**Transfer pricing regulation for the purposes of the Income Tax No. 40 of 2021**

**Article (1)**

This regulation shall be called (Transfer Pricing regulation for Income Tax Purposes for the year 2021) and shall come into force after thirty days from the date of its publication in the Official Gazette.

**Article (2)**

A- The following words and expressions wherever mentioned in this system shall have the meanings assigned to them below, unless the context indicates otherwise:-

The Ministry: Ministry of Finance.

Minister: Minister of Finance.

Department: Income and Sales Tax Department.

Law: Income Tax Law.

Person: A natural person or a legal person, including a group of persons established by contractual arrangement and permanent establishments.

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.

A taxpayer affiliated with a multinational group of companies: any taxpayer directly or indirectly affiliated with a group of multinational companies

Transfer Pricing: The prices related to the existing transactions between related persons, including the exchange of goods and services, loans, financing and the disposal of movable and immovable funds.

Multinational Companies Group: Two or more related legal persons whose tax residence is in different countries or the group to which a taxable person belongs in a country other than the country of his tax residence.

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.

The parent establishment of a multinational group of companies: An Establishment that 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 its tax residence.

B. Definitions contained in the law shall be adopted wherever stipulated in this system, unless the context indicates otherwise.

**Article (3)**

 A- 1- The department shall verify whether any condition or provision contained in any transaction, agreement or arrangement is different from the terms and conditions that could have been agreed upon as if the persons in the transaction were independent.

2- The income and tax of the related persons shall be adjusted to reflect any difference in the price between what is collected between the involved persons and what is collected between independent persons and any additional tax in accordance with international standards.

b- For the purposes of income tax, the terms and conditions of transactions between related persons shall be similar to those of comparable transactions conducted between independent persons.

C- Transactions between Related Persons are dealt with on the basis of a fair price principle if the terms and conditions of such transactions do not differ materially from the terms and conditions of similar transactions that take place between independent persons.

D- Taking into account the provisions of the agreements to which the Kingdom is a party, the taxable income is calculated according to the fair price principle.

e- If the terms or returns of transactions between related persons differ from the conditions or returns in transactions between independent persons, the related person must adjust his taxable income and declare this in his tax returns.

f- If the relevant person does not comply with the provisions of paragraph (e) of this article, the department must take one of the following two measures:

1- Directing one or more persons involved in the transaction to adjust their taxable income.

2- Not taking into consideration the results of transactions between related persons.

**Article (4)**

A- Transactions between persons with a similar or comparable relationship to transactions between independent persons shall be in one of the following two cases:

1 -There are no fundamental differences between the transfer price and the fair price.

-2 If an appropriate settlement is made on the transaction between independent persons related to the transfer price.

b- To determine whether two or more transactions are similar and comparable, the following shall be taken into consideration:-

 1-The nature of the main activity of the person.

2- The contractual terms of transactions.

3-The economic conditions in which the transactions are conducted.

4- Business strategies followed by the transaction parties.

5- Activity analysis including the following:-

A- Design, manufacturing, assembly, research and development, maintenance, purchase, distribution, marketing, advertising, transportation, financing, management, and any other similar work.

b- Assets, including factories, equipment, movable and immovable property and intellectual property rights.

C- Risks, including market risks, risks of loss in property, factiores and equipment, risks associated with failure, and financial risks resulting from currency exchange rate and interest rate variations, and credit risks.

C- 1- The taxpayer has the right to make a comparison with any comparable transaction if the comparable transaction can be accessed and verified by the department.

-2The department bears the burden of proof other than what is stated in the transaction submitted by the taxpayer for comparison.

 D- In case that a settlement or adjustment is made in accordance with the provisions of Article (14) of this system, the department may not rely on comparable transactions or related information to adjust the taxable income before notifying the taxpayer of that.

E- The department may accept the comparison with non-local transactions in the event that comparable local transactions are not available, and the taxpayer in this case has the burden of proving that the comparable non-local transaction meets the conditions set forth in this article, taking into consideration the impact of economic and geographical differences and any other factors. on the results of this comparison.

