

UAE Tax Return: Corporate Tax Guide

Transfer pricing aspects

November 2024



Background

The UAE Federal Tax Authority (FTA) issued Corporate Tax Guide | CTGTXR1 on 11 November 2024, that provides guidance to taxpayers on Corporate Tax Returns. In order to provide ease of reference for tax payers, the document provides guidance on filing and completing the Corporate Tax Return in the manner that generally appears in the actual tax return in the EmaraTax account. The document also clarifies that it is not intended to provide technical guidance on the implementation of the UAE Corporate Tax Law. Instead it references the legislation, specific technical guidance issued by the FTA against the respective sections.

The alert covers sections of the corporate tax return **relating to transfer pricing**, along with its respective analysis.



Corporate Tax Return – TP areas

The Corporate Tax return is required to be submitted by taxable person within the due date viz., within 9 months of the end of its Tax Period. The Tax return has several parts for the Taxable Person to report their Taxable Income including any relevant adjustments, such as exemptions and reliefs claimed, which are:

- Part A – Taxable Person information
- Part B – Elections
- Part C – Accounting Schedule
- Part D – Accounting Adjustments and Exempt Income
- Part E – Reliefs
- Part F – Other Adjustments
- Part G – Tax Liability and Tax Credits
- Part H – Review and Declaration
- Part I – Schedules

The key aspects of the Tax Return **that have transfer pricing implications and its respective analysis / takeaways** is provided below:

A) Taxable person information:

The initial section of the Tax Return requires the taxable person to provide whether they are a member of a Multinational Enterprise Group i.e., Group means where group has two or more companies in different jurisdictions AND has total consolidated group revenue > AED 3.15 billion. Through this the FTA may identify and track taxpayers requiring to maintain local and master file and would be an input for overall internal risk assessment.

B) Free Zone:

There is specific section in the Corporate Tax Return where taxpayers in Free Zones have to specifically provide whether there are any Related Party transactions which have been undertaken as per Article 34 of the Corporate Tax Law (Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses issued by the FTA), and whether transfer pricing documentation has been maintained as per Article 55 of the Corporate Tax Law.

C) Related party Transactions:

The information on related party transactions in the Corporate Tax Return appears in two segments. The first segment requires information to be provided by all the taxpayers, based on which Schedules (second segment) would be enabled. Key points to be noted w.r.t. related party transactions are summarized below.

- i) In the first segment taxpayers have to provide whether there were any transactions with Related Parties in the current Tax Period. Taxpayers also have to confirm whether the aggregate value of all transactions with Related Parties exceeded AED 40 million. While computing this threshold dividends are not to be considered. If this threshold is met, the Schedule for providing detailed information on the related party transactions would be enabled.. The Schedule for related party transactions consists of the following fields that have to be provided:
 - Legal name of the related party,
 - Transaction Category (7 categories),
 - Country of tax residence of the Related Party
 - UAE Corporate Tax TRN or taxpayer identification number (TIN) issued by a foreign tax authority
 - Gross income/expenses
 - Transfer pricing method (6 methods)
 - Arm's length value of the related party transactions

- ii) For detailed disclosure of related party transactions in the Schedule, there is a second threshold in addition to above viz., AED 4 million for the respective category. There are seven categories of related party transactions as per the Corporate Tax return i.e., Goods, Services, Intellectual Property, Interest, Assets, Liabilities and Other, against which disclosures have to be made in Schedules. Only where the aggregate value of transactions for the said category exceeds AED 4 million, the taxpayer will have to disclose the nature of transaction and the respective related

- party which whom the taxpayer had transacted. If the aggregate value of transactions for a category is below AED 4 million, no disclosure is required for the said category.
- iii) Earlier when the format of the disclosure form was released, one of the major observation was the absence of “Other” Method in the said disclosure form. This guidance provides for “Other” Method as a transfer pricing method. Further if “Other” Method is selected, the taxpayer will have to provide the description of what constitutes the other Transfer Pricing method applied.
 - iv) In the Schedules, gross value of income will have to be provided. Gross income is defined as income before any deductions. In certain instances, the financial statements might disclose the net income, in which cases the taxpayer should maintain reconciliation between the amount disclosed as per the Tax Return and amount as per the financial statements – with back-up for the differences / reconciliation.
 - v) While for freezone taxpayers alone there is a specific declaration requested for TP documentation, there is no such declaration which has been called for those crossing the documentation related thresholds for non- free zone taxpayers.

