



Transfer Pricing  
**Country Summary**

**Saudi Arabia**

April 2023



<b>1. Introduction</b> .....	2
<b>2. Laws &amp; Regulations</b> .....	2
a) References to OECD/EU/Local Rules .....	2
b) Definition of Related Party .....	2
c) Nature of Transfer Pricing Documentation .....	2
d) Tax Havens & Blacklists .....	2
e) Advance Pricing Agreement (APA) .....	2
f) Audit Practice .....	2
<b>3. Transfer Pricing Documentation</b> .....	3
a) Level of Documentation .....	3
b) Industry Analysis .....	3
c) Company Analysis .....	3
d) Functional Analysis .....	3
e) Choice of Transfer Pricing Method .....	3
f) Economic Analysis – Benchmark Study .....	3
g) Inter-company (IC) Legal Agreement .....	4
h) Financial Statements .....	4
i) Production Process for TP Relevant Returns, Documents, Forms and Financials .....	4
j) Mandatory Language .....	6
k) Notification Requirement .....	6
l) Record Keeping .....	6
m) Penalties and Interest Charges .....	6

## 1. Introduction

The TP Bylaws are substantially in line with the TP Guidelines of the Organization for Economic Co-operation and Development ('OECD') and do not include any big surprises. However, a few amendments were made to the draft TP bylaws that were released for public comment.

## 2. Laws & Regulations

### a) References to OECD/EU/Local Rules

- Article 10 of the By-laws to the Income Tax Law (Income Tax By-laws).
- Article 6 of the TP Bylaws

### b) Definition of Related Party

The concept of related parties is broad, possibly encompassing both the relationship between two or more natural people and the link between a natural person and a legal person. Two or more legal persons may also be linked parties if they are controlled by the same individual.

The idea of 'effective control' is also introduced, which means that a person can influence the business choices of another person, either directly or indirectly, through a management agreement, a trust arrangement, or control over 50% or more of the board of directors' composition.

The notion of 'effective control' also includes control exercised through a debt and equity arrangement, such as the right to receive 50% or more of the earnings of the company. other person, the supply of a loan comprising 50% or more of the other person's debt and capital (excluding retained earnings), and the issuance of a guarantee covering 25% or more of the other person's total borrowing.

Finally, 'effective control' refers to control through a commercial connection and is presumed to exist when 50 percent or more of the total value of transactions is with a single client and there is an exclusive agency or distributorship relationship

### c) Nature of Transfer Pricing Documentation

The Kingdom of Saudi Arabia's (KSA) Zakat Tax and Customs Authority (ZATCA) formally released the final Transfer Pricing Bylaws in February 2019. (TP Bylaws). In March 2019, the ZATCA also published the first edition of the Transfer Pricing Guidelines (2019 TP Guidelines). The 2019 TP Guidelines serve to provide guidance on how to apply the TP Bylaws in the KSA.

The ZATCA published the second edition of the Transfer Pricing Guidelines on June 1, 2020. (2020 TP Guidelines). The 2020 TP Guidelines make no significant changes or additions to the TP Bylaws' application.

### d) Tax Havens & Blacklists

Not applicable.

### e) Advance Pricing Agreement (APA)

Saudi Arabia has not implemented rules regarding advance pricing agreements.

### f) Audit Practice

Although transfer pricing audit practice is still evolving, there have been a number of information requests aimed at taxpayers in continuous loss-making positions, as well as specific entity profiles (assembly, servicing, distribution) and industries (energy, consumer goods and technology).

### 3. Transfer Pricing Documentation

#### a) Level of Documentation

Article 18 of the TP Bylaws requires the ultimate parent entity (UPE) or surrogate parent entity (SPE) resident in Saudi Arabia to submit CbC information. The rules in Saudi Arabia are effective for fiscal years beginning on or after 1 January 2018. In addition to CbC reports, articles 16 and 17 of the TP Bylaws require every taxpayer with related-party transactions exceeding SAR 6 million to maintain a Master File and Local File.

#### b) Industry Analysis

By identifying value drivers for the relevant industry, a first indication of the level of profitability common in the industry is being given.

#### c) Company Analysis

A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.

A detailed description of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.

#### d) Functional Analysis

In conducting a functional analysis, an assessment is made of the significant activities and responsibilities that are performed by the related parties relevant to the Intercompany Transactions under review, the tangible and intangible assets that are employed and the risks that are borne in undertaking the business activities. Such an assessment is consistent with the recommendations that have been made in the OECD Guidelines at paragraph 1.51.

#### e) Choice of Transfer Pricing Method

As per article 6 of the TP Bylaws, the arm's length remuneration of a controlled transaction should be determined by applying the method that, under the facts and circumstances, provides the most reliable measure of an arm's length result. Further, the most appropriate transfer pricing method should be selected from among the approved transfer pricing methods. Article 7 of the TP Bylaws lays down the following approved transfer pricing methods for the purpose of article 6:

- comparable uncontrolled price (CUP) method;
- resale price method (RPM);
- cost-plus method (CPM);
- transactional profit split method (TPSM); or
- transactional net margin method (TNMM).

