

Advance Pricing Agreements in KSA - Update

30 October 2024

KSA APA programme updates

On October 22nd, 2024, the Zakat, Tax and Customs Authority (“ZATCA”) held a virtual workshop to clarify and provide further guidance on the Advance Pricing Agreement (“APA”) programme which was recently introduced in the Kingdom of Saudi Arabia (“KSA”). This document provides an overview of the information provided in the workshop.

APA Background

What is an APA?

An APA is a written agreement between a Tax/Zakat payer and the KSA Tax administration (i.e., ZATCA). The agreement determines an approach for resolving transfer pricing issues in advance of a return being filed. When the terms of the agreement are complied with, it provides compliance assurance to the Tax/Zakat payer that the treatment of those transfer pricing issues will be accepted by the ZATCA for the period covered by the agreement without risk of audit.

APA becomes law in Saudi Arabia

On March 20th, 2023, the Board of Directors of the ZATCA announced the approval of the proposed amendments to the Transfer Pricing Guidelines, which opened the APA programme in KSA effective January 1, 2024. As part of this update, ZATCA also extended the applicability of transfer pricing to Zakat Payers in KSA making an APA an attractive option to both Tax payers and Zakat Payers in KSA.

When an APA is most beneficial

- Complex transactions with uncertain treatment
- High value transactions
- Strategic business planning
- Transactions being disputed by the ZATCA
- Cross border transactions

Benefits of an APA

- Certainty in treatment by ZATCA
- Reduced litigation costs
- Operational efficiency
- Reduced compliance costs
- Compliance risk mitigation

Updates from ZATCA Workshop on APAs

1 APA Application Requirements

- The transactions covered by the APA must not be less than SAR 100 million, although exceptions may apply for complex transactions.
- An APA application must be submitted at least 12 months prior the effective date.

2 Threshold

- The threshold of SAR 100 million applies to individual transaction. However, in cases where it is challenging to segregate the transactions, an aggregation of the transactions may be permitted.
- This threshold is applicable for each reporting year throughout the entire duration of the APA, which is currently set at three years.

3 Key Considerations

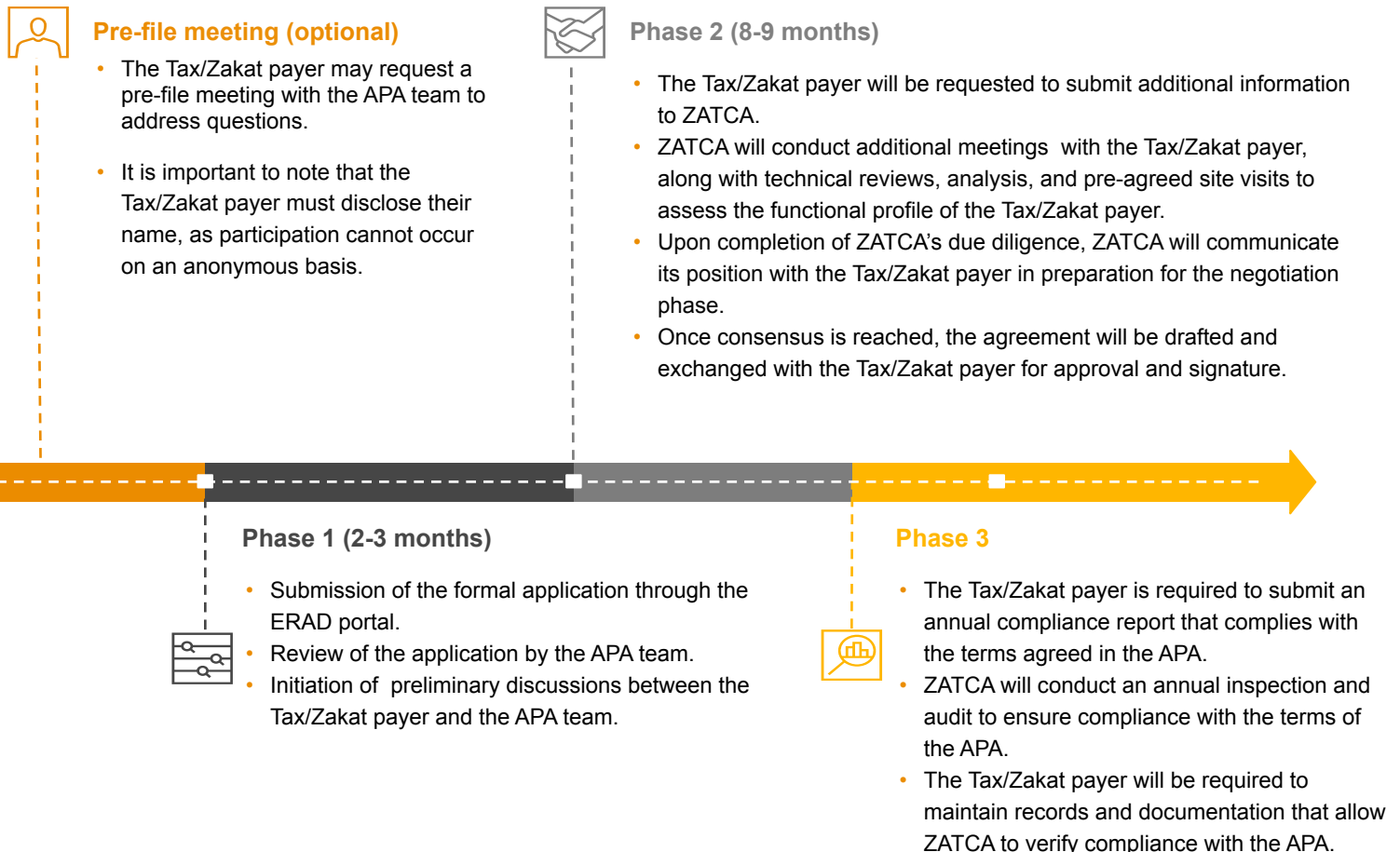
- The duration of the APA is three years. During the APA, the company must submit an annual compliance report to demonstrate adherence to the terms of the agreement.
- APA may be renewed, following the same timeline as the initial application, which requires submission at least 12 months prior to commencement.
- Transactions covered by the APA include those between related parties within KSA, including transactions involving economic zones or related parties that benefit from tax incentives, as well as transactions between related parties located outside the Kingdom.
- Currently, there are no fees associated with the application for the APA.
- The APA cannot be made effective retrospectively; it is only applicable on a prospective/future basis.
- The relevant critical facts that are material to the agreement are to be specified within the APA. If the Tax/Zakat payer fails to meet any of the critical facts outlined in the agreement, or if changes occur that materially impact the appropriateness of the selected transfer pricing method, it may be necessary to review or terminate the APA.
- The ZATCA will soon publish a detailed APA guideline.