D) Connected Person

Taxpayers will have to confirm whether aggregate value of transactions with connected persons exceeds AED 500,000. In addition to the said threshold the below disclosures are required where the transactions with connected persons exceed AED 500,000 per connected person.

With regard to connected persons, information to be provided by the taxpayers include legal name of the connected persons, Tax identification number of the connected person, payment or benefit to the connected persons, description of the payment or benefit, value of transactions with connected persons and market value of the said transactions. Key points to be noted include:

- i) Description of the nature of transaction is to provided, and not just whether it is a payment or benefit. This description will provide FTA the nature of such payment, and would provide a high level indication on the rendition for such services.
- ii) Each nature of the transaction with connected persons will have to be disclosed separately. For example where salary payments as well as rent payments are made, the two transactions should be separately disclosed.
- iii) For transactions with connected persons, the Tax Return does not require selection of any transfer pricing method, but requires the market value of the said transactions. Nonetheless, taxpayers need to adopt the arm’s length price analysis to arrive at the market value.

E) Adjustments

In case of differences between price as per the financial statements and the arm’ length price/market value the upward/downward adjustment will be automatically computed in the tax return. In connection with these adjustments, following are the key takeaways:

i) For both related party transactions and transactions with connected persons, the arm's length value / market value can be equal to amount as per the related party transactions / transactions with connected persons, only where the taxpayer can demonstrate the same. The UAE Corporate Tax Law requires all related party transactions should be on arm's length basis.

It is imperative the taxpayers have the local file maintained /adequate documentation on or before filing the Tax Returns to be able to substantiate the arm's length nature of transactions with related parties / connected persons.

ii) In the main part of the Tax Return (in the first segment) taxpayers will have to manually provide the Additions and Deductions as a result of adjustments to transactions which were not at arm's length . For example, if the sales to Related party is AED 5 million and the arm's length value is AED 5.05 million, the difference of 0.05 million is the addition. In cases where the sales, for example is AED 2.03 million but the arm's length value is AED 2 million, the deduction is AED 0.03 million. The Corporate Tax guide states the addition and Deduction should not be netted, but should be disclosed separately. In case of any Deduction, in our example AED 0.03 million, the Corporate Tax guide specifically states that approval from the FTA will have to be obtained, and only the deduction approved by the FTA will have to be disclosed in the Tax Return. However, the detailed process for seeking such approval from the FTA is awaited. In case there is no FTA approval then the deduction will be disclosed as zero

Key takeaway is that during the finalization of the books of accounts, the transactions with related parties / connected persons will have to adjusted to arm's length value / market value in order to ensure that no further adjustments are needed in the Corporate Tax Return.

iii) Further one needs to note that though in the main part of the form, adjustments have to be manually updated by the taxpayers, in the Schedule to the Tax Return, the difference between the arm's length value /market value and the value of transactions with related parties / connected persons is automatically computed. From this, one can infer that the arm's length value / market value of **ALL** transactions with related parties / connected persons will have to be arrived, irrespective of their disclosure in the Tax Return schedules.

Even though taxpayer might not be required to prepare a local file, taxpayers should have a basis / documentation in place to compute the arm's length price of all transactions with related parties / connected persons.

