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The background of the entire page is a photograph of a modern city skyline in Qatar. The central focus is a tall, white, curved skyscraper with a glass facade. To its right is another tall, blue glass skyscraper with a distinctive circular top. In the foreground, several palm trees are visible, and a road with cars can be seen at the bottom. The sky is blue with some light clouds.

# Navigating Qatar's Evolving Transfer Pricing Landscape: What Should You Be Prepared For?

January 2024

## Introduction

Transfer pricing (TP) is an evolving topic of international taxation, with various jurisdictions within the Gulf Cooperation Council (GCC) introducing or considering the implementation of comprehensive TP regulations. The TP landscape in the region continues to expand, highlighted by several notable TP audit developments in recent months.

This article delves into the anticipated actions of the Qatar Tax Authority in the near future. By examining the evolving TP landscape, the article aims to inform and guide corporations and individuals navigating the intricacies of TP in the State of Qatar.

## Current TP landscapes in the GCC Region

Over time, the volume and complexity of trade involving GCC countries has increased, with intercompany trade as a percentage of world trade also on the rise. As a result of the global increase in TP regulations TP regulations globally, tax authorities have increased visibility into the allocation of profits of multinational groups across the world. As such, it is important to align the results of each company in a multinational group with the actual value it creates and the relevant level of substance it possesses.

With the introduction of TP regulations in countries such as KSA, Qatar and Jordan, we have seen a major shift in the tax strategies among multinationals operating in the region. We have also seen TP audits and related party transaction adjustments in jurisdictions where no formal TP regulations are in place, such as Oman and Kuwait.

Further, the UAE has also introduced a comprehensive framework providing detailed regulations and guidelines for implementing TP regulations. These are largely in line with the Organization for Economic Cooperation and Development (OECD) Transfer Pricing Guidelines.

As the global landscape of TP regulations continues to evolve, local governments are establishing robust regulatory frameworks aligned with international best practices. This includes hiring TP specialists from advanced countries and upskilling and increasing the capacity of their tax departments.



## Evolving TP landscape in Qatar

The State of Qatar has two tax regimes in place.

**1** The Mainland or General Tax Authority (GTA) tax regime provides a tax framework for the majority of businesses operating in mainland Qatar; and

**2** The Qatar Financial Centre (QFC) tax regime provides a tax framework for organizations registered with the QFC under the regulated financial services sector. It also allows certain other non-regulated activities to be carried out, such as accounting services, legal services, providing group treasury functions and acting as a holding company.

## TP Regulations and compliance requirements under the mainland tax regime

The GTA introduced detailed TP implementation regulations in the Executive Regulations (ER) in December 2019. The ER also included provisions on issues such as permanent establishments and TP documentation requirements.

Additionally, the GTA issued guidance on TP documentation and compliance through Decision No 4 of 2020 (the Decision). Qatar's TP regulations, largely aligned with the OECD TP Guidelines, apply to both taxable and non-taxable entities having related party transactions.

The specific reporting requirements were effective from financial years beginning on or after 1 January 2020. The Decision also provides guidance on the content of the TP Disclosure Form, Master File and Local file.

The table below summarizes the TP compliance threshold and deadlines in the GTA regime:

Compliance requirement	De minimis threshold	Due Date
Disclosure Form (DF)	QAR 10 million assets / revenue	To be submitted to the GTA through Dhareeba within 120 days after end of the Financial Year along with CIT return
Master / Local File (MF/LF)	QAR 50 million assets / revenue	To be submitted to the GTA through Dhareeba within 60 days from the tax return due date
Country-by-Country reporting (CbCR)	QAR 3 billion consolidated revenue	Country-by-Country (CbC) report: To be submitted to the GTA through Tabadol within 12 months after end of the Financial Year CbC Notification: To be submitted to the GTA through Tabadol before last day of the reporting Financial Year

## TP Regulations under the QFC tax regime

The QFC Tax Authority has issued detailed TP Guidelines that provide the rules for the treatment for tax purposes of income affected by transactions between 'Associated Persons'. Where transactions between associated persons are not on an arm's-length basis, and this results in a reduction in the amount of the chargeable profits of one of those associated persons, the QFC Tax Authority has the power to compute the taxable profits of an entity as if the arm's-length basis had been used for the transactions.

