



● DECODING SCENARIOS

# TRANSFER PRICING

CASE STUDIES

UAE CORPORATE TAX LAW

Incorporates the latest legal changes and guidelines-Oct 2023

A beginners guide

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## **Acknowledgments**

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*We also want to thank all those who contributed their time and knowledge but wish to remain anonymous. Your contributions have not gone unnoticed.*

*Finally, we are grateful to our readers, for whom this book was written. We hope it serves as a useful guide in your journey through the complexities of corporate taxation in the UAE.*

## **Foreword**

In the ever-evolving landscape of global business, understanding the intricacies of transfer pricing has become indispensable for corporations and professionals alike. This book aims to demystify the complex world of transfer pricing within the context of the United Arab Emirates' corporate tax regime.

### **What This Book Offers:**

**Comprehensive Overview:** We begin with a summary of relevant provisions, laws, and regulations governing transfer pricing in the UAE, including Federal Decree Laws, Cabinet Decisions, and Ministerial Decisions.

**Practical Scenarios:** The core of this book is a series of meticulously crafted case studies that simulate real-world scenarios. These cases cover a broad spectrum of industries and situations, providing you with a hands-on understanding of how transfer pricing works in practice.

**Legal References:** Each case study is supplemented with references to pertinent laws, guidelines, and decisions, enabling you to understand the legal framework that underpins each scenario.

**Solutions and Rationale:** We don't just present problems; we also provide solutions. Each case study includes a detailed explanation of the recommended course of action and the rationale behind it.

**Additional Scenarios:** To further deepen your understanding, we include additional scenarios that challenge you to apply what you've learned in a new context.

**Benefits to the Readers:**

**In-Depth Understanding:** Gain a thorough understanding of transfer pricing, from basic principles to advanced applications, all tailored to the UAE's specific legal environment.

**Practical Skills:** The case studies are designed to equip you with the practical skills needed to navigate the complexities of transfer pricing in your professional life.

**Legal Acumen:** Enhance your understanding of the legal aspects of transfer pricing, including compliance, documentation, and dispute resolution.

**Decision-Making:** The solutions and rationale provided in each case study will improve your decision-making skills, particularly in assessing the arm's length principle and selecting appropriate transfer pricing methods.

**Risk Mitigation:** Learn how to identify potential risks and pitfalls in transfer pricing arrangements and how to mitigate them effectively.

This book is more than just a theoretical guide; it is a practical toolkit designed to empower you to understand and implement transfer pricing strategies effectively. Whether you are a corporate executive, a legal advisor, or a student of finance, this book offers something of value for everyone.

Any suggestions to improve the book is welcome.

## **How to Approach This Book for Best Results**

Navigating the complexities of transfer pricing can be a daunting task, but this book is designed to make that journey as straightforward as possible. To get the most out of this resource, here's a suggested approach:

### **Step 1: Start with the Basics**

Read the Introduction: Familiarize yourself with the key concepts and terminology by starting with the introductory sections. This will give you a solid foundation for understanding the case studies that follow.

### **Step 2: Dive into the Case Studies**

**Sequential Reading:** The case studies are organized in a way that builds upon previous knowledge. It's recommended to go through them in sequence for a coherent learning experience.

**Active Engagement:** Don't just read; engage with the material. Try to solve the case studies on your own before looking at the solutions and rationale provided.

### **Step 3: Utilize the Legal References**

**Cross-Reference:** The book comes with legal references. Use these to deepen your understanding of the legal framework and how it applies to each scenario.

**Keep Updated:** Laws and regulations can change. Use the references as a starting point to check for the most current legal information.

#### **Step 4: Work on Additional Scenarios**

**Apply What You've Learned:** The additional scenarios at the end of each case study are designed to reinforce your understanding and application of the concepts.

#### **Step 5: Review and Reflect**

**Take Notes:** Keep a notebook handy to jot down key points, questions, and your own insights as you go along.

**Discussion:** If possible, discuss the case studies and your solutions with peers or mentors to gain different perspectives.

