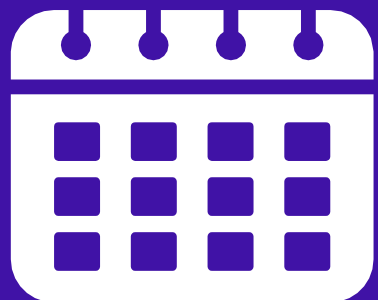


# Global Transfer Pricing Landscape

United Arab Emirates



# Highlights



## Introduction

As a part of United Arab Emirates (UAE)'s commitment to Organization for Economic Co-operation and Development (OECD), UAE introduced Value-added tax (VAT) in 2018 and Economic Substance Regulations (ESR) in 2019.

Transfer Pricing (TP) provisions in UAE were first introduced as a part of the Federal Decree-Law No. 47 (Taxation of Corporations and Businesses) issued on 3 October 2022, referred as Corporate Tax Law (CT and TP Law). Chapter 10 (Article 34 to Article 36) governs the transactions with Related Parties and Connected Persons.

Cabinet Resolution No (44) of 2020 'Organising Reports Submitted by Multinational Companies' contains the provisions of Country-by-country reporting (CbCR) and Ministerial Decision No. 97 of 2023 'Requirements for Maintaining Transfer Pricing Documentation for the Purposes of Corporate Tax Law' contains the provisions governing Master File and Local File. On 23 October 2023, the Federal Tax Authority (FTA) issued the 'Transfer Pricing Guide' to provide general guidance on the Transfer Pricing regime in the UAE.

The CT and TP law would apply to entities both in the UAE Mainland as well as Free Zones. The effective date of the TP regime is the same as the UAE CT Law i.e. the financial year starting on or after 1 June 2023. All related party transactions/arrangements must meet the arm's length standard

in determining the taxable income. The concept of the arm's length principle is predominantly in line with the OECD TP guidelines which recommend transactions between unrelated parties as a measure of the arm's length standard.

## Related Party and Control

**"Related Parties"** shall mean

- a) Two or more natural persons who are related within the fourth degree of kinship or affiliation, including by way of adoption or guardianship;
- b) A natural person and a juridical person where:
  - 1. the natural person or one or more Related Parties of the natural person are shareholders in the juridical person, and the natural person, alone or together with its Related Parties, directly or indirectly owns a 50% or greater ownership interest in the juridical person; or
  - 2. the natural person, alone or together with its Related Parties, directly or indirectly Controls the juridical person
- c) Two or more juridical persons where:
  - 1. one juridical person, alone or together with its Related Parties, directly or indirectly owns 50% or greater ownership interest in the other juridical person;
  - 2. one juridical person, alone or together with its Related Parties, directly or indirectly Controls the other juridical person; or

3. any Person, alone or together with its Related Parties, directly or indirectly own a 50% or greater ownership interest in or Controls such two or more juridical persons.
- d) A Person and its Permanent Establishment or Foreign Permanent Establishment.
- e) Two or more Persons that are partners in the same Unincorporated Partnership.
- f) A Person who is the trustee, founder, settlor or beneficiary of a trust or foundation, and its Related Parties

**“Control”** means the ability of a Person, whether in their own right or by agreement or otherwise to influence another Person, including:

- a) The ability to exercise 50% or more of the voting rights of another Person.
- b) The ability to determine the composition of 50% or more of the Board of directors of another Person.
- c) The ability to receive 50% or more of the profits of another Person.
- d) The ability to determine, or exercise significant influence over, the conduct of the Business and affairs of another Person.

## Connected Persons and payment made to Connected Persons

Person is considered a Connected Person of Taxable Person if that Person is:

- a) An owner of the Taxable Person;
- b) A director or officer of the Taxable Person;
- c) A Related Party of any of the Persons mentioned above.

Payment/benefit by Taxable Person to Connected Person is deductible only if entered at market value and is exclusively for the purpose of the business of the Taxable Person. The CT and TP Law further clarifies that for the purpose of determining market value, the TP provisions shall be applied.

Please note that there is an exemption from the requirement to comply with the Connected Person rules for Taxable Persons listed on a recognized stock exchange or Taxable Persons regulated by a competent authority in the UAE.



