**Executive Instructions No. ( ) for the year 2021**

**Executive instructions for Transfer Pricing for income tax purposes**

**Issued pursuant to Articles (8), (9), (10), (12), (14) and (18)**

**From the Transfer Pricing Regulation for Income Tax Purposes No. (40) for the year (2021)**

**Article (1)**

These instructions are called (Transfer Pricing Executive Instructions No. (3) for the purposes of income tax for the year 2021), and it shall be effective from the date of its publication in the Official Gazette.

**Article (2)**

**a.** The following terms and expressions wherever mentioned in these instructions shall have the meanings assigned thereto hereunder unless indicates otherwise:

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| --- | --- | --- |
| **Minister**  | **:** | Minister of Finance |
| **Director**  | : | Director General of the Department |
| **Department**  | : | Income and Sales Tax Department. |
| **Law**  | : | Income Tax Law. |
| **Regulation** | : | The Transfer Pricing regulation for Income Tax Purposes No. (40) for the year (2021) |
| **Person**  | : | A natural person or a legal person, including a group of people established by contractual arrangement and permanent establishments.  |
| **Taxpayer**  | : | A person whose transactions with related persons exceed 500,000 dinars during a period of 12 consecutive months. |
| **Transactions between related Persons** | : | Disposition transactions and any exchange of everything of value between the related person and his taxpayer. |
| **Transactions between Independent Persons** | : | Transactions between persons other than related persons. |
| **Transfer Pricing**  | : | The prices of the existing transactions between Related Persons, including the exchange of goods and services, loans, financing and the disposal of movable and immovable funds. |
| **The approved taxpayer**  | : | the taxpayer who submits the special report for each country to the department for reporting purposes on behalf of the multinational group of companies. |
| **Alternative mother establishments**  | : | The taxpayer of a group of multinational companies required to submit the report on each country to the department on behalf of the group of multinational companies. |

**B.** Other than what is stated in paragraph (a), the definitions contained in the regulation shall be adopted wherever they are stipulated in these instructions unless the context indicates otherwise.

**Article (3):** The taxpayer who is obligated to submit the Transactions Disclosure Form between Related Persons:

Each taxpayer whose transaction value with related persons exceeds 500,000 dinars during a period of 12 consecutive months must submit the disclosure form stipulated in the provisions of the regulation and these instructions.

**Article (4).**

a. The taxpayer to whom the provisions of Article (3) of these instructions apply shall submit a disclosure form for his transactions with related persons including the following information:

1. Information related to Related Persons or Persons related to transactions between Related Persons, including the names of such persons and their countries of residence and tax residence.

2. Business restructuring information for multinational group or taxpayer.

3.Information on the actual owner and beneficial owner as the case may be for the related persons, including name, country of incorporation, country of residence and percentage of ownership.

4. Total revenues, total expenses and the value of the net profit or loss mentioned in the tax return.

5**.** Information about the type and nature of the relationshipbetween the persons involved in the transactions and the related persons involved.

6. A description of the nature of the business or commercial activities of related persons and the transactions between them, including:

a- Purchases or sales of merchandise (completed or unfinished)

b- Purchases or sales of property and other assets.

c- Providing or receiving services.

D- Agency arrangements.

e- leasing arrangements

f- Funding related to research and development.

g- Licensing and franchising agreements.

h- Financing (including loans and owners' contributions in cash or in kind).

7. The method used for transfer pricing.

8. The taxpayer's return whether he made a transaction between related persons or any transaction free of charge or for non-cash (such as swaps and deals) during the tax period taxable of the tax return. In the event that the authorized person acknowledges entering into a transaction between one or more Related Persons, the taxpayer must provide a statement of the details of such transactions including information regarding the fair market value of the swaps or the consideration received.

9. The taxpayer’s return of whether he maintains documents related to transfer pricing, including the master file and the local file.

B. The disclosure referred to in this article shall be submitted with the tax return in accordance with the form issued by the department and approved for this purpose**.**

**Article (5):** The person obligated to submit the special report of each country:

A person who is a member of a group of multinational companies whose total consolidated revenues exceed 600,000,000 six hundred million Jordanian dinars, according to their financial statements for the previous tax period, must submit the special report for each country to the Department within a period not exceeding (12) months following the tax period of the multinational group of companies nationalities.