#### **Step 6: Revisit and Revise**

**Continuous Learning:** Transfer pricing is a dynamic field. Make it a habit to revisit the book and update your knowledge regularly.

#### **Step 7: Practical Application**

**Use it in Real Life:** The ultimate test of knowledge is its application. Use the insights and skills you've gained to address real-world transfer pricing challenges in your professional life.

By following this approach, you'll not only gain a theoretical understanding of transfer pricing but also acquire the practical skills needed to apply this knowledge effectively. Whether you're a beginner or an experienced professional, this book aims to be a valuable addition to your financial toolkit.

*About the book Initiative by:*



*CA Dilip Jain has multi-faceted financial experience over his 20 years of banking and financial services career with Kotak Bank, ICICI Bank in India, Daiwa Capital Markets, Bahrain, Daiwa Capital in DIFC, Dubai, Nimai, Crowe Vistra, Oasis Investment Co., Century Private Wealth Ltd, DIFC. His experience spans from lease and hire purchase, asset securitization, indirect tax planning, credit- mortgages, AML risk, compliance, anti-money laundering, trade and corporate finance solutions.*

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*has contributed more than 60 articles on vat on his LinkedIn posts. Current implementation on VAT includes sectors like logistics, IT distribution, construction, Oil and Gas, trading, travel and manufacturing, distribution, vacation homes, EPC contractors, watch and jewellery sector, digital media, Designated zone, DMCC companies etc.*

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*Toastmasters International in Dubai. He was featured in Khaleej Times in the UAE Year of Giving for his contribution to community, has featured in “Pearls of Rajasthan” as well as in Nelson Mandela Inspired “Good Deeds” Book, Abu Dhabi.*

*Other Books By same Author:*

- 1. AML Brain GYM*
- 2. AML brain GYM – For DNFBPs*
- 3. Decoding Corporate Governance*
- 4. 360 Compliance for beginners*
- 5. Case Studies on UAE Corporate Tax (Joint initiative)*
- 6. Cooked Up Balance Sheet- How to Decode them.*
- 7. Biz Bytes-Know your customer’s business.*
- 8. Pathways to sustainability*

*Other earlier Compilations by same Author:*

- 1. UAE Vat law*
- 2. UAE Corporate Tax Law*
- 3. UAE Economic Substance Regulations*
- 4. UAE AML provisions for DNFBPs*
- 5. UAE Customs Law*
- 6. Zidd Aage Badhne Ke (determined to move ahead)*
- 7. Our story, our Values*

**Legal References – Transfer Pricing**

- 1. The Explanatory Guide on Federal Decree-Law No. 47 of 2022**

2. Transfer Pricing Guide - Corporate Tax Guide
  3. Ministerial Decision No. 97 of 2023
  4. Cabinet Decision No. (75) of 2023 On the Administrative Penalties
  5. Corporate Tax – General Guide dated September 2023
  6. Cabinet Decision No. 56 of 2023
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- Case Studies on Transfer Pricing
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- Case Study 2: Intellectual Property Valuation in Cross-border Transactions.
- Case Study 3: Intra-group Financing and the Arm's Length Principle
- Case Study 4: Transfer Pricing in Intellectual Property Licensing
- Case Study 5: Transfer Pricing in Distribution Arrangements
- Case Study 6: Transfer Pricing in Cost-Sharing Agreements
- Case Study 7: Transfer Pricing in Management Fees and Head Office Expenses
- Case Study 8: Transfer Pricing in Intellectual Property (IP) Licensing
- Case Study 9: Transfer Pricing in Distribution Agreements
- Case Study 10: Financing Arrangements in Related Companies
- Case Study 11: Cost Sharing Agreements in R&D Projects
- Case Study 12: Distribution Arrangements in the Fashion Industry
- Case Study 13: Management Fees and Head Office Expenses
- Case Study 14: Distribution Arrangements in the Fashion Industry
- Case Study 15: Management Fees and Head Office Expenses
- Case Study 16: Business Restructurings in the Pharmaceutical Industry
- Case Study 17: Commodity Transactions in the Oil & Gas Industry

