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Requirements for Maintaining Transfer Pricing Documentation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses

Ministerial Decision No. 97 of 2023

Issued 27 April 2023 – (Effective from the day following its publication in the Official Gazette)

The Minister of State for Financial Affairs has decided:

- Having reviewed the Constitution,
- Federal Law No. 1 of 1972 on the Competencies of Ministries and Powers of the Ministers, and its amendments,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority, and its amendments,
- Federal Decree-Law No. 28 of 2022 on Tax Procedures,
- Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses,
- Cabinet Decision No. 44 of 2020 on Organising Reports Submitted by Multinational Companies,

Article 1 – Definitions

Words and expressions in this Decision shall have the same meanings specified in the Federal Decree-Law No. 47 of 2022 referred to above (“Corporate Tax Law”) unless the context requires otherwise.

Article 2 – Conditions for Maintaining Master File and Local File

1. A Taxable Person that meets either of the following conditions shall maintain both a master file and a local file in accordance with Clause 2 of Article 55 of the Corporate Tax Law in the relevant Tax Period:



- a. Where the Taxable Person, for any time during the relevant Tax Period, is a Constituent Company of a Multinational Enterprises Group as defined in the Cabinet Decision No. 44 of 2020 referred to above that has a total consolidated group Revenue of AED 3,150,000,000 (three billion one hundred and fifty million United Arab Emirates dirhams) or more in the relevant Tax Period.
- b. Where the Taxable Person's Revenue in the relevant Tax Period is AED 200,000,000 (two hundred million United Arab Emirates dirhams) or more.
2. Subject to Clause 3 of this Article, the Taxable Person shall include transactions or arrangements with all of the following Related Parties and Connected Persons in the local file:
 - a. A Non-Resident Person.
 - b. An Exempt Person.
 - c. A Resident Person that has made an election under Article 21 of the Corporate Tax Law and meets the conditions of such election.
 - d. A Resident Person whose income is subject to a different Corporate Tax rate from that applicable to the income of the Taxable Person.
3. The Taxable Person shall not include transactions or arrangements with the following Related Parties and Connected Persons in the local file:
 - a. Resident Persons other than those specified in paragraphs (b), (c) and (d) of Clause 2 of this Article.
 - b. A natural person, provided that the parties to the transaction or arrangement are acting as if they were independent of each other.
 - c. A juridical person that is considered to be a Related Party or a Connected Person solely by virtue of being a partner in an Unincorporated Partnership, provided that the parties to the transaction or arrangement are acting as if they were independent of each other.
 - d. A Permanent Establishment of a Non-Resident Person in the State whose income is subject to the same Corporate Tax rate as that applicable to the income of the Taxable Person.
4. For the purpose of paragraphs (b) and (c) of Clause 3 of this Article, the parties engaged in the transaction or arrangement shall be considered acting as if they



were independent of each other where both of the following conditions are met:

- a. The relevant transaction or arrangement is undertaken in the ordinary course of Business.
 - b. These parties are not exclusively or almost exclusively transacting with each other.
5. For the purpose of paragraphs (b) and (c) of Clause 3 of this Article, where the activities of one Person in the transaction or arrangement are subject to detailed instruction or to comprehensive control of the other Person in the same transaction or arrangement, such Persons shall not be regarded as acting as if they were independent of each other.
6. For the purposes of Clauses 4 and 5 of this Article, the Authority shall take into account all relevant facts and circumstances to determine whether the Persons shall be regarded as acting as if they were independent of each other.

Article 3 – Transfer Pricing Documentation Guidelines

The Authority shall issue guidelines for the application of the provisions of this Decision and maintaining transfer pricing documentation.

Article 4 – Publication and Application of this Decision

This Decision shall be published and shall come into effect the day following the date of its publication.