#### f) Economic Analysis – Benchmark Study

GAZT appears to be scrutinizing companies' transfer pricing policies, business activities, supply chain arrangements, intercompany transactions, and so on in greater detail. As a result, proper documentation and benchmarking of inter-group transactions to ensure compliance with the TP Bylaws is critical for managing tax risks.

#### g) Inter-company (IC) Legal Agreement

Although an Inter-company legal agreement formalizes the business and financial relationship between group entities, the legal agreements have a lower ranking since the OECD 2017 Guidelines made the “conduct of parties” the prevailing concept.

#### h) Financial Statements

All Saudi Arabian banks and insurance companies with shares listed on the Saudi Stock Exchange are required by the banking and insurance regulator to publish financial statements in accordance with IFRSs.

All other listed companies in the Kingdom of Saudi Arabia, as well as unlisted companies, are required to follow accounting standards issued by the Saudi Organization for Certified Public Accountants (SOCPA). In 1992, the SOCPA was established by Royal Decree. It operates under the Ministry of Commerce's supervision. Its goals include the following:

- Accounting standards are reviewed, developed, and approved (SOCPA does this through its Accounting Standards Committee)
- Auditing standards must be reviewed, developed, and approved (SOCPA does this through its Auditing Standards Committee)

The SOCPA began an IFRS transition project in 2012 (which was completed in 2016), requiring listed entities to report using "national standards that are closely converged with full IFRSs" beginning with financial statements prepared for fiscal periods beginning on January 1, 2017. Furthermore, beginning with financial statements prepared for fiscal periods beginning on January 1, 2018, unlisted entities will be required to report under IFRS for SMEs as adopted in Saudi Arabia (early adoption beginning in 2017 permitted, if an entity is part of a listed group).

The SOCPA began an IFRS transition project in 2012 (which was completed in 2016), requiring listed entities to report using "national standards that are closely converged with full IFRSs" beginning with financial statements prepared for fiscal periods beginning on January 1, 2017. Furthermore, beginning with financial statements prepared for fiscal periods beginning on January 1, 2018, unlisted entities will be required to report under IFRS for SMEs as adopted in Saudi Arabia (early adoption beginning in 2017 permitted, if an entity is part of a listed group).

#### i) Production Process for TP Relevant Returns, Documents, Forms and Financials

In the chart below, the existence of the filing requirements with the details of which format is used, the latest filing date, notification requirement and its deadline, thresholds to be applied in case it exists, and the required languages are demonstrated. This information can be seen respectively for CIT, master file, local file, CbCR, local forms, annual accounts and segmented P&L documentations.

	Prepare or File?	Format	Deadline	Notification Deadline*	Threshold* (Yes/No)	Local Language (Yes/No)*(If "No", it can be filed in English)
<b>Corporate Income Tax</b>	File	Local IFRS	120 days after the year-end	N/A	N/A	Yes (Arabic)
<b>Master File</b>	Prepare	N/A	30 days from the date of the request	N/A	Yes - SAR 6 million	Yes (Arabic)
<b>Local File</b>	Prepare	N/A	31 <sup>st</sup> of December	N/A	Yes - SAR 6 million	Yes (Arabic)
<b>CbCR</b>	File	Available on the website of the tax authorities	12 months after the last day of the reporting year	Yes - No later than 120 days after the last day of the taxpayers reporting year	Yes - SAR 3.2 billion in the preceding year	No
<b>Local Form</b>	File - DFCT Prepare - general documentation	DFCT	30 <sup>th</sup> of April, together with the Annual Income Tax Declaration	N/A	Yes	Yes (Arabic)
<b>Annual Accounts</b>	File	Local IFRS	31 <sup>st</sup> of March	N/A	N/A	Yes (Arabic)
<b>Segmented P&amp;L</b>	N/A	N/A	N/A	N/A	N/A	N/A
* Saudi Arabia has signed the MCAA agreement for the filing of CBCR.						
* Saudi Arabia does not request as much and detailed information from smaller and less complex enterprises (SME's included) than it does from large and complex enterprises.						

#### j) Mandatory Language

The tax authority encourages all documentation to be maintained and submitted in Arabic. The local file and master file prepared in English (or any other language) may be accepted; however, this should not be regarded as an exemption or exception from any obligation to comply with language requirements following the Transfer Pricing Bylaws or other laws.

#### k) Notification Requirement

Taxpayers must submit tp documentation within 30 days, extensions are possible

#### l) Record Keeping

Taxpayers must keep the TP documentation for a period of 5 years, in accordance with the statute of limitations.

#### m) Penalties and Interest Charges

If a taxpayer knowingly hides facts or information for the purpose of tax evasion, a penalty of 25% on the excess tax charged is imposed.