

UAE – TP Disclosure Form

EmaraTax Portal – Live

October 2024



Background

The UAE Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses provided that taxpayers will have to file a disclosure form alongside Corporate Tax return, that contains information on arrangements with related parties – Article 55(1). The Transfer pricing Guide (Corporate Tax Guide | CTGTP1) issued by the Federal Tax Authority (FTA) noted that taxpayers having transactions with related party transactions and connected persons will have to file the disclosure form. The TP Guide noted that the disclosure form would be available in due course. The EmaraTax Portal, where taxpayers can file Corporate Tax return, has now enabled the TP Disclosure form and is now live to be updated and submitted with the UAE tax authorities along with the CT return.

The alert covers the several aspects of TP disclosure form.



TP Disclosure Form

The landing page of the TP disclosure form covers three aspects:

1. Related Party Transaction Schedule
2. Connected person Schedule.
3. Adjustments to gains and losses w.r.t. transactions with related parties

1. Related party transaction schedule

The Related party transaction schedule consists of three parts viz., “Summary Table”, “Gross Income received from related parties” and “Expenditure Paid to Related Parties”.

A) Gross Income received from related parties:

Income / revenue transactions as well transactions having a revenue related impact on the profit and loss / balance sheet (such as recovery of expenses) are to be updated in the Gross Income received from related parties tab.

B) Expenditure Paid to Related Parties

Expenditure transactions as well transactions having an expense related impact on the profit and loss / balance sheet (such as reimbursement of expenses paid) are to be updated in the Expenditure Paid to Related Parties tab.

For both the income and expenditure transactions, the below details are required to be included:

- a) Name of the related party,
- b) Tax Residence,
- c) Gross Income (in AED)/Expenditure as the case may be
- d) Arm's length value (in AED)
- e) Transaction type:
 - i. Goods
 - ii. Services
 - iii. Intellectual Property
 - iv. Interest
 - v. Assets
 - vi. Liabilities
 - vii. Others
- f) Corporate Tax TRN/TIN (where available)
- g) Transfer Pricing method:
 - i. The comparable controlled price method
 - ii. The resale price method
 - iii. The cost-plus method
 - iv. The Transactional net margin method
 - v. The Transactional profit split method

Note:

- This tab requires the Gross Income to disclosed in the TP disclosure form. The financial statements might disclose the net value of revenue / income, the gross income will have to be disclosed in the TP disclosure form.
- The difference between the Gross Income and the arm's length value is computed as Tax adjustment. Similarly, the difference between the Expenses and the arm's length value is computed as Tax adjustment.

C) Summary Table:

The Summary Table tab summarizes various related party transactions updated in the other two tabs namely 'Gross Income received from related parties' and 'Expenditure Paid to Related Parties'. The aggregate value of transactions / arrangements with related parties into the following categories:

Transactions	Income (AED)	Expenses (AED)
Sales or Purchases of Goods		
Services rendered or received		
Royalty, License fees, and other receipt/payments in relation to intellectual properties		

Interest Income and expenses		
Assets		
Liabilities		
Other transactions not falling under the items above		
Aggregate		

In the addition to the above, the total of transfer pricing adjustments included in the other two tabs is disclosed as a consolidated value as “Total Transfer Pricing Adjustments (in AED)”.

2. Connected persons schedule:

The Connected persons schedule is required to be updated w.r.t. transactions entered between the taxpayer and connected persons. The details to be updated include:

- a) Name of the Connected Person,
- b) Payment or benefit:
 - i. Payment
 - ii. Benefit
- c) Corporate Tax TRN/TIN (where available).
- d) Description.
- e) Value of the payment or benefit provided to the Connected person (in AED)
- f) Market value of the service or benefit provided by the connected person (in AED)

The difference between value recorded and the market value (arm’s length price) is computed automatically as adjustment.

3. Adjustments to gains and losses w.r.t. opening balances:

This covers adjustments to gains / losses in relation to assets and liabilities previously received from related parties at non-arm’s length prices. As part of transitional provisions, the Federal Decree law provided that opening balances for the first year for which is subjected to tax will have to be restated having regard to arm’s length standard. This section covers any adjustments as a result of restatement of opening balances based on arm's length standard.



Document Requirement

In addition to the information to be updated in the Related Party Transaction Schedule and Connected person Schedule, the TP disclosure form has another segment for uploading various documents. The “Additional Attachments” in the TP Disclosure consists of these additional documents to be uploaded as part of the TP Disclosure Form. The documents to be uploaded are:

- 1. Financial statements
- 2. Local File

3. Master File
4. Confirmation of ownership and the right to exploit the Qualifying Intellectual Property – Patent. – Copyrighted software/Another right functionality equivalent to a patent
5. Record of qualifying expenditure and overall expenditures incurred
6. Record of overall income d(eri)ved from the qualifying expenditures and overall income derived from qualifying intellectual property
7. Documentation to support the market value of the qualifying immovable property at the start of the first tax period
8. Documentation to support the market value of the Financial Assets / Liabilities at the start of the first tax period
9. Tax residency certificate in the foreign jurisdiction



Key Points and takeaways

Some of the key points to be considered for taxpayers are as follows:

