DELTAKAP

Middle East
Tax Consultants

DELTAKAP TAX BREAKFAST

17 April 2025
Ras Al Khaimah

AGENDA

- 8:30 AM - 9:00 AM Registration and Breakfast
- 9:00 AM - 9:05 AM Welcome to DK ME
- 9:05 AM - 9:35 AM Presentation
- 9:35 AM - 10:00 AM Q&A
- 10:00 AM - 10:30 AM Networking

WELCOME TO DELTAKAP MIDDLE EAST

Who we are?

- A Tax Law consultancy established over 20 years ago in Munich, Germany
- Since 2016 registered in the UAE

What we do?

- Cross Boarder Taxation (DACH <-> UAE, etc)
- UAE Company Setup (free zone/mainland)
- Accounting / Bookkeeping / UAE tax

AGENDA

- Transfer Pricing Basics
- Related Parties
- Connected Persons
- Tax Groups

TRANSFER PRICING BASICS (I)

- What Does Transfer Pricing Mean?
  - Rules and methods for pricing transactions **within** and **between** enterprises under common ownership or control.
  - In the UAE, transfer pricing regulations are governed by CIT Law and are aligned with OECD guidelines.
  - CIT Law enforces transfer pricing rules and documentation requirements to ensure that transactions beween related parties / connected persons are not influenced by their relationships.

TRANSFER PRICING BASICS (II)

- **Arm's Length Principle** (Art. 34 of CT Law)
  - Cornerstone of the UAE TP regulations –> pricing of transactions between related parties should be set as if parties were independent and operating in similar circumstances.
- **Transfer Pricing Methods** (Art. 34 of CT Law, Clause 3)
  - Comparable Uncontrolled Price (CUP), Resale Price Method, Cost Plus Method, Transactional Net Margin Method (TNMM), and Profit Split Method.
  - The selection of the most appropriate method depends on the facts and circumstances of each case; must be documented and justified if asked by the authority.
  - The authority shall adjust the taxable income to achieve arm's length result.

TRANSFER PRICING BASICS (III)

- **Documentation Requirements** (Art. 55 of CT Law)
  - TP Disclosure Form (alongside CIT Return filing):
    - **Related Party Transactions** – aggregate value over AED 40 million; per category value over AED 4 million need to be disclosed
    - **Connected Person Transactions** – aggregate value over AED 500,000; per category value over AED 500,000 need to be disclosed
  - Master file and Local file (30 days after FTA request):
    - Taxable person has revenue of AED 200 million or more
    - Part of MNE group with total consolidated group revenue of at least AED 3.15 billion.
  - Country-by-Country Report /CbCR (within 12 months from end of reporting year of MNE Group):
    - UAE headquartered MNE Group with consolidated revenues above AED 3.15 billion

RELATED PARTIES - ART. 35 OF CT LAW (I)

- Definition of **"Related Party":**
  - **Two or more natural persons** who are related within **the 4th degree of kinship or affiliation**, including by way of adoption or guardianship.
  - **Natural persons:**
    - A natural person or related party who directly or indirectly owns ≥50% or exercises control over the juridical person.
  - **Juridical persons:**
    - Alone or with related parties, directly or indirectly owns ≥50% of another juridical person, or exercises control over it.
    - A Person, alone or with related parties, directly or indirectly owns 50% or greater ownership interest or Controls such two or more juridical persons.

RELATED PARTIES - ART. 35 OF CT LAW (II)

- Definition of **"Related Party" (cont.):**
  - Person and his Permanent Establishment or Foreign Permanent Establishment.
  - Two or more persons who are partners in the same Unincorporated Partnership.
  - A trustee, founder, settlor or beneficiary of a trust or foundation, and his Related Parties.
- **"Control"** is the ability to influence another person to:
  - Exercise 50% or more of the voting rights of another person
  - Determine the composition of 50% or more of the Board of Directors of another Person
  - Receive 50% or more of the profits of another Person
  - Determine, or exercise a significant influence over the conduct of the Business or affairs of another Person.

CONNECTED PERSONS – ART. 36 OF CT LAW

- Payments or benefits provided by Taxable Person to Connected Persons shall be deductible **only** if and to the extent corresponding to the Market Value of the service/benefit provided wholly and exclusively for its Business.
- Arm's Length Principle (Art. 34 of the CT Law) shall apply to determine that the payment/benefit provided to Connected Persons corresponds to Market Value, as the context requires.
- Definition of **Connected Person**:
  - A natural person who directly/indirectly owns an ownership interest or controls the taxable person
  - Director or officer of the taxable person
  - Partners of the same unincorporated partnership
  - Related parties of any of the above

TAX GROUPS (I)

- UAE group entities may elect to form tax groups if the following conditions are met:
  - The parent company, which **must be** UAE tax resident person (including a foreign legal entity with UAE POEM), directly or indirectly holds **at least 95%** of the (i) share capital, (ii) voting rights, and (iii) entitlement to profits and net assets.
  - They have the **same financial year** and prepare the financial statements using the **same accounting standards**.
  - Neither the parent company nor the subsidiary is an exempt person or a QFZP.

TAX GROUPS (II)

- When a tax group is formed, the **parent entity** will be responsible for the administration, such as submission of one tax return and settlement of the tax liability for the tax group.
- Note that CIT Group composition may be different from VAT Group composition for the same group structure as the grouping rules are different.

Q&A SESSION

CONTACT

Ralf Löbker, Managing Director
Tax Consultant, LL.M. International Tax Law,
CPAA (United Arab Emirates)

Rehman Imtiaz, Senior Tax Accountant
Key Contact for Accounting,
Financial Statements, Tax

E-Mail: UAEdesk@deltakap.com

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