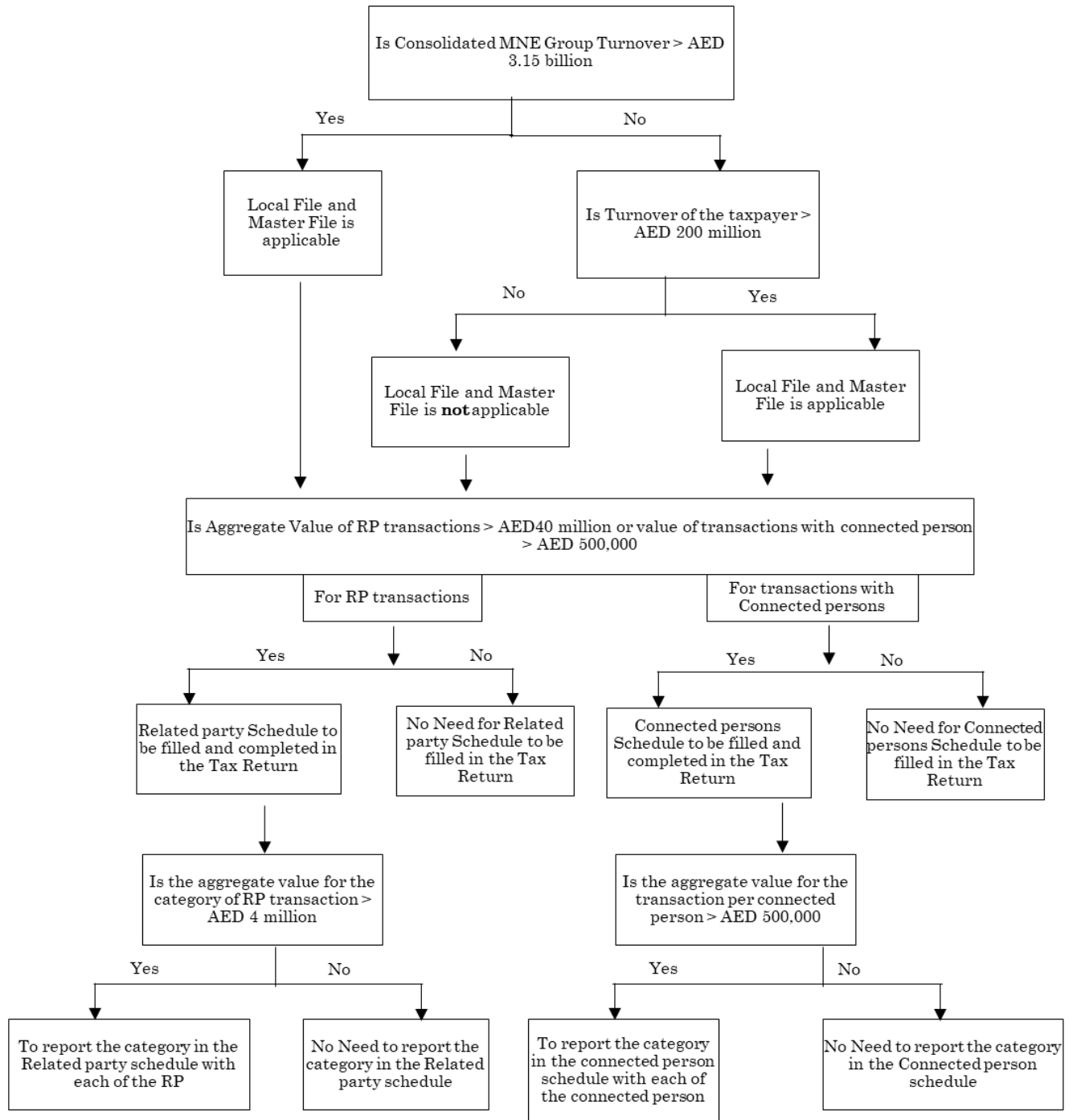
F. Others

The Tax return requires that any gains/losses realized in the current Tax Period in relation to assets /liabilities previously received from a Related Party at a non- arm's length price should be disclosed. This is applicable if amount of consideration paid exceeded the Market Value or consideration paid was lower than the Market Value and Related party had included the difference between the Market Value and the consideration in its Taxable Income.



TP Compliances- Flowchart

The below flow chart summarizes the applicability of local file and master file requirements along with applicability for disclosure in the Tax Return.



All taxpayers irrespective of any thresholds should determine the arm's length price/market value of all transactions with related parties/connected persons



How VSTN can support

VSTN can support taxpayers to be compliant from a UAE tax perspective, which includes the following:

- Impact assessment of related party transactions / transactions with connected persons.
- Setting of transfer pricing framework / Global Transfer pricing policy.
- Review of existing transfer pricing policies and alignment to industry best practices.
- Undertaking benchmarking analysis for related party transactions/ transactions with connected persons.
- Draft of inter-company agreements. Review of inter-company agreements to ensure alignment with arm's length principle.
- Preparation of local file and master file.

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.



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