## Controlled Transactions

A Controlled Transaction is a transaction or arrangement between Related Parties or Connected Persons. For the purposes of the UAE TP rules, all cross border Controlled Transactions (i.e. transactions between the Person and its Related Parties or Connected Persons that are located in different tax jurisdictions) as well as domestic Controlled Transactions (i.e. transactions between Related Parties or Connected Persons located in the UAE, including transactions undertaken between Free Zone Persons) must follow the arm's length principle.

## Transfer Pricing Methods

The Decree-Law has prescribed five TP methods which are in line with the OECD TP guidelines to determine the arm's length result. The taxable person can choose to apply any other method (residual method) if it is considered more appropriate to meet the arm's length standard.

While there is no hierarchy to select the TP method, the selection of the TP method shall depend on the following:

- Strengths and weaknesses of the method
- Appropriateness of the method
- Availability of reliable information
- Degree of comparability between the Controlled Transactions and Independent transactions

The TP guide also gives reference to the application of combination of TP methods for corroborative analysis.

## Benchmarking Analysis

### Choice of tested party

The choice of the tested party (i.e. party whose financial indicator is tested) would depend upon functional analysis (i.e. party with less complex Functional Analysis would be selected as the tested party), wherein the TP method can be applied in the most reliable manner and most reliable comparables can be found.

### Selection of comparable companies

FTA does not have any preferred commercial database. However, it prefers local comparables for external comparability as these comparables generally have a higher degree of comparability in terms of their market and economic circumstances compared to foreign comparables. If local comparables are not available, regional (Middle East) and then other regions may be explored.

### Comparability adjustment

Comparability adjustments (i.e. adjustments due to accounting consistency, segmentation of financial data, difference in capital, functions, assets and risks) can be considered if they are expected to increase the reliability of results and comparability criteria.

Use of interquartile range

The interquartile range is considered an appropriate approach to determine arm’s length range of financial results or indicators.

Use of multiple year data and frequency of updating the search for comparables

Multiple-year data (i.e. data over a period of three years inclusive of the year in which the controlled transaction has been undertaken), wherein at least two years of data should be available is considered for the purpose of benchmarking analysis.

The search for comparable is required to be updated every three years with an annual financial update of comparables in the interim years provided there is no change in the circumstances around the Controlled Transaction or Related Persons/Connected Persons. In case of a change in circumstances of the Controlled Transaction or Related Parties (or Connected Persons), the full analysis on the selection of comparables needs to be undertaken in the year of the change in circumstances.

Transfer Pricing Documentation

The TP documentation requirements are aligned with the Action plan 13 of the OECD Base Erosion and Profit Shifting (BEPS) project, in which a three-tiered

documentation was introduced. Article 55 of the UAE CT and TP Law outlines the TP documentation requirements for Taxable Persons with fiscal years beginning on or after 1 June 2023. These requirements include the preparation of a Master File, Local File, TP Disclosure Form and a CbCR report wherever applicable. The materiality threshold with timelines for each compliance requirement is summarized below for ease of reference:

Compliance requirement	Materiality threshold	Timelines
Master File & Local File	<p>Prescribed threshold for applicability of Master and Local file are as follows:</p> <ul style="list-style-type: none"><li>- The Taxable Person part of a MNE group having total consolidated group revenue of AED 3.15 billion or more in the relevant tax period; or</li><li>- Taxable person’s revenue for the relevant tax period is AED 200 million or more,</li></ul> <p>with an exception to prepare master file is provided to Taxable Person who is a part of UAE headquartered group (i.e. Group without business establishment outside UAE)</p>	<p>Prepared and maintained contemporaneously. Submission within 30 days of request by the FTA.</p>

Compliance requirement	Materiality threshold	Timelines
<b>Disclosure Form</b>	<p><b>(A) Transactions with Related Parties</b>  Primary Threshold: Aggregate value of all transactions with all related parties exceeds AED 40 million*; and</p> <p><b>Secondary Threshold:</b> Once the above threshold is met the reporting requirement for individual transaction category applies to transaction with all related parties exceeding AED 4 million* (i.e. goods, services, intellectual property, interest, assets, liabilities, and others).</p> <p>*Dividend between Related Parties do not need to be disclosed and should not be considered in determining the AED 40 million or AED 4 million thresholds.</p> <p><b>(B) Transactions with Connected Persons</b>  Aggregate value of payment or benefit to each connected person exceeds AED 0.5 million must be disclosed in Disclosure Form.</p> <p>The Disclosure Form for Related Party transactions provide details of the controlled transactions, their value, the involved parties, and the TP methods used to determine arm's length pricing.</p>	Submitted with the UAE Corporate Tax Return within nine months of the end of the tax period.
<b>CbCR Report</b>	The CbCR requirements in UAE are only applicable to MNE Groups headquartered in the UAE with consolidated group revenue equal to or above AED 3.15 billion during the fiscal year immediately preceding the reporting fiscal year.	12 months from the end of the accounting period. The CbCR notification must be submitted no later than the last day of the fiscal year, informing the FTA of the ultimate parent entity that will file the report.