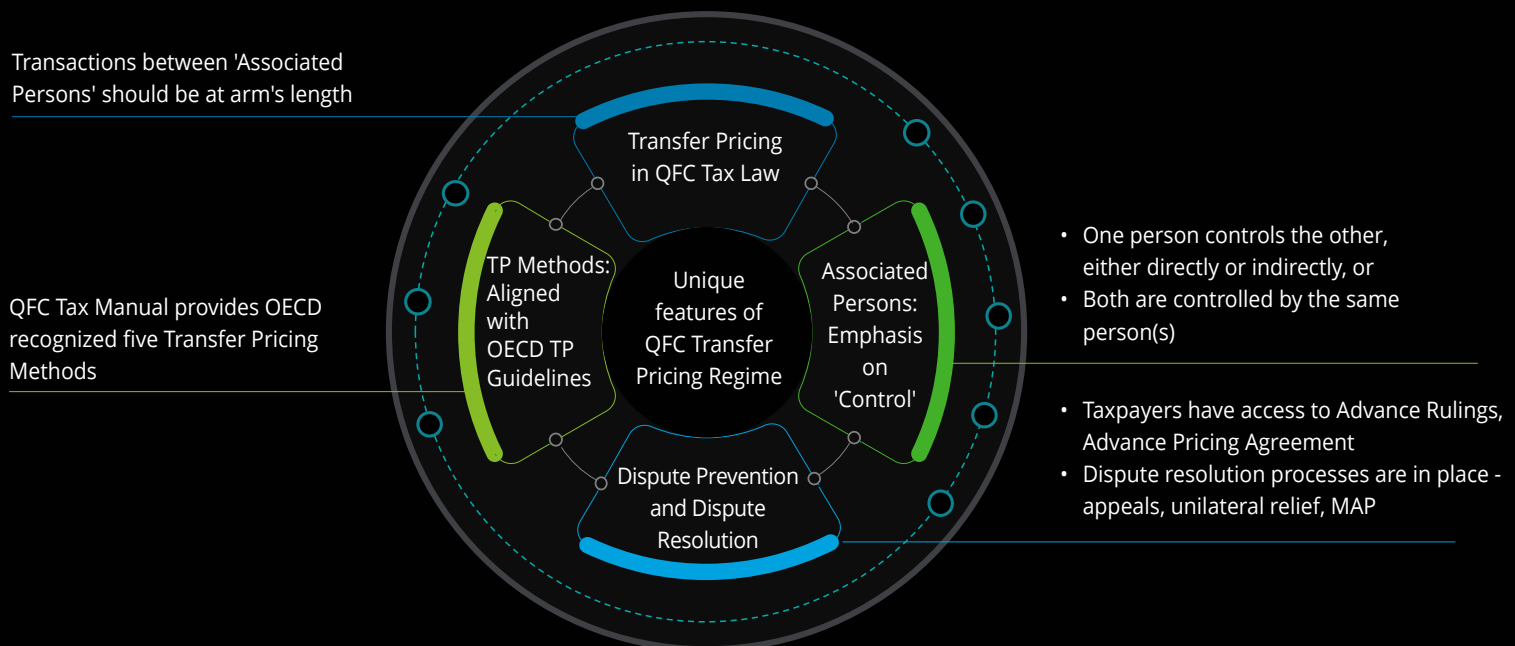
As per the QFC Tax Law, 'Persons' are 'Associated' with each other if:

- one controls the other, either directly or indirectly, or
- both are controlled by the same person(s)

Control in relation to a company means that a person is able to ensure that the affairs of the first company are conducted in accordance with their wishes. This control may be exercised through the holding of shares or the possession of voting rights in the company, or by virtue of any powers conferred by the articles of association of the company.

The QFC TP regulations require the taxpayer to maintain TP documentation (i.e., Local File and Master File) and this should be submitted upon request by the QFC tax authority.

The figure below provides a summary of unique features of the QFC TP regime:



## Key features of the TP regulations under the QFC vs the mainland tax regime

Both the tax regimes have some unique TP features. The figure below provides a summary of TP provisions under both the regimes:

	QFC TP Regime	Mainland / GTA TP Regime
Transfer Pricing documentation	Taxpayers to maintain 'TP documentation'; Submission upon request by QFC authorities	Taxpayers to maintain TP documentation; Mandatory submission on or before due date on 'Dhareeba'*
Transfer Pricing methods	Aligned with OECD TP Guidelines - CUP, RPM, CPM, PSM and TNMM	Aligned with OECD TP Guidelines - CUP, RPM, CPM, PSM and TNMM
Transfer Pricing guidelines	Detailed TP guidelines issued by QFC authorities	Brief TP guidance issued by the GTA
Corresponding TP adjustment	Available for domestic as well as cross border transactions covered under Double Taxation Agreements (DTA)	Available for cross border transactions covered under DTA (through MAP only)
Unilateral relief	Unilateral double taxation relief available, notwithstanding that no DTA in force	No unilateral double taxation relief

