

# Tax Alert: Jordan Introduces Transfer Pricing Regulations

June 2021

## 1. What are the Transfer Pricing Regulations?

On 7 June 2021, the Hashemite Kingdom of Jordan published Transfer Pricing Regulations in the official gazette under regulation No. (40) for 2021.

The Transfer Pricing (TP) Regulations require Multinational Enterprises (MNEs) operating in Jordan to transact with cross-border related parties in accordance with arm's length principles. This means MNEs need to deal with related party as if they are dealing with unrelated third parties.

## 2. What is changing?

In case you are a Taxpayer in Jordan, you shall now have certain reporting obligations in relation to your cross-border related party transactions.

This is in the form of four-layered documentation: Disclosure Form, Local File, Master File and Country by Country Reporting, which will need to be prepared and filed with Tax authorities in Jordan (more details will follow in ensuing sections).

Further details around the exact nature of information requirements and procedural details, including timelines, are expected to be issued in due course by the Income and Sales Tax Department (ISTD).

## 3. Is this something common across several countries or unique to Jordan?

TP is prevalent across several developed and developing countries. There is global desire to embed rules and regulations to avoid tax avoidance and evasion and to enhance transparency. In accordance with these goals, the OECD has introduced several Actions through the Base Erosion and Profit Shifting ("BEPS") Project.

On 29 October 2019, Jordan joined the Inclusive Framework for the global implementation of the BEPS Project. As a member of the Framework, Jordan has committed to the implementation of the four minimum BEPS standards, including those developed under Action 5 (Countering Harmful Tax Practices), Action 6 (Preventing Treaty Abuse), and Action 14 (Dispute Resolution), as well as Country-by-Country (CbC) reporting under Action 13 (Transfer Pricing Documentation).

Jordan's introduction of TP Regulation is part of this global initiative. It is largely consistent with OECD TP principles.

#### 4. When will TP Regulations come into force?

The rules shall come into effect thirty days after the date of publication of the regulations in the official gazette.

#### 5. To whom do the new TP Regulations apply?

The regulations apply to transactions between related parties to all companies and branches resident in Jordan.

**One party has effective control over the control:** Any party (up-to second degree) directly or indirectly controls (50%) or more of the voting rights, profits, or capital of the company. If the person participates in the capital or management of, or control, the legal person.

**Parties under common control:** Two or more parties are subject to joint management or control in case any party or parties thereto control either directly or indirectly (50%) or more of the capital, profits or voting rights of any other legal person and jointly or severally, effective control over the legal person or the decisions thereof.

“Effective control” can be established through several means such as: ownership, corporate governance, and financial and business relations. A thorough analysis needs to be conducted to identify related parties. An inclusive list as follows:

- Ability to enter into agreement on providing the company with administrative services or performing management functions therein.
- 50% or more as members on the board of directors or has/ have the right to appoint the representative of the management of the other persons or terminate the representation thereof.
- Right to receive 50% or more of the profits of the other persons, provided loans forming 50% or more of the total loans and capital, except for the undistributed dividends, issued guarantees covering 33% or more of the total value of loans to the other person (exceptions are banks and financial corporations).
- 50% or more of the transactions of one party is with another party. If the affiliated person or groups of persons is/ are commercial agents' supplier of the other person.

#### 6. What are the new compliance obligations for Taxpayers?

**A. Disclosure Form (DF):** Prepare and file along with annual income tax return. It captures basic information pertaining to TP including the names of related parties, transaction type (purchase, sale, etc.), transaction value (monetary value), and TP Methods applied to demonstrate arm's length price, etc.

**B. Local File (LF):** It provides further details of the MNE business operations in Jordan and contains more detailed information on all transactions with related persons, noting that the ISTD will be issuing further executive instructions covering such TP requirements in more detail. Our understanding is that such a Local File needs to be held on record, at the time of filing of annual tax returns, and submitted upon request.

**C. Master File (MF):** It provides the big picture view of the MNE group and detailed information on the international activities and transfer pricing policies of the transactions of the group as a whole. Any Jordan Headquartered MNE has primary responsibility to prepare the Master File, and for MNEs headquartered outside Jordan having business activities in Jordan, the primary responsibility to prepare the Master File lies with former. Like the Local File, this needs to be held on record at the time of filing of annual tax return and submitted to Department upon request.

**D. Country by Country Report (CbCR):** It only applies to MNE groups with consolidated revenue exceeding 600 million Jordanian Dinars. Taxpayers in Jordan who are part of such a group need to file a notification locally in Jordan. In case the Taxpayer is a parent entity in Jordan, it will need to prepare and file the actual CbCR 12 months after their Financial Year End.

#### 7. Are there penal provision for non-compliances?

While there is no specific TP penalty regime, non-compliance is subject to regular penalty provisions under income tax law.

#### 8. Are there any exceptions in relation to applicability of the new TP Regulations?

Yes. Natural persons and small enterprises whose value of transactions with related persons, based on the arm's length principles, does not exceed 500,000 Dinars within a period of 12 consecutive months.

#### 9. What is next?

ISTD is expected to issue further Executive Instructions providing details on the implementation of the Regulations.

#### In conclusion

Jordan is aligning with international standards and further development is expected in TP Law, such as country by country reporting exchange of information. In accordance with these changes, businesses should start evaluating their current inter-co set-up.

We shall keep you up to date on any further developments. In the meantime, our teams are available to discuss the implementation of the regulations and their impact on your business.

# Get in touch

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