**Article (5)**

The provisions of this system shall apply to any legal person in any of the following two cases:-

A- If the natural person or any of his relatives up to the second degree is a partner or shareholder in a company or any other legal person and he directly or indirectly controls (50%) or more of the voting rights, profits or the company’s capital.

b- If the person participates in the capital, management or control of the legal person.

**Article (6)**

The provisions of this system shall apply to any two or more legal persons taxable to joint management or control in any of the following two cases:

A- If the legal person or the persons related to it, jointly or individually, directly or indirectly control (50%) or more of the capital, profits or voting rights of any other legal person.

b- If the person or persons associated, collectively or individually, have effective control over the legal person or its decisions.

**Article (7)**

A- For the purposes of the provisions of this regulation, effective control is the ability of any person or group of persons to exercise effective influence on the decisions and actions of another person in any of the following cases:-

1- If this person or group of people has the ability to conclude an agreement to provide administrative services to the company or perform management functions there in.

2-If this person or group of people owns (50%) or more of the members of the board of directors, or has the right to appoint representatives of the management of other persons or to terminate their representation.

3-If this person or group of people has the right to obtain a percentage (50%) or more of the profits of other persons.

4-If this person or group of people provided loans that constitute 50% or more of the total loans and capital, with the exception of undistributed profits according to the final financial statements for the tax period taxable to the tax return.

5-If this person issues guarantees covering a percentage (33%) or more of the total value of other persons’ loans according to the final financial statements for the tax period taxable of the tax return.

6-If the percentage of (50%) or more of the transactions of the other person as indicated in the final financial statements for the tax period taxable of the tax return depends on his transactions with this person.

7-If this person or group of persons is related to the person who owns (50%) or more than a legal person or participated in its management.

8-If the person or group of related persons are commercial agents or suppliers to the other person.

B- The provisions of items (4) and (5) of Paragraph (A) of this Article shall not apply to banks and financial companies.

**Article (8)**

A- The taxpayer is obligated to organize a local file that includes basic and detailed information on all his dealings with related persons and to submit it to the department upon request.

B- The taxpayer is obliged to organize a main file that includes basic and detailed information on global business and transfer pricing policies for transactions of the multinational group of companies to which the taxpayer belongs and submit it to the Department upon request.

C- The department may rely on the information contained in the local file and the main file in assessing the risks of transfer pricing and in the tax audit procedures.

d- The provisions of the local file, the main file, the information to be included in each of them, the mechanism and the date of their submission to the department shall be regulated in accordance with instructions issued for this purpose.

**Article (9)**

A- The taxpayer is obligated to submit a disclosure form with the tax return to the department within the legal period for submitting the tax return, provided that it includes information related to transactions between related persons, including the following:

1-Information related to transactions between Related Persons and Related Persons, the names of these persons, their countries of residence and their tax residence.

2-Business restructuring information for the multinational group of companies or the taxpayer, if any.

3-Information about the actual owner and the beneficial owner, as the case may be, for the persons involved, including the 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 contained in the tax return.

5-Information about the type and nature of the relationship between the persons involved in the transactions and the persons involved.

6-A description of the nature of the business or commercial activities of the Related Persons and the transactions between them, including:

a- Purchases or sales of goods

b- Purchases or sales of property and other assets

C- Providing or receiving services

D- Agency business

E - Leasing transactions

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 concluded a transaction between related persons or any free transaction or for non-cash during the tax period taxable of the tax return Transactions, including information regarding the fair market value of the swaps or consideration received.

9-A taxpayer return by the whether he keeps the documents related to transfer pricing, including the main file and the local file.

B- The disclosure form referred to in Paragraph (a) of this Article shall be submitted to the Department within the legal period for submitting the tax return in accordance with the provisions of the law, provided that the instructions issued for this purpose specify the disclosure form and the administrative procedures related to its submission.

C- The Department may request any additional information about the Related Persons or those participating in transactions between Related Persons.

**Article (10)**

 A- 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, is obligated to submit the special report for each country to the Department within a period not exceeding twelve months following the tax period of the group Multinational companies.

