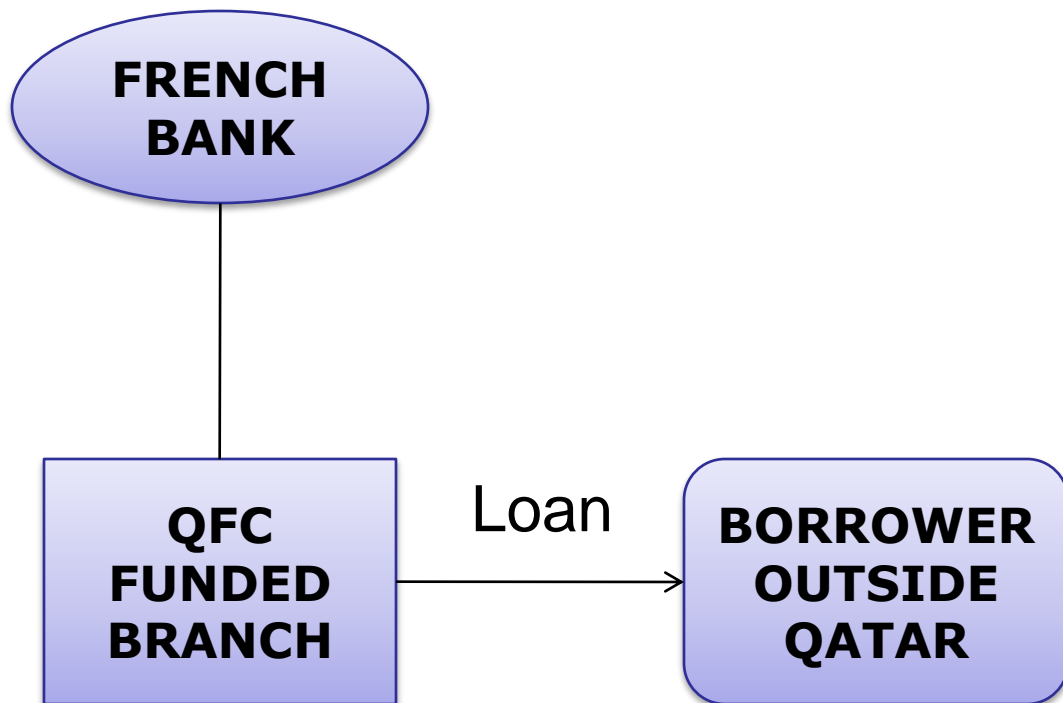
Loan initiated in Qatar

Loan booked in Qatar (no transfer of risk of default)

*Interest will be **taxable** in hands of QFC Branch (even though borrower is outside Qatar).*