Case Study 18: Advance Pricing Agreements in the Technology Sector  
Case Study 19: Transfer Pricing in E-commerce  
Case Study 20: Royalty Payments Between Related Entities  
Case Study 21: Transfer Pricing in the Automotive Industry  
Case Study 22: Transfer Pricing in Real Estate  
Case Study 23: Intercompany Dividends and Transfer Pricing  
Case Study 24: Transfer Pricing in the Energy Sector  
Case Study 25: Transfer Pricing in the Pharmaceutical Industry  
Case Study 26: Transfer Pricing in the Food and Beverage Industry  
Case Study 27: Transfer Pricing in the Hospitality Industry  
Case Study 28: Transfer Pricing in the Aviation Industry  
Case Study 29: Transfer Pricing in the Shipping Industry  
Case Study 30: Transfer Pricing in the Telecommunications Industry  
Case Study 31: Documentation Requirements in Transfer Pricing  
Case Study 32: Documentation Requirements in Transfer Pricing  
Case Study 33: Transfer Pricing in the Automotive Industry  
Case Study 34: Dispute Resolution in Transfer Pricing  
Case Study 35: Use of Multiple Year Data for Comparability  
Case Study 36: The Concept of Materiality in Transfer Pricing  
Case Study 37: Risk Assessment in Transfer Pricing within MNE Groups  
Case Study 38: Documentation Requirements in Transfer Pricing  
Case Study 39: Compliance Monitoring in Transfer Pricing  
Case Study 40: Legal Review and Audit Preparedness in Transfer Pricing  
Case study 41: Transfer Pricing Complexities in a Global Conglomerate - "GlobalCorp"  
Relevant documents summary

[Case Study 3: Intra-group Financing and the Arm's Length Principle](#)

## **Introduction**

**Company Background:** XYZ Corp is a UAE-based company specializing in renewable energy solutions, particularly solar and wind energy products.

**Related Party:** ABC Enterprises, a global conglomerate headquartered in Germany, is the parent company of XYZ Corp.

**Connected Persons:** John Doe, the CFO of XYZ Corp, is also a board member of ABC Enterprises.

## **Scenario**

XYZ Corp is planning to set up a new solar power plant in the UAE and is seeking a loan of AED 20 million from ABC Enterprises.

## **Questions**

- What should be the arm's length interest rate for the loan from ABC Enterprises to XYZ Corp?
- What documentation is required to substantiate the arm's length nature of the loan?

## **Numerical Illustrations**

Loan Amount: AED 20 million

Proposed Interest Rate: 3%

## **Concept Explanation**

**Arm's Length Principle in Financing:** This involves setting an interest rate that would have been established between independent enterprises. It ensures that both parties in the transaction are not

disadvantaged.

## **Key Points for arm's length Principle**

Refer case study 1.

### **Potential Pitfalls and Penalties**

**Pitfalls:** Incorrectly setting the interest rate could result in non-compliance and fines.

### **Mitigating Strategies**

**Transfer Pricing Study:** Conduct a detailed transfer pricing study that includes market comparable and valuation methods.

**Documentation:** Maintain contracts, invoices, and a robust transfer pricing study.

### **Solution and Rationale**

**Solution:** XYZ Corp should conduct a detailed transfer pricing study to determine the arm's length range for the interest rate. If the rate falls within this range, it would be in compliance with Federal Decree Law No. 47 of 2022.

**Rationale:** Ensuring that the interest rate is at arm's length will help XYZ Corp comply with UAE law and avoid penalties.

### **Conclusion**

In the complex world of intra-group financing, understanding and applying the arm's length principle is crucial. Companies like XYZ Corp must navigate this landscape carefully to ensure compliance and mitigate risks.

## Case study 41: Transfer Pricing Complexities in a Global Conglomerate - "GlobalCorp"

### **Brief Background**

- **Company:** GlobalCorp, a UAE-based multinational conglomerate with diversified interests in healthcare, technology, energy, real estate, e-commerce, and more.
- **Related Parties:** Over 50 subsidiaries and associated companies in various jurisdictions including the USA, UK, India, Singapore, and tax havens like the Cayman Islands.
- **Connected Persons:** The CEO of GlobalCorp sits on the board of several subsidiaries, and there are crossholdings between the parent and subsidiaries.