B- The person who is considered the parent Establishment of a group of multinational companies is obligated to submit to the department the special report for each country for each tax period, including the information and documents stipulated in this system and the instructions issued pursuant thereto on the date specified in paragraph (a) of this article.

 C- The approved taxpayer is obligated to submit to the department the special report for each country in accordance with the provisions of this system and instructions for each tax period for the group of multinational companies to which he belongs, on the date specified in paragraph (a) of this article, after fulfilling any of the following conditions:

1-That the parent establishment of the group’s multinational companies group is not obligated to submit a report to each country in its tax residence.

2-That the parent establishment of the group’s multinational companies is residing for tax purposes in a country that is a party to an international agreement to prevent double taxation, exchange information and combat tax evasion during the period specified in paragraph (a) of this article, provided that it is not a party to another agreement party to it during the same period.

3-That the parent establishment of the group’s multinational companies is residing for tax purposes in a country that is a party to a valid agreement with the Kingdom and does not apply the automatic exchange of information or the application is suspended in it, or in the event of its continuous neglect to submit the special report of each country to the Kingdom automatically in relation to the group Multinational companies that have an authorized taxpayer in the Kingdom.

 D- Each taxpayer affiliated to the group of multinational companies, including the group's parent establishment, is obligated to notify the department within the legal period for submitting the tax return in accordance with the provisions of the law about the identity of the final parent establishment, the identity of the approved taxpayer, and the country in which he submits the special report to each country.

E- In the event that there is more than one taxpayer in the Kingdom affiliated with the same group of multinational companies who meet one or more of the conditions stipulated in Paragraph (C) of this Article, the group of multinational companies may appoint any of these taxpayers to submit the special report to each country With regard to the tax period taxable of the tax return within the date specified in paragraph (a) of this article, with the department notifying that the special report for each country is submitted on behalf of all other taxpayers of the same multinational group.

f- The information contained in the special report of each country is considered confidential and protected.

g- The special report form for each country and the notifications issued in accordance with the provisions of this article shall be determined by instructions issued for this purpose.

**Article (11)**

For the purposes of the provisions of this system:-

A- The fair price is the price that is approved in the event of a difference in any condition, provision or price contained within any transaction, agreement or arrangement different from the terms, conditions and prices that could have been agreed upon if the parties to the transaction were independent persons so that the income and tax are adjusted For related persons, to show the price difference between what is collected from independent parties in accordance with international standards.

B- A fair price range is considered a set of financial figures and indicators based on a fair price, including prices, margins or profit shares resulting from the application of transfer price methods and according to the economic transactions most comparable to independent transactions in accordance with the provisions contained in Article (4) of this system.

C- In addition to any fixed place for carrying out its activities, the permanent establishment shall include the following:

1-The place of administration.

2- Branch.

3 -The office.

4- factory.

5-Workshop.

6-A mine, an oil or gas well, a quarry, or any place for the extraction of natural resources.

D- The Minister or his authorized representative shall be the competent authority to conclude agreements related to the implementation of the provisions of this regulation.

**Article (12)**

A-The consideration or return is determined in accordance with the principle of a fair price for a transaction between related persons by applying the method that results in the most accurate and appropriate fair price in light of the facts and circumstances of the transaction.

1-Strengths and weaknesses of the approved methods.

2-The suitability of the approved method with the nature of the transaction between the Related Persons, which is determined by analyzing the activity performed by each person involved in the transaction, taking into consideration the assets used and the potential risks.

3-Availability of reliable information necessary to apply the most appropriate transfer pricing method.

-4 The extent of similarity of transactions between related persons and other transactions for the purposes of comparison between them.

B- Any of the following transfer pricing methods shall be adopted in accordance with international accounting standards:-

1- Comparative price method.

2-Resale price method

3-The total cost method plus the profit margin

4- The net profit margin method for the transaction.

5-The method of dividing profits.

C- None of the methods referred to in Paragraph (b) of this Article shall have any preference in application, and it is not necessary to apply more than one method to determine whether the proceeds of transactions between Related Persons are based on a fair price.

