

**Ministerial Decision No. 97 of 2023 | Requirements for Maintaining Transfer Pricing Documentation**

The Ministry of Finance (MOF) has issued Decision No. 97 of 2023 on the Requirements for Maintaining Transfer Pricing Documentation for the Purposes of Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses.

**Summary of Decision**

Persons required to maintain a master file and a local file

- Component of a Multinational Enterprises Group that has a total consolidated revenue of AED 3.15 billion or more in the relevant tax period; or
- A Taxable Person whose revenue in the relevant Tax Period is AED 200 million or more.

**Specific Inclusions in the Local File**

Transactions or arrangements with the following Related Parties or Connected Persons shall be included in the local file:

- A Non-Resident Person
- An Exempt Person
- A Resident Person who has opted for Small Business Relief
- A Resident Person who is taxed at a different Corporate Tax rate

**Specific Exclusions from the Local File**

Transactions or arrangements with the following Related Parties or Connected Persons are not to be included in the local file:

- A Resident Person other than those specified above
- A natural person, provided that the parties to the transactions or arrangement are acting as if they were independent of each other.
- A juridical person that is considered a Related or a Connected Party only by virtue of being a partner in an Unincorporated Partnership, provided that the parties to the transactions or arrangement are acting as if they were independent of each other.
- A Permanent Establishment of a Non-Resident Person, subject to tax at the same CT rate.

Conditions to be met if two Persons are to be considered as acting independent of each other:

- Relevant transaction or arrangement is undertaken in the ordinary course of business.
- Parties are not exclusively or almost exclusively transacting with each other.
- If the activities of one Person are subject to detailed instructions and comprehensive control by the other Person, such Persons cannot be considered acting as if they were independent of each other.
- The Authority shall consider all facts and circumstances while determining the same.

**Key Takeaways**

- The said Decision provides much needed relief to the smaller Taxable Persons from extensive documentation and compliances.
- While extensive documentation in the form of a master file and local file are restricted to certain categories of Persons, the provisions of Chapter Ten of the Decree Law would still prevail. Basis such provisions, the transactions with Related or Connected Persons are to be carried out at an Arms' Length basis. Basic documentation to prove such determination is likely to continue.
- The Decision also indicates that the Authority shall issue guidelines for the application of the provisions of this Decision and maintaining transfer pricing documentation.

**Disclaimer**

The above seeks to summarise the update from the relevant authority. The same may not be construed to be a written opinion on matters that may require specific examination of the Decree on a case-to-case basis.

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