### **Scenario**

- GlobalCorp engages in a multitude of complex transactions with its related entities, including:
- **Sale of Goods:** Bulk and retail, involving numerous currencies
- **Provision of Services:** Management fees, technical services, and consultancy
- **Intellectual Property Licensing:** Patents, trademarks, and copyrights
- **Intercompany Loans:** In multiple currencies, with variable interest rates
- **Cost-Sharing Agreements:** R&D, marketing, and administrative costs
- **Distribution Arrangements:** Exclusive and non-exclusive agreements

- Business Restructurings: Transfer of business functions and risks
- Permanent Establishments: Foreign entities providing services in the UAE.
- Commodity Transactions: Pricing of raw material supplies
- E-commerce Transactions: Digital goods and services
- Real Estate Transactions: Leasing and sale of commercial properties
- Energy Sector Dealings: Oil and gas contracts
- Mergers and Acquisitions: Asset and share purchases.
- Pharmaceutical Transactions: Licensing and sale of pharmaceuticals
- Food and Beverage Transactions: Import and export of goods
- Aviation and Shipping Activities: Leasing of aircraft and vessels
- Telecommunications Services: Data and voice services

## **Financials**

- Annual Revenue: AED 10 billion
- Intercompany Transactions: AED 2 billion/year
- Profit Margin: Varied across sectors and transactions.

## **Questions**

1. How to ensure that all the transactions are compliant with the arm's length principle?
2. What documentation is required for each type of transaction?
3. What are the legal implications of non-compliance?

## **Solution and Rationale**



Given the complexity and scale of operations, GlobalCorp should follow a transaction wise approach including the following.

- Conduct a thorough functional and comparability analysis for each entity involved in related party transaction.
- Conduct a review of the complete supply chain for each transaction and accurately delineate the functions among all the nodes of the chain.
- conduct external benchmarking using global databases to ensure that the margins of each entity are in line with the industry margins.
- apply for an Advanced Pricing Agreements (APAs) where necessary for more tax certainty.
- Maintain contemporaneous documentation for all transactions to prove that the transactions were undertaken on the Arm's Length Price.
- Documents that support the ALP include:
  - a. Intercompany agreement/TP policy document
  - b. Functional Analysis/Comparability Analysis
  - c. Financial Data
  - d. Open market quotes
  - e. TP workings
  - f. Ledgers
  - g. Segmentation (Warehousing Vs Distribution)
  - h. Invoices
  - i. Industry and Market Information
  - j. TP adjustments workings for adherence to TP policy.
- Conduct periodic internal and external audits to ensure compliance.
- Establish a dedicated transfer pricing compliance team.

## **What Could Go Wrong**

- Transfer Pricing adjustment (True Up/True Down)
- Penalties for non-compliance
- Double taxation
- Reputational risk
- Legal disputes
- Specific Concepts Explained

Arm's Length Principle: Ensuring that transactions between related entities are priced as if they were between unrelated entities.

Mutual Agreement Procedures (MAP): A mechanism for resolving tax disputes between different jurisdictions.

Advanced Pricing Agreements (APAs): An upfront agreement between the taxpayer and tax authority on an appropriate transfer pricing method.

## **Mutual Agreement Procedures (MAP)**

### **Definition**

Mutual Agreement Procedures (MAP) is a dispute resolution mechanism that allows taxpayers to resolve international tax disputes, including transfer pricing issues, with tax authorities. It is often part of Double Taxation Agreements (DTAs) between countries and aims to eliminate double taxation.