**Article (6):**

**a.** The person to whom the provisions of Article (5) of these instructions apply is obligated to submit a special report to each country, including the following information:

1 -The name of the multinational company.

2 -The relevant tax period.

3 -The currency used.

4- Place of tax residence.

5 -The resident subsidiaries, their tax numbers and addresses.

6 -The place of incorporation if it is different from the place of tax residence.

7 -The main activities according to the approved form.

8 -Revenue.

9 -Profit / loss.

10 -Income tax paid.

11 -Income tax due.

12 -The declared capital.

13- Accumulated profits.

14 -Number of employees.

15- Tangible assets other than cash or the like.

B. The special report for each country shall be submitted on the date specified in Article (5) of these instructions and in accordance with the form issued by the department and approved for this purpose.

c. Despite what is stated in paragraph (c) of Article (10) of the regulation, the approved taxpayer is not required to submit the special report for each country to the department in relation to any tax period if the multinational company group is considered the taxpayer in it and has submitted the special report to each country including It complies with the requirements of Paragraph (A) of this Article related to the tax period through the alternative establishment of the final parent company which submits the special report for each country to the competent tax department in the country of tax residence on or before the date specified in Article (5) of these instructions and fulfilling all conditions next:

1. That the state of tax residence requires the alternative establishment of the final parent company to submit the special report for each state in accordance with Article (5) of these instructions.

2. That the country of tax residence of the alternative establishment of the final parent company has a valid qualified competent authority agreement to which the Kingdom is a party within the period specified in Article (5) of these instructions to submit the special report of each country for the tax period taxable of the report;

3. The country of tax residence of the alternate parent company of the final company has not notified the Department of its continued neglect;

4. The country of tax residence of the alternative establishment of the final parent company has been notified by the resident taxpayer for tax purposes that it is the alternative establishment of the final parent company;

5. A notification was submitted to the department in accordance with the provisions of paragraph (d) of Article (10) of the regulation**.**

**Article (7): The local file:**

1. The taxpayer is obliged to organize a local file that includes basic and detailed information on all his dealings with related persons and submit it to the department within a period not exceeding (12) months following the tax period.
2. Basic information for a local file includes:
3. Taxpayer information, including the following:
4. Description of the administrative organization of the taxpayer and its organizational structure, a description of the persons to whom the reports of the administration of the taxpayer are submitted, and the countries in which the main headquarters of these persons are located.
5. A detailed description of the taxpayer's business, activities and strategy, including a statement of restructuring operations or transfers of ownership of assets.
6. The most important information about the transactions of the related parties and their documents, provided that the information includes the following:
7. A description of the transactions between Related Persons.
8. The value of payments and revenues within the group for each category of transactions between related persons.
9. The identity of the related persons participating in each category of transactions.
10. A copy of all agreements concluded by taxpayers for transactions within the group.

E- A detailed comparison and analysis of the jobs of the taxpayer and related persons.

f- The transfer price method adopted for the transactions, the applicable assumptions for this method, and the reasons for choosing this method.

g- List, description and analysis of independent comparable internal or external transactions.

h- The settlements that were made, if any.

i-The financial information on which it is based in applying the transfer price method.

3 . A comprehensive analysis of the sector in which the person carries out his activities, including:

A- Biggest competitors.

b- Analysis of strengths, weaknesses, opportunities and threats (SWOT).

C- Capabilities of suppliers.

D- Capabilities of buyers.

e- The availability of alternatives.

F- The size and activity of the taxpayer.

g- Supply and demand trends.

H- Entry requirements for the sector.

i- The most important target international markets.

j- Market share.

K- Delivery methods.

**4 . Financial statements including the following:**

a-Consolidated annual final financial statements of the taxpayer for the relevant tax period.

B-Information and distribution tables that show the relationship between the financial statements used in applying the transfer price method.