D- If the taxpayer uses one of the methods approved in accordance with the provisions of paragraph (b) of this article and the method used meets the terms and conditions specified in this system and the instructions issued pursuant thereto, the department shall adopt the method used by the taxpayer to determine whether the proceeds of transactions are between related persons. Fall in a fair price range.

E - The taxpayer may apply another method of transfer prices in the event that it is proven that none of the methods referred to in Paragraph (B) of this Article can be applied to determine the fair price that can be relied upon for his transactions between Related Persons, provided that this method fulfills the specific terms and conditions In this article and the instructions issued pursuant thereto.

F- The controls related to the transfer price methods referred to in this article shall be specified in the instructions issued for this purpose.

**Article (13)**

If the taxpayer conducts two or more transactions between Related Persons under similar or similar circumstances and facts, and the transactions are closely related or the transactions are so related to each other that they cannot be separated or analyzed separately, in this case it is permissible to combine the transactions between Related Persons To perform a comparability analysis for the purposes of applying transfer pricing methods.

**Article (14)**

A- The Department may not amend or settle a transaction between Related Persons or a group of transactions if the transfer price derived from those transactions and which has been documented is based on any of the transfer price methods stipulated in Paragraph (b) of Article (12) of This system is within a fair price range.

B- The department may adjust the transfer price if the transfer price derived from the transaction between related persons or from aggregated transactions falls outside the fair price range, provided that the transfer price is modified in a way that reflects the characteristics and circumstances of the case as accurately as possible and falls within the fair price range.

C- The terms and conditions of the appropriate transfer price within the fair price range shall be determined by instructions issued for this purpose.

**Article (15)**

 A- In the event that the taxpayer participates in a related person’s transaction with a non-resident person located in a country with which the Kingdom has entered into an agreement, and the competent authority in that country has made an adjustment to the taxable income of that non-resident person based on the fair price principle that relates to the transaction between Persons with Related Persons Relationship, the department studies the suitability of the settlement with the principle of fair price and accordingly:-

1- If the department finds that the settlement is in accordance with the principle of fair price in principle and value, the department must make an appropriate settlement of the taxable income of the taxpayer in order to avoid the economic effects of double taxation.

2-If the department finds that the settlement conducted by the competent authority is not appropriate, the department must communicate with the competent authority in the other country in accordance with the procedures stipulated in the agreement between the Kingdom and the other country to verify the reliability of this settlement and take the appropriate decision based on it and in a manner that does not conflict with the agreements to avoid double taxation.

B- The taxpayer is obligated to submit a settlement request to the department, explaining in it all the information necessary to support his request for a corresponding settlement in order for the department to carry out the settlement.

C- The department may refuse to make the corresponding settlements in any of the following two cases:

1-If the description of the disposition transaction referred to in Article (20) of the law applies to the transaction or part of it.

2-In the event that a final decision is issued by the competent court regarding the settlement request.

D- It is not permissible to request a settlement in accordance with the provisions of this period after the lapse of the legal period for auditing the tax return stipulated in Article (29) of thelaw**.**

**Article (16)**

A- The taxpayer shall keep information and documents related to transfer pricing in relation to his transactions with related persons in accordance with the provisions of Article (23) of the law.

B- Excluded from the provisions of Paragraph (A) of this Article:-

1- Natural persons.

2-small establishments, for the purposes of this system, a person whose value of transactions with related persons, based on the principle of a fair

price, does not exceed 500,000 dinars during a period of 12 consecutive months.

C- The department may request any person to prepare and keep documents related to transactions between related persons during the period it specifies, provided that it is not less than (30) days from the date of its request, including the following cases:-

1-If the transactions between Related Persons are with persons who enjoy tax benefits and exemptions.

2-If the transactions between related persons take place with persons who have been exempted or excluded from submitting the tax return in the Kingdom.

3-If the person submits a request for an amendment or a corresponding settlement in accordance with the provisions of Article (15) of this system.

4- If these documents are necessary to fulfill the Kingdom's international obligations.

**Article (17)**

Anyone who violates the provisions of this system shall be punished with the penalties stipulated in the law.

**Article (18)**

The Minister shall issue the necessary instructions to implement the provisions of this system, including the concept of an alternative establishment for the parent company and the procedures for dealing with it.