### **How it Works**

- **Initiation:** The taxpayer submits a request for MAP to the competent authority in their resident country, outlining the nature of the dispute and providing all relevant documentation.
- **Review:** The competent authority reviews the request and may request additional information. If the case is accepted, the authority will initiate discussions with its counterpart in the other jurisdiction involved.
- **Negotiation:** The competent authorities of the involved jurisdictions negotiate to reach a mutual agreement that resolves the tax dispute.
- **Resolution:** Once an agreement is reached, the taxpayer is informed, and the adjustments are made to eliminate double taxation or rectify the issue.
- **Implementation:** The taxpayer must agree to the terms of the mutual agreement for it to be implemented. Once agreed upon, the adjustments are made in the tax assessments.

- **Transfer Pricing Local File Checklist**

Criteria	Description	Yes	No
Transactional Overview	Detailed account and figures of the controlled transactions during the year, with explanation of their substance, is provided	<input type="checkbox"/>	<input type="checkbox"/>
Functional Analysis	Identification and substantiation of the functions, risks, and assets of the local entity	<input type="checkbox"/>	<input type="checkbox"/>

	and its counterparties		
Intercompany Agreements	List of the intercompany agreements affecting transactions and explanation of their implementation is provided	<input type="checkbox"/>	<input type="checkbox"/>
Transfer Pricing Policy	Description of the local entity's transfer pricing policy relevant for controlled transactions and the company's pricing practices is provided	<input type="checkbox"/>	<input type="checkbox"/>
Transfer Pricing Method	Selected OECD/local transfer pricing method(s) are stated and their appropriacy is justified, with explanation on why others aren't applied	<input type="checkbox"/>	<input type="checkbox"/>
Comparability Analysis	Explanation of the process of comparability analysis, the relevance of the selected comparable, the database choice, and filters applied is provided	<input type="checkbox"/>	<input type="checkbox"/>
Financial Information	Reliability and alignment of financial data used for	<input type="checkbox"/>	<input type="checkbox"/>

	transfer pricing analyses with the entity's financial accounts is confirmed, with demonstration of its tie to the P&L/balance sheet		
Pricing Adjustment	Description and justification of any pricing adjustments made, with explanation of their reflection in financial accounts, is provided	<input type="checkbox"/>	<input type="checkbox"/>
Arm's Length Confirmation	Verification of whether the controlled transactions outcome aligns with the arm's length principle and justification of belief is provided	<input type="checkbox"/>	<input type="checkbox"/>
Country-Specific Rules	Compliance of the local file with any specific country rules is confirmed	<input type="checkbox"/>	<input type="checkbox"/>
Counterparty Local File	Comparison of this local file with the counterparty's file and explanation of any differences is provided	<input type="checkbox"/>	<input type="checkbox"/>

Story	Assurance that the local file presents a clear and convincing story that arrangements are at arm's length	<input type="checkbox"/>	<input type="checkbox"/>
Consistency	Assurance that the local file aligns with TP forms, CbCR, and master file	<input type="checkbox"/>	<input type="checkbox"/>

Decoding Scenarios

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# TRANSFER PRICING

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## UAE CORPORATE TAX LAW

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CA Dilip Jain has multi-faceted financial experience over his 23 years of banking and financial services career with Kotak & ICICI Bank in India, Daiwa Capital Markets- Bahrain & DIFC, Dubai, Nimai, Crowe Vistra, Oasis Investment Co., Century Private Wealth Ltd, DIFC, Dubai in, UAE. A Chartered Accountant, IIMA-Alumnae, ACAMS & CISI Level 3 qualified in Global Financial Compliance, Combating financial Crime. He is a Distinguished Toastmaster, prolific speaker and Coach. Also The Author of AML: Brain Gym  
AML Brain GYM- DNFBP  
360 compliance  
Cooked Up Balance Sheet  
Decoding Corporate Governance

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### WHAT'S INSIDE

Why Choose This Book?

**Practical Approach:** Learn by doing through real-world scenarios.

**Comprehensive Coverage:** From e-commerce to the energy sector, the case studies span multiple industries.

**Up-to-Date:** Incorporates the latest legal changes and guidelines.

**Expert Insights:**

**Who Is This Book For?**

Corporate Executives

Financial Analysts and Accountants

Legal Professionals

Academics and Students



**DEMYSITIFIES THE COMPLEX WORLD OF TRANSFER PRICING**