




UAE TRANSFER PRICING CHEAT SHEET

Country	United Arab Emirates
TP Background	<p>In May 2018, the UAE joined the OECD Inclusive Framework on BEPS. By joining the Inclusive Framework, the UAE has committed to implementing BEPS minimum standards, one of which is Transfer Pricing Documentation and CbCR.</p> <p>The Corporate Tax Law will be effective from 1 June 2023 and includes several transfer pricing ("TP") provisions that are broadly aligned with Organisation for Economic Co-operation and Development (OECD) principles.</p>
Who is applicable?	<p>TP rules in the UAE apply not only to MNE groups, but also to any transactions and arrangements with "Related Parties" or "Connected Persons" in domestic groups.</p> <p>Related parties: Relatives, or individual has controlling interest of 50% or more.</p> <p>Control is defined as:</p> <ul style="list-style-type: none">• Exercise 50% or more voting rights• Appoint more than 50% of Board of Directors• Receive more than 50% of profits• Determine or exercise <u>significant influence</u> over conduct of business <p>Significant Influence includes:</p> <ul style="list-style-type: none">• Based on debt - The loan from one Company constitutes 50% of the total capital of another Company.• Entitlement to profit share - A royalty agreement that grants one party entitlement to 50% of the profits generated by another party from use of Intangible Property.• Key management functions - The person owns less than 50% in a Taxable Person but performs the management of day to-day operations, development of strategies, and formulation of the key market decisions are performed by that person. <p>Connected Persons: Include individuals with specific roles within the MNE structure such as owner of business/ director/ related party.</p>
Master file & Local File	If the arm's length value of the related party transactions exceeds a certain threshold in the relevant tax period, both the Master file and Local file must be maintained.
TPD threshold	<ul style="list-style-type: none">• The taxable person is a constituent entity (i.e., mainland or freezone subsidiary, branch or permanent establishment of a multinational enterprise group with annual consolidated group revenues exceeding AED 3.15 billion);• The taxable person's revenues exceed AED 200 million
Forms	The new UAE transfer pricing rules also require companies to submit a Transfer Pricing Disclosure Form as part of their annual corporate tax return. This disclosure form will contain (summarized) information on the transactions and arrangements with related parties and connected persons. There is no threshold prescribed yet. The new transfer pricing documentation rules are effective for financial years beginning on or after June 1, 2023.
Submission	The TP documentation (Master file and Local file) must be submitted to the Federal Tax Authority ("FTA") within 30 days following a request. Similarly, the FTA may request taxpayers to provide additional supporting information within 30 days of a request.
CbCR threshold	The CbCR regulations in the UAE are effective from fiscal years starting on or after 1 January 2019 for multinational groups with revenues over AED 3.15 billion.


CbCR deadline	<p>The CbCR Report shall be filed within 12 months following the end of reporting fiscal year of the MNE in line with the OECD Transfer Pricing Guidelines.</p> <p>Tax residents in the UAE, not serving as the ultimate or surrogate parent entity, are obliged to notify the Ministry of Finance ("MoF") about the submitting entity and its tax residence by the final day of the MNE's financial reporting year.</p>
Penalties	<p>Non-compliance with CbCR and Notification requirements can draw penalties ranging from AED 10,000 to AED 1,000,000. An administrative fine ranging from AED 10,000 to AED 300,000 can be imposed for non-compliance with Economic Substance Regulations ("ESR") requirements.</p>
<p>What if threshold is not crossed?</p> <p>Whether documentation (arm's length analysis) requires?</p>	<p>While exceeding the revenue threshold triggers mandatory documentation, even MNEs below the AED 200 million or AED 3.15 billion thresholds in the UAE are recommended to maintain some transfer pricing documentation. This proactive approach demonstrates good faith and preparedness for potential future inquiries from the FTA.</p>
TP requirements for Qualifying Free Zone Person	<p>A Qualifying Free Zone Person must comply with Article 34 and Article 55 of the CT law, i.e., the transactions between Qualifying Free Zone Persons and its Related Parties and Connected Persons should be at arm's length and transfer pricing documentation should be maintained.</p>
Tax Group	<p>ABC Group, a UAE-based holding company (Parent) owns 98% of two subsidiaries: ABC Trading (Resident, Non-Free Zone) and ABC FZ (Free Zone). ABC Group qualifies for Tax Group status.</p> <p>Key Points:</p> <ul style="list-style-type: none"> • Consolidated Filing: Intra-group transactions between ABC Trading and ABC Group (Parent) are eliminated, simplifying tax filing. • Transfer Pricing (Generally Not Applicable): Since transactions disappear in consolidation, arm's length principles usually don't apply. • Exception: However, ABC Trading has unutilized pre-grouping tax losses. To maintain their validity, ABC Group needs to demonstrate arm's length pricing for transactions with related parties outside the Tax Group (e.g., ABC FZ). <p>Impact: Tax Group simplifies group administration but specific situations might still require transfer pricing analysis for tax compliance.</p>
Applicable Transfer Pricing regulations	<p>Federal Decree-Law No. 47 of 2022 (Corporate Tax Law): This law establishes the legal framework for corporate tax and includes transfer pricing provisions.</p> <p>Ministerial Decision No. (97) of 2023: This decision outlines the requirements for maintaining transfer pricing documentation, including master files and local files.</p> <p>Transfer Pricing Guide (TP Guide) issued by the FTA: This guide provides detailed guidance on applying transfer pricing rules in the UAE.</p>

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