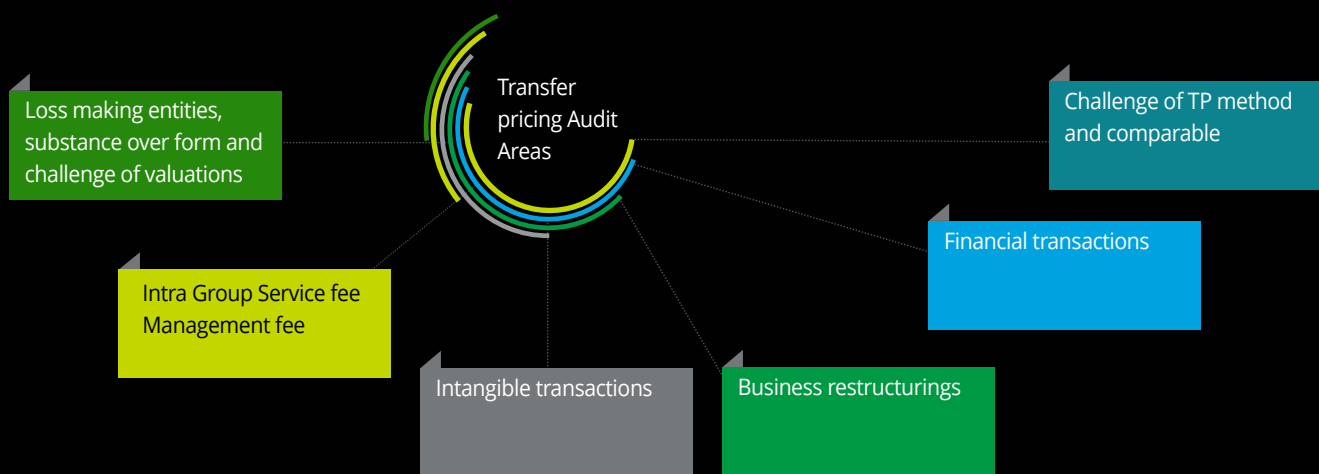
## TP audit environment in Qatar

TP audits, conducted by tax authorities, ensure that transactions between related entities, often in different tax jurisdictions, are conducted at arm's length and comply with fair market value principles.

Tax base erosion can come in varying forms and degrees of seriousness, including shifting profits to low-tax jurisdictions, tax evasion, and tax fraud, etc.

Although full-fledged TP regulations have been introduced in Qatar for over three years, only a few TP audit activities have been experienced by Taxpayers in the country thus far. Therefore, it is expected that in the coming years, many additional taxpayers should expect a TP audit.

Certain key triggers prompting tax authorities to initiate TP audits are presented below.



Most of the above information is available from taxpayers annual TP disclosure form, Local Files and their Master File. Based on prior experience with other tax administrations in the region, awaiting an inevitable challenge from the tax authorities is not a recommended approach.

On several occasions, the GTA has questioned the management fees charged to a taxpayer in Qatar by an overseas related entity. In a separate instance, the QFC Tax Authority has challenged the profit split percentage that a Qatari taxpayer applied to transactions with related parties. The Qatari Tax Authority proposed reassessing the logic behind the profit division and suggested retaining a significantly larger share of the profits in Qatar. This proposition challenges the taxpayer's method of distributing profits between the entity in Qatar and its related parties in other countries. Although the taxpayer provided TP documentation in accordance with group-level policies, the tax officer highlighted the necessity for contemporaneous documentation that reflects the local entity's Functional, Asset, and Risk (FAR) profile, which should be consistent with the profit split observed in the taxpayer's intercompany transactions.

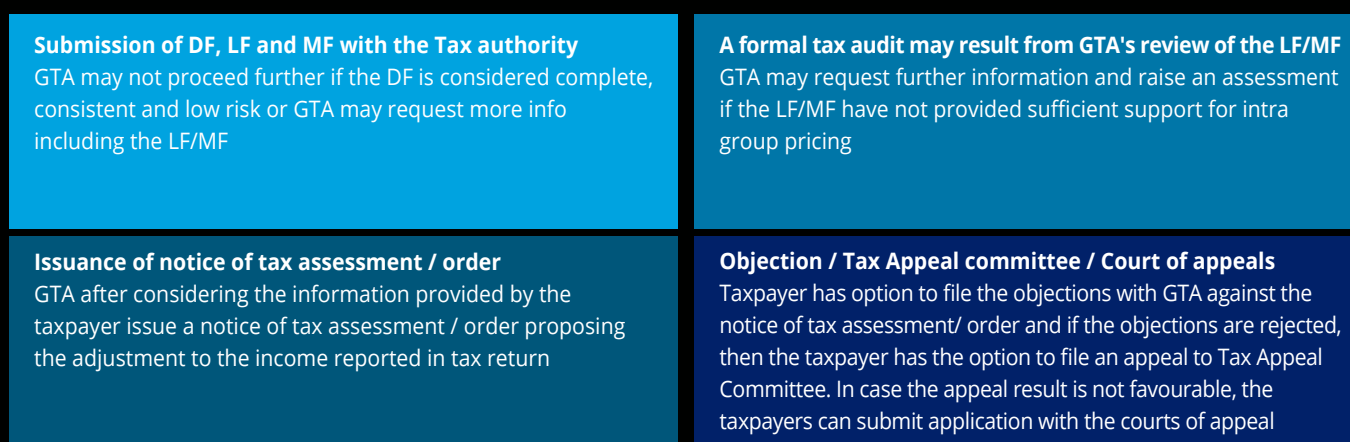
## Overview of the audit process in Qatar

After a review of the TP documentation filed with the GTA, the GTA may decide to initiate a formal tax audit under the Income Tax Law and request further information from the taxpayer. The taxpayer is normally required to provide the information within 30 days of a formal enquiry notice, unless already submitted.