Particulars of compliance	Timelines
<b>Corporate Tax Return</b>	Within 9 months from the end of the relevant Tax Period.
<b>TP Disclosure Form</b>	
<b>Master File and Local File</b>	Within 30 days upon request by the FTA**
<b>CbCR Notification</b>	Before end of the fiscal year
<b>CbCR</b>	Within 12 months of the end of the fiscal year

*\*\*Such documentation shall be prepared and maintained by the taxpayer on a contemporaneous basis*

The UAE CT and TP Law mandates that all the related party transactions, whether cross-border, domestic, or involving free zone entities, must comply with the arm's length standard.

## Tax Group for UAE CT purpose – Interplay with TP

The entities forming part of a Tax Group are treated as a single taxpayer for CT purposes and accordingly the allocation of profits amongst these entities is not relevant as they are considered a single Taxable Person. The Tax Group is required to prepare one Local File and one Disclosure Form covering all the entities in the Tax Group (subject to meeting the relevant thresholds). Chapter 4 of the Tax Groups – Corporate Tax Guide of January 2024 provides additional information on the requirements for forming a Tax Group.

The concept of Tax Group has been introduced with the intent of reducing the compliance burden by consolidating the accounts for the purpose of compliance. However, separate analysis would be required to be undertaken for each class of transaction category in cases wherein entities within a Tax Group are either functionally dissimilar or engaged in unique related party transaction types.

## Qualifying Free Zone Person (QFZP) – TP requirements

A QFZP can avail benefit of 0% corporate tax rate on qualifying income provided it meets specific conditions under Article 18 of the CT and TP Law and Cabinet Decision 100 of 2023, which includes the following:

- Maintaining adequate substance in the Free Zone
- Deriving qualifying income
- Complying with transfer pricing regulations (Articles 34 and 55)
- Preparing audited financial statements
- Meeting de minimis requirements (non-qualifying revenue must not exceed the lower of 5% of total revenue or AED 5 million)

To ensure full compliance with UAE TP regulations, businesses operating in Free Zones must adhere strictly to the arm's length principle in all intercompany transactions. This is essential to prevent profit shifting and ensure that taxable income is fairly allocated among related entities. Further, the substance requirement for the entity operating in Free Zone shall be aligned with the functional profile of the entity for TP purposes.



## Other relevant aspects

### TP Audit and Burden of Proof

The burden of proof falls on the Taxable Person to maintain sufficient supporting documentation as well as to make timely submissions to the FTA in order to support the position taken in the tax return as it relates to the Controlled Transactions that are in scope for each Tax Period. The FTA has the right to make queries and request information and data for its review and make adjustment to Taxable Income if the Controlled Transaction does not fall within the arm's length range.

After submitting Tax Returns, Taxable Persons may make TP adjustments where these result in increased taxable profits or reduced allowable losses or make adjustments that result in decreased taxable profits or greater allowable losses. The guidance and procedural aspect of making such adjustments are currently not prescribed in the TP guide.

### Advance Pricing Agreement (APA)

On 11 June 2024, the FTA issued Decision No. 4 of 2024, laying the groundwork for the implementation of an APA framework under the UAE CT and TP Law. This decision enables taxpayers to apply for an APA concerning proposed or existing transactions and arrangements. It further clarifies that the start date for accepting APA applications, along with the

procedures for submission and issuance, will be announced by the FTA in the fourth quarter of 2024.