4 Transfer Pricing Compliance Obligations

- In addition to the annual compliance report, the company must continue to submit a Controlled Transactions Disclosure Form (“CTDF”) and certified TP Affidavit.
- Whilst the APA transactions will be exempt from the Local File and Master File requirements, the transactions not covered by the APA and exceeding the threshold will still need to prepare these reports.

APA Process and Timeline

The following timeline outlines the key steps in the APA process, providing a clear overview of the procedural timeline and important milestones.



Additional remarks on the processes above

- **The application service** will be launched soon in ERAD portal. In the meantime, Tax/Zakat payers may request an application by communicating with the relationship manager, or the APA team on (APA-gma@zatca.gov.sa)
- **Multiple Transactions:** Tax/Zakat payers can include several transactions in one application form.
- **Submission Confirmation:** After submitting the application, ZATCA will confirm receipt and assess its completeness.
- **Preliminary Meeting:** If the application is complete, a preliminary meeting will be scheduled, ideally within 60 days.
- **Incomplete Applications:** If the application is incomplete, ZATCA will notify the Tax/Zakat payer regarding what is missing.
- After **submitting** a complete application and concluding the preliminary meeting, the Tax/Zakat payer will receive notification regarding the outcome of the agreement application. The possible outcomes are:
 - **Accepted:** If the application is accepted, it does not guarantee that an agreement will be finalized.
 - **Rejected:** If the application is rejected, the Tax/Zakat payer will be informed of the reasons for the rejection.
- **If ZATCA rejects** the application, the Tax/Zakat payer must respond to the rejection within 30 days. If they do not, the rejection will be considered final.
- **Withdrawal from Application:** If the Tax/Zakat payer withdraws the application during the submission phase, both ZATCA and the Tax/Zakat payer will have no further obligations to each other related to the application. Any previous agreements or understandings connected to the application will also become void.

Next Steps

Tax/Zakat payers interested in exploring the APA process should reach out to our specialist team to discuss their specific facts and circumstances. We can support you in the entire APA process and provide guidance and insights from our globally experienced team.

It is important to submit the formal APA application before December 31, 2024 to ensure eligibility for the agreement effective in 2026. If desired, Tax/Zakat payers may request a pre-file meeting with the APA team to address any questions.

www.pwc.com/me

Let's talk

For a tailored 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

Andrew Joshi

Transfer Pricing Partner

Tel +971 50 487 9745

Andrew.joshi@pwc.com

Jorge Simoes

Transfer Pricing Partner

Tel +966 54 760 9347

jorge.simoes@pwc.com

Mohamad Patel

Transfer Pricing Director

Tel +966 50 842 3602

Mohamad.patel@pwc.com

Manas Arora

Transfer Pricing Director

Tel +973 38477768

manas.arora@pwc.com

Abdullah Alghathbar

Transfer Pricing Senior Manager

Tel +966 56 143 0725

abdullah.alghathbar@pwc.com

©2024 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.