

Decoding Transfer Pricing with GT UAE

Transfer Pricing audit and Risk assessment

October 2024

With the introduction of Federal Decree-Law No. 47 of 2022, which encompasses the Corporate Tax and Transfer Pricing (TP) regulations in the UAE, taxpayers must prepare themselves for potential Tax Audits. A Tax Audit involves the examination of taxpayer’s financial records and corporate tax return by the tax authority to ensure compliance with tax laws.

In the UAE, the Federal Tax Authority (FTA) may conduct Tax Audits to verify the accuracy of corporate tax returns and assess compliance with UAE Corporate Tax law, including TP regulations. From a TP perspective, the FTA may request information on all related party transactions or any TP documentation to assess if these transactions adhere to the arm’s length principle. Taxpayers are required to submit such details or documents within 30 days of the initial request. Subsequently, the FTA may adjust or disregard related party transactions and replace them with alternative adjustments that meet the arm’s length principle.

Given the potential impact of a Tax Audit leading to a TP adjustment, taxpayers should precisely outline their related party transactions and ensure they comply with the arm’s length principle

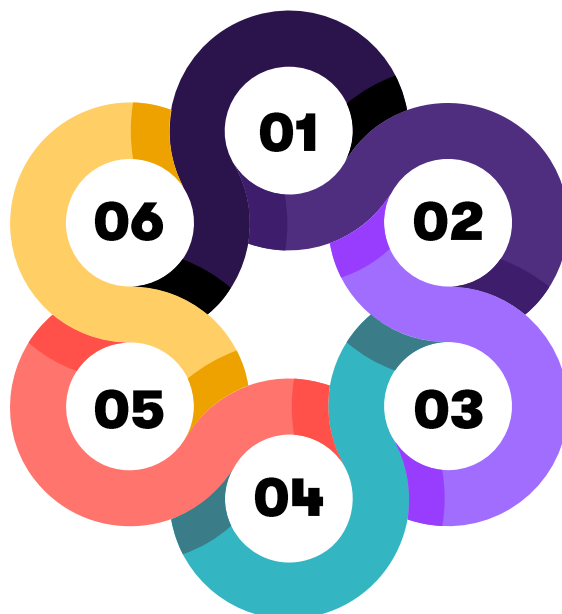
Additionally, an Advance Pricing Agreement (APA) between the taxpayer and the FTA can help reduce potential TP risk by ensuring that future taxable income over a predetermined period is deemed reasonable and acceptable by the FTA. Currently, the UAE CT Law does not provide a detailed procedure for applying for an APA.

Below is a representative list of red flags that could trigger Tax Audits related to transfer pricing:

Misalignment between contractual terms and actual conduct of the related parties

Absence of commercial rationale in a related party transaction

Lack of supporting documentation to justify arm’s length pricing of a transaction



Non-adherence to the UAE TP Regulations / Incomplete or inaccurate filing of TP Disclosure form

Inaccurate or incomplete identification of related parties / related party transactions

Incorrect comparability or functional analysis leading to inaccurate economic analysis

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Transfer Pricing adjustments

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An adjustment made to ensure that the taxable outcome of a related party transaction is in line with the arm's length principle (ALP), is termed as TP adjustment. TP adjustment may be initiated by the Taxpayer or Federal Tax Authority.

TP Adjustment by the Taxpayer



While filing the Corporate Tax return for a tax period, if the taxpayer identifies a discrepancy in the arm's length pricing of its related party transactions, then the taxpayer may make a voluntary TP adjustment to reflect the arm's length pricing.

This voluntary TP adjustment could lead to an increase in taxable income or reduction in allowable losses; or reduction in taxable income or increase in allowable losses.

The burden of proof for ensuring compliance with the arm's length pricing, when filing the corporate tax return, lies with the taxpayer.

TP Adjustment by the FTA



During the Tax Audit, if FTA is not provided with sufficient documentation to prove arm's length nature of related party transaction, then FTA will adjust the taxable income of the taxpayer to reflect the arm's length pricing.

Primary adjustment: Such an adjustment to the taxable income will be regarded as the primary adjustment.

Corresponding adjustment: In such a scenario, if the related party transaction involves a foreign related party, then the taxpayer may request FTA for a corresponding adjustment to the taxable income of the foreign related party (to limit the impact of double taxation).

Similar to voluntary adjustment, the burden of proof during a Tax Audit lies with the taxpayer to support the arm's length pricing of related party transaction/(s).

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Next Steps

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Conduct internal checks to ensure compliance with arm's length principle; and maintain relevant TP documentation



Intercompany agreements or contracts should reflect actual terms of the arrangement agreed between the related parties



Detailed analysis towards commercial rational must be performed while undertaking any related party transaction

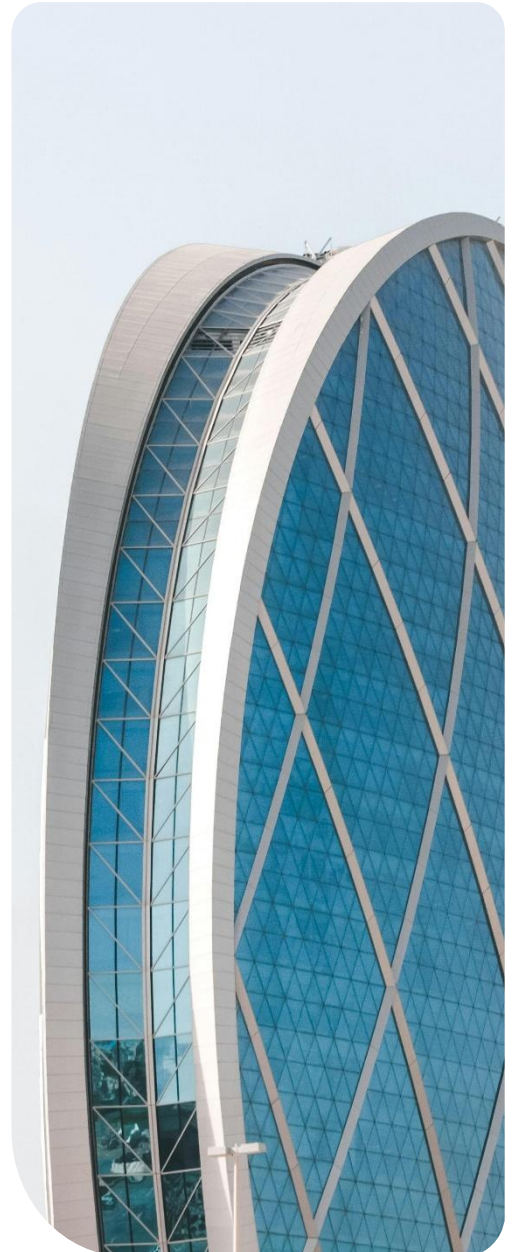


Taxpayers must prepare and maintain comprehensive documentation in terms of internal calculations etc. adopted for justifying arm's length pricing



Review and evaluate value chain of the taxpayer to confirm accuracy of profits earned in a controlled transaction

Stay tuned for our next publication on various distribution models



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Contact our Transfer Pricing team

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For more details regarding this topic or other Tax issues, reach out to our team of experts on the latest Tax developments within the UAE and the Middle East region.



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