

UAE CORPORATE TAX - TRANSFER PRICING METHODS

UAE Corporate tax law (Article 34(3)) mentions that the arm's length result of the transaction between related parties must be determined by applying one or a combination of the five transfer pricing methods. These methods are consistent with the OECD Transfer pricing guidelines

There are 5 methods which consist of three traditional transaction methods and two transactional profit methods.

Traditional transaction methods are regarded as the most direct means of establishing whether conditions in the commercial and financial relations between associated enterprises are at arm's length. They are:

- **Comparable Uncontrolled Price Method (CUP Method):** The CUP method compares the price charged for property or services transferred in a controlled transaction to the price charged for property or services transferred in a comparable uncontrolled transaction in similar circumstances. This method would generally be an appropriate transfer pricing method for establishing the arm's length price for the transfer of commodities between associated enterprises.
- **Resale Price Method:** This method begins with the price at which a product that has been purchased from an Associated Enterprise is resold to an independent enterprise. The Resale Price is then reduced by an appropriate gross margin on this price representing the amount out of which the reseller would seek to cover its selling and other operating expenses and in the light of functions performed make an appropriate profit. What is left after subtracting the gross margin can be regarded, after adjustments for other costs associated with the purchase of the product, as an arm's length for the original transfer between the Associated Enterprise.
This method is probably most useful to marketing operations such as those carried out by a distributor.
- **Cost Plus Method:** This method begins with the costs incurred by the supplier of property in a controlled transaction for property transferred or services provided to an associated purchaser. An appropriate cost-plus markup is added to this cost, to make an appropriate profit in light of the functions performed and the market conditions. What is arrived at after adding the cost-plus mark up to the above costs may be regarded as an arm's length price of the original controlled transaction.
This method probably is most useful where semi-finished goods are sold between Associated parties, where associated parties have concluded joint facility arrangements, or where the controlled transaction is the provision of services.

Transactional profit methods examine the profits that arise from particular transactions among associated enterprise. Profits arising from a controlled transaction can be a relevant indicator of whether the transaction was affected by conditions that differ from those that would have been made by independent enterprises in otherwise comparable circumstances. They are:

- **Transactional Profit Split Method:** This method first identifies the profits to be split from the controlled transactions- the relevant profits and then split them between associated enterprises on an economically valid basis that approximates the division of profits that would have been agreed at arm's length. This method can be considered where each party makes unique and valuable contributions, or business operations are highly integrated such that the contributions of the parties cannot be evaluated in isolation.
- **Transactional Net Margin Method:** This method examines the net profit relative to an appropriate base that a tax payer realizes from a controlled transaction with the net profit earned in comparable uncontrolled transactions. This is the most commonly used method for justifying the transfer pricing of a company

A case-by-case analysis would have to be undertaken to determine the most appropriate method to evaluate the correct application of arm's length principle for every related party transaction.

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