1. No threshold / de-minimis limit w.r.t. transactions with related party and connected persons for filing of TP disclosure form. The Federal Decree law read with TP Guide by the FTA provide that all related party transactions must meet arm's length standard, and with which even the TP Disclosure Form is aligned. Though a threshold for the local and master file has been prescribed, taxpayers will have to ensure that all related party transactions are entered on an arm's length basis. Further taxpayers will also have to be able to substantiate the same, including use of the appropriate transfer pricing method which has to be mentioned in the TP Disclosure form.
2. Similarly, entities opting for small business relief are not required to maintain TP documentation w.r.t. related party transactions, but are required to meet the arm's length standard. These entities may need to file the TP disclosure, as there is no specific exemption prescribed currently
3. The transfer pricing method does not include Other Transfer pricing method, stipulated as per Article 34(4) of the Federal Decree-Law. Therefore, usage of the other transfer pricing method has to be done with extreme caution and one needs to evaluate if an alternative secondary method should be adopted to be declared in the TP disclosure form and basis provided in the local file to be uploaded.
4. The TP Guide by the FTA states that receivables balance will have to be realised within the arm's length credit period (para 7.8.2. of the TP Guide). Hence, the tax authorities might view the receivable balance as a separate transaction, where the receivable is outstanding in excess of the arm's length credit terms. Hence, as part penalty protection measure, taxpayers can consider including the receivable balance as separate transaction. The transfer pricing method used for the base transaction can be adopted for receivable balance as well.
5. Payment related transactions with connected persons are brought under the purview of transfer pricing as per the Federal Decree law. On these lines only payments / expenses are mentioned in the TP Disclosure Form. However, for the connected person schedule, there is no disclosure which is called for on the transfer pricing method adopted for payments / expenses with connected persons.
6. Where parent entity and subsidiary entities have opted to form a Tax Group, Transfer pricing regulations do not apply for transactions between the entities of the Tax Group. In the TP Disclosure

- Form there is no reference of Tax Group or transactions between entities of the Tax Group. Hence, one can infer that TP Disclosure form may not be applicable to the said exempted transactions.
7. The Federal Decree law exempts tax-neutral transactions from scope of transfer pricing documentation. However, there was no such exemption w.r.t TP Disclosure Form. Hence, these transactions may need to be disclosed in the TP Disclosure Form.
 8. The Federal Decree law and the UAE TP Guide provides for use of combination of transfer pricing method to justify the arm's length nature of related party transactions. The TP Disclosure Form, however, does not have any provision for submission of combination of TP methods. Taxpayers, might perhaps consider selecting one of the TP methods as primary method and disclosing the said primary method in the TP Disclosure form.
 9. In the Gross Income and Expenditure tabs above, only certain transactions heads such as Goods, services, IP, assets & liabilities, etc were provided. Other transactions such as guarantees, reimbursement / recovery of expenses and Free of cost assets will have to be disclosed in the head "Others".
 10. In instances where the taxpayers are considering suo-moto adjustments for transactions with related party / connected persons, question might arise whether the arm's length price would be the 25th or 75th percentile respectively or the median of the dataset. In this regard the Federal Decree law states that related party transactions not within the arm's length range will have to be adjusted. (Article 34 (8)). Hence one may consider using the two ends of the range, as may be applicable. However, on a conservative basis, one might consider selecting the median as the arm's length price and adjusting the related party transactions accordingly.
 11. The Federal Decree law provides that local file and master file will have to be maintained where the threshold limits have been met. Further, the law states that the said documents, if requested by the tax authorities, will have to be furnished within 30 days. The UAE TP Guide states that local and master file will have to be maintained contemporaneously viz., by the time the Tax Return / TP Disclosure form is filed (para 6.6.2). There have been certain concerns by taxpayers and stakeholders on the requirement of uploading the TP documents along with the Tax return, since the said documents are required to be furnished within 30 days from date of request by tax authorities. In this regard one can construe that since the documentation requirements is to be maintained on contemporaneous basis as per Federal Decree law and UAE TP Guide, the TP Disclosure Form includes a feature to file the said documents to demonstrate such maintenance.



Conclusion

The TP Disclosure Form is a long-awaited form by the taxpayers in the Corporate Tax Return. With the TP Disclosure Form being live, there is reasonable certainty to taxpayers on the information and documents to be filed / submitted with the tax authorities, as the due date for first filing is approaching viz., 31 December 2024.

However, there are certain aspects mentioned in the aforementioned section in the TP Disclosure Form requiring additional clarification from the tax authorities. The filing of the local file, Master File and other documents along with the TP Disclosure Form is a new requirement, which taxpayers will have to keep note, as the regulations specifically provided only contemporaneous maintenance of these documents.

Perhaps a detailed guidance by the FTA can provide more clarity to the taxpayers w.r.t. information and documentation to be filed in the TP Disclosure form, and would add an element of certainty surrounding the Transfer pricing compliances for businesses.

About us



VSTN Consultancy Private Ltd is a boutique Transfer pricing firm with extensive expertise in the field of international taxation and transfer pricing. VSTN Consultancy has been awarded by International Tax Review (ITR) as Best Newcomer in Asia Pacific – 2024 and is recognised as one of the finest performing transfer pricing firms.

Our offering spans the end-to-end Transfer Pricing value chain, including design of intercompany policy and drafting of Interco agreement, ensuring effective implementation of the Transfer Pricing policy, year-end documentation and certification, Global Documentation, BEPS related compliances (including advisory, Masterfile, Country by Country report), safe harbour filing, audit defense before all forums and dispute prevention mechanisms such as Advance Pricing agreement.

We are structured as an inverse pyramid where leadership get involved in all client matters, enabling clients to receive the highest quality of service.

Being a specialized firm, we offer advice that is independent of an audit practice, and deliver it with an uncompromising integrity.

Our expert team bring in cumulative experience of over six decades in the transfer pricing space with Big4s spanning clients, industries and have cutting edge knowledge and capabilities in handling complex TP engagements.



VSTN Consultancy Pvt Ltd., © 2024. All Rights Reserved.