Building on this development, the FTA issued Decision No. 2 of 2025 on 19 February 2025, introducing key updates on tax clarifications and the APA framework's implementation. The decision, effective from 1 March 2025, establishes a general framework for the APA mechanism, offering businesses greater clarity and predictability in TP arrangements. Businesses can now apply for unilateral APAs, with applications being accepted from the fourth quarter of 2025. The timeline for submitting other types of APAs, potentially including Bilateral APA (BAPA), will be announced subsequently. While unilateral APAs provide certainty on domestic tax treatment, BAPAs are generally preferred by multinational businesses as they help reduce the risk of double taxation by ensuring agreement between tax jurisdictions.

The UAE FTA is expected to issue further guidance on key aspects of the APA framework, including eligibility thresholds, entry requirements, financial periods covered (including clarity on rollback provisions) and other compliance obligations.

### Safe Harbor provisions – Low value adding intra group services

Centralized services, such as IT, human resources, financial services, and legal support, are typically considered intra-group services, as companies would be willing to pay for these kinds of services to independent parties or perform them in-house. Typically, services providers in case of low value adding intra group services may charge an amount that is not determined by the dynamics of the market forces. The FTA has provided directives in the TP guide to reduce the compliance burden on Taxable Persons, a simplified cost-plus 5% markup for low-value-adding intra services may be used. Appropriate robust documentation shall be maintained by the Taxable Persons to support the classification of these services as low-value-adding intra-group services.

### Penalties and Consequences for Non-compliance

Violation	Penalty
<b>Failure to file the Tax Return within the specified timeframes</b>	<ul style="list-style-type: none"> <li>• AED 500 for each month, for first 12 months</li> <li>• AED 1000 for each month from the month 13 onwards</li> </ul>

Violation	Penalty
<b>Failure to keep the required records and other information specified in the Tax Procedures Law and the Corporate Tax Law</b>	One of the following penalties shall apply: <ul style="list-style-type: none"> <li>▪ AED 10,000 for each violation</li> <li>▪ AED 20,000 in each case of repeated violation within 24 months from the date of the last violation</li> </ul>
<b>Failure to submit the data, records and documents related to Tax in Arabic to the Authority when requested</b>	AED 5,000
<b>Failure to file CbCR/CbCR notification with the prescribed due date</b>	Administrative fine of AED 1 million (plus AED 10,000 for each day of failure up to maximum AED 250,000)
<b>Failure to maintain documents and information required in support of CbCR for minimum period of 5 years after date of Reporting</b>	AED 100,000

Violation	Penalty
Failure to provide information in support of CbCR to the Competent Authority	AED 100,000
Failure to provide complete and accurate information in the CbCR/CbCR notification	AED 50,000 to AED 500,000





# Summary of Transfer Pricing Requirements

## Effective from

- CT and TP Law shall be applicable to Tax Periods commencing on or after 1 June 2023
- CbCR regulations are effective from fiscal years starting on or after 1 January 2019

Particulars of compliance	Timelines
Corporate Tax Return	Within 9 months from the end of the relevant Tax Period.
TP Disclosure Form	
Master File and Local File	Within 30 days upon request by the FTA**
CbCR Notification	Before end of the fiscal year
CbCR	Within 12 months of the end of the fiscal year

*\*\*Such documentation shall be prepared and maintained by the taxpayer on a contemporaneous basis*

The UAE CT and TP Law mandates that all the related party transactions, whether cross-border, domestic, or involving free zone entities, must comply with the arm's length standard.

## Method and Preference for Comparable

- Five methods as defined by the OECD are applicable without any hierarchy and any other method (if the five methods are not reliable)
- Local comparables preferred followed by regional (Middle East), then other regions

## Benchmarking analysis and use of multiple year data

- Multiple-year data (i.e. data over a period of three years inclusive of the year in which the controlled transaction has been undertaken), wherein at least two years of data should be available is considered for the purpose of benchmarking analysis.
- The search is required to be updated every three years with an annual financial update of comparables in the interim years provided there is no material change in the circumstances of the Controlled Transactions.

# Summary of Transfer Pricing Requirements

## Safe Harbour and APA

- No specific provision for safe harbour. However, taxpayers can opt to apply a cost-plus mark-up of 5% on low value adding intra-group services.
- Unilateral APA can be applied from the fourth quarter of 2025.

## Peculiar Features

- Payment/benefit to Connected Persons would also come under the ambit of TP provisions
- TP provisions are not applicable to transactions between entities within Tax Group with some exceptions.





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