# QFC Tax Regime

## Financial Institutions – Interest Example 3

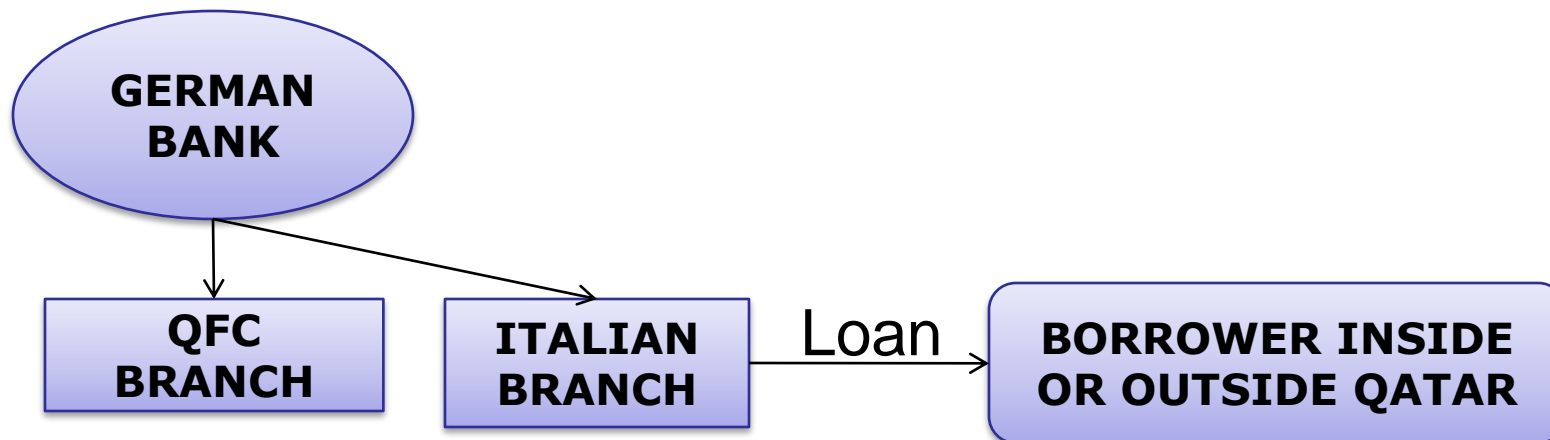


Loan is initiated, negotiated, approved and documented outside Qatar  
In legal terms, loan is made by the QFC Branch and is reflected in books of the branch (and risk of default lies in QFC Branch)

***50%*** of interest on loan is subject to QFC tax

# QFC Tax Regime

## Financial Institutions – Interest Example 4



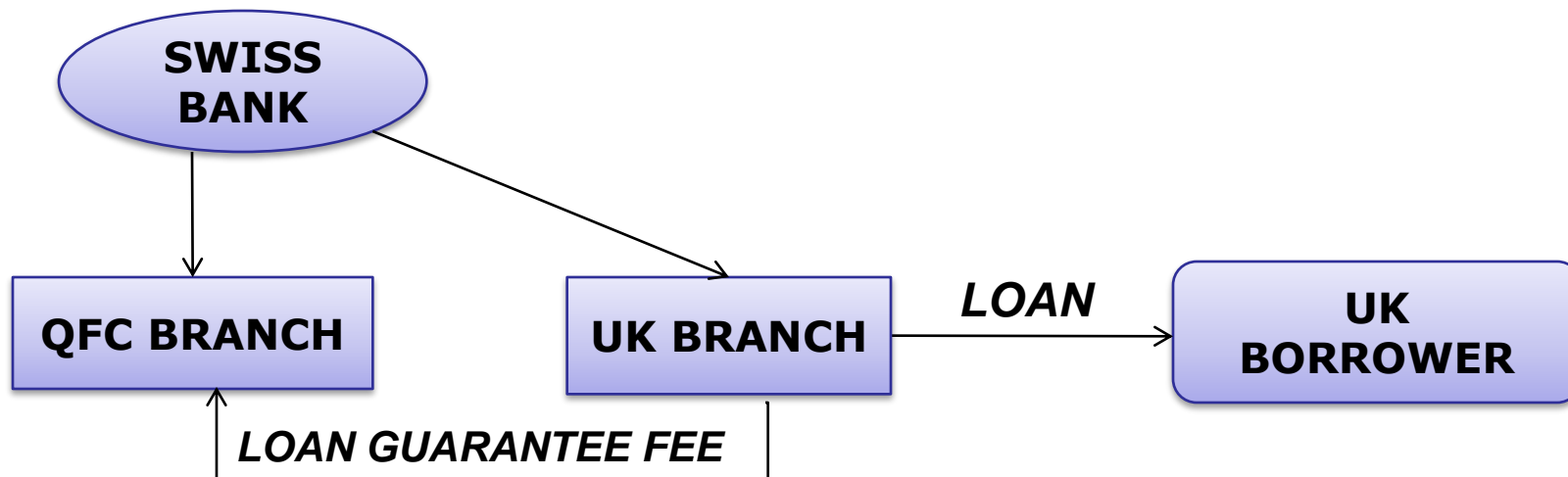
Loan is initiated by a company associated with the QFC branch outside of Qatar, but on behalf of the QFC bank

Loan is recorded in an overseas branch (Italian branch in this case) of the QFC branch and is not underwritten/guaranteed by the QFC branch

*Interest **not subject** to QFC tax.*

# QFC Tax Regime

## Financial Institutions – Interest Example 5



Loan is initiated by QFC branch

Loan is booked in overseas UK branch of Swiss Bank

QFC branch has agreed to guarantee the loan for a fee

*Interest **fully taxable** in Qatar (as loan initiated in Qatar and risk is borne by the QFC branch)*

## QFC Tax Regime

### Source of Service or Fee Income

- Source is Where Services are Performed
- Non-Financial Institutions – Foreign PE?
- Financial Institutions - Parallel with KERT Functions
- QFC Financial Institution - Place of Business in Qatar, Qatari Customer – 100% Taxable
- QFC Financial Institution - Customer Outside Qatar - Look at Where Services Performed and Apportion if Necessary