1. A summary of the relevant financial statements tables used in the comparative analysis and the source of the data.

**Article (8): the main file:**

a. The taxpayer is obliged to organize a main file that includes basic and detailed information on global business and transfer pricing policies for the transactions of the multinational group of companies to which the taxpayer belongs, and submit it to the Department within a period not exceeding (12) months following the tax period.

B. Basic information for the main file includes:

1 . The organizational structure that shows the ownership of the establishment affiliated to the multinational group of companies and the geographical location of each of them.

2 . Description of the business of the multinational group of companies, including:

A- Factors affecting business profits.

B- A description of the supply chain of the most important products and services provided by the group in terms of sales volume, including other products and services that represent more than five percent (5%) of the group's sales.

C- A list of agreements to provide services concluded between members of the multinational group of companies or any similar arrangement.

D- The main markets for the group's products and services.

E- A job analysis showing the value added by the group's subsidiaries.

f- A description of the most important transactions related to business restructuring, acquisitions and liquidation during the tax period.

1. Information about the intangible assets of the multinational group of companies, including a list of these assets, agreements concluded between related persons, transfer pricing policies, and the group's strategy in managing these assets and transferring ownership of these assets.
2. Information about financing activities between the entities affiliated to the multinational group of companies, including:

A- A general description of how the group will be financed, including the most important financing deals concluded with independent financiers.

B- Determining the members of the group of multinational companies who perform major financing activities for the group, their countries of incorporation and headquarters.

C- The transfer pricing policies of the multinational group of companies regarding financing operations between related persons.

5. Information on the financial and tax positions of the multinational group of companies, which include:

A- The consolidated financial statements of the multinational group of companies for the tax period taxable of the tax return prepared for the purposes of financial return or for statutory, administrative, tax or other purposes.

B- A list of transfer pricing agreements concluded between a group of multinational companies and tax administrations, if any.

**Article (9)**

1. For the purposes of applying the provisions of these instructions, the parent establishment of a multinational group of companies is theestablishmentthat directly or indirectly owns stakes or shares in one or more multinational companies and that is committed to preparing consolidated financial statements in accordance with the international accounting standards generally accepted in The country of its tax residence and no other taxpayer from the above group of multinational companies owns directly or indirectly the shares described in this paragraph.

B. For the purposes of these instructions, the concept of the taxpayer of the multinational group of companies includes:

1. Any independent business establishment related to a group of multinational companies that is included in the group’s consolidated financial statements for financial reporting purposes or must be included if its shares are offered for trading in the financial markets.

2 .The taxpayer mentioned in clause (1) of this paragraph if it is not included in the consolidated financial statements of the multinational group of companies due to its size or the insignificance of its effect.

3. A permanent establishment affiliated with any independent business entity related to the multinational group of companies listed in Clause (1) or (2) of this paragraph provided that the business establishment prepares or is required to prepare separate financial statements for this permanent establishment for the preparation of financial and regulatory reports and the preparation of Tax returns, or for internal local control purposes.

c. For the purposes of these instructions, the concept of a multinational group of companies includes a legal person residing in one country and also taxable to tax in another country as a result of having a permanent establishment in the other country.

**Article (10): Transfer Pricing Methods**:

a. The taxpayer may adopt any of the following transfer pricing methods in accordance with international accounting standards, provided that the conditions and controls specified in the provisions of these instructions are adhered to:

1. Comparative price method.

2. Resale price method.

3. Total cost plus profit margin method.

4. Net transaction profit margin method.

5. Profit apportionment method.

B. The taxpayer must specify the reasons that were relied upon in choosing the transfer pricing method.

c. The taxpayer must present the assumptions he has adopted for the purposes of applying transfer pricing.

D. The taxpayer must submit a disclosure from a chartered accountant explaining the taxpayer's compliance with the group's transfer pricing policy and its impact on the final financial statements.

e. The taxpayer shall in the event of adopting any of the transfer pricing methods referred to in paragraph (a) of this article in any tax period, continue to adopt the same method for subsequent tax periods.

**Minister of Finance**

**Dr.. Mohammed Mahmoud Al-Assis**