Subsequently, the Tax Authority may conduct face to face or virtual meetings with the taxpayer to seek more information and to understand whether the taxpayer's actual business conduct is in line with what is stated in the TP documentation submitted to the tax authority, including its interaction with related entities, and to verify whether the functional, asset and risk profile matches with the taxpayer's explanation and other facts depending on the case.

Once the Tax Authority is satisfied with the level of information collected, it will either close the case if no tax base erosion risks are identified or communicate its positions through draft orders and provide reasons why TP adjustments are proposed. Alternatively, final tax assessment orders containing TP adjustments may be issued. Taxpayers can challenge these orders through the available disputes resolutions mechanisms in Qatar.

The below illustration depicts high-level TP audit life cycle:



## Alternate Dispute Resolution and Dispute Prevention Mechanism in Qatar

The Qatari tax system provides multiple avenues for resolving TP disputes, ensuring fairness and transparency in tax administration. These mechanisms aim to reach amicable settlements between taxpayers and the Tax Authority while also providing access to an independent arbitration process if necessary.

- Mutual Agreement Procedure (MAP)** - The MAP is a process designed to resolve tax treaty-related disputes. Where a person considers that the actions of one or both countries' tax administrations result or will result in taxation not in accordance with a tax convention, the person may request competent authority assistance under the MAP article of the relevant tax convention (i.e., Article 25 of the Model Tax Convention). In most cases, such an action is an adjustment to, or a formal written proposal to adjust, income related to an issue or transaction to which the person is a party. Generally, taxpayers must approach the competent authority of their country of residence to request relief under a tax convention. In cases where an adjustment is made that affects related parties in both jurisdictions (e.g., a TP adjustment by one of the countries to the income or expense of one company from a transaction entered into with a related company in the other country), it is often advisable for each taxpayer to make a separate request for assistance to the competent authority of the country in which it is resident.

The GTA has also issued a Manual on MAP to solve double taxation or treaty related issues. The MAP Manual identifies the specific information and documentation that a taxpayer is required to submit with a request for MAP assistance .

- Advance Pricing Agreement (APA)** - An APA is an "arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g., method, comparable and appropriate adjustments to comparables data, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time". Such an arrangement ensures tax certainty with respect to the intercompany transactions and helps the taxpayer to avoid future tax litigation.  
Qatar is a signatory to Base Erosion Profit Shifting (BEPS) Inclusive Framework agreement and has pledged to implement an APA program to keep its commitment with global standards. Qatar tax authorities must introduce a full-fledged APA program. The APA provisions are covered in Article 64 of the Executive Regulations and Article 9 of the Model Tax Convention. The GTA has also issued a Directive No. 6 of 2020 to show its intent to implement an APA program in future.
- Unilateral Tax Relief** - A distinctive feature of the QFC tax regime is the provision of Unilateral Relief from double taxation for taxpayers. This means that the QFC Tax Authority can grant relief to affected taxpayers from double taxation arising from taxes paid in another jurisdiction, even in the absence of formal Double Taxation Agreements. The GTA tax regime lacks provisions for unilateral double taxation relief.

## Preparation for future tax enquiries and audits

Taxpayers operating in Qatar must now meticulously assess their income and profit allocations to ensure adherence to the arm's length principle. In any audit proceedings, the readiness of the taxpayer's TP documentation will significantly influence the outcome with the tax authority. The following precautionary measures can help strengthen the case in advance of a TP audit occurring:

**Conduct a comprehensive TP health check and establish a TP policy** before entering any intragroup transaction and related party arrangements.

**Maintain robust TP documentation** to substantiate the arm's length nature of transactions with related parties.

**Maintain supporting documents** including intercompany agreements and invoices, and a TP policy document.



**Adhere strictly to the TP policy** and avoid engaging in ad-hoc transactions with group companies. Any deviation to established TP policies should be supported by a sound business rationale.

**Document the business rationale** for continuous losses to avoid potential challenges during audits.

**Address the mechanism of TP adjustments** during the year.

## Contacts

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<sup>1</sup><https://www.gta.gov.qa/en/mutual-agreementprocedure/>

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