# QFC Tax Regime

## Incentives and exemptions (1)

- Captive Insurance Companies will be taxed at concessionary rate of 0%
- Can elect to be taxable (fixed for 3 year period)
- Reinsurance Business to be taxed at concessionary rate of 0%
- Includes investment income related to that activity
- Asset management: Income generated in Registered funds will be exempt from tax

# QFC Tax Regime

## Incentives and exemptions (2)

- Participation exemption on investment in shares (10% holding)
- Participation exemption on dividends from shareholdings (10% holding)
- Dividends received from companies listed on Qatar exchange exempt from tax
- Charities exempt from tax
- QFC firms 100% owned by Government of Qatar exempt from tax
- Special Funding Companies established in support of funding arrangements are exempt from tax
- Election is required for exempt status on an annual basis, can be made in tax return

## Incentives and exemptions (3)

- Commercially driven reorganisations can be carried out in a tax neutral manner (application can be made in format set out in Rule 14)
- Adjustments available for Islamic Finance transactions if tax treatment less advantageous than conventional finance transactions
- Deduction available for 50% of remuneration paid to partners in GP, LP or LLP

## Rulings by Tax Department

- Tax Department may give a written ruling with regard to an arrangement proposed/entered into by a QFC Entity
- Ruling will not be given if main/one of main objectives of ruling is the avoidance of tax
- Ruling binding on Tax Department, provided:
  - -full disclosure made of all relevant aspects of arrangement
  - -arrangement proceeds as described in ruling
- Ruling not binding if arrangement has not been entered into within 12 months.
- Can be applied to transfer pricing/ local source issues
- Detailed content of a ruling set out in Tax Rules

# QFC Tax Regime

## Content of a ruling

- Name and TIN of applicant
- Full particulars of arrangement
- Copies of any relevant documents
- Opinion of tax consequences and why these consequences should prevail
- Explanation of particular points of difficulty
- Details of provisions of Tax Regulations
- Fee is payable of QR3,000
  
- Content of ruling remains private
- Rulings of common interest may be converted into a Practice Note.

## QFC Tax Regime

### Administration – Tax Rules and Returns

- QFC Tax Rules on QFCA Website
- Self Assessment Regime
- Return, Self Assessment and Payment of Tax Due 6 Months After End of Accounting Period
- Return/Self-Assessment May be Amended within 12 Months
- Return Available on QFC Website
- Accounts, Tax Comps and Other Relevant Documentation to be Submitted with Return
- Assessments will not be Routinely Issued
- Concession for Early Filers

# QFC Tax Regime

## Administration – Enquiries

- Enquiry 'Window' is 12 Months after Filing
- Notice of Enquiry will be Issued
- Notice of Intention *not* to Enquire may also be Issued
- Formal Procedure for Questions and Documents
- Taxpayer May ask Tribunal to Close Enquiry  
(Onus of proof on Tax Department)
- Enquiry Conclusions to be Stated
- 'Discovery' Assessments may be Raised
- Normal 6 year Assessing Time Limit
- 20 Years in the case of Fraud or Neglect

## QFC Tax Regime

### Administration – Appeals

- Almost all of our Decisions may be Appealed
- Initially we will Review our own Decisions
- Taxpayer may bypass Tax Department Review
- Regulatory Tribunal is Court of First Instance
- Appeals are to the QFC Civil and Commercial Court whose decision is Final

## QFC Tax Regime

### Administration – Financial Sanctions

- Civil Financial Sanctions only – no Criminal Offences
- Financial Sanctions for:
  - Late Filing (QR 1,500 plus 10% if very late)
  - Failure to Comply with Enquiry Information Notice (Initially up to QR 1,000 and up to QR 1,000 per day for continued failure)
  - Incorrect Return (Up to 100% of Tax Lost)
  - Failure to Maintain/Preserve Adequate Records (Up to QR 20,000)
- All Financial Sanctions May be Appealed
- Interest on Tax Paid Late (and Tax Overpaid). Rate to be Determined

## QFC Tax Regime

### Administration – Customer Service

- Taxpayers' Charter
- Service Standards
- Complaints Procedure
- Governance Regime
- MoU with PRTD

# QFC Tax Regime

## Items for the future

- Further tax guidance notes
- Publication of sections of tax manual
- Issuance of Tax Practice notes
- On line filing of returns
- Agreement of MOU with PRTD
- Development of Qatar treaty network

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## Question and Answer Session