

Saudi Arabia: ZATCA extends transfer pricing regulations to Zakat payers and introduces an APA program

April 2023



Background

On 7 April 2023, the Board of Directors of Zakat, Tax, and Customs Authority (ZATCA) in the Kingdom of Saudi Arabia (KSA) announced the approval of the proposed amendments to the Transfer Pricing Bylaws to bring the following into effect:

- Extend applicability of the Transfer Pricing (TP) provisions to Zakat payers; and
- Introduce Advance Pricing Agreements (APA) provisions for Tax payers and Zakat payers

The above amendments will be applicable for Financial Years (FYs) starting on or after 1 January 2024.

Introduction of Transfer pricing regulations for Zakat payers

Currently, TP provisions are applicable to entities subject to corporate income tax (full tax paying and mixed entities). However, for FYs beginning on or after 1 January 2024, the provisions will extend to Zakat paying entities. Under these new requirements, Zakat payers will need to ensure that their transactions with related parties are priced at arm's length.

From a compliance standpoint, Zakat payers will be required to submit a TP disclosure form and TP Affidavit with their Zakat returns. They will also need to prepare a Local File and Master File subject to the following exemptions:

- Phase 1 will exempt Zakat payers with aggregated related party transactions less than SAR 100mn from the Master File / Local File requirement
- After 3 years, Phase 2 will exempt Zakat payers with aggregated related party transactions equal to or less than SAR48mn
- Investment Funds are exempt during Phase 1

As a next step, ZATCA is expected to release a revised version of the TP Bylaws reflecting the changes noted above. In addition, we expect the revised TP Bylaws to clarify whether any additional exemptions (e.g., for consolidated filers) or new requirements will be applied.

The way forward

These new transfer pricing requirements can have a significant impact on Zakat payers' business. As a result, Zakat payers should assess the potential impact and conduct a "TP healthcheck" to ensure robust policies, procedures and agreements are in place before the requirements kick in on 1 January 2024.



These new transfer pricing requirements can have a significant impact on Zakat payers' business. As a result, Zakat payers should assess the potential impact and conduct a "TP healthcheck" to ensure robust policies, procedures and agreements are in place before the requirements kick in on 1 January 2024.





APA Program in Saudi Arabia

Introduction of APA provisions

As part of the update to the TP Bylaws, ZATCA has announced that they will create an Advance Pricing Agreement (APA) program for both Taxpayers and Zakat payers for financial years beginning on or after 1 January 2024.

The APA program will allow companies to obtain an agreement with the tax authority – akin to a tax ruling – which will provide audit protection and reduced compliance requirements for their TP arrangements for a number of years (the timeline has not been announced yet but it is typically five years).

This is a very welcome development in a time of increasing transfer pricing disputes and complexity. Obtaining an APA holds many benefits including the elimination of TP audit risk and a significant reduction in the TP compliance burden. Furthermore, APAs can allow for the release of provisions in the financial statement for uncertain tax positions related to TP.

ZATCA is expected to release further guidance this year on the APA program including details on how companies can apply, what the application and filing fees will be and how long the negotiation process is expected to take.

The way forward

Companies in KSA should consider whether an APA program may be the best approach for them. Typically, APAs are most beneficial to companies with large, complex intercompany transactions where there is significant risk or uncertainty. Companies under a TP audit may also be able to end the dispute through an APA.

The takeaway

ZATCA moves forward with major transfer pricing updates

The KSA has made major strides in aligning its tax regime with the international community by extending transfer pricing regulations to Zakat payers and implementing an APA program for both Taxpayers and Zakat payers. This will create new compliance requirements, as well as opportunities for companies in the KSA. Companies should start now in assessing the potential impact on their business.

www.pwc.com/me

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

Zachary Noteman

Transfer Pricing Partner

Tel: +966 54 020 2902

zachary.noteman@pwc.com

Jorge Simoes

Transfer Pricing Director

Tel: +966 54 760 9347

jorge.simoes@pwc.com

Manas Arora

Transfer Pricing Director

Tel: +973 38477768

manas.arora@pwc.com

©2023 PwC. All rights reserved. PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details. This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers, its members, employees and agents do not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

Thank you

©2023 PwC. All rights reserved. PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details. This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers, its members, employees and agents do not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.